

APPROVED
MINUTES OF THE PLANNING & ZONING COMMISSION
MEETING OF JULY 14, 2015
THE CITY OF STARKVILLE, MISSISSIPPI

The Planning & Zoning Commission of the City of Starkville, Mississippi, held their regularly scheduled meeting in the City Hall Courtroom at 101 E. Lampkin Street, Starkville, Mississippi, commencing at 5:30 PM. As the terms ended for the Chair and Vice Chair, and with the notified absence of Jason Camp, the newest member of the Planning & Zoning Commission, the election for Chair and Vice Chair will be held at the next regularly scheduled meeting. Commissioner Brooks moved to nominate City Attorney Latimer as Procedural Chair, which was seconded by Commissioner Walker, and the Commission voted to approve Mr. Latimer as Procedural Chair. The meeting was called to order by Procedural Chair Latimer, and after the Pledge of Allegiance and a moment of silence, Recording Secretary Bill Green called roll. Present were Commissioners Michael Brooks, Jim McReynolds, John Moore, and Tom Walker. Absent were Ira Loveless and Commissioner Jason Camp, who was away due to a work event that had been planned before his selection to the Commission. 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 July 14, 2015. Commissioner Brooks noted that a correction needed to be made in the address on Item B, to change from “East” to “West”.

CITIZEN COMMENTS

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

NEW BUSINESS

A. CU 15-07 Request for Conditional Use to allow an addition to
Second Baptist Church on Yeates Street, Parcel #102B-00-323.00

City Planner Havelin introduced CU 15-07, a Public Hearing noticed by the City of Starkville for a request by Second Baptist Church for a renewal of a Conditional Use to allow for an addition to the existing church in a R-2 zoning district on a +/-0.98 acre site. The church is proposing to build an addition on the north side of their current building. The building would be sited on an existing parking lot and face Yeates Street. The Development Review Committee has reviewed and approved the site plan. The Planning and Zoning Commission previously made a recommendation for approval for a Conditional Use on March 13, 2012, and again on September 9, 2014. The Board of Aldermen approved the Conditional Use on April 2, 2012, and again on September 16, 2014. The Conditional Use expired six months after the approval by the Board of Aldermen.

Thirty-four property owners of record within 300 feet of the subject property were notified directly by mail of the request. A Public Hearing notice was published in the *Starkville Daily News* on Saturday, June 11, 2015, and a placard was posted on the property on June 15, 2015. As of this date, the Planning Office has received no phone call 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:

1. Land use compatibility: *The property is currently used as a church.*
2. Sufficient site size and adequate site specifications to accommodate the proposed use: *The site is adequately sized to accommodate the proposed addition.*
3. Proper use of mitigative techniques: *None proposed.*
4. Hazardous waste: *No hazardous wastes or materials would be generated, used or stored at the site.*
5. Compliance with applicable laws and ordinances: *Building the proposed addition will require building permits and inspections.*

REQUESTED CONDITIONS

1. A building permit shall be obtained prior to any construction activities.
2. All of the above conditions shall be fully and faithfully executed or the Conditional Use shall become null and void.

After Mr. Havelin's presentation, Procedural Chair Latimer opened the Public Hearing, and with none coming forward to speak, and after discussion among the Commissioners, Commissioner Walker moved to approve CU 15-07 with conditions recommended by Staff, which was seconded by Commissioner Brooks, and the Commission voted unanimously to approve CU 15-07.

B. CU 15-08: Request for Conditional Use to allow a
“Car Title Loan, Payday Advance or Loan Business” in a
C-2 zone at 831 Highway 12 West, Suite C, Parcel #102L-00-015.04

City Planner Havelin introduced CU 15-08, a Public Hearing noticed by the City of Starkville, for the request by Lendmark Financial Services for a Conditional Use to allow a “Car Title Loan, Payday Advance or Loan Business” in a C-2 zone in an existing building at 831 Highway 12 West, Suite C. The applicant will be offering consumer lending; sales finance; and financing automobiles, furniture, and equipment for local dealers. Due to the type of business the applicants wish to operate, a Conditional Use is required per the City of Starkville Permitted and Conditional Use Chart.

