

Order of Items
DeSoto County Planning Commission
October 2, 2003

1. Invocation
2. Roll Call
3. Approval of Minutes – August 28, 2003

OLD BUSINESS TO BE CARRIED OVER TO OCTOBER 30

4. Westmoreland Rezoning (616)– Application is to rezone 3.9 acres from Agricultural-Residential to Neighborhood Commercial (C-4). Subject property is located on the west side of Highway 301 and south of Highway 302.
Section 36, Township 1, Range 9

MINOR LOT SUBDIVISIONS

5. Kilpatrick Minor Lot Subdivision (6197) – Application is for one lot on 2.4 acres. Subject property is located on the east side of Sherrod and south of Amy Drive, zoned Agricultural-Residential
Section 16, Township 2, Range 8
6. Nichols/Happy Hill Minor Lot Subdivision (6198) – Application is for two lots of 1.5 and 2.5 acres. Subject property is located on the east side of Bethel Road and south of College Road, zoned Agricultural-Residential.
Section 13, Township 2, Range 6
7. Joel Davis/Snellville Minor Lot Subdivision (6199) – Application is for one lot of 2.5 acres on an easement. Subject property is located on the south side of Holly Springs Road, zoned Agricultural. **SUBDIVISION MUST BE PLATTED AND RECORDED**
Section 26, Township 3, Range 7
8. Alberson Minor Lot Subdivision 1st Revision (6204) – Application is to revise and existing , minor lot subdivision by relocating a property line. Subject property is located on the east side of Pigeon Roost Road and north of Highway, zoned Agricultural.
Section 28 , Township 1, Range 5

OLD BUSINESS

9. Spencer Rezoning (615)– Formerly Center Hills (614)– Application is to rezone 166 acres from Agricultural-Residential to R-30 Single Family Residential (Low Density). Subject property is located on the east end of Whispering Pines Drive and west of Center Hill Road.
Section 5, Township 2, Range 5

NEW BUSINESS

MAJOR SUBDIVISIONS

10. Wilson Estate (6200)– Application is for preliminary and final subdivision approval of four lots on 26.8 acres with an easement. Subject property is located on the east side of Baker Road and north of Highway 301, zoned Agricultural-Residential.
Section 27, Township 2, Range 9
11. Laughter Hills (6201) – Application is for final approval of a plat revision for nine lots 21.08 acres. Subject property is located on the south side of Byhalia Road and west of Laughter Road, zoned Agricultural.
Section 2, Township 3, Range 7

RE-ZONINGS

12. Bakersfield (617)– Application is to rezone 37 acres from Agricultural-Residential to R-20 Single Family Residential (Low Density). Subject property is located on the west side of Laughter Road and south of Pleasant Hill Road.
Sections 25 & 26, Township 2 Range 7
13. Chappel Creek Estates (618)– Application is to rezone 42.32 acres from Agricultural Residential to R-30 Single Family Residential (Low Density). Subject property is located on the east side of Center Hill Road and south of Highway 302.
Section 33, Township 1, Range 5

OTHER ITEMS

14. Hendrix Planned Commercial (John Deere Dealership) Text Amendment – Applicant is requesting **Temporary Living Quarters for Caretaker** to be added to the list of conditional uses. Subject property is located on the south side of Highway 304 and west of Scott Road, zoned Planned Commercial (C-4)
15. Comprehensive Plan – Update/Special Workshop
16. Meeting Date Changes – November 27 (Thanksgiving) and January 1 (New Years' Day)

The DeSoto County Planning Commission met at 7:00 p.m. on Thursday, October 2, 2003, in the Third Floor Boardroom of the Administration Building of DeSoto County located at: 365 Losher Street, Hernando, MS. Commissioners present were: Claudia Niebanck, Ed Williams, Jimmy Maxwell, Robin James, Larry Sykes, Julius Cowan, Charles McNemar, and Earl Ward. Planning Commission Staff included: Michael Garriga, DeSoto County Planner, Merritt Powell, Director, Denise Dingman, Planning Commission staff and Katie Jewell County Attorney.

