

**ADJOURNED MEETING OF THE MAYOR AND BOARD OF ALDERMEN
TUESDAY, OCTOBER 15, 1991 - 7 P.M.
A. E. WOOD MEMORIAL LIBRARY**

The Mayor and Board of Aldermen of the City of Clinton met in Adjourned Meeting at 7 P.M., at the A. E. Wood Memorial Library, 111 Clinton Boulevard, pursuant to a Recess Order adopted by said Mayor and Board of Aldermen at their Regular Meeting of October 1, 1991, as found on Page 3 of this Minute Book V.

WELCOME AND CALL TO ORDER - Mayor Billy Ray Smith

INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG

The Invocation was led by Laurie Lawson, Director of the Clinton Community Christian Corporation, followed by the Pledge of Allegiance to the Flag led by Alderman George Ferrell.

ROLL CALL - City Clerk Nelson Byrd

Present - Willard Ryan - Alderman-at-Large
O. C. George Ferrell - Alderman Ward 1
Edward Valente - Alderman Ward 2
Ronnie Chappell - Alderman Ward 3
Keith Montgomery - Alderman Ward 4
Jean Johnson - Alderman Ward 5
Sharbert Lott - Alderman Ward 6
Mayor Billy Ray Smith - Presiding

City Attorney William E. Spell
City Clerk Nelson Byrd

APPROVAL OF CONSENT AGENDA ITEMS A-Y EXCLUDING "G":

- A. \$7,942.00 to CMPDD for 1991-92 assessment for Clinton (budgeted item - Adm.)
- B. \$125.00 for full page ad in 1991-92 M.C. basketball game program (Adm.)
- C. \$100.00 to Clinton High Basketball Boosters for full page program ad (Adm.)
- D. \$55.00 to MMA for annual dues of clerk and deputies (Adm.)
- E. \$140.00 to International Association of Municipal Clerks for 1992 Membership Fee for Byrd and Sessums (Adm.)
- F. \$300.00 to Detective Wayne Brown for P.D. clothing allowance (Pol)
- G. \$75.00 to MS Law Enforcement Training Academy for Sgt. Mike Gill to attend Baton Instructor School at Police Academy in Oct. '91 (Pol)
- H. \$250.00 to MS Law Enforcement Training Academy for 2 police officers to attend Advanced Interview and Interrogation School at the Police Academy in Nov., 1991 (Police)
- I. \$250.00 to MLETA for one police officer to attend the Advanced Crime Scene Investigation School to be held at the Police Academy in Nov., 1991 (Police)
- J. \$3,000.00 to MS Justice Info. Center for computer service through 6-30-92 (Police)
- K. \$9.44/thousand for printing appx. 100,000 water bills (low quote from MBF Corp.) [Water]
- L. \$865.00 to Data Gen. Corp. for Hardware Maintenance Agreement on computer
- M. \$4,444.14 to Apac MS for asphalt for street repairs (Public Works)
- N. \$2,959.30 to Burgess Plumbing for water pump replacement at Cotton Acres (Public Works)
- O. \$580.00 to Capweld for chlorine for water treatment (Public Works)
- P. \$8,779.30 to Central Pipe for supplies (Public Works)
- Q. \$2,892.00 to Central pipe for manhole risers and water valve box risers (Public Works)

- R. \$1,024.59 to Choctaw, Inc., for culvert at 803 Meadow Hills Drive (Public Works)
- S. \$1,142.75 to Cons. Pipe for repair to tapping machine (Public wks.)
- T. \$1,700.07 to Empire Truck for C-10 truck repairs (Public Works)
- U. \$3,391.32 to Fountain Electric to repair intersection lighting dual indication as per federal and state highway requirements (PWD)
- V. \$1,183.00 to Redi-Mix, Inc., for repairs to sidewalk on Capitol and Madison Streets (PWD)
- W. \$1,720.14 to SW Paving for asphalt for street repairs (PWD)
- X. \$727.31 to Buck Sullivan, Inc., for repairs to C-19 dump truck (PWD)
- Y. Permission to advertise for bids for logger-recorder for fire and police (E911 Communication System to be funded by E911 Commission)

MOTION made by Alderman Valente and **SECONDED** by Alderman Chappell to approve Consent Agenda Items A-Y as listed above, excluding item G due to cancellation of school and Item B which was requested to be acted upon separately due to Dr. Valente's employment with Mississippi College. **MOTION CARRIED UNANIMOUSLY.**

MOTION was then made by Alderman Montgomery and **SECONDED** by Alderman Johnson to approve Consent Agenda Item B. **MOTION CARRIED 7-0** with Alderman Valente abstaining.

AGENDA ITEM #6 REGARDING CHERRY PARK SEWAGE AND ROADS DELETED UPON REQUEST

Noting that Janet Shivers called to remove her request to speak to the Board on behalf of Cherry Park Residents regarding sewage and roads, said item was deleted with no discussion or board action.

AUTHORIZATION GRANTED TO ADVERTISE AND MAKE NEEDED REPAIRS AT CLINTON PARK TENNIS COURTS

MOTION made by Alderman Ryan and **SECONDED** by Alderman Lott to advertise for bid and to make needed structural and paving repairs to the Clinton Park Tennis Courts at an approximate cost of \$10,000.00 upon determination that a valid lease is in place. **MOTION CARRIED UNANIMOUSLY.**

AUTHORIZATION GRANTED TO OVERSEED TRACEWAY PARK FIELDS

MOTION made by Alderman Montgomery and **SECONDED** by Alderman Valente to oversee the soccer and baseball fields in Traceway Park at an approximate cost of \$6,000.00 as a part of regular maintenance for the safety of children at play and for preservation of the fields. **MOTION CARRIED UNANIMOUSLY.**

CLINTON INDUSTRIAL PARK WASTEWATER TREATMENT BID AWARDED TO DELTA CONSTRUCTORS, INC.

MOTION made by Alderman Montgomery and **SECONDED** by Alderman Ferrell to accept the low bid of Delta Constructors, Inc., in the amount of \$386,766.25 for the construction of a new Clinton Industrial Wastewater Treatment Facility. **MOTION CARRIED UNANIMOUSLY.** Copy of Bid Tabulation and Proof of Publication may be found on Pages 15 and 16 respectively of this Minute Book V.

