

A regular scheduled meeting of the **Planning Commission** was held on Thursday, November 5, 2020, at 6:00 p.m. in the Board Chambers of Town Hall, at 500 Poplar View Parkway.

Staff members present were: Town Attorney, Mr. Nathan Bicks, (via telephone); Development Director, Mr. Jay Cravens; Town Planner, Mr. Jaime Groce; Assistant Town Planner, Mrs. Nancy Boatwright; Planner Mr. Scott Henninger; Fire Marshal, Mr. Paul Witt; Administrative Specialist, Sr., Mrs. Shari Michael.

Pledge of Allegiance

Chairman Cotton led the Pledge of Allegiance.

Roll Call to establish a Quorum

Cotton – present, Rozanski – present, Marshall – present, Goddard – present, Johnson – present, Worley – present, Given – absent, Gilbert – present.

Quorum Present.

Approval of Minutes

Chairman Cotton asked if there were any additions or deletions to the minutes from the October 1, 2020 meeting.

Vice-Chairman Rozanski stated that the last page needs to show that he adjourned the meeting, as Chairman Cotton was absent.

Chairman Cotton called for a motion to approve the minutes from the October 1, 2020 meeting as amended.

Motion by Vice-Chairman Rozanski, and seconded, to approve the October 1, 2020 minutes as amended.

Hearing no further discussion, Chairman Cotton asked Mrs. Michael to call the roll.

Roll call:

Rozanski – yes, Gilbert –yes, Marshall – yes, Johnson – yes, Goddard – yes, Worley – yes, Cotton- Abstain.

Motion Approved.

Approval of Agenda

Chairman Cotton asked if there were any additions or deletions to the Agenda.

Mr. Groce explained that the applicant for item 7.a. DD20-023 Byhalia Commons PD, has asked to defer hearing their item until the December 3, 2020 Planning Commission meeting.

Hearing no further comments, Chairman Cotton called for a motion to approve the agenda as amended.

Motion by Commissioner Goddard, and seconded, to approve the agenda as amended.

Hearing no further discussion, Chairman Cotton asked Mrs. Michael to call the roll.

Roll call:

Gilbert – yes, Johnson – yes, Marshall – yes, Goddard – yes, Rozanski – yes, Worley – yes, Cotton - yes.

Motion Approved.

Consent Agenda:

Update to the Town’s Major Road Plan to remove the required right-of-way and pavement widths for streets depicted on the Major Road Plan and reference Article III and the Appendix of the Subdivision Regulations.

Hearing no further discussion, Chairman Cotton called for a motion.

Motion by Vice-Chairman Rozanski, and seconded, to approve the Consent Agenda:

- | EXHIBITS | |
|-----------------|--|
| | 1. Collierville Major Road Plan (last amended December 2018) showing areas proposed for change |
| | 2. Table III-2 from Subdivision Regulations (October 30, 2020) |

Effective January 1, 2021, the Collierville Major Road Plan shall be amended to remove the example cross sections and dimensional requirements (see Exhibit 1) and to add a reference to Table III-2 of the Subdivision Regulations.

Hearing no further discussion, Chairman Cotton asked Mrs. Michael to call the roll.

Roll call:

Johnson – yes, Gilbert – yes, Marshall – yes, Goddard – yes, Rozanski – yes, Worley – yes, Cotton - yes.

Motion Approved.

Formal Agenda:

DD20-089 – Ordinance 2020-13 – Mt. Pleasant Condominiums – Request to rezone 1.43 acres from GI: General Industrial to TN: Traditional Neighborhood, located at 70, 74, 80 & 86 Mt. Pleasant Road.

Mrs. Nancy Boatwright gave the staff presentation. She explained the request and commented that this will be four parcels combined into one lot, and that the approval of the request would allow development of multiple family, attached dwelling, condominium buildings. There will be two, three story buildings with eighteen dwellings in Phase 1.

The TN zoning proposed, is consistent with the Town’s 2040 Land Use Plan. Special Area 3 of the Downtown Small Area Plan shows this area designated as a Mixed-Use Activity Center Character Area. The TN zoning effectively implements the character of this designation.

