

**SUMNER COUNTY ZONING BOARD OF APPEALS**  
**MINUTES**  
**6:00 P.M.**  
**SEPTEMBER 8, 2005**

**SUMNER COUNTY ADMINISTRATION BUILDING**  
**ROOM 210**  
**355 N. BELVEDERE DRIVE**  
**GALLATIN, TN. 37066**

**MEMBERS PRESENT:**  
**MARK MCKEE JR., CHAIRMAN**  
**JAMES COLE**  
**SANDY WEBSTER**  
**ALTON PERDUE**  
**MIKE WILLIAMS**

**MEMBERS ABSENT:**  
**BRUCE RAINEY, VICE-CHAIRMAN**

OTHERS PRESENT:

**MIKE MOULTON, PLANNING DIRECTOR**  
**LEAH DENNEN, COUNTY ATTORNEY**  
**LISA WILLIAMS, ADMINISTRATIVE ASSISTANT**

**MOTION FOR APPROVAL OF AUGUST MINUTES BY MS. WEBSTER,  
SECONDED BY MR. COLE. MOTION PASSED UNANIMOUSLY.**

1. **JULIO PIERPAOLI** WAS REQUESTING A LOT SIZE VARIANCE FOR LOTS WITHIN FIVE COVES TRACE.  
SUBJECT PROPERTY IS LOCATED ON CAGES BEND ROAD, GALLATIN, TN. IS LOCATED ON TAX MAP 165, PARCEL 2, CONTAINS 27.29 ACRES, CONTAINS 49 LOTS AND IS ZONED LOW DENSITY RESIDENTIAL PLANNED UNIT DEVELOPMENT.  
*THIS WAS A PUBLIC HEARING AND WAS ADVERTISED IN THE GALLATIN NEWS EXAMINER ON AUGUST 29, 2005. THE ADJOINING PROPERTY OWNERS WERE NOTIFIED BY CERTIFIED MAIL.*

*MR. BRUCE RAINEY CAME FORWARD TO REPRESENT JULIO PIERPAOLI AND EXPLAINED THAT HE TOOK THIS PROPERTY BEFORE THE PLANNING COMMISSION, AND THE COUNTY COMMISSION, FOR A REZONING REQUEST AND IT WAS APPROVED. HE THEN TOOK IT BACK BEFORE THE PLANNING COMMISSION FOR THE PLAN TO BE AMENDED AND THIS WAS APPROVED, THEN IT WAS TAKEN BEFORE THE PLANNING COMMISSION TO START THE SUBDIVISION PROCESS. MR. RAINEY EXPLAINED THAT WHEN HE TOOK IT TO THE PLANNING COMMISSION FOR THE APPROVAL OF THE SUBDIVISION PROCESS IS WHEN THE CONCERN CAME UP THAT MR. MOULTON AND I ARE IN DISAGREEMENT UPON WHETHER OR NOT THE PLANNING COMMISSION COULD ACT ON THE APPROVED LOT SIZES. AS A SOLUTION TO THIS CONCERN MR. MOULTON AND I DECIDED TO COME TO THIS BODY TO ASK FOR A VARIANCE ON LOT SIZES THAT WERE APPROVED BY THE PLANNING COMMISSION AND THE COUNTY COMMISSION. THIS WILL ALLOW, IN MR. MOULTON'S MIND, FOR THE PLANNING COMMISSION TO ACT ON MY SUBDIVISION REQUEST. MR. RAINEY STATED THAT THEY FEEL THAT THIS IS A VALID PLAN, HOWEVER IT DOES NOT MEET THE LETTER OF THE ZONING RESOLUTION WHICH SAYS EVERY LOT MUST BE 15,000 SQUARE FEET.*

CHAIRMAN MCKEE STATED THAT HE WAS IN FAVOR OF SMALL LOT SIZES, BUT HE DID NOT FEEL THAT THIS BODY EVEN HAS THE RIGHT TO VOTE ON THIS SITUATION.

