

October 25, 2005

The City of Opelika Planning Commission held its regular monthly meeting on October 25, 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, Keith Pridgen, Lewis Cherry, Jesse Seroyer, Jr.

MEMBERS ABSENT: Jerry Posey

STAFF PRESENT: Marty Ogren, Planning Director;
Charlie Thomas, Engineering Director;
Brian Kriel, Opelika Light & Power;
Alan Lee, Utilities Board;
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 September he would like to entertain a motion to accept the minutes as written.

Dr. Whatley made a motion to accept the September 27, 2005 meeting minutes as written.

Mr. Wood seconded the motion.

Ayes: Wood, Lazenby, Whatley, Fuller, Pridgen, Cherry, Seroyer

Nays: None

Abstention: None

The motion to accept the September 27, 2005 Planning Commission meeting minutes passed.

A. PLATS-Preliminary & Final PUBLIC HEARING

1. Rosamond Acres S/D, Re-division of Lots 2 & 3, 2105 Frederick Road, Express Oil Change, Preliminary/Final approval

Mr. Ogren reported that the applicant is requesting preliminary & final approval to combine two lots into one lot. The combining of the lots will allow the construction of a new commercial building for an automobile maintenance business – Express Oil Change. Agenda item #8 is the conditional use review for the Express Oil Change business.

The subdivision is located in a C-2, GC-1 zone. The minimum lot size is 20,000 s.f.; the minimum lot width is 150 feet. With the lots combined the lot will be 28,290 s.f., and the lot width 179 feet.

Planning staff recommends preliminary & final approval subject to a 40-foot minimum building setback line should be shown on the plat.

Mr. Thomas reported that conditional use of the property is discussed at Item C.8. Sewer is available near Lambert Loop behind adjacent properties. Re-title plat as shown above & provide a digital version of the final plat, in accordance with (IAW) Sect. 4.5 of the S/D regulations. Otherwise, this two (2) lot combination plat (lot line erasure) meets all engineering requirements. Subject thereto, he recommended approval.

Mr. Lee reported that water service is accessible to this subdivision by a water main in the R.O.W. of Frederick Road.

Mr. Kriel, Light & Power, reported that Opelika Light & Power presently provides service in this area.

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. Pridgen made a motion to grant preliminary and final plat approval with staff requirements.

Dr. Lazenby seconded the motion.

Ayes: Wood, Lazenby, Whatley, Seroyer, Pridgen, Fuller, Cherry

Nays: None

Abstention: None

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

2. Gentlebreeze S/D, 3 lots, 701 Cusseta Drive, Larry N. Black, P/F approval.

Mr. Ogren reported that the applicant is requesting preliminary & final plat approval for a 3 lot subdivision. The purpose of this subdivision is to create Lot 2A so a house can be built on the lot. The property is located in an R-1 zone and 1-acre is the minimum lot size requirement.

Planning staff recommends preliminary and final plat approval.

Mr. Thomas reported that sewer service is not available; although, the plat violates the spirit of our flag lot requirements, Engineering will not object to a one (1) time allowance subject to compliance with flag lot requirements and a note on the plat forbidding any further subdivision of any of the properties without construction of a public roadway in full compliance with the more stringent of our Public Works Manual or Lee County Highway Department Regulations. We expect shared driveways to comply with access management regulations. Subject to provision of a digital version of the final plat, he recommended approval.

Mr. Lee reported that water service is accessible to this subdivision by a water main in the R.O.W. of Lee Road 389.

Mr. Kriel reported that Tallapoosa Rive Electric Co-op provides electric service in this area.

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.

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

Mr. Seroyer seconded the motion.

Ayes: Wood, Lazenby, Whatley, Fuller, Cherry, Pridgen, Seroyer

Nays: None

Abstention: None

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

3. Balaire S/D, Re-division of Lots 1, 2 & 5, 3301 Marvyn Parkway, Marvyn Parkway Baptist Church, P/F approval.

Mr. Ogren reported that the applicant is requesting preliminary and final plat approval to combine three lots into one lot. The combining of the lots will allow the construction of a new church sanctuary without lot lines crossing through the building and violating minimum setback requirements. Agenda item #7 is the conditional use review for the church addition.

The subdivision is located in an R-3 zone. The minimum lot size is 7,500 s.f. With the lots combined the lot will be 44,250 s.f.

Planning staff recommends preliminary & final plat approval.

Mr. Thomas reported that the conditional of the property is discussed at Item C.7. He stated he recommends approval subject to the following:

- a) Delete AL Highway #37 label. Correct spelling of Marvyn Parkway & add "(AL Highway 51)".
- b. Provide a digital version of the final plat, in accordance with (IAW) Sect. 4.5 of the S/D Regulations.
- c. Furnish a Mylar print on full size 24" x 36" "D" size media.

Mr. Lee reported that the water service is accessible to this subdivision by a water main in the R.O.W. of Ballard Avenue.

