

APPROVED

MINUTES OF THE PLANNING & ZONING COMMISSION

MEETING OF MAY 12, 2015

THE CITY OF STARKVILLE, MISSISSIPPI

The Planning & Zoning Commission of the City of Starkville, Mississippi, held its regularly scheduled meeting in the City Hall Courtroom at 101 E. Lampkin Street, Starkville, Mississippi, commencing at 5:30 PM. The meeting was called to order by Chair Jeremy Murdock, and after the Pledge of Allegiance and a moment of silence, Recording Secretary Bill Green called roll. Present were Commissioners Michael Brooks, Dora Herring, Ira Loveless, Jim McReynolds, John Moore, Jeremy Murdock, and Tom Walker. Also attending were Community Development Director Buddy Sanders, City Planner Daniel Havelin, City Attorney Chris Latimer, and Recording Secretary Bill Green.

A CONSIDERATION OF THE WRITTEN AGENDA

The Commission considered the matter of approval of the written agenda dated May 12, 2015. Upon the motion of Commissioner Brooks, seconded by Commissioner McReynolds, the Commission voted unanimously to approve the written agenda.

CONSIDERATION FOR APPROVAL OF THE MINUTES

OF THE MEETING OF APRIL 14, 2015

Chair Murdock called for consideration of approval of the April 14, 2015, minutes. After a discussion of revisions to the minutes, Commissioner Herring moved to approve the minutes as amended, which was seconded by Commissioner Moore, and the commission voted unanimously to approve the minutes of April 14, 2015, as amended.

CITIZEN COMMENTS

Chair Murdock asked if any member of the public cared to address the Commission regarding items not already on the Agenda. No citizens came forward.

OLD BUSINESS

- A. PP 15-04 and FP 15-05: 305 Louisville Subdivide, Preliminary and Final Plat, 305 Louisville Street, Parcel #102B-00-045.00 E, Zoned R-2, Ward 7, Preliminary and**

Final Plat for subdividing one lot into two. Applicant: Jason Pepper; Owner: CMC Investments

City Planner Havelin introduced PP 15-04 and FP 15-05, a Public Hearing noticed by the City of Starkville, for the request by CMC Investments for approval of a Preliminary Plat and Final Plat for subdivision of one existing lot (Property Number 120B-00-045.00) into two separate lots. The proposed lots are labeled Parcel 1 and Parcel 2 on the proposed plat. The subject property is zoned R-2. The properties on all sides are currently zoned R-2. The request was tabled at the last meeting of the Planning and Zoning Commission to determine if the parcel is part of a platted subdivision and if it is in a historic district. The parcel is not part of a platted subdivision nor is it within a historic district. This property was noticed by mail to property owners within 300 feet and by ad in the Starkville Daily News.

If the Planning and Zoning Commission decides to approve the Applicant's request for Preliminary Plat and Final Plat for CMC Investments, the following condition would be required:

- Per comments at Development Review Meeting on March 26, 2015, the existing sidewalk will need to be replaced with a sidewalk that is compliant with the current ordinance.

After Mr. Havelin's presentation, Chair Murdock opened the public hearing and asked for the Applicant to speak. After Joe Couvillion presented the case on behalf of the Applicant, and without others coming forward to speak, Chair Murdock closed the Public Hearing and opened the discussion among the Commissioners. After no further discussion or comments, Commissioner Brooks moved to approve PP 15-04, with the condition regarding sidewalk replacement recommended by Staff, which was seconded by Commissioner Walker, and the Commission voted unanimously to approve PP 15-04. Commissioner Brooks moved to approve FP 15-05, with the same sidewalk condition placed on the preceding vote, which was seconded by Commissioner McReynolds, and the Commission voted unanimously to approve FP 15-05.

NEW BUSINESS

A. CU 15-04: Request for Conditional Use to allow a "Car Title Loan, Payday Advance or Loan Business" in a C-2 zone at 1085 Stark Road Suite 202

City Planner Havelin introduced CU 15-04, a Public Hearing noticed by the City of Starkville, for the request by World Finance Corporation for a Conditional Use to allow a “Car Title Loan, Payday Advance or Loan Business” in a C-2 zone at 1085 Stark Road Suite 202.

The applicant has already entered into a lease agreement with the property owner BCR Investment, LLC. Due to the type of business the Applicant wants to operate, a Conditional Use is required per the City of Starkville Permitted and Conditional Use Chart.

