

**MINUTES FOR THE CITY OF OLIVE BRANCH BOARD OF ZONING ADJUSTMENT  
REGULAR MEETING ON SEPTEMBER 14, 2023**

The City of Olive Branch Board of Adjustment meeting was held on Thursday, September 14, 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 6:15pm.

**ROLL CALL**

The roll was called with Angela Cook, William Gray, Carl Williams, Ted Roman, Jessica Cowan, Aretha Wiseman, and Darrel Berkley present, and a quorum was established. 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 AUGUST 10, 2023**

Mr. Roman asked if anyone had any questions, comments or motions regarding the minutes of the August 10, 2023 meeting and there were none. **Mr. Williams made a motion to approve the minutes as submitted and was seconded by Mr. Gray with approval as follows:**

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

**OLD 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). (Withdrawn by Applicant)

Mr. Roman announced Old Business Number 1 and noted that it had been withdrawn by the applicant.

**NEW BUSINESS**

1. Application to renew an existing Conditional Use Permit, submitted by Ashley Masuda, SBA Properties, LLC, on behalf of property owner Ronnie Hopkins. The request is to extend the Conditional Use Permit for a Wireless Communications Facility for a period of 25 years. The 1.69+/- acre subject property is zoned C-2, Highway Commercial District, and is located on the east side of Craft-Goodman Frontage Rd, south of Dixie Dr., and known as 7380 Craft-Goodman Frontage Rd. (File # CU23-0013).

Mr. Roman announced New Business Number 1 and asked for the staff report. Mr. Thomas shared the following: **BACKGROUND:** Wireless Communications Facilities in the C-2, Highway Commercial zoning district require a Conditional Use Permit (CUP). The permit was originally approved by the BZA at their regularly scheduled meeting on August 6, 1998 for twenty-five (25) years. Given that the 1998 CUP expired on August 6 of this year, Ashley Masuda, SBA Properties, LLC, on behalf

of property owner Ronnie Hopkins, are seeking to extend their permit for an additional twenty five (25) years. There have been no records indicating any problems with the facilities within the past twenty-five years. **RECOMMENDED MOTION:** Grant the requested Conditional Use Permit renewal to allow an existing Wireless Communication Facility located at 7380 Craft-Goodman Frontage Rd. for an additional twenty five (25) year period. Valid till Monday, September 14, 2048.

This concluded the staff report. Mr. Roman asked if there were any questions for staff and there were none. Mr. Roman asked if there was anyone to represent the application and there was no one. Mr. Thomas advised the applicant was located in Florida, but they could be reached if they were needed. 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. Williams made a motion to approve the requested Conditional Use Permit renewal to allow an existing Wireless Communication Facility located at 7380 Craft-Goodman Frontage Rd. for an additional twenty-five (25) year period. Valid till Monday, September 14, 2048. Mrs. Cook made the second and the motion was approved as follows:**

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

2. A revised application for a Conditional Use Permit, submitted by David Waddle, Signature Tops, on behalf of Moafk Alsid, property owner. The request is to allow a Granite Cutting Shop to be installed at this site. The 3.08+/- acre subject property is zoned C-2, Highway Commercial District, and is located on the west side of Bethel Rd, south of Chateau Dr., known as 4411 Bethel Rd. (File CU23-0014).

Mr. Roman announced New Business Number 2 and asked for the staff report. Mr. Thomas shared the following: **EXECUTIVE SUMMARY:** David Waddle, Signature Tops, on behalf of Moafk Alsid, property owner, request to allow a Granite Cutting Shop at the 3.08 acres of land on the west side of Bethel Rd, south of Chateau Dr, known as 4411 Bethel Rd. The property is zoned C-2, Highway Commercial, and is designated "Neighborhood Commercial" on to the Future Land Use Map. The surrounding parcel to the north, east, and west are consistent in FLUM and zoning designation with the subject property. The Board of Adjustment denied this request in a separate application at their July 13, 2023 meeting due to the incompatibility of the proposed use with the character of the area, increased danger of excessive noise levels by the granite cutting machine, the driveway to site being at a dysfunctional area of the Chateau Dr. and Bethel Dr. intersection that raises a safety concerns, and inconsistency with the Comprehensive Plan. The applicant has addressed these issues in a new application. Staff recommends approval of the application based on multiple conditions. An alternative motion is also provided for the Board's consideration. **RECOMMENDED MOTION:** Based on the above analytical criteria, the Board of (Zoning) Adjustment approve the Conditional Use Permit for a Granite Cutting Shop for two (2) years at 4411 Bethel Rd. upon finding that:

1. All site improvements shall be the responsibility of the developer, and not the City of Olive Branch.
2. The stone cutting machine shall only be operated between the hours of 8:00 am and 5:00 pm.
3. Any areas on the property used for the parking, storage, or where vehicles shall be driven on must be paved.
4. All outdoor storage must be concealed from view via a 6' in height opaque fence. Wood is not an appropriate material.
5. 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'.
6. 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.
7. 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.

