

September 27, 2005

The City of Opelika Planning Commission held its regular monthly meeting on September 27, 2005 in the Planning Commission Chambers, located at the Public Works Facility, 700 Fox Trail. Certified letters were mailed to all adjacent property owners for related issues.

MEMBERS PRESENT: Chairman Sadler, Dr. William D. Lazenby,
Arthur Wood, Dr. William B. Whatley, Mayor Fuller,
Bart Van Nieuwenhuse, Keith Pridgen, Lewis Cherry

MEMBERS ABSENT: Jesse Seroyer, Jr.

STAFF PRESENT: Marty Ogren, Planning Director;
Charlie Thomas, Engineering Director;
Jerry Posey, Opelika Light & Power;
Guy Gunter, City Attorney

CALL TO ORDER: Chairman Sadler called the meeting to order at 3:01 p.m. He stated that if there were no additions or corrections to the minutes for the Planning Commission Meeting for the month of August he would like to entertain a motion to accept the minutes as written.

Dr. Whatley made a motion to accept the August 23, 2005 meeting minutes as written.

Mr. Pridgen seconded the motion.

Ayes: Wood, Sadler, Lazenby, Whatley, Fuller, Pridgen, Cherry,
Van Nieuwenhuse

Nays: None

Abstention: None

The motion to accept the August 23, 2005 Planning Commission meeting minutes passed.

OLD BUSINESS

Review rezoning recommendation for property on South Uniroyal Road, Creekstone S/D.

Chairman Sadler stated that the R2 & R3 Rezoning recommendation that went from the Planning Commission to the City Council concerning Creekstone S/D; the City Council decided to send it back to the Planning Commission for further review and study in hopes that the board would give a different recommendation.

Chairman Sadler opened the floor to the board members for discussion.

Mayor Fuller asked Chairman Sadler what options does the board have.

Chairman Sadler said the options are to send the recommendation back to City Council as presented the first time, which was a unanimous vote. He said that he was reminded that since it was a unanimous vote; that the Planning board would have to have justification for that decision. He asked Mr. Gunter to clarify his opinion.

Mr. Gunter said that there can always be a reason to change the original recommendation given. He said one should always be able to articulate a reason for recommending any particular change.

Dr. Lazenby said the board members should have a right to change their mind if they want.

Mayor Fuller stated that his concern is with the density of the houses to be built in the R-3, and with the additional traffic at South Uniroyal; regardless of what happens at Highway 280.

Chairman Sadler asked Mr. Grot if he had a traffic study to submit.

Mr. Grot said that they are in the process of presenting one soon.

Mr. Van Nieuwenhuise stated that although he sympathizes with the citizens of the S. Uniroyal Road community, who prefers the zone to be R-2 over the R-3; it's his understanding that for the city to move forward and grow; he feels the zone should be R-3. He said that the compromise that was worked out with the developer on the buffer between the R1, R2 & R3 is appropriate, and if this developer, Mr. Grot, develops on South Uniroyal—this board doesn't need to make decisions with the City of Opelika that will stop growth. This board sent the recommendation with a unanimous vote to City Council, and City Council has a right to defeat that recommendation if they don't agree with it.

Dr. Whatley said his concern is the increased traffic that will occur with the new development. He said the traffic right now is a big problem.

Dr. Lazenby stated that it's not just what will happen with that particular parcel being developed down across from the Uniroyal Plant at Highway 169; there is an even bigger development there. He said there is a significant amount of traffic that will come out at Highway 169 onto Highway 51. Down the road on both sides of the road will eventually be developed also. The traffic will quadruple on that road. He said after realizing all of this, he stated that he has changed his mind.

Chairman Sadler asked Mr. Gunter what would be the appropriate way to handle this; the Planning Commission made a recommendation; does the Planning Commission need to re-send the recommendation City Council.

Dr. Lazenby stated that the Planning Commission needs to re-vote whether they want it to be an R-2 or an R-3 zone.

Mr. Van Nieuwenhuise made a motion to send a positive recommendation to City Council as submitted previously.

Mr. Wood said the board needs to make a decision by voting their opinion.

Mr. Cherry seconded the motion.

Chairman Sadler asked for further discussion.

Mr. Pridgen stated that if the Planning board sends a recommendation back to City Council, the Planning board should add an amendment to the recommendation stating whether the developer, Mr. Grot, should leave the lots the same size and state that Highway 280 be linked with North Uniroyal or if the concern is smaller lots, then the board should make the amendment to build the road at a later time to link at North Uniroyal, and have the developer build the lots 70'. If we send something forward to City Council; it needs to be with the amendment attached to it.

Chairman Sadler stated that there is a motion and a 2nd on the floor to send the same recommendation back to City Council. He asked Mr. Van Nieuwenhuise if he wished to amend his motion to include an amendment that Mr. Grot, developer, to connect North Uniroyal and South Uniroyal Roads.

Mr. Van Nieuwenhuise said yes he would like to add the amendment to his previous motion to send a positive recommendation to City Council that Mr. Grot, the developer connect North Uniroyal to South Uniroyal Roads.

Chairman Sadler asked for a vote.

Ayes: Cherry, Van Nieuwenhuise, Pridgen, Whatley, Sadler
Nays: Lazenby, Wood, Fuller
Abstention: None

The motion to send a positive recommendation to City Council with the amendment that Mr. Grot, Developer, connect North Uniroyal and South Uniroyal Roads passed.

A. PLATS-Preliminary & Final PUBLIC HEARING

1. Thaxton Estates S/D, 27 lots, Lafayette Pkwy, John Grot, Preliminary/Final approval.

Mr. Ogren reported that the applicant is requesting preliminary and final plat approval for a 27-lot subdivision. This same property was reviewed about 2 years ago as a subdivision and annexation request. The lots range from 1.5 acres to 5.2 acres.