- | EXHIBITS | |
|-----------------|---|
| | 1. Cover Letter and Grounds to Amend Zoning Map (10/13/20) |
| | 2. Traffic Impact Study (10/13/20) |
| | 3. Staff Analysis of Grounds for Amendment (10/30/20) |
| | 4. Ordinance 2020-013, with legal description and location map (10/30/20) |
| | 5. Downtown Small Area Plan Excerpts (2010): |
| | a. Character Areas & Special Areas Map |
| | b. Mixed Use Place Type |
| | c. Special Area #3 |
| | 6. Plot Plan (10/13/20) |
| | 7. Conceptual Architectural Elevations (10/13/20) |
| | 8. Conceptual Site Layout (10/13/20) |

The Mixed-Use Activity Center Character Area is intended to provide new and expanded services, employment opportunities and housing adjacent to existing predominately single family neighborhoods and the Historic Downtown Core. Properties are expected to redevelop in a traditional way that promotes the efficient use of established infrastructure, the efficient use of land, more pedestrian opportunities; and create the “critical mass” of residents necessary to maintain a vital Downtown Core within a five-minute walk of the Square, addressing the New Rooftops initiative.

The TN District is intended to provide for infill development compatible with the existing character of downtown Collierville and preserve the historic fabric of the Town. It is designed to allow for a variety of housing options and densities, while encouraging compact development. “Form based” bulk requirements (setbacks, height, lot size, etc.) are designed to allow such development and the attached dwellings will require a Conditional Use Permit (CUP) and site plan review by PC, DRC and BMA.

The traffic study anticipates 140 ADT/weekday, which should not have a negative impact on the adjacent roadways. Based on a previous traffic study, the intersection of Mount Pleasant and Poplar Avenue is expected to operate with an unacceptable level of service with or without development, due to high traffic volumes along Poplar Avenue during the evening rush hour. Traffic experiencing excessive delays at this intersection has the option to divert to the intersection of Poplar Avenue and Main Street and gain access to Poplar Avenue by use of the traffic signal.

Grounds do exist to approve the rezoning. In agreement with the Downtown Plan, attached dwellings are particularly appropriate closer to the railroad tracts due to the steep topography and clustered on a central open space. It is appropriate to have taller buildings nearest to the railroad track and adjacent to the industrial area. The New Rooftops Initiative aims at increasing the number of residences near the Town Square to support the central business district and create value. Regarding the existing infrastructure, design details such as sidewalks and drainage will be addressed at subsequent stages of the development.

She reviewed the next steps for the applicant, and the example motion contained in the staff report.

Hearing no questions for staff, Chairman Cotton called the applicant forward.

Mr. John McCarty, representative for the applicant, addressed the commissioners. He explained that they are only asking for the rezoning at this time as they are spending a lot of time designing the architecture to the next level. They believe that this development will make a good transition into the adjacent neighborhood. They have met with the adjacent neighbors and are not aware of any opposition to their request. The CUP will come with the Preliminary Site Plan and they will continue to discuss this development with the surrounding neighbors.

Hearing no further discussion, Chairman Cotton called for a motion.

Motion by Vice-Chairman Rozanski, and seconded, to recommend approval of Ordinance 2020-13 (Exhibit 4).

Hearing no further discussion, Chairman Cotton asked Mrs. Michael to call the roll.

Roll call:

Johnson – yes, Gilbert – yes, Marshall – yes, Goddard – yes, Rozanski – yes, Worley – yes, Cotton – yes.

Motion Approved.

DD20-088 – 420 Peterson Lake Road – Request approval of a 1,756 square foot residential accessory structure

Mr. Jaime Groce gave the staff presentation. He explained that PC will need to decide if the request is consistent with the character of the area, and does not materially adversely affect other property or historic resources.

There are four nonconformities with this request. The home is located in the R-1 District, which only allows 1 full dwelling on the property, but there are two in this case. Until recently, there were five accessory structures on the property which exceeds the maximum number of allowed, which is two. Combined, all existing accessory structures exceed 30% of the gross floor area of the principal structure. The floor area will be decreasing from 2,579, which is 64% of the size of the principal dwelling, to 2,360 square feet, which is 58% of the principal dwelling. The setback of the pool house was ten feet and will now be twenty-two feet.

