IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2025-CA-00566-COA

ALLISON LAUDERDALE **APPELLANT**

v.

HINDS COUNTY MISSISSIPPI BOARD OF SUPERVISORS, SOUL CITY STORAGE, LLC AND SOUL CITY ENERGY, LLC **APPELLEES**

DATE OF JUDGMENT:	04/11/2025
TRIAL JUDGE:	HON. ELEANOR JOHNSON PETERSON
COURT FROM WHICH APPEALED:	HINDS COUNTY CIRCUIT COURT, FIRST JUDICIAL DISTRICT
ATTORNEY FOR APPELLANT:	JOHN PRINCE MARTIN
ATTORNEYS FOR APPELLEES:	RAYFORD G. CHAMBERS MARIE ELIZABETH ROPER
NATURE OF THE CASE:	CIVIL - STATE BOARDS AND AGENCIES
DISPOSITION:	AFFIRMED - 11/10/2026
MOTION FOR REHEARING FILED:	

EN BANC.

LASSITTER ST. PÉ, J., FOR THE COURT:

¶1. In April 2024, Soul City Storage LLC and Soul City Energy LLC (collectively, Soul City) submitted applications to the Hinds County Planning Commission requesting conditional use permits for two projects. Soul City sought to build a solar farm and battery storage facility on property in Hinds County. The property was comprised of approximately 5,800 acres of undeveloped land, stretching from Bolton to an area north of the Natchez Trace.

¶2. A few weeks later, Soul City "hosted a community meeting and open house" in Raymond, which "was well attended with over 100 attendees[.]" Soul City was "provided

a lot of feedback regarding the project" and voluntarily revised its permit applications to address the community's concerns. Its revisions included relocation of construction traffic, a road use agreement, tree and vegetation management, and the use of agricultural fencing and wildlife corridors.

¶3. The Hinds County Planning Commission held a public hearing on Soul City's permit applications in May 2024. The county's zoning director presented the details of both applications to the Planning Commission, and representatives of Soul City spoke in favor of the projects. Members of the public were then given an opportunity to voice their opinions and concerns. The concerns raised by county residents opposed to the project included a desire to maintain the undeveloped rural nature of the county and prevent disruption in wildlife movement.

¶4. Allison Lauderdale was one of the community members present at the Planning Commission's meeting. According to transcripts from the meeting, Lauderdale took part in the hearing as "a designated spokesperson" for the "constituents of Hinds County" and voiced her opposition to the conditional use permits.

¶5. At the end of the hearing, the Commission remarked:

> Chairman: Commissioners, you heard presentations and also the rebuttal and the community concerns and support. What's your pleasure?
>
> Commissioner: Mr. Chairman, due to the amount of opposition that we've heard, we feel that we should not grant the petitioner their request.

The Planning Commission then unanimously voted to deny both of Soul City's conditional-use permit applications.

¶6. Soul City appealed to the Hinds County Board of Supervisors, and the Board held a public hearing in June 2024. Individuals spoke both against and in support of the project. The mayor of Raymond requested a one-year moratorium on solar projects. During the hearing, a Board member asked Permit and Zoning Director Henry Davis whether the application complied with the zoning ordinance. Davis represented that Soul City had followed all the zoning guidelines and that solar farms are a permissible conditional use.

¶7. The Board of Supervisors approved Soul City's applications by a 3-2 vote. The order and minutes further memorialized the Board's resolution to approve the two applications.[1]

¶8. Lauderdale appealed the Board's decision to the Hinds County Circuit Court. She argued that the Board's decision was invalid because the Board did not issue written findings

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[1] In Soul City's appellate briefing, it summarized the attachments as follows:

