

**CITY OF MADISON, ALABAMA  
PLANNING COMMISSION  
MINUTES OF THE JULY 18, 2013 REGULAR MEETING**

**The meeting was called to order by Planning Commission Chairman Bianca at 5:30 p.m.**

**ATTENDEES**

**PLANNING COMMISSION MEMBERS**

<b>Planning Commission Chairman</b>	
DAMIAN BIANCA, C.A.P.Z.O.	PRESENT
<b>Planning Commission Vice Chairman</b>	
STEPHEN BROOKS	PRESENT
<b>City Council Member</b>	
MICHAEL POTTER, C.A.P.Z.O.	PRESENT
TIM COWLES	PRESENT
CYNTHIA MCCOLLUM, C.A.P.Z.O.	PRESENT
STEVEN RYDER, C.A.P.Z.O.	PRESENT
CAMERON GROUNDS, C.A.P.Z.O.	ABSENT
LEWIE L. BATES, III, C.A.P.Z.O.	PRESENT
TROY WESSON, C.A.P.Z.O.	ABSENT

**PLANNING STAFF PRESENT**

AMY BELL, DIRECTOR OF COMMUNITY DEVELOPMENT AND PLANNING; KELLY BUTLER, CITY ATTORNEY; JOHNNY BLIZZARD, A.I.C.P, CHIEF PLANNER; GARY CHYNOWETH, P.E., CITY ENGINEER; GINA ROMINE, PLANNER I AND RECORDING SECRETARY.

**REGISTERED PUBLIC ATTENDEES**

Jim Enault, Stan & Jeanne Steadman, Jim Putnam, Tony Osani, Rusty Blackwell, Josh Evervett, John Wisda, Versey Jones, Paula Putnam, Thurman C. Holden, Phyllis Mullin, Larry Mason, Jean Jaques Malosse, Tim Holcombe, Marie Cavazos Heikkener, John C. Bailey, Betty J. Batts, Martin Folgmann, and Wayne & Freida Jordan.

**ACCEPTANCE OF AGENDA**

Chairman Bianca accepted the agenda as presented and proceeded with regular business.

**APPROVAL OF MINUTES**

There were no minutes presented for approval.

**PUBLIC COMMENT**

Chairman Bianca opened the floor to public comment.

There being no public comment, Chairman Bianca closed the floor for public comment.

#### OLD BUSINESS

There being no old business, Chairman Bianca proceeded with public hearings.

#### PUBLIC HEARINGS

##### Zoning Amendments

1. Public hearing to consider The City of Madison's request to rezone properties located south of Martin Street and east of Sullivan Street from *B-2, Community Commercial District, B-3 General Business District* and *R-2, Medium Density Residential District* to *B-2, Community Commercial District*.

**Staff Report:** Director Bell presented the requested and stated the subject properties are located east of Sullivan Street and south of Front Street. The City of Madison is requesting the subject properties be rezoned from *R-2, Medium Density Residential* and *B-3, General Business* to *B-2, Community Commercial*. Consideration could also be given to zoning these properties *B-1 Neighborhood Commercial* since upcoming comprehensive *Zoning Ordinance* amendments could tailor the very underutilized *B-1* district for the unique characteristics desired and sought in a downtown area such as this. The most substantial reason that would indicate the subject properties cannot be used under the current zoning is the overall lack of investment and development of subject properties. The *Downtown Redevelopment Incentive District (DRI)* was created to encourage mixed use, redevelopment of this transitioning area since underlying zoning regulations (of *R-2* and even *B-2*) may not accommodate development of the highest and best use of the properties. The proposed zoning of *B-2, Community Commercial* (or *B-1*) for all the properties will achieve the objectives of the *DRI, Downtown Redevelopment Incentive District*. It will clearly communicate that Madison is seeking the expansion of its Central Business District and encourage investment of the same. Few applications have been submitted for a *Specific Development Plan Permit* authorized by the *DRI, Downtown Redevelopment Incentive District*, but for those which have, the trend is for commercial uses. Additionally, businesses and investors seeking downtown commercial real estate are likely unaware of the *DRI, Downtown Redevelopment Incentive District* and only review the *Official Zoning Map* in their search for available property. In such cases the designation of *R-2, Medium Density Residential* for many of the properties would cause them to look elsewhere. The principle reason the City of Madison is requesting the subject properties be rezoned to *B-2, Community Commercial*, is to support and stimulate investment and interest in Madison's historic downtown. Much of the downtown area south of Main Street has deteriorated from lack of investment. An example of how such investment has benefitted the downtown area is the construction of a retail center at *14 Main Street*. The property is zoned *B-2, Community Commercial* and together with the zoning deviances allowed by the *DRI, Downtown Redevelopment Incentive District*, the property has been redeveloped. The *DRI, Downtown Redevelopment Incentive District* standards were explained. Director Bell stated that the City's intent in doing this rezoning is by no means to automatically change the use of any property in this area. Any existing use whether residential, business or not permitted in the districts in which the City is considering it is not the

