

**CITY OF OPELIKA
PLANNING COMMISSION MEETING
JUNE 23, 2015
3:00 P.M.
PUBLIC WORKS FACILITY
700 FOX TRAIL**

The City of Opelika Planning Commission held its regular monthly meeting June 23, 2015 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: Lewis Cherry, John McEachern, Arturo Menefee, Mayor Fuller, Keith Pridgen, David Canon, Lucinda Cannon, Michael Hilyer

MEMBERS ABSENT: Ira Silberman

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

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

I. Approval of May 26, 2015 Minutes

Ms. Cannon made a motion for approval of the May 26, 2015 Minutes as written.

Mr. Hilyer seconded the motion.

Ayes: Cherry, McEachern, Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: Menefee, Fuller

II. Update on Previous Planning Commission cases.

Mr. Kelley reported no updates.

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

1. Owens Subdivision, Revision of Lots 4 & 5, 2 lots, 2809 West Point Parkway, Carmen Nissen, preliminary and final approval

Mr. Kelley reported the applicant is requesting preliminary and final plat approval for a revision of lots four (4) and five (5) in Owens Subdivision. ALDOT has recommended access easement correction which has been noted as one of the changes presented today.

STAFF RECOMMENDATION: Approval with the corrections provided at this meeting.

Mr. Parker reported the Engineering Department has no objections and recommends Preliminary and Final Plat approval of this application.

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

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

Chairman Pridgen opened the public hearing.

No comments.

Chairman Pridgen closed the public hearing.

Dr. Menefee made a motion to grant preliminary and final plat approval with staff recommendations.

Mayor Fuller seconded the motion.

Chairman Pridgen asked if it is noted on the plat that the property owners must share the driveway easement.

Mike Maher asked that the motion could be amended to have a note added to the plat stating the driveway should be shared by the two property owners?

Chairman Pridgen stated I would like it to be clear to the future owner that they had to share.

Dr. Menefee made an amendment to the original motion to grant preliminary and final plat approval with staff recommendations and add a note on the plat that the driveway should be shared by the two property owners.

Mayor Fuller seconded the motion.

Ayes: Cherry, McEachern, Menefee, Fuller Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

2. Totten's Map of Opelika, Redivision of Lots 2A, 2B, 3A, 3B, & 4B, 1 lot, 900 2nd Avenue, First Presbyterian Church, preliminary and final approval

Mr. Kelley reported the applicant is requesting preliminary and final plat approval for a subdivision in a C-2, GC zoning district. The purpose of the subdivision is to erase four lot lines and combine the five lots (Lots 2A, 2B, 3A, 3B, & 4B) into one lot titled Lot 1. First Presbyterian Church recently purchased the home adjacent at the southeast corner of Tenth Street and Third Avenue. The church currently plans to use the home for one class of ten or less. The long term plan for the home is to have it remain a residential use to host missionary families.

Staff recommends preliminary and final plat approval.

Mr. Parker reported the Engineering Department has no comments or objections and recommends Preliminary and Final Plat approval of this application.

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

Mr. Prince reported this subdivision is in the Opelika Power Services territory.

Chairman Pridgen opened the public hearing.

Leila Lofton asked about the letter and the use.

Chairman Pridgen explained the notification and stated future use.

Chairman Pridgen closed the public hearing.

Dr. Menefee made a motion to grant preliminary and final plat approval with staff recommendations.

Mayor Fuller seconded the motion.

A deacon for the church spoke about the future use stating the house will be used primarily for a small Sunday school or for lady's meetings.

