

*Jasper County Planning Commission
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**Minutes of the July 14, 2009
Regular Scheduled Meeting**

Members Present: Chairman Kim Thomas, Dr. Bostick, Ms. Juanita White, Mr. Alex Pinckney and Mr. Theo Drayton.

Members Absent: Ms. Courtney Flexon and Mr. Bill Young.

Staff Present: Mr. David Jirousek and Lisa Lamb.

Others Present: Mr. Ben Banks, Councilman Henry Etheridge, Mr. Richard Rowan, Mr. Ryan Smith and Mr. Nathan Long.

Call to Order: Chairman Thomas brought the meeting to order at 6:35 pm.

Invocation & Pledge of Allegiance: Invocation was given by Mr. Pinckney. The Pledge of Allegiance was done in unison.

Approval of Agenda: Dr. Bostick made a motion to approve the agenda as published, seconded by Mr. Drayton. The Commission voted unanimously in favor of the motion.

Approval of June 09, 2009 Minutes: Dr. Bostick made a motion to approve the minutes as written, seconded by Mr. Pinckney. The Commission voted unanimously in favor of the motion.

New Business:

A. Zoning Map Amendment; Request for Industrial Development Zoning Designation at 1618 Plantation Drive (Tax Map Number 040-00-02-077): Mr. Jirousek explained that this is a map amendment request to designate the subject property from Residential to Industrial. The applicant is Ben Banks. The subject property is 5.09 acres and is located at 1618 Plantation Drive. The structure was built in the year 2000 and is approximately 15,625 square feet in size. The use is a legal non-conforming cabinet shop and a staging area for a local builder. The applicant intends to sell the property or further develop it under Industrial guidelines. Mr. Jirousek showed the property located on the zoning map and an aerial map. He explained that the surrounding parcels are zoned residential because they are less than 25 acres in size. He also explained that the Industrial zone, which the applicant is applying for, allows a wide variety of uses such as; heavy utilities, construction, manufacturing, warehousing and waste management and remediation. Many of the uses allowed in this district are more intense than the current use of the property which is more of a lighter manufacturing or a lighter industrial type of use. Staff believes there would be minimal impact to allow a lighter industrial zoning district; however, this is not an option at this time because the County does not have a zoning district of that nature. The closest zoning district currently available is the Community Commercial zone which would allow for

primarily retail uses and that is not the intended use by the applicant. He also explained that there is an issue regarding spot zoning. Mr. Jirousek read the definition of spot zoning. This is a spot zoning application; however, we do understand that the circumstances around the 2007 comprehensive re-zoning project where the County was given a full re-zoning left many developments of this size throughout the County as non-conforming uses through residential and community commercial zoning. The staff recommends denial of the industrial development district because of the nature of that district. The staff does see a need to draft a light industrial district in the near future.

Mr. Pinckney asked if this has been explained to the applicant. Mr. Jirousek stated yes and he introduced the applicant, Mr. Banks. Mr. Banks explained to the Commissioners that four people including his self bought this building before the 2007 re-zoning project. He stated that they spoke to the County about adding additional buildings to this site. He pointed out that Doug Counts built the building to manufacture cabinets for airplanes at Gulfstream and from day one that is the way the building has been used. The building was built legally and when they bought the building it was a legal use. If the cabinet shop moves they will be stuck with a building that is worth one-million, three-hundred thousand dollars (\$1,300,000.00) that they will not be able to use as intended. Mr. Banks read the allowed uses in the Rural Preservation zone. He stated that they can rent the building as a conditional use but they can not sell it because when interested buyers find out how it is zoned they are no longer interested. He also stated that he recognizes the building is located in a primarily residential area but at one time that was okay. He thinks they need to do something different with the zoning of the property where their building is located and they will be glad to work with the County.