UPDATE ON PENDING LITIGATION WITH SCHOOL BOARD REGARDING 16TH SECTION WATER WELLS

City Attorney Spell updated the Board on the status of the pending litigation with the School Board regarding the 16th Section Water Wells. Parks & Recreation Director Arledge and City Engineer Anderson sought direction from Board regarding the placement of lights on the fields noting that a final stop order had been issued

to the contractor for the lighting, that the materials are currently being stored on site, but that the contractor would be entitled to damages almost equivalent to cost of erecting lights should the City breach the contract and not allow the contractor to complete the erection of lights. Alderman Montgomery MOVED to erect the lights to avoid unnecessary expense and following a lengthy discussion said MOTION DIED FOR LACK OF A SECOND. NO BOARD ACTION was taken.

OTHER BUSINESS

A. MOTION made by Alderman Chappell and SECONDED by Alderman Valente to tender \$1,700.00 to the court for payment for the Campbell Property lease as appraised on the Straight Fence Creek SCS project. MOTION CARRIED UNANIMOUSLY.

B. Following discussion of a serious drainage problem on the southwest corner of Springridge Road on the Joe Dehmer property in which it was noted that said area is in violation of the Zoning Ordinance for erosion control, Public Works Director Alderman was directed to follow through by putting Mr. Dehmer on notice by certified mail that he is in violation and cite him for said violation. Upon request of Mr. Mike McCollum, resident of Roanwood Street whose property has been flooded due to this zoning violation, a chain of correspondence of said matter has been made a part of these minutes and may be found on pages 17-40 of this Minute Book V. NO BOARD ACTION.

ADJOURNMENT - 8:45 P.M.

There being no further business to discuss, MOTION made by Alderman Valente and SECONDED by Alderman Ferrell to adjourn. MOTION CARRIED UNANIMOUSLY.

Copy of Agenda may be found on Pages 41-42 of this Minute Book V.

APPROVED:

Billy R. Smith
Billy Ray Smith, Mayor

10-21-91
Date

ATTEST:

Nelson Byrd
Nelson Byrd, City Clerk

10-21-91
Date

SEAL

BID TABULATION

PROJECT: CLINTON INDUSTRIAL PARK
WASTEWATER TREATMENT FACILITY

OWNER: CITY OF CLINTON, CLINTON, MS

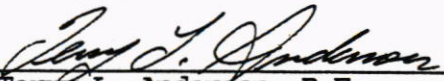
ENGINEER: ANDERSON ENGINEERS, P.A.

BID DATE: OCTOBER 14, 1991 2:00 P.M.
CITY HALL, 300 JEFFERSON STREET
CLINTON, MISSISSIPPI

<u>CONTRACTOR</u>	<u>BASE BID</u>
DELTA CONSTRUCTORS, INC. C.O.R.# 7487 BID BOND	<u>\$386,766.25</u>
JOSEPH CONTRACTORS, INC. C.O.R.# 6814 BID BOND	<u>\$444,188.50</u>
McINNIS BROTHERS CONSTRUCTION CO. C.O.R.# 7803 BID BOND	<u>\$433,950.00</u>
CARTER & MULLINGS, INC. C.O.R.# 1026 BID BOND	<u>\$387,940.55*</u>
LLOYD WOOD CONTRACTING CO., INC. C.O.R.# 02737 BID BOND	<u>\$452,447.70</u>

*\$150.00 math discrepancy between unit prices and lump sum total.

This is to certify that the above bid amounts are a true and accurate tabulation of the construction bids received on this project.

BY: 
Terry L. Anderson, P.E.
Anderson Engineers, P.A.

Copy to Harold

2PM 10-14-91

PROOF OF PUBLICATION
THE STATE OF MISSISSIPPI
HINDS COUNTY

PASTE PROOF HERE

204 Bid Notices

ADVERTISEMENT FOR BIDS

Sealed bids for construction a 30 MGD extended aeration treatment facility located at the Clinton Industrial Park in Clinton, Mississippi will be received by the City Clerk, 300 Jefferson Street, Clinton, Mississippi until 2:00 P.M. local time on October 14, 1991, and immediately thereafter will be opened and publicly read.

The work involved in the project includes all earthwork, equipment installation, yard piping, air piping, construction of a concrete clarifier, electrical field wiring, post aeration basin, and sludge lagoon. Additional equipment required for the project includes aeration equipment, blowers, controls, as well as an U.V. disinfection system. All documents required for bidding purposes, including specifications, may be obtained from Anderson Engineers, P.A., P.O. Box 254, Clinton, Mississippi, 39060. A non-refundable deposit of \$75.00 is required at the time of request for plans and specifications. A copy of the specifications may be examined at the office of the Project Engineers, located at 541 Highway 80 West, Suite B, Clinton, Mississippi; Clinton City Hall, Clinton, Mississippi; and the AGC, ABC and F.W. Dodge plan rooms in Jackson, Mississippi.

Bid preparation will be in accordance with the instruction to Bidders bound in the Specifications. The City of Clinton reserves the right to waive irregularities and to reject any or all bids.

CITY OF CLINTON, MISSISSIPPI
BY: /s/ Nelson Byrd
Nelson Byrd
City Clerk

APPROVED BY:
/s/ Billy R. Smith
Billy Ray Smith
Mayor
September 13, 20, 1991

PERSONALLY appeared before me, the undersigned notary public in and for Hinds County, Mississippi,

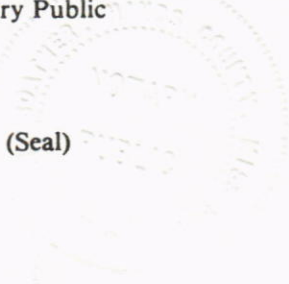
Kim Hemphill,
an authorized clerk of THE CLARION-LEDGER, a daily newspaper as defined and prescribed in Sections 13-3-31 and 13-3-32, of the Mississippi Code of 1972, as amended, who, being duly sworn, states that the notice, a true copy of which is hereto attached, appeared in the issues of said newspaper as follows:

Date September 13, 19 91
Date September 20, 19 91
Date _____, 19____
Date _____, 19____
Date _____, 19____
Number of Lines 63
Published 2 Times
Total \$ 34.76
Signed Kim Hemphill
Authorized Clerk
of The Clarion-Ledger

SWORN to and subscribed before me the 20th day of September, 19 91.