Ayes: Cherry, McEachern, Menefee, Fuller Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

B. CONDITIONAL USE - Public Hearing

3. Asian Cuisine Inc., 3750 Pepperell Parkway, C-3, GC, Restaurant within grocery store serving alcohol

Mr. Ogren reported the applicant is requesting conditional use approval to serve alcohol (beer, wine & liquor) in a restaurant that is located within the Asian Market grocery store. The grocery store & restaurant business is located in the Saugahatchee Square shopping center-formerly Mid Way Plaza. The applicant is required to purchase two business licenses. The applicant purchased a "retail sales" license for the grocery store area; the grocery store opened for business about a month ago. The applicant recently submitted an application for a "restaurant retail liquor" license. This license allows the sell and consumption of beer, wine or liquor in the restaurant. Planning recommends that liquor not be permitted for the restaurant but beer and wine be allowed. The applicant is aware that the sell and consumption of alcohol to restaurant customers is restricted to the restaurant area only. A restaurant customer exiting the restaurant area with an open-container of alcohol and entering the grocery store area would be in violation. Also Planning had concerns if the petition wall between the restaurant and the grocery store was adequate in providing separation between the two businesses. The photos in your packet show a 4 foot high petition wall separating the restaurant from the grocery store.

Staff recommends approval subject to the recommendation in this report.

Mr. Parker reported the Engineering Department has no comments or objections to this conditional use application.

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

Mr. Prince reported this use is in the Opelika Power Services territory.

Chairman Pridgen opened the public hearing.

No comments.

Chairman Pridgen closed the public hearing.

Mayor Fuller made a motion to grant conditional use approval.

Dr. Menefee seconded the motion.

Chairman Pridgen stated planning staff is recommending no liquor. The Planning Commission is not the governing body about permitting alcohol. The applicant is required to obtain approval from City Council about serving alcohol in a restaurant.

Mayor Fuller stated why would we not allow liquor if we are allowing beer and wine.

Mr. Kelley stated as staff I am taking the same stance as we had with the movie theater [Carmike Cinema in Capps Landing]. I do not see from a staff level that liquor should be permitted as a public use inside a grocery store.

Ms. Cannon stated at this level I think this is an opinion.

Chairman Pridgen stated in my opinion if Planning Commission votes to recommend liquor or not then we are so-called "approving" a restaurant to serve liquor. However, City Council approves the type of alcohol served at a restaurant.

Mr. Kelley stated it is two separate issues.

Ayes: Cherry, McEachern, Menefee, Fuller Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

4. L & L Holdings LLC, 3807 Pepperell Parkway, C-3, GC, Outdoor rental storage area

[Revised Report – see strike-through] Mr. Ogren reported the applicant is requesting conditional use approval to add an outdoor rental storage business to his existing business located in the Gateway Corridor district. His existing business is "SCF Buildings". The business sales portable storage buildings for residential homes and

commercial uses. Customers have asked the applicant about rental space for their recreational vehicles, campers, or boats. The site plan shows 50 outdoor rental spaces.

The site plan in your packet shows a 1.2 acre outdoor rental area located in the rear yard of the 3.5 acre business property. Most of the 50 rental spaces are 15' x 35'. Overall, existing trees visually screen the rental area from north-bound traffic on Pepperell Parkway, however the outdoor area can be seen by south bound traffic (see photos attached). The applicant will install an 8 foot high wooden fence and plant a row of 3' to 4' caliper trees ("Green Giant" Arborvitae or Leland Cypress type tree) along a section of the fence to assist in screening the rental area from south bound traffic (see site plan); the 8 foot high wood section is about 150 feet long. The entire rental area will be secured with a new chain linked fence; an existing fence is located along the south property line; renters will enter & exit the secured rental area through an electronic gate. The applicant is aware that power or sanitary sewer services should not be provided to the rental spaces. A portion of the rental surface area is gravel. The applicant will be adding more gravel to cover the entire rental surface area. A minimal number of outdoor lighting will be installed for security. The lights will not be directed toward Pepperell Parkway. Lighting will be directed toward the south and east rear property lines.

Planning staff recommends that razor wire (concertina or mezzanine) or barbed wire not be allowed as a fence or security material. Planning recommends that a carport cover with open sides be required for all 50 spaces to protect the RVs, boats, and other property goods from the weather. Staff recommends the applicant contact Public Safety (Fire and Police) so they are aware on how to access the property in case of an emergency.

Staff recommends approval subject to the recommendations stated in this report.

Mr. Parker reported the Engineering Department has no comments or objections to this conditional use application.

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

Mr. Prince reported this use is in the Opelika Power Services territory.

Chairman Pridgen opened the public hearing.