Mr. Kriel reported that Opelika Light and Power provides electric service in this area.

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.

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

Dr. Whatley seconded the motion.

Ayes: Cherry, Whatley, Seroyer, Fuller, Lazenby, Wood, Pridgen

Nays: None

Abstention: None

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

4. Midtown S/D, 5 Lots, 2800 Block of Frederick Road, Lands South LLC, preliminary approval.

Mr. Ogren reported that the applicant is requesting final plat approval for a 5-lot subdivision. He stated that about a month ago, the City Council approved this same property for rezoning from an R-3 (residential) zone to a C-2, GC-2 commercial zoning in the gateway district. The purpose of this subdivision is to create Lots 1, 2, 3 and sale the lots for commercial developments. The lots will have access to a new street Midtown Drive not Frederick Road.

Parcel A is a future dedication to the City for the widening of Frederick Road right-of-way. Lot 4 is for future development. The 30-foot power line easement through Lot 4 will be relocated so a building can be constructed on the lot.

Planning staff recommends preliminary plat approval subject to the 40-foot minimum building line shown on the plat along Frederick Road for Lot 4 and Midtown Drive for Lot 1, 2, and 3.

Mr. Thomas reported that sewer service is available. He recommended preliminary approval, but the following items should be addressed prior to final approval:

- a) Bearing and distance, and/or curve data, must be shown on the easement proposed, temporary cul-de-sac, which must be paved.
- b) Parcel A should be labeled "ROW."
- c) Final approval of street name is subject to concurrence from our public safety departments.
- d) Due to local topography, applicant is cautioned to comply with maximum design grade at intersection of Midtown Drive & Frederick Road.
- e) A note on the plat that "No direct access to Frederick Road is allowed from Lot 1."

Mr. Lee reported that the water service is accessible to this subdivision by a water main in the R.O.W. of Frederick Road.

Mr. Kriel reported that Alabama Power Co. provides electric service in this area.

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

Chairman Sadler asked for comments or questions.

Mayor Fuller asked if the developers were contributing Parcel A.

Mr. Thomas said that it's what Engineering is requesting.

Dr. Lazenby asked how much more right-of-way will the four lane have than the two lane road currently has.

Mr. Thomas said what's shown is Parcel A.

Chairman Sadler asked for a motion.

Mayor Fuller made a motion to grant preliminary plat approval with staff requirements.

Mr. Pridgen seconded the motion.

Ayes: Fuller, Pridgen, Wood, Whatley, Cherry, Seroyer, Lazenby

Nays: None

Abstention: None

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

B. FINAL PLAT APPROVAL

5. The Cottages at Fieldstone S/D-Phase 1, 24 lots, DRI Fieldstone LLC, 3700 Block of South Uniroyal Road, Final approval.

Mr. Ogren reported that the applicant is requesting final approval for 24 lots that are a portion of the Fieldstone Subdivision. The Fieldstone Subdivision is a 455 lot residential subdivision that was granted preliminary approval at the June 2005 meeting, and the Planning Commission also granted conditional use approval for "modified zero lot line" single family homes.

The lots range from 5,697 s.f. to 15,395 s.f. The minimum building setbacks are 20 feet front yard, 15 feet rear yard, and 5 feet side yard. Single family homes will be built on site; mobile homes are not allowed.

Phase I, as well as future phases, shall be built according to the information submitted by the developer at the June 28th Planning Commission meeting and as approved by the Planning Commission during conditional use and preliminary plat review.

Planning staff recommends final plat approval subject to the 20 foot minimum front yard setbacks shown on the plat including corner lots.

Before a building permit is issued for a lot in this 24 lot subdivision several conditions must be met. At the June 28, 2005 meeting, the Planning Commission granted conditional use approval for *The Fieldstone* development subject to the following conditions:

1. A floor plan will need to be reviewed by the Building Inspection department prior to a building permit issued 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.
3. A site plan must be submitted for Phase I showing the following:
 - a. sidewalks installed behind the curb with at least a 2-foot grass area between the back edge of curb and edge of sidewalk. (Sidewalks may be on one side of the street).
 - b. The site plan should show at a minimum of one street tree planted on each lot. On a corner lot, a minimum of two street trees shall be required. Street trees shall be spaced as uniformly as possible with variance allowed for streetlights, driveways, and other infrastructure components. Trees shall be planted on private property not on right-of-way.
 - c. A landscape plan in accordance to Section X *Landscape Regulations*. If applicable, include landscaping costs in the bond and letter submitted for the streets and other infrastructure.

Street lighting provided by the developer along all public streets shall be in conformance to the Utility Company's standards and installed at developer's expense.