Jane Boatner
Notary Public

My Commission Expires:
My Commission Expires Nov. 17, 1992



*Put in Minutes
after Bus*

CLINTON PLANNING AND ZONING COMMISSION
December 18, 1986

The regular meeting of the Clinton Planning and Zoning Commission was called to order at 7:32 p.m. at the Public Library by Chairman Larry Smith. Present were members Bob Pavy, Farris Crisler, Robert Spell, Fred Akers, Wayne Caldwell and Hubert Williams.

Also in attendance were Harold Alderman, Superintendent of Public Works, Dewitt Landrum, Building Inspector and Terry Anderson, City Engineer. Also in attendance were Dickey King, Nancy Davis, Mabel Bankston and Sharbert Lott.

The minutes of the November 20, 1986 meeting were approved as written. The motion was made by Mr. Akers, seconded by Mr. Crisler and was unanimously approved.

The first item of business was a Public Hearing on an Application from Mr. Joe T. Dehmer Jr. for Rezoning of a parcel of property on Springridge Road from R-1 Low Density Residential to C-2 Highway Commercial.

Chairman Smith began the Public Hearing by reviewing the letters submitted by Mr. Joe T. Dehmer Jr. and Mr. Larry W. Maroney. Mr. Smith then stated the nature of the request. Currently approximately 300 ft. of the property is zoned C-2 and the balance of the property is zoned R-1. The Commission reviewed the site plan which included a shopping center and a motel. Under the current ZONING ORDINANCE the property could be zoned C-1 for a shopping center but a motel would require C-2 zoning.

Mr. Dehmer Jr., who is the Executor of the Estate that owns the property, continued the Hearing by making some general comments regarding the property. Mr. Dehmer introduced Mr. Eric Johnson of the Mericas Corporation. The Mericas Corporation is located in Bentonville, Arkansas and is a developer of shopping centers and motels. Mr. Johnson provided a description of his company for the Commission and the audience. Mericas has developed motels throughout several southern states and would plan to first build a motel on the property with a shopping center planned but be built at a later date. Mr. Johnson stated that his company wanted commitments from major retail tenants before they would develop the center.

The Commission then asked questions of the applicant. The areas of questioning dealt with the following areas:

1. Switching the location of the motel with the shopping center. The applicant stated that this would be difficult due to the shape of the property and it was important to locate the motel as close to I-20 as possible because it would be visible from the highway. Mr. Johnson stated the shopping center should be located close to the street to provide easy access for customers.
2. Proposed access road bordering the existing subdivision. The road is drawn to connect with Hollyberry Drive. Mr. Johnson stated that he did not have a problem with eliminating the road if there were objections to it. Additionally, the Commission felt that if the zoning was approved, there should be some open space between the existing subdivision and the proposed development.
3. Consideration of adding a frontage road between Springridge and Clinton-Raymond road. The applicant stated that since Mississippi College owned the property west of the proposed site, there was no consideration to a frontage road connecting the two existing arteries. He did state that a frontage road would be built in front of the proposed site (approx. 900 feet).
4. Was the only access to the proposed site from Springridge? Yes.
5. Was a traffic study done on Springridge Road? Mr. Johnson stated the traffic count on Springridge was 8500 cars per day as measured by the Mississippi Highway Department. He felt that the road could handle additional traffic. There was considerable objection demonstrated to this statement by the residents present.
6. What sort of change has occurred in the neighborhood during the last year or so? Mr. Johnson stated there was a steadily increasing traffic count on Springridge over last three years. There were no other changes noted.
7. Was there other C-2 property within the city where this project could be located? Mr. Johnson said that other C-2 property was available but not with an interstate highway location. He had tried to purchase another site, but was not successful.
8. What type of hotel would be located on the site? At this time the options are a Best Western or a Comfort Inn. There was some concern about locating a Best Western so close to the one on Ellis Avenue in Jackson. Mr. Johnson stated that recent industry trends indicate that "suite motels" offering more guest services were the most successful and that it was his company's intention to provide this type of motel.

Chairman Smith then assigned the floor to Mr. Micheal McCollum. Mr. McCollum is a resident of Trailwood and opposes the rezoning. Mr. Smith reviewed a letter written to him from Mr. McCollum. Mr. McCollum presented his reasons for the opposition. An outline of his Protest Presentation is attached and is a matter of record in the Official Minutes.

During his presentation, Mr. McCollum requested that the proposed street on the site plan (located north of Abbey Oak Drive and the two cul-de-sacs) be "removed" or "moved" from it's proposed position. Mr. McCollum submitted petitions opposing the rezoning (petitions attached). In concluding his comments, Mr. McCollum stated that the neighborhood has not undergone any substantial change since 1977. Chairman Smith allowed the applicants time to respond to Mr. McCollum's comments. Mr. Johnson stated that he did not have any additional comments.

Chairman Smith then solicited comments from the audience. The following residents provided comments concerning the rezoning:

Mrs. Mary Griffith, 104 Rqanwood Court, was concerned about the drainage problem, traffic, the proposed street behind the subdivision and the number of exits onto Springridge between the entrance to her subdivision and I-20 would number 9 if the development was allowed to be built. She also stated that zoning property from R-1 to C-2 is a "drastic" change. What other C-2 property was available for development and if the property was rezoned C-2, could the developer change his plans for the type of project to be built on the property? She stated that Fire and Police protection is a concern and additional development would cause more concern.

Mr. Charles Hindman, 106 Abby Oak, stated that we did not need a motel in Clinton.

Mr. Charles McCollum, stated that "when the Mayor and Board of Alderman approve the rezoning, the site plan becomes part of the ZONING MAP". Because of this, Mr. McCollum stated that he wants an "accurate and proper site plan". attached.

Mr. Mack Shannon, Trailwood, felt that residents in his subdivision did not need a shopping center and motel and did not want them.

Mrs. Gloria Wright, 104 Red Oak Dr., expressed her concern about the traffic and drainage control.

Mrs. Jean Garforth, 103 Cedar Cove, expressed her concern for the protection of everyone's property and stated it was the responsibility of the Commission to insure that the necessary specifications are met in regards to drainage, traffic and the compatibility of the zoning.

Mr. Louis Logan, 100 Abby Oak, stated that there was other property zoned C-2 available and it should be considered and expressed concern about the number of cars per day that the motel would generate.