Chairman Claudia Niebanck called the meeting to order at 7:15 p.m., (did not have quorum at 7:00 p.m.), she then asked Mr. Larry Sykes to lead the Commission in prayer.

Ms. Niebanck asked for a Motion to approve the August 28, 2003 minutes. Mr. Larry Sykes made a Motion to approve the minutes. Mr. Maxwell seconded the Motion. The Motion was passed by a unanimous vote.

Mr. Garriga gave a short presentation of the DeSoto County Website.

OLD BUSINESS TO BE CARRIED OVER TO OCTOBER 30

Westmoreland Rezoning (616) Application is to rezone 3.9 acres from Agricultural-Residential to Neighborhood Commercial (C-4). Subject property is located on the west side of Highway 301 and south of Highway 302. Section 36, Township 1, Range 9

Mr. Garriga asked for this item to be carried over until the October 30, 2003 Planning Commission Meeting. Mr. Ed Williams made a Motion to carry over this item until October 30th. Mr. McNemar seconded the Motion. The Motion was passed by a unanimous vote.

MINOR LOT SUBDIVISIONS

1. **Kilpatrick Minor Lot Subdivision (6197)** – Application is for one lot on 2.4 acres. Subject property is located on the east side of Sherrod and south of Amy Drive, zoned Agricultural-Residential
Section 16, Township 2, Range 8
2. **Nichols/Happy Hill Minor Lot Subdivision (6198)** – Application is for two lots of 1.5 and 2.5 acres. Subject property is located on the east side of Bethel Road and south of College Road, zoned Agricultural-Residential.
Section 13, Township 2, Range 6
3. **Joel Davis/Snellville Minor Lot Subdivision (6199)** – Application is for one lot of 2.5 acres on an easement. Subject property is located on the south side of Holly Springs Road, zoned Agricultural. **SUBDIVISION MUST BE PLATTED AND RECORDED**
Section 26, Township 3, Range 7

4. **Alberson Minor Lot Subdivision 1st Revision** (6204) – Application is to revise and existing , minor lot subdivision by relocating a property line. Subject property is located on the east side of Pigeon Roost Road and north of Highway, zoned Agricultural.
Section 28 , Township 1, Range 5
5. **Moore Minor Lot Subdivision** (6205) – Application is for two lots of 1.5 acres and 7.5 acres. Subject property is located on the east side of Robertson Road and south of Morrow Crest Drive, zoned Agricultural.
Section 11, Township 3, Range 8

Mr. Garriga announced the above items and stated that all the minor lots except number one the Kilpatrick Minor Lot conforms to the DeSoto County Zoning and Subdivision Regulations and are ready for approval, subject to dedication of road right of way, and health department approval. Mr. Sykes made a Motion to approve 2-5 minor lots. Mr. Maxwell seconded the Motion. The Motion was passed by a unanimous vote.

Mr. Garriga then gave the location of the Kilpatrick Minor Lot. He continued saying there is a gravel easement and Ms. Kilpatrick has access to public right of way, but it does stop at her lot. Mr. Garriga stated that county policy would require her to dedicate 25' from the center line for public right of way, and after talking with Ms. Kilpatrick she does not want to give 25' from the center line to the county. Ms. Kilpatrick began saying she would prefer not to give the 25' of road right of way until future development occurs. She said the surrounding lots are family members, and does not see where it is necessary to give the right of way. She also talked about the TVA easement and its location. She said she wants someone to pay for her property she does not see where she needs to give away her property. Ms. Kilpatrick then asked the board to consider approving her lot without giving county right of way and to allow her to build her home and to give up right of way when she has to, not at this time. Mr. Powell said when she comes in for a building permit the right of way will be an issue. Ms. Kilpatrick then stated, if she does not give right of way, she will not be able to build her house. Mr. Powell responded saying, it will be a situation. She responded saying, people pay for land, they don't give it away. Mr. Powell answered saying, it is county policy and suggested the Board of Supervisors handle this application. Mr. Maxwell asked if there is any other access to the bottom of the property? The property is legally landlocked. Mr. Powell explained the subdivision and building process to Ms. Kilpatrick. At this point there was some discussion regarding road right of way dedication, and easements between the applicant, board members and staff. Mr. Sykes asked why not grant the road right of way at this time? Ms. Kilpatrick said why doesn't she get paid for it? Mr. Powell once again suggested the Board of Supervisors address this issue.