On the property currently is a north shed accessory structure, a smokehouse accessory structure and a greenhouse accessory structure, a log cabin accessory structure, which has recently burned and been removed, and a pool house accessory structure, which is also a second dwelling, which will be demolished and removed. With the removal of the burnt log cabin and the greenhouse, and if the new pool house structure is approved, there will only be three structures on the property.

When you have a nonconforming structure, the property owner can remove it and rebuilt it, but there must be clear records of when it was originally built and any permits associated with it submitted. The burden of proof is on the applicant to show that this pool house was lawfully constructed, and this applicant has not produced any permit for the pool house. The house was built in 1948 and the Assessor’s website states that the pool house was built in 1965. They property owners think the pool house was built when the original home was built. The Town did not have zoning laws in place until the mid-1950s. The structure may predate zoning, and can be grandfathered in. There are several conditions of approval contained in the staff report, and the first condition of approval noted in the staff report is that they must provide proof of when the pool house was built.

He reviewed the next steps for the applicant, the motion contained in the staff report, and the conditions of approval. The applicant does not agree with the first condition of approval.

Mr. Bicks explained that the Town has recently become involved in some litigation of what it takes to establish a nonconforming structure or use. The law requires the applicant to carry the burden to establish this proof. It is the law and therefore condition of approval number one is superfluous because of the age of this particular home, and the records may just not exist to provide it to the PC. We may be creating a burden that the applicant cannot provide. It’s one thing to say they have to establish that the structure is a qualified nonconforming use, but it’s another thing to make them provide a record to establish this. He believes that condition of approval number one could be removed requiring them to show records of proof, but it is not even necessary in his opinion to ask them to produce any records because the law already requires them to carry the burden of proof to say that it is a nonconforming use.

Commissioner Johnson asked if allowing the applicant to put the second building in another area of the property is putting a burden on the PC.

EXHIBITS

1. Example Conditions & Next Steps (10/30/20)
2. Cover Letter (10/12/20)
3. Plot Plan (10/2/20)
4. Architectural Elevations & Floor Plan (9/20/20)
5. Photos of Structures (10/30/20)
6. Aerial Photo Showing Structures (10/30/20)

Mr. Bicks stated that it won't because if the buildings are already there, then they are grandfathered in as a qualified nonconforming structure.

Commissioner Goddard asked, if Mr. Bicks feels this condition number 1 is overkill, does the applicant still have to prove that the original pool house is old enough to be grandfathered in.

Mr. Bicks answered that if they want to claim status of the nonconforming use and they want the benefit of that, then they have the burden to establish that right. Who do they have to prove this to? That would be the building official from whom they are seeking the building permit. It can be through any record that the building official can take as an accurate record. They still have to prove it to the building official to get the permit.

Hearing no further discussion or questions, Chairman Cotton called the applicant forward to speak.

Mr. Grayson Vaughan, representative for the applicant, addressed the commissioners. He explained that he was submitting some documents to show and establish when the pool house was built. When the log cabin burned, it did cause some damage to the pool house and that is why they are wanting to demolish it and rebuilt it in another location of the property. He believes that the structure was built in 1948. He was able to find an aerial picture on the internet today from 1957 that shows the pool house, although it is not very clear, but this is the pool house. Asphalt siding showed up in the 1940's and this would predate the structure. They would like to have the first condition of approval removed because they are probably not going to be able to find proof through any permit.

Mrs. Dee Cox, resident at 418 and 420 Peterson Lake Road, addressed the commissioners. She explained that her husband grew up in this house and he has stated that the pool house has been there since he was a little boy, around the age of 3, and he is now in his late 50's. He remembers the pool house always being there and there were previous residents of this home, before his family moved into the original home. All of the siblings remember this pool house being there as long as they can remember. All of the children have stayed in this home during their growing up years. The log cabin was moved to the property when her husband was nine or ten years old.

Chairman Cotton asked how old Mr. Jim Cox is.

Mrs. Cox stated that he is 57 years old and he has lived in this home since he was three.

Chairman Cotton asked for motion, hearing no further discussion.

Motion by Alderman Worley, and seconded, to approve a 1,786-square foot residential accessory structure at 420 Peterson Lake Road subject to the conditions in Exhibit 1, and eliminating condition of approval number 1.