Mr. Robert Lowe, 910 North Monroe, stated that although he lived on the other end of town, he saw a potential traffic problem on Springridge if the motel and shopping center were built. He cited the problems that the City of Vicksburg was having with the new Pemberton Square Mall and Halls Ferry Road.

Mr. James Mckie, 305 Shadowood, stated that earlier this year, members of the City Council, Chamber of Commerce, the Administration of Mississippi College and their Board of Trustees have publicly endorsed and supported the commercial development of Mr. Dehmer's property and the 80 acres owned by the College next to Clinton-Raymond Road. He encouraged that the requested zoning be recommended with stipulations that the Planning Commission, City Engineer and Public Works Director approve the final site plan.

Mr. Cecil Snodgrass, 104 Abby Oak Dr., stated that he has lived in his neighborhood since it's inception. He was concerned with traffic, drainage and insects from the standing water.

Alderman Dickey King, 504 Holleyberry, said that the rezoning needed to be looked at "long and hard". He felt that the City needed a motel and pointed out there was a desirable location available across from the Mississippi College baseball field on Highway 80. He pointed out that the property is not close to a residential area and would not be in conflict with the proposed type of development.

During the discussion, Chairman Smith requested a show of hands from the audience of those people that would support a bond issue to widen Springridge Road. A majority of the people in the room raised their hand.

Commission member Robert Spell stated that he was personally opposed to the rezoning for several reasons:

1. The purpose of a C-2 district is for commercial uses which are primarily oriented to direct access to and from a throughfare. He pointed out that the access to the proposed property is accessed only through Springridge Road.
2. As stated in the ZONING REGULATIONS, the Purpose Section of C-2 property, the land uses permitted in a C-2 district are incompatible with all residential uses. He pointed out that a home was probably the single greatest asset an individual would acquire. He felt that the rezoning would affect the value of that asset.
3. The burden of proving the need for rezoning is the burden of the applicant, who must show by clear and convincing evidence the criteria necessary to rezone. One of the criteria is the occurrence of substantial change in the neighborhood or the property in question, neither which have changed.
4. We do not have available a adequate site plan. Mr. Spell felt that a "detailed" site plan was necessary in order for the Commission to rule on the rezoning.

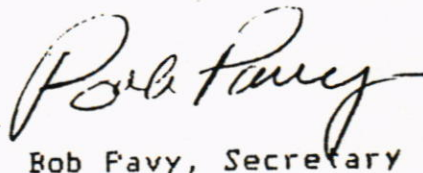
Mr. Spell then motioned to continue the Public Hearing until such a time when a detailed site plan was made available. Mr. Pavy seconded the motion and it passed with no dissenting votes. The continuation of the Hearing will be advertised when a detailed, revised site plan is available.

The next item of business was the consideration of holding a Public Hearing in January, 1987, to amend the ZONING ORDINANCE with regard to Off-Street Parking Requirements for Rental Duplexes in R-2 Districts and all Townhouses in R-3 Districts that are not part of a Townhouse Subdivision. Chairman Smith recommended that a Public Hearing be held regarding this matter. The Commission agreed. The Public Hearing will be held in January.

The last item of business was a presentation of a Petition from several citizens who reside on Monroe Street. A copy of the petition is attached. Mr. Robert Lowe, 910 N. Monroe St. presented the petition to the Commission. The residents feel that presently there is too much traffic congestion on Monroe St. and if the City allows an additional street from a proposed residential development to exit onto Monroe, it will compound an existing problem. They recommend that the development exit onto Cynthia Rd. instead of Monroe St. Several other residents were present to voice their concern about the traffic; Mr. Gerald Gallion, Mrs. Marie Gallion and Mr. Felix Daigre.

There being no further business, the meeting was adjourned at, at 9:30 p.m.

Respectfully submitted,



Bob Pavy, Secretary

Attachments

1. letter from Mr. Joe T. Dehmer, Jr.
2. letter from Mr. Larry W. Maroney
3. copy of ZONING MAP indicating the property
4. Site plan for the shopping center
5. Site plan for the motel
6. letter from Mr. Micheal T. McCollum
7. protest presentation of Mr. Micheal T. McCollum
8. petition against the rezoning
9. petition from residents of Monroe St.

MICHAEL T. McCOLLUM

ATTORNEY AT LAW

P.O. BOX 44

CLINTON, MISSISSIPPI 39056

(601) 924-4974

December 18, 1986

Hand Delivered

Mr. Larry Smith, Chairman,
and the members of
The Clinton Planning and Zoning Board
City Hall
Clinton, Mississippi

Re: Joe T. Dehmer Property,
Application for Rezoning
(See Nov. 20, 1986 Board
Minutes)

Reference is made to the rezoning application of Mr. Joe T. Dehmer, Jr., Executor of the Estate of Joe T. Dehmer, Deceased, concerning that property more fully described in the Public Notice of Zoning Hearing in the November 27, 1986, edition of the Clinton News, Vol 37, No. 48.

The undersigned respectfully requests to be placed on the Agenda of Meeting of the Clinton Planning and Zoning Board's December 18, 1986 meeting.

Further, please append this letter and the enclosed Attachment to the Clinton Planning and Zoning Commission's (Board's) December 18, 1986, Minutes.

Respectfully submitted,

Michael T. McCollum

1 Atch.

OUTLINE
OF
PROTEST PRESENTATION
by

Michael McCollum

December 18, 1986

RE: The rezoning of that land described in exhibit A of the November 10, 1986, Rezoning Application Letter of Mr. Joe T. Dehmer, Jr., Executor of the Estate of Joe T. Dehmer, Deceased, and further described in the Public Notice of Zoning Hearing in the November 27, 1986, edition of the Clinton News, Vol 37, No. 48.

A. LEGAL CONSIDERATIONS: There are legal aspects to be considered when property is rezoned.

1. The applicant for rezoning bears the burden of proving a public need for the zoning amendment (not merely his own need/desires).

Bridges v. City of Jackson, 443 So. 2d 1187 (Miss. 1983); Underwood v. City of Jackson, 300 So. 2d 442 (Miss. 1974); City of Jackson v. W. P. Bridges, Sr., 139 So. 2d 660 (Miss. 1962); W. L. Holcomb, Inc. v. City of Clarksdale, 65 So. 2d 281 (Miss. 1953).

