

**March 5, 2013
Cont. to March 7, 2013**

The City of Opelika Planning Commission held a Special Called Meeting March 5 and continued to March 7, 2013 in the Planning Commission Chambers, located at the Public Works Facility, 700 Fox Trail Opelika, AL 36801

March 5, 2013

MEMBERS PRESENT: Lewis Cherry, James Morgan, Ira Silberman, Arturo Menefee, Mayor Fuller, Keith Pridgen, David Canon, Lucinda Cannon, Michael Hilyer

MEMBERS ABSENT: None

STAFF PRESENT: Gerald Kelley, Planning Director
Martin Ogren, Assistant Planning Director
Rachel Dennis, Planning and Zoning Technician
Jeffery Kappelman, Chief Building Official
Guy Gunter, City Attorney

CALL TO ORDER: Chairman Pridgen called the meeting to order at 4:02 p.m.

A. OTHER BUSINESS

1. **Grayhawk Homes Inc., 3603 Maple Creek Court, Requesting approval of exterior material for a single family home as set forth in Section 7.3, paragraph 10 in the Zoning Ordinance**

Mr. Ogren reported to determine if the Planning Department, after review by the Planning Commission, should issue a Certificate of Occupancy (CO) to Grayhawk Homes for the residential structure located at 3603 Maple Creek Court (Attachments A-1, B-2, C-3, D-4) in Cedar Creek Subdivision in VIOLATION of Zoning Ordinance Section 7.3, GATEWAY, Paragraph 5. (Attachment B). The structure was permitted by the Planning Department on February 2, 2012 (Attachments C and D 1, 2).

Pertinent Sections from the Zoning Ordinance in Section 7.6, Subsection A., Paragraph 2a Gateway Corridor Overlay District (Attachment E) and Section 8.18 Planned Unit Development Regulation, Subsection E., Paragraphs 2 and 3 (Attachment F), address both issues of residential subdivision and compatibility within either the Gateway Corridor or PUD.

On July 27, 2012 the Planning Department notified David Erickson, President of Grayhawk Homes, that the structure at 3603 Maple Creek Court would not be issued a CO because of violation in the Gateway Corridor-2 Overlay District for building materials used in the construction of the residence until Planning Commission approval. Planning staff offered to assist Grayhawk Homes to be placed on the agenda of any future Planning Commission meeting. (Attachment G)

On February 26, 2013, Tim White, Building Supervisor for Grayhawk Homes, called the Inspections Division to schedule an inspection for the property as a closing had been scheduled for February 28, 2013. Mr. White was informed that no C.O. would be issued until Planning Commission either approved the structure with existing surface area façade or recommend that applicable ordinance requirements be followed.

Mr. White did provide the Planning Department with pictures of three (3) other residences (3501 Maple Creek Court, permitted on 5-25-06; 3608 Maple Creek Court, permitted on 2-24-06; and 100 Hillflo Avenue, permitted on 9-12-05): within the

Gateway Corridor which did not meet façade area surface requirements. (Attachment H. 1, 2, and 3). However, twenty-four (24) residences do meet façade area surface requirements, but none approved by the Planning Commission.

After consulting with Chairman Pridgen on Wednesday, February 27, 2013, staff scheduled a Special Meeting of the Planning Commission for March 5, 2012; which was advertised in the OA News on March 1, 2013.

On Thursday, February 28, 2013 in a phone conversation with Mr. Erickson, he said he would cancel "closing" scheduled for that day as he would not be bound by a decision of the Planning Commission unless approval of the structure "as is" is the decision of the Planning Commission.

Staff does not know if Mr. Erickson or a member of his staff will attend the called special meeting.

Planning Department will neither issue a Certificate of Occupancy nor a Temporary Certificate of Occupancy at 3603 Maple Creek Court until a decision is rendered by the Planning Commission about the exterior material.

Mr. Ogren reviewed several pictures of the house at 3603 Maple Creek Court all sides and houses on this street and adjoining streets.

In addition to this report several attachments were included in the packet. Please review the Planning Department File for complete information supporting this report.

