

Planning Commission
City of Pass Christian
Special Meeting
Municipal Complex Auditorium
200 West Scenic Drive
October 3, 2011

MINUTES

CALL TO ORDER

Chairman Tom Phares called the meeting to order. In attendance with a quorum were Commissioners Ken Austin, Steve Hunter, Margaret Jean Kalif, Adam Pace, Lisa Smith, and Earl Washington. Lela Weems entered the meeting at 6:06PM.

OLD BUSINESS

Request: Consider granting Approval to revise Final Plat for North Street Villas West, as requested by Bethel Estates Development, LLC and to approve deferred improvements bond.

David Kelly, representing Bethel Estates Development, LLC, the new developer, stated they wished to amend their application to provide they would use the Final Plat originally approved by the Pass Christian Planning Commission and Mayor and Board of Aldermen in January of 2010. The developer further stated they had worked out the issues of the location of the protected trees, the wetlands designation and drainage and that it would not be necessary to amend the interior lot lines. The only items they were submitting to the Planning Commission for approval were the following:

- Removal of requirement of 20' private rear alley as previously recommended by Planning Commission and permission to allow access through front façade for parking under homes;
- Approval of deferred improvements completion bond.

Kelly stated that the Final Plat would continue to have 20 lots as before with 19 homes to be constructed. The developer stated they were seeking to vacate the 20' private easement (rear alley) that runs along the eastern boundary of the lots through the jurisdictional wetlands for the reasons they stated in their letter attached to the application. The developer considered the live oak trees and they will still be protected with the removal of the rear alley.

Kelly stated that they would normally have no objection to the requirement of the rear access private alley, but without a permit from the Corps of Engineers (that would be very time consuming and costly) they could not fill in the wetlands in the location of the alley and otherwise "mitigate" the wetlands. The wetlands as they exist would only allow for an alley that would access 1/3 of the lots. Also, if they were to build the alley, they would have to mitigate the wetlands and this would also impede the natural flow of the drainage. This point was also made by the City Engineer in his letter in the record.

Tim Burge, Engineering Consultant for Bethel Estates Development LLC, stated that in addition to other reasons they have two primary objections to the alley—the wetlands across the back of the lot, and a traffic safety concern with the proximity of Clark Avenue to the intersection of the proposed alley entering North Street. Burge stated that currently North Street is classified as a major connector street. The posted traffic speed of North Street is 40 miles per hour. The project engineer offered the opinion according to industry standards as a traffic consultant that the minimum stopping sight distance is approximately 180 feet. Burge stated that since there is no turn lane and the length of the lots are only 130 feet east of Clark Avenue there would be insufficient distance for traffic to slow down for vehicles entering or exiting the rear alley causing a dangerous condition. Burge stated that in most municipalities that he works with alleys are not allowed to exit at major collector streets.

Phares stated that the city's expectation for rear parking is visual and about design rather than purely function. Phares asked that if the rear parking condition was removed would the developer screen the parking and meet all other provisions of SmartCode. Kelly stated that there will be garage doors at the front that will provide 100% opacity from the street.

Chairman Phares asked if the deferral of improved completions bond was acceptable. The City Attorney stated that in order to pull the remaining 10 building permits, the developer would either have to install the water and sewer infrastructure (which they plan to do in the next three to four weeks), or put up a deferred improvements completion bond. He also stated the subdivision regulations provide the developer has to do one or the other. [The developer has already obtained 9 building permits for the former subdivision lots.]

Chairman Phares opened the floor to public comment.

Tut Kinney, of 4395 Menge Avenue, Pass Christian, MS, asked if the plat the Planning Commission had before them was the plat the applicant was submitting. The Developer's representative, Kelly, stated that they decided to use the original final plat that was approved, except for the requirement of the rear alley.

Kinney stated that from a procedural standpoint, he hoped that the Planning Commission would not allow people to amend their plan an hour before the meeting.

Kinney asked that the following items be added to the record:

- Pass Christian Subdivision Regulations adopted in 2009
- Mississippi Housing Recovery Data Report
- Transcript of the September 20th Board of Aldermen Meeting

Kinney stated that there are very specific things in the Subdivision Regulations. The first is preliminary plat approval, and there are very specific requirements for that. Next, once the preliminary plat has been approved, the developer has one year to get everything in order and finished, and then he can apply for an extension within that period of time. Within that one year, they have to complete the project. Kinney stated that the time has come and gone for

the Preliminary Plat and the project has not been completed. Kinney stated that there can be no final plat until the improvements are in place.

Kinney stated that if the commission allows this process that mixes up preliminary and final plat, he thinks that they have undermined the procedures, undermined the ordinance, and have done something that they do not need to do. If the developer wants to change one of the requirements, you need to start the process over by applying for preliminary plat approval. Kinney stated that there are no stated hardships. According to Kinney "The developer is saying that the rear alleyway would impede the drainage flow from west to east, but what are all of these slabs going to do to the flow from west to east?"