A 50-foot minimum building line and the flood information should be shown on the plat.

Planning staff recommends preliminary and final plat approval subject to the 50-foot building line and flood information shown on the plat.

Mr. Thomas, Engineering, reported that the annexation adjacent to this S/D is addressed at Item D.12. Re-title plat as shown above. Sewer service is not currently available. Engineering recommends approval subject to the following:

- a) Provide a digital version of the final plat, in accordance with (IAW) Sect. 4.5 of the S/D Regulations.
- b) Lot 26 should be labeled non-buildable, unless it has public road access.
- c) Show the current & proposed City Limits on the plat.
- d) Taylor Road name must be retained as directed by City Council.
- e) No direct access to Lafayette Pkwy (U.S. Hwy 431) from Lots 16 or 19.
- f) A bond or letter of credit, payable to the City of Opelika, for any infrastructure improvements not fully complete prior to signing the final plat, including, but not limited to:
 - Additional one inch (1") wearing surface on Thaxton Acres Drive (existing Mary Olive Lane).
 - Cul-de-sac at the end of Taylor Road (Lee Road 683).

Utilities Board reported that water service is not accessible to this subdivision at this time. The developer is exploring the possibility of extending fire and domestic water service North on Lafayette Parkway to this subdivision. The original platted subdivision named Whippoorwill Lakes Subdivision was divided into approximately one acre lots and grandfathered in the Saugahatchee Watershed Protection Plan. The new subdivision will consist of lot sizes ranging from 1.86 acres to 18.72 acres, which will offer more protection and better meets the intent of the Saugahatchee Watershed Protection Plan, even though 7 out of 27 lots do not meet the 3-acre minimum lot size requirement for lots inside the watershed area that do not have sanitary sewer service. The developer will need to submit the following information to our staff for review:

1. The report from Pangaea Environment Consulting containing an on site soils septic tank viability study for this particular subdivision.
2. A detailed drawing showing the proposed septic tank system.
3. A detailed drawing showing the proposed improvements to the creek located on the Southwest portion of the property with erosion and sediment control.

Mr. Posey reported that this area is served by Tallapoosa River Electric Co-op.

Chairman Sadler opened the public hearing.

No comments were made from the audience.
Chairman Sadler closed the public hearing.

Chairman Sadler asked for questions or comments.

Chairman Sadler asked for a motion.

Mr. Van Nieuwenhuise made a motion to grant preliminary and final plat approval with staff requirements.

Dr. Lazenby seconded the motion.

Ayes: Wood, Lazenby, Whatley, Van Nieuwenhuise, Fuller, Cherry, Pridgen

Nays: None

Abstention: None

The motion to grant preliminary and final plat approval with staff requirements passed.

2. Hickory Grove S/D, 24 lots, Lee Road 152, James McGill, Preliminary Approval.

Mr. Ogren reported that the applicant is requesting preliminary plat approval for a 24-lot subdivision located outside the City limits. The applicant is also requesting annexation of this same 35-acre property that will be reviewed in agenda item #13. The lots range from 1 acre to 1.7 acres. A 50-foot minimum setback building line is shown on the property. The lots will be sold; single-family homes will be built on each lot. A new street "Hickory Grove Lane" will be constructed so each lot has public road access. Also, a 200 foot section of Lee Road 152 will be improved to city standards. (Lee Road 152 is the existing public road access to this 24-lot subdivision).

Planning staff recommends preliminary plat approval subject to all information added or corrected on the plat as required by the *Subdivision Regulations*. (Easement statement added and certifications corrected).

Mr. Thomas, Engineering, reported that the annexation of the property is addressed at Item D.13. Sewer service is not currently available. He recommended preliminary approval, but the following items should be addressed prior to final approval:

- a) Provide a digital version of the final plat, IAW Sect. 4.5 of the S/D Regulations.
- b) Rename Hickory Grove Lane, due to existing Hickory Lane in the City. Final approval of street names is subject to concurrence from our public safety departments.
- c) The proposed angle of intersection with Betty's Lane is less than our seventy-five degrees (75°) minimum; ninety (90°) is preferred
- d) Curb & gutter is optional along Hickory Grove Lane, IAW Section 3.2.3, closing paragraph of the Public Works Manual.
- e) Show the current & proposed City Limits on the plat.
- f) Submittal, review and approval of a complete set of construction plans including, but not limited to: Proposed Erosion and Sediment Control (ESC) BMP implementation Roadway plan and profiles, and Storm-water management design (retention/detention) with supporting calculation.

Mr. Lee, Utilities Board, reported that water service is accessible to this subdivision by a water main in the R.O.W. of Betty's Lane, Lee Road 152.

Mr. Posey reported that this area is presently served by Tallapoosa River Electric Co-op.

Chairman Sadler opened the public hearing.

Ms. Betty Stallings, adjacent property owner, asked if the discussion on the preliminary plat today will have any impact on their previous discussions with the developer, because their driveway out of the curve goes onto their (Stallings) properties.

Chairman Sadler said no that it should not have any barring on this request. Chairman Sadler closed the public hearing.

Chairman Sadler asked for questions or comments.

Dr. Lazenby made a motion to grant preliminary plat approval with staff recommendations.

Mr. Pridgen seconded the motion.

Ayes: Wood, Lazenby, Whatley, Van Nieuwenhuise, Fuller, Cherry, Pridgen

Nays: None

Abstention: None

The motion to grant preliminary plat approval with staff recommendations passed.

