

CITY OF WAVELAND
PLANNING & ZONING COMMISSION
MINUTES
October 19th, 2020 – 6:00 PM
(Draft Only – For City Attorney’s Review)

1. Call to Order / Roll Call. Chairman Meggett opened the meeting at 6:03 PM. Commissioners present; Michael Adams, Clarence Harris, Charlotte Watson and Chairman Jim Meggett. Ward 3 Commissioner is currently vacant. Malcolm Jones, City Attorney, Mickey Lagasse, City Clerk, David Draz, Zoning Official, were also present. Chairman Meggett declared there was a quorum present.
Chairman Meggett and Mickey Lagasse made some introductory comments on the how the in-person meeting and the conference call format would be handled. The meeting was recorded on both the Board Room system and the conference call system. City Attorney, Malcolm Jones stated that he would be the Hearing Officer for this meeting.

2. Approval of the Minutes for the September 21st, 2020 meeting.

Commissioner Watson made a motion, seconded by Commissioner Harris, to approve the minutes as presented. Commissioners Adams, Harris and Watson voted in favor of the motion. Chairman Meggett declared the minutes approved.

- 3, Jean McCall, owner of the property Parcel#162A-0-03-114.000, Legal Description; Lot 1, Block 1, 1st Addition to the Waveland BS&L Land & Improvement Company, has made application for the following two (2) item: A) A Procedural Variance from the City of Waveland Subdivision Ordinance as provided for in Section 306.2(G) 3. “Procedural Variance”. Where a proposed subdivision would contain no new streets and no more than ten (10) lots, the requirement to prepare a Preliminary Plat may be waived by the Board of Mayor and Aldermen upon recommendation by the Planning and Zoning Commission.” B) An Application for Approval of the Final Plat as provided for in the City of Waveland Subdivision Ordinance, Section 306 – Procedure for Approval of Final Plat.

Chairman Meggett called upon the owner’s representative, Sue Ashman to explain the request and the reasons for it. Sue Ashman introduced the case and provided information about the requests. Malcolm Jones, City Attorney asked the representative several questions to clarify the information related to the land and the proposed three lots.

Chairman Meggett asked staff if any letters or calls regarding this case. Staff indicated that no letters or calls had been received. Commissioners discussed the request and the commented on the case.

Charlotte Watson made a motion, second by Commissioner Harris to recommend approval of the requested Procedural Variance from the Subdivision Ordinance and the requested Final Plat. Commissioners Adams, Harris and Watson voted in favor of the motion. Chairman Meggett declared the motion approved.

4. Randy Ellis, representative for the owner of the property Parcel # 137P-2-35-053.000 which is located on Daniel Street but not yet addressed; Legal Description: Lots 37 & 38, Block 15, Bat St. Louis Land & Improvement Company Subdivision, Waveland, Mississippi, is requesting the following variances from Minimum Side Yards Twelve feet, 6 inches (12’6”) as described in Section 713.3(C) Side Yard. “For a lot of record, which qualifies pursuant to Section 402.3 as legally non-conforming and which measures fifty (50) feet or less in width, the Zoning Official is authorized to grant a variance of side yard minimum footage to allow a side yard setback equal to, but not less than, twenty-five percent (25%) of the lot width. Said action may be taken without notice to or action by the Planning and Zoning Commission or the Board of Mayor and Aldermen.” The Side Yard Setback for a fifty (50) foot lot is twelve and a half (12’5”) feet. The applicant is requesting a four-foot, six-inch (4’6”) variance from each side yard requirement resulting in both side yards being eight (8) feet.

Chairman Meggett read the item description and asked the applicant to come forward and explain the requested variances. Randy Ellis, representative for the owner. Mr. Ellis explained the requested variances. Commissioners asked questions of the applicant. Chairman Meggett asked staff if any letters or calls had been received. Staff indicated that there were not letters or calls from adjacent property owners. Chairman Meggett asked if there is anybody that would like to speak regarding the requested variances. No one came forward.

Commissioner Harris made a motion, seconded by Commissioner Watson to recommend approval of the requested variances and that criteria for a variance as stated in Section 906.1 of the current Zoning Ordinance had been met. Commissioners Adams, Harris and Watson voted in favor of the motion. Chairman Meggett declared the motion approved.

5. Daniel Chauvin, current owner of the property commonly known as 211 Sycamore Street, Legal Description; Part of lots 1, 2, 33 & 34, Block 5, Green Acres Subdivision, is requesting a variance from the Rear Yard Setback Requirement of twenty-five (25) feet per Section 701.5 of the current Zoning Ordinance. The applicant is requesting a variance from the Rear Yard Setback to allow a fourteen (14) foot Rear Yard Setback, requiring a variance of eleven (11) feet. The request is being requested for an Accessory Structure of four-hundred and eighty (480) square feet. The Accessory Structure is for storage.