> Both CUP applications included Supplemental Applications, which provided detailed assessments of compliance with the pertinent sections of the Hinds County Zoning Ordinance, including Articles IV (General Regulations, as to setbacks, street frontage, visibility at intersections, and height regulations), V (Agricultural District uses and Conditional Uses in this zoning district, including public or quasi-public facilities and utilities), and Article XXIV, Section 2406 (specific requirements for the Board to grant a conditional use), Section 2408 (site plan review), and Section 2409 (specifications for required site plans). (SOULCITY_00010-00083, 00099-00659). Soul City Energy's Supplemental Application also addressed compliance with Article XIX (noting that it will not install solar panels within FEMA designated floodplains, including a setback from the floodplains). (SOULCITY_00120). Appendices to both Supplemental Applications provided further information in support of Soul City's compliance with all requirements: Preliminary Site Plans; a Detailed Description of Solar Project Facilities; Zoning Verification Letters; Federal Aviation Administration-Determination of No Hazard; and Lists of Adjacent Landowners and Zoning Districts (as required for the Site Plan) and proof of notification to these landowners. (SOULCITY_00039-00083, 00133-00659).

as required by the zoning ordinance. She further argued that the decision to grant the permits was not supported by substantial evidence.

¶9. The circuit court, sitting as an appellate court, heard arguments from the parties in February 2025 and then issued a written order in April. The circuit court found that Soul City's supplemental applications and detailed plans were "substantive in nature and addressed potential adverse impacts, such as odor, noise, road and traffic congestion, and general compatibility" and "included maintenance of trees and vegetation, along with protection of wildlife using agricultural fencing and wildlife corridors." The circuit court acknowledged Lauderdale's argument that the Board did not make its decision in writing, but the court found this was not error. The circuit court ultimately affirmed the Board's grant of the two permit applications to Soul City.

¶10. Aggrieved, Lauderdale appeals.

STANDARD OF REVIEW

¶11. "In reviewing zoning cases, the circuit court acts as an appellate court, not as the trier of fact." *Elliott Land Devs. LLC v. Bd. of Supervisors of Jackson Cnty.*, 421 So. 3d 1206, 1212 (¶25) (Miss. 2025). "The circuit court acts as the first-level appeals court, and our Court reviews 'the same record that was made at the agency whose decision is the subject of the appeal, and applies the same review standard to it regardless of whether the circuit court affirmed or reversed that decision.'" *Id*. (quoting *Thomas v. Bd. of Supervisors of Panola Cnty.*, 45 So. 3d 1173, 1180 (¶21) (Miss. 2010)).

¶12. And "[i]f the [b]oard of [s]upervisors' decision is based on substantial evidence, then

it is binding on the circuit court and [this] Court." *Id*. at (¶26). "For 'zoning decisions by boards of supervisors, the order of the governing body will not be set aside unless it is clearly shown to be arbitrary, capricious, discriminatory, or is illegal, or without a substantial evidentiary basis.'" *Id*. (quoting *Thomas*, 45 So. 3d at 1180 (¶22)).

¶13. "The burden of proof on issues of 'rezoning rests on the party asserting the invalidity of the board's actions, while the board's actions' are presumed valid." *Id*. at (¶28) (quoting *Thomas*, 45 So. 3d at 1180 (¶23)). This Court "cannot substitute its judgment for actions taken by the board." *Id*. (quoting *Thomas*, 45 So. 3d at 1180 (¶23)). "The zoning authority's actions 'must not be disturbed where the issue is fairly debatable.'" *Id*. (quotation mark omitted) (quoting *Thomas*, 45 So. 3d at 1180 (¶23)). "When there is substantial evidence supporting each side of the zoning application, the zoning authority's ultimate decision is considered fairly debatable, rather than arbitrary or capricious, depriving our Court of the authority to overturn the zoning authority's decision." *Id*. at 1212-13 (¶28). "A zoning case must be decided on all of the circumstances of that particular case." *Id*. at 1213 (¶28).

DISCUSSION

¶14. Lauderdale raises one core argument on appeal. She asserts that "[t]he Board of Supervisors acted arbitrarily and capriciously by approving the conditional use permits without issuing the written findings and a written certification of compliance as required by the Zoning Ordinance." As a complement to that issue, she further argues that the Board and Soul City "are judicially estopped from argu[ing] that written findings were unnecessary," and last, she argues that the reliance on two prior conditional use permit cases was

"misplaced."

