

MINUTES

City of Milton Planning Commission Regular Meeting June 24, 2008, 7:00 PM

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ROLE CALL

Commission Members Present: Paul Moore
Fred Edwards
Jennifer Fletcher

Late arrival: Curtis Mills (7:13 pm)
George Ragsdale (7:15 pm)

Members Not Present: Cary Schlenke
Joe Creamer

City Staff: Robyn MacDonald, Community Development

INVOCATION

The invocation was lead by the Chair Paul Moore.

PLEDGE OF ALLEGIANCE

MEETING CALLED TO ORDER

Chair Paul Moore called the meeting to order at 7:13 pm.

RULES AND PROCEDURES OF MEETING

Chair Paul Moore read the Rules and Procedures of the City of Milton Planning Commission, including procedure for filing out public speaker cards and time allowance for speaking.

CONDITIONS AND STATEMENT OF COMMISSION

Chair Paul Moore read the conditions and statement of the Commission.

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**PLANNING COMMISSION AGENDA
June 24, 2008
7:00 p.m.**

Agenda Item	Description	Meeting Dates**	Staff Recommendation
I. INVOCATION			
II. CALL TO ORDER			
III. PLEDGE OF ALLEGIANCE			
IV. PUBLIC COMMENT			
A. Approval of Minutes	Minutes from the April 22, 2008 Planning Commission Meeting		Approval
	Minutes from the May 27, 2008 Planning Commission Meeting		Approval
V. REZONINGS/USE PERMITS Deferred			
A. U03-03	2810, 2820, 2830, 2840, 2850, 2860 Bethany Bend Road (AG-1) Applicant: Church of Jesus Christ of Latter Day Saints Requesting a Use Permit for a 16,728 square foot church with 352 seats, at a density of 2,320.95 square feet per acre on approximately 7.2074 acres	CZIM- 3/26/08 & 4/23/08 PC - 5/27/08 & 6/24/08 MCC - 7/21/08	U08-03 - WITHDRAWAL (Based on the Applicant's Request)
VI. Adjourn			

PUBLIC COMMENT

Chair Paul Moore called for public comment.

There was no public comment.

Motion and Second: Fred Edwards made a motion to close public comment. Jennifer Fletcher seconded the motion. There was no discussion. Vote: 5-0. Motion unanimously carried.

APPROVAL OF MINUTES

Chair Paul Moore called the next agenda item, Approval of the April 22, 2008 Planning Commission meeting minutes. The Chair called for a motion.

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Motion and Second: Fred Edwards moved to approve the April 22, 2008 Planning Commission meeting minutes. Seconded by Jennifer Fletcher. There was no discussion. Vote: 5-0. The motion unanimously carried to approve the April 22, 2008 meeting minutes.

Chair Paul Moore:

- Called the next agenda item, Approval of the May 27, 2008 Planning Commission meeting minutes. The Chair called for a motion.

Motion and Second: George Ragsdale moved to approve the May 27, 2008 Planning Commission meeting minutes. Seconded by Fred Edwards. There was no discussion. Vote: 4-0-1, with Curtis Mills abstaining from the vote due to his absence at the May 27, 2008 meeting. The motion carried to approve the meeting minutes.

Fred Edwards:

- Stated he wanted to add an item to the agenda relative to a discussion sent to City Council regarding the moratorium on the Crabapple development.

Chair Paul Moore:

- Stated they would have to vote to add this to the agenda.

Motion and Second: George Ragsdale moved to accept the new agenda item. Seconded by Jennifer Fletcher. The Chair called for discussion.

Curtis Mills:

- Asked again about the subject of the letter.

Fred Edwards:

- Explained that the letter was put together several months earlier relative to putting a hold on the development in Crabapple until the Comprehensive Land Use Plan was completed.
- The Commission asked that Council consider that moratorium and was told at the last meeting it had been turned over to the City Attorney to decide about the letter and so far there has been no response back to the Planning Commission regarding the letter.

Chair Paul Moore:

- Asked that this agenda item be put in at the end of the remaining agenda items.

There was no further discussion. Vote: 5-0. Motion unanimously carried.

Chair Paul Moore asked Staff Robyn MacDonald to call the first agenda item.

Staff Robyn MacDonald:

- Read **U08-03**, 2810, 2820, 2830, 2840, 2850 and 2860 Bethany Bend Road, currently zoned AG-1. Applicant is the Church of Jesus Christ of Latter Day Saints, requesting a Use Permit for a 16,728 sq. ft. church with 352 seats. Staff recommended withdrawal based on the Applicant's request through a letter that was submitted approximately a week and half ago. Stated the letter was referenced on the second page of the report from applicant's legal counsel.