Chairman Pridgen stated that anytime we have a presentation of exterior material in a gateway corridor district; we not only look at the material but also how the material works in accordance with the design of the overall structure, and if the exterior material is compatible and in harmony with the neighboring homes. This is the only exterior design requirement as stated in the Zoning Ordinance for the gateway corridor district that we can oversee. Some of the residents of the neighborhood have come before us and the City Council the last few months to look at this issue. I appreciate someone on behalf of Grayhawk coming so we can discuss this. This is a situation that we tried to resolve since July [2012].

Mr. Billy Simms of Grayhawk Homes, distributed a copy of a letter written by Mr. Erickson and next a copy of elevations.

GRAYHAWK

H O M E S , I N C .

Grayhawk Homes , Inc.
2301 Airport Thruway Suite E-6, Columbus, Ga. 31904
706-568-3779 Fax 706-568-7565

March 4, 2013

Dear commission members:

Unfortunately, your called meeting has fallen in direct conflict to a board responsibility I have in Columbus. My apologies for not appearing before you personally. I have asked Mr. Billy Sims to speak on my behalf.

First, I would like to thank yourselves and the planning division for quickly acting to address the matter of exterior finish materials for 3603 Maple Court in Cedar Creek subdivision.

The issue under discussion falls into two items. The acceptability of Hardiboard cement siding as an exterior siding for homes in the LaFayette Parkway Corridor (LPC) and second, by extension whether Hardiboard and similar cement siding materials are considered reasonable substitutes for the brick and stone materials advocated in the ordinance.

A few key points which may help your deliberations.

1. The house at 3603 Maple Court was permitted February 2, 2012 with the plans disclosing siding as the primary exterior material. Our siding material at 3603 Maple Court is Hardiboard Color Plus siding, with a 15 year factory applied paint warranty. Arguably the best cement siding material in the home building industry.
2. The exterior siding for 3603 Maple Court was installed approximately May 20, 2012. I have provided a copy of the purchase order with a signature and date which is after the date of installation.
3. Grayhawk Homes was informed in July, 2012 of the LPC and its requirements in conjunction with plans submitted for another permit requested on a house on Village Creek Court. I have no memory of any discussion, nor do we have any written communications to indicate that 3603 Maple Court might have been in violation of the LPC ordinance.
4. There are two additional houses on Maple Court in Cedar Creek subdivision with similar siding materials. One at 3608 Maple Creek Court and one at 3501 Maple Creek Court. Additionally there is a large ranch home at 100 Hillflo which is 100% siding above the foundation. All of these houses fall within the 600 limits of the LPC.
5. For those who may advocate we have intentionally worked to circumvent the corridor's restrictions, my apologies, but that is just not true. The fact that we submitted complete plans for our permit at 3603 Maple Court, received a permit for that same house and the fact that there are two other houses on Maple Court with similar siding simply gave Grayhawk Homes no indication that it might be in violation of a local Opelika ordinance.
6. Finally, in the course of discussing the facts of the situation last week it came to my attention that Hardiboard type siding may be considered a fully acceptable form of natural material by the commission based upon previous discussions and rulings.

In conclusion, Grayhawk Homes has built the house in question at 3603 Maple Court in accordance with the permit and plans as submitted, there are a number of houses built in the neighborhood from similar materials and there are indications that the commission has ruled previously that cement siding is an acceptable form of natural material.

Therefore I respectfully request that the commission make a ruling on two points.

1. Please ratify or rule on the construction of 3603 Maple Court as an acceptable house with finish materials as built for the LaFayette Parkway Corridor.
2. Please render a formal approval of similar use of cement siding material in the LaFayette Parkway Corridor, such that the planning division and code and inspections divisions proper apply your ordinance in the future.

Thank you for your consideration.

Sincerely



David Erickson
President
Grayhawk Homes, Inc.
Dave@grayhawkhomesinc.com

Mr. Billy Simms stated when the president of Grayhawk submitted these house plans it was no intention on Grayhawk's behalf to try to circumvent any kind of ruling. We were actually not aware of some of the conflicts that may arise from the gateway corridor requirement. We have noticed some of the previous homes that have been built in the neighborhood and the exterior material is not a majority of brick. However, on the same street three houses down from this one there is 100% cement sided home. This house has border line brick. On one of the photos, there is predominant siding house being constructed by Adamson. On other streets near Maple Court there are two houses that are predominantly siding houses with very little brick. For today's home construction a lot of building designs are trending towards craftsman style. Craftsman style uses more wood and natural products and this is what is in demand. The quality of the product being used here is a high level product that simulates a natural material. On the second page of the letter Mr. Erickson has asked if this Board can make a decision on giving a C.O. [Certificate of Occupancy] for this house. Also we are asking for a clarification as to what is an acceptable simulated natural material that the Planning Commission will approve. Do you all have any questions?