I. The Board satisfied the ordinance's written requirements.

¶15. Lauderdale argues the Board of Supervisors committed reversible error when it failed to issue the required written certificate, failed to provide any written findings demonstrating its reasons for granting the applications, and failed to impose any additional conditions on the permits it issued.

¶16. "Conditional use permits are adjudicative in nature." *Longo v. City of Waveland*, 431 So. 3d 693, 696 (¶11) (Miss. 2026) (quoting *Barnes v. Bd. of Supervisors, DeSoto Cnty.*, 553 So. 2d 508, 510-11 (Miss. 1989)). "The burden is upon the applicants to prove by a preponderance of the evidence that they have met the elements/factors essential to obtaining the conditional use permit." *Id*. at 696-97 (¶11) (quoting *Barnes*, 553 So. 2d at 511).

¶17. There is no dispute that subsections (a), (b), and (c) of Hinds County Zoning Ordinance Section 2406 have been satisfied.[2] Soul City filed a written and supplemental application for a conditional use, as well as a supplemental information letter in response to the community meeting it held. Likewise, Soul City provided a detailed "Site Plan."

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[2] Hinds County Zoning Ordinance Section 2406 provides the following requirements for allowing conditional uses:

> (a) A written application for a conditional use[] is submitted indicating the Section in the Ordinance under which the conditional use is sought and stating the grounds on which it is requested.
> (b) A detailed Site Plan is submitted in accordance with Section 2408 of this Ordinance for review of the requested conditional use.
> (c) A public hearing shall be held and notice of such hearing given in accordance with the procedures specified in Section 2410 for all public hearings relative to this Ordinance.

¶18. The section at issue is subsection (d), which requires:

> (d) The Board of Supervisors have made a written decision certifying compliance with the special rules governing individual conditional uses and that satisfactory provisions and arrangement has been made concerning the following where applicable:
>
> (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, access in case of fire or catastrophe.
> (2) Off-street parking and loading areas where required with particular attention to the items noted above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the District.
> (3) Refuse and service areas, with particular reference to the items noted above.
> (4) Utilities, with reference to locations, availability, and compatibility.
> (5) Screening and buffering with reference to type, dimensions, and character.
> (6) Required yards and other open space.
> (7) General compatibility with adjacent properties and other property in the District.
> (8) Any other provisions deemed applicable by the Board of Supervisors.

Subsection (d) does not prescribe a particular form for its decision or require a separate certificate containing a finding on each consideration.

¶19. It is well established that "public boards speak only through their minutes[,] and their actions are evidenced solely by entries on the minutes.'" *Haman Constr. LLC v. Marshall Cnty. Bd. of Supervisors*, 433 So. 3d 320, 326 (¶23) (Miss. Ct. App. 2026) (quoting *Hous. Auth. of Yazoo City v. Billings*, 404 So. 3d 1148, 1151 (¶18) (Miss. 2025)).[3]

[3] "[T]he minute rule exists to 'allow members of the taxpaying public to consult a Board's minutes to see what was actually done." *Haman Constr.*, 433 So. 3d at 326-27 (¶25).

¶20. "[O]nly the formal action of the Board" is "required to be placed in the minutes," not the board's discussion. *Id*. at 327 (¶26). An "'action of the board' is a motion that is made, seconded, and approved." *Id*.

¶21. Our supreme court has instructed that boards generally should make specific findings on the relevant zoning requirements. *Barnes*, 553 So. 2d at 511 (noting that "[t]he DeSoto County Board of Supervisors did not make specific findings of fact . . . which boards should do in granting or denying conditional use permits"). But the supreme court also held that the absence of specific findings does not necessarily require reversal. *Id*. In *Barnes*, the board's grant of the permit together with its imposition of conditions was "tantamount to a finding of fact by the . . . [b]oard of [s]upervisors[.]" *Id*.

