

**MINUTES OF THE  
TUPELO PLANNING COMMITTEE  
September 14, 2009**

**CALL TO ORDER**

The meeting was called to order by Chairman Michael Gratz. Mr. Mitch Ellett led the prayer and Chairman Gratz led the pledge of allegiance. Chairman Gratz explained the procedures of the meeting and introduced the committee members and staff. Members present were Chairman Gratz, Mr. Russ Wilson, Mr. Richard Johnson, Mr. Mitch Ellett, Mr. William Smith and Mr. Rud Robison. Staff members present were Development Services Director Ms. B.J. Teal, City Planner Mr. Pat Falkner, Senior Planner Ms. Renee Ray and Zoning Administrator Ms. Marilyn Vail. Committee members unable to attend were Ms. Judy Brown and Ms. Mabel Murphree.

**REVIEW/APPROVE PREVIOUS MINUTES**

The minutes were approved with some minor typographical error changes.

**REPORT ON COUNCIL ACTIONS**

Mr. Falkner reported that the Council accepted the report on the Comprehensive Plan and readopted it. They also approved a subdivision on Coley Rd.

**OLD BUSINESS**

1. **VAR09-06: Tupelo Church of God requests a variance to allow the erection of pole lights that are 50 – 55 feet in height rather than the allowed 25 feet at a softball field located behind Tupelo Church of God at 1813 Briar Ridge Road in an R-1M, Medium Lot Residential Zoning District.**

This item was tabled because the applicant was not present. The motion was made by Mr. Dick Johnson and seconded by Mr. William Smith. The vote was unanimous.

2. **AP09-02: Bob Starnes, developer of The Pines at Barnes Crossing requests a appeal to the decision of the Department of Development Services regarding the landscaping at the Pines Apartment Complex located on North Gloster Street in an R-3, Multi-Family Zoning District.**

Chairman Gratz asked that a letter received from Mr. Starnes' attorney, Mr. Jim Waide, stating he advised Mr. Starnes not to attend, be made part of the record. The committee took no action on the item.

3. **A09-03: Text Amendments for Chapters 3, 5, and 14 of the Tupelo Development Code which provide for Planning Committee appointments based on new Council structure, and provide for the use of development**

**agreements on planned unit developments, major subdivisions, and major site plans.**

Mr. Falkner explained that the first text amendment relates to the make-up of the Planning Committee in relation to the change in the number of City Councilmen, nine to seven. It also refers to the lengths of the terms of the Planning Committee members. Mr. Johnson made a motion to delay the discussion of the amendments to the end of the agenda. Mr. Smith seconded and the motion passed.

**NEW BUSINESS**

**4. RZ09-02: Bart Todd requests approximately 2.2 acres located at 2654 Gun Club Road be rezoned from R-1M, Medium Lot Residential Zoning District to C-2, General Commercial Zoning District.**

Mr. Falkner explained that Mr. Todd came to the staff several months ago about creating a better way to market his property to the benefit of his family. He continued to explain the surrounding zoning, the shape of the property and its ability to be developed residentially. Mr. Falkner also explained that the property was reviewed under the Comprehensive Plan's future land use which is mixed use residential. The current zoning classification that best meets that description is C-1, Light Commercial. Mr. Todd's family requests the C-2, General Commercial which would allow a larger variety of uses for the area. He added that the family also requests that the section of the land facing Gun Club Road be left residentially zoned to provide a buffer to the residential area to the east. The staff supports the rezoning as being in line with the concepts of the Comprehensive Plan.

Mr. Bart Todd, representing his father James Todd, said that his family has owned the property since 1962. Their plan is to market the property to businesses similar to Renfroe Insulation or Franklin Collection Agency. These businesses are on either side of the property. He added that he wants to prevent access to the property on the Gun Club side.

Mr. Wilson asked Mr. Todd how he plans to do that and added that he is concerned about this high traffic intersection. Mr. Todd understood that the City would prevent access from the residential side. Mr. Falkner said that during the site plan review, the City could limit access on the Gun Club side.

Mr. Johnson and Mr. Falkner discussed the residential side of the property and how the line matches the boundary of residential zoning to the north. Mr. Falkner explained the shape of the property and how it would be difficult to use the property as it gets closer to the point on the south side. He stated that the shape of the lot would prevent development of much more than parking in that area. Mr. Wilson asked about blocking visibility and Mr. Falkner explained that the City has visibility guidelines to follow in reviewing plans.

Chairman Gratz asked if anyone was present to speak either for or against the application. There was no one present to speak.

Mr. Johnson made a motion to approve the rezoning because he felt that this plan is the highest and best use of the property. Mr. Robison agreed. Mr. Smith seconded the motion and the vote was unanimous.

**5. MJ09-05: Marilyn Smith requests a re-establishment of a non-conforming use (a childcare center) at 518 North Park Street in an O, Office Zoning District.**

Mr. William Smith recused himself and left the room. Chairman Gratz recognized Ms. Marilyn Smith, 518 North Park Street, who introduced her administrator, Sherry Martin. Ms. Smith stated that she has a daycare on Main Street and would like to use this building for her after-school program.

Mr. Falkner explained that they are requesting the re-establishment of the property for a daycare center. He added there are no changes to the exterior of the structure that would disrupt the neighborhood character. Even though this area is zoned O, Office, there are no offices in this area. He noted that there were no calls nor does the staff have any record of complaints of its previous use.

There were no citizens to speak either for or against the application.

Mr. Wilson asked about the parking for the staff and the number of children. Ms. Smith replied only one employee would be required and she would park in the driveway. She also said that she is approved for thirty-three children but now only has twelve in the program. Mr. Wilson then asked Mr. Falkner about the drive behind the house. Mr. Falkner explained that it is a public alley. Mr. Wilson asked Ms. Smith if the parents would be parking in the alley to pick up the children. Ms. Smith explained that it is a two car driveway and the parents use the same driveway.

