

**CITY OF OPELIKA
PLANNING COMMISSION MEETING
MAY 27, 2014
3:00 P.M.
PUBLIC WORKS FACILITY
700 FOX TRAIL**

The City of Opelika Planning Commission held its regular monthly meeting May 27, 2014 in the Planning Commission Chambers, located at the Public Works Facility, 700 Fox Trail. Certified letters mailed to all adjacent property owners for related issues.

MEMBERS PRESENT: John McEachern, Ira Silberman, Mayor Fuller, Keith Pridgen, David Canon, Lucinda Cannon, Michael Hilyer

MEMBERS ABSENT: Lewis Cherry, Arturo Menefee

STAFF PRESENT: Gerald Kelley, Planning Director
Martin Ogren, Assistant Planning Director
Rachel Dennis, Planning and Zoning Technician
Scott Parker, Engineering Director
Josh Hawkins, Opelika Utilities Board
Brian Kriel, Opelika Power Services
Guy Gunter, City Attorney

CALL TO ORDER: Chairman Pridgen called the meeting to order at 3:00 p.m.

I. Approval of April 22nd Minutes

Mayor Fuller made a motion to accept the April 22, 2014 minutes of the Planning Commission as written.

Mr. Silberman seconded the motion.

Ayes: McEachern, Silberman, Fuller, Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

II. Update on Previous PC cases

Mr. Kelley reported City Council last Tuesday gave the second and final reading to the Geneva Street building project.

A. PLATS (preliminary and preliminary & final) – Public Hearing

1. Preston Street Industrial Park Subdivision, 2 lots, 1127 Preston Street, Blake Rice, preliminary and final approval

Mr. Ogren reported the applicant is requesting preliminary and final plat approval to combine two lots into one lot. One lot is 14,560 square feet and zoned R-2 (low density residential). The second lot is 4.7 acres and zoned M-1 (manufacturing). The applicant is also requesting rezoning the 14,560 sf lot from R-2 to M-1. Agenda item #8 is the rezoning request. The plat meets minimum requirements.

Staff recommends preliminary and final plat approval.

Mr. Parker reported the Engineering Department has no comments or objections to this preliminary and final plat approval.

Mr. Hawkins reported water service is accessible to this subdivision by a water main in the R.O.W. of Preston Street

Mr. Kriel reported this subdivision is in the Opelika Power Services territory. We are requesting a 10ft utility easement along the north property line be included in future plat work for relocating power line.

Chairman Pridgen opened the public hearing.
No comments.
Chairman Pridgen closed the public hearing.

Mr. Hilyer made a motion for preliminary and final plat approval with staff recommendations.

Ms. Cannon seconded the motion.

Ayes: McEachern, Silberman, Fuller, Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

2. Pepperell Subdivision, Revision of Lot 5, 6, 7, & 3 lots, 230 28th Street, Pepperell Baptist church, preliminary and final approval

Mr. Kelley reported the applicant is requesting preliminary and final plat approval for lot line revision of three (3) lots at the intersection of 28th Street and 2nd Avenue. Trustees of Pepperell Baptist Church desire to re-subdivide the lots retaining the single-family residence on Lot 7A (church is proposing to sell) and keep Lots 6A & 8A for future expansion.

Because of inadequate right of way on 28th St. and 2nd Ave., additional dedication of right of way is required. Howard Webster, Chairman of the Board of Trustees and Jim McCrory, Surveyor are aware of the additional dedication of three (3) feet on 28th St. and seven (7) feet on 2nd Ave. and concur with the dedication.

However, additional dedication of right of way on 28th St. will necessitate a lot line change to meet the 9,000 sq. ft. minimum lot size for Lot 7, which is 9,000 sq. ft.

Mr. Gunter will provide an opinion if all of the trustees need to sign the plat or only the Chairman of the Board of Trustees for Pepperell Baptist Church.

STAFF RECOMMENDATION: Approve subject to the additional right of way of three (3) feet on 28th St. and seven (7) feet on 2nd Ave, and adjusting the lot line to provide 9,000 sq. ft. of area for Lot 7.