Mr. Thomas reported that Engineering has received and reviewed plans, with minor comments. He recommended final plat approval, subject to the following:

- a) A bond or letter of credit, payable to the City of Opelika, for any infrastructure improvements not fully completed prior to signing the final plat.
- b) Show front yard setbacks (building lines), including along intersecting streets.
- c) Lot numbers must be consecutive, unique and continuous throughout Fieldstone S/D, regardless of phases, sections, etc.
- d) For clarity, that is for S/D of property only, remove sewer lines; curb lines and sidewalks from the plat.
- e) Storm water management design (retention/detention) with supporting calculations, likewise with a comprehensive plan, as stated in June PC minutes.
- f) Symbology of lot numbers, line numbers and curve, or arc, numbers should be clarified both on the plat, and in the legend.
- g) Delete signature line for City Engineer.
- h) Correct plat to show approval of conditional use application.
- i) Islands in the public ROW, where desired, are subject to approval by City Council.

Potential property buyers are cautioned that water may stand in their yards. Applicant is aware of each of these requirements.

Mr. Lee stated that water service is accessible to this subdivision by a water main in the R.O.W. of South Uniroyal Road, and requests that Utilities Board be added to the bond. He stated that Opelika Utilities Board is doing the design on this subdivision and the developer should be aware that Utilities Board should not take any service taps off S. Uniroyal Road.

Mr. Kriel reported that this development is in the Tallapoosa River Electric Co-op service territory.

Chairman Sadler asked for questions or comments.

Mr. Pridgen asked if the houses will face S. Uniroyal Road.

Mr. Ogren stated no, according to note #14 on the plat; "A buffer (either a berm or a landscape strip) will be constructed in a 20' buffer strip along South Uniroyal Road.

Chairman Sadler asked for a motion.

Mr. Pridgen made a motion to grant final plat approval with staff requirements. Mr. Seroyer seconded the motion.

Ayes: Pridgen, Cherry, Wood, Whatley, Fuller, Lazenby, Seroyer

Nays: None

Abstention: None

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

6. The Cottages at Fieldstone S/D – Phase 2, 56 lots, DRI Fieldstone LLC, 3700 Block of South Uniroyal Road, Final Approval.

Mr. Ogren reported that the applicant is requesting final approval for 91 lots that are a portion of Fieldstone Subdivision. This plat is Phase 2 of the 455 lot Fieldstone Subdivision that was approved at the June 28, 2005 Planning Commission also granted conditional use approval for "modified zero lot line" single family homes.

Modified zero lot line single family homes will be built on 35 lots and town-homes will be built on the remaining 56 lots. The applicant is aware that a Townhouse development site plan in accordance to Section 8.13 *Townhouse Development Standards* must be submitted before the Planning Commission for conditional use approval.

The modified zero lot line lots range from 5,500 sf. to 28,437 sf. The minimum building setbacks are 20 feet front yard, 15 feet rear yard, and 5 feet side yard. Single family homes will be built on site, mobile homes are not allowed.

The town-homes meet the minimum lot width of 20 feet for townhouse developments. The town-homes will be constructed on individual lots (typical lot size: 20' x 152') and sold to individual owners. The minimum lot size for individually owned town-home lots is 2,400 square feet; most of the townhouse lots are 3,040 square feet. The larger lots (Lot 32, 33, 42, 55, 64, 65) are reserved for access (private drives) that runs through the development. A more detailed townhouse development plan including landscaping will be submitted at a future Planning Commission meeting.

Phase 2, as well as future phases, shall be built according to the information submitted by the developer for the June 28th Planning Commission meeting and as approved by the Planning Commission during conditional use and preliminary plat review.

Planning staff recommends final plat approval subject to the 20 foot minimum front yard setbacks shown on the plat for the modified zero lot line lots and 30 feet for the townhouse development lots. (*According to the Townhouse Development Standards, minimum building setbacks must meet the setback standards as required in the zoning district were located*).

Before a building permit is issued for a lot on the 35 lots for modified zero lot line homes several conditions must be met. At the June 28, 2005 meeting, the Planning Commission granted conditional use approval for *The Fieldstone* development subject to the following conditions:

1. A floor plan will need to be reviewed by the Building Inspection department prior to a building permit issued 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.
3. A site plan must be submitted for Phase 1 showing the following:
 - a. sidewalks installed behind the curb with at least a 2-foot grass area between the back edge of curb and edge of sidewalk. (Sidewalks may be on one side of the street).
 - b. The site plan should show at a minimum of one street tree planted on each lot. On a corner lot, a minimum of two street trees shall be required. Street trees shall be spaced as uniformly as possible with variance allowed for streetlights, driveways, and other infrastructure components. Trees shall be planted on private property not on right-of-way.
 - c. A landscape plan in accordance to Section X *Landscape Regulations*. If applicable, include landscaping costs in the bond and letter submitted for the streets and other infrastructure.
4. A site plan for the 56 town-home lots must be submitted and approved by the Planning Commission before a building permit is issued.

Street lighting provided by the developer along all public streets shall be in conformance to the Utility Company's standards and installed at developer's expense.