Ten property owners of record within 300 feet of the subject property were notified directly by mail of the request. A Public Hearing notice was published in the *Starkville Daily News* on June 29, 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:

1. Land use compatibility: *The property has previously been used as commercial.*
2. Sufficient site size and adequate site specifications to accommodate the proposed use: *The site is adequately sized to accommodate the proposed use.*
3. Proper use of mitigative techniques: *None proposed.*
4. Hazardous waste: *No hazardous wastes or materials would be generated, used or stored at the site.*
5. Compliance with applicable laws and ordinances: *The applicant has not received a business license. There are no known violations of current laws or ordinances at this time.*

Procedural Chair Latimer opened the Public Hearing, and Sonya Collier, the proposed manager for the office, came forward to speak on behalf of the applicant. With none others coming forward to speak, Mr. Latimer closed the Public Hearing. After discussion among the Commissioners regarding compliance with regulations, Mr. 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 five criteria already mentioned by Mr. Havelin; 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. Commissioner Brooks moved to approve CU 15-08, which was seconded by Commissioner McReynolds, and the Commission voted three to one to approve CU 15-08, with Commissioner Moore voting nay.

C. EX 15-03: Use by Exception request for nonconforming signage at Marriott Courtyard located on Mercantile Street behind The Mill. Parent Parcel #101D-00- 342.00

City Planner Havelin introduced EX 15-03, a Public Hearing noticed by the City of Starkville, for the request by Stan House on behalf of Cooley Center Hotel, LLC, for a Use by Exception to allow a nonconforming sign in a T6 District to be placed on the Marriott Courtyard hotel. The types of signage proposed (total of 3) would exceed the maximum letter height of 18" and would also be internally illuminated.

Two property owners of record within 300 feet of the subject property were notified directly by mail of the request. A Public Hearing notice was published in the *Starkville Daily News* on June 22, 2015, 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.

STAFF RECOMMENDATION

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

- Be consistent with § 1.2 Intent and 1.3 Transect Districts of this Section; and
- Be consistent with the goals, objectives and policies of the City of Starkville's Comprehensive Plan.

City Attorney Latimer reminded the Commission that the test for approval for Use by Exception is of the broadest in giving the most discretion for a decision: if the applicant by a preponderance of the evidence satisfies the conditions as presented by Mr. Havelin regarding the intent of transect districts of this section and consistent with the goals, objectives, and policies of the City of Starkville's Comprehensive Plan.

Procedural Chair Latimer opened the Public Hearing, and Stan House, the sign contractor, and Mark Castleberry, representing the applicant, came forward to speak, stating how they have satisfied the required conditions. With none others coming forward to speak, Mr. Latimer closed the Public Hearing and opened the floor to discussion among the Commissioners. Commissioner Walker moved to approve EX 15-03, which was seconded by Commissioner Brooks, and the Commission voted unanimously to approve EX 15-03.

D. PP 15-10 and FP 15-10: Request for Preliminary Plat and Final Plat approval for one lot located on the south side of Butler Road in an R-6 zoning district, Parent Parcel #116-23-007.01

City Planner Havelin introduced PP 15-10 and FP 15-10, a request by Saperior Patton for approval of a Preliminary Plat and Final Plat for one lot. The proposed parcel is +/-1.00 acre. The proposed lot is labeled on the plat as Lot 7. The parcel is located within an R-6 Residential Zoning District. Properties to the West, South, and East are zoned R-6. Property to the North is outside City limits. To the best of Staff's knowledge, the parent tract is not part of a platted subdivision. The 1.00 acre parcel is located in an R-6 Mobile Home zoning district.