2. To justify rezoning of property, the applicant must carry the burden by "clear and convincing" evidence.

W. P. Bridges, Jr. v. City of Jackson, 443 So. 2d 1187 (Miss. 1983).

3. A Planning and Zoning Board, however, has much discretion to consider information outside of the hearing room.

Woodland Hills Cons'v Ass'n v. City of Jackson, 443 So. 2d 1173 (Miss. 1983).

4. There is much "checklist" style legal guidance concerning rezoning of property:

- a. The planning/zoning board should balance the interest of the community at large with the individual property owner's interest.

W.P. Bridges, Jr. v. City of Jackson, 443 So. 2d 1187 (Miss. 1983);
Woodland Hills Cons'v Ass'n v. City of Jackson, 443 So. 2d 1173 (Miss. 1983).

- b. Before rezoning, it must be shown that there was some mistake/error in original zoning or that conditions in the neighborhood had changed so substantially that rezoning is clearly justified.

Coleman v. Southwood Realty Co., 271 So. 2d 742 (Miss. 1973); Miller v. City of Jackson, 277 So. 2d 622 (Miss. 1973); Bd. Sup'v of Jackson Co. v. Roberts, 287 So. 2d 436 (Miss. 1973); Underwood v. City of Jackson, 300 So. 2d 442 (Miss. 1974); Woodland Hills Cons'v Ass'n v. City of Jackson, 443 So. 2d 1173 (Miss. 1983); W. P. Bridges Jr. v. City of Jackson, 443 So. 2d 1187 (Miss. 1983).

- (1) Please note the definition of "change" in these legal interpretations:

"We use the word change as shorthand for rule that the zoning classification of property may be changed when it has been demonstrated

(a) that the character of the neighborhood has changed substantially so that rezoning is clearly justified, and

(b) that there is a public need for the reclassification of the property."

Woodland Hills Cons'v Ass'n v. City of Jackson, 443 So. 2d 1173, 1183 (Miss. 1983).

- c. A decision for rezoning cannot be unreasonable, arbitrary or capricious.

(See: most of the cases cited above)

- d. NOTE: The "past tense" nature of the legal test. That is, the character of land use in the area (neighborhood) "had substantially changed."

Underwood v. City of Jackson, 300 So. 2d 442 (Miss. 1974); Bd. Sup'v of Jackson County v. Roberts, 287 So. 2d 436 (Miss. 1973); Coleman v. Southwood Realty Co., 271 So. 2d 742 (Miss. 1973).

PLEASE NOTE: The legal authorities, above, will be tied into the following practical/factual/logical arguments later in this presentation.

B. FACTUAL CONSIDERATIONS: There are factual/practical/logical grounds against a present R-1 to C-2 rezoning.

1. Clinton's zoning ordinance and plat were adopted in 1977 (More on this later)
2. Streets/Traffic flow in the area of the proposal dictate against rezoning.
 - a. Spring Ridge Road bridge overpass bottleneck
 - b. Spring Ridge Road is two lanes
 - c. Yes, Highway 80 and Highway 18 have been improved and widened, but that only makes matters worse at the I-20/Spring Ridge Road interchange area
 - d. Consider other Metro Jackson areas similar to the proposal:
 - (1) I-20 and I-55 are six lanes
 - (2) Feeders/access roads/streets are 4, 5, or 6 lanes
3. There is the previously existing recognized and continuing drainage problem of the Bakers Creek Basin Drainage Area
 - a. Consider the July 1984 Bakers Creek Basin Drainage Area study by Anderson & Deas Engineers commissioned by the city
 - b. January '85 through August '85 numerous hearings by Mayor/Aldermen concerning this drainage area
 - c. Impact of the present proposal on the R-1 dwellings in the area, especially downstream, must be considered and studied....

NOTE: Has the Clinton Planning/Zoning Board or the Central Mississippi Planning and Development Office studied the effects of the proposal, in general, or its traffic/drainage problems, in particular ?

4. The present economy and past such undertakings in Clinton should be considered.
 - a. The GIBSON'S development on Highway 80 East....
 - b. HOWARD'S/DRUG DEPOT on Northside Drive....
 - c. Hallmark shop in Kroger shopping center has changed hands
 - d. Sports Shop is presently vacant and has been so for many months

5. New C-2 area against a 13-to-14 year previously existing R-1 area is a drastic change
 - a. Park/Commons - there are none south of I-20 !
 - b. Chancy putting in a motel/shopping center with no fire protection south of I-20
6. Review of the proposal's site survey:
 - a. Number of parking spaces - Kroger lot has 290, proposal has 630 !!
 - b. Number of Stores/shops - Kroger has 1 large, 7 small; proposal has 2 large, 8 small
 - c. Plat shows "Future R-1 Developments"
 - d. Road/Street mysteriously disappearing (towards Countrywood)
7. Road/Street on site survey lies across an area not up for rezoning
 - a. This is really a different issue, not a rezoning issue, really a matter for a later developer - not the present shopping center/motel developer
8. Less/least Restrictive Alternative Measure(s)
 - a. Basic legal theory of "Less/least restrictive alternative measure(s)"
 - b. This is not an "either/or" situation
 - (1) Perhaps presently, but at another place - Clinton/Raymond Rd, NE of Spring Ridge I-20, NW of Clinton/Raymond Rd, College Property....
 - (2) Perhaps at a later time after Clinton "catches up with itself"
9. Quality of life and Clinton's overall development
 - a. The presenter's observations concerning the past 38 years...
 - b. Do we want planned, good, quality growth/development - or "topsy turvy" growth based on "a wing and a prayer" or "a lick and a promise" ?
 - c. New Chamber of Commerce motto concerning "TIME"

C. OPINIONS Vs. FACTS: The Planning/Zoning Board and the Mayor/Aldermen should distinguish between opinions and facts.

1. The facts of the present situation, applied to both the law and the logic, dictate against a rezoning at this time

D. People of the immediate area have petitioned against a rezoning

1. Mississippi Code Annotated provides for such petitions

Miss. Code Ann. Sec. 17-1-17 (Supp. 1986)

E. CONCLUSION

1. Basic legal rules concerning a rezoning, elaborated in A., above
2. At least nine factual/practical/logical arguments to consider....
3. Even if the above arguments, taken singly, are not convincing against a rezoning at the present time; taken together, or cumulatively, they have a synergistic effect totally convincing against a rezoning

924 - 5462

10:20

MON, 9 MAR 87

MAYOR Smith Called me
MOTEL, they're back

Plat - IN HIS OFFICE

TOUCH BASE WITH TERRY ANDERSON

Arrange me to meet with Rick JOHNSON
was here last Thursday (or Wed)

First Motel they'd recommend - Best
Western.