MR. RAINEY STATED HE HAS GROUNDS TO COME BEFORE THIS BODY BECAUSE IT IS SPECIFIC TO THE SITE, AND THAT IT HAS BEEN APPROVED BY THE SUMNER COUNTY COMMISSION. THE PLANNING COMMISSION ADOPTED A RESOLUTION TO CHANGE THE ZONING REQUIREMENTS THAT WOULD ALLOW WHAT HE IS SHOWING PRIOR TO THE APPROVAL OF MY PLAN. THEY SENT THIS RESOLUTION TO THE LEGISLATIVE COMMITTEE WHERE IT IS STALLED AT THIS POINT. HOWEVER THE COUNTY COMMISSION WENT ON AND ACTED ON THE REZONING REQUEST OF THIS PLAN WITHOUT THE AMENDED RESOLUTION DEALING WITH SMALLER LOT SIZES BEING APPROVED. MR. RAINEY STATED THAT HIS ATTORNEY FEELS THAT HE HAS AN APPROVAL, AND THIS REQUEST DOES NOT NEED TO BE HERE TONIGHT. MR. RAINEY COMMENTED THAT MR. MOULTON STATED THAT THIS REZONING APPROVAL IS CLOUDED. MR. RAINEY STATED THAT HE IS TRYING TO SETTLE THIS IN ANOTHER AVENUE.

MR. MOULTON PASSED OUT A SHEET FROM THE ZONING BOARD BYLAWS.

MR. MOULTON STATED THAT THE LOT SIZES OF THIS PLAN RANGE FROM 9,000 SQUARE FEET TO ONE OVER 17,000 SQUARE FOOT. THE PLANNING COMMISSION HAS BEEN WORKING ON REVISING THE ZONING RESOLUTION DEALING WITH PLANNED UNIT DEVELOPMENTS TO TWEAK THE LANGUAGE TO ALLOW A CERTAIN NUMBER WITHIN A P.U.D. ZONING TO GO DOWN BELOW 15,000 SQUARE FOOT LOTS TO 9,000 SQUARE FOOT LOTS, ONLY 25% OF THE TOTAL NUMBER OF LOTS WITHIN THAT PROJECT WOULD BE ALLOWED TO BE THE 9,000 SQUARE FOOT SIZE. MR. MOULTON EXPLAINED THE PROCESS OF A PLANNED UNIT DEVELOPMENT. MR. MOULTON EXPLAINED THAT THIS AMENDMENT TO THE ZONING RESOLUTION IS ON THE LEGISLATIVE COMMITTEE AGENDA MONDAY NIGHT. MR. MOULTON STATED THAT EVERY TIME THIS PROJECT RECEIVED APPROVAL THERE WAS A CONTINGENCY WITH THE MOTION THAT THE ZONING RESOLUTION MUST BE CHANGED TO ALLOW THIS PROJECT TO MOVE FORWARD.

MR. RAINEY INTERJECTED THAT HE NEEDED TO CORRECT MR. MOULTON. MR. RAINEY STATED THAT THERE WAS ONE MOTION FOR APPROVAL THAT DID NOT HAVE THE CONTINGENCY HE WAS REFERRING TO, AND THAT WAS THE COUNTY COMMISSION APPROVAL.

MR. MOULTON CONCURRED BY SAYING THAT HE HAD NOT GOTTEN TO THE COUNTY COMMISSION APPROVAL YET. MR. MOULTON STATED AT THE LEGISLATIVE COMMISSION PRIOR TO SENDING THIS PROJECT TO THE COUNTY COMMISSION, EVERYBODY (LEGISLATIVE BODY) WAS AWARE THAT THIS ZONING RESOLUTION WAS NOT APPROVED. MR. MOULTON STATED THAT HE HAD A COPY OF THE RESOLUTION (APPROVING THE REZONING OF SUBJECT PROPERTY) AND IT DOES NOT SAY THAT THIS WAS CONTINGENT UPON ANYTHING. MR. MOULTON STATED F.Y.I. THAT ONCE HE REALIZED THAT THERE WAS NO CONTINGENCY IN THE RESOLUTION (PRIOR TO THE COUNTY COMMISSION MEETING) HE PULLED THE COUNTY COMMISSION CHAIRMAN ASIDE AND TOLD HIM THAT SHOULD THIS P.U.D. APPROVAL MOVE FORWARD THAT IT SHOULD BE PASSED ON THE CONTINGENCY THAT THE ZONING RESOLUTION COMES THROUGH.