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**Applicant Representative, Attorney Pete Hendricks, 6085 Lake Forest Drive,
Sandy Springs, GA**

- Application had been pending for some period of time.
- Stated they had been dealing with two primary community groups.
- There have been collectively 47 items of requests made between the two groups for commitments to be made by the applicant.
- After analyzing everything, the applicant at best might be able to accommodate half of those requests.
- The community groups felt strongly about deed restrictions to run with the land, and the church could not under any circumstances support that request.
- The second community request is along the northerly property line that abuts up to the Oakstone Glen Subdivision, that there should be a 75 ft. natural undisturbed buffer area with a 10 ft. improvement setback, which the church cannot agree to.
- Under the recommended conditions of the Staff, Condition 4 and all of the subparts of Condition 4 are many roadway and traffic improvements, which the church cannot agree to.
- Church has a very low use intended for the property.
- Stated this is a corner lot with two road frontages, Cogburn and Bethany Bend, with an appreciative amount of frontage along Bethany Bend.
- The cost and expense to do those road improvements would be great so of extreme concern to the church.
- The last item is the 75 ft. natural undisturbed buffer area with a 10 ft. improvement setback along the north property line.
- Staff made the correct interpretation that Council adopted an ordinance that is in effect is currently in play but was adopted after the filing of this application.
- The pending of this application regarding the land use permit, Staff was correct that this application would be grandfathered and that ordinance would not be applicable.
- The other part of the equation is at the time the applicant would file for a Land Disturbance Permit, with the ordinance sitting there and in place, that it would not be effective.
- At that time it would be necessary to file for a variance request to seek relief from the 75 ft. natural undisturbed buffer area with a 10 ft. improvement setback.
- Presented the Commission with a drawing indicated the areas that were cross-hatched going along Cogburn and along Bethany Bend showing the amount of dirt that would need to be dedicated for the widening of those roadways.
- The other area would reference the tract that would be consumed along the northerly property line by the 75 ft. natural undisturbed buffer and on the easterly property line with the 25 ft. natural undisturbed buffer and 10 ft. improvement setback.
- Stated it would be about a third of the property.
- For a combination of these things and any one of which would dictate that the church would have to step back from this particular piece of property.
- After a very thoughtful meeting with Staff on June 13, 2008 to discuss the items regarding the roadway improvements, it was immediately after that meeting a determination was made to submit the letter asking that the application be withdrawn.
- Stated Jon Erickson was present and was the engineer who spent an inordinate amount of time working with the community issues and could answer any questions.

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Chair Paul Moore:

- Called for any public comment in support or opposition. There was no public comment.
- Called for a motion to close public comment.

Motion and Second: Fred Edwards moved to close public comment. Jennifer Fletcher seconded the motion. There was no discussion. Vote: 5-0. Motion unanimously carried.

Curtis Mills:

- Advised Mr. Hendricks he knew this was the second use permit they heard for the church and thought that had gotten fairly far along.
- Said it was his understanding that it had been abandoned because this had worked out. (Robyn, this statement does not make sense).
- State it could not have anticipated all the detail from the adjoining neighborhoods. (Robyn, this does not make sense)
- Asked Mr. Hendricks if there might be a third site that has been identified that may be more appropriate for the church.

Attorney Pete Hendricks

- The church has a strong interest in the geographic fabric of Milton.
- The base of the congregation desires the accommodation.
- Believes there is a high probability that the church will find property not on a corner or with extensive roadway frontage.
- Could be forthcoming with another application.
- The ordinance addressing the 75 ft. undisturbed buffer and 10 ft. improvement setback was a factor.
- If ordinance is in place did not know of any jurisdiction that says it does not count.
- Most jurisdictions will say if you file for your land disturbance permit you are then grandfathered as to any development standard that comes up during the pendency of it.
- This was another factor.

Curtis Mills:

- Asked if the 75 ft. around the perimeter lost a third of the 7 acres.

Jon Erickson, 3680 Pleasant Hill Road, Duluth, GA.

- Architect for the church project.
- Did not have exact numbers but thought it was 1.27 acres was dedicated with the 75 ft. plus 10 ft. improvement setback area.
- Said roughly a third of the project site.

Curtis Mills:

- Asked if he felt there may be a good argument that you were grandfathered, why withdraw on that basis.
- Was it the neighboring HOAs and their requests?

Attorney Pete Hendricks

- Did not believe they would be grandfathered when they go through the permit process.

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Staff Robyn MacDonald:

- Stated Council could ask or require the buffer.
- Staff thought it would be the desire of the Council to have them provide that buffer.
- Stated it was not required at this point by the ordinance, but many other items that have come before Council, they have asked for more than what the ordinance requires, so it would be a good possibility.

