

**MINUTES FOR THE CITY OF OLIVE BRANCH BOARD OF ZONING ADJUSTMENT
REGULAR MEETING ON AUGUST 10, 2023**

The City of Olive Branch Board of Adjustment meeting was held on Thursday, August 10, 2023, in the Olive Branch Municipal Court Room, located at 6900 Highland Street, at 6:00 p.m.

CALL TO ORDER

The meeting was called to order by Ted Roman, Chairman at 6:00pm.

ROLL CALL

The roll was called with Angela Cook, William Gray, Carl Williams, Ted Roman, Jessica Cowan, and Darrel Berkley present, and a quorum was established. Aretha Wiseman was absent. Jason Gambone, Director, Venard Asongayi, Assistant Director, Jeremiah McCroskey, Associate Planner, Brad Thomas, Associate Planner, and Heather James, Planning Technician were present from the Planning and Development Department

THE APPEAL PROCESS

Mr. Roman announced the Appeal Process.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JULY 13, 2023

Mr. Roman asked if anyone had any questions, comments or motions regarding the minutes of the July 13, 2023 meeting and there were none. **Mr. Williams made a motion to approve the minutes as submitted and was seconded by Mrs. Cook with approval as follows:**

**Jessica Cowan – Yes William Gray – Yes Aretha Wiseman – Absent
Ted Roman – Yes Angela Cook – Yes Darrel Berkley – Yes Carl Williams – Yes**

OLD BUSINESS

NEW BUSINESS

1. Application for a Conditional Use Permit submitted by Brad Noble, Noble Storage, on behalf of property owner, Olive Branch Manufacturing Company Inc. The request is to allow a mini-storage facility. The subject property is zoned C-2, Highway Commercial District, and is located just east of the intersection of Chateau Dr. and French Fort Dr. and runs along Hwy 78. (File# CU23-0011).

Mr. Roman announced New Business Item Number 1 and asked for the staff report. Mr. Thomas shared the following: **BACKGROUND:** Brad Noble, Noble Storage, on behalf of property owner, Olive Branch Manufacturing Company Inc requests a Conditional Use Permit (CUP) to construct Noble Storage which comprises of two mini-storage facilities and one, 90,000 sq.ft drive-up storage unit building. The subject site is currently vacant. The applicant has submitted a separate subdivision plat application to the Planning Commission for consideration and for subsequent approval by the Board of Aldermen. The plat shows two lots: Lot 1 and Lot 2. The proposed storage facility would be located on Lot 1, while Lot 2 has no plans for being developed at this time. The conceptual site plan shows (3) separate storage buildings: Building A, Building B, and Building C. Building A (the main facility) will be three stories with a height of 35'-10", while the other two buildings will one story. In addition to storage units that are only accessible from the inside, Buildings A and B will have garage doors for those wishing to access their storage units by driving up to them. **RECOMMENDED MOTION:** Based on the Board of Adjustment's finding that requirements have been met, approve a Conditional Use Permit for the Noble Storage mini-storage facility along Chateau Dr., for a duration of twenty (20) years, with "Building A" no more than 35'-10" in height, subject to the following conditions:

1. The Board waives the 50' front yard setback requirement for a portion of the perimeter fence along HWY 78.
2. All RTU's shall be screened and hidden from view via parapet walls.
3. The perimeter fence surrounding the stormwater management facility shall be constructed of black wrought iron.
4. The development is permitted to have one (1) sign and shall comply with all other applicable requirements of the Sign Ordinance.
5. Exterior building materials that are prohibited, when visible from the abutting roadway or adjacent residential development, include: metal siding; vinyl siding; and unpainted concrete block.
6. In conformity with the predominant façade material of buildings in the surroundings, a minimum of 70% of every exterior building wall, excluding glass that is visible from a public right-of-way or an abutting residential development, shall be comprised from the following materials: brick or stone. Hard-coat stucco, colored split-faced block, pre-cast concrete, or synthetic stucco (EIFS) above 8ft from the ground may also be utilized, in an amount not to exceed 25%. Painted smooth-faced concrete block may be utilized, in an amount not to exceed 5%.
7. A complete set of civil engineering, updated renderings, and architectural plans that comply with the Design Regulations within the Code of Ordinances shall be submitted to the Development Services and Engineering Departments, addressing all such matters as ingress and egress, lighting, landscaping, pedestrian and vehicular circulation, architectural design, stormwater management, and other pertinent issues for administrative review and approval.