3. Capps-Palmer S/D, First addition, 2 lots, Gateway Drive, Capps Family Partners LTD, P/F Approval.

Mr. Ogren reported that the applicant is requesting preliminary and final plat approval for a 2-lot subdivision. The purpose of this subdivision is to sale Lot-1 (31 acres). The next agenda item involves the subdivision of Lot 1 by the new property owner.

The plat meets all preliminary and final subdivision plat requirements except for a 40-foot minimum building setback line should be shown on the plat.

Planning Staff recommends approval subject to the building setback line shown on the plat.

Mr. Thomas reported that Item A.4, following, is subject to approval of this plat. Sewer service may not be accessible to portions of Lot 2. An adjacent property owner questioned our blocking requirements related to a possible interconnection of Society Hill Road with Hamilton Road via an extension of Stonybrook Road through Lot 2. After consideration thereof, Engineering believes that is a viable, valuable opportunity, but the Engineering Department is unwilling to dictate the location of proposed R.O.W. at this time. When Lot 2 is further subdivided, Engineering strongly recommends thorough consideration of such plans. He recommended approval.

Utilities Board had no report.

Mr. Posey reported that part of this area will be provided electric service by Alabama Power and part by Opelika Light & Power.

Chairman Sadler opened the public hearing.

Mr. Steve Ward came forth and said that he questioned the blocking requirement on the subdivision. He said he understood it would be 400 to 1,200 feet, and right now it's between ½ mile and 2,600 to 2,800 feet without any access down Gateway Drive. He said that it was his understanding that the only way it could be waived that would not adversely affect health or safety, and he questioned the safety issue of it where the city could put in a right-of-way now to guarantee that lot 2 would ever be subdivided ; if not there it could be sold as a whole or developed as a whole, and there's no guarantee it would ever be re-subdivided; and if something such as a wreck happens on the bridge on Hamilton Road there

would be no way to get through to what could potentially be a 160 acre development next to this or into Stonybrook Subdivision or the Hamilton Road area. He stated that he was not asking anyone to put a new road in; he is suggesting that it would be simple to run the future R.O.W. and run it between the lot line of Lot 1 and Lot 2.

Chairman Sadler asked Mr. Thomas what his thoughts are on the matter.

Mr. Thomas stated that Engineering had an extended discussion with Mr. Ward after Planning Commission Work session prior to this meeting today, and he said that Engineering agrees with the concept of the road extension. He said that the blocking requirement has been used with the existing road network with the adjacent properties; for example the next subdivision there is a proposed future street between lot 1 and lot 2. He said that Engineering agrees with what Mr. Ward is saying in regards to the R.O.W.; however, the practice has historically been to allow the developer and the owner of the property the privilege of deciding where and how their street network roads would go within a negotiating reason. He feels that it's not reasonable for the Engineering Department or the Planning Department to come in and arbitrarily draw a R.O.W. across lot 2 for a road that may or may not ever be built. The adjacent properties are not in the city which may not be an issue. He said that he has no problem with the concept; but if the need were to arise at some point into the future to construct the road that Mr. Ward is speaking of; the property owners of lot 2 could be totally uncooperative and he doesn't foresee any new development of this property and feels that to arbitrarily draw a R.O.W. through lot 2 would be a disservice to the property owner.

Mr. Ward stated that he is not talking about 2—1 acre lots; we talking about a 40-acre development on a major road backing up to what could potentially be 160 acre development that the city is cutting access off to a major road. He said it was his idea that the Planning Commission was to plan for future long term roads, and he said a connection with Gateway Drive over to Hamilton Road would be a good idea. He stated that Mr. McCrory proposed adding a ROW when he served on the Council, and when it came up to Council for a vote, the gentlemen that had the house on Hamilton Road voted against it, but since that time, Mr. Ward said he bought that house and he said he spoke with Mr. Thomas about it, and he (Mr. Ward) thought that it would be a good opportunity to tie Hamilton Road into Stonybrook and tie it all the way through – back over to Gateway—he said by going through with this, he asked Mr. Benson after the Planning Commission Worksession the possibility of tying into what he is planning to do in his next development, and he didn't seem interested in connecting it through there. He said that he thought the simplest thing to do is to just run a 60' to 80' strip down between the 2 lots; and just because it's put in now as a 60' strip doesn't mean it can't be vacated and moved to another location.

Mr. Thomas stated that Mr. Ward's statements are true, but just vacating a R.O.W. is a significant legal action to take, and right now all that Engineering can do is arbitrarily draw it on the map.

Chairman Sadler stated that in Mr. Ward's defense; we have historically in this city that goes back had not planned or tie's R.O.W.'s acknowledgments on a piece of property down anywhere in the past that has cost this city a lot of money. He said that when we see the potential for growth in an area and there's opportunity to take advantage of it – so at least getting an general idea of where things can tie together; whether the city needs to plan for a future road or reserve for a future R.O.W.—he said that he doesn't see anything wrong with that process.

Mr. Pridgen stated that if we look at the map presented today—there would only be 89' between the new paved road on the lower southeastern quadrant and the

new proposed street that's going through there, and it would be against the regulations. He said that 89' is not sufficient.

Mr. Ward stated that the next subdivision on the agenda is just preliminary and things can go wrong to where he has seen preliminary plats that have never actually been put together; and if that would be the problem then he would have no objection to going parallel to the lot line between 1 and 2; 400' away that's being proposed; which would be the next logical block for the development as well. He stated that this is an important opportunity for the Planning Commission to plan for the future.