¶22. Likewise, in *Favre v. Hancock County Board of Supervisors*, this Court stated that "we will not automatically reverse the [b]oard for granting the conditional-use permit subject to certain restrictions" when the board failed to make specific findings." *Favre v. Hancock Cnty. Bd. of Supervisors*, 52 So. 3d 463, 467 (¶14) (Miss. Ct. App. 2011). The Court pointed to multiple documents the board considered in making its decision as support for affirming the board's action. *Id*.

¶23. The county's zoning director was specifically questioned on the following factors of the conditional use permits Soul City requested:

> [Supervisor]: Before we proceed, let me ask a couple of questions[.] . . . Number one, did - - [Soul City], did they follow any - - all or any of the rules that Hinds County has set forth, all of the rules, regulations, policies and procedures?
>
> [Director]: Yes, sir. [Soul City] followed all of the guidelines that we have and . . . that relates[] to the conditional use permits.

. . . .

[Supervisor]: [T]he solar panels, will they cause harm to any humans or animals?

[Director]: According - - I'm not an expert on it, but according to the research that I've done, I haven't seen anything that it causes any damage to the wildlife.

. . . .

[Supervisor]: They are under contract that they will clean up their areas, and they're going to make sure that what little does - - is going on is going to be contained, am I correct?

The zoning director confirmed these were part of Soul City's self-imposed conditions.

¶24. Here, the Board's written order and minutes refer to a "document affixed hereto and incorporated herein." These documents included the 73-page application and supplemental application for a conditional use permit and preliminary site plan.[4] The following is a list of each section found in the application:

1.0 Introduction
2.0 Project Description
3.0 Project Participants
4.0 Construction Schedule
5.0 Operations and Maintenance
6.0 Qualifications
7.0 Compliance with Article IV of the Zoning Ordinance of Hinds County, Mississippi
    7.1 Section 408 – Determination of Setbacks
    7.2 Section 409 – Street Frontage Required
    7.3 Section 410 – Visibility at Intersections
    7.4 Section 411 – Fences, Walls, and Hedges

[4] Soul City's Notice of Appeal "appended all the materials included with its original and supplemental conditional use permit Applications, . . . as well as its May 22, 2024 Supplemental Information letter in response to the May 14, 2024 community meeting," "the November 20, 2023 Minutes of the Board meeting where the Board previously approved separate Ad Valorem Tax Agreements reassessing the parcels that serve as the site for its projects (C.P. 1629-44) and the October 16, 2023 Minutes of the Board meeting where the Board approved a conditional use permit for Hinds Solar, LLC, a similarly-situated solar project as recommended by the Planning Commission."

7.5 Section 412 – Accessory Buildings or Uses
7.6 Section 413 – Exceptions to Height Restrictions
7.7 Section 414 – Public/Quasi Public Facilities and Utilities
7.8 Section 430 – Street/Road Numbers Required

8.0 Compliance with Article V of the Zoning Ordinance of Hinds County, Mississippi
8.1 Section 502 – Conditional Uses and Structures as Provided in Section 2406
8.2 Section 503 – Dimensional Requirements

9.0 Compliance with Section 2406 of the Zoning Ordinance of Hinds County, Mississippi
9.1 A written application for a conditional use, is submitted indicating the Section in the Ordinance under which the conditional use is sought and stating the grounds on which it is requested
9.2 A detailed Site Plan is submitted in accordance with Section 2408 of this ordinance for review of the requested conditional use
9.3 Ingress and egress to property and proposed structures thereon with reference to automotive and pedestrian safety and convenience, traffic flow and control, access in case of fire or catastrophe
9.4 Off-street parking and loading areas where required with particular attention to the items noted above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the District
9.4.1 Off-street Parking and Loading
9.4.2 Economics
9.4.3 Noise
9.4.4 Glare
9.4.5 Odor
9.5 Refuse and service areas
9.6 Utilities, with reference to locations, availability, and compatibility
9.7 Screening and buffering with reference to type, dimensions, and character
9.8 Required yards and other open space
9.9 General compatibility with adjacent properties and other property in the District.
9.10 Any other provisions deemed applicable by the Board of Supervisors