This concluded the staff report. Mr. Roman asked if there were any questions for staff. Ms. Cowan asked about the 70% brick or stone requirement and asked if the pictures presented showed the original version or the updated version that met that standard. Mr. Thomas advised it was the original plan. She asked if the sign requirement was standard and mentioned the hospital signs. Mr. Thomas advised the hospital is a different use and has a different sign requirement. Mr. Roman asked if there was anyone that monitors the number of businesses of one type. Mr. Thomas advised that is driven by the market and staff has no control over that. Mr. Asongayi stated that decisions are not based on and cannot include market based factors. The city would have to change the zoning districts and limit the uses. That would entail a zoning action by the Planning Commission and Board of Aldermen. That is not a criteria for determination. He stated this Board could petition the Board of Aldermen to add a justify a public need condition for the Board of Zoning Adjustments to consider for approval. Mr. Roman asked if there was anyone to represent the application and recognized David White, Civilogistix, 500 Sun Valley, Ste 83, Roswell, GA 30076. He stated he wanted to address a few points. He wanted to request 1 sign plus a monument sign. He also wanted to ask if the wrought iron fence around the pond could be replaced by aluminum that was made to look like wrought iron, as that would require less maintenance. He stated that it was expensive to increase the brick to 70%, but the would comply. He said the 20 year time limit creates hardships for business and limits or prevents funding. He said he understood that it could be renewed, but there are no guarantees in the future. They are asking for an unlimited time frame and said they cannot move forward with 20 years. Mr. Williams stated 20 years is a standard practice and it is usually past the break-even point for businesses. No one knows what the future holds, the board included. Mr. Roman stated it's not automatically revoked after 20 years. Mr. Thomas stated there was no set timeframe listed, but it cannot be unending. There must be a limit stipulated. The board can approve whatever time frame they feel they should. Ms. Cowan asked if their main concern was that they needed to return in 20 years. Mr. White advised the concern is for future investment problems since there is no guarantee. Ms. Cowan asked how long Noble Storage had been in business and they advised 7 years, with locations from Florida to Arizona. Mr. Gambone offered a suggestion of matching the timeframe of the Conditional Use Permit to the term of the financing. Extensions can be granted anywhere throughout the term, not necessarily at the end of the term. Mr. White asked if it can be approved for as long as the business remains in good standing with a reasonable expectation of approval by advisory

comment. Staff advised that Mississippi state law requires a time limit. The finance term is currently unknown.

Mr. Williams stated that these Permits need to be re-evaluated and that, most of the time, the renewals are granted without a lot of detail. Mr. Gambone stated they could write into the motion for renewals that would be expected to be granted. Mr. Williams stated they can go to 30 years and add language that if there are no annoyances, or problems, there is a reasonable expectation to be renewed in additional intervals. Mr. White stated he wanted to discuss with the client's attorney before anything is decided. There was a suggestion to table until the next month. Mr. Asongayi stated it can be tabled for 1 month while the applicant gets the funding situated. The owner, Brad Noble, Noble Storage, 780 Johnson Perry Rd, Ste 650, Atlanta, GA 30342, would like to table this item. Ms. Cowan asked if they were looking to sell this. They advised not necessarily. Mr. Noble asked how long until the extension can be applied for and what scenario would be a reason for a denial or renewal. He wants to know if there could be a scenario where they remain in compliance and still are denied a future renewal. Staff advised there shouldn't be. That's not an issue that has come up and that usually reason for denial is very egregious. Mr. Noble asked if this could be tabled. Mr. Roman stated that would give the applicant time to bring a new rendering with new materials. Mr. Roman asked if there was anyone in opposition of this application and recognized Linda McInvale, 10850 French Fort Dr. She stated she lives 1 mile from this location and for the last few years this has been empty. She asked if there was a need for another storage location. She asked about the land on the other lot and what would that be in the future. Could that potentially be another storage facility. She wanted to know what the stormwater detention for and what its purpose was. She said vandals burned down the last storage company and asked who makes sure that people don't store hazardous materials there. Staff advised that the detention area is to create drainage to ensure the neighboring properties don't flood. Mr. Roman asked if there was anyone else to speak against the application and there was no one. Mr. Roman asked if there was any discussion among the Board members. **Mr. Williams made a motion to table the application until the next meeting. Mr. Berkley made the second and the motion to table was approved as follows:**