Curtis Mills:

- Stated that this withdrawal due to neighbor issues and set-backs was unfortunate as many of the neighbors generally supported this project in the first application.

Chair Paul Moore:

- Called for any other questions or comments.

George Ragsdale:

- Sensed that there was an assumption made that maybe not just the Planning Commission but City Council would support all of the requests that were made by the community HOAs that were delivering those.
- Asked Mr. Hendricks if that was a fair assumption.

Attorney Pete Hendricks:

- He felt there would be basic sentiment if not in their entirety, the greater portion and he was not going to address that.
- In the June 13th meeting they were given a good heads-up not to be naive about this.
- There was a good possibility Council would come in and not accept the grandfathering.
- Council adopted the ordinance and they would want to see it in effect.

George Ragsdale:

- Stating he could understand the church wanting to be a good neighbor and satisfy the citizens that live there, but you are never going to keep everybody happy all the time.
- Would be disappointed if there was an assumption made that we would automatically go along with all of those things instead of considering the application on its own merits.

Staff Robyn MacDonald:

- Commented that Staff reviewed all of the comments from the neighborhoods and many of those things could not be enforced and put into the conditions.
- Some of the items would have had to be by private agreement between the applicant and the community.
- There were some things that could be enforced as well.

Attorney Pete Hendricks:

- The community groups wanted something more than a letter agreement.
- They wanted a deed restriction.

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Chair Paul Moore:

- Called for any additional questions or comments. Asked for a motion.

Motion and Second: George Ragsdale moved to accept the applicant's request for withdrawal of Application U08-03. Fred Edwards seconded the motion. There was no discussion. Vote: 5-0. Motion unanimously carried.

NEW BUSINESS:

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Chair Paul Moore:

- Called the added agenda item, status of the Crabapple moratorium letter.

Fred Edwards:

- Asked Staff about the comment that there was not an interest regarding the letter.

Staff Robyn MacDonald:

- Stated she had again transmitted the letter physically to the Council and also through email, copying the City Attorney regarding the moratorium letter.
- She again had heard absolutely nothing back from anyone.
- Stated in her email to the Commission she had had no negative or positive responses.

Curtis Mills:

- Asked who would be responsible for responding.

Staff Robyn MacDonald:

- Stated she believed it would be the Mayor, or one of the Councilmembers could ask the City Attorney to please respond to the request.

Curtis Mills:

- Asked if the City Attorney was the one who would be accountable.
- Stated that he was offended that they had not bothered to respond.

George Ragsdale:

- Stated it is just a matter of common courtesy.

Jennifer Fletcher:

- Reiterated that it was just common courtesy.
- Said we just want an answer.

Curtis Mills:

- We all have other things we could be doing.
- Would like to understand clearly who would be responsible for responding.
- Maybe they do not understand because we are a new entity and they do not get it. (This statement does not make sense.
- Whoever is accountable should follow-up.

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Staff Robyn MacDonald:

- Said another alternative would be to put the item back on a work session agenda to go back to them.

Curtis Mills:

- Stated his issue may be more procedural.
- Believed even if they disagree and say so, they still should have to declare something.

George Ragsdale:

- Do not think any one person is responsible.
- They are responsible as a body.
- Not only for common courtesy, but more than that.
- They have an obligation to us as an appointed board to respond to anything we ask of them.
- They do not have to do it, but we are owed a response.
- That letter was sent back in February.

Curtis Mills:

- Said this Commission has been in operation for 14 months and we have only sent Council one letter.
- Stated they are not sending them 6 letters a month, but only made one special request.

Jennifer Fletcher:

- Asked if the letter had been sent to each councilmember?

Staff Robyn MacDonald:

- Stated that after the March meeting she could not confirm that they had received it.

George Ragsdale:

- The request was presented verbally at the February meeting.
- It was followed up with a letter at the March meeting.

Staff Robyn MacDonald:

- It was then resent after that via email and individual letters being put in front of them physically.
- So it was sent at least twice.

Fred Edwards:

- At our April meeting we were told that the City Attorney was reading the letter.
- We were not clear if he was reading it, suggesting changes, or what.

Chair Paul Moore:

- There was that question of interpretation from the emails.
- Thought that it had been made it clear that the Commission was not interested in a rewrite of the letter.
- We were simply asking for a response from City Council to our request.

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Staff Robyn MacDonald:

- Thought there was some initial response from the City Attorney.
- There were some people on Council who totally disagreed with it.
- Believes the City Attorney may have gotten the impression just to drop it.