Mr. Benson came forth to stated that there are several reasons why he opposes what Mr. Ward suggested number one; it forces his hand in development; and two, what Mr. Ward is speaking of, is the benefits of the Planning Commission however; he said the true benefit is for himself {Mr. Ward}; because he owns the property directly to the south of this property and he {Mr. Ward} is trying to gain an access to Gateway Drive in which his property does not have, although he {Mr. Ward} does have access to Society Hill Road just around the corner-which Mr. Benson said if Mr. Ward would want to develop a street through there to accommodate the city's ingress/egress that would be his choice, but to ask himself {Mr. Benson} to give a gift that would be truly taking by the city to say we want a street all the way through this property is a little onerous. He said that his plans currently are not in place on Lot 2, he said they have provided some area for future planning in this lot 1 development and have spoken with some of the owners of the property that does for Hamilton Road and that is a possibility for Mr. Benson to come through there. He said that he does strenuously object to someone forcing them to provide an access for someone who has good access and is not land locked. He said that if Mr. Ward wants access then he needs to deal with the people who own the property (Capps Family), as opposed to pursuing this from another side in which he objects to the method, and Mr. Ward dictating to him (his development) whether it's down this line or whether it's 400', which ties their hands.

Chairman Sadler closed the public hearing.

Mr. Van Nieuwenhuise made a motion to grant a preliminary & final plat approval with staff requirements with the modifications to require a right-of-way along the property between lot 1 & 2 for future development.

Mr. Van Nieuwenhuise stated that it's prudent to plan for development and plan for cross access.

Mr. Benson asked if the city were planning to relocate his proposed street.

Mr. Van Nieuwenhuise explained how moving it would provide access, which any street someone gives to the city is a gift which would then be the city's responsibility for maintaining it.

Mr. Benson asked if what Mr. Van Nieuwenhuise is suggesting, is to take the proposed street and bring it down further on the property and cul-de-sac it.

Mr. Van Nieuwenhuise stated that is what he made his motion on is to put the proposed future R.O.W. between Lots 1 & 2.

Dr. Lazenby seconded the motion.

Chairman Sadler asked for a vote.

Ayes: Van Nieuwenhuise, Lazenby, Wood, Cherry, Pridgen, Fuller, Whatley

Nays: None

Abstention: None

The motion to grant a preliminary & final plat approval with staff requirements with the modifications to require a R.O. W. along the property between lots 1 & 2 passed.

4. Capps-Palmer S/D, First Addition, First Revision, Sub. of Lot 1, Gateway Drive, Capps Family Partners LTD, Preliminary approval.

Mr. Ogren reported that the applicant is requesting preliminary plat approval for an 8 lot subdivision. The lots range from 1.2 to 10 acres. A small portion of this property is zoned C-3, GC-1. Most of the property is zoned R-1. The applicant will be rezoning of the property to C3, GC-1.

The plat meets all preliminary subdivision plat requirements except for the 50-foot minimum building setback line shown on the plat.

Planning Staff recommends preliminary plat approval.

Mr. Thomas stated, "due to the changes and action taken on the previous item, he did not believe he had any report."

Utilities Board reported that the water service is accessible to this subdivision by a water main in the R.O.W. of Gateway Drive.

Mr. Posey reported that part of this area will be served by Alabama Power and part served by Opelika Light & Power.

Chairman Sadler opened the public hearing.

There were further discussions between Mr. Benson, Chairman Sadler, and the Commissioners regarding the relocation of the proposed R.O.W.

Mr. Benson stated that if it be possible, he had rather the R.O.W. be placed on Lot 2 rather than place it between the two lots, which would allow the proper planning of the lot to be conducted; he asked if that would be a possibility?

Chairman Sadler stated that he doesn't see a problem with that request. He asked that Mr. Benson will locate a proposed idea of where the road is going to be on lot 2 before final approval.

Mr. Benson asked if it was the city's intention to gain access to Hamilton Road? If it is, he said then he could continue to investigate access through lot 1 which would be a quick link, or is it the city's intention to just create an access somewhere?

Mr. Van Nieuwenhuise stated that to create an access which is further down the property that would line up with Stonybrook S/D.

Chairman Sadler closed the public hearing.

Chairman Sadler asked for a motion.

Mr. Van Nieuwenhuise made a motion to grant preliminary plat approval with the R.O.W. shown on Lot 2 before final plat approval.

Mr. Pridgen seconded the motion.

Ayes: Pridgen, Wood, Whatley, Van Nieuwenhuise, Fuller, Lazenby, Cherry

Nays: None

Abstention: None

The motion to grant preliminary plat approval with the R.O.W. shown on Lot 2 before final plat approval passed.

Chairman Sadler stated that Item # 3 should be amended due to the discussion and motion that was given in Item #4 regarding the R.O.W.

Mr. Van Nieuwenhuise made a motion to amend Item #3 to require the R.O.W. on Lot 2 to be shown on the plat before final approval.

Mr. Pridgen seconded the amended motion.

Ayes: Wood, Whatley, Fuller, Pridgen, Van Nieuwenhuise, Cherry, Lazenby
Nays: None
Abstention: None

The motion to amend item #3 to require the R.O.W. on Lot 2 to be shown on the plat before final plat approval passed.

5. Plott S/D, Resub. of Lots 2 & 4, 14 lots, Samford Ave., Thrash Investments, Preliminary Approval.

Mr. Ogren reported that the applicant is requesting preliminary plat approval for a 14-lot subdivision. The property is located in an R-4, GC-2 zoning district. The lots range from 7,600 to 22,700 square feet; 7,500 s.f. is the minimum lot size requirement. The purpose of the subdivision is to build single family homes on each lot except for Lot 13 which is reserved for commercial use. A new street will be constructed to access the residential lots.