THE MOTION WAS MADE, AND SECONDED AND THEY (COUNTY COMMISSION) WERE GETTING READY TO VOTE ON IT AND MR. MOULTON EXPLAINED THAT HE STOOD UP (6'5" TALL, 270 POUNDS) WAVING HIS HANDS TO GET THE CHAIRMAN'S ATTENTION SO THAT THE LEGISLATORS KNEW WHAT WAS GOING ON AND THAT THEY NEEDED TO INCLUDE IN THEIR MOTION THE CONTINGENCY THAT THE AMENDED ZONING RESOLUTION (LOTS SIZES) BE APPROVED.

MR. MOULTON STATED THAT THE COUNTY COMMISSION CHAIRMAN **NEVER** ACKNOWLEDGED HIM OR STOPPED THE VOTE.

MR. RAINEY STATED THAT THERE WAS A CONDITION PUT ON THE MOTION AT THE COUNTY COMMISSION THAT I ATTACH THE PLAN TO THE RESOLUTION.  
MR. MOULTON CONCURRED.

MR. MOULTON STATED THAT THERE IS NO ARGUMENT WHETHER THIS HAS BEEN REZONED TO A LOW DENSITY RESIDENTIAL PLANNED UNIT DEVELOPMENT, WHICH PUTS THEM IN REVIEW PROCESS IN THE ZONING RESOLUTION UNDER L.D.R.P.U.D., WHICH STATES THE REQUIRED MINIMUM LOT SIZE IS 15,000 SQUARE FEET. THE NEXT STEP FOR THEM IS TO SUBMIT IS A PRELIMINARY PLAT WHICH HAS TO BE REVIEWED UNDER THE CURRENT ZONING RESOLUTION. MR. MOULTON EXPLAINED THAT ROB GARRISON, STATE PLANNER'S, BOSS, PHIL MAPLES, ADVISED US THAT WE WOULD HAVE TO REVIEW THIS SUBDIVISION UNDER THE CURRENT ZONING RESOLUTION. WHAT WE HAVE IS A ZONING THAT HAS LOTS THAT ARE LESS THAN THE REQUIRED 15,000 SQUARE FEET.

MR. MOULTON READ ALOUD AN EXCERPT PERTAINING TO VARIANCES FROM THE ZBA BY LAWS.

MR. MOULTON STATED THAT THIS PROJECT HAS A RIGHT TO BE HEARD TONIGHT AND IT IS A PECULIAR CASE.

MR. MOULTON PASSED AROUND A SHEET THAT LISTED ALL OF THE 43 LOTS WHICH CONTAINED THE CURRENT LOTS SIZES AND THE LOT SIZE VARIANCES THAT WERE REQUIRED. MR. MOULTON STATED THAT HE AND MR. RAINEY MISSED ADDING SOMETHING ON THE APPLICATION, AND SHOULD YOU BE INCLINED TO MAKE A MOTION TO GRANT THIS VARIANCE YOU ALSO NEED TO INCLUDE IN YOUR MOTION THAT YOU GRANT HIM A 2 FOOT FRONT YARD SETBACK VARIANCE. THIS PROJECT CALLS FOR A 20 FOOT FRONT SETBACK AND THE ZONING RESOLUTION REQUIRES A 22 FOOT FRONT SETBACK.

MR. RAINEY STATED THAT MR. MOULTON DID NOT DO THE CALCULATIONS ON LOT 45 THROUGH LOT 49.

MR. MOULTON STATED HE WOULD ADD LOTS 45 THROUGH LOT 49 TO HIS LIST AND NOTE THEIR LOT SIZES AND VARIANCES NEEDED.

CHAIRMAN MCKEE OPENED THE FLOOR FOR THE PUBLIC HEARING.