Mr. Pinckney asked Mr. Banks if he has given any consideration to Mr. Jirousek's suggestion to draft a lighter industrial district. Mr. Banks stated that they don't mind waiting for that to be done as long as it does not take too long. Mr. Pinckney asked if Mr. Jirousek had explained that if he continued with his application tonight and the re-zoning request was denied that he would have to wait one (1) year to re-apply for another zoning district. Mr. Banks said no. Mr. Jirousek told Mr. Banks if Council denies the application that the ordinance would not allow him to re-apply for one (1) year. Mr. Banks said if that is the case then they should not act on his application tonight because they were not willing to wait a year. Dr. Bostick asked how long has the current zoning designation been in place. Mr. Jirousek stated since November 13, 2007. Dr. Bostick asked Mr. Banks why they are just now coming forward. Mr. Banks stated that they had talked to the County before the 2007 re-zoning. He went to some of the meetings while the moratorium was in place during the re-zoning effort. He stated that they objected to it at the time because they had a client who wanted to build another building on that property. He also stated when their renter moved out that he thought they should check on the zoning of their property and that's when they realized how it had been zoned. Mr. Jirousek stated that although the re-zoning project was a public effort a lot of people are not aware of the zoning of their property so this is not uncommon. Mr. Banks stated that he does not believe the County intended to zone a property of that value as a non-conforming use. Ms. White stated that she sympathizes with the applicant and she realizes that property was in the Hardeeville Joint Planning Area. She also stated that she did not feel it was the applicant's fault because the County overlooked several things and the County should make some provisions to handle these situations. She said that if a new zoning district is going to be drafted it should be done expeditiously. Mr. Jirousek stated that he felt sure we could write an ordinance and have it ready for the September Planning Commission Meeting.

Mr. Pinckney pointed out that they have an application before them that requires them to take action unless that applicant withdraws his application. Dr. Bostick asked if a draft ordinance was ready for the Commission by September what the timeline would be for getting it adopted by

Council. Mr. Jirousek stated that if there are no issues with the draft ordinance the best scenario would be the first Monday in November for adoption. He also stated that he could bring suggestions and comments to the Commission in August to get their initial thoughts and get it finalized for September. Dr. Bostick asked what other options the applicant has. Mr. Jirousek said they could recommend the application be denied and send it to Council; however, if Council denies the application there will be a year to wait before re-applying or they could suggest another zoning district that is on the books but he did not think that would satisfy the applicant's needs. Dr. Bostick stated that he thought the Commission had discussed creating a light industrial district before. Mr. Jirousek agreed that it had been discussed a few times. Ms. White stated that she can understand the position that Mr. Banks is in. She does not think that we should displace people or change their zoning in a way that is uncomfortable if they were already established. Mr. Pinckney pointed out that Mr. Banks can continue to operate a cabinet shop but he is talking about selling the building. If a new owner comes in he would be able to do anything that is allowed in the Industrial district, which would be an injustice to the people that live in that area. Chairman Thomas pointed out that this property was located in the Joint Planning Area and the Planning Commission had left the zoning up to the municipalities. Mr. Drayton asked if the applicant's request would be considered spot zoning. Mr. Jirousek stated yes and that we need to think about the health and general welfare of the citizens. Mr. Banks stated that some of the other businesses down the road will be faced with this same issue. He stated that sometimes you have to spot zone to deal with the situation.

Dr. Bostick pointed out that everybody is in agreement to draft a new zoning district and the applicant had asked the Commission not to take any action on his application until the new district is created. **Dr. Bostick made a motion to discuss the new zoning district under "Other Business"**. Mr. Jirousek stated that if we were going to amend the agenda that staff would like to request that item B under "New Business" be removed from the agenda, which is a resolution to address spot zoning. Chairman Thomas told Mr. Jirousek that if he could get comments together for the new zoning district in August and if he has something prepared by then there would be a possibility to have a called meeting at the end of August to help expedite the process. Mr. Jirousek also asked to have item B added to the agenda under "New Business" to review a slight amendment to the Accessory Structure Ordinance. **Dr. Bostick made a motion to table item B under "Old Business" add item B, Accessory Structure Ordinance under "New Business" and add Discussion of Creating New Zoning District under "Open Discussion"**. Mr. Drayton seconded the motion. **The Commission voted unanimously in favor of the motion.**

B. Resolution to Address Certain Parcels Made Non-Conforming During the Jasper County 2007 Comprehensive Zoning Project: Tabled

C. Zoning Map Amendment; Request for Resource Extraction Zoning Designation on Bellinger Hill Road (Tax Map Numbers 072-00-01-040 & 037-00-03-009): Mr. Jirousek explained that this is a map amendment to designate the subject properties from Rural Preservation zone to the Resource Extraction zone. He also explained that the Resource Extraction zone is the new zoning district that was approved by Council in May 2009. The applicant is Richard Rowan. The subject properties consist of approximately two-hundred, sixty-eight (268) acres, which is located along the east side of Bellinger Hill Road. He showed the properties located on an aerial map. The applicant intends to seek a DHEC Mining permit and eventually build a residential subdivision around the reclaimed lake. Mr. Jirousek showed the properties located on the zoning map and an aerial map. The area is primarily low density residential and undeveloped in nature. The surrounding properties to the East, North and South are zoned Rural Preservation and the property to the west is the Delta Bluffs Planned Development District (PDD). The subject properties are designated as Rural Resource on the

