

August 23, 2011

The City of Opelika Planning Commission held its regular monthly meeting August 23, 2011 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: Lewis Cherry, James Morgan, Arturo Menefee,
Keith Pridgen, Ira Silberman, David Canon, Lucinda Cannon

MEMBERS ABSENT: Mayor Gary Fuller, Michael Hilyer

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

CALL TO ORDER: Chairman Pridgen called the meeting to order at 3:04 p.m.

I. Approval of July 26, 2011 Minutes

Chairman Pridgen asked for any changes or corrections to the July 26, 2011 Planning Commission Minutes.

Mr. Cherry made a motion to accept the July 26, 2011 minutes of Planning Commission as written.

Mr. Menefee seconded the motion.

Ayes: Cherry, Morgan, Menefee, Silberman, Pridgen, Council Member Canon, Cannon

Nays: None

Abstention: None

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

1. Barnes-Evans Subdivision, 2 lots, 500 Cusseta Road, David Evans, preliminary and final plat approval

Mr. Ogren reported the applicant is requesting preliminary and final approval for a two lot subdivision in an R-1 zoning district. The purpose of the subdivision is to subdivide a one acre lot (Lot 1A2) from a 14 acre parcel so a single family home can be built on Lot 1A1 (13 acres). In the R-1 zone only one dwelling per lot is allowed. Each lot meets the minimum 100 foot lot width and one acre lot size requirement for a subdivision in an R-1 zone.

Planning Department recommends preliminary and final plat approval.

Mr. Dorsey reported sanitary sewer service is not available to either of the two (2) lots in this subdivision, which is located at the intersection of Cusseta Road and Anderson Road. Lot 1A1 is undeveloped, while Lot 1A2 contains an existing residential structure.

The Engineering Department recommends preliminary and final plat approval as submitted.

Mr. Hawkins reported water service is accessible to this subdivision by a water main in the right-of-way of Cusseta Road.

Mr. Kriel reported this subdivision is outside the Opelika Light and Power service territory.

Chairman Pridgen opened the public hearing.

No comments given from the audience.
Chairman Pridgen closed the public hearing.

Council Member Canon motioned to grant preliminary and final plat approval with staff recommendation.

Mr. Silberman seconded the motion.

Ayes: Cherry, Morgan, Menefee, Silberman, Pridgen, Council Member Canon, Cannon

Nays: None

Abstention: None

2. Quantegy Subdivision, Resub. of Parcel B-2, 2 lots, Tree Designation LLC, Orr Avenue, preliminary and final plat approval

Mr. Ogren reported the applicant is requesting preliminary and final approval for a 2 lot subdivision. The 24.6 acre site is the former Quantegy property. The purpose of the subdivision is to subdivide a 2 acre parcel (Parcel B2A) from the 24.6 acre parcel. The applicant is removing most of the Quantegy buildings but the building (and parking lot) on the 2 acre parcel will be saved and marketed 'for sale.' The 2 lots meet minimum requirements for a subdivision in the M-1, GC-2 zoning district.

Planning Department recommends preliminary and final plat approval.

Mr. Dorsey reported sanitary sewer service is available to both developed lots in this subdivision via in-place gravity mains within the Marvyn Parkway, Orr Avenue, and Poplar Street rights-of-way. Public street access to Parcel B2A is gained via Orr Avenue, while access to Parcel B2B is gained via Marvyn Parkway, Orr Avenue, and Poplar Street.

The Engineering Department recommends preliminary and final plat approval as submitted.

Mr. Hawkins reported water service is accessible to this subdivision by a water main in the right-of-way of Orr Avenue.

Mr. Kriel reported this subdivision is inside the Opelika Light and Power service territory.

Chairman Pridgen opened the public hearing.

No comments given from the audience.

Chairman Pridgen closed the public hearing.

Mr. Cherry motioned to grant preliminary and final plat approval with staff recommendation.

Mr. Morgan seconded the motion.

