

MICHAEL L. BRIDGE

FILED

APPELLANT

VS.

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SUPREME COURT
COURT OF APPEALS

MAYOR AND BOARD OF
ALDERMEN OF CITY OF OXFORD,
MISSISSIPPI, ET AL.

APPELLEES

VS.

LUCY LYNN ROBINSON, MARY SUE
ROBINSON, and RALPH COLEMAN,

INTERVENORS

On Appeal from the Circuit Court of Lafayette County, Mississippi
Cause No. L05-428

BRIEF OF INTERVENORS

Oral Argument Requested

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Michael L. Bridge, Appellant, vs. Mayor and Board of Aldermen, City of Oxford,
Mississippi et al., Appellees, vs. Lucy Lynn Robinson, Mary Sue Robinson,
and Ralph Coleman, Intervenor

Case # 2007-CA-00601-SCT

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the Judges of this Court may evaluate possible disqualification or recusal:

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Mary Sue Robinson, Intervenor


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This the 20th day of January, 2008



Joyce Freeland
Attorney of Record for Lucy Lynn Robinson, Mary
Sue Robinson, and Ralph Coleman, Intervenor

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INTERVENORS

BRIEF OF INTERVENORS

STATEMENT OF ISSUES

The only issue for this Court's consideration is whether the Circuit Court erred in finding that the Board of Aldermen's decision to rezone certain property on Price Street was "fairly debatable."

STATEMENT REGARDING ORAL ARGUMENT

Intervenors do not object to the contention of the Appellant Michael Bridge that oral argument would significantly aid the Court in its decisional process. Intervenors, accordingly, request that oral argument be scheduled in this case. *See* Miss.R.App.P. 34(a).

STATEMENT OF THE CASE

In this case, approximately seventy homeowners who live in or near an older neighborhood of modest homes in Oxford, Mississippi, presented a petition to amend the

supported the petition to rezone. *Id.*

Price Street and the homes of the petitioners are an area near the Oxford Square identified as the “neighborhood conservation area” in the city’s 2004 Comprehensive Plan. See Figure 2 from the Comprehensive Plan included in the **Appendix** to this brief.

The petitioners requested that the zoning be changed from RB (two-unit residential, traditionally referred to as “duplexes”) to R1A (single-family residential) to match the existing single-family use on and around these lots, to protect the existing neighborhood, and to comply with the acknowledged goals of Oxford’s Comprehensive Plan.

When the petition was presented to the Oxford Planning Commission and later to the Oxford Board of Alderman, color photographs of typical single-family homes on Price Street (including the lots in question) were submitted and accepted for the record. R. 124-129. Color photographs were also submitted for the record showing several tracts in the same “neighborhood conservation area” near the Square where houses were being razed, trees cleared, and land graded for construction of condominiums. R. 124-129.

The request to modify the zoning was made, appropriately, as a petition to modify the zoning map under Sections 223.03 and 223.06¹ of the City of Oxford’s “Land Development Code” adopted on November 10, 2004 (hereinafter referred to as Oxford’s “zoning ordinance”).

Oxford's zoning ordinance and its zoning map may be modified either:

(1) Due to "manifest error" (which Mississippi case law has consistently explained as "an administrative or clerical mistake"³) in the zoning ordinance or zoning map; or

(2) Because of "changed or changing circumstances in a particular area or in the municipality generally" if "public need" is shown.

Section 223.03 of the Oxford zoning ordinance allows the Board of Alderman to consider a proposed amendment to the zoning map on its own motion. Section 223.06 creates a procedure for the filing of an application to amend the zoning ordinance or zoning map by "[a]ny person, firm, corporation or political subdivision." The wording of Section 223.06 of Oxford's zoning ordinance repeats the "error" or "changed or changing circumstances" standard set out in Section 223.03.⁴

Only two owners of the lots in question on Price Street objected to the petition – Mike Bridge, who has owned a lot with a single-family residence at 315 Price Street since 1978 and

² Section 223.03(1) describes the public policy underlying the "Amendment Procedure" for the zoning ordinance and zoning map as follows: "For the purpose of establishing and maintaining sound, stable, and desirable development within the territorial limits of the municipality, this Ordinance, and as here used the term Ordinance shall be deemed to include the official zoning map, shall not be amended except to correct a manifest error in the Ordinance or, because of changed or changing conditions in a particular area or in the municipality generally, to rezone an area . . . only as reasonably necessary to the promotion of the public health, safety or general welfare. . . . [A]n amendment to this Ordinance may be initiated by the Board of Aldermen on its own motion, or, in the manner and pursuant to the procedure hereinafter set forth, may be initiated by any person, firm, or corporation filing an application therefore with the municipality." [Emphasis supplied].