Chairman Pridgen opened the floor for a question and answer session.

Mayor Fuller asked if 3501 is in the gateway corridor.

Mr. Hilyer answered yes. This house has stone and different siding on the side and a wraparound porch that breaks up the monotony of the house.

Mr. Silberman stated you were notified in July 2012 that there was an area of concern and there was not contact until February of 2013.

Mr. Simms stated they told us we would be on a future agenda. Nothing else has come across our desk until we applied for the C.O. on this home we are discussing today and we were scheduled to close a sell on the home last week. We really appreciate you all calling this special meeting.

Chairman Pridgen stated to go into further detail about that conversation. In the end of July there was communication between Marty and Dave Erickson the President. There

was an email sent on July 27, 2012 that we all have copies of specific detailing of the home's exterior that is needed to determine to if the home meets current standards. There was no response from Greyhawk. And a reply email from Dave Erickson said "Got it. Thank You". "Got it" referred to Mr. Erickson acknowledging in July that he received the email from Planning and understood the information. Later in September 2012 there was further communication about coming before the Planning Commission so we can either approve the exterior material or modify whatever we needed to do. We are having a difficult time because of the emotional situation of having a family desiring to move into the home but are not able to because of the neglect on Grayhawk Homes. This matter could have been fixed at our request in July 2012; we realize we need to make a solid decision but there have been ample notifications in the past.

Mr. Simms stated in our defense that is actually an oversight on some of the field supervisors. Tim White is our supervisor now. At the time [July 2012] this issue was presented to Art, who was our supervisor. He is no longer employed with GreyHawk Homes. Greyhawk's change in personal caused a lapse of communication and all this happened.

Chairman Pridgen stated but recently there was an inspection and an attempt to issue a temporary C.O. so the new homeowner could move in but that failed also.

Mr. Simms stated those problems have been alleviated already. The only issue we have right now is we do not want to do a temporary C.O., move the new homeowner in the home and then there is a 'falling out' with the exterior material required.

Chairman Pridgen stated we all understand the situation. There have been ample opportunities to straighten this out. We as a board need to make a decision based on what the circumstances are without any pressures of time. This problem was created by Grayhawk. If there needs to be any changes or modifications to the exterior material the board needs to feel that it's warranted to request upgrades. If the exterior material as installed is acceptable then you can go forward without any upgrades. Anytime there is a home or a business in a gateway corridor it is the developer/contractors responsibility to know zoning.

Mr. Simms stated we have actually had two homes permitted since this home on Maple Court and they are actually brick on all sides.

Chairman Pridgen stated what we have is a house built with purely hardy board siding and the board needs to determine if that acceptable.

Chairman Pridgen asked if the design exterior was presented to Planning Staff during the permitting process.

Mr. Simms stated we give the full specs, plans, and everything for permitting.

Mayor Fuller asked how these two or three homes slipped through.

Mr. Kelley stated two were built in 2005 and the one that we are talking about today was permitted in Feb. 2012. It was discovered in July, 2012. A couple of residents came to the Planning Department and said they were concerned about the size and aesthetics of this home on Maple Court. This is not the predominate theme of the existing one story homes with brick exteriors. I do not know what happened before my employment but I do know about this one in 2012.

Dr. Menefee asked when the regulations here were enacted.

Mr. Kelley stated 1995.

Chairman Pridgen stated I think the problem here is these other houses are a combination of hardy board and brick. Therefore, these blended in together. This particular house was reported because it did not seem to fit and it jumps out at you.

This particular one was caught and that is why we tried to go through the proper channels back in July [2012].

Mr. Kelley stated the intent of the gateway corridor district concerning exterior materials were predominantly for the corridors commercial, office, and industrial underlying zoning districts. We only have two residential subdivisions that are in the corridor. Historically, I think the city was trying to protect the corridors along our commercial, industrial and office corridors.

Chairman Pridgen stated it was intended only for commercial corridors originally. It was later extended to all corridors commercial or residential.

Mr. Kelley stated the language in the ordinance applies to commercial and residential.