Comprehensive Plan Projected General Land Use Map; therefore, the request is consistent with the long range plan. Mr. Jirousek went over the intent of the Resource Extraction District. He reminded the Commissioners that the intent of the Resource Extraction and Excavation Ordinance was to make sure that a mining operation would be reviewed by the Planning Commission as well as the Council. He stated that tonight the applicant was only looking to take the first step, which is to have the property designated to the Resource Extraction zone for the intent of digging a fifty (50) acre excavation for a future pond. Mr. Jirousek pointed out the setbacks, which vary by districts and stated that the three sides that were adjacent to the Rural Preservation zone would be three-hundred feet (300') while the one side would be a thousand feet (1000') feet from Bellinger Hill Road. Mr. Jirousek also pointed out that at the time of applying for an excavation permit, if there is any existing homes the setbacks will be a thousand feet (1000') from the home. He stated that if the map amendment is approved tonight that the applicant will still have to apply for an excavation permit and comply with the excavation ordinance. Staff recommends the approval of this application for a map amendment because the area is low in residential density, the setbacks are significant and it is a rural area. Mr. Jirousek introduced the applicant.

Dr. Bostick asked since this meets all the specifications for this zoning district does that mean that there will not be any public input. Mr. Jirousek stated that he received three emails today from area residents who were opposed to this re-zoning application. He passed out the three emails that he had received to each of the Commissioners. For the record, he said that all three of these emails would be included in the minutes so that it is official. Ms. White asked the Commissioners if they recall that this is the same area where a lot of mining was going on several years ago, which is why the County drafted an ordinance regulating excavations. She stated that there were a lot of residents down Bellinger Hill and the road was not built to state specifications. She also stated that a lot of the area residents complained to Council. The Delta Bluff PDD is directly across from this tract of land, which is going to create more traffic on that road. Chairman Thomas asked why a PDD was not sought if the applicant intends to create a residential subdivision since it would exempt him from the re-zoning process as well as the excavation ordinance. Mr. Jirousek stated that the residential component to this is a long term time frame and right now the applicant is seeking a mining permit from DHEC. Ms. White stated that there is no guarantee that the applicant will develop the property once it is mined. Mr. Jirousek stated that at this point we should assume there will be no development of this parcel and staff thinks that we should trust the excavation ordinance that was adopted by County Council in May. He also stated that each of the emails that he received objecting to this application mentioned traffic. Mr. Jirousek pointed out that Article 14 of the Jasper County Zoning Ordinance requires a truck and traffic management plan which will be reviewed at time of application. Staff is confident that we have one of the strongest combinations of Resource Extraction and Excavation Ordinance in the State. Dr. Bostick pointed out that Mr. Jirousek addressed the road issues mentioned in the email. He asked if there were any other issues that the Excavation Ordinance would address to alleviate some of the concerns. Mr. Jirousek stated that some of the other concerns were noise and dust. Mining is considered a manufacturing use in the Excavation Ordinance so Article 16 of the Zoning Ordinance will address vibration, noise, dust, odor, light and glare, which will provide an extra layer of protection. Mr. Pinckney asked how many acres the applicant wants to mine. Mr. Jirousek stated fifty (50) acres. Mr. Pinckney asked Mr. Jirousek if he has physically looked at the property and a map to give the applicant the required setbacks. Mr. Jirousek stated that he has done some measuring on the Arc-GIS mapping system but he has not shared the footprint with the applicant; however the applicant is aware that there are significant setbacks which he will have to comply with. Mr. Pinckney also asked if the setbacks would prohibit the applicant from mining fifty (50) acres. Mr. Pinckney pointed out that in their deliberations they have to consider the adjacent land owners and the surrounding area. They have already received three (3) letters tonight and there have previously been a lot of complaints from that area. Mr. Pinckney stated