UPDATE: Correction to plat received Monday, May 19, 2014. **STAFF RECOMMENDS APPROVAL.**

Mr. Parker reported the Engineering Department request that the property line at the right-of-Way of 28th Street be moved in three (3) feet from the center line of the roadway so a consistent 25-feet of ROW be available at the west side of the property. It is also requested that the property line at 2nd Avenue and the intersection flair be moved in seven (7) feet from the centerline of the roadway so a consistent 30-feet of ROW be available at the south side of the property.

Other than this request, the Engineering Department has no additional comments or objections to this preliminary and final plat approval.

Mr. Hawkins reported water service is accessible to this subdivision by a water main in the R.O.W. of 28th Street.

Mr. Kriel reported this subdivision is in the Opelika Power Services territory. Easements shall be granted for any existing electrical facilities. If any electrical facilities must be moved, the developer shall incur the full cost to relocate.

Chairman Pridgen opened the public hearing.
No comments.
Chairman Pridgen closed the public hearing.

Mr. Silberman made a motion for preliminary and final plat approval with staff recommendations.

Mayor Fuller seconded the motion.

Ayes: McEachern, Silberman, Fuller, Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

3. Shelia Thompson Subdivision, 2 lots, 7171 Highway 29, Ryan E. Spier, preliminary and final approval

Mr. Ogren reported the applicant is requesting preliminary and final plat approval for a two lot subdivision located in the planning jurisdiction about two miles east of the Opelika City limits. Lot 1-A is 15.4 acres; Lot 1-B is 17.5 acres. The purpose of the subdivision is to sell Lot 1-A. Each lot meets the minimum 15,000 square foot lot size and 100 foot lot width requirement for a subdivision in the planning jurisdiction.

Staff recommends preliminary and final plat approval.

Mr. Parker reported this subdivision is outside the Opelika City limits, but is within the 3 mile Planning Jurisdiction of the City. Lee County Commission should be contacted and for coordination along with the City of future developmental updates.

The Engineering Department has no comments or objections to this preliminary and final plat approval.

Mr. Hawkins reported this subdivision is in the Beulah Utilities District.

Mr. Kriel reported this subdivision is outside of the Opelika Power Services territory.

Chairman Pridgen opened the public hearing.

Ms. Marylyn Bounds Thompson expressed her concerns about her son's illegal taking of her land after her husband's death that then deeded a portion of the land to Sheila Thompson (son's ex-wife). The lawyer admitted to the mistake.

Mr. Gunter suggested the burden is on the individual who contested the deed to prove that a mistake or fraud had been committed. You would have to file a petition in circuit court to begin the process of proving fraud was involved. Until you file a petition to circuit court, we have to presume the records are correct. The deed appears to read that your former daughter-in-law ended up with title to the property.

The Commissioners and staff expressed concerns for Ms. Thompson's situation.

Mr. Ryan Spier spoke as the future landowner and that he is not aware of this issue and expressed concerns. He said that his attorney has done a title search of the property and this information was not found.

Chairman Pridgen closed the public hearing.

Mr. Gunter said the Planning Commission has no jurisdiction to who has title to the property. The Planning Commission must rely on the deeds as they are recorded at the probate office. Mr. McEachern stated similar facts.

Mayor Fuller made a motion for preliminary and final plat approval with staff recommendations.

Mr. Silberman seconded the motion.

Chairman Pridgen stated our task is to look at the information in front of us.

Ayes: McEachern, Silberman, Fuller, Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

4. The Bridge Church Subdivision, 2 lots, Highway 29 & Lee Road 270, Billy Bryan, preliminary and final approval (Tabled at April 22nd meeting)

Mr. Ogren reported the applicant is requesting preliminary and final plat approval for a two lot subdivision located in the planning jurisdiction about two miles east of the Opelika City limits. This subdivision was tabled at the April 22nd PC meeting. A Senior Citizens Activity building for the Beulah community will be constructed on Lot 2 (2 acres). Lot 1 (22 acres) is reserved as a future site for a church. Each lot meets the minimum 15,000 square foot lot size requirement.

Staff recommends preliminary and final plat approval.