intent to stop the use. However, if you choose to stop using the property for that use for a continuous 365 days it would revert to a permitted use. However, with permission from the Planning Commission and the *DRI, Downtown Redevelopment Incentive District* the use could be reverted back to the original use. Director Bell presented the permitted use table to the Commission. The B-1 Zoning District Uses were discussed as the downtown district or pedestrian retail district that could be used in other areas as a business or investment interest. Director Bell stated that there are a couple of paths the Commission can take on this rezoning and staff is asking for feedback.

Staff and the Technical Review Committee recommends approval of the *City of Madison's* request that the subject properties be rezoned from *R-2, Medium Density Residential* and *B-3, General Business* to *B-2, Community Commercial* or *B-1, Neighborhood Commercial*. *B-1* may be preferable since it is not at all widely used in across the City and could, through forthcoming and subsequent Zoning Ordinance amendments specifically to the *B-1 District*, could be established as the downtown and/or new town center (for growth or other pedestrian scale infill developments). If passed as either *B-1* or *B-2* the allowances of the overlaying *DRI* would allow for case by case approval of land uses not expressly permitted under the current list of permitted uses for either district.

**An important note regarding existing land uses (business and homes)** within the list of subject properties, is that it is not the intent of the city or effect of rezoning to eliminate any current business or use of home. The impact of the new zoning, whether B-2 or B-1 along with the *DRI*, would allow the continuance of the existing uses until such time the owner wished to sell or redevelop or change use of the property.

**Public Comments:** Don Monk, 136 Paul Revere Drive, representing his mother's property at 14 Martin Street. The property is currently a rental property. Mr. Monk was informed that if the property was destroyed by fire then she would have to build it back as a commercial property. Mr. Monk also questioned plans for downtown and asked if there was that everyone on Martin Street be made aware of them. Mr. Monk stated eminent domain has been tried on this mother's property in the past without success. Director Bell stated in normal situations that if the property was non-conforming and was destroyed completely or to a certain percentage the property would have to be built back to conform to the zoning district. The distinction with the *DRI* is that the Planning Commission is giving special development plan approval for a single-family home at that location. Director Bell stated that the Capital Improvement Plan including plans for downtown are on the City's website. Jeanne Steadman, 18 Arnett Street stated that if the proposed changes were not made to the B-1 use table that she would not feel comfortable with the rezoning. Mrs. Steadman had properties she owns downtown rezoned for a farmer's market and she could not use the warehouses for storage which they were used for approximately 60 - 70 years if these changes to the B-1 table were not made.

**Board Comments:** Mrs. McCollum asked Director Bell that if this change to B-1 were to occur if it would a negative impact on any existing businesses in any way. Director Bell stated it would not and effectively the City would be giving the *DRI* approval to anything less than the uses that are

permitted there. Councilman Potter asked if there were commercial businesses that are not permitted in this B-1. Director Bell stated that the City had spoken with those businesses and provided them the information regarding the *DRI*. Councilman Potter asked in respect to the *DRI* is this something that is automatic that the property owner will have to trust the City and/or Commission to remember that it will revert back to a single-family residence. Director Bell stated that the Zoning Administrator will issue a letter stating the zoning designation with the overlay district and its current use to the property owners affected. Councilman Potter expressed concerns regarding farmer's markets only in the B-1 zoning areas. Staff explained that the intent is to locate farmer's market from the main commercial corridors to the downtown and pedestrian corridors.