10.0 Site Plan Requirements

10.1 Compliance with Section 2408 of the Zoning Ordinance of Hinds County, Mississippi

10.1.1 Any residential development of 20 or more dwelling units

10.1.2 Any residential, commercial, or industrial development having structures in excess of two stories

10.1.3 Any residential development encompassing ten (10) acres or more or any commercial or industrial development encompassing two (2) acres or more

10.1.4 Any hazardous development and/or use within the 1-2 Heavy Industrial District

10.1.5 Special Use District

10.1.6 Planned Unit Development

10.1.7 Any residential, commercial, or industrial development located within a FEMA designated floodplain or floodway

10.1.8 Other special cases and projects that may be brought to Committee's attention by the Board of Supervisors, County Engineer, or Director of Permit and Zoning

10.2 Compliance with Section 2409 of the Zoning Ordinance of Hinds County, Mississippi

10.2.1 The zoning of adjacent tracts

10.2.2 The names of owners of adjacent lots and tracts

10.2.3 Existing and proposed roads and drainage areas

10.2.4 Access ways, curb cuts, drives and parking areas

10.2.5 Building lines and the location of all structures existing and proposed

10.2.6 Proposed uses of the land and building

10.2.7 Existing water and sewer lines

10.2.8 Contours at vertical intervals of two (2) feet or less

10.2.9 Lot Lines

10.2.10 Open space and recreation areas

10.2.11 Area (in square feet and/or acres) of parcel(s)

10.2.12 Proposed gross lot coverage by buildings and structures

10.2.13 Number and type of dwelling units (where proposed)

10.2.14 Percentage and amount of impervious surface in square feet

10.2.15 A “Development Plan” (see Section 2409.02) when staging of development is proposed

10.2.16 All requirements of the Hinds County Subdivision Regulations where the development constitutes a subdivision

10.2.17 Any additional data necessary to allow for a thorough evaluation of the proposed development and use

11.0 Conclusion

¶25. By incorporating the application, site plan, and all materials included with the original and supplemental conditional-use permit applications and the May 22, 2024 Supplemental Information Letter in response to the May 14, 2024 community meeting, the Board made it part of its written decision. Read together, the Board's approval and the incorporated materials constitute its written certification that the project, as presented, complied with the ordinance as required under subsection (d) of the Hinds County Zoning Ordinance Section 2406.

¶26. The record contains substantial evidence supporting that determination. Soul City's supplemental application included a 15-page discussion of its compliance with the relevant provisions of the zoning ordinance. The application and reports addressed the project's design and its compliance with the applicable requirements.

¶27. The Board approved the project described in the application and expressly incorporated the supporting document into its written decision. That action, as memorialized in its written order and minutes, considered with the record evidence, demonstrates that the Board resolved the ordinance's requirements in Soul City's favor and satisfies the requirements of subsection (d) under Section 2406.

II. Sufficient evidence supports granting the conditional use permits.

¶28. Lauderdale further argues that the evidence presented did not support granting Soul City the requested conditional use permits. She relies heavily on the fact that there was

significant community opposition to the proposed construction projects.

¶29. Soul City significantly revised its proposal in response to community concerns, including concerns about construction traffic, road use, vegetation management, fencing, and wildlife corridors. To be specific, Soul City points out on appeal:

> The four areas of concern and the voluntary conditions that Soul City agreed to undertake included: (1) accommodating concerns about safety issues and traffic congestion for Central Hinds Academy during construction by relocating a laydown yard and access point and keeping equipment deliveries and construction traffic away from the school (which included submitting a Revised Preliminary Site Plan); (2) responding to concerns that the construction would worsen already poor roads by offering to repair and improve these roads at its own expense through a road use agreement with the County; (3) maintaining trees and vegetation as a visual screen and even planting new trees if landowners cleared trees from their property before construction; and (4) protecting wildlife by using agricultural fencing and wildlife corridors to allow wildlife to move through the project.