The size of the existing building is +/-1,400 sq. ft. The Applicant will be occupying only one of six suites in the building. Tenant to the south is currently operating “Car Title Loan, Payday Advance or Loan Business.” There are no off-site improvements being proposed, and no amenities are being proposed by the applicant for the site. There are no known site issues regarding the intended use of the site. Eight property owners of record within 300 feet of the subject property were notified of the request directly by mail. A public hearing notice was published in the *Starkville Daily News* on April 24th 2015, and a placard was posted on the property concurrent with publication of the notice. As of this date, the Planning Office has received no phone calls against this request.

Appendix A, Article VI, Section I of the City’s Code of Ordinances provides five specific criteria for conditional use review and approval:

Land use compatibility:

The property has previously been used as commercial.

Sufficient site size and adequate site specifications to accommodate the proposed use:

The site is adequately sized to accommodate the proposed use.

Proper use of mitigative techniques:

None proposed.

Hazardous waste:

No hazardous wastes or materials would be generated, used or stored at the site.

Compliance with applicable laws and ordinances:

The applicant has already occupied the space, but has not received a business license.

There are no known violations or current laws or ordinances at this time.

After Mr. Havelin’s presentation, he answered questions from the Commissioners.
Chair

Murdock opened the Public Hearing and invited the Applicant’s representative, Teresa Lyons,

the District Supervisor for World Finance, to speak. City Attorney Latimer at this point reminded the Commissioners of the five criteria to test for a Conditional Use Zoning Request: The test is based on whether the Applicant by preponderance of the evidence, or more likely than not (50 percent plus one), has met the criteria that is on the second page of the Staff Report; in respect to land use compatibility, the test is whether the proposed use would be compatible and harmonious with adjacent land use and would not adversely impact land use in the immediate vicinity.

Chair Murdock called for public comments, and Bo Richardson, landlord for the Applicant, came forward to speak. With no others coming forward to speak, Chair Murdock closed the Public Hearing. Commissioner Herring requested that a condition be placed on the request so that the “Car Title Loan, Payday Advance” part of the description on the Staff Report be stricken, with only “Loan Business” to remain on the description, in order to more accurately describe the business in question, and that the only proposed use for this request be Loan Business. Commissioner Brooks moved to approve CU 15-04, with the condition of striking the description “Car Title Loan, Payday Advance” to include only “Loan Business” in the Staff description, which was seconded by Commissioner Moore, and the Commission voted unanimously to approve CU 15-04.

B. RZ 15-02: Request for rezoning of part of one parcel located at 712 South Montgomery from R-1 to R-3 Parcel #102I-00-003.00

City Planner Havelin introduced RZ 15-02, a Public Hearing noticed by the City of Starkville, a request of Jeremy Tabor to rezone a portion of a parcel from R-1 to R-3. The Applicant is seeking to rezone +/-2 acres on the west half of a +/-4 acre parcel that is currently vacant. The parcel is located on the northwest corner of Lynn Lane and South Montgomery with parcel # 102I-00-003.00.

The earliest zoning map (1960s–1970s Map) available to Staff illustrates the subject property as being zoned R-1. The 1982, 2000, and 2013 zoning maps show the property as R-1 Single Family. The Applicant is in the process of purchasing the western half of the parcel from the current owner, CHT, LLC. The Applicant wants to develop his part of the parcel as condominium or garden homes. The current owner would like to keep the eastern portion of the parcel zoned as R-1 for their future needs.

Fifteen property owners of record within 300 feet of the subject property were notified of the request directly by mail. A public hearing notice was published in the *Starkville Daily News*, and a placard was posted on the property concurrent with publication of the notice. As of this date, the Planning Office has received three letters for this request and one phone call asking for more information about this request.

The subject rezoning requests are from R-1 Single Family and Multi-Family. Differences between zones are:

Current Zoning District

Sec. C. - R-1 residence zoning district regulations.

These [R-1 residential] districts are intended to be composed mainly of single-family residential properties along with appropriate neighborhood facilities, with their character protected by requiring certain minimum yard and area standards to be met. [The following regulations apply to R-1 districts:]

- 1. See chart for permitted uses.*
- 2. See chart for uses which may be permitted as a special exception.*
- 3. Required lot area and width, yards, building areas and height for residences:*
 - a. Minimum lot area: 10,000 square feet.*
 - b. Minimum lot width at the building line: 75 feet.*
 - c. Minimum depth of front yard: 30 feet.*
 - d. Minimum depth of rear yard: 35 feet.*
 - e. Minimum width of each side yard: Ten feet.*
 - f. Maximum height of structure: 45 feet.*
- 4. Off-street parking requirements: See article VIII of this ordinance for requirements for other uses.*

Proposed Zoning District

Sec. E., R-3 residential zoning regulations.