Kinney stated that the application does not have the address, parcel number, location or transect. He stated that he wants something better for the community. Kinney stated that the concept in Section 103A of the subdivision regulations is very simple. This is a preliminary plat, it is nothing bigger, better, different, odd or anything about it. Kinney stated that it has to get CRC approval, there has to be 30 days approval of time.

The City Attorney stated the original final plat was approved in January of 2010.

Kinney stated that there have to be a lot of things approved with a final plat that he does not see. These include the completion of improvements, and there has to be approval from the Mississippi Department of Environmental Quality.

The City Attorney stated that the project has the MDEQ's and Dept. of Health's approval.

Kinney stated that all of the things that have not been required for final plat approval have not been demonstrated. Kinney stated that rules are there to help judge whether this is a good project or bad project. He stated that he has no idea. He is neither in favor nor opposed to this project. He does not know enough. Kinney asked the commissioners if they know enough about the project to say whether or not this is good for the community. Kinney stated that this property is not properly zoned for this residential, but it got planning commission approval for the zoning when it was originally presented. Kinney stated that he'd want to start all over again to determine if this is the proper use. Kinney stated that if they amend a final plat, rather than start all over again, he thinks that it will undermine what the community is all about.

According to the Commission's minutes these subdivision projects were previously approved by the Planning Commission in June of 2009 as recommended by the former City Planner for this specific zone. This recommendation of the Planning Commission was approved by the Mayor and Board of Aldermen when they initially adopted the SmartCode Zoning ordinance and zoning map in June of 2009 after the advertised public hearing.

Hunter stated that he was recently appointed to this board. He stated that the points Kinney brought up now should have been addressed back when the matter was originally submitted to the Planning Commission.

Phares stated that what he took from Kinney's discussion was a need for a better application form, better organization within the city, better filing with greater access to documents, and lastly, better due diligence on the part of the City staff and officials on approval of developments.

Kinney stated that he is asking the Planning Commission to deny this application. He feels that it is not appropriate under the subdivision regulations, and he does not think they have the power to go back and amend a final plat until the improvements are in place. Kinney stated that the City has no authority to give final plat approval without the improvements being in place.

Kelly stated they took the project over from the Mississippi Development Authority with assurances that all documentation was in place. They agreed to take it on only if the projects could be finished and homes all built by December 31, 2011, to capture the GoZone Depreciation Benefits. Kelly stated that if the projects were not allowed to immediately proceed as planned with the relief requested there would be a substantial hardship for the developer and the MDA.

The City Attorney stated that this is not an original application; it is simply about removing the condition of the rear alley and allowing access for parking under the homes through the front façade. He asked the developer and engineer to speak to the MDEQ and the Dept. Of Health approval so that the commissioners and audience understood that everything has been properly done.

Engineer Burge stated that they do have approval letters from the MDEQ and Mississippi Department of Health as well as a report from the Corps of Engineers that speaks to the jurisdictional wetlands. He advised that he had previously provided same to the City Engineer, but would make same available for this record. The City Attorney stated that upon receipt he will make sure these copies are available for the Planning Commission Records.

Commissioner Austin asked the City Attorney to address the process of preliminary and final plat. Additionally, he informed the audience that the financial viability of this venture is not in the Planning Commission's purview.

The City Attorney stated that this situation is unique but both the former and new subdivision regulations have been substantially complied with. There are no new roads being put in and there are existing water and sewer improvements. The developer is choosing to put in new water and sewer to replace aging infrastructure. They have previously received preliminary and final plat approval from both the Planning Commission and the Board of Aldermen in January of 2010. If someone did not feel that the approvals were in accordance with the ordinance, they had 10 days to file an appeal after the initial approvals. The time has run out to appeal. The City Attorney further advised that the Code Office cannot issue the remaining building permits until the water and sewer has been installed or the deferred improvements completion bond has

been approved and filed. The subdivision regulations clearly allow either option. The MDEQ and Ms. Dept. of Health approvals were previously received. There is no reason to delay consideration of the application at this point. The plat has been reviewed along with the construction plans. There are no other documents to review. Nothing will change between this date and a further review process.

On motion of Kalif, seconded by Hunter, carried unanimously, the Planning Commission decided to grant the Developer's application as revised and to allow the developer to remove the previous condition of the 20' private rear alley ; to allow access through front façade for parking under homes; and to approve the deferred improvements completion bond as presented by Bethel Estates Development, LLC, and approved by the City Engineer and City Attorney.

On motion of Kalif, seconded by Hunter, carried unanimously the meeting was adjourned.