Mr. Parker reported this subdivision is outside the Opelika City limits, but is within the 3-mile Planning Jurisdiction of the City. Lee County Commission should be contacted and for coordination along with the City of future developmental updates.

The Opelika Engineering Department has no comments or objections to this preliminary and final plat approval.

Mr. Hawkins reported this subdivision is in the Beulah Utilities District.

Mr. Kriel reported this subdivision is outside the Opelika Power Services territory.

Chairman Pridgen opened the public hearing.

No comments.

Chairman Pridgen closed the public hearing.

Ms. Cannon made a motion for preliminary and final plat approval with staff recommendations.

Mr. Canon seconded the motion.

Ayes: McEachern, Silberman, Fuller, Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

5. Jimmy Ledbetter Subdivision, Resub of Lots 2, 3, 4, 2 lots, 8103 Lee Road 146, Barbara Stringfellow, preliminary and final approval

Mr. Ogren reported the applicant is requesting preliminary and final plat approval for a two lot subdivision located in the planning jurisdiction about 1.5 miles south of the Opelika City limits. Lot 2-A is 1.3 acres and Lot 3-A is 1.2 acres. Each lot meets the minimum 15,000 square foot lot size and 100-foot lot width for a subdivision in the planning jurisdiction.

Staff recommends preliminary and final plat approval subject to the following (1) add the 35 foot minimum front building setback line (2) add flood zone information on the plat (3) add signature line for city planner (4) tie the plat to a section corner.

Mr. Parker reported this subdivision is outside the Opelika City limits, but is within the 3-mile Planning Jurisdiction of the City. Lee County Commission should be contacted and for coordination along with the City of future developmental updates.

The Engineering Department has no comments or objections to this preliminary and final plat approval.

Mr. Hawkins reported this subdivision is in the Beaugard Water Authority Service Area.

Mr. Kriel reported this subdivision is outside of the Opelika Power Services territory.

Chairman Pridgen opened the public hearing.

Mary Thomas, adjacent property owner, expressed concerns of the use of the land. Mr. Ogren explained the reasons for the redivision.

Chairman Pridgen closed the public hearing.

Mr. Silberman made a motion for preliminary and final plat approval with staff recommendations.

Mr. Hilyer seconded the motion.

Ayes: McEachern, Silberman, Fuller, Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

B. CONDITIONAL USE - Public Hearing

6. Trinity Presbyterian Church, 1010 India Road, R-2, New church

Mr. Ogren reported Trinity Presbyterian Church is requesting conditional use approval to construct a church building including a new sanctuary at 1010 India Road. The total square footage of the building is 15,927 square feet; the church is rebuilding the sanctuary (5,800 sf), adding a fellowship hall (4,000 sf) and administration space. The former sanctuary and building area was about 10,700 square feet. At maximum capacity, the new sanctuary will hold 509 people. The exterior material is brick (see front elevation in your packet).

The site plan meets minimum requirements for off-street parking and landscaping. The minimum parking requirement is 127 parking spaces; 154 spaces are provided. New parking lot areas (54 parking spaces) will be constructed on the south and west sides of the new sanctuary and 33 spaces added adjacent to the existing parking lot on the north side. The landscape plan meets minimum requirements. The plan is to preserve as many existing trees as possible. Most of the base points required will consist of existing trees that will be preserved as shown on the landscape plan/site plan. Additional plant material will be planted in the front yard area and the west side of the building.

Planning Staff recommends conditional use approval as submitted.

Mr. Parker reported the Engineering Department has no comments or concerns regarding this application and recommends conditional use approval.

Mr. Hawkins reported water service is accessible to this location by a water main in the R.O.W. of India Road.

Mr. Kriel reported Opelika Power Services presently serve this use.

Chairman Pridgen opened the public hearing.

No comments.

Chairman Pridgen closed the public hearing.

Mr. Hilyer made a motion for conditional use approval with staff recommendations.

Mr. McEachern seconded the motion.