Mr. James made a Motion to approve this application, subject to the Board of Supervisors approval and right of way dedication. Mr. Cowan seconded the Motion. The Motion passed by a unanimous vote.

OLD BUSINESS

Spencer Rezoning - Formerly Center Hills (614)– Application is to rezone 166 acres from Agricultural-Residential to R-30 Single Family Residential (Low Density). Subject property is located on the east end of Whispering Pines Drive and west of Center Hill Road. Section 5, Township 2, Range 5

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He then recognized Mr. Bob Dalhoff as being present to represent the application.

Mr. Dalhoff began his presentation stating that Mr. Garriga gave a nice over view of the application. He added, the property is very pretty and needs to be developed site sensitive. Mr. Dalhoff then talked about the change in the area. The Forest Hill Community which is 1,000 acres, the new Center Hill Elementary School, the new fire station, Center Hill Downs and Whispering Pines and the extension of Whispering Pines. He added, it is very important that there is another east west road other than Goodman Road. The new road will tie unto the Whispering Pines temporary cul-de-sac. Mr. Dalhoff added, there are some steep ridges on this property, and they want to keep the natural topography when building the road. He is hoping to come back with a site plan in the next few months. There is also a major drainage way with about 350 acres of water that goes though it. Mr. Dalhoff added, between the ditch and the Whispering Pines subdivision there will be 2 lots in access of 10 acres each. There will be very few 30,000 square foot lots and will not be anywhere close to 3.5 units to the acre. The lots will vary in size beginning at 30,000 square feet and going up from there. They will also look for building sites on the ridges and coves in the valley. They want to be site sensitive and want to save the hardwoods, this property is family owned and they want to be careful how this property is developed. Mr. Dalhoff said there is a public need for this subdivision, the county has grown and continues to grow. There is a public need for quality development and wooded lots. There is also a need for the east/west connector. He then stated he agrees with the staff reports and recommendations.

Mr. Williams asked about the sewage. Mr. Dalhoff said ultimately it will be Olive Branch and if developed prior to that time, there will be a need for a lagoon. Water will also be supplied by Olive Branch.

Ms. Niebanck asked about the land that was dedicated to the new school? Mr. Dalhoff gave the location of the new school.

Mr. Williams asked if there would be a common area. Mr. Dalhoff said not at this time.

Ms. Niebanck then asked if there was anyone here for or against this application.

1. Clint Nichols – He lives in the Whispering Pines Subdivision and stated they do not have public water, it is all private wells. He then stated the sign for the public notice was placed at a dead end, and there were only a few people who knew about it. Mr.

Dalhoff agreed to meet with the neighbors after the site plan is completed. Mr. Nichols concluded saying, the road is not as good as Mr. Dalhoff says it is but, if this development will be as nice as the surrounding area, then he is o.k. with this rezoning. Ms. Niebanck asked where his property is located. Mr. Nichols gave that location.

2. Lynette Smart – She does not know why the east/west road is so important, the kids already drive to fast and is dangerous. She then wanted to know where the two ten acre lots will be, she also said she does not want small lots. She concluded saying the ditch is horrendous and wanted to be sure that would not be disturbed. Ms. Niebanck replied saying as a planning board the east/west road is an important part of this development. She understands this is not a major road, but the road is necessary due to emergency vehicles and school buses.
3. Nicky Carpenter – He has 20 acres in Whispering Pines and thought the cove was permanent, he did not realize it was a temporary cove. He added, he is pleased to hear that there will be 2 large lots along Whispering Pines. He concluded saying that it will be hard to save trees with 3/4 acre lots.