Mr. Thomas reported that Engineering has received and reviewed plans, with minor comments. He recommended final plat approval, subject to the following:

- a) 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.
- b) Show front yard setbacks (building lines), including along intersecting streets.
- c) Lot numbers must be consecutive, unique and continuous through all phases, sections etc.
- d) A traffic study which considers the entire proposed subdivision, as stated in June PC minutes. The study shall, include, but not be limited to, impacts of Michelin/Goodyear employee access, impacts on Crawford Road (AL Hwy 169), traffic control devices and the maximum capacity of, and improvements to, So. Uniroyal Road.
- e) Further, the applicant shall be required to provide improvements dictated thereby, such as left turn lanes, deceleration lanes, etc. along South Uniroyal Road or otherwise, at the time they are warranted, in accordance with the Public Works Manual and good engineering practice.
- f) For clarity, that is for S/D of property only, remove sewer lines, curb lines

and sidewalks from the plat.

- g) A master plan for sewer service throughout the development, as stated in June PC minutes, with calculations demonstrating adequate correlation to existing lift station.
- h) Storm water management design (retention/detention) with supporting calculations, likewise with a comprehensive plan, as stated in June PC minutes.
- i) Symbology of Lot numbers, Line numbers and Curve, or arc, numbers should be clarified both on the plat, and in the legend.
- j) Delete signature line for City Engineer.
- k) Correct plat to show approval of conditional use application.
- l) Prior to final approval of future phases, provide a comprehensive flood study as stated in June PC minutes, including, but not limited to the following:
 - Determination of Base Flood Elevation(s) (BFE), which may in turn dictate approved Finished Floor Elevation(s) (FFE).
 - Impacts of development on stream flow, bank erosion, etc., up and downstream of the development.

Potential property buyers are cautioned that water may stand in their yards. Applicant is aware of each of these requirements.

Mr. Lee reported that water service is accessible to this subdivision by a water main in the R.O.W. of South Uniroyal Road. He requests Opelika Utilities Board be added to the bond.

Mr. Kriel reported that this development is in the Tallapoosa River Electric Co-op service area.

Chairman Sadler asked for questions or comments.

Mayor Fuller asked if 20' or 25' front yard setback is required.

Mr. Ogren said its 20' front yard setback.

Chairman Sadler asked for further discussion.

Chairman Sadler asked for a motion.

Dr. Lazenby made a motion to grant final plat approval with staff requirements. Mr. Seroyer seconded the motion.

Chairman Sadler asked for a vote.

Ayes: Cherry, Lazenby, Whatley, Wood, Pridgen, Fuller, Seroyer

Nays: None

Abstention: None

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

C. CONDITIONAL USE

7. Marvyn Parkway Baptist Church, 3301 Marvyn Parkway, R-3, GC-2, new church sanctuary

Mr. Ogren reported that the applicant is requesting conditional use approval for a new church sanctuary. The Marvyn Parkway Baptist Church has existed at 3001 Marvyn Parkway for many years. The church desires to build a new sanctuary and renovated the existing sanctuary building into Sunday school classrooms.

The site plan meets all development requirements concerning minimum parking requirements and landscaping. At the October 18th Zoning Board meeting, the church was granted a 10-foot variance from the 25-foot rear yard setback

requirement. The variance allows the new sanctuary to be aligned with the existing building.

Staff recommends approval of the conditional use request.

Mr. Thomas reported that the subdivision of the property is discussed at Item A.3. Issues discussed therein should be considered conditions of approval. The stream shown on Lot 6 indicates a possible flood prone area, despite of Flood Zone noted on the site plan. He recommended approval subject to the following:

- a) A final site plan stamped and signed by a P.E., P.L.S. or P.A., including, but not limited to:
Proposed Erosion and Sediment Control (ESC) BMP implementation; and Storm-water management design (retention/detention) with supporting calculations.

Mr. Lee, Utilities Board, had no report.

City Horticulturist recommended approval.

Mr. Kriel reported that Opelika Light & Power provides electric service in this area.

Chairman Sadler asked for a motion.

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

Mr. Pridgen seconded the motion.

Chairman Sadler asked for a vote.

Ayes: Seroyer, Cherry, Wood, Whatley, Pridgen, Lazenby, Fuller

Nays: None

Abstention: None

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

8. Express Oil Change, 2105 Frederick Road, C3, GC-1, auto maintenance

Mr. Ogren reported that the applicant is requesting conditional use approval for an automobile maintenance business in a C-2, GC-1 zoning district. In addition to changing oil, Express Oil Change also provides transmission and radiator service, installs brake pads and hoses, and air conditioning work. The site plan submitted meets the minimum parking spaces required, setbacks, and the maximum 70% impervious surface ratio. The exterior material consists of split faced block and brick. The exterior lighting proposed is security lights that should not be more than 1 foot candle at the property line. The dumpster shown on the site plan should be enclosed. Planning staff recommends the dumpster be enclosed on all sides with the same exterior material used on the building (split faced block or brick). A solid gate should be provided to completely enclose the dumpster. The roof on the building will be blue metal. *(This Express Oil Change will look similar to the Express Oil Change on College Street in Auburn.)*

Recommendation

This automobile maintenance business is appropriate at this location. Planning Staff recommends approval of the conditional use request subject to the dumpster enclosed on all sides with the same exterior material used on the building (split faced block or brick) including a solid gate.

