



## Planning Commission Minutes April 18, 2023

5PM Work Session and 5:45 Regular Meeting

Location: Athens City Hall, Council Chambers, 200 Hobbs Street West, Athens, AL

*Please adhere to COVID safety guidelines and social distancing.*

### CALL TO ORDER

Meeting called to order by Mrs. Garth at 5:45pm

### ROLL CALL

Mrs. Gina Garth (Chairwoman)

Mrs. Dana Henry (Council)

Mr. Roderick Herron (Commissioner)

Mayor Ronnie Marks (Mayor)

Mr. Venard Hendrix (Commissioner)

Mr. Robert Malone (Commissioner)

Mr. James Hand (City Administration Representative)

Mr. Brad Mallette (Commissioner) - ABSENT

Mr. Rick Johnson (Vice Chairman) - ABSENT

The Commissioners, applicants, and the public were allowed to participate in-person.

### Also present:

Erin Tidwell (City Planner), Michael Griffin (City Engineer), Paige Parker (Planner), Brandon Camp (Civil Engineer), Andrea Colburn (Administrative Coordinator)

### APPROVAL OF MINUTES

- Regular Meeting Minutes - March 21, 2023
- **Motion: Mayor Marks**
- **2nd: Vernard Hendrix**
- Minutes from the March 21, 2023 meeting were approved unanimously by all the Commissioners present.

### OLD BUSINESS

#### Design Modification (1)

**1. Public Hearing.** Request of The Boys and Girls Club for Design Modification Approval to allow for the use of metal building materials, which are otherwise prohibited per Zoning Ordinance Sec. 6.1.12.F.(6)(d), located at 1017 West Washington Street, zoned TN-3 (Traditional



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Neighborhood 3 District).

➤ **Resolution.**

- Ms. Garth opened the public hearing to hear the request of The Boys and Girls Club for Design Modification Approval to allow for the use of metal building materials, which are otherwise prohibited per Zoning Ordinance Sec. 6.1.12.F.(6)(d), located at 1017 West Washington Street, zoned TN-3 (Traditional Neighborhood 3 District).
- Erin Tidwell, City Planner, described the request and the applicable sections of the Zoning Ordinance. Ms. Tidwell introduced in the presentation photographs of the areas surrounding the site, and a rendering of exactly what the applicant would like to do. The applicant is seeking approval for a brick facade, (with glazing on the windows according to the variance granted to the applicant at last month's BZA meeting) brick wrapped around the sides of the building encompassing the lower few feet, and metal on all remaining exteriors. Ms. Tidwell introduced cost breakdown information provided by the applicant. Ms. Tidwell stated that previously, there have been applicants that were granted a design appeal, specifically Park Supply (which used metal on the original building, formerly Collins Supply). Ms. Tidwell concluded by stating that this request is not in compliance with the current Zoning Ordinance, and previous requests similar to this have been denied. Therefore, staff does not recommend approval.
- Ms. Garth verified that the Park Supply building was located in a business district. Ms. Tidwell confirmed that yes, this particular building was in fact in a business district, while the Boys and Girls Club is located in a TN-3 district.
- Mayor Ronnie Marks asked if we're at the same place we left off last month, or if any adjustments or changes have been made. Mayor Marks stated that he's 100% in favor of the Boys and Girls Club and it's expansion, but what the applicant is suggesting is not in compliance with the Zoning Ordinance, and we need to work toward conforming to regulations.
- Ms. Tidwell agreed with Mayor Marks that this is an important project, and she believes there's a good way for everyone to come to a resolution. However, as it's currently submitted, the request doesn't meet Zoning Ordinance requirements. Ms. Tidwell further stated that comments were sent to the applicant asking about the price difference and suggesting they follow up with exterior options other than masonry, but she's unsure if the applicant followed up on that.



