

**APPROVED MINUTES OF THE MEETING OF
THE PLANNING AND ZONING COMMISSION
CITY OF STARKVILLE, MISSISSIPPI DECEMBER 13, 2022**

Be it remembered that the members of the Planning and Zoning Commission of the City of Starkville held a meeting on December 13, 2022, at 5:30 p.m. in the Courtroom of City Hall, located at 110 West Main Street, Starkville, MS.

There being physically present at the meeting were Chairman Jeremiah Dumas, Ward 6, Kim Moreland, Ward 1, Vicki West, Ward 2, Carl Smith, Ward 4, and Alexis Gregory, Ward 5. Joining virtually VIA the Google Meets platform was Kelly Prather, Ward 3. Absent from the meeting was Tommy Verdell Jr., Ward 7. Physically present attending the Commissioners were City Planner Daniel Havelin, Assistant City Planner Lyle McCaskey, and City Attorney Chris Latimer.

Chairman Dumas opened the meeting with the Pledge of Allegiance followed by a moment of silence.

IV. CONSIDERATION OF THE OFFICIAL AGENDA

There came for consideration the matter of the approval of the Official Agenda of the Planning and Zoning Commission of December 13, 2022, as presented.

**OFFICIAL AGENDA
PLANNING & ZONING COMMISSION
CITY OF STARKVILLE, MISSISSIPPI
MEETING OF TUESDAY DECEMBER 13, 2022
1ST FLOOR CITY HALL – COURTROOM
110 WEST MAIN STREET AT 5:30 PM**

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE
- III. ROLL CALL
- IV. CONSIDERATION OF THE OFFICIAL AGENDA
- V. CONSIDERATION FOR THE APPROVAL OF MINUTES
 - A. CONSIDERATION OF THE UNAPPROVED MINUTES OF NOVEMBER 8, 2022
- VI. CITIZEN COMMENTS
- VII. NEW BUSINESS
 - A. DISCUSSION AND CONSIDERATION OF AA 22-02 A REQUEST FOR AN ADMINISTRATIVE APPEAL OF THE DECISION TO DENY THE USE OF A HOME OCCUPATION FOR 400 GREENSBORO STREET.
- VIII. ADJOURN

After discussion and upon the motion of Commissioner Gregory, duly seconded by Commissioner West, the motion to approve the official agenda of the Planning and Zoning Commission for December 13, 2022, received unanimous approval.

V. CONSIDERATION FOR THE APPROVAL OF MINUTES

A. CONSIDERATION OF THE UNAPPROVED MINUTES OF NOVEMBER 8, 2022

After discussion and upon the motion of Commissioner Gregory, duly seconded by Commissioner Moreland, the motion to approve the minutes of the Planning and Zoning Commission for November 8, 2022, with revisions received unanimous approval.

A MOTION TO ENTER INTO A CLOSED SESSION TO DETERMINE IF THERE IS PROPER CAUSE FOR AN EXECUTIVE SESSION.

There came for consideration of the matter of entering a closed session to determine if there is a proper cause for an executive session. Upon the motion of Commissioner Smith, duly seconded by Commissioner Moreland, the motion to enter into a Closed Session was unanimously approved. At this time, the Commission entered into Closed Session.

A MOTION TO ENTER INTO AN EXECUTIVE SESSION.

Upon the motion of Commissioner Smith, duly seconded by Commissioner Gregory, the motion to enter into an Executive Session was unanimously approved.

The City Attorney invited the public back in, and after allowing the public time to enter the room, made the announcement of the Commission's decision to enter into an Executive Session for the purpose of discussing possible litigation. At this time, the Commission entered Executive Session.

A MOTION TO RETURN TO OPEN SESSION.

Upon the motion of Commissioner Smith, duly seconded by Commissioner Gregory, the motion to return to open session was unanimously approved.

VI. CITIZEN COMMENTS

The Chair opened up the meeting for citizen comments.

Jeremy Murdoch came forward to speak in opposition to AA 22-02 an Administrative Appeal of the decision to deny the use of a Home Occupation for 400 Greensboro Street

Calling for and receiving no comments, the Commission moved to New Business.

VII. NEW BUSINESS

A. DISCUSSION AND CONSIDERATION OF AA 22-02 A REQUEST FOR AN ADMINISTRATIVE APPEAL OF THE DECISION TO DENY THE USE OF A HOME OCCUPATION FOR 400 GREENSBORO STREET.