8. Relocate driveway at least 75' northward on Chateau Dr. within two years.

**ALTERNATIVE MOTION:** deny the request based on the following:

1. The proposed use is commercial-light industrial in character, which is not compatible with surrounding single-family residential living;
2. Ambiguous noise levels from the proposed use may exceed comfort levels in the surrounding single family residential uses, even with the proposed soundproofing curtains and additional landscape buffer.
3. The Comprehensive Plan 2040 designates the property for "Neighborhood Commercial" development, which the proposed use is inconsistent with; and
4. Incongruence between the granite cutting shop and surrounding single-family residential uses may decrease the value of the residential properties.

This concluded the staff report. Mr. Roman asked if there were any questions for staff. Mr. Roman advised he had a question for staff regarding moving the driveway within two years. He asked if there was anything that prevented the applicant from doing that now. Mr. Thomas advised that was to allow him time to make sure all of the legal requirements were met regarding easements, etc. Ms. Wiseman asked if the hours listed were only Monday-Friday, or if that would include weekends. Mr. Thomas advised he would defer to the applicant for that answer. Mr. Roman stated concern that if this use doesn't necessarily fit within the 2040 Comprehensive Plan and it is approved, if that would open the doors for similar applications to be presented under similar circumstances. Mr. Thomas advised they would always be on a case by case basis and would be presented to the board for the application to be weighed by its own merits. Mr. Roman stated he was concerned for the reason for approval, but also said the improvements the applicant planned on making does make it fit within the future designation better. He's just concerned about setting a precedent. Mr. Asongayi stated the Comp Plan establishes a vision for the future, but allows for some margins. Ms. Cowan asked if they could amend the recommendation to include a sound check to test the noise levels. Mr. Thomas advised they could make that a condition. However, even if this is approved without that condition, if the neighbors feel that the business is too loud, it can be checked by the Police Department based on a noise complaint. Mr. Roman asked if there was anyone to represent the application and recognized Anthony Stanton, 4779 Hwy 349 S, Potts Camp, MS 38659 and Jason Gray, 4330 Hwy 349 S, Potts Camp, MS 38659. Mr. Gray advised that the sound is more of a buzz than a loud sound. He stated that a hair dryer is rated at 80 decibels. This would be no louder than that. Additionally, this would be inside the building with the noise curtain, not out in an open field. Mr. Gray stated it seemed as if the overall concern was the sound level. He advised that shouldn't be a concern. The proposed updates will drastically improve the current conditions of the property and the reality is there would only be maybe 2-3 customers coming in daily. There won't be a steady stream all day long. Mr. Roman asked if there were any questions for this applicant. Mr. Williams stated that he understood the dust would be kept down with water, but what about sand debris? Will that move into the septic system? Mr. Gray advised they had a sock pipe that will catch all solid particles and would be filtered. Nothing would make it into the drains. Ms. Cowan stated her concern is the zoning issue and setting a precedent to allow industrial type businesses in commercial areas. Mr. Stanton advised that the changes to be made will make the surrounding neighborhood happier. Mr. Asongayi advised the site plan would have 2 driveways. He advised the northern building would be bricked and the other building would be for storage but will have doors added. Ms. Cowan asked if they were only improving 1 building. The applicant advised that they would improve both; bricking one building and repair and painting the other. Mrs. Cook advised the cosmetic improvements will be great and she appreciates the changes the applicant is willing to make for this. Ms. Wiseman wanted to confirm the hours as most of the surrounding residents might be at work during the day and during the week, but that more people would be in the area on the weekends. She wants to know if the area would be disturbed by the noise over the weekend. The applicant advised they would not be working weekends. Mr. Roman asked if there was anyone else for or against the application and recognized Keith Allen, 3385 Bethel Rd, Olive Branch, MS 38654. He advised he owns the adjacent property and states these improvements would be good for his property

as well. Mr. Roman asked if there were any current plans for developing the rest of the surrounding property. Mr. Allen advised nothing was currently planned. Mr. Roman asked if the driveway would be shared or will be dedicated to the property. The applicant advised any new development would be a new plan with new placement of access. Ms. Cowan asked the owner to take into consideration the comments from the Board regarding future development of this area. Mr. Roman asked if there was any discussion among the board members. Mr. Williams advised it was an unusual time frame, just for two years, but he understood it was to match the driveway condition. Mr. Roman asked if the Board wanted to include the condition regarding the noise testing. Mr. Williams stated that should remain a Police Department issue. **Mr. Berkley made a motion to approve the Conditional Use Permit for a Granite Cutting Shop for two (2) years at 4411 Bethel Rd. upon finding that:**

1. All site improvements shall be the responsibility of the developer, and not the City of Olive Branch.
2. The stone cutting machine shall only be operated between the hours of 8:00 am and 5:00 pm.
3. Any areas on the property used for the parking, storage, or where vehicles shall be driven on must be paved.
4. All outdoor storage must be concealed from view via a 6' in height opaque fence. Wood is not an appropriate material.
5. 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'.
6. 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.
7. 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.
8. Relocate driveway at least 75' northward on Chateau Dr. within two years.