Jessica Cowan – Yes William Gray – Yes Aretha Wiseman – Absent
Ted Roman – Yes Angela Cook – Yes Darrel Berkley – Yes Carl Williams – Yes

2. Application for an amendment to an existing Conditional Use Permit, requesting to extend the approved period of use of the temporary Polar Pod (cold storage) by 6 weeks and shift the timeframe of use to between November 13th until May 13th. The property is located on the north side of Goodman Rd #, west of Southbranch Pkwy, within the Wedgewood Commons Commercial Development, known as 5338 Goodman Rd #, Ste. 127. (File #CU20-0012).

Mr. Roman announced New Business Item Number 2 and asked for the staff report. Mr. Thomas shared the following: **BACKGROUND:** The subject property is Suite 127 located on Lot 7 of Wedgewood Commons, directly west of Pyro's pizza kitchen. It is zoned C-4, Planned Commercial. On October 8, 2020, the Board of (Zoning) Adjustment granted a conditional use permit (CUP) for Nothing Bundt Cakes to use a temporary 8'X20' Polar Pod seasonally (October 23rd to December 22nd annually as was requested by applicant), as cold storage over a period of ten (10) years. On August 10, 2023, the Board of Zoning Adjustment approved a revision to the original CUP, where the dates of operation for the Polar Pod were changed from October 23rd - December 22nd to August 13th - December 31st annually. The applicant, Suzanne Sossaman, SCD #1 LLC, seeks the revision of the August 13th to December 31st timeframe to November 13th to May 13th annually. In a phone conversation with the applicant, the request is intended to permit the use of the pod to "coordinate with peak busy seasons." The current operation dates of August 13th–December 31st no longer align with the business's most intensive periods of operation. **RECOMMENDED MOTION:** Approve the amendment to the existing Conditional Use Permit to extend the approved period of use of the temporary Polar Pod (cold storage) by 6 weeks and shift the timeframe of use to between the dates of November 13th until May 13th; and this Conditional Use Permit for Nothing Bundt Cakes, located at 5338 Goodman Rd. Ste 127, shall expire on November 12, 2030.

This concluded the staff report. Mr. Roman asked if there were any questions for staff. Ms. Cowan asked if there were any issues with neighboring businesses. There have been none. and there were none. Mr. Roman asked if there was anyone to represent the application and recognized Todd Milzarek, 3224 Cheval Dr, Memphis, TN. He stated that they were just wanting to narrow this down to a single time frame to encompass their busiest times. He advised there were no complaints or issues from neighbors. Ms. Cowan asked if the neighbors were aware of the changes in the past. He was not aware, but stated that the owner has approved this request. Mr. Asongayi advised if there is a timeframe where a temporary timeframe is no longer considered temporary, but becomes permanent. Mr. Gambone stated he was not aware of one. This is in the back of the shopping center and is small and doesn't cause problems. He offered a suggestion that at the time of the next renewal, they may want to consider a permanent addition to building instead. Mr. Roman asked if there was anyone to speak against the application and there was no one. Mr. Roman asked if there was any discussion among the Board members. **Mr. Gray made a motion to approve the amendment to the existing Conditional Use Permit to extend the approved period of use of the temporary Polar Pod (cold storage) by 6 weeks and shift the timeframe of use to between the dates of November 13th until May 13th; and this Conditional Use Permit for Nothing Bundt Cakes, located at 5338 Goodman Rd. Ste 127, shall expire on November 12, 2030. Mrs. Cook made the second and the motion was approved as follows:**

Jessica Cowan – Yes William Gray – Yes Aretha Wiseman – Absent
Ted Roman – Yes Angela Cook – Yes Darrel Berkley – Yes Carl Williams – Yes

3. Application for a Conditional Use Permit submitted by Vita Hankins, VLFreight Maintenance & Repair, on behalf of RM Properties, LLC, property owner. The request is to allow a diesel maintenance and repair shop. The 1.08+/- acre subject property is zoned C-2, Highway Commercial, and is located just east of the intersection of Ross Rd and W Sandidge Rd, known as 8060 W Sandidge Rd (File # CU23-0012).