Possibility of a Wal-Mart in shopping
center, but they're not interested in
a community squabble - want re-zoned
first....

Mayor interested in Drainage (First)....
"If they can't channel water over to front
of land by interstate, and project hurts
our drainage situation, (Mayor) against

7:30
-17:00

it all the way."

yes, there must be a new, full-blown
hearing.....

[I'll get the plot, and work with
Jerry, Mayor, Griffiths, all neighbors, etc.]

TAYLOR, COVINGTON, SMITH AND TILLMAN

ATTORNEYS AT LAW

315 TOMBIGBEE STREET
P. O. DRAWER 2428
JACKSON, MISSISSIPPI 39225-2428

PHONE (601) 961-4861

BOBBY L. COVINGTON
WILLIAM C. SMITH, JR.
W. EUGENE TILLMAN, JR.

J. GARY MASSEY
TIMOTHY V. KEMP

O. B. TAYLOR (1880-1965)
ROWAN H. TAYLOR, OF COUNSEL
J. MORTON MATRICK, OF COUNSEL

May 28, 1987

HAND DELIVERED

Mayor Billy Ray Smith,
Board of Aldermen,
Clinton Planning & Zoning Board -
Fariss Crisler, III, Chairman, and
City of Clinton

Re: Continuance of Rezoning request by
Estate of Joe T. Dehmer brought before
Commission at December 18, 1986 meeting,
concerning 25.2 acres in SW $\frac{1}{4}$ S29; NE $\frac{1}{4}$
S31 and NW $\frac{1}{4}$ S32, T6N, R1W located at SW
Quadrant of I-20 with Springridge Road

Gentlemen:

We respectfully request that the property described in the
attached Exhibit "A" be rezoned from its present R-1 designation
to a C-2 designation.

Since the December 18, 1986 meeting, we have retained Richard L.
Broome as our engineer to address the questions raised at said
meeting concerning drainage, traffic and buffer zones and to make
recommendations concerning these problems. Mr. Broome is to
provide a more detailed site plan showing retention ponds, buffer
zones, etc., and these will be provided to you no later than
June 1, 1987, for your review.

May 28, 1987

Page - 2 -

Please place our application on the agenda for the June 25, 1987, meeting of the Clinton Planning and Zoning Board. We are enclosing the appropriate filing fee herewith.

Thank you for your considerations in this matter. If we can provide anything further, please do not hesitate to contact us.

Very truly yours,

Joe T. Dehmer Estate

BY: J. Gary Massey
J. GARY MASSEY
ATTORNEY FOR PETITIONERS

cc: Joe Dehmer, Jr.
Richard Broome

JGM:vlr
Dehmer Letter:JGM601

AREA TO BE REZONED

A certain parcel of land lying and being situated in the Southwest 1/4 of the Southwest 1/4 of Section 29, and the Northeast 1/4 of the Northeast 1/4 of Section 31, and the Northwest 1/4 of the Northwest 1/4 of Section 32, all lying in Township 6 North, Range 1 West, Hinds County, Mississippi, and being more particularly described by metes and bounds, to-wit:

Commencing at an iron pipe marking the northeast corner of the Northwest 1/4 of the Northeast 1/4 of said Section 31, Township 6 North, Range 1 West, and run East along the north line of said Section 31 a distance of 851.2 feet to the point of beginning of the property herein described; thence continue East along the last mentioned call 470.5 feet to an iron pin and the corner common to said Sections 29, 31, and 32, and Section 30, Township 6 North, Range 1 West; thence North along the west line of said Section 29 a distance of 356.3 feet to a point in the south right of way of Interstate Highway 20; thence South 56 degrees 22 minutes 30 seconds East along the said south right of way a distance of 811.11 feet; thence South 42 degrees 21 minutes East along the said south right of way of Interstate Highway 20 a distance of 431.33 feet to the west boundary of the area as shown on the City of Clinton tax map zoned as C2; thence South 01 degree 39 minutes West along the west line of that certain area in Zone C2 a distance of 871.2 feet to the northeast corner of Trailwood Subdivision according to a plat on file in the office of the Chancery Clerk at Jackson, Hinds County, Mississippi, in Plat Book 25 at Page 9; thence South 88 degrees 17 minutes West along the north line of said Trailwood Subdivision a distance of 233.3 feet; thence North 42 degrees 25 minutes West a distance of 1747.2 feet to the point of beginning, and containing 25.2 acres, more or less.

EXHIBIT "A"

OUTLINE FOR JUN 25 HEARING

A. DECEMBER 18 HEARING

1. COPY OF MINUTES TO SAVE TIME
2. PLEASE RECALL MY 5-PAGE OUTLINE OF 9 ITEMS OF CONCERN TO CONSIDER
3. READ FROM MINUTES (BOTTOM P.4 TO TOP P.5)

B. 1. CHRONOLOGICALLY, MONDAY, MARCH 9, I RECEIVED A CALL FROM MAYOR SMITH. IT SEEMS THE APPLICANTS HAD MET WITH MAYOR SMITH & OTHER CITY OFFICIALS ... NEW PLAT. ENTIRE THRUST WAS DRAINAGE (OTHER OF MY ISSUES NOT EMPHASIZED). THE MAYOR STATED:

"IF THEY CAN'T CHANNEL THE WATER OVER TO THE FRONT OF THE LAND BY THE INTERSTATE, AND THE PROJECT HURTS OUR DRAINAGE SITUATION, (THEN THE MAYOR IS) AGAINST IT ALL THE WAY."

2. AT THE MAYOR'S REQUEST, I MET WITH TERRY ANDERSON ON MARCH 24. ENTIRE THRUST OF TERRY'S APPROACH WAS THE

DRAINAGE ISSUE. TERRY STATED:

"THE APPLICANTS HAVE BEEN INFORMED THAT ANY DEVELOPMENT (FROM AN ENGINEERING STANDPOINT) MUST AT LEAST:

1. NOT FURTHER ADD TO WATER FLOW/DRAINAGE TOWARDS TRAILWOOD/COUNTRYWOOD, AND
2. HOPEFULLY HELP WITH EXISTING WATER FLOW/DRAINAGE SITUATION/PROBLEM.