The plat meets all preliminary plat requirements.

Planning Staff recommends preliminary plat approval.

Mr. Thomas reported that Samford Avenue is a major collector with access management spacing of 200'. Therefore, upon final approval, no new access to Samford Avenue will be allowed from adjacent parcel 43-10-03-05-3-000-042-000. He recommended preliminary plat approval, but the following items should be addressed prior to final plat approval.

- a) Provide a digital version of the final plat, IAW Sect. 4.5 of the S/D Regulations.
- b) Show existing driveway to Ashton Way off Samford Ave. on the plat and insure compliance with Figure 3.2 on page 18 of the Public Works Manual (copy attached). We prefer alignment of proposed Maritha Street with Ashton Way drive.
- c) Approved names should be shown for all proposed streets. Final approved of street names is subject to concurrence from our public safety departments.
- d) Change railroad label to CSX.
- e) Clarify existing and proposed lot numbers (show existing dashed lines and delete Plott S/D label from Lot 4).
- f) Existing structure on Lot 13 a non-conforming use and may require a setback variance to allow appropriate access alignment to Samford Ave.
- g) Parcel A may not provide access to Samford Avenue.
- h) Submittal, review and approval of a complete set of construction plans including, but not limited to the following:
 1. Proposed Erosion and Sediment Control (ESC) BMP implementation.
 2. Roadway plan and profiles.
 3. Sanitary sewer plan and profiles, and storm-water management design (retention/detention) with supporting calculations.

Utilities Board reported that water service is accessible to this subdivision by a water main in the R.O.W. of Samford Avenue.

Mr. Posey reported that this area will be provided electric service by Opelika Light & Power.

Chairman Sadler opened the public hearing.
No comments were made from the audience.
Chairman Sadler closed the public hearing.

Dr. Lazenby made a motion to grant preliminary plat approval with staff requirements.
Dr. Whatley seconded the motion.

Ayes: Lazenby, Whatley, Van Nieuwenhuise, Cherry, Fuller, Pridgen, Wood
Nays: None
Abstention: None

The motion to grant preliminary plat approval with staff requirements passed.

6. J.T. Garner S/D, First Revision, 3 lots Highway 169, Colton Garner, P/F Approval.

Mr. Ogren reported that the applicant is requesting preliminary and final plat approval for a 3 lot subdivision. The property is located in an R-3 zoning district. Each lot is over 1 acre. The lots are located near the Uniroyal Goodrich plant on Highway 169. As required by ALDOT, all three lots will access Highway 169 at one access point on Lot 3A. A 50-foot access easement is shown on all the lots.

The plat meets all preliminary and final subdivision plat requirements.

Planning Staff recommends preliminary and final plat approval.

Mr. Thomas reported that Crawford Road (AL. Hwy. 169) is an arterial roadway with access spacing of 400 ft. Thus, the access/ingress easement satisfies our requirements. Sewer is not available to the property. Subject to ESC & storm-water management requirements, he recommended approval.

Utilities Board reported that water service is accessible to this subdivision by a water main in the R.O.W. of Alabama Highway 169.

Mr. Posey reported that this subdivision will be provided electric service by Opelika Light and Power.

Chairman Sadler opened the public hearing.

Ms. Cooper came forth and stated that the property is not adjacent from her property because she lives across the street.

Chairman Sadler closed the public hearing.

Mr. Pridgen made a motion to grant preliminary and final plat approval with staff requirements.
Mr. Van Nieuwenhuise seconded the motion.

Ayes: Pridgen, Cherry, Wood, Whatley, Lazenby, Van Nieuwenhuise, Fuller
Nays: None
Abstention: None

The motion to grant preliminary and final plat approval with staff requirements passed.

B. FINAL PLAT APPROVAL
7. The Estates, Phase 1, 133 lots, Veterans Parkway, Preston Holdings,

Final Approval.

Mr. Ogren reported that the applicant is requesting final plat approval for a 132 lot subdivision. This plat was given preliminary plat approval at the July 2005 Planning Commission meeting. The property was rezoned to a Planned Unit Development (PUD) at the July 19th City Council meeting.

Single family homes will be built on 130 of the 132 lots. A 4.6 acre lot (Lot 8) is reserved for a community park and pool facility and should be labeled on the plat (*The community park & pool was discussed with the City Council at the July 19th public hearing*). The residential lots range from 8, 275 s.f. to 18,700 s.f. A lake is provided on the Southwest corner of the plat. This area provides larger estate lots that have access to the lake.

As part of this PUD development, a bike lane and a sidewalk will run along Estates Drive. The sidewalk is located on the opposite side of the street from the bike lane. A 10-foot grass strip will be added between the sidewalk and the curb along Academy Estates Drive. Estates Drive will be lined with trees. Sidewalks will be included along the other streets shown on the plat.

Planning staff recommends final approval subject to:

1. A note added to the plat stating the minimum front, side and rear setback lines for these lots.
2. A bond and letter of credit submitted for all infrastructure improvements before the plat is signed.
3. Lot 8 on the plat labeled "Community Park & Pool Facility."

Mr. Thomas reported that although preliminary approval was not granted for lots 88-131 at the July PC meeting, Engineering has received & reviewed plans including those lots, with minor comments. He stated that Engineering has no objection to final approval, subject to the following items:

- a) Provide a digital version of the final plat, IAW Sect. 4.5 of the S/D
- b) Proposed Estates Drive should be named Academy Estates Drive; we prefer Academy Drive.
- c) Delete the "60' road easement" label from a portion of said Drive.
- d) Provide sixty feet (60') R.O.W.'s on Northwick to Chesham Drive, on Chesham to Hampton Lane, and on Hampton Lane.
- e) Show boundaries of Parcel 2, but scale is not required.
- f) *Potential property buyers are cautioned that water may stand in their yards.*
- g) Show front yard setback (building lines), including along intersecting streets.
- h) Comprehensive property grading plan, to include building lot pads, must be submitted and approved.
- i) A bond or letter of credit, payable to the City of Opelika, for any infrastructure improvements not fully complete prior to signing the final plat.