Requirements for R-6 parcels:

- The individual mobile home lot shall have a minimum lot area of 5000 square feet and shall not be less than 40 feet in width at the building line. *The proposed lot will exceed both requirements.*
- The minimum yard requirements for the mobile home lot shall be: Front 20', Rear 15', sides 5'. *At this time no plan illustrating the placement of any structure or mobile home has been submitted.*

FINDINGS AND COMMENTS:

Electricity would need to come from Four County Electric, and approval of a septic system would be required by the Mississippi State Department of Health. If the Planning and Zoning Commission decides to approve the applicant's request for a one-lot subdivision, Staff recommends the following conditions:

1. Documentation from the Mississippi State Department of Health stating that a septic system can be installed on the subdivided property.
2. Placement of any structure shall meet all setback requirements.
3. Documentation of inspection and approval of installed septic system is required before a Certificate of Occupancy can be issued.

After Mr. Havelin's presentation, questions came from the Commission regarding the history of subdivision of the parent tract, including the subject property, which has not been previously officially platted and recorded in the courthouse.

City Attorney Latimer quoted from Mississippi Code § 17-1-23(4):

"If the owner of any land which shall have been laid off, mapped or platted as a city, town or village, or addition thereto, or subdivision thereof, or other platted area, whether inside or outside a municipality, desires to alter or vacate such map or plat, or any part thereof, he may petition the board of supervisors of the county or the governing authorities of the municipality for relief in the premises, setting forth the particular circumstances of the case and giving an accurate description of the property, the map or plat of which is to be vacated or altered and the names of the persons to be adversely affected thereby or directly interested therein. However, before taking such action, the parties named shall be made aware of the action and must agree in writing to the vacation or alteration. Failure to gain approval from the parties named shall prohibit the board of supervisors or governing authorities from altering or vacating the map or plat, or any part thereof."

City Attorney Latimer then asked, that in light of what he had just read, should notice be required? Mr. Sanders answered that if the lot had been already platted previously and were to be platted again, then notification would be required.

Procedural Chair Latimer asked for the applicant, Saperior Patton, to speak, who plans to build a single-family home on the property. Ms. Patton stated that she has the deed to the land and has

complied with requirements asked of her and that she plans to build a house; the rest of the land would be open land.

Mr. Latimer stated that the only adjacent property owners would be Ms. Theresa Spinks and Mr. Luther Hunter, who sold the property to Ms. Patton, and if the Commission so moves to approve, it should be conditional upon getting approval from Mr. Hunter and Ms. Spinks before going before the Board of Aldermen. The Commissioners discussed what is now in place to correct the problem of premature recording in the courthouse of plats not officially approved. With no further discussion, Commissioner Walker moved to approve PP 15-10, with the condition of obtaining written permission from Mr. Hunter and Ms. Spinks, pursuant to Mississippi Code § 17-1-23(4), which was seconded by Commissioner Moore, and the Commission voted unanimously to approve PP 15-10.

Commissioner Moore moved to approve FP 15-10, with the condition of obtaining written permission from Mr. Hunter and Ms. Spinks, pursuant to Mississippi Code § 17-1-23(4), which was seconded by Commissioner Walker, and the Commission voted unanimously to approve FP 15-10.

E. PP 15-11 Request for Preliminary Plat approval for subdividing one parcel into two,
Parent Parcel #102I-00-003.00

City Planner Havelin introduced PP 15-11, a request by Larry Tabor for Preliminary Plat approval for subdividing one parcel into two, located on the northwest corner of Lynn Lane and South Montgomery. The proposed parcel is +/-2.00 acre. The parcel is located within an R-3 Residential Zoning District, which was rezoned R-3 by the Board of Aldermen on July 7, 2015. As a condition of the rezoning, the parent lot was required to subdivide the parcel within 90 days of the rezoning. If the Planning and Zoning Commission decides to approve the Applicant's request for a Preliminary Plat for a lot subdivision, Staff recommends the following condition:

- No conditions (conditions below were placed on the parcel at July 7, 2015, Board of Aldermen meeting as part of the approval of the rezoning).
 1. Rezoning contingent upon subdividing proposed rezoned area from the rest of the parcel within 90 days of the approval for rezoning.
 2. Each unit shall be single family owner occupied.

