

Wetumpka Planning Commission

Meeting Packet

November 10, 2014

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WETUMPKA PLANNING COMMISSION
Board Room, Wetumpka Civic Center
Monday, November 10, 2014 at 6:00 P.M.
Regular Meeting

ROLL CALL/CALL TO ORDER

APPROVAL OF MINUTES

Regular Meeting: October 14, 2014

OLD BUSINESS

NEW BUSINESS

1. Consider request to amend grant of preliminary approval for Cotton Lakes Plat No. 12 by granting a variance from the sidewalk requirement. *Public hearing required.*

REPORTS OF OFFICERS AND COMMITTEES

COUNCIL COMMUNICATIONS

CITIZEN COMMUNICATIONS

MISCELLANEOUS COMMUNICATIONS

4. Planning and Project Director
 - a. Notes for next meeting
 - d. Update on Downtown Revitalization

ADJOURN

Wetumpka Planning Commission Minutes
October 14, 2014

The Wetumpka Planning Commission held a regular meeting on Tuesday, October 14, 2014, at 6:00 p.m. in the Council Chambers of Wetumpka City Hall with the Chairman presiding.

Upon roll call the following members were present: Katherine Lynn, Johan Beumer, Ed Dykes, Chris Carter, Lynn Weldon, and Councilman Percy Gill. Mary Katherine Moore was absent. J. David Robison, Planning and Program Director; Stacye Carter, Building Department Secretary; and Michael Robinson, Fire Marshall, were also in attendance. The minutes were approved as written.

Ms. Lynn introduced a request by Forrester Developers to combine lots 16 & 17 of BellRidge Subdivision - Plat 1. Mr. Robison recommended both preliminary and final approval. Mr. Beumer moved to grant preliminary and final approval of, Mr. Dykes seconded, and the motion was carried with no negative votes.

Ms. Lynn introduced a request by Alfa Properties, Inc. for final approval of the Cove at Quail Run Plat No. 2. Derril Strickland, of Goodwyn, Mills, and Cawood and the applicant's authorized representative, discussed the characteristics of the development. Mr. Robison noted that the applicant had met the conditions of preliminary approval, which included making improvements to two off-site fire hydrants, and recommended granting final approval. Mr. Robinson said that he had inspected and approved the improvements. Councilman Gill moved to grant final approval, Mr. Carter seconded, and the motion was carried with no negative votes.

Ms. Lynn introduced next a request by Goodwin Building Co., Inc. for final approval of Cotton Lakes Plat No. 11. Derril Strickland discussed the characteristics of the development. Mr. Robison said that the applicant had met all conditions of preliminary approval and recommended granting final approval. Ms. Weldon moved to approve to grant final approval, Mr. Beumer seconded, and the motion was carried with no negative votes.

Mr. Robison discussed potential items for the next meeting, reported the results of a recent meeting of the Board of Adjustment, and updated the Commission on the downtown revitalization effort.

There being no further business on the agenda, the meeting was adjourned at 6:29 p.m.

J. David Robison
Planning and Program Director

Katherine Lynn
Chairman

Goodwyn Building Co., Inc.
2939 Chestnut Street
Montgomery, AL 36107
(334) 263-2221

October 28, 2014

City Of Wetumpka
Planning Commission
P.O. Box 1180
Wetumpka, AL 36092

Re: Cotton Lakes Plat 12
Wetumpka, AL

Dear Commission:

By this letter, we are requesting that a waiver be issued by the City of Wetumpka Planning Commission that sidewalks would not be required in Cotton Lakes Plat 12. The proposed sidewalks would not connect to any other sidewalks.

The Cotton Lakes Homeowners Association, in a lettered dated July 19, 2014 which we have attached, has expressed that they do not want sidewalks anywhere in the neighborhood.

Thanks for your time and consideration.

Sincerely,
Goodwyn Building Co., Inc.


George Goodwyn, Jr.