Mr. Thomas reported that the subdivision of the property is discussed at Item A.1. Issues discussed therein should be considered conditions of approval. He stated that he understands underground detention/retention may be proposed.

Frederick Road is classified a major collector road with access spacing of 200 feet. The proposed drive meets the intent of access management, under Section X of the Public Works Manual, providing for Planning Commission variances on matters of road design and layout. We recommend approval, subject to submittal of civil site drawings &/or a final site plan, rather than “conceptual layout,” including but not limited to:

- 1) Proposed Erosion and Sediment Control (ESC) BMP implementation.
- 2) Storm-water management design (retention/detention) with supporting calculations.
- 3) Show existing driveways to be removed.
- 4) Proposed pavement marking(s) in the driveway, etc., if applicable.

He stated that the applicant is aware of each of these requirements.

Mr. Lee, Utilities Board, had no report.

City Horticulturist recommended approval.

Mr. Kriel reported that Opelika Light & Power presently provides service in this area.

Chairman Sadler asked where the subdivision is located, would the ingress/egress be a right in, and a right out only?

Mr. Thomas said no, it's a 5 lane section with a center turn lane right now.

Chairman Sadler asked for further questions or comments.

Mr. Pridgen asked if the board should make a requirement that the business not have any long term storage of vehicles on the property.

Chairman Sadler stated that it would be a good idea to make a restriction of how long vehicles could be stored on the lot.

The owner explained that the only over night storage that would occur outside the bays would be if someone came up after closing and left their vehicle to be worked on the next day. He said that there are eight interior spaces to park vehicles if any are left over night, so it would not be a problem to restrict overnight storage.

Chairman Sadler asked for a motion to include conditions.

Mr. Pridgen made a motion to grant conditional use approval with the condition that there will be no unattended vehicles left overnight outside the bays.

Mr. Seroyer seconded the motion.

Chairman Sadler asked for a vote.

Ayes: Cherry, Seroyer, Wood, Whatley, Pridgen, Fuller, Lazenby

Nays: None

Abstention: None

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

9. Trinity Covenant Christian Center, 1703 Columbus Parkway, C-3, GC-2, new church existing building.

Mr. Ogren reported that the applicant is requesting conditional use approval for a new church in an existing building (formerly Walt's Seafood) located on Highway 280 East. At the October 2004 meeting, this same property was granted conditional use approval for a restaurant (Jenny Han's – Chinese restaurant). The renovations of the restaurant were never completed; the building is vacant;

the property owner desires to lease the 4,083 sf building to the Trinity Covenant Christian Church.

The site plan submitted meets the minimum parking spaces required (37 parking spaces). At maximum capacity the sanctuary area will hold 150 persons. (The minimum parking requirements for a church is 1 parking space for every 4 seats in the sanctuary at maximum capacity.) The minimum setback requirements are met except for the front yard setback because of an ALDOT right-of-way acquisition.

The site plan shows an ISR (Impervious Surface Ratio) of 84%; this is 9% more hard surface than the maximum 75% requirement. However, the physical constraints of the property i.e., the existing pavement, prohibits the site from meeting the ISR requirements. The asphalt parking surface has existed for years providing parking to former restaurants. The site plan does include proposed landscape islands to improve the parking lot.

The exterior material for the building will be the existing brick. The roof will be simulated tile with composition shingles on the rear portion of the building.

The church will use the 2nd floor of the building for storage space only; church personnel will not occupy the 2nd floor. An architect is modifying the original building plans drawn for a restaurant that will address Building Code regulations concerning "places of assembly".

NOTE: At the October 26, 2004 meeting the adjacent property owner, Mr. Munn, owner of Econo Lodge, was concerned about an access easement between his property and Jenny Hans's property. At the meeting the property owners agreed to construct a fence/buffer between the properties. This was never accomplished since the restaurant owner and property owner never completed their renovations. The following is the motion at the October 26, 2004 Planning Commission meeting:

Dr. Lazenby made a motion to grant the conditional use approval with the recommendation for the fence to be between Mr. Ruscin and Mr. Ogren, and Mr. Kappelman request for the removal of the door on the 2nd floor, and all staff recommendations.

Mr. Pridgen seconded the motion.