1. ~~Provide records to the Planning Division to document that the pool house was lawfully constructed.~~
2. The existing greenhouse and existing pool house shall be removed from the property prior to the Certificate of Occupancy (CO) being issued for the replacement pool house.
3. Label the rear yard setback on Exhibit 3 continuously as 30 feet. Rear yards begin where the side lot lines (measured from the north and south property lines) end.
4. Label the building height on Exhibit 4 per §151.003 of the Zoning Ordinance and the 2018 International Residential Code. The accessory structure shall not be located any closer to the easternmost property line than it is tall.

5. Obtain demolition permits prior to removing any structures from the property.

Roll call:

Johnson – yes, Gilbert – yes, Marshall – yes, Goddard – yes, Rozanski – yes, Worley – yes, Cotton – yes.

Motion Approved.

7.d. Planning Commission Resolution No. 2020-A (Public Hearing), a Resolution of the Planning Commission of the Town of Collierville Amending the Subdivision Regulations amending Article I, Section 7 related to Previously Preliminarily Approved Subdivisions or Finally Approved Subdivisions; Article II, Section 3 related to the Review of Preliminary Plat and Infrastructure Construction Plans; Article II, Section 5 related to the Effective Period of Approval and Time Extensions; Article II, Section 6 related to Public Hearings and Effective Periods of Approval; Article III, Section 5 related to Blocks And Layout; Article III, Section 6 related to Road Design And Connectivity; Article III, Section 7 Road Design and Connectivity, Cul-de-Sacs and Other Dead End Streets, Street Grades, Corner Radii, and Street Improvements; Article III, Section 8 related to Survey Corner Monuments; Article III, Section 13 related to Technical Specifications; Article IV related to Traffic Impact Study Requirements and Plat Certificates and Notifications; Article VI, Section 1 related to the Enactment Date and Tree Surveys & Tree Replacement Plans; Article V related to Definitions; and the Appendix related to Road Design, Technical Specifications, and a Sample Letter of Credit.

Mr. Jaime Groce gave the staff presentation. He explained that the PC has been working on these changes for the last two months. This is a staff-initiated “cleanup” amendment to the Traffic Impact Analysis so that it can be “a-la-carte”, instead of “levels” based on vehicle trip generation. These changes will also be centralizing requirements to the street right-of-ways for road designs. The language will match what the BMA is considering with the Fire Code Update which will be effective on January 1, 2021. The address changes to local or State Law with vesting and how long the PC has to act on hearing plan submittals,(and an update to the tree survey requirements to focus more on specimen trees, and tree canopy coverage comparisons).

EXHIBITS	
1.	Summary of Edits (10/30/20)
2.	Vesting Summary (9/25/20)
3.	New Tree Survey Concept Example (9/25/20)
4.	PC Resolution 2020-A (10/30/20): -Attachment A, 10/30/20

There are two edits contained in the staff report since the October 2020 PC meeting and those covered the two remaining cross sections added to appendix and table, and the requirement was removed for alternate emergency access for cul-de-sacs over seven hundred feet.

He reviewed the next steps for the resolution and the example motion contained in the staff report.

Chairman Cotton asked if there were any questions for staff. He stated that no one came to speak at the public hearing.

Hearing no further discussion, Chairman Cotton called for a motion.

Motion by Vice-Chairman Rozanski, and seconded, to approve Planning Commission Resolution No. 2020-A (Exhibit 4).

Hearing no further discussion, Chairman Cotton asked Mrs. Michael to call the roll.

Roll call:

Johnson – yes, Marshall – yes, Rozanski – yes, Goddard – yes, Gilbert – yes, Worley – yes, Cotton - yes.

Motion Approved.

Other Business:

Chairman Cotton asked if there was any Other Business.

Mr. Groce reminded the PC to turn in their applications if they wish to return to the PC in 2021. The deadline for receiving applications is November 25, 2020. Staff is working on training webinars and will be emailing links soon that the commissioners can watch at home at their leisure. There will be a PC meeting on December 3, 2020. Several items have been submitted for that meeting.40

Hearing no further business, Chairman Cotton adjourned the meeting at 6:41 p.m.

Secretary, Commissioner Jeremy Given