THEY (MAYOR, TERRY & APPLICANTS) AWAITING MY REPLY

I WOULD NOT UNILATERALLY REPLY, MUST MEET WITH NEIGHBORS. ... CALLED ALL, MET WITH MANY ON 8 APR & REACHED A REPLY.

I REPORTED TO MAYOR ON APR 10.

C. MAY 27 RICHARD BROOME CALLED ME. ... (SAME AS MAYOR/TERRY ANDERSON CALLS/QUERIES). BASICALLY INTERESTED IN DRAINAGE, PLUS A FEW OTHER ITEMS OF INTEREST/HOW WOULD WE LIKE IT PLATTED OUT? I REPLIED THAT I WOULD NOT DRAW THEIR PLAT FOR THEM.

EMPHASIZE DRAINAGE & GIVE EXHIBIT "A"
DON'T FORGET Anderson's Study & my Attempted Special Assessment.
ADDRESS PLATS DRAINAGE FEATURES
1, NO CONTROLS
2, DITCH.....

Broome & Smith
Civil Engineers
Land Surveyors
541 Highway 80 West Suite C
Clinton, Mississippi 39056
(601) 924-7759

June 25, 1987

City of Clinton
Mayor Billy Ray Smith
Board of Aldermen
Clinton Planning and Zoning Board-
Fariss Crisler, III, Chairman

Re: Joe T. Dehmer Re-zoning Request
I-20 and Springridge Road

Gentlemen:

We have been retained by Mr. Joe Dehmer to provide engineering services in regard to the referenced re-zoning request and the proposed location of a motel on a 3.7 acre portion of the tract requested to be re-zoned.

The following is a brief summary of our findings and recommendations to date.

Traffic - Access to the property will be provided by a 28 foot wide roadway located in a 60 foot right-of-way as shown on the proposed site plan. Connection to Springridge road will be at the southernmost location available to prevent congestion at the Springridge and I-20 interchange.

Traffic counts have increased in this section of Springridge Road from 7900 in 1979 to 9900 in 1985, as recorded by the Mississippi State Highway Department.

Capacity for this type road is 8,000 - 12,000 vehicles per day. In our conversation with the State Highway Department, we found that the Springridge Interchange is scheduled on their current three-year program to be upgraded to 5-lanes. Right-of-way acquisition is to begin in 1988 and construction to begin in 1989.

Drainage - Natural drainage from the area is generally to the south, with a small area draining to the southeast. Drainage to the south would be by an existing open channel through an existing residential subdivision. Based on our calculations, 4.4 acre-feet of storage will be required to limit post-development peak flows to less than, or equal to, pre-development peak flows. These calculations are based on a 50 year rainfall event and an eighty-five percent impervious area, as specified in the subdivision regulations. An area for the

City of Clinton, et al
Page 2
June 25, 1987

construction of this detention storage has been reserved as shown on the site plan.

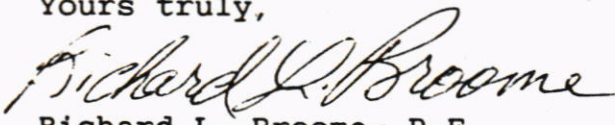
Water - Water to the site will be furnished through an existing 8 inch main located in the Springridge Road right-of-way. According to the City Engineer, it appears that both pressure and supply currently exist to meet fire flow demands of the development. The City's Comprehensive Water Plan also proposes the construction of a 500,000 gallon elevated storage tank adjacent to the site.

Sewer - Treatment will be provided at either the 4-cell lagoon off Springridge Road, or the southwest lagoon off Clinton-Raymond Road. According to the City Engineer, treatment capacity for the development exists at either location. Transportation of the wastewater would probably necessitate, as a part of the development, the construction of a pump station and force main to discharge into the interceptor line leading to one of the lagoons.

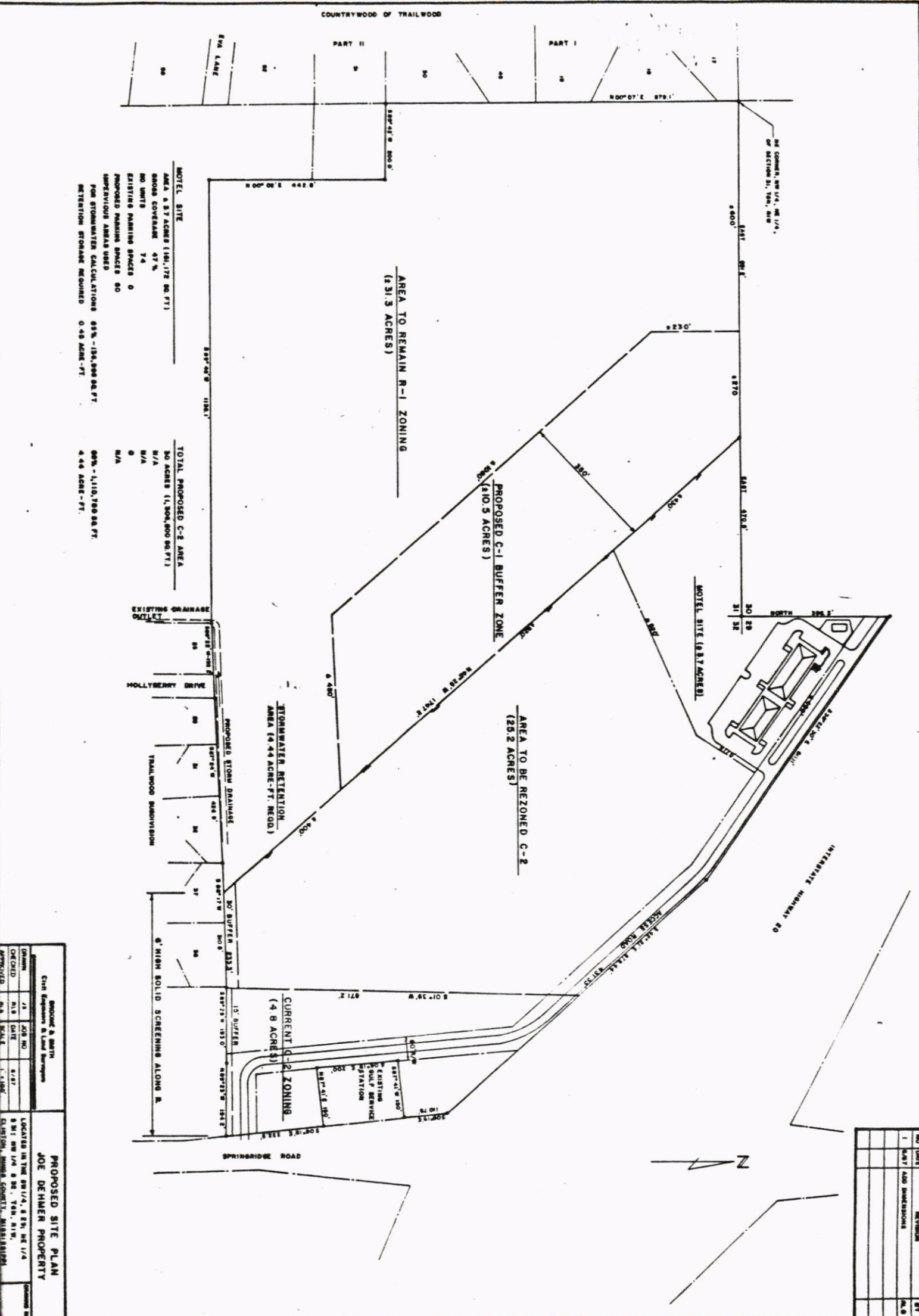
We believe that this brief report shows that the infrastructure elements necessary to adequately service this development are either in place or will be constructed during the course of the development.