Ms. Niebanck closed the floor.

Mr. Sykes wanted it noted as part of the record the nice demeanor of the residences/audience.

Ms. Niebanck then addressed Mr. Nichols comment about he public hearing sign. She stated rezonings are announced in the newspaper, and notices are sent to surrounding property owners as a courtesy in addition to the rezoning public hearing signs that are posted on the property being rezoned. We also rely on word of mouth. We do the best we can to inform the public. A lady from the audience said they did not receive the second notice. Mr. Garriga responded saying, only one notice is sent out, and at the last meeting he made an announcement that this application was carried over to the October 2nd meeting and that additional notices would not be sent out. He added, that the applicant was required to put up additional public notice signs due to the terrain of the property and that there is no road frontage.

Mr. Dalhoff sated that if he could get the name and address of the gentleman who wanted to meet with him, he will be happy to do so. (Mr. Nichols 12930 Whispering Pines, Olive Branch, MS 38654).

Mr. Williams then asked if the water lines are large enough to bring water to the property. Mr. Garriga mentioned that Olive Branch had an 8” water line installed when Forrest Hill was developed. Mr. Dalhoff said whoever develops the property would prefer not to cross the ditch for the road, it is expensive to cross the ditch, but they do feel there is a need for the east/west connection. He concluded saying, he is willing to sit down and meet with the neighbors.

Ms. Neibanck then entertained a Motion.

Mr. Sykes made a Motion to approve this application based on the change of the neighborhood based on the applicant's evidence presented and the public need for diverse housing in DeSoto County due to the continuing growth. . Mr. Cowan seconded the Motion. The Motion was approved by a roll call vote of 7-0.

NEW BUSINESS

MAJOR SUBDIVISIONS

Wilson Estate (6200) - Application is for preliminary and final subdivision approval of four lots on 26.8 acres with an easement. Subject property is located on the east side of Baker Road and north of Highway 301, zoned Agricultural-Residential. Section 27, Township 2, Range 9

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He then recognized Mr. Robbie Jones as being present to represent the application.

Ms. Niebanck asked who owns the property to the east. Mr. Jones explained.

Mr. Sykes asked how long the easement is? Mr. Jones responded saying about 1,100 feet. Mr. Jones continued saying these lots are for the grandchildren of Mr. & Mrs. Wilson. It was tough laying out these lots with the ponds and the surrounding landowners. He did not know of any other way of giving access.

Mr. Williams asked what the strip to the east is? Mr. Jones said that is a flag lot that belongs to someone else. Ms. Gordon has contacted that landowner in hopes of receiving another access point, but they were not willing to give access. Mr. Williams then asked if this would be a county road? Mr. Jones said "no" it will be a private road and the county will not be asked to do any maintenance on this easement. The maintenance will be the responsibility of the landowners.

Mr. Williams made a Motion to approve this application with staff recommendations and there be a note on the plat that this is a private easement and it will be maintained by the property owners and no further division of the land. Mr. McNemar seconded the Motion. The Motion was approved by a unanimous vote.

Laughter Hills – Alex Wood Estate 1st Revision (6201) -Application is for final approval of a plat revision for nine lots 21.08 acres. Subject property is located on the south side of Byhalia Road and west of Laughter Road, zoned Agricultural. Section 2, Township 3, Range 7

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He then recognized Mr. Greg Smith as being present to represent the application.

Ms. Niebanck asked what was the original division? Mr. Garriga gave the location of those lots.

Mr. Williams questioned the bank on Laughter Road and wanted to know if the driveway was going to remain or would it be fixed. Mr. Smith responded saying, they have taken the poorly court order divisions and properly divided them the way it should be legally. The clients are also aware of the signature process for the revision of the plat. He added, he has not been to the site, this was not really an engineering project, they just did the division of the land. He said the applicants are here and can answer any questions regarding the elevation and if anything would be done to the bank.