Jennifer Fletcher:

- Said so it has just fallen by the wayside.

Staff Robyn MacDonald:

- Stated she could not remember the exact sequence of events.

Curtis Mills:

- Asked who the administrative leader of the Council is.
- Was it the Mayor or City Manager?

Staff Robyn MacDonald:

- Believed it was the City Manager.

George Ragsdale:

- Stated that was not true.
- City Manager is not part of the City Council.

Curtis Mills:

- Said he thought is was the Mayor.
- Think he would be responsible for making sure the Council is professional and courteous.

George Ragsdale:

- Stated to Robyn's point, he certainly could delegate that task to the City Manager.
- The responsibility would still be there.
- Advised the Chair he would be more than happy to draft a second letter to the City Council dealing with this issue.
- Stated if the Commission did not want this, he planned to write a letter personally and privately in any event.

Chair Paul Moore:

- Would definitely support another letter.
- Said Mr. Ragsdale could draft another letter.
- Stated he shares everyone's concern.
- They have made only one request in 14 months.
- During their 14 months, there were only a few new faces on this Commission.
- This letter was a unanimously request by the Planning Commission.
- Certainly out of common courtesy if nothing else would expect a response.
- This was and still is very controversial topic for the city.
- Crabapple is foremost in the things we are doing as we look at the Comprehensive Plan.
- The letter set forth a number of things that should be considered by City Council in the assessment of their letter.
- The letter relates to a lot of those issues.

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- Even if the response is in disagreement and intend to do nothing, just a response of any type.

Curtis Mills:

- The entire nature of the letter was that the Commission believes there is an urgent problem.
- This further would indicate not just a response, but a quick response.

Chair Paul Moore:

- Took a polling of the quorum present at the meeting for those in support of a follow-up letter being written in an attempt at getting a response.
- The vote was taken and it was 5-0 and unanimous.
- Asked Mr. Ragsdale to prepare a draft letter and share with the other Commission members.

George Ragsdale:

- At their last meeting the Commission made a recommendation that the proposed changes to the overlays that dealt with the Design Review Board being given full authority be rejected.
- It was approved unanimously by the City Council.
- Stated his question had nothing to do with whether that was right or not as that is their purview.
- His question was whether any of the Planning Commission members were contacted, consulted or had any discussion with any of the City Council members prior to that decision on Monday.

Fred Edwards:

- Stated no, they had not been contacted.
- Said he had been present at that Council meeting.

George Ragsdale:

- Stated the reason he was asking is that at least for him, it is the reoccurring situation where there is no opportunity and there is no interaction where the City Council has the benefit of their discussion or thinking before they make those decisions.
- Said this had absolutely nothing to do with whether it is right or wrong.

Chair Paul Moore:

- Thought he remember one Councilmember, Julie Zahner Bailey, had reached out to him, but their calendars did not jive prior to the vote to have an opportunity to have a discussion.

George Ragsdale:

- It is not about the decision they make, but whether they are privy to what the Planning Commission discussed or how they felt, and to take that into consideration.
- Otherwise, in his opinion, this Commission is just wasting their time and there is no value in what they are doing if they are just going to make decisions independently of what this Commission does.
- There is no point in even coming here.
- It is a dress rehearsal for City Council and it does not provide any benefit.

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- This is just one issue, but it appears it is happening on every issue that comes before the Commission.
- If City Council is not having the benefit of the discussion that goes on with this Commission, then there is no point in have the Commission.

Curtis Mills:

- Asked if Mr. Ragsdale thought there should be more contact.

George Ragsdale:

- There should at least be contact or the minutes should be available to them so they have the benefit of what transpired at the meeting.
- Not suggesting they should try to influence their decision.

Fred Edwards:

- Stated the other thing that disturbed him was at the Council meeting, the Chair of the Design Review Board spoke as the Chairman representing the Design Review Board at the meeting.
- He asked for approval and the reasons it should be approved.

Staff Robyn MacDonald:

- Believed that he would have had the blessing of the rest of the DRB members to go there and speak.

Fred Edwards:

- His point is does that mean that each time we send something and we come to Council and get ready to come up in front of the public, one of us would be representing our Board to defend our position.
- Stated that did not seem appropriate or correct.
- Said he was appalled when the DRB Chair got up.
- Stated it was a bad meeting to begin with, but it went downhill after that.

Chair Paul Moore:

- Stated he agreed that there will either be a value to this Board or no value and we need to clarify what that is.
- We all are part of this board as concerned citizens and take our responsibilities seriously.
- There is time and effort taken on the part of the community that prepares and comes to these meetings.
- The citizens take these meetings seriously.
- Stated if for whatever reason the City Council does not feel this way, we need to understand why so either we can do our job better or give reason for reconsideration of the value of this board and theoretically have it dissolved.