³ See, e.g., *Town of Florence v. Sea Lands, Ltd.*, 759 So.2d 1221 (Miss. 2000).

⁴ Subsection (d) of Section 223.06 concerning "Applications for Amendment" requires that the application contain a description of the "error in the Ordinance that would be corrected by the proposed amendment or changed or changing conditions in the applicable area or in the municipality generally that made the proposed amendment reasonably necessary to the promotion of the public

street. Mike Drago is the Appellant in this case.

After a number of public hearings were held on the petition to rezone with notice and participation by the Appellant, the Board of Aldermen of the City of Oxford ultimately found that the rezoning requested was proper based on both of the alternative grounds. R. 146-161 and 166-167. The brief of Appellant correctly points out that approval of the rezoning was based on a motion that included findings both (1) that the original zoning was the result of a mistake; and (2) that changed or changing circumstances and public need existed to support the rezoning.

The vote of the Aldermen approving the rezoning from RB to R1A was unanimous (with Aldermen Patterson recusing himself and abstaining). R. 166-167.

The record of the proceedings before the Oxford Board of Aldermen is replete with evidence, including statements on the record by individual aldermen, R. 54-55 (Alderman Antonow), R-54 (Alderman Howell), R-52-54 (Alderman Fisher), and R-55-56 (Alderman Taylor) confirming, for example, that (1) the color-coded zoning of the specified lots on Price Street as “multi-family” was the result of an administrative or clerical mistake; (2) a similar mistake by the city’s consultant in another neighborhood was quickly corrected by the Board of Alderman as a “mapping error,” R-120-123 (presentation in support of petition); (3) if brought to the attention of the Board of Aldermen rather than overlooked during the comprehensive planning process, these lots would have been downzoned to the existing single-family use, R-52-54 (Alderman Fisher); and (4) the Aldermen were aware of more than one instance where development pressure to build condominiums had increased since adoption of the 2004 Comprehensive Plan and constituted “changed or changing

Mr. Bridge, aggrieved by the decision of the Board of Aldermen, filed a Bill of Exceptions appealing the matter to the Lafayette County Circuit Court. Three of the parties who signed and supported the petition, Lucy Lynn Robinson, Mary Sue Robinson, and Ralph Coleman (hereinafter the “**Intervenors**”) requested and were granted permission to intervene in this appeal.

After argument by counsel for Mr. Bridge, the City of Oxford, and the Intervenors, Circuit Court Judge Robert Elliott entered a detailed Order holding that “substantial evidence” existed for the Board of Aldermen’s decision to rezone the specified lots on Price Street both on the grounds of (1) mistake; and (2) changed or changing circumstances (including evidence that “public need” supported the rezoning). The circuit court judge affirmed the zoning authority’s decision as being “fairly debatable” and not “arbitrary or capricious.”

SUMMARY OF THE ARGUMENT

The decision by the Board of Aldermen to rezone the lots in this existing neighborhood is consistent with the guiding principles and goals of the City of Oxford’s comprehensive plan – to preserve existing neighborhoods, protect the small-town feel of Oxford, create a “neighborhood conservation zone,” and encourage affordable housing.

The Board of Aldermen are authorized by enabling statutes in the Mississippi code to create procedures for enacting, amending, and enforcing the city’s comprehensive plan, zoning ordinance, subdivision regulations, and capital improvements program. These statutes and the provisions of Oxford’s zoning ordinance creating a procedure and standard

“Substantial evidence” exists in the record on this appeal to support the Board of Aldermen’s decision to rezone the specified lots on Price Street based on either of the alternative grounds of “mistake” or “changed and changing circumstances.”