Ayes: McEachern, Silberman, Fuller, Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

7. Richard Patton, 706 First Avenue, C-1, Brewery

Mr. Kelley reported the applicant is requesting conditional use approval for a microbrewery. The Planning Commission recommended and the City Council approved a definition to the Zoning Ordinance for a microbrewery, and adding a microbrewery to the Matrix Table of the Zoning Ordinance as a Conditional Use in C-1. A rezoning from C-2 to C-1 was recommended by Planning Commission and approved by City Council.

Mr. McGinnis plans to open the brewery this fall after all permits are obtained from state and federal government. The 12,773 square foot space is divided into several entities; the largest of which is warehousing (approximately 10,000 sq. ft.) and seating area/bar (approximately 1,400 sq. ft.).

The issue of off street parking has been addressed by Mr. Patton by converting the space at the southeast corner of 1st Ave. and 8th St. for six (6) parking spaces (next to the Allagare Office Building), and the northeast corner of 1st Ave. and 8th St. (former theatre site) for sixteen (16) spaces; for a total of twenty-two (22) spaces. These spaces are necessary to accommodate seating at the microbrewery.

Recommendation: Approve Conditional Use Subject to creating twenty-two (22) off street parking spaces at the two locations stated in the staff report.

Mr. Parker reported we have applied for a TAP Grant for that block and down south toward north railroad. This is a transportation alternative similar to what has been done with the rest of downtown. We have made an application for this block itself that includes a reduction of traveling from a 36 ft. road bed to a 26 ft. road bed, increasing landscaping, also revitalization of the sidewalks to encourage pedestrian travel through the downtown. It will be maintained as a public access roadway. We will have to make adjustment sot accommodate for the loading dock there, which should not be a problem. The Engineering Department has no other comments or concerns regarding this application and recommends conditional use approval.

Mr. Hawkins reported water service is accessible to this Location by a water main in the R.O.W. of First Avenue.

Mr. Kriel reported only available service voltages for this use are 120/208V three phase or 120/208V single phase.

Chairman Pridgen opened the public hearing.

No comments.

Chairman Pridgen closed the public hearing.

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

Mr. Silberman seconded the motion.

Ayes: McEachern, Silberman, Fuller, Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

C. REZONING – Public Hearing

8. Blake Rice, 1127 Preston Street, 14,560 square feet, from R-2 to M-1

Mr. Ogren reported the applicant (Bryan Stone, Plains Development) is requesting rezoning one lot (14,560 sf) from an R-2 zoning district to an M-1 zone. The rezoning lot is undeveloped. The applicant is in the process of buying the rezoning lot and the adjacent five-acre lot (*Both lots are in foreclosure.*). The five acre lot is zoned M-1. About 40 years ago, the five-acre lot was developed as a concrete plant; then a precast manufacturing plant producing drainage pipes and manhole covers occupied the five-acre lot. The plant closed about two years ago. (*Agenda Item #1 is the subdivision combining the single lot to the five acres lot.*) The applicant is requesting that the five-acre property be used for his grading contracting business. This type of land use is listed as “*Office of Contractor with Equipment and Material Yard*” (Section 7.3 Use Categories) in the Zoning Ordinance. The applicant will store grading equipment on the yard. Example: excavator, tractors, bulldozers, back-holes, dump trucks, etc. He will not be storing materials such as top soil or fill dirt on the property nor building contracting materials. If the rezoning is approved and property purchased the applicant plans to improve the property by removing the “pole barn” and “block building” as shown on the plat, re-clad the exterior walls of the 13,000 square foot existing building located along the rear (east) property line, and general clean-up of the property. The applicant will

also be required to meet development requirement as provided in the Zoning Ordinance such as minimum off-street paved parking spaces and meeting the landscape requirements.

The adjacent zoning district to the north is R-2 (low density residential) with the existing land use single-family homes. Zoning to the west is R-3 (medium density residential) and the existing land uses are either duplexes or apartments; zoning to the south is M-1 (manufacturing); the properties are undeveloped. Piedmont fertilizer owns most of the adjacent property on the south side. Along the east side, the adjacent property is a 150-foot wide railroad right-of-way.

Planning Staff believes that the rezoning request is appropriate. The proposed land use, "office of contractor with equipment and material yard" appears to be less intrusive and more environmental sensitive than the previous manufacturing uses that occupied the property. The property has been zoned manufacturing for at least 40 years.