Curtis Mills:

- Told staff they had talked about providing draft minutes at one point.
- How did that play out?

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Staff Robyn MacDonald:

- Stated no minutes were provided but she does a memo to the Council.
- Made a concerted event to make sure they understood the Planning Commission's position.
- Have not had an organized briefing meeting since the new City Manager has come.
- He believes that even though there is no quorum there, that is a pseudo meeting that is not open to the public and he is trying to come up with another way to be able to brief the Council members
- For this agenda, Staff had no idea which way the Council was going on that topic until they got to the meeting which way they were going.
- Staff usually has a good idea of what people's interests are or which way they are going by the questions.

Chair Moore Paul:

- Stated that was really immaterial whether Staff has a feeling on which way the Council is going to go.
- What is important is that the Council had the benefit of some of the decision-making and the rationale that went behind it the Commission's recommendation of our vote.
- In this particular case, it was a unanimous vote that would have changed the way their process works and the authority given to the Design Review Board.
- The Council knowing what is discussed he felt this was significant.
- To not have the benefit of any of the details of the process that the Commission went through is inappropriate.
- There have been many other controversial cases that have come before this Commission.
- If that is going to be the frame of mind of the new City Manager, then they need to sit down and talk to the City Manager to explain to him why they think their board is important to the process.

Staff Robyn MacDonald:

- She apologized and said that the minutes are available if anyone asks for them.
- She said she could make sure the minutes if they are ready can get to them, but she cannot make anyone read the minutes.

Fred Edwards:

- Stated someone read it.
- He stated he would not say which councilmember brought it up.
- They said *we do not understand what they mean by "beefing up" the Design Review Board.*

Staff Robyn MacDonald:

- Said that came from her memo.
- They read the memo and that was a phrase that was used to help communicate what was discussed at the Planning Commission meeting.
- The memo is pretty condensed.

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Chair Moore Paul:

- The Planning Commission did not object to where the DRB was going.
- We just objected to where they were at that point in preparation.
- There were more definitive standards required before the Planning Commission was willing to consider that authority.

Staff Robyn MacDonald:

- Stated she reflected that in the memo to Council.
- She said she did not know what it would be to get the Council to listen or to get the attention that the Commission wants them to get.

Jennifer Fletcher:

- Stated she just feels in a way like the Commission is ignored.
- She said it is like why are we here?
- Like the moratorium issue.
- She said we are all in this together to help the city grow, but it does not seem like everyone is coming together.
- She stated she was totally confused.

Fred Edwards:

- Should there even be a recognition that the Design Review Board Chairman would come to represent that at the meeting?

George Ragsdale:

- Said the problem that you are always going to get into is like Paul Moore can go up and say that he is the Chairman of the Planning Commission and the Commission could have had voted on something and the Commission could have empowered him to say that that was the Commission's vote.
- Once you get beyond representing that is what the vote was, then he would from that point on be expressing his own opinion.
- He said he did not care what the Design Review Board said for Terry to be able to speak.
- Should have only been able to represent that the Design Review Board were in support of that ordinance.

Chair Paul Moore:

- Any time a City Councilmember asked a question beyond that opening statement, from that point on that person would be offering their own opinion.

George Ragsdale:

- Stated there had been one committee Chairman removed because of that issue.

Chair Paul Moore:

- Need to find a way to get City Council's attention because what is happening now is not working from what he is hearing is not working for this Commission.
- Would look forward to their voice being heard in a bigger way.

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Staff Robyn MacDonald:

- Stated she could talk to Alice Wakefield and she could ask for this matter to be put on a work session.
- It is usually the second week in the month.
- The next work session would be the 14th of July.

George Ragsdale:

- Stated he would be willing to come and talk about it.

Chair Paul Moore:

- Said he would as well.

Staff Robyn MacDonald:

- Stated she did not at this time know what that agenda looks like, but she would do that.

ADJOURNMENT:

Motion and Second: George Ragsdale moved to adjourn the meeting. Fred Edwards seconded the motion. There was no further discussion. Vote: 5-0. Motion unanimously carried and meeting was adjourned.

Meeting adjourned at 7:57 pm.

Dated Approved: _____

Approved By:

Francesca Ivie
City Clerk's Office


Paul Moore, Chairman
Planning Commission

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Meeting adjourned at 7:57 pm.

Dated Approved: 9 23 08

Approved By:



Francesca Ivie
City Clerk's Office



Paul Moore, Chairman
Planning Commission