ARGUMENT

- I. Under the applicable standard of review for zoning cases, Mississippi courts will not substitute their judgment for the judgment of the zoning authority if the zoning decision was “fairly debatable.”

This Court has long held that the standard of review in zoning cases is “whether the action of the board or commission was arbitrary or capricious and whether it was supported by substantial evidence.” *See, e.g., Perez v. Garden Isle Community Assoc.*, 882 So.2d 217, 219 (Miss. 2004).

This Court has consistently held that the Circuit Court acts “as an appellate court in reviewing zoning cases and not as the trier of fact” and that where the point at issue is “fairly debatable” neither the Circuit Court nor this Court should “disturb the zoning authority’s action.” *Id.*

In the Circuit Court and before this Court, the Appellant Mike Bridge has the burden of “proving that the board acted in an arbitrary or capricious manner.” *Id.* The burden is not on the City nor on the Intervenor in the appeal to Circuit Court or in the subsequent appeal to this Court to prove that the Aldermen’s decision to rezone was not arbitrary or capricious. *Id.*

Plan.

The City of Oxford hired Fisher & Arnold, an engineering firm based in Memphis, Tennessee, to assist it with the extensive data gathering, technical analysis, and public input required in developing its Comprehensive Plan which was adopted in 2004.

At the presentation by Fisher & Arnold at a hearing on the proposed comprehensive plan held before the Board of Aldermen on October 7, 2004, the city's consultant explained that based on earlier visioning efforts and input from Oxford citizens the first priority of the proposed comprehensive plan was to protect the "physical and social fabric of Oxford neighborhoods." R. 435-492, 980.

The 2004 Comprehensive Plan is based on the fundamental goals of managing growth in a way that "recognize[s] Oxford's historic ways of town building," protects its neighborhoods, and maintains its "small town charm." R. 435-492 (transcript of October 7, 2004, hearing with presentation by Fisher & Arnold).

The 2004 Comprehensive Plan created a "Neighborhood Conservation Zone" to protect single-family neighborhoods near the Square that were subject to development pressures. *See* Figure 2 in the **Appendix** to this brief.

In order to protect existing neighborhoods, the Board of Aldermen specifically considered and heard extensive public comments on several known "problem areas," downzoning the existing zoning in those areas from higher density to existing single-family uses. R. 120-123 (presentation in support of petition); R. 435-492. The areas with known problems at the time of the hearings on the Comprehensive Plan included neighborhoods referred to as "Zilla Avent" and "Old Northeast Oxford." R. 120-123 (presentation in

comprehensive plan. This argument is based on a relatively tiny color coding mapping error” on Figure 4, the reduced copy of the Future Land Use Plan, which appears as page 18 of the Comprehensive Plan.

In making this argument, the Appellant asks this Court to ignore (1) the “guiding principles” set out on pages 1 and 2 of Oxford’s Comprehensive Plan; (2) the goals, objectives and strategies to implement “neighborhood protection” which begin on page 7 of Oxford’s Comprehensive Plan, and (3) the map which appears as Figure 2 on Page 8 of the Comprehensive Plan, which identifies an area, including Price Street and the Intervenor’s homes, as a “Neighborhood Conservation Zone.”

Approval of the rezoning petition is clearly “in compliance with” all of these components of the Comprehensive Plan.

Under Miss. Code Ann. §§ 17-1-11(1)(a) and 17-1-11(2), the governing authority of each municipality in Mississippi is authorized to adopt, amend and enforce the comprehensive plan, zoning ordinance, subdivision regulations, and capital improvements program. Under Miss. Code Ann. § 17-1-15, the governing authority of each municipality in Mississippi is authorized to “provide for the manner in which the comprehensive plan, zoning ordinance (including the zoning map), subdivision regulations and capital improvements program shall be . . . from time to time, amended”

Consistent with these enabling statutes, the City of Oxford established in its zoning ordinance express provisions for amendment of the zoning ordinance and the zoning map. See Sections 203.03 and 203.06 of Oxford’s Zoning Ordinance, copies of which are provided in the **Appendix**. These are the provisions used by the petitioners in requesting the proposed rezoning.

land use map incorporated in the Comprehensive Plan prior to correcting a “mapping error” on the zoning map.