that he has asked the staff to post a sign on property stating that there has been a request to have the zoning changed whenever we receive an application. Mr. Pinckney also stated that if this application is recommended for approval tonight that community will pack out the Chambers once the application goes before Council. Mr. Drayton asked if the Resource Extraction District was created for this type of situation and if the Excavation Ordinance was written so that it will protect the citizens. Mr. Jirousek answered yes to both questions. Mr. Drayton stated that it does not seem logical to put safety nets in place, pass it and then say we can't approve it for the reasons that the safety nets were created. Mr. Pinckney stated that we can allow it but the way the ordinance is written there are a lot of conditions to be placed on the applicant before he gets approval to mine and right now this is a blanket application. He pointed out that the applicant might meet the setbacks and the property is located in the Rural Preservation zone but as far as the safety nets for the surrounding residents those should be tied into this application as conditions to protect the citizens that reside in that area. Ms. White agreed. She stated that the application might meet the criteria for the excavation ordinance but does it meet the criteria for the safety and welfare of the citizens in that community. Chairman Thomas asked if requirements were put in place for secondary roads regarding mining. Mr. Jirousek said no. The ordinance will require a traffic management plan and the road would have to be maintained during the mining process regardless of what road it is located on. Ms. White stated that the condition of that road is not up to par now and the state should be maintaining it.

Mr. Rowan addressed the Commission. He stated that he was only seeking to follow the County guidelines and he is not asking for any exceptions. He also stated that he thought a fifty (50) acre lake with houses around it would be a benefit to the County. Ms. White asked the applicant if he had a plan. He stated that his initial plan is to locate the lake, use the road to go around the lake and build houses around the lake. He explained that he is not ready to go that far yet with the state of the economy like it is. He hopes that once the lake is complete that the economy will turn around. Dr. Bostick asked if that was his long term plan, why he didn't apply for a PDD. Mr. Rowan explained that he wanted to extract the dirt to generate money then move forward with the development. Mr. Pinckney asked him what he would do in regards to the road to keep the residents in that community happy. Mr. Rowan stated he would do whatever the Commission suggested. Mr. Jirousek pointed out that the traffic management plan would have to be agreed upon before approving the excavation permit. He explained that the road now would be assessed to see if it can handle the truck traffic from the site. The construction entrance to the property would be looked at, as well as the signage for safety in and out of the site. Dr. Bostick asked what is in place now to keep the road safe during the mining operation or what might need to be done to the road before this operation takes place. Mr. Jirousek explained that Mr. Terry with Public Works would review the traffic management plan, which could also be reviewed by our Engineer Consultant and Traffic Consultant, to make sure the road can handle the traffic. Mr. Ryan Smith with Thomas and Hutton Engineers addressed the Commission. He stated that an encroachment permit would be needed from the Department of Transportation (DOT) and they may require some road improvements as well, which means that you will have two (2) people reviewing the traffic management plan. Dr. Bostick asked if Council were to deny this application would the applicant have to wait a year to re-apply. Mr. Jirousek stated yes. There was some discussion about this application meeting the guidelines of the ordinance. **Ms. White motioned to forward this map amendment with a favorable recommendation to County Council, seconded by Chairman Thomas.** Dr. Bostick stated that everyone knows how he feels about mining but the County has put the Excavation Ordinance into effect to protect the citizens so he believes they do not have a choice but to move the application forward to Council. Mr. Pinckney asked what happens if the state does not approve the mining permit. Mr. Jirousek stated that the excavation permit will be denied. **The Commission voted unanimously in favor of the motion.**

Old Business:

A. Family Accessory Dwelling Ordinance: Mr. Jirousek explained that last month the Planning Commission made a motion to hold back Section 11:7, Family Accessory Dwelling for further discussion this month. He also explained that after discussion with the County Attorney, further assessment by staff and the comments made by the Commissioners last month that staff prepared an alternate version. The word “family” has been removed from the alternate version altogether. Ms. White stated that she was not in favor of this ordinance and she did not realize the other part of the ordinance from last month had been forwarded to Council. Chairman Thomas read the motion from last month, which was to forward the Accessory Structure Ordinance to Council but hold back Section 11:7, Family Accessory Dwelling Ordinance, for further discussion this month. Mr. Jirousek passed out the alternate version to each of the Commissioners.