Soul City *voluntarily accepted conditions* that concerned the community. The fact that these conditions were taken on voluntarily, rather than imposed by the Board, does not negate the fact that they exist. Therefore, as in *Barnes* and *Favre*, the Board's approval of the permit was also an approval of the extensive self-imposed conditions for Soul City.[5]

¶30. That evidence is more than enough to support the Board's decision under the deferential substantial-evidence standard. The Board was not required to accept every objection raised at the hearing, and the existence of opposition does not itself establish that

[5] We find that the Board did accept and approve the conditions that Soul City voluntarily agreed to address. Further, we find that the record demonstrates reasoned decision-making by the Hinds County Board of Supervisors, articulated conditions agreed to by Soul City, and meaningful engagement with ordinance criteria as set out in the conditional-use permit application and verbally addressed by the Planning Director. Therefore, we are unpersuaded by Lauderdale's argument that *Barnes* and *Favre* are not applicable to this case.

the proposal failed to satisfy the ordinance. Nor does the project's size, its anticipated 30-year life, or the closeness of the Board's vote create a less deferential standard of review. Contrary to Lauderdale's arguments, those circumstances may make careful review appropriate, but they do not negate the evidence in the record or supply a basis to require a new proceeding.

III. Judicial estoppel does not apply.

¶31. In support of her core argument, Lauderdale also argues the Board and Soul City should be "judicially estopped" from arguing that written findings are not always required. First of all, judicial estoppel does not apply in this case. As our Supreme Court has explained, "[t]he purpose of judicial estoppel is to prevent parties from knowingly taking a position in one court that is contrary to a position that party has asserted in, and that has been accepted by, another court." *Clark v. Neese*, 131 So. 3d 556, 561-62 (¶21) (Miss. 2013). The "other court" also must have accepted this position. *Id*. at 561 (¶20). Even if we adopt Lauderdale's view of the Board's position, there was no "other court" that accepted this argument.

¶32. Second, "judicial estoppel is designed to protect the judicial system and applies where intentional self-contradiction is being used as a means of obtaining unfair advantage in a forum provided for suitors seeking justice." *Id*. at 560 (¶15). Judicial estoppel precludes parties from asserting and later abandoning positions. *Id*. Judicial estoppel does not prevent a court from applying binding precedent. This Court must follow supreme court precedent, and Lauderdale cannot construct an argument meant to preclude vexatious litigation with our faithful application of caselaw and statutes. *See Beckham v. Beckham*, 296 So. 3d 120, 124 n.4 (Miss. Ct. App. 2019) (stating "we must follow [s]upreme [c]ourt precedent").

CONCLUSION

¶33. After review, we find the Board's written decision through its minutes, read together with the materials expressly incorporated therein, satisfies the Hinds County ordinance's certification requirement. Additionally, we find Soul City presented substantial evidence to support the Board's decision to grant the two conditional use permits.

¶34. **AFFIRMED.**

WILSON, P.J., LAWRENCE, McCARTY, EMFINGER AND WEDDLE, JJ., CONCUR. WESTBROOKS, J., DISSENTS WITH SEPARATE WRITTEN OPINION, JOINED BY BARNES, C.J., CARLTON, P.J., AND McDONALD, J.

WESTBROOKS, J., DISSENTING:

¶35. I respectfully dissent. I would find that the Hinds County Board of Supervisors failed to comply with the zoning ordinance's mandatory requirement that "a conditional use shall not be granted by the Board of Supervisors until" the Board has "made a written decision certifying compliance with the special rules governing individual conditional uses[.]" Given the specificity of the zoning ordinance at hand, I cannot agree that the Board's grant of the two conditional use permits is supported by substantial evidence.