These [R-3 residential] districts are intended to be composed mainly of multifamily residential properties, with single-family and duplex properties permitted. Under special conditions, mobile home subdivisions and mobile home parks are also permitted. Appropriate neighborhood supporting facilities are provided for and the district's open residential character is protected by requiring certain minimum yard and area standards. [The following regulations apply to R-3 districts:]

- 1. See chart for permitted uses.*
- 2. See chart for uses which may be permitted as a special exception.*
- 3. Required lot area and width, yards, building areas and height for residences:*
 - a. Minimum lot area, one-family dwelling: 5,000 square feet.*
 - b. Minimum lot area, duplex dwelling: 7,000 square feet.*
 - c. Minimum lot area, triplex dwelling: 9,000 square feet.*
 - d. Minimum lot area, fourplex dwelling: 11,000 square feet.*
 - e. Minimum lot width at the building line:*
One-family dwelling: 50 feet.
Duplex, triplex or fourplex: 70 feet.
 - f. Minimum depth of front yard: 25 feet.*
 - g. Minimum depth of rear yard: 20 feet.*
 - h. Minimum width of each side yard: Five feet.*
 - i. Maximum height of structure: 45 feet.*
- 4. Off-street parking requirements: See article VIII of this ordinance for requirements for other uses.*

STATE REZONING CRITERIA

Per Title 17, Chapter 1, of the Mississippi Code of 1972, as amended, and Appendix A, Article IV, Section A, of the City of Starkville Code of Ordinances, the Official Zoning Map may be amended only when one or more of the following conditions prevail:

- 1. Error:** There is a Manifest Error in the ordinance and a Public Need to correct the error:
- 2. Change in conditions:** Changed or changing conditions in an existing area, or in the planning area generally, or the increased or increasing need for commercial or manufacturing sites or additional subdivision of open land into urban building sites make a change in the ordinance necessary and desirable, and in accord with the public need for orderly and harmonious growth.

- There have been 3 rezonings within one mile of the parcel since 2005.

1. Bent Brook Ridge Subdivision
2. Maison de Ville Subdivision
3. Starkville Station

After Mr. Havelin's presentation, the Commissioners discussed the problem of multiple zonings being allowed on one lot and the problems for the developer in subdividing the lot before getting approval for rezoning. Chair Murdock then opened the Public Hearing for comments. Julie Brown, attorney for Jeremy Tabor, came forward to speak to present her case for the rezoning. Mr. Latimer asked Ms. Brown if the Commission applied a condition for the land to be subdivided in order for the rezoning to be approved, would Mr. Tabor be agreeable, and Ms. Brown affirmed that he would. Mr. Latimer suggested that the Commission has two options for clearing up the split zoning issue without subdivision of property: 1). Table the matter until Staff can coordinate with the developer to bring both things forward; and 2). Make an express condition to the rezoning, that the applicant will bring back a proposed subdivision at a reasonable timeline of six or eight months.

Mr. Latimer stated that the Official Zoning Map may be amended only when one or more of the following conditions prevail:

1. Error in original zoning map that needs correcting.

2a. Change or changing conditions in the neighborhood sufficient enough to justify a change in zoning.

2b. Public Need.

The applicant bears the burden of proof by clear and convincing evidence, which is a higher standard than preponderance of evidence.

After Chair Murdock opened the floor for citizen comments, Robert Boyd, a resident of Pleasant Acres, came forward to express his opposition to the rezoning and that the appropriate zoning should be R-3A for transitional land use from high density to low density of the surrounding properties' zoning. He was concerned about the sewage infrastructure, that it is currently unreliable already due to the age and construction of the pipes and will exacerbate the existing

problem. He isn't opposed to the development, however, just the proposed zoning designation. Mark Guyton, a resident of South Montgomery Ext., spoke next, stating his opposition to multi-family density in proximity to his property and doesn't think any of the criteria have been met for the rezoning. Corry Gallo, of Howard Road, also came forward to ask for consideration of storm water drainage, as well as a buffer for the transition between R-1 and R-3.

With no others coming forward to speak, Chair Murdock closed the Public Hearing and opened up the floor to discussion among the Commissioners. After discussion regarding the difference between R-3 and R-3A, Commissioner McReynolds moved to table the rezoning, which was seconded by Commissioner Moore, and the Commission voted unanimously (except for Commissioner Loveless who had stepped out of the room briefly) to table RZ 15-02.