COMMISSIONER BOBBY LEON THOMPSON CAME FORWARD TO SPEAK IN FAVOR OF THIS REQUEST. COMMISSIONER THOMPSON STATED THAT TIME IS OF THE ESSENCE FOR THIS DEVELOPMENT. MR. THOMPSON STATED THAT HE FELT THESE PLANNED UNIT DEVELOPMENTS ARE ECONOMICALLY FEASIBLE. COMMISSIONER THOMPSON URGED THIS BODY TO GIVE ALL DUE AND JUST CONSIDERATION.

ONCE AGAIN MR. MOULTON EXPLAINED THE THREE LIVES OF THE PLANNED UNIT DEVELOPMENT.

FOR THE RECORD COUNTY ATTORNEY LEAH DENNEN ENTERED THE MEETING.

HARRY MCFARLIN CAME FORWARD TO SPEAK IN FAVOR OF THIS REQUEST. MR. MCFARLIN STATED THAT HE WANTED TO GO ON RECORD STATING THAT HE IS DOWN STREAM FROM THIS PROJECT, HAS 22 ACRES, AND THE COUNTY ALLOWED LAKE RISE SUBDIVISION TO DUMP STORM WATER STRAIGHT ONTO HIS PROPERTY, AND HE HAS GULLEYS UP TO HIS WAIST. MR. MCFARLIN STATED THAT MR. RAINEY HAS ASSURED ME THAT THIS DEVELOPMENT WILL NOT AFFECT ME. MR. MCFARLIN WENT ON TO SAY THAT HE, AS A PROPERTY OWNER, WANTS TO GO ON RECORD THAT THIS IS HIS ONLY CONCERN, AND HE WOULD APPRECIATE WHEN YOU REVIEW THE ENGINEERING ASPECT OF THIS PROJECT THAT YOU TAKE THIS INTO CONSIDERATION.

MR. MOULTON STATED THAT PART OF THE THREE LIVES OF THE PLANNED UNIT DEVELOPMENT, WE WILL REQUIRE IN THE THIRD LIFE DRAINAGE CALCULATIONS, CONSTRUCTION PLANS, ETC. TO BE SUBMITTED. THEY WILL BE DRAWN UP BY A CERTIFIED P.E. THEN OUR OFFICE WILL SEND THESE OUT FOR REVIEW BY ANOTHER CIVIL P.E.

LEAH DENNEN, COUNTY ATTORNEY, CAME FORWARD TO ADDRESS THE BODY. MS. DENNEN STATED THAT THIS MATTER CAME BEFORE THE COUNTY COMMISSION IN JUNE 2005, WHEN IT WAS PASSED THIS PLAT WAS ATTACHED TO IT. THE COUNTY COMMISSION PASSED IT WITH THIS LOT SIZE. THIS IS SIMPLY A TECHNICALLY AS MR. RAINEY SAID. AS THE BOARD OF ZONING APPEALS IT IS YOUR RIGHT AND RESPONSIBILITY TO FIX THESE LITTLE QUIRKS. THIS ISN'T REALLY WAVING A VARIANCE FOR 49 DIFFERENT LOTS, IT IS MAKING A WAVER OF THIS P.U.D. MS. DENNEN WENT ON TO SAY IT WOULD BE HER RECOMMENDATION, AS THE PEOPLE THAT HAVE TO DEFEND WHEN WE GET SUED, THAT THIS BE DONE TONIGHT, BECAUSE I DO NOT KNOW WHAT OUR DEFENSE IS IF WE DON'T. THE COUNTY COMMISSION APPROVED THIS, THESE PEOPLE WENT FORWARD AND HAVE A PROPERTY RIGHT AND NOW I AM TRYING TO STOP A MESS FROM GETTING ANY BIGGER. MS. DENNEN EXPLAINED THAT SOMEHOW THIS WAS SENT WITH THIS PLAT WAS ATTACHED AND THE COUNTY COMMISSION APPROVED IT.

THERE WAS EXTENSIVE DISCUSSION.