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- Mayor Marks asked if Joe or Jeff can help address some of these issues.
- Ms. Garth then asked if there was anyone that wanted to speak on behalf of the request.
- Jeff Tosh (518 47th St. S Birmingham, AL 35222) came forward, and said he wouldn't be at the meeting if they weren't asking for metal panels, and that according to the Zoning Ordinance other materials can be approved by the commission on a case-by-case basis (copper, high quality metal siding, etc). Mr. Tosh said that changing from their original design, which involved using metal panels, would add significant costs. They already took the original fundraising drawing and met Zoning Ordinance standards for the street-side elevation. Adding the masonry on the front and base of the building, plus glazing on the windows has already added a substantial cost. Going away from the metal panel design completely changes the makeup of the building; the footings, increases metal stud thickness, gauge, sheathing requirements, waterproofing requirements, and as a result, overall price. The applicant could utilize a hardie board or some other material to meet the Zoning Ordinance requirements, but it would be a lot more expensive. The Boys and Girls Club wanted their additional building to feel like a campus with their existing facility, which they believed would be accomplished with the design they submitted. Though the existing building is non-conforming, it's not going anywhere, Mr. Tosh stated, and they'd like the new building to have some conformity with the existing Boys and Girls Club. Mr. Tosh also stated that because of the trees in front of the current Boys and Girls Club, it's not very visible from the street, and one could almost miss it when driving past it on the roadway from either direction.
- Mr. Tosh referred to the presentation, specifically the slide showing cost differences for different elevations. Specifically, he stated that it's \$174,845 more dollars to do the design that utilizes masonry on the entire building.
- Ms. Garth reiterated that the Commission supports The Boys and Girls Club and its mission, but cost is not something the Commission is allowed to take into consideration. Ms. Garth said Ms. Tidwell suggested a brick veneer or hardie plank exterior. Mr. Tosh responded that it's \$175K more dollars to go with the brick veneer.
- Mayor Marks clarified that \$175K would be the total cost if using brick veneer, and the cost above the original is \$115K. Mayor Marks asked if that was correct. Mr. Tosh said, yes, that's correct. The Mayor then said that it's really a \$115K increase, not a \$175K increase.
- Ms. Garth asked Ms. Tidwell about areas of the city that do accept metal siding, and if a



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specific type of metal was permitted in those areas.

- Ms. Tidwell said there are different types of corrugated metal siding and in different styles. Metal is allowed in the industrial district, and is not limited to a certain type of metal.
- Ms. Garth asked if The Boys and Girls Club had a specific type or style of metal in mind
- Mr. Tosh responded that he was surprised metal wasn't allowed in the city, especially in a civil context; he pointed to the examples of metal buildings he provided in the slideshow, (a city hall, library, and a rec center).
- Ms. Garth asked again if The Boys and Girls Club had a specific type or style of metal in mind.
- Mr. Tosh said no they did not at this time; the applicant was waiting on Planning Commission approval for the use of metal building materials first before deciding which type or style of metal they would use. Mr. Tosh also pointed out that at some point, metal panels can become just as expensive as using brick.
- Jacob Davenport (1505 Clearmont Dr. Huntsville, AL) spoke briefly about costs and answered some questions the commission asked about the metal panels. The metal panels, he stated, act as a cost-effective option to skinning a building. Mr. Davenport said that these are metal panels that are applied to an exterior wall. Metal siding can cost anywhere from \$20-\$70 per square foot. Brick would run approximately \$28 per square foot. The cost of using brick veneer is similar to the cost of using brick. He stated that using an EIFS or hardie board isn't much cheaper than brick, and comes with significant maintenance costs.
- Billy Cannon (2387 S. Hine St. Athens, AL) spoke in favor of the Boys and Girls Club. His sister, Jakcie McGuire, owns three acres on the east side of The Boys and Girls Club, and she's excited about the possibility of the same design modification, if approved in this instance, might also apply to her and her property. In that case, she could potentially sell to a client who may build something similar to the proposed Boys and Girls Club building. Ms. McGuire attended the last meeting, but couldn't be present at this meeting.
- Scott Marshall (212 East St. Athens, AL) said this is a tough decision for the commission. Mr. Marshall stated that the project is needed, but if we waver from where our guidance has taken us up unto this point, we could be opening a can of worms by approving this



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request. He further stated that the next project requesting metal building materials could be just as important as this one. Approving this request would set a precedent. Mr. Marshall said we have guidelines for a reason. Mr. Marshall further stated that while the architectural metal panels look nice, he is totally against the use of corrugated metal.