Ayes: Cherry, Morgan, Menefee, Silberman, Pridgen, Council Member Canon, Cannon

Nays: None

Abstention: None

B. CONDITIONAL USE APPROVAL

3. Luis Crib, 1017 Columbus Pkwy, C-3, GC-2, Building renovations-exterior material proposed

Mr. Ogren reported the applicant is requesting approval for new exterior materials proposed for the Subway restaurant on Columbus Parkway. Subway is making renovations that include completely recovering the exterior walls. The Gateway Corridor regulations require Planning Commission approval if synthetic material is proposed for more than 50% of the exterior wall. The regulations require that the approved material(s) must cover the wall(s) facing a public right-of-way. However the side and rear of a building that is visible to a Gateway Corridor shall be reviewed to determine the extent of utilizing the proposed natural or simulated material.

The existing exterior walls are a combination of painted brick and large glass panels. The new exterior materials proposed for the front and right side (west wall) is primarily synthetic stucco (EIFs – Exterior Insulation Finish Systems). The front and right wall have the most visibility from the Gateway Corridor (Columbus Parkway). The EIFs material covers about 68% of the right side wall and 90% of the front wall. Metal panels are proposed for smaller wall sections on the front and right side (see rendering & elevation drawings). The metal panel section covers a 2.5 foot high area located along the bottom portion of the wall. On the left side (east wall) a drive-thru lane extends the length of the side wall. Metal panels cover about 60% of the left side. Beginning at the front corner on the left side a 10 foot wide area is covered with about 90% EIFs material.

The renovations will be a substantial improvement to the restaurant and enhance this area of the Gateway Corridor. Planning Department recommends conditional use approval subject to the 20 foot section on the left side consists of EIFs material.

Mr. Dorsey sanitary sewer service is available to this developed 0.98-acre commercial parcel via an in-place gravity main that passes through the eastern part of the parcel. Although the parcel has direct frontage on Columbus Parkway, public street access is gained across the adjacent service station parcel via a shared driveway within an access easement. Approximately 26 paved parking spaces are available on the site.

The Engineering Department recommends conditional use approval as submitted.

Mr. Hawkins reported Opelika Utilities currently serves this location.

Mr. Kriel reported this use is presently served by Opelika Light and Power.

Mr. Cherry motioned to grant conditional use approval with staff recommendation.

Mr. Silberman seconded the motion.

Ayes: Cherry, Morgan, Menefee, Silberman, Pridgen, Council Member Canon

Nays: Cannon

Abstention: None

Mr. Kelley and Chairman Pridgen asked to architect to submit the final exterior paint color choice to the Planning Department as a courtesy to the Planning Commission because this is in the Gateway Corridor Overlay Zone 2.

4. Quinton Walton, 1300 McCoy Street, C-2, GC-2, Food catering business

Mr. Ogren reported the applicant is requesting conditional use approval for a food catering business located in a C-2, GC-2 zoning district. The business will prepare food for customer pick-up or the business will deliver the food to customers in the Opelika-Auburn area. The building interior consists of a small office and bathroom, and the remaining floor area is a large kitchen & food preparation area. The business will not be a restaurant.

The applicant is planning to construct a 30' x 50' building for the catering business (see site plan). A 5,000 square foot building exists on the same lot (49,580 square foot lot). A fastener/hardware (nuts & bolts) type business occupies the existing building shown on the plan. A 24,420 square foot area is designated as the developed area for the catering business. Landscape requirements are based on the developed area. The landscape plan includes an undisturbed wooded residential buffer along the west property line except for a 50 foot long area. The plan shows that a 6 foot high fence and shrubs will be constructed along 50 foot area. For a residential buffer that requires planting plant material, the Landscape Regulations require a 6 foot high fence and a "4 foot wide strip of evergreen plantings which will grow to at least 6 feet in height in three growing seasons." Staff recommends that the evergreen plantings (example: Leyland cypress) be planted instead of the shrubs. The applicant is aware that the buffer must not be removed. The landscape plan meets minimum requirements concerning base and parking lot points.

The building is shown with a setback of 15 feet from the side property line. The lot is located in a GC-2 zone and 20 feet is required. After discussions with the applicant and surveyor, planning staff recommends the 20 foot minimum setbacks be met. The site plan shows six off-street parking spaces including one handicap space.

The building's exterior material is vinyl siding. The roof material is metal panels. The 1,500 square foot building is a basic one-story, rectangle shape structure with a gable roof on a 4:12 roof pitch. The front side of the building facing Stowe Street (north side) has two windows and a door; the east side facing the parking lot has a side door.

Planning Department recommends conditional use approval subject to:

1. The building meeting the 20 foot side yard setback requirement
2. Evergreen trees planted every 4 feet along the 6 foot high fence.

