

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS  
CIVIL DIVISION

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THE RESERVE AT SAGE MEADOWS, LLC

ANN HUDSON  
CLERK OF CIRCUIT COURT  
PLAINTIFF

VS.

CASE NO.: CV-2013- 551CPH

CITY OF JONESBORO, ARKANSAS;  
HARROLD PERRIN, in his official capacity  
as MAYOR OF CITY OF JONESBORO; DARREL DOVER,  
Alderman; ANN WILLIAMS, Alderman; CHARLES FRIERSON,  
Alderman; CHRIS MOORE, Alderman; JOHN STREET,  
Alderman; MITCH JOHNSON, Alderman;  
CHRIS GIBSON, Alderman; RENNELL WOODS, Alderman,  
MIKEL FEARS, Alderman; CHARLES COLEMAN, Alderman;  
TIM MCCALL, Alderman; and GENE VANCE, Alderman, all named  
Exclusively in their official capacities as members of the City  
Council of the CITY OF JONESBORO

DEFENDANTS

TEMPORARY RESTRAINING ORDER

On this 2<sup>nd</sup> day of December, 2013, came before the Court Plaintiff's Verified Petition for Temporary Restraining Order and Declaratory Relief. After reviewing the Verified Petition, the exhibits thereto and other papers properly before it, this Court Orders as follows:

1. This Circuit Court has jurisdiction over the parties and subject matter hereto. Venue is proper in this Court.
2. Plaintiff's Petition deals with proposed actions of the City of Jonesboro to review previous decisions of the Metropolitan Area Planning Commission (hereinafter

"MAPC" or "Commission") relating to a proposed multi-family housing development to be known as The Reserve at Sage Meadows.

3. Plaintiff's petition seeks entry of a preliminary injunction to prevent the City Council from hearing an appeal of a decision made by the Metropolitan Area Planning Commission (hereinafter "MAPC" or "Commission") on October 7, 2013. The appeal was requested by Kevin M. Lawrence on behalf of the Sage Meadows Property Owners Association (hereinafter "SMPOA"). The appeal is scheduled for December 3, 2013 at the regularly scheduled City Council Meeting.

4. Pursuant to Ark. R. Civ. P. 65, a party may seek a temporary restraining order, *ex parte*, if the Plaintiff provides specific facts in an affidavit or a verified complaint clearly showing that immediate and irreparable injury, loss, or damage will result to the Plaintiff before the adverse party can be heard in opposition.

5. In the instant case, Plaintiff has alleged in a Verified Petition that the Jonesboro City Council has scheduled to review findings of the MAPC that, if reversed, would cause immediate and irreparable harm by eliminating Plaintiff's rights to use and enjoy the property that it plans to develop.

6. The Verified Petition and supporting documentation demonstrate that the organization that requested the appeal before the Council, the SMPOA, was not a party to the proceedings before the MAPC. Instead, the SMPOA represents a group of nearby property owners who objected to the planned development as citizens of the City of Jonesboro by way of participation at the public MAPC meetings.

7. The applicable MAPC Bylaws set forth the rules for appealing site plan denials. The applicable provision, Article IV(D)(4)(c), provides an applicant the right to appeal the Commissions denial of an applicant's proposed site plan.

8. However, the language of the Bylaws limits the right of appeal to the applicant. The Bylaws do not give provide third-parties the right to appeal, nor does it provide the Jonesboro City Council the right to review site plan approvals of the MAPC *sua sponte*. Rather, the Bylaws indicate that, under the present circumstances, the approval by the MAPC is the final and conclusive administrative review and not subject to appeal.

9. The appeal raised by the Sage Meadows Property Owners Association is contrary to the procedure set forth in the applicable Bylaws. Consequently, the Jonesboro City Council is without legal authority to proceed with an appeal forwarded by the SMPOA.

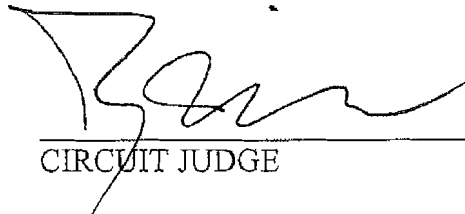
10. Therefore, this Court grants Plaintiff's request for a temporary restraining order, enjoining the City Council from reviewing or otherwise disturbing the MAPC's decision to approve the site plan submitted by The Reserve at Sage Meadows, LLC.

11. This Order is specifically limited to the issues raised herein and in Plaintiff's Verified Complaint and is, in no way, designed to otherwise interfere with the business of the City of Jonesboro or its City Council.

12. The Defendants are entitled to a hearing on this issue upon request and in compliance with the requirements contained in Ark. R. Civ. P. 65.

13. In addition to the hearing available pursuant to Rule 65, the Court hereby orders Plaintiff to serve a copy of the foregoing Order on all parties hereto so that a hearing on the merits may be scheduled.

IT IS SO ORDERED



CIRCUIT JUDGE

Prepared by:

Jeff Scriber  
**Jeff Scriber P.A.**  
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