- Ms. Garth closed the public hearing after confirming that there was no one else present to speak on the matter.
- **Mrs. Garth called for a motion to approve the request of the Boys & Girls Club. No such motion was made.**
- Mr. Malone asked if any contingencies were involved with this request. Ms. Tidwell answered no.
- **Mrs. Garth called for a motion to approve the request of the Boys & Girls Club. No such motion was made.**
- Ms. Henry asked what would happen if a member of the commission moved to approve the request, but a majority wasn't reached.
- Ms. Tidwell said the request is just a denied motion.
- Mayor Marks asked when the applicant could re-apply if the request was denied.
- Ms. Tidwell said that she would double check, but she believed it was a year for the same request, sooner if it's a significantly different request.
- Mayor Marks commented that they don't need to wait a year to try and get something done.
- Michael Griffin, City Engineer, mentioned that the applicant could amend the request and resubmit it.
- Mr. Herron stated this project is one of the most important in the city, and it needs to be done.
- Mr. Malone asked what would happen if the Commission approved the request.
- Ms. Tidwell stated that if the commission moved to approve the request that is in front of them, a precedent is set to approve metal building materials for future decisions. If a motion to approve is made three times, and is not picked up, the motion is denied by



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default. If the applicant later brought back a request that was significantly different than the current one, it could be brought back before the commission and readdressed before a year.

- Mayor Marks verified that the applicant could resubmit their request sooner than a year if that request was within the guidelines of the Zoning Ordinance.
- Ms. Tidwell said the applicant wouldn't have to come back before the commission if the request conformed to the Zoning Ordinance. At that point, the request could be handled by staff.
- Mayor Marks said he feels as though this is exactly where they left this request last month, and asked if any further information had been provided to staff by the applicant.
- Ms. Tidwell responded that the applicant did provide a model of exactly what they're requesting (included in the presentation), but it still includes corrugated metal, which is prohibited. Therefore, the request still had to go before the Planning Commission.
- Michael Griffin said that at the last meeting, the applicant didn't have a cost factor or exact material information. At the time of the last minute, he quoted Ms. Henry, saying that the commission didn't want to give carte blanche to this request without knowing specifically what was being requested.
- Ms. Garth read the ordinance applicable to design modification aloud for the commission.
- Ms. Garth asked if this design modification was necessary for the development to be achieved. Can the project be achieved without the design modification?
- **Mrs. Garth called for a motion to approve the request of the Boys & Girls Club.**
- **Motion: Robert Malone**
- **2nd: Dana Henry**
- Mayor Marks asked Ms. Garth to repeat the motion to approve. Ms. Garth did so.
- Ms. Garth asked if, by approving the request, the commission is approving the specific design as it's been submitted.
- Ms. Tidwell stated that the commission can make that specific to their motion.



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- Mr. Malone moved to approve the exact design submitted.
- Ms. Garth asked if there was any discussion.
- Mayor Marks pointed out the gap in funding as a community. He said he's not sure if the city should move away from its regulations to make that gap work. He reiterated that this is a tough situation. He understands the gap in funding, but wants to find a way to make the project work while still being in compliance with the Zoning Ordinance. He doesn't understand why we can't find a way to make this work, just as other projects previously have found a way to make it work.
- Ms. Garth asked Ms. Tidwell if disapproval by the commission would stop the project.
- Ms. Tidwell answered that it would not stop construction, and the applicant could bring back a request that is significantly different from the current one.
- Mr. Malone asked if the applicant could come back before the commission with another request. Ms. Tidwell answered yes, and Ms. Garth specified that if the request were in compliance with the Zoning Ordinance, the applicant wouldn't have to come before the commission at all.
- **Mrs. Garth called again for a motion to approve the request of the Boys & Girls Club.**
- **Motion: Robert Malone**
- **2nd: Dana Henry**
- Ms. Garth called for a vote.
- Mr. Malone and Ms. Henry voted in favor.
- Mayor Marks, Mr. Hand, Mr. Hendrix, and Ms. Garth opposed the request.
- Mr. Herron recused himself and abstained from the vote.
- **Item 1 was denied with a vote of 2 in favor, four opposed, and one recusal.**
- Ms. Garth wanted to repeat that the commission fully supports the Boys and Girls Club and their mission, but they have a job to do and an Ordinance that they are required to follow.



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- Mr. Tosh stated that The Boys and Girls Club is a charitable organization that's not government funded. He said that most civic buildings are government funded, but this one is not. Mr. Tosh reiterated that they could utilize a different building material, but it would be more expensive.

### ITEMS WITHDRAWN FROM THIS MONTH'S AGENDA

- None.