MR. MOULTON STATED THAT HE DID THINK THAT THIS WAS A TECHNICALITY AND HE DID BELIEVE THAT OF ALL OF THE OPTIONS THAT WE HAVE TO CONSIDER TO GET THIS SITUATION CLEARED UP THIS IS OUR BEST OPTION. THIS IS NOT PRETTY AND THIS IS SOMETHING THAT HE WOULD NOT CHOOSE TO DO IF WE HAD ANY OTHER CHOICE.

MR. WILLIAMS QUESTIONED MR. MOULTON, THIS HAS GONE THOUGH IN YOUR WORDS, THREE LIVES, TWO OF THEM HAVE BEEN APPROVED, IF WE APPROVE THIS TONIGHT WE ARE NOT GIVING IT THE THIRD LIFE. IF WE DO APPROVE THIS TONIGHT

ALL WE ARE DOING IS GIVING THEM A CHANCE TO APPEAR BEFORE THE NEXT PLANNING COMMISSION MEETING.

MR. MOULTON CONCURRED.

MS. DENNEN CAME FORWARD TO STATE IF THIS IS NOT APPROVED TONIGHT, WE ARE GOING TO BE IN COURT, AND SHE STATED THAT THERE IS NO DEFENSE. THEY WERE APPROVED BY THE COUNTY COMMISSION IN JUNE (2005). THE FACT THAT THE ZONING IS GOING TO BE CHANGED IN THE FUTURE IS IRREVERENT BECAUSE IT WAS PASSED BY THE COUNTY COMMISSION.

MR. WILLIAMS STATED THIS IS BASICALLY A HOUSEKEEPING MOVE.

MS. DENNEN STATED THAT IS REALLY IS.

MS. DENNEN STATED THAT SHE IS TRYING TO STOP A LAW SUIT.

MS. WILLIAMS REMINDED THIS BODY THAT THEY NEEDED TO INCLUDE THE 2 FOOT FRONT YARD SETBACK VARIANCE IN THEIR MOTION.

MOTION TO PASS BY MS. WEBSTER, BECAUSE IF WE DON'T WE WILL HAVE A LAW SUIT, AND TO INCLUDE THE 2 FOOT FRONT YARD SETBACK VARIANCE, SECONDED BY MR. WILLIAMS. MOTION PASSED.

MR. COLE STATED THAT IF WE APPROVE THIS WE ARE SETTING A PRECEDENCE. WE WILL BE OPENING UP A CAN OF WORMS.

3 AYES: WEBSTER, WILLIAMS AND PERDUE  
2 ABSTAIN: MCKEE AND COLE

**OTHER BUSINESS:**

- ❖ **RONNY BROOKS-UPDATE ON WHETHER MR. BROOKS SOLD HIS LAND AND IF IN FACT THE MOBILE HOME (FOR HARDSHIP) HAS BEEN REMOVED FROM THIS PROPERTY. -SUBJECT PROPERTY IS LOCATED AT 180 WHIPPORWILL LANE, BETHPAGE, TN., IS ON TAX MAP 62, PARCEL 10 AND IS ZONED AGRICULTURAL.**

MR. MOULTON REPORTED THAT MR. BROOKS HAS REMOVED THE SINGLEWIDE MOBILE HOME FROM THE PROPERTY.

- ❖ CHAIRMAN MCKEE QUESTIONED MR. MOULTON AS TO WHETHER THE MEMBERS GOT A 5% RAISE SINCE ALL OF THE COUNTY EMPLOYEES RECEIVED A 5% RAISE. MR. MOULTON STATED HE WOULD CHECK ON THIS FOR THIS BODY.
  
- ❖ MR. RAINEY EXPLAINED THAT HE COULD NOT ATTEND THE OCTOBER 13, 2005 ZONING BOARD OF APPEALS MEETING. THERE WAS DISCUSSION AMONG THE MEMBERS AND THEY DECIDED THE OCTOBER MEETING OF THE ZONING BOARD OF APPEALS WOULD BE ON **OCTOBER 20, 2005 AT 6:00 P.M.**

**MEETING ADJOURNED AT 7:10 P.M.**