¶36. According to a Hinds County zoning ordinance, the purpose of the Agricultural zone is as follows:

> The purpose of the Agricultural District (A) is to conserve land for agricultural use, to prevent the premature development of land, and to prevent urban and agricultural land use conflicts. It is the intent of this Ordinance that the Agricultural District (A) be located in rural areas of Hinds County that are not served by public sewer systems. It is further the intent of this Ordinance to prevent disorderly scattering of residences on small lots and to prevent the establishment of other urban land uses that would require unreasonable expenditure for public roadway and stormwater management improvements

and utility and public safety services.

Section 502 of the ordinance, titled "Conditional Uses and Structures as Provided in Section 2406," lists "a) Public or quasi-public facilities and utilities in compliance with Section 414 and other regulations of this Ordinance" as a permissible conditional use.

¶37. Section 2406 provides in relevant part:

> A conditional use *shall not be granted* by the Board of Supervisors until:
>
> (a) A written application for a conditional use[] is submitted indicating the Section in the Ordinance under which the conditional use is sought and stating the grounds on which it is requested.
>
> (b) A detailed Site Plan is submitted in accordance with Section 2408 of this Ordinance for review of the requested conditional use.
>
> (c) A public hearing shall be held and notice of such hearing given in accordance with the procedures specified in Section 2410 for all public hearings relative to this Ordinance.
>
> (d) The Board of Supervisors have *made a written decision certifying compliance with the special rules governing individual conditional uses and that satisfactory provisions and arrangement has been made concerning the following where applicable*:
>
> > (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, access in case of fire or catastrophe.
> >
> > (2) Off-street parking and loading areas where required with particular attention to the items noted above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the District.
> >
> > (3) Refuse and service areas, with particular reference to the items noted above.
> >
> > (4) Utilities, with reference to locations, availability, and

compatibility.

(5) Screening and buffering with reference to type, dimensions, and character.

(6) Required yards and other open space.

(7) General compatibility with adjacent properties and other property in the District.

(8) Any other provisions deemed applicable by the Board of Supervisors.

(Emphasis added).

¶38. As a general rule, county boards of supervisors should make specific findings of facts on each zoning requirement for a conditional use permit. *Barnes v. DeSoto Cnty. Bd. of Sup'rs*, 553 So. 2d 508, 511 (Miss. 1989). However, "[t]he absence of findings does not necessarily warrant reversal." *Favre v. Hancock Cnty. Bd. of Sup'rs*, 52 So. 3d 463, 465 (¶5) (Miss. Ct. App. 2011); *see also Caver v. Jackson Cnty. Bd. of Sup'rs*, 947 So. 2d 351, 353 (¶8) (Miss. Ct. App. 2007); *Perez v. Garden Isle Cmty. Ass'n*, 882 So. 2d 217 (Miss. 2004). In *Barnes*, the DeSoto County Board of Supervisors granted a conditional use permit for a stone and gravel company to mine gravel from a property adjacent to a subdivision. *Barnes*, 553 So. 2d at 509. The board did not make specific findings of fact evaluating each of the six considerations required by the zoning ordinance, such as traffic and fire hazards, the character of the neighborhood, and the impact on public utilities. *Id.* at 511. However, the board did add fifteen detailed additional conditions when granting the application. *Id.* Stating the rule that governing bodies should make specific findings of fact, the Mississippi Supreme Court cited eleven cases from comparative jurisdictions. *Id.*

¶39. However, the Court ultimately held that "granting the conditional use permit and imposing conditions upon the granting of that permit, is tantamount to a finding of fact by the DeSoto County Board of Supervisors that the six questions were answered and found in favor of the applicants." *Id.* (emphasis added). Significantly, the Court appended the fifteen conditions to its opinion. *Id.* at 512-13. Examples include setback limits, limited hours for mining operations, a requirement for the company to have a process for receiving complaints from residents, a ban on burning trees or rubbish, and a drainage plan approved by the county engineer. *Id.*

