

STATE OF ALABAMA
SHELBY COUNTY

SHELBY COUNTY PLANNING COMMISSION

MINUTES

Regular Meeting – July 20, 2009 – 7:00 P.M.

Members Present: Bob Land, Chairman; Kenneth Wilder, Vice-Chairman; Scott Chambers; Rachel Garrett; Bill Kinnebrew; Robert Taylor; and Ralph Thomas.

Staff Present: Ray E. Hamilton, Manager; David Hunke, Planning Services Supervisor; Tom Wilkins, Senior Planner; Sharman Brooks, Planner II; and Winston Sitton, Civil Engineer.

PUBLIC HEARING

The meeting was called to order at approximately 7:10 p.m. by Bob Land, Chairman. Mr. Land introduced the members of the Planning Commission and the staff. Six people were present in addition to the Commission and the staff.

1. Approval of the Minutes of the Regularly Scheduled Meeting of June 15, 2009.

Commissioner Garrett made a motion to approve the minutes of the meeting of June 15, 2009. The motion was seconded by **Commissioner Thomas** and by a vote of five (5), with Commissioners Chambers, Garrett, Taylor, Thomas and Wilder voting in favor, and Commissioners Kinnebrew and Land abstaining, the minutes of the meeting of June 15, 2009 were approved.

2. S-14-07, The Summit at the Shoals, Phase I – Preliminary Plat Extension

<<CONTINUED FROM THE JUNE 15, 2009 MEETING>>

Purpose: A request from Steve Davis, Alabama Development Properties, for an extension of the requirement for submitting an application for final plat approval within two years of the date of approval of a preliminary plat by the Planning Commission for The Summit at the Shoals, Phase I, dividing approximately 51.5 acres into 23 residential lots. The preliminary plat was originally approved by the Planning Commission on May 7, 2007. This property is *not* zoned.

Location: The property is located at the switchback of Highway 25 at Lake View Circle in the Dunnavant Valley North and Sterrett-Vandiver Zoning Beats and is situated in Sections 9 and 10, Township 18 South, Range 1 East, Parcel Identification Numbers 58-04-2-09-0-000-016.007; 58-04-2-09-0-000-015.000; 58-04-2-09-0-000-014.000; 58-04-2-09-0-000-014.001; and 58-04-2-10-0-000-009.001.

The case was introduced by Tom Wilkins, Department of Development Services. Mr. Wilkins explained that the Planning Commission approved the preliminary plat for this development on May 7, 2007. Pursuant to the Subdivision Regulations of Shelby County, application for the approval of the final plat must be filed within two years of the date of approval of the preliminary plat. The two (2) year time period for the subject case expired on May 7, 2009. The Planning Commission, however, may extend this time period.

Steve Davis represented the request. He stated that the preliminary plat was revised to comply with the required “*bulb-outs*” every 1,000 feet along the *cul-de-sac*. These changes affected the proposed building sites and resulted in a reduction of the number of lots in Phase I from 24 to 23. Mr. Davis noted that there would not be any additional lots.

Commissioner Thomas asked about the provision of water service to the proposed development and the adjacent residents along Lakeview Circle and whether or not representatives had met with the adjoining property owners. Mr. Davis stated that they have contracted with Canaan Services, Inc. for the provision of water service to the development. He said it would be inappropriate for him to represent Canaan. He identified Mr. Roger Rader as the representative of Canaan Services and suggested that the adjoining residents speak directly with Mr. Rader. He indicated that Canaan Services would pursue as many customers as they could possibly serve. He stated that he was only representing the proposed Summit at the Shoals development and was not there to guarantee any services beyond the proposed development.

Commissioner Kinnebrew asked Mr. Davis if he had read the minutes of the last meeting. Mr. Davis stated that he had not read the minutes. **Commissioner Kinnebrew** noted that the questions pertaining to the water were the result of representations by the engineer representing the development at the last meeting. Mr. Davis maintained that it was not his responsibility to answer questions about the provision of water for others.