No comments.

Chairman Pridgen closed the public hearing.

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

Mayor Fuller seconded the motion.

Ayes: Cherry, McEachern, Menefee, Fuller Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

C. REZONING – Public Hearing

5. Maurice Ward, 207 Avenue A, 26,800 sf lot, from R-4 to I-1

Mr. Kelley reported the applicant is requesting a zone change to operate a funeral home. Ward Funeral Home was established in the mid-50's and closed in the mid-90's. During the past twenty (20) years the funeral home has undergone significant deterioration and dilapidation.

Mr. Ward desires to restore the home to its original stature and conduct a funeral business. He will live on the 2nd floor of the structure. He owns adjacent parcels on Ave. A. and 3rd St. for additional parking and vehicle access to the property. Staff did not find recorded minutes from either the Planning Commission or Board of Zoning Adjustments approving a funeral home at this location in the mid-50's.

A funeral home is permitted in the Institutional District (I-1). If adjacent property owners concur with this request; planning staff supports this rezoning from R-4 to I-1.

If the PC concurs with an Institutional District, a change in the 2020 future land use map is also necessary for approval from R-4 (Medium Density Residential) to I-1 (Institutional District).

STAFF RECOMMENDATION: Approve I-1

Mr. Parker reported the Engineering Department has no comments regarding the rezoning requested by this application.

Mr. Hawkins stated they have water access.

Mr. Kriel reported Opelika Power Services presently serves this location.

Chairman Pridgen opened the public hearing.

No comments.

Chairman Pridgen closed the public hearing.

Mayor Fuller made a motion to send a positive recommendations to City Council for rezoning from R-4 to I-1.

Mr. McEachern seconded the motion.

Ayes: Cherry, McEachern, Menefee, Fuller, Cannon, Hilyer

Nays: None

Abstention: Council Member Canon

D. VACATION OF ALLEY

6. Vacate the western portion of public alley located between Clearmont Circle and Rocky Brook Road

Mr. Ogren reported the petitioners are requesting the City to vacate only the western portion of a 20 foot wide alley located between Clearmont Circle and Rocky Brook Road (see maps in packet). The two adjacent property owners on the eastern portion of alley with access to Rocky Brook Road do not oppose the western portion vacated, but they do not desire to vacate the alley adjacent to their property. They realize that if the western portion of alley is vacated then access to Clearmont Circle from the alley will be unavailable. The petitioners with access to Clearmont Circle on the western portion of the alley desire to vacate the alley portion adjacent to their property.

Planning staff believes the request to vacate the public alley is appropriate. There are no plans to improve the alley to City standards. Vacating the alley should not result in any adverse effect to the surrounding properties. Staff has emailed various departments asking if an easement should be required and an easement added to the plat before the vacation is finalized. The Engineering department and Opelika Power Service are not requiring an easement.

Planning Staff recommends a positive recommendation be sent to City Council to vacate the western portion of the public alley as shown on the survey and maps in your packet.

Mr. Parker reported the Engineering Department has no comments or objections to this alley vacation proposal.

Mr. Hawkins gave no report.

Mr. Prince reported Opelika Power Services has no objections.

Mayor Fuller made a motion to grant approval of vacating the western portion of public alley located between Clearmont Circle and Rocky Brook Road with staff recommendations.

Dr. Menefee seconded the motion.

Ayes: Cherry, McEachern, Menefee, Fuller Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

- E. TEXT AMENDMENTS to the SUBDIVISION REGULATIONS – Public Hearing**
- 7. Amend Section 4.4 Final Plat Approval, Summary of Amendments: DELETIONS-A Performance bond of 150% of the infrastructure cost that was required prior to construction of the subdivision has been deleted. REVISIONS-Upon final plat approval from the Planning Commission, the developer/subdivider shall provide the following items: A Performance Security shall be provided to the City Engineer for the remaining final layer of asphalt paving and sidewalks to be valued at 125% of the actual cost of the remaining items for a term of two years, or when at least 75% of the lots have been constructed with one year optional extension. A Maintenance/Warranty Bond with the value equal to 25% of the total infrastructure construction cost that runs concurrent with the Performance Security of the remaining infrastructure plus one (1) year after.**

Mr. Kelley reported Mr. Gunter stated we need a resolution. We can open the public hearing and discuss this. We will have to have the resolution to pass this amendment.