Mayor Fuller stated if this is accepted, what we are going to do about the next one. At some point, we are going to have to make a decision and consider the precedence being set. On the other hand, the developer can bring this house into compliance without raising the expense to the family.

Chairman Pridgen stated I do not know of any commercial or residential structure has been accepted with 100% hardy board siding or simulated material. We have accepted combinations mixed with brick, rock and different materials. This is a two story house and it stands out.

Mr. Hilyer asked what is built out there.

Mr. Simms stated predominantly in the past it has been one story. In the market were in up until 2008, 98% of the houses were one story. Now in the residential construction market everything is two stories because everything is going towards cost and price per square foot and less custom style. These actual houses are being built as 'energy star homes' which makes them a level above what is already there. This was required from the covenant of the neighborhood that the architectural board required and it was required in the PUD

Mr. Kappelman (Building Official) left the meeting to review the original building permit. He returned stating Building Inspections did not receive the elevations that have been presented here to you today with the permit.

Mr. Kelley stated neither building inspections nor planning received the elevations with specifications.

Chairman Pridgen stated the questions at hand.

1. Does the design and site planning ensure compatibility and harmony with the existing and planned uses on adjacent property? Design elements to be included but not limited to: architectural style, placement of building on land, building heights, off-street parking, etc.
2. Is this building as it stands compatible and in harmony with the neighborhood? Let's have an informal hand raising vote.

A unanimous vote, as it stands, is the exterior material is not acceptable

Chairman Pridgen asked for potential modification that you can provide to us.

Mr. Simms stated it could have a wrap-around porch.

Mr. Hilyer stated you could add shutters on the rear.

Chairman Pridgen stated we can allow this material. I am hoping we can work towards a motion for a solution at this meeting. It needs something.

Mr. Cherry stated I do not have any problem with hardy plank. I have a problem with the character. It stands out in style. The home is nothing in appearance like any other

home on the same street. Since it is solid hardy plank it presents a problem with the character/style of the home.

Chairman Pridgen and the Commissioners discussed what details might improve the exterior of the house.

Chairman Pridgen asked if the builder had any alternatives drawn to present today.

Mr. Simms stated no.

Chairman Pridgen requested that we should continue this meeting another day.

Ms. Cannon expressed displeasure of the builder not being prepared to present options because this is a time sensitive matter and a special called meeting.

Ms. Cannon made a motion that the current exterior is not acceptable in this zone.

Mr. Hilyer seconded the motion.

Ayes: Cherry, Morgan, Silberman, Menefee, Fuller, Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

Mr. Cherry stated why don't you come up with a few alternatives to present to us. These can be materials that you can afford to use and that you want to use.

Mr. Bell, the future home owner, expressed his concerns about limited time and having a place for his family to live.

The Commission expressed concerns for the family and the situation.

Chairman Pridgen and the Commission decided to meet again on Thursday March 7, 2013 at 4:00 p.m.

Dr. Menefee made a motion to adjourn the meeting to be continued Thursday March 7, 2013 at 4:00 p.m.

Mr. Cherry seconded the motion.

Ayes: Cherry, Morgan, Silberman, Menefee, Fuller, Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

Adjourned at 5:07.

Continued to March 7, 2013

MEMBERS PRESENT: Lewis Cherry, James Morgan, Ira Silberman, Mayor Fuller, Keith Pridgen, David Canon, Michael Hilyer

MEMBERS ABSENT: Arturo Menefee, Lucinda Cannon

STAFF PRESENT: Gerald Kelley, Planning Director
Martin Ogren, Assistant Planning Director
Rachel Dennis, Planning and Zoning Technician
Jeffery Kappelman, Chief Building Official
Guy Gunter, City Attorney

CALL TO ORDER: Chairman Pridgen called the meeting to order at 4:03 p.m.

A. OTHER BUSINESS

- 1. Grayhawk Homes Inc., 3603 Maple Creek Court, Requesting approval of exterior material for a single family home as set forth in Section 7.3, paragraph 10 in the Zoning Ordinance**

Chairman Pridgen opened the continued meeting.

Mr. Simms distributed 4 elevations for the Commission to review.

Mr. Tyron Bell requested the two tone paint option. Providing that he wanted to build a rear top level deck and a lower level deck to break up the rear view.

Mr. Simms stated we have several different renderings.