Chairman Dumas introduced the request, set the order of the presentations, and establish time limits for the presentations. The Applicant and/or the Applicant's representative will present first. The City Planner will present second. Fifteen minutes were allotted to both the applicant and the City Planner. The Applicant had the option to reserve time for rebuttal after the City Planner's presentation.

The Applicant's attorney William Starks presented on behalf of the Applicant in favor of the request. Mr. Starks concluded his presentation and reserved three minutes for rebuttal.

The City Planner began the presentation by reading the following statement and submitting it for the record to be recorded into the minutes.

Presentation Comments by Daniel Havelin to the Planning and Zoning Commission on December 13, 2022

I am not going to go back through the timeline in detail as shown in the staff report. Instead, I am going to focus on the process of approval and denial and my role as the City Planner.

The first email contact about the proposed use at the property was on July 1st. I received that email while on vacation and did not flag the email to read later or respond to the email. Ms. Arnett did refer to the use as a second home with office space on the second floor in that email.

I received the second email on July 28th. Ms. Arnett referred to the use as residential usage on first floor and private office space on the second floor. In that email Ms. Arnett referred to the property as "the home" several times.

Therefore, in my response, I mistakenly assumed that Ms. Arnett would be living in the home and working out of a home office on the second floor. Under that assumption, I recommended applying for a home occupancy and not a use exception.

I emailed Ms. Arnett on August 2nd with that decision and included the requirements of a home occupation. At this point, Ms. Arnett had all the requirements for a home occupation to review and see if her proposed use met those requirements. Ms. Arnett responded back to that email and stated she would submit an application.

She did submit an application, and, on that application, she did check the box "yes" that she had read the requirements for a home occupation in section 13.5.9. In fact, on the back of the application

all the requirements for a home occupancy were, again listed. Ms. Arnett willfully and blindly ignored those requirements.

Once I became aware through phone calls and in person conversations that the only use of the property is a real estate office, I emailed Ms. Arnett. In that email, I cited the definition of home occupancy and informed her she would need to apply for Use Exception to operate at that location.

On August 24th, the application's status was changed to "denied" in MyGov.

Ms. Arnett did eventually apply for a Use Exception on August 26th. That application was pulled by the applicant a few hours before it could be reviewed by the Board of Aldermen on October 18th.

Before the Use Exception was reviewed by the Planning and Zoning Commission, Ms. Arnett again applied for a Home Occupancy for 400 Greensboro. Again, it was denied based on the criteria for a home occupancy in Section 13.5.9.

I know that there is a lot being said about the definition of the word "reside" as used in the definition of a Home Occupation. The Unified Development Code, if printed out, is over 400 pages long. It would be impractical to include every term used in the UDC in the definition section. A lot of terms are plain meaning or common knowledge.

Therefore, when I wrote the code, a provision was included for the interpretation of words. In that provision it lists several resources that "may" be used to define a word. The key word is "may". Ultimately, I have the authority, as the City Planner, to define the word in the context it is being used. In this context it is being used to discuss a home office in a residential structure in a residential zoning district.

The "Home Occupation" use is listed under "Residential Uses" in section 13 of the UDC. Not under "Commercial Uses". "Office Professional" is however listed under "Commercial Uses". There is a provision to allow for "Office Professional" use in that zoning district. That provision is the Use Exception process which was started and stopped by the applicants.

Per the definition, a home occupancy is supposed to be clearly incidental and secondary to the use of the residential dwelling, which does not change the character of the dwelling or neighborhood, and which brings little additional traffic and few visitors to the premise.

Therefore, in my professional opinion not only as the City Planner, but as the author of the Unified Development Code, I strongly recommend denying this request to appeal my decision to deny the request for a home occupancy at 400 Greensboro based on the requirements of section 13.5.9. Otherwise, this will be a complete end-around on our zoning regulations and would offer no protection in any residential structure in any residential zoning district from incompatible commercial uses in the neighborhood.

At the conclusion of Mr. Havelin's presentation, Mr. Starks used the remaining time speaking in favor of the request.

After a discussion amongst the Commissioners and upon the motion to deny by Commissioner Gregory, duly seconded by Commissioner West, the motion was unanimously denied.

VIII. ADJOURN

There came for consideration the matter of the approval of the motion to adjourn until 5:30 p.m. on January 10, 2023, in the Courtroom of City Hall located at 110 West Main Street, Starkville MS.

After discussion and upon the motion to adjourn until 5:30 p.m. on December 13, 2022, in the Courtroom located at 110 West Main Street, Starkville MS by Commissioner Gregory, duly seconded by Commissioner Smith, the motion was unanimously approved.

Jeremiah Dumas, Commission Chair

Daniel Havelin, City Planner