Mr. Dorsey reported sanitary sewer service is available to this 1.07-acre commercial parcel via an in-place gravity main within the Stowe Avenue right-of-way. Public street access is gained via in-place curb cuts on both McCoy Street and Stowe Avenue. A second curb cut on Stowe Avenue is proposed to provide direct access to the 1,500 square foot building. Six additional parking spaces are proposed, of which one will be designated for use by the disabled.

The Engineering Department recommends conditional use approval, subject to the following:

1. The developer's engineer shall submit construction plans to the Engineering Department for review and approval prior to the issuance of a building permit.

Mr. Hawkins reported Opelika Utilities currently serves this location.

Mr. Kriel reported this use is presently served by Opelika Light and Power.

Ms. Cannon motioned to grant conditional use approval with staff recommendation. Council Member Canon seconded the motion.

Ayes: Cherry, Morgan, Menefee, Silberman, Pridgen, Council Member Canon, Cannon

Nays: None

Abstention: None

Chairman Pridgen reordered the agenda. Item 5 will be after Item 7 contingent upon the next discussion.

D. ANNEXATION

6. RHMB, LLC, accessed at Rocky Brook Road & Hillflo Avenue, 239 acres, PC recommendation to City Council (Tabled at July 26th PC Meeting)

Mr. Kelley thanked the audience for their courtesy that has been shown in these public hearings. In June, 239 acres of mixed residential uses plus a small commercial village was continued to a future meeting. The Planning Commission also approved the annexation for the 239 acres. The 14.5 acres are currently in the city limits and zoned R-2. The position of the Planning Commission in June was to send a positive recommendation to City Council to approve the 14.5 acre (16 cluster homes) as a PUD phase.

Mr. Dorsey, Mr. Hawkins, and Mr. Kriel had no updates.

Chairman Pridgen stated we have already officially held the public hearing on this annexation. We recommended to city council a positive recommendation to annex this into the city without any governance as far as the usage. At this time, I am asking the Commission if you would like to continue to send forward the positive recommendation bringing it into the city or do we want to rescind that and make a negative recommendation. The City Council has not acted on our recommendation and we can change it.

Mr. Silberman asked if the property owner chooses not to annex would he still have the option to withdraw.

Chairman Pridgen stated absolutely. We held this item to send it as a package.

Ms. Cannon stated from what we heard from the residences they did not oppose the annexation.

Mr. Cherry asked has the developer made the decision that he wants the annexation plus the PUD and not separate.

Mr. Kelley stated he wants an annexation and a PUD. Mr. Harmon wants this moved out of Planning Commission today. Our time frame has run out under the PUD ordinance.

Chairman Pridgen stated unless I hear a negative or a request for a revote we are going to send a positive recommendation for the annexation only to the City Council.

E. ANNEXATION (Public Hearing for Zoning District Requested)

7. RHMB, LLC, accessed at Rocky Brook Road & Hillflo Avenue, 239 acres, zoning request - PUD, PC zoning district recommendation to City Council (Tabled at July 26th PC Meeting)

Mr. Kelley reported on item number seven (7) it states ANNEXATION (Public Hearing for Zoning District Requested). At the time this was first submitted in June the 3.5 acres on the southeastern corner bordering Rocky Brook Road up to the intersection of Hillflo Avenue, the application and some of our maps at the city indicated that this parcel was outside the city limits. Consequently that is why we had the annexation for the 3.5 acres tied to the 239 acres. We have since determined these 3.5 acres is in the City Limits. There is not a question of annexation we are simply at this point looking at the rezoning of the 239 acres and the 3.5 acre parcel that is inside the city limits to the PUD district.

Thursday afternoon many of you were here. It seems to me that what has been apparent since June is that the concerns of the property owners in the area is two fold: One the density and two the traffic generated from this development. Chairman Pridgen asked of me and Mr. Dorsey that we take a closer look from a density perspective that I am going to address and traffic daily trip estimate generation that Mr. Dorsey will address. To provide that information to the Commission and the audience that is the addendum that has been added to the report from Thursday.

Mr. Kelley reported the applicant is requesting this 239 acre parcel be simultaneously annexed into the City of Opelika and zoned PUD.