This Court has previously held that enactment of a urban renewal plan for a specific area does not *ipso facto* result in a change in the city’s zoning laws for properties in that area. *Key Petroleum, Inc. v. Housing Authority of Gulfport*, 357 So.2d 920 (Miss. 1977). It appears that Mississippi’s enabling statutes and case law contemplate that a city’s comprehensive plan and its zoning ordinance may be amended separately. Appellant cites no precedent for his argument that both must be amended before the amendment to one is effective.

III. There is “substantial evidence” to support the finding of the Board of Aldermen that the existing zoning was the result of a “manifest error,” a “clerical or administrative mistake.”

Mississippi case law has consistently explained that a local zoning authority may amend its zoning ordinance based on “a clerical or administrative mistake” in the original zoning but not based on a “mistake in judgment.” The color coding “mapping error” for twenty lots on Price Street falls squarely within the “clerical or administrative mistake” category. A similar “mapping error” which misclassified several lots in another existing single-family neighborhood as “multi-family” was discovered during the comprehensive planning process and corrected by the Board of Aldermen. R. 120-123 (presentation in support of petition, citing previous “mapping error” affecting Turnbull property)

The present case is indistinguishable from the situation in *Faircloth v. Lyles*, 592 So.2d 941 (Miss. 1991), where this Court found that “substantial evidence” supported a

The record in this case is a far cry from the record in decisions like *City of New Albany v. Ray*, 417 So.2d 550 (Miss. 1982), where there was no evidence before the appellate court to rebut the presumption that the original zoning was not the result of a mistake. Here as discussed at length in the brief of the Appellees, sitting Alderman who were involved in the original comprehensive planning and related zoning effort acknowledged and explained on the record that a “mistake” had been in the classification of these twenty lots on Price Street. R. 52-56.

This Court found in *City of New Albany v. Ray* that the unanimous decision of the Board of Alderman in voting against a proposed amendment was evidence that a mistake had not been made in the original zoning. Here, the unanimous decision of the Board of Aldermen should be accepted as evidence that a mistake was made.

IV. Alternatively, there is “substantial evidence” to support the finding of the Board of Aldermen that “changed or changing circumstances” and “public need” supported amending the zoning for these lots.

For several decades, Mississippi courts have used a “change or mistake” standard for rezonings that was originally used by courts in Maryland and is sometimes referred to as the “Maryland rule.” *See 1 Anderson’s American Law of Zoning*, § 5.11 (4th ed. 1996 & 2004 Supp.)

Mississippi cases have consistently explained that zoning authorities can change a property classification from one use to another only if (1) a mistake was made in the original zoning; or (2) if “a change in the character of the neighborhood has occurred to such an extent as to justify rezoning and that a public need exists for such action.” *See, e.g.,*

Ct. App. 2000).

As explained above, the “change or mistake” standard also appears in Oxford’s zoning ordinance. The Mississippi Code includes several enabling statutes that authorize a municipality like the City of Oxford to “provide for the manner in which” its zoning ordinance may, from time to time, be amended. *See* Miss. Code Ann. §§ 17-1-15.

As explained in the introductory section of this brief, the amendment procedure in the City of Oxford’s zoning ordinance allows a change in zoning based on (1) “manifest error;” or (2) “changed or changing circumstances in a particular area or in the municipality generally.” *See* Section 203.03 of the City of Oxford’s zoning ordinance.

The Appellant argues that there is evidence in the record of only one instance of “changed or changing circumstances” – a small condominium development by Cowart Properties at 317 Price Street immediately adjacent to the lots on Price Street identified for rezoning in the petition.

In fact, there is evidence in the record, R. 120-123, of four events that the petitioners argued constituted “changed or changing circumstances”:

- Cowart’s razing of a single-family residence to build a 6-unit condominium.
- A request for a variance, filed with the City but subsequently delayed or withdrawn when the owner learned of the petition, to build two units on another Price Street lot.
- The Fox Hill condominium development on 14th Street.
- The Bienville Place condominium development at North 11th

however, that after enactment of the 2004 Comprehensive Plan and after changes to the RB classification, Cowart Properties managed to build a 6-unit condominium project on a lot that previously could only have been used for a single-family home or a duplex.

