

**STATE OF ALABAMA**  
**SHELBY COUNTY**  
**SHELBY COUNTY PLANNING COMMISSION MINUTES**

**December 7, 2020 – 6:00 PM**  
**Shelby County Services Building, second Floor Community Room**  
**1123 County Services Drive, Pelham, AL 35124**

**Members Present:** Bill Kinnebrew, Chairman; Jim Davis; Joseph Little; Samuetta Nesbitt; Bill Norton; Michael O’Kelley; Kenneth Wilder

**Members Absent:** None

**Staff Present:** David Willingham, Chief Development Officer; Christie Hester, Manager, Planning & Community Development; Sharman Brooks, Supervisor, Planning & MS4; Josh Cameron, Principal Planner; Kristine Goddard, Principal Planner; John Slaughter, Chief Civil Engineer

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**PUBLIC HEARING**

[*Note:* The quality of sound during this meeting was muffled at times because of the room set up to enable social distancing for public participation.]

**Bill Kinnebrew, Chairman**, called the meeting to order at 6:00 pm and noted this meeting would be live-streamed (<https://Live.Shelbyal.com>). **Commissioner Kinnebrew** introduced the Commissioners including a new Commissioner, Bill Norton, and County staff. Following roll call, he reviewed the meeting procedures related to COVID-19 restrictions. He also described possible scenarios related to actions taken and the appeal process. In addition to the Planning Commissioners and County staff, approximately six (6) audience members were present.

**1. Approval of the Minutes of the October 19, 2020, Planning Commission Regular Meeting**

**Commissioner Little** made a motion to approve the minutes of the October 19, 2020, meeting and **Commissioner Davis** seconded the motion. By a roll call vote, with **Commissioners Davis, Kinnebrew, Little, Nesbitt, O’Kelley, and Wilder** voting in favor and **Commissioner Norton** abstaining, the Planning Commission approved the minutes of the October 19, 2020, meeting with a vote of six to zero with one abstention (6-0-1).

**2. Approval of the Minutes of the November 16, 2020, Planning Commission Regular Meeting**

**Commissioner Davis** made a motion to approve the minutes of the November 16, 2020, meeting and **Commissioner Little** seconded the motion. By a roll call vote, with **Commissioners Davis, Kinnebrew, Little, Nesbitt, O’Kelley, and Wilder** voting in favor and **Commissioner Norton** abstaining, the Planning Commission approved the minutes of the November 16, 2020, meeting with a vote of six to zero with one abstention (6-0-1).

**Note:** The signed minutes for October 19, 2020, and November 16, 2020, retained by the Shelby County Development Services Department will have a complete meeting information packet including staff reports attached.

**3. SD20-006 Capstone – Hwy 119 Cottages Special District Rezoning (TABLED on August 17, 2020) – Request to Remove from the Table**

This is a request to remove from the Table an application from Capstone Collegiate Communities on behalf of the property owner for the approval of a change in zone district boundaries for 29.90 acres from H-Z,

Holding Zone District and B-2, General Business District to R-5 SD, Multiple Dwelling Special District to develop a cottage rental home development with 187 residential units and associated amenities. The subject property is located on Cahaba Valley Road about one mile northeast of Highway 280; Parcel Identification Nos. 58-03-9-29-0-001-007.002 and 58-03-9-32-0-002-003.000.

Kristine Goddard gave a brief summary on agenda item #3 based on the written staff report, noting this case was tabled due to a number of outstanding comments from the staff review. Ms. Goddard reported there is now one remaining comment by the County Engineer; the County Engineer recommends denial of this request due to the project's high density and associated traffic.

**Commissioner Davis** asked whether the Planning Commission must vote to untable this request before voting on the request; Sharman Brooks confirmed that is correct.

Responding to **Commissioner Kinnebrew's** question regarding timing, Ms. Goddard explained if the Planning Commission voted to untable this request tonight it would most likely be on the January 19, 2021, meeting agenda since there must be time for staff review and public notice that includes a legal advertisement and adjoining property owner notices.

