

**MINUTES OF THE
TUPELO PLANNING COMMITTEE
REGULAR MEETING
Monday, July 11, 2022
6:00 PM Council Chambers**

CALL TO ORDER

Chair Pam Hadley called the meeting to order. Committee members Scott Davis, Gus Hildenbrand, Patti Thompson Lindsey Leake, Leslie Mart, and Chair Pam Hadley were present. Members Mark Williams and Bentley Nolan were absent. Staff members present included City Planner Jenny Savely, Director of Development Services Tanner Newman and Zoning Administrator Russ Wilson. City Attorney Ben Logan joined in by phone, and Assistant City Attorney Stephen Reed was present. Chair Hadley asked Patti Thompson to open with a prayer and Scott Davis to lead the pledge. Chair Hadley then presented an opening statement of the committee purpose and reviewed how the committee conducts its business. The Staff and Committee were then asked to introduce themselves and did so.

REVIEW OF MINUTES

Hadley asked for a motion to approve the minutes of the June 6, 2022 meeting. Lindsey Leake motioned to approve, seconded by Scott Davis and the motion was approved unanimously. Hadley then opened the regular session section of the meeting.

REPORT ON COUNCIL ACTIONS

City Planner Jenny Savely reported that there was no update on City Council actions.

Old Business

City Planner Savely reported that the City Council at their May 2nd meeting tabled the Text Amendments to the Development Code. That tabled item is set to expire on July 25th and requested that the regular work session date of July 25th be made into the August regular Planning Committee meeting in order to prevent that tabled item from expiring. Leslie Mart motioned to move the August regular meeting to July 25th, seconded by Scott Davis and passed unanimously.

MSP22-01 Flowerdale Commons Apartment Complex on Colonial Estates Road South of McCullough Blvd

Chair Hadley asked City Planner Savely to present the staff analysis for this previously tabled item. Savely reported that on May 2, 2022 tabled this item. Site plans have been revised as the Planning Committee requested, a stormwater management plan was developed as well as a Traffic Impact Analysis was provided as requested. There are 7 two story apartment buildings as well as a community building, all of which includes 46 units on Colonial Estates Road near McCullough Boulevard. Savely said there are very clear criteria required for how the Planning Committee is to review this. The developer has met all criteria beyond expectation. This is being reviewed as a Major Site Plan which are required to be reviewed for Multi-Family developments by the Planning Committee, however, this in a Mixed Use Employment zone is a Use by Right, which means that the Planning Committee should the developer as they have, meet the expectations of the Development Code, they shall approve the permitting of development as such, the Planning Committee will be recommending approval or disapproval to the City Council, which will be reviewed July 19th. So, our role here is to make a recommendation based on the facts of the code and what has been presented for the development in the site plan. All requirements relative to this site, and there is a clear list included in our code – natural characteristics of the site, parking, traffic patterns, floor elevations, stormwater and easements as well as additional traffic analysis which was submitted, and reviewed in-house, passed all required

inspections by Department of Development Services. The developer is here now to present a presentation for the review of the Planning Committee. Chair Hadley asked the applicant's representative to come forward to present. Hadley asked that he state his name and address.