Mr. Jirousek explained that the intent of the Family Accessory Dwelling Ordinance was to allow a second single family detached unit on a single lot without having to subdivide the property. The original thought was to make the exception if it was going to be family. He also explained that Section 11:6 of the Zoning Ordinance is to allow a temporary accessory dwelling unit on a single lot for a family member that is sick. He pointed out that he reviewed this with the Attorney today and felt that this alternate version was a better way to handle an extra dwelling unit. He explained that this would be added to the use chart in Article 6 of the Zoning Ordinance, as a conditional use in the Residential and in the Rural Preservation zone. Mr. Pinckney and Chairman Thomas stated that it should be allowed in the Community Commercial zone as well. Mr. Jirousek went over the five (5) conditions. He stated that he believed this was the easiest way to deal with allowing a second unit on a single lot as long as setbacks were met and there was adequate access to the property. He also stated that this would eliminate the question of being a family member. The changes were made to allow a second unit in the Community Commercial zone. Mr. Jirousek pointed out that the minimum lot size would be the same as in the residential zone. Dr. Bostick asked if he lived in a stick built house on one acre, in a residential area, would he be allowed to place a mobile home on the same property. He was told yes as long as he met the setbacks and was able to get a septic tank permit. Mr. Jirousek suggested that we label this as “second single family residential dwelling unit”. That change was made. **Mr. Pinckney motioned to forward this to Council with a favorable recommendation, seconded by Mr. Drayton. The Commission voted unanimously in favor of the motion.**

B. Accessory Structure Ordinance: Mr. Jirousek explained that the draft ordinance of the Accessory Structures had a few minor changes, which were discussed at last month’s meeting. Those changes have been tracked and were included in their packages. He pointed out a few minor changes that needed to be made to stay consistent with Section 11:6 of the Zoning Ordinance. He reviewed those changes with the Planning Commissioners which were to add the word “temporary” to accessory dwelling units in the first sentence and delete the words “section 11:7” in the same sentence. Also, add the word “temporary” to sentence number two (2) on the second page to read, Temporary Accessory Dwelling Units. Change the heading of 9:6.2 on the second page to read, Accessory Structures in the Residential Zone. The last change to be made is at the bottom of page two (2) in sentence number two; replace the reference “11:7” with “6:2.23” and the same statement should be added to the Rural Preservation section. He explained to the Commissioners that these changes would be made at the second reading and he wanted to make them aware of it so that Council will know that they are aware of the changes. **Mr. Drayton motioned to approve the changes, seconded by Mr. Pinckney.** Dr. Bostick asked if they could receive a version of the proposed ordinance with those changes. Mr. Jirousek explained that the staff could not print it out tonight but would get a copy to the Commissioners. **The Commission voted unanimously in favor of the motion.**

A three (3) minute break was taken at 8:38 pm. and the meeting reconvened at 8:41 pm.

Planning Commission Discussion:

A. Heir's Property – "Preserving Heirs' Property": Mr. Jirousek explained that Jennie Stephens with the Center for Heirs' Property provided a 20 minute DVD for the Commissioners to watch. He also explained that Ms. Stephens will be giving a presentation next week on July 23, 2009 at the joint County Council/Planning Commission Meeting. The Commission watched the DVD regarding Heirs' property. Mr. Jirousek stated that he would see about making copies of the DVD or ask Ms. Stephens to send more copies of the DVD.

B. Open Discussion: Dr. Bostick stated that he would like staff to move forward with creating a light industrial zoning district so that it can be finalized as soon as possible. Mr. Jirousek stated that he would prepare something for next month and hopefully have a final draft for the September meeting. Chairman Thomas suggested taking a look at the Industrial zoning district and the Community Commercial district and pulling out uses from those lists that aren't so offensive. Dr. Bostick asked if we had any guidelines on a lighter industrial zoning district. Mr. Jirousek stated that the staff did not have the guidelines on hand but could certainly obtain some guidelines.

Mr. Pinckney stated that it seems like when growth comes it seems to burden the citizens of the county that were here all their life and they are the ones that suffer. He also stated that although the Planning Commission set rules, it is the duty of the Planning Commission to consider the health, safety and welfare of the citizens. Mr. Pinckney pointed out that if the application they reviewed tonight for the mining operation causes a burden to the citizens in that community that he expects staff to deny it. Mr. Pinckney suggested that the County place an ad in the paper once or month or show a clip at each meeting in order to educate people about Heirs' property because people do not realize how easy it is to lose their land.

Adjourn: Dr. Bostick motioned to adjourn, seconded by Mr. Pinckney. The meeting adjourned at 9:10 pm.

Respectfully Submitted,

Lisa Lamb