Mr. Garriga stated the culvert needs to be noted on the plat. Mr. Smith agreed.

Mr. Williams then asked about the road right of way. Mr. Smith replied saying there will be 53' of road right of way.

Ms. Niebanck entertained a Motion. Mr. Maxwell made a Motion to approve this application with staff recommendations. Mr. Sykes seconded the Motion. The Motion passed by a unanimous vote.

REZONINGS

Bakersfield (617) Application is to rezone 37 acres from Agricultural-Residential to R-20 Single Family Residential (Low Density). Subject property is located on the west side of Laughter Road and south of Pleasant Hill Road. Sections 25 & 26, Township 2 Range 7

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He then recognized Mr. Bob Dalhoff as being present to represent the application.

Mr. Williams began by saying, the sewage in that area is already overloaded, he would like to see a sewage system that does not go through Bridgetown. Mr. Garriga replied saying, usually sewage is not a issue at the rezoning stage, that would be a subdivision issue. Mr. Powell added, sewage would need to be approved by the Department of Environmental Quality and North Mississippi Utility. Mr. Williams said he is concerned because sewage already drains on his property.

Mr. Dalhoff began by saying there has been a change in the neighborhood. The Bridgetown and Bridgemor developments, the new schools, and road improvements in the area. There is also a need in the area, Bridgetown is sold out and Bridgemor is getting close to being sold out. This area is ready for development. Mr. Dalhoff continued saying the packet that was submitted to the Planning Commission there is an idea of what the development would look like. He added, it will be changed some when it comes back for subdivision approval.

Mr. Dalhoff said they hope to come back at the next Planning Commission meeting with a preliminary plan and they will ask for the curb and gutter to be waived (as it was with the other two developments). He said due to the narrow shape of the lots, if they rezoned to R-30 they would lose 14 lots. Tonight they are just asking for a straight rezoning.

Mr. Joe Frank Lauderdale (engineer) began saying the countywide sewer system is being worked on, the inceptor line runs along Camp Creek and the treatment plant is currently being constructed. They have promised Olive Branch that they would have service by the end of next year. The line along Camp Creek would put any development in this area with access to the inceptor line. It is possible that the treatment plant will be done away with when the countywide sewer system is in place. He does not think anything can be done outside of the North Mississippi Franchising. There is not a way for anyone to put their own treatment plant in due to the franchising rights. It will flow down to the inceptor line.

Mr. Williams said if he could have some assurance that there would not be any flow that would come onto his property he would be in favor of this rezoning. He also wanted to know how long it would be before this would be hooked up to the inceptor lines. Mr. Lauderdale said hopefully next December, but currently it is controlled by franchising company. There was additional discussion regarding the sewer between board members, staff and applicants.

Ms. Niebanck asked if there was anyone here for or against this application.

1. Ms. Doris Harlin she wanted to know when this subdivision would be developed. She is also concerned about the creek that runs behind them. Her property ends in the middle of the creek and wanted to know where the boundary line is. Ms. Harlin said the proposed access road is in a dangerous place and she is concerned. Ms. Niebanck asked her the size of her lot? Ms. Harlin responded saying, 1 $\frac{3}{4}$ acres. Ms. Niebanck then said the other issues would be addressed at the subdivision stage, this is just a rezoning.
2. Johnny Blackwell – He wanted to know how many homes this would be to the acre. Ms. Niebanck responded saying 20,000 square feet is $\frac{1}{2}$ acre. Mr. Powell added that it would be 2 units per acre.

Ms. Niebanck closed the floor.

Mr. Williams said this is a good development, but he knows there is a problem with the sewage, he would like to have some assurance there would not be a problem with sewage. Mr. Powell said it would be up to North Mississippi Utility and DEQ of what can and cannot be done.

Mr. Maxwell spoke stating this application is for a rezoning and all the applicant needs to do is prove the burden of proof, the sewer information should be an issue at the subdivision stage.

Ms. Niebanck entertained a Motion.