Commissioner Taylor read a few paragraphs of the minutes for Mr. Davis' information. Mr. Davis responded that they have procured waivers from the Sterrett Water Service and the Shelby Water Service for their three lots that are outside of the jurisdiction of the Birmingham Water Works. He again stated that he was not representing any utilities.

Lynn Russell Davis, speaking in support of the development, stated that there had been some communication between Roger Rader/Canaan Services and the Lakeview Circle residents. Ms. Davis pointed out that there will be costs associated with the provision of water beyond the proposed development. She noted that the water will be the same water that anyone receives from the Water Works. **Commissioner Wilder** asked Ms. Davis if Canaan provides water service to any other developments. Ms. Davis said that she does not know.

Martin Howell, a resident of Lakeview Circle provided a PowerPoint presentation to outline his thoughts regarding the proposed development. The theme of his presentation was that the surrounding property owners along Lakeview Circle want "Good quality water..." and to "Make sure the water does not stop flowing." Mr. Howell described the previous times the case has been before the Commission. He explained the position of the Birmingham Water Works in their correspondence of November 8, 2008 regarding their refusal to extend their existing water main, at the foot of the mountain, up to the proposed development site. He also described their proposed costs associated with the lines, water pumps, auxiliary power system, and a water tank for fire suppression. He also identified the presence of *disinfectant by products* at the terminus of the water main and that the B.W.W. stated that "...ADEM's water quality requirements would be virtually unattainable [at this location]." It was also explained that, as proposed, Canaan Services would provide water to the proposed development (and potentially to the residents of Lakeview Circle) without meters for a flat fee. This water service would be exempt from any ADEM regulations. Mr. Howell requested that the Commission consider granting the applicants only a one year extension and that it be conditioned upon the water service being provided by a public water system that is approved by ADEM.

Bob Wesson, a resident of Lakeview Circle, came forward with comments regarding his opposition to the proposed extension. He also owns a large pasture for cattle at the base of the mountain. He noted that he had a lot of cows and he was concerned about the capability of the septic systems that are proposed to be used and wanted to make sure it would not contaminate his pasture land. **Commissioner Land** explained that any septic tanks that are used will have to be approved by the Shelby County Health Department.

Frazier Christie came forward to represent the applicant and present a rebuttal. He began by confirming that Cox Environmental has obtained approval from the Shelby County Health

Department for the proposed septic tank systems of the development. He acknowledged that Mr. Howell had contacted him at his office. He stated that he had met with the property owner and the Canaan Services representative to discuss the design of the water system. He felt that they should meet with the adjoining property owners regarding the water when the design of the system is completed that would enable them to have some indication of the costs involved. The B.W.W. has communicated their position. If the developers can overcome the many obstacles before them and build their water system, the Birmingham Water Works have indicated that they will provide the water. Mr. Christie addressed the presence of *disinfectant byproducts* both at the end of the Birmingham Water Work's network and the Sterrett Water System. He noted that the contamination level is surprisingly not as high on the Birmingham side as it is on the Sterrett side. He also identified the proposed absence of a water tower. He explained that the triple water pumps at the base of the mountain would supply a sufficient water quantity (500 gallons per minute) in the event of a fire. He said that 1,000 gallons per minute was better, but that 500 gallons per minute was sufficient. He also noted that it will be much better than the current single pump truck with respect to current fire protection. He stated that they were not trying to get around any regulations but rather that the complexity of the proposed development exceeds the goals of the ADEM regulations. He also noted that the scale of the development just does not meet ADEM's requirements relative to private water system thresholds.

Mr. Christie said that the developer would provide a water line to the last lot of the subdivision. He estimated that the cost to extend the line under State Route 25 to be approximately \$70,000.00 and the total cost for a water main to the end of Lakeview Circle to be approximately \$120,000.00. He said he was trying to be sincere but that the system is not completely designed and there are still a lot of roadblocks. Mr. Christie stated that it would be preferable to construct a tank on top sufficient to provide 500 gallons per minute for 30 minutes. He noted that it would cost approximately \$650,000.00 to take the water line to the top of the mountain from the end of the Birmingham Water Works service area.