Chairman Meggett read the item description and asked the applicant to come forward and present their request and the reasons for the requested variance. Daniel Chauvin, the owner of the property came forward and explained his requested variance and the reason for the request. The Commissioners asked questions of the applicant and held discussion on the request.

Commissioner Harris made a motion, seconded by Commissioner Watson to recommend approval of the requested variance and the Commission finds that the criteria for a variance as stated in in Section 906.1 of the current Zoning Ordinance had been met. Commissioners Adams, Harris and Watson voted in favor of the motion. Chairman Meggett declared the motion approved.

6. Beach Walk Development, LLC has made application for a Conditional Use for an R-1 Single Family Zoning District per Section 601.2(G) of the current Zoning Ordinance. The purpose of the Conditional Use application is to allow the development of a Residential Planned-Development Project pursuant to Section 401.8 of the current Zoning Ordinance. The property consists of the following Parcels, "Parcel #1" - 161F-0-02-022.008, "Parcel #2" - 161F-0-02-017.000 and "Parcel #3" - 161C-0-02-139.000. Legal Descriptions of Parcels; Parcel #1 – Part of Lot 14, 2nd Ward, City of Waveland, MS. Parcel #2 – Lot 12A, 2nd Ward, City of Waveland, MS. Parcel#3 – Lots 27A & 26B, Grosvenor Place Subdivision.
7. Beach Walk Development, LLC has made application for a Conditional Use for an R-1 Single Family Zoning District per Section 601.2(G) of the current Zoning Ordinance. The purpose of the Conditional Use application is to allow the development of a Residential Planned-Development Project pursuant to Section 401.8 of the current Zoning Ordinance. The property consists of the following Parcels, "Parcel #1" - 161F-0-02-022.008, "Parcel #2" - 161F-0-02-017.000 and "Parcel #3" - 161C-0-02-139.000. Legal Descriptions of Parcels; Parcel #1 – Part of Lot 14, 2nd Ward, City of Waveland, MS. Parcel #2 – Lot 12A, 2nd Ward, City of Waveland, MS. Parcel#3 – Lots 27A & 26B, Grosvenor Place Subdivision.

Malcolm Jones, City Attorney, stated that he had been appointed Hearing Officer for this meeting and he read the descriptions of the items and explained that both of the items would be considered as one case and the Commissioners would be voting on both items as one.

The City Attorney entered into the record the following exhibits.

Exhibit #1

Proof of Publication that the public hearing notice was published into the Sea Coast Echo on September 30th, 2020

Exhibit #2

The letter sent to the adjacent property owner's on September 25th, 2020 along with copies of the envelopes for each notice sent.

Exhibit #3

The Applications for both the Item #6 & Item #7 submitted on behalf of the applicant by Mr. Matt McDade, Attorney for the applicant.

Matt McDade, Attorney for the applicants made introductory comments including that even with the technical difficulties being experienced, he also asked if there were any objections to holding this public hearing. He also cited MS Statute 21-45-5 known as the open meetings statute.

The City Attorney stated for the record that a quorum was present. Mickey Lagasse, City Clerk stated that if anyone cannot participate or hear any of the proceedings that they should call his phone number (228) 372-4427.

Attorney for the applicant, Matt McDade, entered the following Exhibits into the record.

Exhibit #4

A memo from Jason Chiniche, Engineer for the applicant dated August 28th, 2020 to various Waveland staff members regarding the preliminary plat and construction plans.

(Note for Malcolm - August 28th, 2020 is date correct?)

Exhibit #5

A memo from Jason Chiniche to the City Attorney dated September 2nd, 2020 regarding the revised construction plans.

Exhibit #6

An email from Jason Chiniche to Dave Draz dated September 3rd, 2020 requesting extra copies of the Preliminary Plat.

Exhibit #7

An email from Jason Chiniche to the City Attorney September 21st, 2020 that addressed changes to the preliminary plat from comments by Public Works and Fire.

Exhibit #8

A hard copy of the Power Point presentation from the original case hearing held on August 19th, 2019 condensed down.

Exhibit #9

The table top model of the Beach Walk layout that was the same model submitted at the original hearing before the Commission on August 19th, 2019.

Matt McDade explained that the applicant was here to present the same development that was submitted at the Board of Alderman meeting held on September 3rd, 2019. Mr. McDade then went over each of the six (6) criteria required for a Conditional Use as stated in Section 401.8 of the current Zoning Ordinance. He stated that they have met all requirements. He acknowledged the owners, Mr. David Holliman and his wife who were present and Dr. Bob Warner and his wife who sent his regrets that he could not attend because he is working at a hospital that is dealing the with Covid19 situation, He further stated that both owners planned to build homes in the proposed development.