### NEW BUSINESS

#### Limited Amendment (1)

**2. Resolution.** Request of **Forestar** for **Limited Amendment to Master Development Plan of Links at Canebrake**, for proposed conversion of a single Institutional lot, intended for placement of a school, to fifteen (15) R-1-2 residential lots. The development is comprised of +/- 144.67 acres and located directly east of 22853 Regent Drive, (Parcel #: 10-07-26-0-000-002.003), zoned C-PUD (Conventional Planned Unit Development District).

- **Resolution.**
- Ms. Tidwell explained the request, and stated that staff sees no issue with this request and the R-1-2 lots with a passive area and would recommend approval of this request.
- Ms. Garth asked if Ms. Tidwell would define a passive area. Ms. Tidwell did so, stating that a passive area is generally an open field for throwing a frisbee.
- Ms. Garth clarified that the maintenance of the common area would be left to the HOA.
- Ms. Garth also asked if this request was posted as a public hearing or if proper notice had been given.
- Ms. Tidwell said yes, a sign was posted on the property per Zoning Ordinance guidelines (Sec. 2.5.2.C.4(G)) and no comments have been directed to our office about this item from the public. Ms. Tidwell also stated that this is just a limited amendment, they'd still have to come before the commission with a subdivision request at a later time.
- Ms. Garth said that although this wasn't a public hearing, was anyone present on behalf of the project. No one came forward.
- Ms. Garth asked if there was a member of the commission that would move to approve the request.





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➤ **Motion: Robert Malone**

“Be it Resolved by the Planning Commission of the City of Athens, Alabama to approve the request of Forestar for Limited Amendment to Master Development Plan of Links at Canebrake, for proposed conversion of a single Institutional lot, intended for placement of a school, to fifteen (15) R-1-2 residential lots. The development is comprised of +/- 144.67 acres and located directly east of 22853 Regent Drive, (Parcel #: 10-07-26-0-000-002.003), zoned C-PUD (Conventional Planned Unit Development District).

➤ **2nd: Mayor Ronnie Marks**

➤ Item 2 was approved unanimously by all Commissioners present.

### Final Plats (1)

**3. Resolution.** Request of Diltina Development for Final Plat Approval of The Villas at Swan Creek Phase 1, a major subdivision of +/- 20.16 acres, including 61 lots and 5 commons areas, located directly north of Strain Road W and approximately 1300' east of US HWY 31 S (Parcel #: 44-10-05-21-0-001-007.000), zoned R-1-3 (High Density Single Family Residential District).

➤ **Resolution.**

- Ms. Tidwell explained the request, and stated that staff has reviewed this request, all our bonds are in place, and staff would recommend approval.
- Mayor Marks asked if the developer was present, and asked the developer if sewer had been worked out.
- Developer Don Spencer (7545 US Hwy 72 W. Madison) said that as far as he knows, design engineering has been completed and utilities are working on getting sewer to the project, estimating completion in 6-9 months, and until then utilities will pump the sewer.
- Michael Griffin, City Engineer, said bids have been received.
- Ms. Garth asked if there were any more comments or questions. No one came forward or made any additional comments.
- Mrs. Garth asked if there was a member of the commission that would move to approve the request.

➤ **Motion: Rod Herron**



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- “Be it Resolved by the Planning Commission of the City of Athens, Alabama to approve the request of **Diltina Development** for **Final Plat Approval** of **The Villas at Swan Creek Phase 1**, a major subdivision of +/- 20.16 acres, including 61 lots and 5 commons areas, located directly north of Strain Road W and approximately 1300’ east of US HWY 31 S (Parcel #: 44-10-05-21-0-001-007.000), zoned R-1-3 (High Density Single Family Residential District).
- **2nd: Robert Malone**
- Item 3 was approved unanimously by all Commissioners present.

### Zoning Ordinance Changes (1)

**4. Public Hearing.** Consider the request of the Engineering Services and Community Development Department for various proposed amendments to the Zoning Ordinance of the City of Athens.