Planning Staff recommends Planning Commission send a positive recommendation to the City Council to rezone the property from R-2 to M-1.

Mr. Parker reported the Engineering Department has no comments or concerns regarding this rezoning application and recommends the zoning change from R-2 to M-1

Mr. Hawkins reported water service is accessible to this location by a water main in the R.O.W. of Preston Street.

Mr. Kriel reported this lot is in the Opelika Power Services territory.

Chairman Pridgen opened the public hearing.

No comments.

Chairman Pridgen closed the public hearing.

Ms. Cannon made a motion to send a positive recommendation to city council with staff recommendations.

Mayor Fuller seconded the motion.

Ms. Cannon questioned if the noise will affect the neighbors. Mr. Rice answered that the only noise that would be of any magnitude would be the backing-up of large equipment and the safety signal [bell] is heard.

Mr. McEachern asked whom Mr. Rice represents. Blake Rice answered the company name will be Terravia Construction.

Mr. Rice detailed the plans for the property: removing small buildings, saving a portion of the large building, relocating the driveway, constructing a new office building, massive landscape renovations, and installing a fence.

Mayor Fuller called for question.

Ayes: McEachern, Silberman, Fuller, Cannon, Hilyer

Nays: None

Abstention: Council Member Canon

D. TEXT AMENDMENTS TO ZONING ORDINANCE – Public Hearing

- 9. Amend Section 7.3 Specific District Regulations, sub-section A. District Regulation, Area Requirements: Add note - “Lots recorded prior to September 17, 2013 and located in the R-3 zoning district may have minimum setbacks as provided in the Zoning Ordinance prior to September 17, 2013.” (Ordinance #114-13)**

Mr. Kelley reported after a Planning Commission recommendation, the City Council approved an amendment to the R-3 (single family) zoning district to change area, width, and front-yard setback requirements. This change occurred to differentiate the requirements between R-3 and R-4 (medium density residential (attached housing) not to exceed nine (9) units per acre).

Because of the change, some subdivisions zoned R-3 and under construction with platted lots of record had difficulty meeting the new front yard setback of thirty (30) feet. Asking for a variance of five (5) feet from the Board of Adjustment would be burdensome and too time consuming, potentially delaying new single-family housing construction.

After consultation with City Attorney, Guy Gunter, staff and Mr. Gunter concur to allow platted lots of record to continue under the previous R-3 requirements prior to September 17, 2013. All new subdivisions receiving final plat approval from the Planning Commission and recorded after September 17, 2013 shall meet new Area Requirements.

RECOMMENDATION: Recommend Approval subject to adding Footnote 11 to read as follows: “Lots recorded prior to September 17, 2013 and located in the R-3 zoning district may have minimum area, width, and front yard setback as provided in the Zoning Ordinance prior to September 17, 2013.” (City Council Ordinance #114-13)

May 27, 2014 REVISED AMENDMENT

Amend Section 7.3 Specific District Regulations, Subsection A; District Regulation, Area Requirements. Add footnote eleven (11) to read as follows: In the R-3 zoning district, any final subdivision plat (including administrative plats) recorded prior to September 17, 2013 shall meet the following requirements; Minimum Lot Size, 7,500 square feet, Minimum Lot Width, 60 feet, and Front Yard Setback, 25 feet. Any deviation from area requirements prior to September, 17, 2013 shall be considered by the Board of Zoning as a variance.”

Mr. Parker, Mr. Hawkins, and Mr. Kriel gave no reports.

Chairman Pridgen opened the public hearing.

No comments made from the audience.

Chairman Pridgen closed the public hearing.

Mayor Fuller made a motion send a positive recommendation to city council with staff recommendations.

Mr. Silberman seconded the motion.