Mr. McDade stated that they have addressed the technical issues that were raised in the previous court judgment. He ended by saying that he would like to ask the Commissioners if they had any questions for him.

The City Attorney stated that they would have the Commissioner's go one at a time starting with Commissioner Watson. Commissioner Watson said before asking any questions she would like to hear from any other parties who have input to speak before she would have any questions and the applicant could respond to any questions or issues raised after everyone who wanted to speak on this item.

Commissioner Adams stated that he would also rather wait until after any other input from other parties. Commissioner Harris also stated that he would like to wait. Chairman Meggett indicated that he had questions but would also rather wait to hear other input.

The City Attorney stated that the applicant has completed his initial presentation and that we were at the point in the hearing where anyone in the audience would like to speak either for or against the application.

Mikelle Williamson, 1200 Waveland Avenue came forward and stated that her only issue was the precedent set of minimum lot sizes and that the present requirement was for a lot containing twelve-thousand (12,000) square feet. She said she objected to the small lots.

Dr. A. Louise Perkins, 90 Adrienne Court and adjacent property owner stated that she was for the proposed development but had questions about the drainage plan. She provided some history on flooding in the area and asked numerous questions about specific information and statistics that would help her understand the proposed drainage plans. She also asked what her recourse was if the system did not work and her land flooded.

The City Attorney told Dr. Perkins that the project engineer would address the issues and she should wait until the end of his presentation before asking further questions.

Jason Chiniche, Project Engineer for the applicant came forward. He explained that the drainage system was designed to the 25 year flood as required by the City's Subdivision Ordinance. He said that he had upsized the discharge culverts after comments from Public Works Department. He stated that the culvert that runs under Beach Boulevard is actually designed for a 500 year flood and that they addressed concerns about debris in drainage ditch and they would be doing that. That concluded his comments.

Dr. Louise Perkins asked numerous questions regarding what had been upgraded in the discharge culvert, the 25 year flood requirement and the 500 year flood capacity of the culvert under Beach Boulevard.

Mr. Chiniche responded to the questions, explaining that the 25 year flood requirement in Waveland was actually larger than many cities and the culvert discharges were upgraded to the 100 year flood design. He also stated that the drainage calculations on the construction plans which are available for review and would be glad to meet with Dr. Perkins to explain the calculations.

Dr. Perkins asked again what her recourse was as stated in her original questions. The City Attorney explained that the recourse would be a civil court action. He also reiterated that the plans are available for review in the city offices and that Mr. Chiniche stated that he would be glad to meet with you and she could contact Mr. Chiniche directly.

Virgil Gillespie, Attorney, 1901 24th Avenue, Gulfport, MS, stated that he was here to object to the development on behalf of adjacent property owners including the Lee's, the Ivey's and the Longo's.

Mr. Gillespie introduced the following exhibits into the record;

Exhibit #10

Warranty Deed to the developer.

Exhibit #11

Corrected Warranty Deed.

Exhibit #12

Plat of the Town of Waveland, certified.

Exhibit #13

Subdivision Plat of Grosvenor Place, certified.

Exhibit #14

Affidavit of title abstract and the restrictive covenants for Grosvenor Place Subdivision.

Exhibit #15

MS Code Statute 17-1-23

Exhibit #16

MS Code Statute 19-27-31

Exhibit #17

Report from Mr. Donovan Scruggs prepared for the objectors.

Exhibit #18

Power Point presentation from Mr. Donovan Scruggs explaining the report in Exhibit #17.

Mr. Gillespie asked Mr. Donovan Scruggs to come forward and present his report. Mr. Scruggs, 317 Pine Drive, Ocean Springs, MS came forward and went over his report and Power Point presentation. Please see Exhibits #17 and #18 listed above.

The City Attorney asked each Commissioner and the Chair if they would like to present any questions about Mr. Scruggs report of whether they would rather wait to hear anyone else who would like to speak for or against the application. All Commissioners indicated they would rather wait to hear other people speak for or against the application.

The City Attorney asked if there was anyone else who would like to speak for or against the application.

Mr. Ted Longo, 331 Nicholson and also owns land adjacent to the proposed development. He indicated he was never against any development and not against this development. He said that the growth that has come back to Waveland has set a pattern and he would like the applicant to follow the requirements for development that would reflect the recent pattern of development.

Mr. Mark Bensabat, 213 Nicholson Avenue sent a text message earlier stating that the audio was not working and he felt the meeting was not legitimate. He further stated that he was strongly opposed the application.

The City Attorney again asked if there was anyone present or on-line to speak for or against the application. Hearing none, he asked if Mr. McDade, Attorney for the applicant would like to come to the podium to respond to any of the questions or information that was presented by the people or there representative who had spoken in objection to the application.