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

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

3. Application for a Conditional Use Permit submitted by Anthony Parish, AnSCO & Associates, LLC on behalf of AT&T Kentucky. The request is to allow a small cell tower, 27' in height, to be installed in the public right-of-way. It is proposed to be located on the south side of Highland Street, just west of Hwy 178. (File # CU23-0015)

Mr. Roman announced New Business Number 3 and asked for the staff report. Mr. McCroskey shared the following: **BACKGROUND:** On April 16, 2019, the Board of Aldermen adopted an ordinance regulating “small cell” facilities, which are being utilized across the country in more urbanized areas to expand capacity and coverage for mobile data networks. In some cases, small cell antenna can be attached to existing support structures, such as a streetlight or on the rooftop of a commercial building. But for a new support structure to be built, the City’s regulations require issuance of a Conditional Use Permit (CUP) by the Board of (Zoning) Adjustment (BZA).

**RECOMMENDED MOTION:** Based on the findings that the request meets the four (4) criteria of the City’s adopted regulations for small cell technology facilities and its design guidelines, and that the six (6) standard criteria have also been adequately addressed, **approve** the CUP to allow a small cell pole to be installed in the public right-of-way at the southeastern corner of Goodman Rd. and HWY 78 intersection, subject to the following conditions:

1. Provide additional written evidence in accordance with the City’s small cell ordinance requirements demonstrating that no reasonable collocation opportunity exists. This

includes providing information on all facilities of the applicant within 1000 ft. of those being proposed.

This concluded the staff report. Mr. Roman asked if there were any questions for staff. Mr. Roman asked what the length of the request. Staff advised that was not addressed. Mrs. Cook asked if there was a standard distance between the corner of an intersection to the small cell tower or the distance between the tower and the actual street. Mr. McCroskey advised that was a Public Works issue. Mr. Asongayi stated that the tower cannot be placed in the state right-of-way. Generally, there is no minimum distance, just within the public right-of-way. Mr. Berkley pointed out that political signs have to be at least 10 feet from the curb. Ms. Cowan asked if this was the only viable location in this area. She stated that it detracts from the view of City Hall and the Municipal Courthouse. Mr. Asongayi stated that previous applications have advised there are clearance issues with utility lines and utility poles. Ms. Cowan stated if the City were to build a sidewalk, this would be in the way. Mr. Roman asked if there was anyone to represent the application and recognized Randy Kilgore, AnSCO & Associates, 515 Bigland Ct, Alpharetta, GA 30022. Mr. Roman asked if there were any questions for the applicant. Ms. Cowan stated the location was a concern for her. Mr. Kilgore advised they had originally asking for the location to be along Hwy 178, but they did not get approval from MDOT for that. They thought to blend with the existing poles on the other side of Highland, but they were asked to move the location. They have some leeway to shift to a small degree, for instance, to place this at the back edge of the right-of-way. Ms. Cowan advised this was an unusual intersection where 3 roads come together. Mr. Asongayi advised the Board needs to specify a location. He stated that a previous application from the same company mentioned a 10 foot clearance from power poles, but one was just installed in Southaven that did not meet that constraint. He asked what the difference would be and how that was approved. Mr. Kilgore advised he was not familiar with that location or project, but it's possible that it wasn't AT&T. Ms. Cowan wants the applicant to check on that. Mr. Kilgore advised the 10 feet clearance is a safety issue, not because of any signal issue. He stated they had designated possible location on either side of the street for placement. Mr. Roman asked how large of an area would this serve. Mr. Kilgore advised it was estimated to have a 600-700 foot range. Ms. Cowan wants to table this application until the applicant gets a better location. Mr. Williams stated they might not want to hold the application up for this, and he believes that staff will ensure this will be placed in the best location with Public Works involvement. He did state he wanted to see it on the Courthouse side of the street, if possible. Mr. Asongayi advised that the Board must specify a location for approval and the Board can determine a period of approval, at their discretion. Mr. Gray stated that could be recommended in their motion and that 25 years was normal. Mr. Williams stated he wasn't sure the technology would still be viable in 25 years. He recommends requiring location on the Courthouse side of street and to miss the power lines. Mr. Asongayi suggested language of "at least 10 feet from the existing poles, but no further than 15 feet from the power pole on the south side. He also advised there will be an annual fee for right-of-way use. Mr. Kilgore advised that large cell towers are the backbones of cellular coverage and these small towers would just help to boost those signals and would be around for years. 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. **Ms. Cowan made a motion to approve the CUP to allow a small cell pole to be installed in the public right-of-way at the southeastern corner of Goodman Rd. and HWY 78 intersection, subject to the following conditions:**

- 1. Provide additional written evidence in accordance with the City's small cell ordinance requirements demonstrating that no reasonable collocation exists. This includes providing information on all facilities of the applicant within 1000 ft. of those being proposed.**
- 2. Move the location to the south side of the street, at least 10 feet from the power poles, but no more than 15 feet, for a period of twenty-five years.**

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

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

## **OTHER BUSINESS**

Ms. Cowan asked what the deadline was to provide comments on the proposed Zoning Updates.  
Mr. Asongayi advised the October meeting would be when he would need them.

## **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 Mr. Gray and the motion to adjourn  
the meeting at 7:47 p.m. was approved as follows:**

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