Mr. Ellett asked about the schedule of use of the building. Ms. Smith said that during the school year the children would only be there from 3:30 p.m. until 5:00 p.m. Ms. Martin said during the summer months it will be open from 8:00 a.m. until 5:00 p.m. She added that they plan field trips for the children. She also explained that their numbers increase in the summer time and the staff will increase to two.

Chairman Gratz, Mr. Johnson and Ms. Martin continued to discuss the parking. Chairman Gratz asked Mr. Falkner about the alley. The Committee then discussed the businesses that use the alley along with the daycare center.

Mr. Wilson made a motion to re-establish the use of the property for a daycare center. Mr. Johnson seconded and the motion passed.

**3. TA09-03: Text Amendments for Chapters 3, 5, and 14 of the Tupelo Development Code which provide for Planning Committee appointments based on new Council structure, and provide for the use of development agreements on planned unit developments, major subdivisions, and major site plans**

The Committee resumed their discussion of the amendment that controls the number of members. Mr. Wilson and Mr. Johnson felt that keeping nine members was important in order to insure that a quorum can be met at each meeting. The Committee then discussed the members being one per ward. They decided to change the wording so that at least one member would be from each geographical ward and that all members must be qualified electors of the corporate boundaries of the City, appointed by the Mayor and confirmed by the City Council. Mr. Johnson made a motion to approve to change Section 3.2.2 to the following:

The Planning Committee shall consist of nine members, at least one from each geographical ward, appointed by the Mayor and confirmed by the City Council in accordance with Section 21-8-23 of the Mississippi Code 1972, annotated and shall reside within the corporate boundaries of the City and be qualified electors in the City.

Mr. Smith seconded and the vote was unanimous.

The next amendment section concerned term limits. Committee members have suggested that they not be able to succeed themselves. Mr. Wilson expressed a concern that the Committee would lose some of the continuity. Mr. Falkner stated that the original plan for the terms were set so that a majority of the members would not be leaving the Committee at one time. This allowed experienced Committee members to work along with the inexperienced until they have better understanding of the legal process. It has always been at the discretion of the Mayor and Council if members should succeed themselves. Currently, four committee members are scheduled to be appointed / reappointed in October. Concerns were expressed that the current members have worked on the Comprehensive Plan and are interested in following through with the new Development Code. Ms. Teal suggested that she talk to the Mayor and express the concerns of the Committee and get his ideas. Mr. Johnson made a motion to table this section of the amendments. Mr. Smith seconded and the vote was in favor of tabling the discussion.

Mr. Falkner presented the next set of code amendments about development agreements. He asked Ms. Ray to report on her knowledge of this type of code requirement. She said that the development agreement is a document that locks in the stipulations on what the developer is responsible for and the City is responsible for with major developments. She has experience working as a consultant to developers and is familiar with the agreements. It is used as a checklist to make sure the developer provides everything that is expected of them.

Mr. Falkner described the suggested amendments given to the Committee members to review. Staff used the code from Collierville, Tennessee code as a guide because it has been tested and upheld in court. The documents provide a way for the City to have financial security that the work is complete.

Chairman Gratz asked about the reaction in the community from this request. Mr. Falkner said there will probably be some concerns expressed but the developer must realize that there are other points of view. He added that he could provide citizens who could attest to the importance of having these agreements as insurance that the work is completed. Ms. Ray added that working on the developer side of the agreement, she found that it provides just as much protection for the developer. She cited a situation where a City might come back later and ask for more right of way or other changes. The agreement would prevent that from happening.

Ms. Teal explained that the letter of credit would be based on a detailed list of amenities and as parts of those are completed, then the credit is released for the agreed on amount. Then there is ten per cent kept for a one year warranty. She described a situation where a developer went bankrupt and the letter of credit was used to finish the subdivision.

Chairman Gratz asked who is responsible for making sure the work is completed and releasing the funds. Ms. Teal replied the Department of Development Services would be by completing inspections and requesting the City Council to release the amounts.

Chairman Gratz then asked Mr. Robison for his opinion as an architect. Mr. Robison answered that there are securities in place on every public project in the State of Mississippi that cover performance and insurance of the performance of the contractor or in this case the developer. He felt that these are good measures to put in place.

Mr. Johnson asked if this would put hardships on some of the smaller developers around town. Ms. Teal said that this would cover larger projects where infrastructures are involved. Mr. Wilson asked if the Planning Committee would be participating in developing these agreements and recognizing the items to be included. He also asked if the concerns of the neighbors would be considered. Ms. Teal said there would be a new approach to the development process in order to take all these into consideration.

Chairman Gratz asked if the agreements would be developed before the project is presented to the Planning Committee. Ms. Teal said that is would come after Planning Committee review and before the project commences. The details would be worked out by the Engineering Division and the developer and possibly the Planning Committee. Mr. Falkner further explained that these agreements would apply to subdivisions, PUDs and Major Site Plan reviews. He added that the engineers review and inspect every part of the construction of these projects. This agreement would document all of these procedures. Mr. Johnson and Mr. Wilson described situations where the agreements would have made a difference in what the property owners are currently experiencing.

After further discussion, Mr. Johnson made a motion to adopt the amendments concerning the development agreement. Mr. Smith seconded and the vote was unanimous.

## **OTHER BUSINESS**

### **6. Sub Committee Reports**

Mr. Smith reported that the Historic Preservation Committee had received the Preserve America status and would be announcing that to the Committee and City Council soon.

## **ADJOURN**

There was no other business and the meeting was adjourned.