Ayes: Lazenby, Phillips, Pridgen, Sadler, Fuller, Wood

Nays: None

Abstention: None

Recommendation

Planning staff believes that existing development meets requirements as well as possible given the property was developed as a restaurant site over 30 years ago and a physical constraint exists. The church will be undertaking major renovations of the building and improving the property with landscaping. Staff recommends approval of the site plan as submitted with the following conditions:

1. The 2nd floor should remain a storage/attic area as proposed by the applicant.
2. The approval at the October 26, 2004 meeting concerning installing a fence for a buffer should be completed.
3. At the October 2004 meeting, Mr. Munn, owner of the Econo Lodge, questioned the survey used for the site plan to layout the restaurant. The question relates to the correct location of the East property line between the applicant's property and the Econo Lodge property. The site plan submitted by Joe Ruscin was based on a 1995 survey of the property, but Mr. Munn claims that a 1999 survey of his property is the correct survey. In 2004 Mr. Munn hired a surveyor to resurvey the East property line between Mr. Munn and Jenny Han's property to determine if any portion of the restaurant site plan crossed the property line. The 2004 survey of the East property line is not the same as the 1995 survey used for the site plan. Mr. Munn says portions of Jenny Han's dumpster area and parking spaces cross over onto his property. Planning staff recommends that before a building permit is issued for renovations the two surveys should be compared with assistance from the surveyors to determine which survey is correct. The site plan may need to be

redrawn to determine if parking spaces, driveway widths, or other minimum requirements may need to be revised to meet site plan requirements.

4. If parking lot lights are to be installed then an illumination plan that indicates that the proposed, parking lot lighting will not exceed 1 foot-candle at the property line needs to be submitted prior to receiving a certificate of occupancy.
5. 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 an available survey of adjacent property indicates no discrepancy beyond accepted standards. However, no as-built survey was completed on this site. Site plan was apparently drawn on an accurate property boundary survey. Therefore, proposed parking should fit on site, while pavement on adjacent property may be removed with no adverse affect. Sewer service is currently available to the site. Driveway spacing (access management) is adequate. No current record of any cross access easement has been located. Therefore, we recommend approval, subject to removal of the note referring to "Existing cross access ..."

Mr. Lee, Utilities Board, had no report.

City Horticulturist recommended approval.

Mr. Kriel reported that Opelika Light & Power presently provides service to this building.

Chairman Sadler asked if the land boundary is still in dispute.

Mr. Thomas said yes.

Chairman Sadler stated that he doesn't feel the board can approve this request if it's not clear where the property lines are which will directly affect the site plan. He stated that he doesn't have a problem approving the conditional use subject to conditions being met, but stated that he would like the Engineering Department signing off on the site plan that is being agreed on.

Mr. Thomas stated that this is a civil dispute between the two property owners, which needs to be resolved.

Chairman Sadler stated that someone would need to know that the two parties have agreed, and then once that is done, then the approval process could be valid, but given that there is a property line dispute, he has a problem with the board approving a request without a clear understanding that the approval is subject to the dispute being resolved.

Mr. Ogren stated that he spoke with Mr. Munn, property owner of Econo Lodge, and Mr. Munn stated that part of the fence that was suppose to go around the dumpster which is over on his property, and he is still right, and he had the east property line re-surveyed in 2004, and feels there's discrepancy in less than a foot.

Mr. Thomas stated that two different surveyors can pull a bearing of distance and get a slight discrepancy, but Engineering would be glad assist the surveyors and try to resolve the discrepancy, but he feels it's not the Engineering Department's authority to say who's right and who's wrong.

Chairman Sadler stated that he wants someone to make sure that all these issues will be worked out regarding the land dispute, and he wants it noted that all issues have been worked out before the petitioners (new owners) take over the building. He stated he would like to see a revised site plan.

Chairman Sadler asked for a motion.

Mayor Fuller made a motion to grant a conditional approval with staff requirements including the condition regarding the land dispute being resolved, and he requests the board be notified in an official matter before a building permit is issued.

Mr. Seroyer seconded the motion.

Chairman Sadler asked for a vote.

Ayes: Seroyer, Cherry, Fuller, Lazenby, Wood, Whatley, Pridgen

Nays: None

Abstention: None

The motion to grant conditional use approval with staff requirements including the conditions that the land dispute be resolved before a building permit is issued passed.

10. Margaret Mayfield, Pepperell Parkway & 23rd Street, VC, new restaurant and 3 village shops.

Mr. Ogren reported that the applicant, Carlos and Margaret Mayfield, requested conditional use approval for a restaurant (sandwich shop) in the Village Commercial (VC) zoning district at the April 26, 2005 Planning Commission meeting. At that meeting the conditional use was approved subject to the following conditions:

1. No more than 20 patron seats shall be permitted.
2. The use shall be limited so as not to require more than 9 parking spaces,
3. Paving for parking spaces waived, but parking spaces should be somehow be delineated.
4. Approval subject to an approved storm-water management plan.

Since the April 2005 Planning Commission meeting, the Mayfield's bought two other properties adjacent to the restaurant property. They have now prepared a site plan showing a master parking that serves the four properties. The plan also addresses storm water management concerns. At the meeting today, the Commissioners are reviewing and voting on the master plan and new proposals concerning the restaurant.