**Motion:** Mrs. McCollum moved to table The City of Madison's request to rezone properties located south of Martin Street and east of Sullivan Street from B-2, *Community Commercial District*, B-3 *General Business District* and R-2, *Medium Density Residential District* to B-1, *Neighborhood Commercial District* to the August Planning Commission meeting. The Commission also requests that staff provide an updated B-1, *Neighborhood Commercial District* use table for consideration at the August meeting. Vice-Chairman Brooks seconded the motion and the vote was as follows:

Chairman, Damian Bianca	Aye
Vice-Chairman, Stephen Brooks	Aye
City Council Member, Mike Potter	Aye
Cynthia McCollum	Aye
Steve Ryder	Aye
Lewie Bates	Aye
Tim Cowles	Aye

**Motion carried**

### **Subdivision Plats**

**1. *Applewood Subdivision, Layout Amendment – Tabled at the June 20, 2013 Meeting***

Location: South of Gillespie Road & West of Balch Road

Representative: Goodwyn, Mills & Cawood, Inc.

Owner/Applicant: Newcastle Enterprises, LLC

Lots: 75, 1 Parcel, & 3 Common Areas

Acreage: 28.59

**2. *Applewood Subdivision, Final Plat – Tabled at the June 20, 2013 Meeting***

Location: South of Gillespie Road & West of Balch Road

Representative: Goodwyn, Mills & Cawood, Inc.

Owner/Applicant: Newcastle Enterprises, LLC

Lots: 75, 1 Parcel, & 3 Common Areas

Acreage: 28.59

**Motion:** Vice-Chairman Brooks moved to remove the layout plat amendment and final plat for *Applewood Subdivision* from the table. Mr. Bates seconded the motion and the vote was as follows:

**Final Vote:**

Chairman, Damian Bianca	Aye
Vice-Chairman, Stephen Brooks	Aye
City Council Member, Mike Potter	Aye
Cynthia McCollum	Aye
Steve Ryder	Aye
Lewie Bates	Aye
Tim Cowles	Aye

**Motion carried**

**3. *Applewood Subdivision, Layout Amendment***

Location: South of Gillespie Road & West of Balch Road

Representative: Goodwyn, Mills & Cawood, Inc.

Owner/Applicant: Newcastle Enterprises, LLC

Lots: 75, 1 Parcel, & 3 Common Areas

Acreage: 28.59

**Applicant Request:** Rusty Blackwell representing Goodwyn, Mills & Cawood, Inc. presented the request.

**Staff Report:** Chief Planner Blizzard stated the Planning Commission had the following concerns with the proposed ingress/egress easement located along the south boundary of proposed Common Area 1:

1. Would the future homeowners association for *Applewood Subdivision* have responsibility for maintenance of the ingress/egress easement to Parcel 1?
2. The Planning Commission was concerned about the safety of pedestrians that will walk to Common Area 1 for recreation, because of with commercial traffic accessing the ingress/egress easement.

The applicant and City of Madison Planning and Engineering staff met to resolve the issues. During the meeting, the applicant and City staff agreed on the following recommendations:

1. The land in which the ingress/egress easement is located be consolidated into *Parcel 1*, instead of *Common Area 1*. This would ensure that maintenance of the ingress/egress easement would be the responsibility of the owner of *Parcel 1* and not the future homeowners association.
2. The ingress/egress easement remains in place to allow *Applewood Subdivision* property owners to use it.
3. *Parcel 1* be allowed full access to Gillespie Road and right-in/right-out access to Balch Road

Staff and the Technical Review Committee recommend approval of the amendment to the layout for *Applewood Subdivision*.

**Public Comments:** No comments.

**Board Comments:** No comments

**Motion:** Vice-Chairman Brooks moved to approve *Applewood Subdivision layout plat amendment*. Mr. Cowles seconded the motion and the vote was as follows:

**Final Vote:**

Chairman, Damian Bianca	Aye
Vice-Chairman, Stephen Brooks	Aye
City Council Member, Mike Potter	Aye
Cynthia McCollum	Aye
Steve Ryder	Aye
Lewie Bates	Aye
Tim Cowles	Aye

**Motion carried**

4. *Applewood Subdivision, Final Plat*

Location: South of Gillespie Road & West of Balch Road

Representative: Goodwyn, Mills & Cawood, Inc.