HOMEOWNERS' ASSOCIATION
PO Box 933
Wetumpka, Alabama 36092
cottonlakes@yahoo.com

July 19, 2014

Brandon C. Stone
Stone & Britt, LLC
52 Wisteria Place
Millbrook, AL 36054

SUBJECT: Sidewalks in Cotton Lakes Subdivision

Dear Brandon:

We have been advised by City Councilman Kevin Robbins that the City has grant monies. The City wishes to use some of it in Cotton Lakes Subdivision for sidewalks. As we understand it, not everyone would have a sidewalk – only one side of the street and not on every street. Councilman Robbins advised the City Council that Cotton Lakes does not want sidewalks. However, they may not have taken him seriously. We want to emphatically state our position.

The Board at it's last meeting on July 10, 2014, unanimously vetoed the sidewalk proposal in our subdivision. Here are the reasons why:

1. The front yards of homes here are small. The sidewalks would go on the utility easement of the lot. The sidewalk would take up a portion of that small yard.
2. We seriously doubt it would improve our property values.
3. We already have trouble getting some homeowners to mow and edge, let alone maintain a sidewalk. And you know the City won't maintain them.
4. We already have trouble with people trespassing, cutting corners and letting their dogs relieve themselves on other's property. Sidewalks would mean closer access to the home and front door and increased mischief and aggravation for the homeowner.

The Board would like for you to convey to the City Council and other applicable departments in the City of Wetumpka our strong sentiments against sidewalks here in our subdivision. We don't know the timeline involved in this, but action on this should be sooner rather than later.

Brandon Stone
July 19, 2014

Sincerely,

BOARD OF DIRECTORS
COTTON LAKES HOMEOWNERS ASSOCIATION



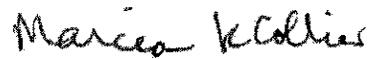
J. DOUGLAS CARWILE
Board President



JANET COX
Vice President



SAMUEL ADAMS
Board Member



MARCIA COLLIER
Board Member



JULIE HIGHT
Board Member

cc: Kevin Robbins, City Council
George Goodwyn
Sharon S. Ervin, Property Manager

CITY OF WETUMPKA, ALABAMA
MEMORANDUM

TO: Wetumpka Planning Commission
FROM: Regina B. Edwards, City Attorney *RBE*
J. David Robison, Planning and Program Director *JDR*
DATE: October 31, 2014
SUBJECT: Request by Goodwyn Building Co., Inc. to amend grant of preliminary approval by granting a variance for sidewalks

1. **Requirement.** On February 11, 2002, the Wetumpka Planning Commission adopted revised subdivision regulations. This revision included a section (Sec. 6-1-3) mandating the installation of five-foot-wide sidewalks within the dedicated non-pavement right-of-way of one side of all roads in residential and non-residential developments. This is in keeping with national trends in transportation planning (see www.pedbikesafe.org/PEDSAFE/guide_background.cfm).
2. **Application.** The Planning Commission is bound by any restriction it places on itself in its own regulations (Ala. Op. Atty. Gen. 2003-089). As worded, the Commission has allowed itself no discretion in applying the requirement for sidewalks unless the applicant can factually demonstrate a "hardship" warranting a variance using the procedure set forth in Article IX of the Subdivision Regulations, provided that such a variance shall not have the effect of nullifying the intent and purpose of the regulations. A "hardship" is narrowly defined as a condition unique to the property and caused by topographical conditions, not a mere inconvenience.
3. **Significance of variances.** Granting variances unsubstantiated by facts that meet the criteria specified in our regulations invites challenges to the enforcement of this requirement on future development due to the appearance of arbitrariness and creates liability issues for the City.
4. **Additions.** An argument may be made that the new requirement should not apply to additions to the Cotton Lakes Development. However, each addition is a new subdivision and is therefore subject to the regulations currently in effect.
5. **Change in interpretation or enforcement.** Since the revised Subdivision Regulations were adopted, Cotton Lakes Plats No. 4, 5, 6, 7A, 8, 9, and 10 were approved by the Planning Commission yet did not comply with the sidewalk requirement. Be that as it may, failure to enforce a municipal ordinance does not prohibit the municipality from enforcing the ordinance in the future (*City of Foley v. McLeod*) so long as such enforcement is not arbitrary.
6. **Conclusion.** If the Planning Commission finds that a variance is unwarranted but does not wish to require sidewalks, it must amend the Subdivision Regulations.

"City of Natural Beauty"

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