The applicants prepared a narrative called "Amendment to Original Application for Conditional Use". The narrative requested "... that the Commission approve at least 40-50 seats for 'Shindig' [the restaurant]." The narrative describes Shindig as a "quaint eatery" serving "freshly grilled quality dishes." At the April 2005 meeting the restaurant was reviewed as a Quality Restaurant with Low Traffic Volume/Low Turnover. These types of restaurants are allowed with conditional use approval.

Maximum Number of Patron Seats Allowed for Restaurant

The Village Commercial ordinance states, "Land uses which generate heavy traffic volumes are prohibited." The ordinance defines 'heavy traffic volume' as "any land use which has an Average Trip Rate of more than 100 trips per weekday per thousand (1000) square feet of gross floor area as documented in the current edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual ...". These land uses are specifically prohibited from the Village Commercial District.

At the April 2005 meeting, Planning Staff reviewed the average rate of "trip generation per seat" at 5 trips per seat, as stated in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The **5 trips per seat** is the benchmark used to determine the maximum number of seats allowed in the restaurant so the restaurant will be in compliance with the Village Commercial ordinance and not be a 'Land use which generate heavy traffic volumes'.

The restaurant (26' x 55') and the attached deck (20' x 32') will be used to serve customers. The gross floor area of the restaurant and deck calculates to 2,070 square feet. Therefore, the restaurant may allow up to 207 average daily trips and not be considered a "land use that generates heavy traffic volumes". The 207 average daily trips calculate to 41 seats ($207 / 5 = 41.4$ seats). Therefore, a maximum of 41 seats are allowed in order to classify the restaurant proposed as a "quality restaurant with low traffic volume."

Parking

In the Village Commercial District the ordinance may allow the minimum number of parking spaces to be reduced up to 50%. Also, modifications to the paving requirements maybe allowed in order to contribute to the Village Commercial concept. A maximum number of 41 patron seats are allowed for the restaurant.

Based on the maximum 41 patron seats the restaurant is required to have 17 parking spaces to meet the minimum number of parking spaces. The 17 parking spaces are based on "One (1) parking space per three (3) patrons plus one (1) space per employee on the largest work shift." **There are three employees.** The site plan shows 59 parking spaces.

NOTE: The 59 parking spaces shown on the site plan is parking for all 4 buildings. The parking lot is shared among the four businesses. At this time, the two buildings along 23rd Street are not leased for businesses. The applicant is aware that as businesses lease these buildings then the minimum number of parking spaces that maybe required for the businesses must be available based on the particular business occupying the buildings and/or the type of businesses existing in other buildings. Example: Retail stores require more parking spaces than an office. Also, a landscape plan for the two properties along 23rd Street must be submitted in accordance to the Landscape Regulations and Residential Buffers as specified in the Village Commercial ordinance (Section 7.8 M) before a business license is issued for the two properties.

Hours of Operation

The narrative submitted by the applicant requests hours of operation from 6:00 AM to 10:00 PM. The Village Commercial ordinance states, "Any land use in which has operating hours which customarily extend into the late evening or late night is specifically prohibited from the Village Commercial District". At the April 2005 Planning Commission meeting, the hours of operation approved were from 7:00 AM to 8:30 PM. Planning staff recommend 6:00 AM to 8:30 PM.

Staff Recommendation

The Pepperell Mill Village has unique zoning designations and regulations (VC-Village Commercial and VR-Village Residential) that were approved by City Council after several Pepperell Mill Village neighborhood meetings, Planning Commission meetings, and the services of a planning consultant, Glenn Harbeck. The intent of the Village Commercial (VC) zoning designation is to accommodate low intensity "residential friendly" small businesses in the village that serve the immediate area without disrupting the residential character of the neighborhood.

Planning Staff believes a quality restaurant with low traffic volume is reasonable and appropriate at this location and could serve to be a real asset to the

residents of the Mill Village given the site plan follows regulations (Section 7.8) that govern the Village Commercial Zoning District. Staff recommends conditional use approved with the following conditions:

1. No more than 41 patron seats shall be permitted for the restaurant.
2. The hours of operation established from 6:00 AM to 8:30 PM. Planning staff is concerned that with a closing at 10:00 PM the restaurant may not be receiving new customers but customers arriving before 10:00 PM will be served and then restaurant personnel performing after-hour chores before leaving the restaurant.
3. Site plan elements not discussed but applicable to this conditional use request must comply with Section 7.8 *Village Commercial District*. Example: exterior lighting must comply with Section 7.8, I. *Exterior Area and Spot Lighting*.
Add on the site plan the location of a dumpster or City trash container which needs to be enclosed as stated in Section 7.8 K. *Trash Facilities*.
4. 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 Engineering suggests minimizing the parking area for all of Shindig Square, to minimize storm-water impacts after determination of use for adjacent properties. He recommended that Planning Commission waive the requirement for paving of one-half (1/2) the required parking. He further recommended approval subject to submittal of civil site drawings and/or a final site plan; stamped and signed by a Professional Engineer, Professional Land Surveyor, or Professional Architect, including but not limited to:

- a) Parking dimensions, proposed signage (in lieu of pavement making) and provision of some means of delineating parking spaces, as noted.
- b) Building setback lines, if applicable.
- c) Proposed Erosion and Sediment Control (ESC) BMP implementation.
- d) Storm-water management design (retention/detention) with supporting calculations.