Commissioner Garrett asked if compliance with the International Fire Code standards was required or voluntary. Mr. Christie said it was voluntary but that the closer you get to compliance – the better your fire rating will be which means lower fire insurance costs. Ms. Garrett also asked what water pressure the system is designed to provide to these units. Mr. Christie said he believed it was 60 pounds per square inch. Ms. Garrett asked Mr. Christie where he got the information regarding the contaminants in the Sterrett Water system. Mr. Christie said he got the information from the Sterrett Water System, including information on disinfection by-products (DBP) which was barely under the 0.8 ppm standard at U.S. 280 and CR 43.

Commissioner Kinnebrew asked Mr. Christie if the system he was designing would work and have the integrity to be bonded and approved. Mr. Christie said yes it would and that Canaan Services was “state certified.” Although, he did not have a copy of the certificate, he said it was on their letterhead.

Commissioner Wilder made a motion to *Approve* the requested extension of the time limit to file a final plat. The motion was seconded by **Commissioner Kinnebrew** and, by a vote of five (5), with Commissioners Land, Taylor, Thomas and Wilder voting in favor, and two (2), with Commissioners Chambers and Garrett voting in opposition, the following resolution was approved:

WHEREAS, Frazier Christie, Hatch Mott MacDonald, representing the applicant Steve Davis, Alabama Development Properties, has petitioned the Shelby County Planning Commission for a two year extension of the requirement for submitting an application for final plat approval within two years of the date of approval of a preliminary plat, for The Summit at the Shoals, Phase I, dividing approximately 51.5 acres into 23 residential lots; and,

WHEREAS, the subject property is located at the switchback on State Route 25 at Lake View Circle in the Dunnivant Valley North and Sterrett-Vandiver Zoning Beats and situated in Sections 9 and 10, Township 18 South, Range 1 East, Parcel Identification Numbers 58-04-2-09-0-000-016.007; 58-04-2-09-0-000-015.000; 58-04-2-09-0-000-014.000; 58-04-2-09-0-000-014.001; and 58-04-2-10-0-000-009.001; and,

WHEREAS, it is acknowledged that the provision of water service for this development is crucial to the advancement of the proposed development of the proposed 23 residential lots of Phase I; and,

WHEREAS, the developers have agreed to share the availability of water service with the residents of the properties along Lakeview Circle across State Route 25; and,

WHEREAS, the Commission finds that the evidence and testimony presented supports the approval of the extension of the requirement for submitting an application for final plat approval within two years of the date of approval of a preliminary plat;

NOW, THEREFORE, BE IT RESOLVED, by the Shelby County Planning Commission that the application of Steve Davis, Alabama Development Properties, for a two-year extension of the requirement for submitting an application for final plat approval within two years of the date of approval of a preliminary plat, for The Summit at the Shoals, Phase I, dividing approximately 51.5 acres into 23 residential lots, located on State Route 25 at Lake View Circle and situated in Sections 9 and 10, Township 18 South, Range 1 East, Parcel Identification Numbers 58-04-2-09-0-000-016.007; 58-04-2-09-0-000-015.000; 58-04-2-09-0-000-014.000; 58-04-2-09-0-000-014.001; and 58-04-2-10-0-000-009.001 be, and the same is hereby **Approved** subject to:

- Applicant submitting a revised preliminary plat addressing **all** comments.
- The applicant must submit an application for final plat approval within four (4) years of May 7, 2007, the date of approval of the preliminary plat; failure to apply may necessitate reapplication for preliminary plat approval.
- Compliance with the regulations, policies and guidelines of Shelby County.

NOTE:

The applicant should note that approval of the preliminary plat is authorization that the subdivider may proceed with the staking of streets and lots in preparation for construction. The County Engineer must approve construction of proposed improvements.

Prior to beginning any construction, a revised preliminary plat must be submitted for review and approval by staff, showing all conditions met.

3. S09-00036 –Stephens No. 2 Applecross Resurvey

Purpose: A request from Deborah L. Stephens for the approval of a final plat to be called Stephens No. 2 Applecross Resurvey, to subdivide Lot 13 – A, Stephens Applecross Resurvey, into two residential lots.