Utilities Board reported that water service is accessible to this subdivision by a water main in the R.O.W. of Veteran's Parkway, adjacent to Mandarin House Restaurant. The developer will need to post a bond or letter of credit for the water improvements that are to be made.

Mr. Posey reported that part of this area will be served by Alabama Power and part served by Opelika Light and Power.

Chairman Sadler asked if anyone from the audience had any comments.

No comments were made from the audience.

Mr. Van Nieuwenhuise made a motion to grant final plat approval with staff requirements.

Dr. Whatley seconded the motion.

Chairman Sadler stated that the motion should include Engineering's request to name the street Academy Drive.

Mr. Van Nieuwenhuise stated that his motion includes Engineering's request in the staff requirements.

Chairman Sadler asked for a vote.

Ayes: Cherry, Pridgen, Wood, Van Nieuwenhuise, Fuller, Whatley, Lazenby

Nays: None

Abstention: None

The motion to grant the final plat approval with staff requirements passed.

8. Stephens Woods, Phase V, 26 lots, off West Point Parkway (Lizlin Drive, new street), Preston Holdings LLC, final plat approval.

Mr. Ogren reported that the applicant is requesting final plat approval for a 26-lot subdivision. The property is located off Ridge Road and west of a new street called Sawyer Drive. The preliminary plat for these 26 lots was approved at the December 2004 meeting. This is Phase 5 of the Stephens Woods Subdivision. We approved Phase 4 at the July PC meeting.

The subdivision is located in an R-3 zone and 7,500 square feet is the minimum lot size requirement. The lots range in size of from 12,000 to 26,100 square feet. The lots will be accessed from a new street called Karley Drive. A bond and letter of credit is required for infrastructure improvements before the plat is signed.

The plat meets final plat requirements.

Mr. Thomas reported that Engineering design drawings have been reviewed and approved. Subject to provision of a digital file of the final plat, a bond or letter of credit, payable to the City of Opelika, for Sawyer Drive connection to Covington Avenue & any infrastructure improvements not fully complete prior to signing the final plat, he recommended approval.

Utilities Board reported that water service is accessible to this subdivision by a water main in the R.O.W. of Veteran's Parkway, adjacent to Mandarin House Restaurant. The developer will need to post a bond or letter of credit for the water improvements that are to be made.

Mr. Posey reported that Opelika Light & Power will provide service to this area.

Chairman Sadler asked if anyone from the audience had any comments.

There were no comments from the audience.

Chairman Sadler asked for a motion.

Mr. Pridgen made a motion to final plat approval with staff recommendations.

Dr. Lazenby seconded the motion.

Ayes: Cherry, Pridgen, Wood, Van Nieuwenhuise, Fuller, Whatley, Lazenby

Nays: None

Abstention: None

The motion to grant final plat approval with staff recommendations passed.

C. CONDITIONAL USE

9. Cynthia Jones, Columbus Parkway, C-2, GC-2, new daycare center

Mr. Ogren reported that the applicant, Cynthia Jones, is requesting conditional use approval to build a new daycare center on Columbus Parkway. The property is located in a C2, GC-2 (office-retail, gateway corridor) zoning district. The lot is 29,600 square feet. The proposed building is 40' x 98' (3,290 square feet). The daycare provides 24 hour service for infants, toddlers, and preschoolers. The daycare will staff 5 employees during the day and 3 employees at night. Approximately 24 children will be cared for during the day and at night 15 children. The daycare opens at 5:45 AM and closes at 11:30 PM.

The off-street traffic pattern on the daycare property consists of a one-way driveway that enters the daycare property from Torbert Street. The children will enter or exit the building from under a canopy, and then parents will exit the property onto Torbert Blvd.

Most of the site plan requirements have been met such as minimum parking spaces, minimum setbacks, and impervious surface ration (43%) have been met. The exterior material will be brick. A photometric plan (parking lot light plan) concerning exterior lighting for the property is required. The applicant is aware a light plan is required showing one foot candle at the property line before a building permit can be issued. A sign permit will need to be applied for prior to installing any signs.

RECOMMENDATION

Planning Staff believes the proposed daycare is reasonable and appropriate at this location and should not create any adverse effect to the adjacent neighborhood. The daycare is located near an existing residential and commercial area of town and should be of service to the area.

Planning Staff recommends conditional use approval with the following conditions:

1. A Photometric plan submitted showing exterior lighting no more than one foot candle at the property line.
2. The petitioner shall submit proof of compliance with the Opelika Zoning Ordinance Section 8.17 5. Conditional uses which states that "In the event a permit for conditional use is approved or approved subject to conditions, the applicant shall in writing within fifteen (15) days following such decision, acknowledge such approval and unconditionally accept and agree to any conditions imposed on the approval. The City Planner shall then take action to process the application on the zoning certificate for the development to which the conditional use permit applies. In the event such permit is not approved or is approved subject to conditions, that are not acceptable to the applicant, the applicant may, within the aforesaid time period, either appeal such decision to Circuit Court or abandon the application at the expiration of this fifteen (15) day period."