Owner/Applicant: Newcastle Enterprises, LLC

Lots: 75, 1 Parcel, & 3 Common Areas

Acreage: 28.59

**Applicant Request:** No comments.

**Staff Report:** Chief Planner Blizzard stated that staff and the Technical Review Committee, recommends approval of the final plat for *Applewood Subdivision* with the following contingencies:

1. Sign Fees: \$5,700
2. Provide performance bonds
3. Sheet 1: Provide a non-access easement for Balch Road and Gillespie Road. Exclude commercial lot
4. Sheet 1: General Note 2: The smallest lot is 9,869
5. The land disturbance along the south boundary of Gillespie Road, west of Emerson Road must be restored to its original state as a condition of acceptance into the City of Madison's Maintenance Program. The following stipulations must be completed to the satisfaction of the City of Madison to satisfy the condition of acceptance into the City of Madison's Maintenance Program:
  1. The fence must be replaced or restored to its pre-existing form before the land disturbance. Any replacement materials must be the same as those used in the existing fence and all existing materials must be cleaned of all dirt or mud stains.

2. The site must be restored to its condition before the land disturbance with new sod similar to that removed.
3. The missing or destroyed signage must be replaced or restored to its pre-existing form before the land disturbance. Any replacement materials must be the same as those used in the existing signage and all existing materials must be cleaned of all dirt or mud stains.

6. Signatures:

- A. Huntsville Utilities

**Public Comments:** Jim Enault, resident of Walden Subdivision provided photographs to the Commission and expressed concerns regarding issues with the fence and damage from the construction. Mr. Enault also expressed concerns regarding flooding. John Wisda addressed the drainage concerns and asked for an explanation of why there should be a plat note stating he should have to reinstall the fence on the easement. Issues regarding a sign installed in the right-of-way were discussed. City Engineer Chynoweth stated that the sign was asked to be removed from the right-of-way and since the fence was removed as part of the construction it was required to be replaced as part of the subdivision improvements. Tim Holcombe, 215 Walden Glen Road stated that permission was granted to install the fence by the City Engineer where it is located. Attorney Butler stated without understanding the terms of the agreement she could not speculate to this issue.

**Board Comments:** Mr. Cowles expressed concerns regarding reinstalling the fence in an easement. The Board discussed issues regarding the fence and signage. Attorney Butler stated that she would look into the fence issue and provide the Commission with information regarding the any information she could obtain.

**Motion:** Mrs. McCollum moved to approve *Applewood Subdivision final plat* subject to the contingency that the fence be replaced prior to the acceptance into the City of Madison maintenance program and the satisfaction of other contingencies. Councilman Potter seconded the motion and the vote was as follows:

**Final Vote:**

Chairman, Damian Bianca	Aye
Vice-Chairman, Stephen Brooks	Nay
City Council Member, Mike Potter	Aye
Cynthia McCollum	Aye
Steve Ryder	Nay
Lewie Bates	Aye
Tim Cowles	Nay

**Motion failed**

5. *Lot 21A, Shiloh Run Subdivision, Certified Plat*

Location: South of Browns Ferry Road and east of Shiloh Creek Drive

Representative: Mullins, LLC  
Owner/Applicant: Mark E. Harris Homes, LLC  
Lots: 1  
Acreage: 1.157

**Applicant Request:** Jeff Mullins, representing Mullins, LLC, presented the request for certified plat approval.

**Staff Report:** Chief Planner Blizzard stated the applicant is requesting that *Lots 21 & 22* be consolidated into one lot of record, *Lot 21A*.

Staff and the Technical Review Committee recommend approval of the certified plat for *Lot 21A, Shiloh Run Subdivision*.

**Public Comments:** No comments.

**Board Comments:** No comments.

**Motion:** Mr. Bates moved to approve the certified plat for *Lot 21A, Shiloh Run Subdivision*. Mr. Ryder seconded the motion and the vote was as follows:

**Final Vote:**

Chairman, Damian Bianca	Aye
Vice-Chairman, Stephen Brooks	Aye
City Council Member, Mike Potter	Aye
Cynthia McCollum	Aye
Steve Ryder	Aye
Lewie Bates	Aye
Tim Cowles	Aye

**Motion carried**

6. *Madison Town Centre, 11<sup>th</sup> Addition, Certified Plat*

Location: North of Hughes Road and east of Sunset Boulevard

Representative: Johnson & Associates, Inc.