In response to **Commissioner Wilder's** question, Ms. Goddard stated if the Planning Commission voted to deny the request to remove from the Table, this request remains on the Table and the applicant can request to untable again; there is no limit regarding the number of requests or time period for removing an item from the Table.

**Commissioner O'Kelley** stated the proposed 187 units appears to be above the threshold the County Engineer is comfortable with related to density/traffic and he asked John Slaughter if there is a number which the County Engineer would accept. Mr. Slaughter explained the request is to increase the property's density through the rezoning; the developer's own engineer states the proposed units result in a level of service of "F" during peak traffic hours regarding turning movement out of the development turning left onto Highway 280. Mr. Slaughter stated the applicant's own report is the reason both the County Engineer and he recommend denial; the Highway Department has no comment related to reducing the number of units.

Ms. Goddard explained what the current zoning allows on this property in response to **Commissioner Norton's** question regarding other permitted use. He wondered if this property is limited in its development since many businesses might have the same peak hour traffic congestion.

**Commissioner Kinnebrew** stated that many retail establishments would most likely have peak traffic hours different from "rush hour" peak times, so wondered if some businesses could operate here with an upgrade to a traffic signal. Ms. Goddard explained that development under the current zoning would only require a site plan approved administratively by staff; the Planning Commission is being asked to consider the rezoning request in order for this specific project to move forward.

**Commissioner Nesbitt** asked for clarity that there is no "magic number" for this development to be acceptable. Mr. Slaughter agreed that is correct, noting the developer has the right to develop land according to the property's zoning; the County Engineer is responding to the zoning change being requested.

**Commissioner Norton** asked if other developments along this corridor have the same challenge. Mr. Slaughter stated most corridors going from rural to urban would have the same situation in many locations; however, there are certain developer rights, but this specific case is asking to increase the density rather than asking to develop according to the current zoning. He restated the increased density is what the County Engineer and Highway Department oppose because the applicant's own report suggests there is a failure for residents.

With no further discussion, **Commissioner Kinnebrew** called for a motion. **Commissioner Davis** made a motion to remove from the Table **Case SD20-006 Capstone – Hwy 119 Cottages Special District Rezoning** and **Commissioner Norton** seconded the motion. Upon a roll call vote, by a unanimous vote of seven to zero (7-0), the Planning Commission approved the following resolution:

**WHEREAS**, Capstone Collegiate Communities, on behalf of the property owner, has requested to remove from the table the consideration of a change in zone district boundaries for 29.90 acres from H-Z, Holding Zone

District and B-2, General Business District to R-5 SD, Multiple Dwelling Special District to develop a cottage rental home development with 187 residential units and associated amenities; and,

**WHEREAS**, the subject property is located on Cahaba Valley Road about one mile northeast of Highway 280; Parcel Identification Nos. 58-03-9-29-0-001-007.002 and 58-03-9-32-0-002-003.000; and,

**WHEREAS**, the Planning Commission *Tabled* consideration of the case on August 17, 2020, due to the number of remaining comments as outlined in the staff report; and,

**WHEREAS**, the applicant submitted revised drawings and responses to address the remaining comments to the Department of Development Services over the course of two additional review cycles; and,

**WHEREAS**, the resubmittal dated September 22, 2020, addressed all outstanding plan design comments; and,

**WHEREAS**, an unresolved comment from the County Engineer remains; and,

**NOW, THEREFORE, BE IT RESOLVED** by the Shelby County Planning Commission that the application of Capstone Collegiate Communities, on behalf of the property owner, to remove from the table the **consideration** of a change in zone district boundaries for 29.90 acres from H-Z, Holding Zone District and B-2, General Business District to R-5 SD, Multiple Dwelling Special District to develop a cottage rental home development with 187 residential units and associated amenities and on Cahaba Valley Road about one mile northeast of Highway 280; Parcel Identification Nos. 58-03-9-29-0-001-007.002 and 58-03-9-32-0-002-003.000) be and the same is hereby **REMOVED FROM THE TABLE**.