Mr. Williams made a Motion to approve this application with staff recommendations based on the change in the area based on the evidence illustrated by the applicant resulting in a public need for diverse housing in DeSoto County due to continuing growth. With the new subdivision developments in this area. Mr. Maxwell seconded the Motion. The Motion was approved by a roll call vote of 7-0.

Chappel Creek Estates (618) - Application is to rezone 42.32 acres from Agricultural Residential to R-30 Single Family Residential (Low Density). Subject property is located on the east side of Center Hill Road and south of Highway 302. Section 33, Township 1, Range 5

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He then recognized Mr. Gerald Davis as being present to represent the application.

Ms. Niebanck asked what the square parcel is to the south of the property. Mr. Garriga said it is owned by TVA, and the power substation is located there. Ms. Niebanck then asked about the hatched area to the east of the property. Mr. Garriga said that is a PUD (Dogwood Estates) which is undeveloped.

Mr. Davis began saying there has been a significant change to the area. There has been several new developments and improvements in this area. He added, this development is in compliance with the Comprehensive Plan and meets the needs in the area.

Ms. Niebanck then asked if there was anyone here for or against this application.

1. Richard Pounders – He wanted to know if the developers plan on stopping up the ditch? Mr. Garriga answered by saying “no”, the law prohibits that. Mr. Pounders then questioned the boundary line, he said TVA did not have the frontage, and did not own all of that land.

Mr. Garriga replied saying they will be dedicating road right of way, which will be 53’ from the center line. He added a certificate of title will also be needed showing who owns the land, before any plat is recorded. Mr. Davis said he cannot respond to property boundaries, but they have no plans to dam up the creek.

Ms. Niebanck entertained a Motion.

Mr. Sykes made a Motion to approve this application with staff recommendations based on the proof of a change in the neighborhood and evidence presented by the applicant resulting in a public need for diverse housing due to continuous growth in DeSoto County. Mr. Williams seconded the Motion. The Motion was passed by a roll call vote of 7-0.

OTHER ITEMS

Hendrix Planned Commercial (John Deere Dealership) Text Amendment –

Applicant is requesting **Temporary Living Quarters for Caretaker** to be added to the list of conditional uses. Subject property is located on the south side of Highway 304 and west of Scott Road, zoned Planned Commercial (C-4)

Mr. Garriga began by saying Mr. Hendrix has had about \$80,000 worth of farm equipment stolen and has requested that a mobile home be located on the property for a caretaker. Their insurance carrier will also be dropping them, if there is not a night watchman.

Ms. Niebanck asked why not take this application to the Board of Adjustment? Mr. Garriga responded saying, the zoning text did not have this provision listed under the conditional use category. This needs to be a conditional use so that a time limit can be added.

Mr. Sykes made a Motion to carryover this application until the next Planning Commission Meeting (October 30, 2003). Mr. McNemar seconded the Motion. The Motion was passed by a unanimous vote.

Comprehensive Plan – Update/Special Workshop

Mr. Garriga stated a date needs to be set to have a workshop for the Comprehensive Plan. It was decided after some discussion that the October 30th Planning Commission meeting would be used to have a workshop and if needed they would also meet Thursday, November 6, 2003 to finish up.

Meeting Date Changes – November 27 (Thanksgiving) and January 1 (New Year's Day)

Mr. Garriga said the Planning Commission dates for November & December need to be changed due to the Holiday's. It was decided that the November Planning Commission Meeting will be held Thursday, November 20, 2003 and the December meeting will be held Tuesday, December 30, 2003.

Ms. Niebanck mentioned the \$100.00 donation for Mr. Julius Cowan's singing group. This would only amount to \$8.00 - \$10.00 each, it was agreed to give the donation. Ms. Niebanck also stated Christmas is nearing and the Planning Commission board needs to decide what they are going to do for the holiday's and the needy family, she would also like the name/s of needy families.

There being no further business in front of the Planning Commission, this meeting adjourned at 10:15 p.m. These minutes were recorded and transcribed by Denise Dingman.