Mr. Thomas reported that the correct street name labels of Torbert St. to Torbert Blvd. and Torbert Blvd. to Columbus Parkway. Subject thereto, ESC & stormwater management requirements, he recommended approval.

Utilities Board had no report.

Mr. Posey reported that Opelika Light & Power will provide service to this area.

City Horticulturist recommended approval.

Dr. Lazenby stated that the report says the daycare is open 24 hours, but also stated that the daycare opens at 5:45 AM and closes at 11:30 PM. He stated the exact time of operational time should be clarified.

Mr. Van Nieuwenhuise made a motion to grant conditional use approval with staff requirements.

Mr. Pridgen seconded the motion.

Ayes: Cherry, Pridgen, Wood, Van Nieuwenhuise, Fuller, Whatley, Lazenby

Nays: None

Abstention: None

The motion to grant conditional use approval with staff recommendations passed.

10. Victor Vance, 3306 Pepperell Pkwy, C-3, GC-2, auto maintenance (window tinting).

Mr. Ogren reported that the applicant is requesting conditional use approval for an automobile maintenance business (auto window tinting). The property is located in C-2, GC-2 zone and auto maintenance businesses require conditional use approval. The business will locate in an existing commercial center that previously or now has automobile maintenance businesses. (Zenmotors occupies several suites in this commercial building). In March 2004 an auto window tinting business was approved for Suite L in this same commercial center. The building cannot be seen from Pepperell Parkway.

The applicant states in his application that "no outside storage" will occur and all work will be performed indoors. The applicant said that most of the window tinting jobs is 'by appointment' so rarely will a car be left on the premise more than one day. About five years ago this commercial property met all Gateway Corridor development standards and was approved by the Planning Commission.

Recommendation

Staff believes that the proposed conditional use is reasonable and appropriate at this location. This portion of the commercial property is not visible from Pepperell Parkway. The buildings are located in the rear yard of the commercial property. In the past, other auto maintenance businesses have located in this building. Staff believes that if all work is conducted inside the building and outside storage of customer vehicles is limited then the business will be compatible with the adjacent area and businesses.

Planning staff recommends approval of the conditional use request subject to no more than 2 vehicles remaining on the property longer than 48 hours.

Mr. Thomas recommended approval.

Utilities Board had no report.

Mr. Posey reported that Opelika Light & Power will provide service to this area.

City Horticulturist recommended approval.

Chairman Sadler asked for a motion.

Dr. Whatley made a motion to grant conditional use approval with staff recommendations.

Dr. Lazenby seconded the motion.

Ayes: Cherry, Pridgen, Wood, Van Nieuwenhuise, Fuller, Whatley, Lazenby
Nays: None
Abstention: None

The motion to grant conditional use approval with staff recommendations passed.

11. CB & E Development, 2215 Cunningham Drive, R-4, 25 zero-lot line homes.

Mr. Ogren reported that the applicant is requesting conditional use approval for a modified zero-lot line subdivision consisting of 25 homes located off Cunningham Drive. These homes are “modified” zero-lot line homes because they will be 5 feet from the side property line. True zero-lot line homes are placed on one of the side property lines. The purpose of zero-lot line homes is to address the needs of certain homeowners for an affordable home with low landscaping maintenance requirements. The concept of the zero-lot line home is that some people really do not need nor want a side yard yet they want to be separated from their neighbor. The modified zero lot line homes on Century Blvd. were the first of these type homes in Opelika.

At the February 2005 Planning Commission meeting, for this same property, a similar conditional use request and subdivision plat was approved. The difference between today’s conditional use and the February 2005 request is the elimination of an alley that ran along the rear property line in order to allow for a larger rear yard and to preserve trees located along the rear property line. Also, the homes are shifted toward the front yard. At next month’s Planning Commission meeting, if this conditional use request is approved, the applicant plans to submit the subdivision for final plat approval.

The site plan shows all 25 lots with direct access onto Bechet Drive or Bechet Court (new streets to be constructed) with shared driveways. Each home will have front entry two-car garages. The applicant is proposing minimum setbacks of 25’ front yard, 20’ rear yard and 5’ side yard. Houses will be 10’ apart as required by the building code. Also, windows, doors, and other kinds of openings may be limited on the sides of the building depending upon the side yard setback. There are no landscaping requirements for single-family homes. Landscaping requirements are necessitated when 3 or more attached units are proposed.

Recommendation

Planning staff recognizes the need to diversify and the housing stock in Opelika to meet the various needs of homeowners. Staff recommends approval of the proposed conditional use request subject to the following conditions that address potential drainage problems from the construction of zero lot line homes and the specific building code requirements described below:

1. A floor plan will need to be reviewed by Building Inspections prior to approval due to the restrictive building code requirements for zero-lot line construction.
2. A site grading plan with pad elevations, swales and finished floor elevations shall be submitted to the Building Inspection Office prior to the issuance of individual building permits for each zero-lot line home.

Mr. Thomas reported that the public sewer service is required by zoning. Engineering design plans should include, but not be limited to, proposed Erosion and Sediment Control (ESC) BMP implementation. Per Chapter X of the Public Works Manual, a maximum fifteen foot (15’) throat may be allowed for combined driveways, which must also be employed for lots 10 & 11, 12 & 13 and 15 & 16. As previously stated, trash cans must be placed on the Bechet Lane or Court ROW for public pickup. Subject thereto, he recommended approval. Also

included with Engineering comments see attached letter from WIT Engineering Group.

Utilities Board had no report.

Mr. Posey reported that Alabama Power will provide service to part of this development and Opelika Light & Power will provide service to the remainder.

City Horticulturist had no report.