Stewart Rutledge, 1739 University Avenue, Suite 116, Oxford came forward to present on behalf of Flowerdale Commons. This is a privately owned community to be developed just SW of the intersection of McCullough and Colonial Estates Road, just north the Airport runway and just south of the railroad tracks. This land is currently used for farming, surrounded by non-residential uses, adjoined on the north by commercial and industrial uses, on the south by governmental and industrial uses by way of the Tupelo Airport runway and on the west by more farmlands. The was zoned Mixed Use Employment by unanimous action of the Tupelo City Council in October of 2013 and the City of Tupelo has provided two zoning verification letters confirming that the zoning is appropriate for the intended use and is entitled by right. The development team has worked closely with the City of Tupelo to insure that the (Flowerdale Commons) community not only meets the ordinances but that it exceeds the ordinances. Further, the (Flowerdale Commons) community will be superior in quality and aesthetics to the nearest residential projects. Flowerdale Commons was first presented on May 2, 2022, was tabled pending the resolution of three items, the TIA, water detention and erosion control elements, and revision of the structures to comply with current building length standards. As confirmed by the City of Tupelo, Flowerdale Commons has met all the requirements in the code and has fully addressed all of items requested by the Planning Committee at that May meeting. Of note, the project engineer, ESI, provided a traffic impact analysis as requested, but the developer in order to insure the satisfaction of the Planning Committee, obtained a second traffic impact analysis by engineering firm W.L Burley. Both studies confirmed, with no qualifications, that the development will have no significant impact on Colonial Estates Road, and that additional capacity will remain on that road. Rutledge mentioned that as Chair Hadley said at the beginning of the meeting "this committee is tasked with making a recommendation to the Council solely based on the criteria contained in the code." Rutledge stated that Flowerdale Commons has indisputably met all requirements for obtaining site plan approval and Section 12.11.4 of the Tupelo Development Code states "site plans that meet the following criteria (listed), shall be approved by the approving authority". As such, we respectfully request, pursuant to the Tupelo Code, that the Planning Committee recommend site plan approval for Flowerdale Commons.

Chair Hadley then opened the floor for public comment. Hadley stated that the committee has received several letters and emails from several people that are on record including those that have spoken before so there is no need for those to speak again. There will be a three-minute time limit and a sign-up sheet for the record.

1. SPEAKER 1 came forward to speak against the development, representing Joe Estess with Magnolia Business Center, with concerns about the intent of the MUE Zoning district being employment instead of a residential use for this property. He quoted several areas of section 4 concerning MUE and is against this development.
2. Glenn McCullough Jr. came forward to speak against the development. McCullough did not think that the code had been met, stating that section 4.1.2.1 speaks to the intent of the code and feels that the Flowerdale Commons development does not meet the intent of the code. He quoted the code and felt that multi-family apartment complexes don't fit in MUE, and suggested that another location be found.
3. Adrian Caldwell came forward and spoke against the development. Caldwell thought the development would make the elderly nervous and questioned the traffic study and related that someone saw a person in a pickup, sometimes asleep, after 9AM when traffic was gone. Caldwell noted the terrible drop-off on the sides and thought it can't handle more traffic and suggested another location be found.
4. Rosie Jones, City Council Ward 7 came forward to speak saying there were no concerns about the buildings being built – We need housing and businesses would benefit – These make believe people in

apartments that haven't been built will have to follow rules and regulations. Being afraid or nervous of people that haven't moved in yet. Jones asked anyone with concerns about the buildings or codes to come forward and speak about that, because we need a reason what's wrong with it.

5. Wesley Webb, Lee County Supervisor, District 3, 967 N Coley Road, came forward to speak. He has worked with Rutledge but is concerned about home values. Webb said if they were on the other side of McCullough where the others are he'd be fine with that, but feels it's not the right location. Webb recounted his experience on the Major Thoroughfare Committee and past experience and concerns with traffic patterns.
6. Donnie Elkin, a retired police officer came forward to speak against the location and recounted his experiences with apartments living in Columbus, MS.
7. Jacob, Kincannon. Spoke against the development stating a concern about future expansion of the airport runway if the development is approved.
8. Craig Waller, Trucking Company on McCullough spoke against the development stating a concern about the current traffic problem and adding even more. His 8 acres impact about 250 people in this community. The 11 acres for apartments will take out land that could be used for business development.
9. Linda Collins, spoke against the apartment development concerned about potential changes in the area brought on by walking traffic from the apartments to her neighborhood's park, which could become a public park. She asked about the rent for these low-income apartments and who is subsidizing the rent.
10. Mary Conner Adcock came to the podium to speak against the development. Adcock said that the committee has to do what is best for the community, and doesn't have to vote for it. She presented a stack of 200 who had signed a petition against the project and if it proceeds will damage their development which is affordable housing under \$200,000.
11. Nancy Adams, 3562 Cotton Bowl Lane spoke about the traffic study and said she saw a gentleman in a pickup on one end of Colonial Estates but never during high traffic times.