Ayes: McEachern, Silberman, Fuller, Cannon, Pridgen

Nays: None

Abstention: Council Member Canon

E. OTHER BUSINESS

- 10. Discuss amendment to Section 7.3 Specific District Regulations; subsection A. District Regulation, Area Requirements: “Approved new single family detached construction and existing single family detached dwellings are exempt from requirements of the Gateway Corridor Overlay District”**
- 11. Discuss amendment to Section 7.3 Specific District Regulations; subsection A. District Regulation, Area Requirements: 100-foot minimum lot width in the Gateway Corridor Overlay District**

Mr. Ogren discussed agenda #10 and 11 together. The information was presented to City Council at the Council’s worksession. The Council was okay with all the amendments except one. The Council suggested that the minimum width for the combined Gateway Corridors be reduced from 150 feet to 100 feet.

Mr. Kelley said the issue that we have is the 100 foot minimum lot width desired by the council went into the public notice a week ago Sunday at 100 feet not 150 feet. We raised that question about the minimum lot width to the Commissioner today as the Council directed us to proceed in advertising. The question is to leave the minimum lot width at 100 feet as advertised or to make a recommendation to Council to change the minimum lot width to 150 feet.

Chairman Pridgen stated I think this is a misunderstanding about lots-of-record. Some lots recorded may be nonconforming if the lots of record are less than the 150-foot minimum lot width given that the 150 foot minimum lot width is approved and new lots to be created after the minimum 150-foot lot width is an approved amendment. Chairman Pridgen stated I have a major problem with Gateway Drive area to have 100 feet lot width.

The Commission discussed this issue in detail including the intent of the 150 foot lot width. Chairman Pridgen suggested the subcommittee meet about this item and he would talk with Mr. Smith about the concerns and direction of the council.

- 12. Discuss and approve Agreement and recommend to City Council the State legislation on joint City and County approval of subdivisions (City of Opelika, City of Auburn, and Lee County) (Act #2012-297)**

Mr. Kelley reported the Act #2012-297 amends the Code of Alabama 11-52-30, signed into law by Governor Bentley, October 1, 2012 to clarify the subdivision review and approval process in planning jurisdictions throughout Alabama where a county has adopted subdivision regulations. Lee County adopted subdivision regulations on April 14, 2008.

This legislation does not change the current joint coordination between Lee County and Opelika. Lee County and Opelika allowed their respective subdivision ordinances between the two units of government to apply more stringent requirements to subdivision development be implemented prior to new legislation.

Lee County, City of Auburn, and City of Opelika Engineering and Planning Departments prepared an agreement with approval by city/county attorneys from each jurisdiction.

Lee County and the City of Auburn are presenting the agreement to their respective Planning Commissions, City Councils, and Board of County Commissioners in May and June 2014.

Scott Parker, City Engineer, is providing additional details of the agreement in his report.

STAFF RECOMMENDATION: Recommend approval to City Council.

Mr. Parker reported the basic summary of the this agreement is to determine what entity, either the County or City reviews, approves, inspects and bonds the construction of a public residential subdivision outside the City limits, but within the three mile planning jurisdiction.

Because these developments can potentially be within the City limits, the City will have the most responsibility per the agreements as noted in 1.

Item 2. Declares the “Area of Review” and states that both the County and City are responsible for the review and comments of the construction plans.

Item 3. States that if the County’s standards are “more restrictive” then they shall be incorporated into the City’s approval of the subdivision. All review comments from the County will be delivered to the City within 30 days.

Item 4. States that the City shall inspected and certify to the County in writing that the plans are approved.

Item 5. States that the County will not accept the subdivision if this is not done.

Item 6. States that the City will hold the performance and maintenance bonds from the developer and that both the City and County will jointly inspect the development for deficiencies.

Item 7. States that the City has the authority and responsibility to execute the bond to correct said deficiencies as identified in the inspection.

Mr. Hawkins and Mr. Kriel gave no reports.

Chairman Pridgen opened the public hearing.

No comments made from the audience.

Chairman Pridgen closed the public hearing.

Mayor Fuller made motion to send a positive recommendation to city council with staff recommendations.

Mr. Silberman seconded the motion.

Ayes: McEachern, Silberman, Fuller, Cannon, Pridgen

Nays: None

Abstention: Council Member Canon

With no further business on the agenda, Chairman Pridgen adjourned the meeting at 4:21 p.m.

_____ Keith Pridgen, Chairman

_____ Rachel Dennis, Secretary