At any rate, as demonstrated by the photographs submitted in the record concerning the four matters cited by the petitioners as “changed or changing circumstances,” including the razing of the existing home at 317 Price Street and subsequent construction on this lot, undoubtedly changed the character of this neighborhood and other neighborhoods in the conservation zone in obvious and adverse ways, and this change occurred after the enactment of the 2004 Comprehensive Plan. R. 124-129 (photographs showing effect of condominium developments on community character in the conservation zone).

It is well-accepted in Mississippi cases that “informality attends rezoning proceedings,” and that “governing board members may take into consideration their personal knowledge and familiarity with their community.” *See, e.g., City of Clinton v. Conerly*, 509 So.2d 877, 885 (Miss. 1987). The fact that a variance request had been submitted to construct two condominiums on another lot in this section of Price Street is referenced in the record and was a matter that the Aldermen could take into account.

Photographs of the recent, on-going clearing of tracts for the Fox Hill and Bienville Place developments in the midst of existing neighborhoods were also submitted for the record in support of the rezoning petition. R. 124-129. These developments constituted “changed or changing circumstances” familiar to the Aldermen in the same “Neighborhood Conservation Zone” as the Price Street lots.

endangered existing neighborhoods. There are examples in the record in or near the neighborhood that includes the Price Street lots and in the particular area identified as in the Comprehensive Plan as the “Neighborhood Conservation Zone.”

The Mississippi Court of Appeals has recognized that “increasing development pressures” may constitute a “substantial change in the character of a neighborhood” that justifies modification of a zoning classification. *See Childs v. Hancock County Board of Supervisors*, ___So.2d ___, ¶23, 2007 WL 3257014 (Miss. Ct. App. Nov. 6, 2007).

This Court has previously held that “preserving an existing residential area” is a “valid city goal” in considering rezoning requests. *Saunders v. City of Jackson*, 511 So.2d 902, 906 (1987).

“Public need” – the final element required for rezoning under the “changed or changing circumstances” alternative – can be, and in this case, has been, demonstrated by the guiding principle of neighborhood preservation adopted in Oxford’s comprehensive planning process. *Accord Kuluz v. City of D’Iberville*, 890 So.2d 938 (Miss. Ct. App. 2004), *reh’g denied, cert. denied* (2005).

Conclusion

Appellant’s argument that the rezoning of these lots on Price Street is not in compliance with the city’s Comprehensive Plan ignores the guiding principles, goals, implementation strategies, and virtually all of the text of the City of Oxford’s Comprehensive Plan.

by precedent. It is inconsistent with the plain language of Mississippi statutes authorizing municipalities like the City of Oxford to determine the manner in which their zoning ordinances may be amended from time to time.


There is substantial evidence of “mistake” supporting this rezoning in the record. Statements by several aldermen on the record and the unanimous vote of them all⁵ approving the rezoning effectively rebut any presumption that the twenty lots in question were “deliberately and thoughtfully” classified as RB rather than R1A. *See, e.g., Town of Florence v. Sea Lands, Ltd.*, 759.2d 1221 (Miss. 2000).


Alternatively, under any formulation of the “changed or changing circumstances” standard for rezoning, there is substantial evidence in the record, including explanations by individual Aldermen, that increasing development pressures in this neighborhood and in the particular area identified in Oxford’s Comprehensive Plan for protection of existing neighborhoods near the Square justified the rezoning. The “public need” component for this alternative ground for amending the zoning is demonstrated by the guiding principles and goals of the city’s comprehensive plan.

In sum, there is “substantial evidence” in the record supporting this rezoning under either prong of the “change or mistake” standard. This Court, accordingly, under its previously announced standard for review of decisions by zoning authorities should not substitute its own judgment as to the wisdom or soundness of the rezoning. *See, e.g., Perez v. Garden Isle Community Assoc.*, 882 So.2d 217, 219, 220 (Miss. 2004).

to rezone the lots in question on Price Street be affirmed.

Respectfully submitted, this the ~~20~~²¹ day January, 2008.