The following is a summary of the nature and scope of the proposed changes to the Zoning Ordinance (hereafter referred to as “Summary of Zoning Ordinance Changes”). The proposed changes would:

- amend § 2.4.8 of the Zoning Ordinance to modify and clarify the process for providing public notice for items that require a public hearing (including identifying when notice is required, what kind of notice should be provided and in what format, when signage should be posted on property subject to a public hearing, and the deadlines for notice to be provided);
- amend Table 4.8 of the Zoning Ordinance to include “Laundromats/Dry Cleaning” as a permitted Use within the TN-3, Traditional Neighborhood 3 District;
- ~~amend § 6.8.13 of the Zoning Ordinance to include § 6.8.13.R, creating the Athens Public Art Review Committee.~~

- **Resolution.**
- Ms. Garth opened the public hearing to consider the request of the Engineering Services and Community Development Department for various proposed amendments to the Zoning Ordinance of the City of Athens.
- Ms. Tidwell described the item, and stated that the amendments pertaining to notification are in response to feedback from the public. She stated staff is trying to cover all their bases to ensure that public notice is given whether letters get delivered or not.



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- Ms. Tidwell described the proposed amendment pertaining to laundromats being permitted in a TN-3 district. She said that other similar uses are permitted, and it only makes sense to include laundromats and dry cleaning services.
- Ms. Garth asked if an application for a laundromat has come up, prompting the change to add it as a permitted use within a TN-3 district. Ms. Tidwell said no, staff hasn't received an application, but has received requests pertaining to this use in this district.
- Mayor Marks asked if the laundromat use was specifically prohibited in the past in this district.
- Ms. Tidwell said that in the past, it just hasn't been addressed. However, it's been an allowable use in other districts.
- Mayor Marks said he's glad it's being addressed now; it doesn't make sense that you could walk to get groceries, but not to clean your clothes.
- Ms. Tidwell added that a copy of these changes have been posted online for public viewing. She also clarified that this is a recommendation to send this item to the City Council for consideration.
- Michael Griffin, as a member of the public (17664 Eastmoor St. Athens, AL) said that he has been approached by his neighbors and asked about a BZA meeting. His neighbors had not received notification letters yet. Mr. Griffin suggested that the City go one step above and post notification information on social media. The City functions on public input, and if the public isn't aware of these meetings, they can't participate. Mr. Griffin believes social media would help the public stay informed. Mr. Griffin doesn't believe that notification via social media be specifically included in the Zoning Ordinance, but make it administrative policy instead. Additional notification through social media, he added, would show that the City is doing its due diligence to notify the public.
- Ms. Henry agreed that notification via social media would be a good idea.
- Mr. Don Spencer with Diltina Development (7545 US Hwy 72 W. Madison, AL) said that he works in other areas, and knows that in other jurisdictions surrounding ours, they adhere to 14 day prior notification.
- Ms. Garth closed the public hearing.
- Ms. Garth asked if there was a member of the commission that would move to consider



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the request of the Engineering Services and Community Development Department for various proposed amendments to the Zoning Ordinance of the City of Athens.

➤ **Motion: Vernard Hendrix**

**“Be it Resolved by the Planning Commission of the City of Athens, Alabama to approve the request of the Engineering Services and Community Development Department for various proposed amendments to the Zoning Ordinance of the City of Athens.”**

➤ **2nd: Rod Herron**

- Mayor Marks clarified that they’re approving this item to go to the City Council.
- Mayor Marks also said that he meets with a lot of people from our state and other states, and they’re all struggling with notification and how to get information out to the public, especially when newspapers are cutting back. He believes social media notification is a good suggestion.
- Item 4 was approved unanimously by all Commissioners present.

Ms. Garth asked if there was anything else that needed to be addressed or any further comment.

Scott Marshall (212 East St. Athens, AL) asked to address the commission. Mr. Marshall expressed concern over the commission continuing to approve subdivisions in developments that don’t have sewer, and may have to wait 9-12 months until those services can be provided. Mr. Marshall knows that the city is handling the situation with pump trucks, but how much does that cost the city and are there other options that we need to be looking at? Mr. Marshall doesn’t believe the City has the manpower to provide those services on a more timely basis. He doesn’t want the city to be in a situation where construction is paused because sewer services can’t be provided. Mr. Marshall is concerned that pumping the sewage isn’t cost effective, and that the city is opening itself up to being sued by the developers.

Mayor Marks agreed, and said that growth is challenging. He said that plans are in place for a future resolution to this problem. Mayor Marks believes we’ll get there, and the city is spending a lot on bonds for this.



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**THE PLANNING COMMISSION MEETING ADJOURNED AT 6:40PM.**

Mrs. Gina Garth (Chairwoman)

Paige Parker (Planner)