Location: The subject property is located at 5011 Applecross Road in the Inverness area off of Valleydale Road in an SD, Special District of the North Shelby – I65 Corridor Zoning Beat and is situated in Section 1, Township 19South, Range 2 West, Parcel Identification Nos. 58-10-1-01-0-001-011.000 & 58-10-1-01-0-001-012.000.

The case was presented by Tom Wilkins. Mr. Wilkins explained that the subject property is a part of the Applecross Subdivision and was originally configured as two lots (Lots 13 and 14, Block 7, Applecross Subdivision, Mapbook 6, page 42, recorded 03/11/1975 – Case No. S-08-73). In 2000, Lots 14 and 15 were resurveyed to adjust the boundary of the lots (Bennett’s Resurvey, Mapbook 27, Page 112, recorded 11/29/2000 – Case No. S-70-00). The applicants subsequently resurveyed lots 14-A and 13 into one lot (Stephens Applecross Resurvey, Mapbook 41, Page 10, recorded 04/06/2009 – Case No. S09-008). The applicants now desire to return the property to the previous two lot configuration. The recorded map, however, contains a note that reads “No further subdivision of any parcel shown hereon shall be allowed without the prior approval of the Shelby County Planning Commission.” The staff respectively asked that the Commission grant staff the authority to review this case administratively. It was noted that no issues were involved and that the lots would be configured as they were previously recorded (Bennett’s Resurvey on 11/29/2000, Mapbook 27, Page 112).

Commissioner Thomas made a motion to grant the staff the authority to review the subject resubdivision administratively. The motion was seconded by **Commissioner Garrett** and by a unanimous vote of seven (7), with Commissioners Chambers, Garrett, Kinnebrew, Land, Taylor, Thomas and Wilder voting in favor, the following resolution was approved:

WHEREAS, Deborah L. Stephens has applied for the approval of a final plat to be called Stephens No. 2 Applecross Resurvey, to subdivide Lot 13 – A, Stephens Applecross Resurvey, into two residential lots; and,

WHEREAS, the subject property is located at 5011 Applecross Road in the Inverness area off of Valleydale Road in an SD, Special District of the North Shelby – I65 Corridor Zoning Beat and is situated in Section 1, Township 19South, Range 2 West, Parcel Identification Nos. 58-10-1-01-0-001-011.000 & 58-10-1-01-0-001-012.000; and,

WHEREAS, pursuant to the administrative review of Case No. S09-008, the applicants have resurveyed, lots 14-A and 13 into one lot (Stephens Applecross Resurvey, Mapbook 41, Page 10, April 4, 2009); and,

WHEREAS, the applicants now seek to return the configuration of the subject property to the original arrangement; and,

WHEREAS, the Subdivision Regulations of Shelby County require that the resubdivision of a recorded lot shall be reviewed and approved by the Shelby County Planning Commission; and,

WHEREAS, the staff of the Department of Development Services have petitioned the Planning Commission to consent to the administrative review of Case No. S09-037; and,

WHEREAS, the lots will be returned to the same configuration as they were prior to the resurvey into one lot having no harmful effect upon the health, safety and public welfare;

NOW, THEREFORE, BE IT RESOLVED, by the Shelby County Planning Commission that pursuant to the Subdivision Regulations of Shelby County, the request to conduct administrative review of Case No. S09-036, Stephens No. 2 Applecross Resurvey, by the Department of Development Services, instead of review by the Planning Commission, be, and the same is hereby *Approved*.

There being no further business, **Commissioner Garrett** made a motion to adjourn. The motion was seconded by **Commissioner Thomas** and by a unanimous vote of seven (7), with Commissioners Chambers, Garrett, Kinnebrew, Land, Taylor, Thomas and Wilder voting in favor, the meeting was adjourned.

ADJOURNMENT 8:45 P.M. July 20, 2009.

David Hunke, AICP
Planning Services Supervisor

James R. Land, Chairman
Shelby County Planning Commission