The Commission discussed the four different elevations that were presented.

Mr. Bell spoke and said they preferred the elevation with the stone around the garage, cedar shake, the two toned paint, and the shutters on the back.

The Commission reviewed this suggestion which includes items from 3 of the 4 elevations provided.

Mr. Simms agreed to add the design elements from different elevations.

Chairman Pridgen stated what you are presenting to us and that we are going to vote on is the following: the front elevation on page 3 with the rock around the garage; on page 1 the elevation with the two toned paint around the entire house; and page 4 the shutters on the rear elevation.

Mr. Bell agreed to these changes.

Chairman Pridgen opened the public hearing.

Anthony Lackey spoke as a resident of Cedar Creek; who is the spokesperson for the residents there. Many residents there complained about the price and style of this house. This house does not fit in our neighborhood. The ordinance says this house is in the corridor and should be 50% brick. Can we get more brick on this house? This is the opportunity to get Grayhawk to do what they should do.

Chairman Pridgen read from the Zoning Ordinance the Gateway Corridor Zone...Fifty percent of the surface area of the facade of a new building shall be of a natural appearance. Preference is given to materials such as wood, brick, stucco or glass.

Second choice of material includes siding that simulates natural material. There is nothing in our power to mandate 50% brick.

Mr. Bell stated the proposed solutions we are fine with these options.

Chairman Pridgen closed the public hearing.

Mr. Cherry made a motion to consider these solutions.

Mr. Silberman seconded.

Council Member Canon asked if an architectural review board for the subdivision has to review these changes.

Mr. Simms stated yes, that is the developer.

Mr. Simms and the Commission discussed different combinations or materials.

Mr. Kelley asked Mr. Gunter for his opinion on the language that Mr. Pridgen read concerning the gateway corridor overlay zone in relation to the 50%.

Mr. Gunter stated Chairman Pridgen read: 50% of the surface area that can be viewed on the building shall be natural in appearance.

Chairman Pridgen reviewed the history of how the gateway corridor was developed beginning with the Tigertown area and beyond to other arterial streets coming into Opelika. .

Mr. Gunter stated the emphasis is on materials that simulate a natural appearance and a large amount of discretion is given to the Commission to determine what those particular materials are.

Chairman Pridgen stated that is why the question here is about compatibility and harmony with the rest of the houses.

Mayor Fuller asked how are we to know if this work gets done?

Chairman Pridgen stated we need a performance bond to back this up.

Mr. Hilyer suggested a \$20,000 bond.

The Commission discussed when the C.O. can be issued and the amount of the bond required.

Mr. Simms left the meeting to call Mr. Erikson about the bond at 4:29 p.m.

The Commissioners paused the meeting to wait for Mr. Simms.

Chairman Pridgen asked Mr. Cherry to add to his motion the specific terms of the bond.

Mr. Cherry amended the original motion to require the builder to furnish surety bond for at least \$20,000 for completion of the work within 60 days [prior to issuing a Certificate of Occupancy].

Mr. Silberman seconded.

Mr. Cherry stated we need one elevation submitted with all the details requested to the Planning Department.

Mr. Simms returned to the meeting at 4:35 p.m. He [Mr. Erickson] is not willing to do the temporary bond. We still have some concerns about the temporary bond. He said we could start the work on the house tomorrow.

Chairman Pridgen stated so you understand that no C.O. will be issued until every bit of the work is complete.

Mr. Simms stated yes.

Mr. Cherry stated he definitely needs to bring the rendering to staff tomorrow.

Chairman Pridgen stated Mr. Cherry is amending his motion back to the original motion. Mr. Cherry agreed.

Chairman Pridgen stated the original motion is approval of selected changes:
1) The front elevation on Solution #3 (cedar shakes at top and rock around garage)
2) Solution #2 Paint all four sides with white band separating two-toned paint.
3) Solution # 1 rear shutters with white band separating two-toned paint.
4) All solution details selected drawn on one rendering showing all four sides to be submitted to the Planning Department tomorrow [Friday, March 8, 2013].

Mr. Silberman seconded the motion.

Ayes: Cherry, Morgan, Silberman, Fuller, Council Member Canon, Hilyer

Nays: None

Abstention: None

Adjourn at 4:41 p.m.

_____ Keith Pridgen, Chairman

_____ Rachel Dennis, Secretary