Motion by PC requires cross access easements among the four (4) properties.

Mr. Lee, Utilities Board, had no report.

City Horticulturist recommended approval with the following condition:
At the time of the two new properties are leased; the owner must submit landscape plans for review and approval before any business license is issued.

Mr. Kriel reported that Opelika Light and Power presently provides service in this area.

Chairman Sadler asked for a motion.

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

Mr. Seroyer seconded the motion.

Chairman Sadler asked for further discussion.

Mayor Fuller stated that he has concerns with restricting the operational hours of closing the doors at 8:30 p.m. He stated that some people prefer dining later.

Mr. Ogren stated that the restaurant will quit serving at 8:30 p.m., not close their doors at 8:30 p.m.

Chairman Sadler asked for a vote.

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

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

D. REZONING-PUBLIC HEARING

11. Capps Family Partners LTD, Gateway Drive & I-85, 43 acres, from R-1, GC-1 to C3, GC-1

Mr. Ogren reported that the applicant is requesting rezoning a 31-acre parcel of land from R-1, GC-1 (low density residential) to a C-3, GC-1 (general commercial, gateway corridor – 1) zone. The property is located on Gateway Drive at Interchange 58 of Interstate 85.

The applicant plans to sale lots for commercial businesses near this Interstate 85 location. At the September 2005 Planning Commission meeting, the applicant was granted preliminary plat approval for a 6-lot subdivision.

Planning Staff believes that rezoning from R-1, GC-1 to C-3, GC-1 is appropriate. A C-3, GC-1 zone is adjacent to this property on the North side of Gateway Drive. Most properties along Interstates and especially near interchanges are zoned commercial.

Staff Recommendation

Planning Staff recommends Planning Commission send a positive recommendation to the City Council to rezone the property from R-1, GC-1 to C3, GC-1.

Mr. Thomas suggested a positive recommendation to City Council.

Mr. Lee, Utilities Board, had no report.

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

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

Chairman Sadler asked for a motion.

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

Chairman Sadler asked for further discussion.

With no further discussion, Chairman Sadler asked for vote.

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

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

E. AMENDMENT TO SUBDIVISION REGULATIONS-PUBLIC HEARING
12. Amendment to Section 3.9 Size, Shape, and Improvements of Lots in the Saugahatchee Watershed.

Mr. Lee, Utilities Board reported:

Section 1. That Section 3.9 *Size, Shape, and Improvements of Lots in the Saugahatchee Watershed* of the Subdivision Regulations of the City of Opelika is hereby amended to read as follows:

Pond Construction:

All recreational and storm water detention ponds shall be designed by a professional engineer licensed in the State of Alabama. The engineer shall submit all hydraulic and structural drawings and calculations to the Utilities Board for review and approval prior to construction. The engineer shall also perform periodic site inspections throughout the entire construction process to ensure compliance with the design.

The owner, developer, and/or homeowner's association shall implement a pond maintenance program at the completion of construction. The program shall include the regular cleaning of spillways, overflow structures and outfalls, and tree and brush removal on dams.

The owner, developer, and/or homeowner's association representative shall submit an annual written report to the Utilities Board. The report shall state the condition of the pond and structures and contain a certified statement that the pond is being inspected and properly maintained.

Section 1. That Section 3.9 *Size, Shape, and Improvements of Lots in the Saugahatchee Watershed* of the Subdivision Regulations of the City of Opelika is hereby amended to read as follows:

Section 2. That this resolution shall take effect upon adoption and publication as required by law.

Section 3. This resolution shall be published in the Opelika-Auburn News, a newspaper published in and of general circulation of the City of Opelika, Lee County, Alabama.

Chairman Sadler opened the public hearing.

No comments were made from audience.

Chairman Sadler closed the public hearing.

Chairman Sadler asked for a motion.

Mr. Pridgen made a motion accept the amendment of the subdivision regulations.

Mr. Wood seconded the motion.

Chairman Sadler asked for a vote.

Ayes: Cherry, Wood, Whatley, Pridgen, Seroyer, Fuller, Lazenby

Nays: None

Abstention: None

The motion to accept the amendment to the subdivision regulations passed.

With no further business on the agenda, Chairman Sadler adjourned the meeting at 4:05 p.m.

H.J. Sadler, Chairman

Martin D. Ogren, Secretary