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I, Joyce Freeland, attorney for Intervenor Lucy Lynn Robinson, Mary Sue Robinson, and Ralph Coleman certify that I have this day mailed the foregoing Brief of Intervenor to the Clerk of Court of the Supreme Court of Mississippi for filing in this case and have served a copy of the above and foregoing by United States Mail with postage prepaid on the following persons at these addresses:

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This the 20th day of January, 2008.



Joyce Freeland

**CHECKLIST, AMENDMENTS, VARIANCES, PUBLIC NOTICE AND
HEARING PROCEDURES, APPEALS AND CERTIFICATES.**

Section 221 Reserved for Application Procedure

Section 222 Land Development Checklist

222.01 A Land Development Code Checklist shall be required for: All new or renovated development or redevelopment of land or buildings and all projects located in an historic conservation district which requires a Certificate of Appropriateness for exterior new construction or renovation.

222.02 The Land Development Code Checklist is a checklist of all the requirements necessary to complete the development and to receive a Certificate of Zoning Compliance. The Land Development Code Checklist shall be issued by the Director of Planning and Development. A Certificate of Zoning Compliance may be issued at the same time if all requirements of this Code are met.

222.03 A Planned Unit Land development code checklist shall be issued and maintained by the Director of Planning and Development. All development occurring in the planned unit development shall be in accordance with this permit and shall be so determined by the Director of Planning and Development. See Section 150, Planned Unit Development - PUD.

Section 223 Amendments

223.01 The regulations, conditions, specifications and procedures set forth in this Land Development Code may from time to time require amendment. Except for Appendix A, the Governing Authorities, on receiving the recommendation of the Oxford Planning Commission, may amend the provisions of this Code after proper notice and hearing as required by law. The Governing Authorities may amend the provision of Appendix A, the Historic Preservation Ordinance, including the designation of preservation districts, landmarks, and landmark sites, after receiving a recommendation from the Oxford Historic Preservation Commission and after proper notice and hearing as required by law.

(Ord. No. 2007-4;2-20-07)

223.02 The Governing Authorities may, from time to time, on its motion or on petition from a property owner, or on recommendation of the Oxford Planning Commission amend the regulations and districts herein established. No change in regulations, restrictions or district boundaries shall become effective until after a public hearing has been held in relation thereto by the Oxford Planning Commission at which parties in interest and citizens shall have an opportunity to be heard. Every proposed amendment shall be referred to the Oxford Planning Commission for recommendation. When an application has been made to the Planning Commission for the change in regulations or district boundaries, the applicant shall, prior to the holding of a public hearing on such application, fully comply with the procedures set out in Section 226, Public Hearing Procedure.

223.03 Amendment Procedure

1. Declaration of Public Policy. For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the municipality, this Ordinance, and as here used the term Ordinance shall be deemed to include the official zoning map, shall not be amended except to correct a manifest error in the Ordinance or, because of changed or changing conditions in a particular area or in the municipality generally, to rezone an area or to extend the boundary of an existing District, or to change the regulations and restrictions thereof, only as reasonably necessary to the promotion of the public health, safety or general welfare. Subject to the limitations of the foregoing Declaration of Public Policy, an amendment to this Ordinance may be initiated by the Board of Aldermen on its own motion, or, in the manner and pursuant to the

State law references-Municipal authorities to provide for manner of changing zoning regulations, etc., Miss. Code Ann. 1972, § 17-1-16; procedures for change in zoning regulations, restrictions, and boundaries, Miss. Code Ann. 1972, § 17-1-17.

223.04 Limitations on All Proposed Amendments.

1. All proposed amendments to this Ordinance, regardless of how or by whom initiated, shall be subject to the following limitations:
 - a. Administrative examination. No amendment to this Ordinance shall be adopted until the amendment has been examined by the City Planning Commission as hereinafter set forth and the recommendation of the City Planning Commission obtained.
 - b. Uniformity of District regulations and restrictions. No amendment to this Ordinance shall be adopted whereby the regulations and restrictions established thereby are not uniform for each District having the same classification and bearing the same symbol or designation on the official zoning map.
 - c. Compatibility of new Districts with surrounding Districts. No amendment to this Ordinance shall be adopted which establishes a new District, regardless of size, which permits uses not compatible with the uses of surrounding Districts or which violates the purpose of this Ordinance as stated in Section 110.
 - d. Need for uses to be clear and demonstrable. No amendment to this Ordinance shall be adopted whereby a lower zoning classification is established for an area unless there is a clear and demonstrable necessity in the area for those uses which are permitted in the District applied for and not the next higher District.