There being no others to speak, Chair Hadley closed the public input portion of the hearing and allowed Mr. Rutledge to come to the podium to address the concerns of those that spoke. He moved to the screen area to do a laptop presentation on-screen a copy of which will be entered into the record.

Mr. Rutledge said they have developed about 35 (apartment) communities in 6 states and wanted to present "the truth" about their developments. Some of the points in his presentation included:

1. A recap of the details of the 46-unit apartment development
2. Showed photos of the proposed development on screen
3. Disputed the information that has been sent out that the units will be low-income housing.
4. This is a \$10 million investment in the community bringing new jobs to the area
5. Homes are intended for employed people.
6. Developed by Tupelo people for Tupelo people
7. Graphic representation of the area's zoning
8. Explained the MUE zoning district's mix of uses intent
9. Presented copies of the two zoning verification letters
10. History of the area's zoning of the development area
11. Explanation of zoning law and Tupelo Development Code MUE Uses
12. Presented multiple letters of support
13. Presented info on awards the developer has won
14. Stated again that rents are not subsidized
15. Target their developments to serve veterans

16. Presented a map of the site and adjacent uses

17. Referred to the Comprehensive Plan 2025 and spoke to housing types needed

Rutledge quoted case law and court cases related to zoning ordinances as it relates to apartment developments. There was information on the two traffic studies that were done. Rutledge also spoke to the falsehoods that have been circulated in recent weeks in objection to the project and Rutledge also noted that landowners have the right to use their property for the uses it is zoned for.

Rutledge mentioned some of the email tactics and falsehoods from recent emails that have circulated which include suggestions that this is subsidized low-income apartments – false. Comparisons to hundreds of apartments on Ida Street which were Section 8 housing – he termed this as misdirection. Allegations had been made about the Planning Committee and City could make things more costly for the developer which Rutledge said was illegal to do. Rutledge also spoke of legal rulings about surrounding developers putting pressure on City leaders to prevent competing development. Rutledge said that in spite of this coordinated pressure campaign of opposition to their development, the City of Tupelo has thus far stood strong and operated according to its ordinances and he appreciates that. Rutledge ended his presentation with the following request – “It is undisputed that the Flowerdale Commons site plan meets and exceeds the City’s ordinances and that it is properly zoned by right for its intended use. But even more, the development is being constructed to higher quality standards than the surrounding community – it is being developed by an award-winning team that has a strong organic community support – it will be an asset to the City of Tupelo. For these reasons, we respectfully request that the Planning Committee approve the Site Plan’s submission for Flowerdale Commons. Thank you.”

Chair Hadley closed the floor for public discussion and opened the discussion of the item between the committee members.

Gus Hildenbrand asked for information on the income limits required for tenants. Rutledge responded that \$60,000 was the maximum with the bottom limit being market driven. Lindsey Leake asked if that was per person or married filing jointly. Rutledge responded yes that is correct. Leslie Mart asked for further clarification and Rutledge said that it was for household income. Leslie Mart said that Britton Jones stated earlier that this was described as low income subsidized housing. Rutledge clarified that this was not Section 8, but tax incentive funding with no government funding. Investors get a tax credit, but no government subsidies. Scott Davis asked what the requirements were that make this project any different than others. Rutledge responded that they are committed to serving this segment of the population. If someone makes more than that level, they have to say no, they can’t rent to them.

Scott Davis echoed that this was not what they heard before. Rutledge said they apply for tax credits, build to a certain quality level, and have to maintain the development for at least 15 years. This is a relatively new program. Davis questioned that the committee has seen several other presentations on apartments and no one has ever seen that through. Davis said this was about location, businesses, taxpayers, and residents don’t want this - even though the developer has shown letters of approval but seems to be saying don’t listen to the residents, take the temperature of the room. Davis stated that to ignore the citizen’s concerns about this location was not right. Rutledge said all he is doing is following the code, finding vacant land, properly zoned. If the code needs to change, have at it.