If we can provide any further information, please contact us.

Yours truly,


Richard L. Broome, P.E.

RLB/ih



PROPOSED SITE PLAN			
JOE DEHNER PROPERTY			
CITY ENGINEER'S & LAND SURVEYOR			
DATE	1/1	DATE	1/1
CHECKED	NLS	DATE	1/1
APPROVED	NLS	DATE	1/1
LOCATED IN THE 88 1/4, 8 3/4, 8 1/4			
SECTION 18, T8N, R11W,			
CLAYTON, HINDS COUNTY, MISSISSIPPI			

NO	DATE	REVISION	BY
1	1/1	ADD DIMENSIONS	NLS

BEFORE THE CLINTON PLANNING COMMISSION

H E A R I N G

Held on Thursday, September 24, 1987, at
the A. E. Woods Memorial Clinton Public
Library, 111 Clinton Boulevard, Clinton,
Mississippi.

BEFORE:

H. FARISS CRISLER, III, Chairman
E. RONNIE CHAPPELL
HUBERT T. WILLIAMS
ROBERT L. SPELL
STEVE McNAIR

MEMBERS OF THE CLINTON PLANNING COMMISSION

APPEARANCES:

J. GARY "PETE" MASSEY, ESQ.
Taylor, Covington, Smith and Tillman
Post Office Drawer 2428
Jackson, Mississippi 39225-2428

REPRESENTING JOE T. DEHMER

MICHAEL T. McCOLLUM, ESQ.
Attorney at Law
105 Roanwood Court
Clinton, Mississippi 39056

REPRESENTING THE OPPONENTS

JERRY L. MILLS, ESQ.
Pyle, Harris, Dreher & Mills
Post Office Box 23004
Jackson, Mississippi 39225-3004

ATTORNEY FOR CITY OF CLINTON

REPORTED BY: RUTH A. OLENSKI
Free Lance Court Reporter
Post Office Box 22601
Jackson, Mississippi 39205
(601) 924-7937

1 December and that's all we know today. And I can get up
2 there with a pencil and draw what probably would work on that
3 site at some date in the future. But until--I'm not going to
4 go out and speculatively build a building that may sit vacant
5 for years and years just because I drew it up there tonight
6 or because I drew it before the meeting and brought it in to
7 you. It's--we would propose a shopping center to be built
8 roughly parallel to the line that runs--which would be the
9 southwest border of the commercial zoning. That would be the
10 back and the shopping center would face the intersection of
11 Springridge and I-20. What the shape would be depends on who
12 the tenants are that we can entice to come to Clinton.

13 MR. DEHMER:

14 And, Steve, if I could add to that: I think you'll
15 find in your records, you know, those original presentations,
16 and I know we've got copies. The reason we have deleted it
17 from these future deals is that that seemed to create more
18 confusion and concern among citizens. You know, they said,
19 "Well, gosh, here's a big building that's, you know, here and
20 the watershed," and all that type stuff. That's the reason
21 we just haven't added it. It was no reason, you know, to pay
22 Richard to draw them in there again when we didn't have
23 Walmart saying, "Hey, this is what we've signed up for."

24 MR. JOHNSON:

25 And we did have--at that time they were concerned
26 about the water flow. That was the primary concern, I think,
27 at that time, was what are we going to do with the water
28 drainage because the ditch behind the houses was not clean
29 and was overflowing and Mr. McCollum was getting water onto

1 his property. The way it's designed now--or the way the
2 ground lays now, which is like God put it there, that's
3 causing problems and he wanted to know what are we going to
4 do about it. We've hired an engineer to come in and evaluate
5 the development. Assuming that we would cover the entire
6 commercial area completely in buildings and concrete, what's
7 the maximum retention that we would need at that point. He's
8 estimated that and placed it on the site plan for us. So
9 we're aware that we're going to have to meet the drainage
10 codes, comply with all the laws of the City of Clinton in
11 order to build a shopping center. And, certainly, don't want
12 to run water onto Mr. McCollum and his neighbors. I can
13 imagine what that fight would be like later on down the road
14 if we're having this much trouble just thinking about it.

15 So the initial problem back in December was: Can
16 you build a shopping center here and keep the water from
17 coming onto the neighborhood? And Mr. Broome has done a
18 study and decided, yes, it's possible to build a shopping
19 center and to develop that land, catch the water, and keep it
20 from causing a problem, and probably--correct me if I'm
21 wrong, Richard--improve the existing situation in the
22 process. So it would catch the natural runoff that's coming
23 off as it is now as well as what we would create in
24 additional water runoff.

25 CHAIRMAN CRISLER:

26 Does anyone have any further questions? Further
27 comments?

28 MR. SPELL:

29 Mr. Chairman, I want to say a few things. I'll be