3. No more than 12 dwelling units.
4. Buffer per Section 8 of the Landscape Ordinance required adjacent to R-1 zoned parcels.
5. Require adherence to HOA Covenants.
6. Require a privacy screen on average height between 7 and 8 feet with a maximum of 20 percent transparency along the northern boundary adjacent to Pleasant Acres and along the boundary of the Guyton property.

Procedural Chair Latimer asked for questions for the representative of the applicant, Jason Pepper. With none coming forward to speak, the floor was opened to discussion among the Commission regarding whether the lot is an already subdivided plat. With no such plat existing, Commissioner Walker moved to approve PP 15-11, which was seconded by Commissioner McReynolds, and the Commission voted unanimously to approve PP 15-11.

**F. RZ 15-04: Rezoning request for Terry Parrish Property, east side South Jackson
north of the railroad tracks, from a C-2 to T5 zone,
Parcels #102A-00-014.00, 102A-00- 015.00, and 102A-00-016.00**

City Planner Havelin introduced RZ 15-04, a Public Hearing noticed by the City of Starkville for a request by Jason Pepper on behalf of Terry Parrish to rezone three properties from C-2 to T5. The three parcels total +/- 1.08 acres. The parcels are located on the northeast side of the intersection of South Jackson and the railroad tracks. The earliest zoning map (1960s–1970s Map) available to Staff illustrates the subject property as being zoned C-2. The 1982 and 2000 maps also show the property as C-2. The 2013 zoning map shows the property as C-2 and T5. Properties to the north are zoned T-5; properties to the east and west are zoned C-2 and T-5; properties to the south are zoned C-2. The property is currently under contract, and plans for development are being made. The current split zoning of the parcel would present a challenge to any development.

Twenty-two property owners of record within 300 feet of the subject property were notified directly by mail of the request. A Public Hearing notice was published in the *Starkville Daily News* on June 22, 2015, and a placard was posted on the property on June 15, 2015. As of this date, the Planning Office has received no phone calls against this request. 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.
 - On January 12, 2012, the Board of Aldermen adopted Form Based Code for MS Highway 182, Main Street, University Drive, Lampkin Street, and Russell Street. As a result, 84 parcels were rezoned to either T District or Civic District. The subject parcel is adjacent to a T5 District parcel to the north and is currently planned to be developed together with the parcel to the north as one project.

REQUESTED CONDITIONS

1. Buildings to be used as residential on the first floor shall be accessed from the street.

After Mr. Havelin's presentation, Mr. Latimer reminded the Commission 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.

Procedural Chair Latimer opened the Public Hearing and asked for Jason Pepper as representative for the applicant to come forward to speak. He presented the case for change in neighborhood and public need. With none others coming forward to speak, the Public Hearing was closed, and after discussion among the Commissioners, Commissioner Walker moved to approve RZ 15-04, based on a finding of fact that the neighborhood has changed and there is a public need, which was

seconded by Commissioner Moore, and the Commission voted unanimously to approve RZ 15-04.

PLANNER'S REPORT

Community Development Director Sanders reported that the school district has made a request for a Conditional Use for an additional classroom in an R-3 zone, in order for the school to be operational when school starts. To give the requisite notice and to be in time for presentation at the meeting of the Board of Aldermen, a Special Called meeting has been requested for July 29. Commissioner Walker moved to hold a Special Called meeting on July 29, 2015, which was seconded by Commissioner Brooks, and the motion carried unanimously.

The consulting firm for the Comprehensive Plan will have an introductory public meeting on Tuesday, July 21, at 5:30.

ADJOURNMENT

With no further business to discuss, Commissioner Brooks moved that the meeting be adjourned, which was seconded by Commissioner Mc Reynolds, and the Commission voted unanimously to adjourn at 6:45 PM. The next meeting will be a Special Called meeting on July 29, 2015, at 5:30 PM, in the City Hall Courtroom.

Chris Latimer, Procedural Chair

Daniel Havelin, City Planner