#### **4. SD20-009 Dunnivant Square Commercial – Phase I – Amended Master Plan**

This is a request from William L. Thornton, Thornton, Inc., for approval to amend the master plan for Dunnivant Square Commercial – Phase I, specifically the layout and permitted use of the outparcel to allow an employee parking area. The subject property is zoned SD, Special District and located at 1324 Dunnivant Valley Road; Parcel Identification Nos. 58-09-2-03-3-301-121.001, 58-09-2-03-3-301-121.002, and 58-09-2-03-3-301-121.003.

Kristine Goddard gave a presentation on agenda item #4 based on the written staff report; no written public comments were received for this case.

Following her presentation, **Commissioner Little** asked if Ace Hardware is included in Phase I, and Ms. Goddard stated Ace Hardware is part of the Phase II development.

Chris Jenkins with SAIN Associates was present on behalf of William Thornton to answer any questions; there were none.

**Commissioner Kinnebrew** opened the floor for public comment; there were none.

With no further discussion, **Commissioner Kinnebrew** called for a motion. **Commissioner O’Kelley** made a motion to approve **Case SD20-009 Dunnivant Square Commercial – Phase I – Amended Master Plan** and **Commissioner Little** seconded the motion. Upon a roll call vote, by a unanimous vote of seven to zero (7-0), the Planning Commission approved the following resolution:

**WHEREAS**, William L. Thornton, Thornton, Inc., has petitioned the Shelby County Planning Commission for approval to amend the master plan for Dunnivant Square Commercial – Phase I, to allow for the reclassification of the permitted use of the outparcel (Lot C3-A) for a paved employee and overflow parking area; and,

**WHEREAS**, the subject property is located at 1324 Dunnivant Valley Road; Parcel Identification Nos. 58-09-2-03-3-301-121.001, 58-09-2-03-3-301-121.002, and 58-09-2-03-3-301-121.003; and,

**WHEREAS**, the master plan for the Dunnivant Square Commercial Special District was approved by the Planning Commission on August 4, 2008; and,

**WHEREAS**, changes to an approved Special District require approval by the Planning Commission; and,

**WHEREAS**, the master plan for Dunnivant Square Commercial has been amended three times (Z16-011, SD17-003, and SD20-003) since the original approval; and,

**WHEREAS**, the proposed amendment reclassifies the Dunnivant Square Commercial – Phase I outparcel (Lot C3-A) from neighborhood retail or office to allow a paved employee and overflow parking area; and,

**WHEREAS**, the applicant is required to submit a site plan that meets the standards of the *Shelby County Zoning Regulations* for administrative review and approval prior to construction activity; and,

**WHEREAS**, the proposed amendment to the Dunnivant Square Commercial – Phase I Master Plan is consistent with the original intent of the previously approved Special District; and,

**NOW, THEREFORE, BE IT RESOLVED** by the Shelby County Planning Commission that the application from William L. Thornton, Thornton, Inc., for approval to amend the master plan for Dunnivant Square Commercial – Phase I, to allow for the use and construction of an employee parking area on the undeveloped Lot C3-A, located at 1324 Dunnivant Valley Road; Parcel Identification Nos. 58-09-2-03-3-301-121.001, 58-09-2-03-3-301-121.002, and 58-09-2-03-3-301-121.003 be and the same is hereby **Approved**, subject to:

- Applicant submitting a site plan that meets the standards of the *Shelby County Zoning Regulations* for administrative review and approval prior to construction activity; and
- Compliance with the regulations, policies and guidelines of Shelby County, Alabama.

#### **5. V20-005 Thomas Variance for Location of Accessory Building**

This is a request from Thomas W. Thomas III, property owner, for approval of a variance to allow an accessory building to remain in the front yard. The subject property is zoned E-1, Single Family Estate District and located at 4200 South Shades Crest Road, Birmingham; Parcel Identification No. 58-13-3-07-000-018.000.