C. EX 15-01: Use by Exception request for nonconforming signage for the The Mill development located on Russell Street

City Planner Havelin introduced EX 15-01, a Public Hearing noticed by the City of Starkville, a request by Mitchell Signs on behalf of The Mill development for a Use by Exception to allow a nonconforming sign in a T6 District. The Applicant is requesting a Use by Exception to allow two types of nonconforming signs (Multi-tenant Monument and Directional) to be placed on the two parcels (Lot 3 and Lot2) that are a part of The Mill development and are not on State-owned property. The State-owned portion of The Mill will have one Multi-tenant monument sign along Russell Street near the intersection of Mercantile, and one small Monument sign in front of the main building. There are several other directional type signs proposed to be located on State property. The Staff Report included the regulations for T-Transect Districts for exceptions and variances regarding signage:

**APPENDIX A – ZONING, ARTICLE VII. – DISTRICT REGULATIONS, Sec. T. –
Transect districts**

1.5 EXCEPTION AND VARIANCE

(a) There are two types of permitted deviations from the requirements of this Section:

i. Exception

a. Requests for Exception shall only be permitted as specifically indicated in this Section.

b. To apply for an Exception, the applicant shall provide the following:

i. The specific Exception(s) requested including citation from this Section and why the Exception is being sought.

ii. Maps, text, drawings and/or statistical data related to the requested Exception(s).

c. No Exception shall be approved unless the Planning and Zoning Commission finds the approval would:

i. Be consistent with § 1.2 Intent and 1.3 Transect Districts of this Section,

ii. and be consistent with the goals, objectives and policies of the City of Starkville's Comprehensive Plan.

d. Any decision regarding an approval or denial of an Exception shall state, in writing, the reasons for the approval or denial.

e. If the Planning and Zoning Commission denies any requested Exception, the applicant may appeal the decision to the Mayor and Board of Aldermen. The Mayor and Board of Aldermen shall review the application de novo.

ii. Dimensional Variance

a. A Dimensional Variance shall be processed pursuant to Chapter 2 - Administration, Article VI - Board of Adjustments & Appeals, Section 2 - 176 Variances and the Board of Adjustments & Appeals of the City of Starkville's Code of Ordinances.

b. Exceptions shall be advertised and noticed in the same fashion as conditional uses in the City's Code of Ordinances in accordance with Appendix A, Article VI, Section 1.

**APPENDIX A – ZONING, ARTICLE VII. – DISTRICT REGULATIONS, Sec. T. –
Transect districts**

2.8 SIGNAGE

(a) Signage shall be designed according to Table 8 and specific types permitted as indicated for each Sub-District.

(b) Address Signs shall be made easily visible through the use of colors or materials that contrast with their background and shall be attached to the Facade or Principal Entrance of the unit they identify. Address Signs may be attached to a mailbox by Exception.

(c) Awning Signage shall be limited to no more than seventy percent (70%) of the Valance of the awning or the vertical portion of a dome awning. The height of the Valance shall not exceed twelve (12) inches. Awning Signs shall contain only the business name, logo, and/or street address.

(d) One (1) Band Sign limited to 90% of the width of the building Facade shall be permitted for each building with a Commercial Use. Information shall consist only of the name and/or logo of the business.

(e) Blade Signs shall be permitted only for businesses that have a Principal Entrance on the first Story.

(f) One (1) Blade Sign shall be permitted for each business if the Facade is no more than five (5) feet from the Principal Frontage Line. Blade Signs may encroach into the Public Frontage up to four (4) feet, shall clear the Sidewalk by at least eight (8) feet, and shall not encroach above the bottom of any second Story windows. Blade Signs shall be limited to the name and/or logo of the business.

(g) Marquees shall be located only above the Principal Entrance of a building, shall provide a minimum clearance of ten (10) feet, and may Encroach the Public Frontage to within two (2) feet of the Curb. Message Boards shall be permitted as part of Marquees.

(h) One (1) Nameplate per address limited to three (3) square feet and consisting of either a panel or individual letters applied to a building wall, may be attached to a building wall within ten (10) feet of a Principal Entrance.

(i) Outdoor Display Cases shall not exceed six (6) square feet and may be internally illuminated.

(j) One (1) freestanding, double-sided, temporary Sidewalk Sign may be placed within the Parking Strip of the Public Frontage for each business. Sidewalk Signs shall be removed at the close of business each day.

(k) Window signs shall not interfere with the primary function of windows, which is to enable passersby and public safety personnel to see through windows into premises and view product displays. Window signs may list services and/or products sold on the premises, or provide phone numbers, operating hours or other messages.