Mr. McDade came forward to the podium. He said that he was not surprised that the objectors would bring up all kinds of new information and approaches to the application. He stated that if you accept the assumption that the entire City of Waveland is its own plat then every action the City has ever taken including subdivisions, variances, conditional uses and zoning changes would be null and void. He stated that he did not submit to the idea that this was the case. With regard to the properties in the Grosvenor Place subdivision. He said that the restrictive covenants for the Grosvenor Place subdivision were being taken out of context and that they were referring to operating a business. He stated that the land that fronting on Grosvenor Place was not for this purpose and was green space and the emergency access had been requested by Waveland city management. He stated that it was and emergency access for public safety. The City Attorney asked Mr. McDade if the land fronting on Grosvenor was green space and an emergency access for public safety. Mr. McDade stated that intention was to be green space with and emergency access only that would be locked and gated.

Mr. McDade rebutted many of the issues that had been raised and pointed out that a large number of lots, including some lots on Grosvenor Place, do not have twelve-thousand (12,000) square feet. He explained that the purpose of this conditional use for a residential planned- development project was to allow for the consideration of a development that may propose different layouts that are allowed by R-1 Single Family Development. He stated that the conditional use had to meet the six criteria stated in Section 401.8 of the current Zoning Ordinance. He also commented that the current City of Waveland Comprehensive Plan includes the consideration of a cluster of homes surrounded by green space.

The City Attorney asked each Commissioner if they had any questions for the applicant or anyone else who has spoken. Commissioner Harris commented on the overall process from the beginning of the original application up until tonight.

Commissioner Watson commented that all the people on both sides all had good intentions and the City of Waveland was a good city. She also commented that the level of participation and interest was a good sign that many people were taking interest in development in the City.

Chairman Meggett had some questions. First, he stated that he was a part of Keep Waveland Beautiful and that he had visited the property and that there were a number of Live Oaks, in particular one very large Live Oak that appeared to be on or near the line of the property and wanted to know if the applicant would comment on that.

Mr. McDade addressed the particular tree and said that if you look at the circle of the tree which is also the drip line of the tree and that it was being preserved and the impact on the lots 11 & 12 were minimal.

Chairman Meggett, questioned the fifty foot (50) foot easement and whether or not the one-lane road from Beach Boulevard and whether that was involved. He asked staff if they could comment on this.

David Draz, Zoning Official went over the Conditional Use for a Residential Planned-Development and commented that the current Zoning Ordinance provided the applicant for such a use could propose aspects of the projects that may be different than an R-1 Single Family Development, whether it be lot sizes or other elements of the project.

Chairman Meggett asked about whether Air BNDs were allowed or not.

Matt McDade said that he would first like to piggyback on what Mr. Draz said about the intent and purpose of a Conditional Use for a Residential Planned-Development Project allows the applicant to propose a project that may have different elements that would differ from the R-1 Single Family Development. He also addressed the one-lane road and stated that it is a loop and this is not two-way traffic. He stated that it was loaded in a fifty (50) foot easement and was not aware of any City regulation that prohibited this when considering a Conditional Use for a Residential Planned-Development Project. With regard to Air BNBs Mr. McDade said that there will be homeowners in the development that would be using there house as a second home and they are not asking for any deviations from the City's current regulations addressing rentals of properties.

Chairman Meggett stated that he was in favor of the proposed development, however that he was not in favor of some of the smaller lots.

Malcolm Jones, City Attorney provided an overview and summary of the proceeding that had taken place at this meeting. He asked each Commissioner if they would like to discuss this item in executive session or where ready to entertain a motion. Each Commissioner responded that they were ready to entertain a motion

Commissioner Adams made a motion, seconded by Commissioner Watson to recommend approval of Conditional Use for a Residential Planned-Development Project and to recommend approval of the preliminary plat. Chairman Meggett called for a vote. Commissioner's Adams and Commissioner Watson voted in favor of the motion. Commissioner Harris voted no. Chairman Meggett stated that the motion was approved.

8. Any requests to address the Commission.
No one came forward.
9. Reports from Chair, Commissioners and Staff.
Chairman Meggett reported on the Board of Alderman action on the P&Z items at the Board's October 6th, 2020 meeting.
10. Set the date for the next regularly scheduled meeting, Monday, November 23rd, 2020 at 6:00 PM.
Commissioner Watson made a motion, seconded by Commissioner Harris to approve the meeting date. All Commissioners present voted in favor of the motion.
11. Adjourn.

Commissioner Watson a motion, seconded by Commissioner Harris, to adjourn. All Commissioners present voted in favor of the motion. The meeting adjourned at 9:19 PM.