Josh Cameron gave a presentation on agenda item #5 based on the written staff report and distributed an email received in opposition to this application.

In response to **Commissioner Norton's** question, Mr. Cameron explained the setback requirements and information provided in the staff report. He confirmed the storage unit is a portable cabin placed on cinder blocks in response to **Commissioner Nesbitt's** question. Mr. Thomas, the applicant, clarified the cabin was built by Amish Custom Cabins.

**Commissioner O'Kelley** inquired about the initial complaint that brought this zoning violation to the attention of Shelby County. Mr. Cameron explained staff followed up after receiving a letter asking if this accessory building was allowed to be in the front yard; an enforcement case was opened when it was determined to be a zoning violation and Mr. Thomas contacted Shelby County upon receipt of written notification of the violation which led to this variance application.

**Commissioner Little** asked if staff confirmed the 45-degree angle or if the applicant submitted it. Using the information provided, he challenged the accuracy of the slope, noting it did not appear to be as steep as stated on the application documents. Mr. Cameron stated the applicant provided the information regarding the slope and Mr. Thomas added that he estimated the slope.

**Commissioner Norton** asked if the topography is unique to this property or the general area. Mr. Cameron explained the properties on the south side of South Shades Crest Road are not as steep but the properties on the same side of the road as this property in the immediate area do encounter a steeper slope.

**Commissioner Kinnebrew** added that he did not believe the property appears to be excessively steep according to Shelby County standards or norms.

**Commissioner Little** asked about other accessory buildings on other properties in this area. Mr. Cameron reported he completed a search of permits for Shelby County homes in this area. Several accessory buildings

have been added to the properties on the south side of South Shades Crest Road but there were no permits on the north side.

Mr. Thomas, 4200 South Shades Crest Road, stated he had never been involved with any kind of zoning procedures before and did not think this would be a problem since he lived outside of any city limits. He asserted it is steep on his side of the road while the other side is not nearly as steep. Mr. Thomas explained that he needed additional storage space after his father passed away so that he could park vehicles in his garage. He did not intend for this storage building to be permanent and purchased the portable building for \$6000; he hopes to move it off eventually.

Responding to **Commissioner Davis'** question regarding how long he has lived there and whether he had an inclination to check about the zoning requirements, Mr. Thomas stated he has lived there ten years and apologized for not thinking to check, although he wishes he had checked prior to purchasing the portable building.

**Commissioner Kinnebrew** opened the floor for public comment; there was no one present to speak in favor of the request, and one resident was present to speak in opposition.

Cecilia Miller, 300 County Rd 1007, Jemison, stated she voiced the complaint because she owns the empty lot directly across the street. She described the building as being extremely long, looking like a cargo storage. Ms. Miller stated her concern regarding the impact on property values for resale since she believes it is an eyesore; driving around the corner you see this storage building rather than woods or the house. She stated she does not like to be in opposition but her concern for property values and setting precedent is why she opposes this request.

**Commissioner Kinnebrew** stated he understands her concern and asked Mr. Thomas if he had something further. Mr. Thomas stated he is willing to block the view of the portable building with privacy fencing or shrubbery. He explained he did not think he built an accessory building; rather he bought a portable building. He stated he definitely would have checked permitting if he were building but he did not consider this an accessory building.

**Commissioner Davis** asked about the feasibility of moving the shed to the rear yard. Mr. Thomas was not sure he would ever be able to do so and would need a retaining wall with three sides of concrete; he had guys come out to make a level spot but they said the slope was too much.

**Commissioner O'Kelley** asked if accessory structures are allowed in the side yard. Mr. Cameron explained they are only allowed in the rear yard and, using the photos in the presentation, he showed how the rear yard is determined based on the back wall of the house.

**Commissioner Norton** stated he was concerned about an approval of this variance setting the precedent for other property owners to add accessory buildings in front/side yards.

**Commissioner Kinnebrew** asked Mr. Thomas about his timeline since he mentioned this was not a permanent solution. Mr. Thomas stated he plans to retire in two years and will sell then.