Scale and intensity of use:

Proposed sign does not change the scale and intensity of use

On- or off-site improvement needs:

There are no off-site improvements being proposed as part of this request

On-site amenities proposed to enhance the site:

No other enhancements are being proposed as part of this request

Site issues:

There are no known site issues regarding the intended use of the site.

Fifty property owners of record within 300 feet of the subject property were notified of the request directly by mail. A public hearing notice was published in the *Starkville Daily News*, and a placard was posted on the property concurrent with publication of the notice. As of this date, the Planning Office has received one phone call in favor of approval for this request.

After opening the floor for discussion, Chair Murdock asked for a representative for the Applicant to speak. Betsy, with Mitchell Signs, made a presentation to explain why the Exceptional Use request is needed. Chair Murdock then asked for comments and questions, and with no further citizen comments, the Commissioners discussed the issue of allowing signs in a district where these types of signs are not allowed. Chair Murdock was concerned about the precedent set from their decision and asked for discussion so that the Commission could be consistent.

Mr. Latimer stated that the test for approving a Use by Exception gives the broadest discretion and the broadest power, because if approved, the Applicant doesn't have to go before the Board of Aldermen for further approval; however, if not approved, the Applicant may make an appeal to the Board of Aldermen. There are two criteria in testing whether a Use by Exception should be approved: Is what the Applicant is proposing consistent with the design and intent of the

Transect District, and is it consistent with the goals, objectives, and policies with Starkville's Comprehensive Plan.

Commissioner Herring made a motion to approve EX 15-01 on the basis that it has been in progress a long time and is consistent with plans over which we have no control and would be a defamiation to have something different at these locations. The motion was seconded by Commissioner Walker, and the Commission voted unanimously to approve EX 15-01.

D. EX 15-02: Use by Exception request for nonconforming signage for the Oktibbeha County Heritage Museum located at the intersection of Fellowship Street and Russell Street

City Planner Havelin presented a request by Bill Poe with the Oktibbeha County Heritage Museum Corporation for a Use by Exception, a Public Hearing noticed by the City of Starkville, to allow a nonconforming sign in a Civic District at 206 Fellowship. The Applicant is requesting a Use by Exception to allow a pole-type nonconforming sign to be placed along the Fellowship Street side of the Oktibbeha County Heritage Museum. There is currently an existing monument sign along Russell Street, but the existing sign is not visible from Fellowship Street.

Scale and intensity of use:

Proposed sign does not change the scale and intensity of use.

On- or off-site improvement needs:

There are no off-site improvements being proposed.

On-site amenities proposed to enhance the site:

No other enhancements are being proposed.

Site issues:

There are no known site issues regarding the intended use of the site.

Twelve property owners of record within 300 feet of the subject property were notified of the request directly by mail. A public hearing notice was published in the *Starkville Daily News*, and a placard was posted on the property concurrent with publication of the notice. As of this date, the Planning Office has received one phone call in favor of approval for this request.

After Mr. Havelin's presentation, Chair Murdock opened the Public Hearing and asked for Mr. Gallo, the representative for the Applicant, to speak.

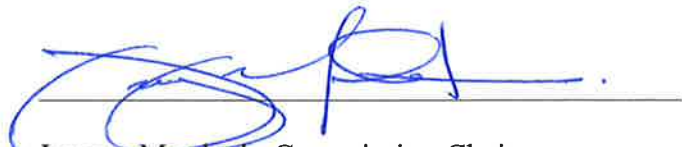
After discussion among the Commissioners, a motion to approve EX 15-02 was made by Commissioner Walker, which was seconded by Commissioner Herring and the Commission voted to approve EX 15-02 by a vote of five to one, with Commissioner Loveless voting in opposition.

PLANNER'S REPORT

Community Development Director Sanders and City Planner Havelin brought forth the issue of term expiration dates that were discussed at the last meeting. A recommendation was made for the term of Ward 1 Commissioner to end in 2021, Ward 2 to end in 2020, Ward 3 to end in 2019, Ward 4 to end in 2020, Ward 5 to end in 2021, Ward 6 in 2017, and Ward 7 to end in 2017. Commissioner Herring moved to make the proposed recommendation for the change of term expirations to the Board of Aldermen, which was seconded by Commissioner Brooks, and the Commission voted unanimously to approve the recommendation.

ADJOURNMENT

With no further business to discuss, Commissioner Walker moved that the meeting be adjourned, which was seconded by Commissioner Herring, and the Commission voted unanimously to adjourn at 7:15 PM. The next regularly scheduled meeting will be Tuesday, June 9, 2015, at 5:30 PM, in the City Hall Courtroom.



Jeremy Murdock, Commission Chair

Daniel Havelin, City Planner