Mr. Parker reported the text amendments in detail.

Mr. Hawkins and Mr. Prince gave no reports.

Mr. Kelley noted changes in the date.

Mr. Parker and Chairman Pridgen discussed about the acceptance of the streets process.

Chairman Pridgen stated in the future we will review revisions to the acceptance of the streets and amenities amendments.

Mr. Cherry asked are you doing this to create a more favorable atmosphere for development in Opelika.

Mr. Parker stated I would say it is removing deterrents.

Chairman Pridgen opened the public hearing.

No comments.

Chairman Pridgen closed the public hearing.

Mr. Kelley stated we have the resolution.

Dr. Menefee made a motion to approve the text amendments with staff recommendations and noted changes to the dates.

Mayor Fuller seconded the motion.

Ayes: Cherry, McEachern, Menefee, Fuller Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

- F. OTHER BUSINESS**
- 8. Discuss pertaining to the acceptance of street(s) by amending the Public Works Manual and recreational amenities in the Subdivision Regulations**

Acceptance of Streets

Mr. Kelley reported these are the step laid out by Mr. Gunter. I believe it is the property owners' responsibility to go to the City Council to request the City accept the street(s).

Chairman Pridgen stated the concern would be the developer dropping the ball on the process. If we had an automated process it would make accepting a street easy for the City and the property owner [developer].

Commissioner and staff discussed how this might take place. That is, who makes the request to accept a street and what the developer is responsible for with the City accepting a street.

Mr. Blake Rice and Mr. Gunter discussed the accounting rules about streets.

Chairman Pridgen asked Mr. Gunter to verify the detail at what point does the city own the rights of ways and streets.

Amenities

Mr. Kelley discussed the need and reasoning behind the amendment for the recreational amenities to be included in the regulations. The Commission reviewed the City of Huntsville ordinance provided by Mr. Gunter concerning amenities.

Mayor Fuller stated that we need to have some requirements in place to do everything we can to ensure the developer fulfills his obligations concerning his proposed recreational amenities.

Chairman Pridgen asked the Commissioners to study on this item.

9. Kensington Subdivision, 89 lots, South Uniroyal Road, George Barrett, Preliminary Approval (Requesting a twelve month extension of Preliminary plat approval. Extension expires on June 23, 2016)

Mr. Kelley stated this is a request for an extension of the preliminary plat for June 23, 2016

Dr. Menefee made a motion to grant extension of Kensington Subdivision preliminary plat approval with staff recommendations to June 23, 2016.

Ms. Cannon seconded the motion.

Ayes: Cherry, McEachern, Menefee, Fuller Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

10. Northbrook Subdivision, Phase 5, 45 lots, Northbrook Drive, Brandon Bolt, Preliminary Approval (Requesting a six month extension of preliminary plat approval. Extension expires on December 23, 2015)

Mr. Kelley reported this is a request for an extension of preliminary plat to December 23, 2015

Mayor Fuller made a motion to grant extension of Northbrook Subdivision preliminary plat approval with staff recommendations to December 23, 2015.

Dr. Menefee seconded the motion.

Ayes: Cherry, McEachern, Menefee, Fuller Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

11. Amendment to the Future Land Use Map – Maurice Ward, 207 Avenue A, 26,800 SF, from medium density residential land use to institutional land use

Mr. Kelley stated we are asking for an amendment of the future land use map Maurice Ward, 207 Avenue A, 26,800 SF, from medium density residential land use to institutional land use

Ms. Cannon made a motion to amend the future land use map.

Mayor Fuller seconded the motion.

Ayes: Cherry, McEachern, Menefee, Fuller Council Member Canon, Cannon, Hilyer

Nays: None

Abstention: None

With no further business on the agenda, Chairman Pridgen adjourned the meeting at 4:12 p.m.

Keith Pridgen, Chairman

Rachel Dennis, Secretary