Leslie Mart said that the City and Committee have been very friendly with developers in the past, rather than having a developer come in and find properties that state one thing and not necessarily compatible. She suggested that simple conversations with officials might have prevented any animosity. Rutledge said that this animosity was mild, but mostly inaccurate. Multi-family zoned properties have a limited availability.

Mart referred to the traffic studies. In driving that road, Mart said she doesn't care what the two studies say, that this road is not appropriate for the developments that are there now, let alone adding anything else. Mart said she would be hard pressed for approval of anything else, based on the road conditions and the traffic coming through, it is a trap waiting to happen. Not the fault of the developer, but here we are with a road totally inadequate.

Lindsey Leake stated that the Oxford Developments received a lot of "good feelings". Leake asked why that was not the case here. Rutledge said the City Staff and City Leadership have been great. There was a problem in change in administrations. As soon as the new Mayor went in, they started working on this. Leake also asked about the Pontotoc developments and was told that those were in Pontotoc County, not the city so they didn't have as much regulation but did have to get approvals. Rutledge said he had no choice but to follow the rules which he said he has done.

Patti Thompson asked if there was any staff available who could speak about the legal status of the development. Assistant City Attorney Stephen Reed approached the podium. Reed stated that the matter before the committee tonight is the approval of the site plan for Flowerdale Commons. Reed's recommendation to the Planning Committee is that they consult the site plan review criteria in Section 12.11.4 which outlines the standards that the Committee should use to address this issue and that the Committee should consult the code and that this should lead them to the answer that they need.

Gus Hildenbrand asked if the Committee votes no, what are the liabilities for the Committee. Reed said that those are litigative matters that would be best taken up in an executive session and that he would not discuss those in an open meeting. Mart asked about item (f) on 12.11.4 concerning traffic. Even though the traffic impact analysis says it's not an issue, can a member vote according to her interpretation of existing conditions not being adequate. Reed stated that the role of the Committee tonight is to make a recommendation to the City Council and if the recommendation is just that, it makes such an impact to the traffic on Colonial States that you cannot approve it, then that would be your recommendation to the Council.

Chair Hadley, hearing no further discussion, asked for a motion. Mart said she realized they had checked the boxes, even with the additional TIA, that road is dangerous and could not in good conscious allow any development on that road that is going to impact that road in any capacity. Today, the way that traffic is with open ditches, narrow street and deadly corner, someone is going to die on that street. Scott Davis that Wesley Webb is a former member of the Major Thoroughfare Committee and the Committee had brought up that road several times, this is not just dreaming this up on your own. Gus Hildenbrand stated as a retired engineer, he knows that road and can make a lot of assumptions, and agrees that this road is too dangerous for this apartment complex to be built. Patti Thompson confirmed that whatever is decided tonight has to be approved by the Council. Chair Hadley did confirm that the expectation is a recommendation to the Council based on what the applicant has to do by code and what the applicant has done, that is the task. Hadley asked for a motion again.

Leslie Mart made a motion to disallow or disapprove the Major Site Plan based on Section 12.11.4 (f) which refers to the traffic issue. Seconded by Gus Hildenbrand. Hildenbrand read a statement that will be entered into the record explaining why he is against the development. Scott Davis, Gus Hildenbrand, Patti Thompson, and Leslie Mart voted for disapproval of the Major Site Plan. Pam Hadley and Leslie Leake voted against disapproval of the Major Site Plan, thus the disapproval was confirmed by a vote of 4-2. Chair Hadley asked DDS Director Tanner Newman to explain next steps. Newman thanked everyone for their participation and contribution. The City Council will take up the matter on Tuesday, July 19th for final action.

NEW BUSINESS

There was no new business on the agenda.

The August work session was once again confirmed for Monday, July 25 at 6:00 PM as agreed on at the start of the meeting.

Patti Thompson made a motion to adjourn, seconded by Scott Davis with a unanimous vote to approve. The meeting was adjourned.