¶40. In *Favre*, the Hancock County Board of Supervisors initially denied Jourdan River Estates' request for the county to rezone a 269-acre property from Agricultural to a Waterfront Special Use District. *Favre*, 52 So. 3d at 464 (¶1). Jourdan River Estates had intended to develop 1,000 condominiums and a 130-slip marina. *Id.* It subsequently modified the scope of its development from a marina to a yacht club and to include 472 condominiums and a three-to-five-acre yacht basin. *Id.* at (¶2). The county granted this application as a "permitted use by right." *Id.* However, the approval of the plan was subject to several conditions, including that the county engineer "approve the plans for the road providing ingress and egress for the development." *Id.* at 465 (¶2). On appeal, a local resident opposed to the development argued that the decision should be reversed and remanded "for the Board to make specific findings supporting its decision." *Id.* at (¶5). But this Court affirmed, citing *Barnes*' holding that "granting the conditional use permit and imposing conditions upon the granting of that permit, [was] tantamount to a finding of fact[.]" *Id.* (quoting *Barnes*, 553 So.

2d at 511). We determined that we "must review the record to determine whether the Board's decision was supported by substantial evidence." *Id.*[6]

¶41. I am persuaded by Lauderdale's argument that the line of cases affirming in the absence of written findings is distinguishable from the current circumstances. She points to the mandatory certification requirement and to the absence of additional conditions on the permits, as were issued by the boards of supervisors in both *Barnes* and *Favre*. The specific requirements of zoning ordinances vary by county. This case is distinguishable from the relevant line of precedent in that—beyond the generally recognized rule that boards "should" make written findings of fact—the Hinds County Zoning Ordinance mandates that a conditional use permit "shall not be granted by the Board of Supervisors until" the Board has "made a written decision certifying compliance with the special rules governing individual conditional uses and that satisfactory provisions and arrangement has been made concerning" further enumerated considerations.

¶42. Therefore, appellate review of whether the grant of the application is supported by substantial evidence or is arbitrary and capricious includes a review of whether the requirement for the written certification has been functionally satisfied. Given the ordinance's specificity, the minutes are insufficient to satisfy the mandatory requirement. The Board did not comply with the ordinance's mandate to provide written certification specific to the CUP requirements. Nor does the record contain an action "tantamount" to written

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[6] *See also Kinney v. Harrison Cnty. Bd. of Sup'rs*, 312 So. 3d 358, 363 (¶26) (Miss. Ct. App. 2020) (affirming the grant of a CUP for a resident to have a manufactured home on his property when the permit was granted under the condition that it be used exclusively for a manufactured home).

findings, such as the imposition of additional conditions. Unlike the Court in *Barnes*, we cannot determine from the record that the "questions [regarding compliance] were answered and found in favor of the applicants." *Barnes*, 553 So. 2d at 511. Conditions here are indicative, not conclusive, of substantial compliance. I would not presume to extend the holding in *Barnes* to declare that conditions categorically indicate substantial compliance or that their absence categorically indicates lack of substantial compliance. A finding of substantial compliance is always highly dependent on the facts of the particular record and the specific county's zoning ordinance.

¶43. The importance of this layer of due diligence by the local governing body is especially apparent for projects of a larger scope. This is a complex application for a 5,800-acre utility-scale solar farm and energy storage facility expected to last for thirty years. The project drew community opposition, and the planning commission unanimously denied the application. The Board approved the grant of the CUPs by a close 3-2 vote. Unlike the reversal of a denial of a CUP application, which could operate to grant the CUP, a reversal and remand here would not preclude the Board from granting the applications so long as it is done consistent with its duties under the ordinance. *See City of Biloxi v. McDonald*, 395 So. 3d 91, 97 (¶18) (Miss. Ct. App. 2024).

¶44. Hinds County Zoning Ordinance Section 2406 requires the Board of Supervisors to issue "a written decision certifying compliance with the special rules governing individual conditional uses" before granting a CUP. In light of the Board's failure to comply with the certification requirement, I would find that reversal and remand is warranted. I therefore

respectfully dissent.

BARNES, C.J., CARLTON, P.J., AND McDONALD, J., JOIN THIS OPINION.