With no further discussion, **Commissioner Kinnebrew** called for a motion. **Commissioner Little** made a motion to deny **Case V20-005 Thomas Variance for Location of Accessory Building** and **Commissioner Davis** seconded the motion. Upon a roll call vote, by a unanimous vote of seven to zero (7-0), the Planning Commission approved the following resolution:

**WHEREAS**, Thomas W. Thomas III, property owner, has petitioned the Shelby County Planning Commission for the approval of a variance to allow an accessory building to remain in the front yard of a primary residence in a zoned area of Shelby County; and,

**WHEREAS**, the subject property is zoned E-1, Single Family Estate District and located at 4200 South Shades Crest Road; Parcel Identification No. 58-13-3-07-0-000-018.000; and,

**WHEREAS**, Article XXI § 7 (3) of the *Zoning Regulations of Shelby County* states that accessory structures are only allowed in the rear yard of zoned areas; and,

**WHEREAS**, the applicant has received a notice of zoning violation regarding the storage structure located in the front yard of the subject property; and,

**WHEREAS**, the applicant has elected to pursue a variance rather than remove or relocate the storage structure to the rear yard due to steep topography; and,

**WHEREAS**, steep topography is common in the South Shades Crest Road corridor and is not unique to the subject property; and,

**WHEREAS**, the presence of a storage building as an accessory structure is not necessary for the preservation or enjoyment of a single-family residence in an E-1, Single Family Estate District; and,

**NOW, THEREFORE, BE IT RESOLVED** by the Shelby County Planning Commission that the application of Thomas W. Thomas III, property owner, for the approval of a variance to allow an accessory building to remain in the front yard of a primary residence in an E-1, Single Family Estate District; a variance of Section 7(3), Article XXI, pursuant to Section 3, Article XXIII for property located at 4200 South Shades Crest Road; Parcel Identification No. 58-13-3-07-0-000-018.000 be and the same is hereby **DENIED**.

Following the vote, Mr. Cameron reminded the Planning Commission that this accessory building violation was brought to the attention of Shelby County via a complaint resulting in an enforcement case. He stated with the denial of this request, staff will continue to pursue this enforcement case.

**Commissioner Kinnebrew** mentioned to Mr. Thomas that he did not believe the slope is too steep to do something in his backyard and offered to talk with Mr. Thomas following the meeting.

## **ACTION ITEM**

### **1. Special Election of Vice Chairman**

In accordance with the *Bylaws of the Planning Commission of Shelby County, Alabama*, Section 3.b, In the event that the Vice Chairman is unable to complete his or her term or is unable to become chairman, a special election will be called by the Chairman to select a new Vice Chairman.

Vice Chairman Jay Gunther resigned from the Planning Commission effective November 17, 2020, due to his relocation outside of Shelby County. A new Vice Chairman will be elected to serve through February 28, 2021, and then assume Chairman responsibilities from March 2021 through February 2022.

**Commissioner Kinnebrew** nominated **Commissioner Little** to serve as Vice Chairman of the Shelby County Planning Commission to complete the 2020-2021 term and **Commissioner Little** accepted the nomination. **Commissioner Davis** seconded the nomination.

There being no further nominations, **Commissioner Kinnebrew** called for a vote. Upon a roll call vote, by a unanimous vote of seven to zero (7-0), the Planning Commission elected **Commissioner Joe Little** to serve as the Vice-Chairman of the Shelby County Planning Commission to complete the 2020-2021 term of office.

Sharman Brooks confirmed the next scheduled meeting of the Planning Commission is Monday, December 21, 2020, and the meeting will be held at the Shelby County Services Building.

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There being no further business, **Commissioner Davis** made a motion to adjourn, and **Commissioner Wilder** seconded the motion. By a unanimous vote of seven to zero (7-0) in favor, the Planning Commission meeting of December 7, 2020, adjourned at 6:51 pm.

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Christie Hester  
Manager, Planning & Community Development

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Bill Kinnebrew, Chairman  
Shelby County Planning Commission