Chairman Sadler stated that this request came before Planning Commission several months prior to this meeting and it was approved as it was presented. He stated that the only change that has taken place is instead of the rear access the developers have switched them to the front of the house and have eliminated the rear access garages and have moved the house back some on the lot.

Chairman Sadler asked for a motion.

Mr. Van Nieuwenhuise made a motion to grant conditional use approval with staff recommendations.

Dr. Whatley seconded the motion.

Dr. Lazenby had to leave the meeting at 4:03 p.m. he did not vote.

Ayes: Whatley, Wood, Cherry, Van Nieuwenhuise, Fuller, Pridgen

Nays: None

Abstention: None

The motion to grant the conditional use approval with staff recommendations passed.

D. ANNEXATION

12. Ocie Mae Jefferson, 348 Lee Road 683, recommend R-1 zone.

Mr. Ogren reported that the petitioner, Ocie Jefferson, is requesting annexation of her 1-acre property located off of Lafayette Parkway on Taylor Road. One single family home is located on the lot. In the past three years several property owners on Taylor Road have petitioned the City and are now annexed.

Staff recommends that the Planning Commission send a positive recommendation to the City Council to annex the 1 acre property and zone the Property R-1.

Note: None of the provisions of the annexation ordinance shall become effective nor the proposed territory described herein shall be annexed unless the petitioner(s) filing for annexation agree(s) with the following. The property owner(s) signing of the annexation petition signifies an agreement to this section.

- a. Fire and police protection shall be provided to the territory annexed. Municipal services such as public water, sewer, right-of-way maintenance/improvements, and solid waste collection may not be available to annexed properties at the time of annexation. Provisions of said services will be extended solely at the option of the City of Opelika/or Opelika Utilities Board. Municipal services concerning busing to and from Opelika City Schools shall be decided by the Opelika Board of Education.
- b. A subdivision or development of annexed territories that exceeds the existing use or intensity at the time of annexation shall be required to utilize public sewer and/or public water service when accessible, and in accordance with City of Opelika Public Works Manual, Opelika Water Works regulations, and/or other water authorities.
- c. The City shall not be obligated to upgrade roads that are part of an annexation properties takes access, one of the options available to the

City to provide such improvements may be to assess the property owner/owners their proportionate share of the costs of such improvements.

- d. A Fire Tax shall be charged against each property owner of territory annexed as provided under Section 8, Act. No. 89-390; the property owners of said territory agree to pay all such costs.

Mr. Thomas reported that the property is adjacent to the proposed Whippoorwill Lakes S/D, discussed in item A. 1. Engineering suggests a positive recommendation to City Council.

Utilities Board reported that the domestic and fire service water is not accessible to this annexation at this time.

Mr. Posey reported that Tallapoosa River Electric co-op presently provides electric service in this area.

Chairman Sadler asked for a motion.

Mr. Pridgen made a motion to send a positive recommendation to City Council.
Mr. Van Nieuwenhuise seconded the motion.

Ayes: Whatley, Wood, Cherry, Van Nieuwenhuise, Fuller, Pridgen

Nays: None

Abstention: None

The motion to send a positive recommendation to City Council passed.

13. James McGill, Lee Road 152, recommend R-1 zone.

Mr. Ogren reported that the petitioner, James McGill, is requesting annexation of approximately 35 acres located off Lee Road 152 (Betty's Lane). This property is currently undeveloped. A subdivision plat (agenda item #2) was reviewed for this same property. If the annexation is approved, the petitioner would like R-1 zone assign to the property.

Staff recommends that the Planning Commission send a positive recommendation to the City Council to annex the 35-acre property and zone the property R-1.

Note: None of the provisions of the annexation ordinance shall become effective nor the proposed territory described herein shall be annexed unless the petitioner(s) filing for annexation agree(s) with the following. The property owner(s) signing of the annexation petition signifies an agreement to this section.

- a. Fire and police protection shall be provided to the territory annexed. Municipal services such as public water, sewer, right-of-way maintenance/improvements, and solid waste collection may not be available to annexed properties at the time of annexation. Provisions of said services will be extended solely at the option of the City of Opelika/or Opelika Utilities Board. Municipal services concerning busing to and from Opelika City Schools shall be decided by the Opelika Board of Education.
- b. A subdivision or development of annexed territories that exceeds the existing use or intensity at the time of annexation shall be required to utilize public sewer and/or public water service when accessible, and in accordance with City of Opelika Public Works Manual, Opelika Water Works regulations, and/or other water authorities.
- c. The City shall not be obligated to upgrade roads that are part of an annexation properties takes access, one of the options available to the City to provide such improvements may be to assess the property owner/owners their proportionate share of the costs of such improvements.

- d. A Fire Tax shall be charged against each property owner of territory annexed as provided under Section 8, Act. No. 89-390; the property owners of said territory agree to pay all such costs.

Mr. Thomas reported that the subdivision of the property is addressed at Item A.2. He suggested a positive recommendation to City Council.

Utilities Board reported that the domestic and fire service water is accessible to this annexation by a water main in the R.O.W. of Lee Road 152, Betty's Lane.

Mr. Posey reported Tallapoosa River Electric Co-op provides electric service in this area.

Chairman Sadler asked for a motion.

Dr. Whatley made a motion to send a positive recommendation to City Council. Mr. Pridgen seconded the motion.

Ayes: Whatley, Wood, Cherry, Van Nieuwenhuise, Fuller, Pridgen

Nays: None

Abstention: None

The motion to send a positive recommendation to City Council passed.

With no further business on the agenda, Chairman Sadler adjourned the meeting at 3:22 p.m.

_____ H.J. Sadler, Chairman

_____ Martin D. Ogren, Secretary