Owner/Applicant: Indian Creek Investments

Lots: 1 and 1 Tract

Acreage: 12.21

**Applicant Request:** Josh Everett, representing Johnson & Associates, Inc. presented the request for certified plat approval.

**Staff Report:** Chief Planner Blizzard stated the applicant is requesting approval of a certified plat involving *Lot 2 of a Resubdivision of a Part of Lot 1 of Madison Town Centre, Plat Book 27, Page 50*, and the property adjoining the south boundary of the aforementioned subdivision plat. This

property is identified as *Lot 1 of a Resubdivision of Lots 4A & 4B of Madison Town Centre, Document Number 20050726000487770*. The applicant is requesting approval to consolidate the properties into one tract and one lot. The purpose of the requested resubdivision is for *Lot 1* to be sold and developed. Staff is recommending the remaining tract not be further subdivided or developed until the unimproved gap in Sunset Boulevard is improved with a paved public street. Restricting further development as such, will ensure street access is available for all properties in the subdivision. Otherwise, any further resubdivision of *Tract 1* north of the strip adjoining Hughes Road would have no street access to Sunset Boulevard. Also, there are approximately 150 single-family residential dwellings and approximately 228 condominium units to the east of the subject properties with one access from Old Madison Pike. The completion of Sunset Boulevard would provide a second access from Hughes Road, increasing response times for emergency responders in the event the Old Madison Pike entrance was ever blocked.

Staff and the Technical Review Committee recommend approval of the certified plat for *Madison Town Centre, 11<sup>th</sup> Addition* with the following contingencies:

1. Label the deed book & page for the owner of record
2. Flood Certificate and reference to flood zone in Surveyor's certificate references an incorrect date. You should reference the preliminary flood maps.
3. Delete the words "and Building" from the Planning Department Certificate
4. Signatures:
  - A. Dedication
  - B. Notaries Acknowledgement

**Public Comments:** Tony Osani questioned the location of the proposed subdivision. Chief Planner Blizzard indicated the location on the map.

**Board Comments:** No comments.

**Motion:** Mr. Bates moved to approve the certified plat for *Madison Town Centre, 11<sup>th</sup> Addition* with the satisfaction of the outstanding contingencies. Vice-Chairman Brooks seconded the motion and the vote was as follows:

**Final Vote:**

Chairman, Damian Bianca	Aye
Vice-Chairman, Stephen Brooks	Aye
City Council Member, Mike Potter	Aye
Cynthia McCollum	Aye
Steve Ryder	Aye
Lewie Bates	Aye
Tim Cowles	Aye

**Motion carried**

6. *Foxfield Phase III, Certified Plat – Tabled at the June 20, 2013 Meeting*

Location: South of Huntfield Drive & East of Fox Field Drive

Representative: 4-Site, Inc.

Owner/Applicant: Jacqueline J. Raines, Brad & Brenda Travis, & Foxfield Development, LLC

Lots: 2

Acreage: 1.05

**Staff Report:** Chief Planner Blizzard stated the applicant has requested that this item be withdrawn from consideration.

**Motion:** Vice-Chairman Brooks moved to remove *Foxfield Phase III, certified plat* from the table and to accept the withdrawal of this item as requested by the applicant. Councilman Potter seconded the motion and the vote was as follows:

**Final Vote:**

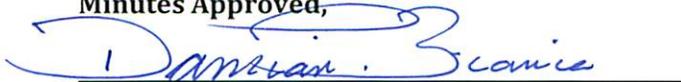
Chairman, Damian Bianca	Aye
Vice-Chairman, Stephen Brooks	Aye
City Council Member, Mike Potter	Aye
Cynthia McCollum	Aye
Steve Ryder	Aye
Lewie Bates	Aye
Tim Cowles	Aye

**Motion carried**

**ADJOURNMENT**

With no additional business to discuss Chairman Bianca adjourned the meeting at 7:00 p.m.

**Minutes Approved,**



**Damian Bianca, Chairman**

**ATTEST:**



**Gina Romine, Planning Commission Secretary**