223.05 Effect of Protest to Amendment of Zoning Map

In case of a protest against such change signed by the owners of twenty (20) percent or more, either of the area the lots included in such proposed change, or of those immediately adjacent to the rear thereof, extending one hundred sixty (160) feet there from or of those directly opposite thereto, extending one hundred sixty (160) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of two-thirds (2/3) of all the members of the Board of Aldermen.

(Ord. No. 1979-7, § 2, 6-5-79)

223.06 Applications for Amendments

1. By whom made. Any person, firm, corporation or political subdivision may apply for an amendment to this Ordinance.
2. Filing of applications. All applications for amendments to this Ordinance shall be filed with the Administrative Official.
3. Contents of applications. Without in any way limiting the right to file additional material, no application for amendment to this Ordinance will be considered unless it contains:
 - a. At least the applicant's name, address and interest in the application, and the name, address and interest of every person, firm, corporation or political subdivision represented by the applicant interested in the application.
 - b. The description of the proposed amendment.

- c. A plat showing the land area which would be affected by the proposed amendment, the present zoning classification of the area and of all abutting properties, all public and private rights-of-way and easements bounding and intersecting the designated area and abutting properties.
- d. The error in the Ordinance that would be corrected by the proposed amendment or changed or changing conditions in the applicable area or in the municipality generally that make the proposed amendment reasonably necessary to the promotion of the public health, safety or general welfare.

223.07 Administrative Examination

Upon receipt of an application for an amendment, supplement, change, modification or repeal, of the zoning regulations, restrictions or boundaries properly and completely made as herein set forth, the administrative official shall set the date of the hearing, give notice thereof and transmit copies of the application to the Oxford Planning Commission for review prior to said hearing. The City Planning Commission may, after examination of the [application, and if considered necessary, require that] applicant furnish additional reasonable and pertinent information.

(Ord. No. 1979-7, § 3, 6-5-79)

223.08 Disposition of Applications

1. Administrative disposition. Upon receipt of an application for an amendment, supplement, change, modification or repeal of the zoning regulations, restrictions or boundaries from the Administrative Official, the Oxford Planning Commission shall hold a public hearing on the matter after publication of notice as required by Section 225. Upon conclusion of the public hearing, the Administrative Official shall forward to the Mayor and Board of Aldermen the recommendation of the Oxford Planning Commission, and its findings in the matter, if any.

A written notice of appeal shall be given to the Director of Planning and Development within ten (10) days from the date of such recommendation by the Oxford Planning Commission. The Planning Director and Governing Authority shall set the appeal date not less than thirty (30) days from the date of approval of the minutes of the Planning Commission relative to the matters of the case on appeal, shall mail a notice to all parties entering an appearance in such cause, and shall have published advertisements.

(Ord. No. 1994-3, § 2, 1-18-94)

2. Final disposition. Within ninety (90) days after the date set in the case, advertisement, receipt of the Planning Commission minutes and conclusion of a de novo public hearing, the Mayor and Board of Aldermen shall either approve or deny, in whole or in part, the decision and recommendation of the Oxford Planning Commission. Where there is need for additional information, the Board of Aldermen may remand the case to the Oxford Planning Commission for further consideration, in accordance with the provisions of the Mississippi Code Annotated, Section 17-1-17 (1972).

(Ord. No. 1979-7, § 4, 6-5-79; Ord. No. 1994-3, § 3, 1-18-94)

223.09 Governing Authorities

The final authority to approve or deny amendments to this Code and on matters relating to appeals, Planned Unit Developments, and, as provided in this Code, variances, modify or otherwise change applications for final plat approval; or any other provision of this Land Development Code, and in keeping with all lawful requirements and procedures of law, shall be reserved exclusively to the Governing Authority of the City of Oxford, Mississippi.