Mr. Roman announced New Business Item Number 3 and asked for the staff report. Mr. McCroskey advised there was a minor correction to one of the conditions to eliminate unnecessary wording. He shared the following: **BACKGROUND:** Vita Hankins, VL Freight Maintenance & Repair the applicant and property owner RM Properties LLC, is requesting approval of a conditional use permit allowing operation of a 10 year comprehensive motor vehicle repair and service facility located at 8060 W. Sandidge Rd. VL Freight Maintenance & Repair will be providing comprehensive truck repairs. The subject property is currently zoned "C-2," Highway Commercial District. **RECOMMENDED MOTION:** Based on the following criteria, Staff recommends the Board approve the Conditional Use Permit for the diesel maintenance and repair shop at 8060 W Sandidge Rd. within Olive Branch, MS for ten (10) years subject to the following conditions:

1. All site improvements shall be the responsibility of the developer, and not the City of Olive Branch.
2. Any areas on the property used for the parking, storage, or where vehicles shall be driven on must be paved.
3. Any signage shall meet the requirements of the Sign Ordinance of the City of Olive Branch. Off-premise advertising is not permitted. Ground mounted signs shall be monument style with a maximum height of 12'.
4. Applicant shall provide evidence, and planning staff shall verify that there shall be sufficient number of parking spaces that meet the minimum requirements stipulated in the Zoning Ordinance before a certificate of occupancy may be issued.
5. Before occupying the building, any existing utilities shall be verified by the Building Official and Fire Marshall and shall comply with the Building and Fire Codes of the City of Olive Branch. Such compliance must be maintained at all times.

This concluded the staff report. Mr. Roman asked if there were any questions for staff. Ms. Cowan asked about the Future Land Use Map and the zoning. In 2040 it will be changed to Neighborhood Commercial. Mr. Roman asked what the facility was used for previously. Mr. McCroskey advised that it was a junkyard, but had been significantly cleaned up. There was no site plan, because the clean up plan included that. Mr. Gambone advised that the Comp Plan is still a future plan and this area encompasses a little of everything. It's an area of transition. Mr. Roman asked if there was anyone to represent the application and recognized Vita Hankins, 8060 W Sandidge Rd, Olive Branch, MS and she had nothing to add. Ms. Cowan asked if she would be coming back in 10 years to renew the Permit and Ms. Hankins advised she would be. Mr. Roman asked if there was anyone else for or against the application and there was no one. Mr. Roman asked if there was any discussion among the board members. **Mr. Berkley made a motion, based on the following criteria, to approve the Conditional Use Permit for the diesel maintenance and repair shop at 8060 W Sandidge Rd. within Olive Branch, MS for ten (10) years subject to the following conditions:**

- 1. All site improvements shall be the responsibility of the developer, and not the City of Olive Branch.**
- 2. Any areas on the property used for the parking, storage, or where vehicles shall be driven on must be paved.**
- 3. Any signage shall meet the requirements of the Sign Ordinance of the City of Olive Branch. Off-premise advertising is not permitted. Ground mounted signs shall be monument style with a maximum height of 12'.**
- 4. Applicant shall provide evidence, and planning staff shall verify that there shall be sufficient number of parking spaces that meet the minimum requirements stipulated in the Zoning Ordinance before a certificate of occupancy may be issued.**
- 5. Before occupying the building, any existing utilities shall be verified by the Building Official and Fire Marshall and shall comply with the Building and Fire Codes of the City of Olive Branch. Such compliance must be maintained at all times.**

Mr. Gray made the second and the motion was approved as follows:

**Jessica Cowan – Yes William Gray – Yes Aretha Wiseman – Absent
Ted Roman – Yes Angela Cook – Yes Darrel Berkley – Yes Carl Williams – Yes**

OTHER BUSINESS

Mr. Asongayi advised the Board members that he is working on updating the current Zoning Ordinance and will eventually merge it along with Design Review standards and Subdivision Regulations into a Unified Land Development Code. He advised if the Board members have any suggestions or issues to be addressed, we can take that to the Planning Commission for review. There will be Public working sessions scheduled for the Planning Commission meetings in September and October.

ADJOURNMENT

Mr. Roman stated there being no further business, could he entertain a motion to adjourn. Mr. Williams made a motion to adjourn, seconded by Ms. Cowan and the motion to adjourn the meeting at 7:30 p.m. was approved as follows:

**Jessica Cowan – Yes William Gray – Yes Aretha Wiseman – Absent
Ted Roman – Yes Angela Cook – Yes Darrel Berkley – Yes Carl Williams – Yes**