Since the work session on June 21, 2011 the applicant has been revising the Development Plan and narrative summary to include typical elevations and generic themed style homes. The numeric count for the total developed has been reduced by one hundred and twelve (112) units to a total of six-hundred thirty-seven (637) residential units. This is a gross density of 2.5 units to the acre. This site contains 81 acres of floodplain/wetlands and is unbuildable. The location of condominium units at the western area of the development have been moved to the northwest/north central area of the property. The location of two hundred and four (204) units; three story (not to exceed forty-five feet in height) of independent/assisted living units have been relocated to the south central portion of the property. A forty (40) foot undisturbed buffer is shown along the western property line of the courtyard garden homes adjacent to the Taylor/Patterson property fronting Oak Bowery Road. A three-and-a-half (3.5) acre parcel in the southeast corner of the property at the intersection of Hillflo Ave. and Rocky Brook Rd. has been converted to open space. Single family lots instead of the assisted/independent living units are now shown at the southeast corner of the property. In the center of the property is a small village commercial area for commercial services/office related businesses with loft residential units.

The Development Statistics Table in the upper right hand corner of the plan depicts a breakdown of the housing type.

One ingredient the Planning Department believes is missing from this proposal is designating the development as an "age restricted community". From the initial and subsequent meetings regarding this request over the past year the planning staff has shared this concept with Mr. Harmon. Mr. Harmon has consistently repeated that he wanted flexibility with this development without further restrictions in developing the property as an "age restricted community". The contradiction in this logic is a development strategy that fits the lifestyle of the "baby boomer" generation which he is admirably addressing, but refusing to consider safeguards incumbent to implementing the guidelines for an "age restricted community".

Planning and Engineering staff will require a Traffic Impact Study be submitted no later than ninety (90) days if the City Council approves the annexation and zoning of the property to PUD.

The administration will require a cash or surety bond for all elements of the project including community center/pool, walking trail, sidewalks, utilities, public roads, and storm water infrastructure. This is set forth in Section 8.18, Subsection G.; Performance Bonds, as the various phases of the development proceeds.

Another option for Mr. Harmon to consider is withdrawing the annexation and rezoning petition because of overwhelming opposition to his proposal. While property owners in the area do not object to development of the property as single family residences with R-2 zoning, the introduction of multiple housing options along with a village commercial component undermines the integrity of their single family homes on lots of one-half (1/2) acre or more in their opinion. While the planning staff does not concur with that position; it is a reasonable argument.

At least, the favorable recommendation from the Planning Commission on June 26, 2011 for the sixteen (16) courtyard cluster garden homes on the western end of the proposed development, within the city limits, should be forwarded to City Council as an amended PUD request.

The Planning Department recommends PUD zoning be approved subject to 1) Submit a Traffic Impact Study no later than ninety (90) days if the City Council approves the annexation and zoning of the property to PUD; 2) Maximum height of any structure in the assisted/independent living phase shall not exceed forty-five (45) feet; 3) Neither building construction nor engineering plans including all amenities (i.e. sidewalks, trails, community building/pool) shall be submitted unless accompanied by a performance bond as set forth in Section 8.18, Subsection G. during either all or specified parts of the development. 4) Develop Bowery Quarters as an "Age Restricted Community" only for the assisted living/independent living phase.

To: Chairman Pridgen and Members of the Planning Commission
From: Jerry Kelley, Planning Director
Date: August 23, 2011
Subject: "Traffic" and "Compatibility" at Bowery Quarters

The topics of compatibility and traffic are the two main concerns related to the proposed development known as Bowery Quarters.

Water Dorsey, City Engineer, and I desire to provide our perspective on these two issues.

On "compatibility", as a legal term, I have not found this term defined in either Black's Law Dictionary, Ninth Edition, or Barron's Law Dictionary, Fifth Edition.

Therefore, I turned to A Planners Dictionary, published by the American Planning Association, Report # 521/522, April 2004 for a definition of ‘compatibility’ and ‘land use compatibility’.

1. Compatibility-The characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access to parking impacts, landscaping, lighting, noise, odor and architecture. Compatibility does not mean “the same as.” Rather, compatibility refers to the sensitivity of development proposals in maintaining the character of existing development. (Hudson, Ohio)
2. Land-Use Compatibility-The characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and parking impacts. Other important characteristics that affect compatible are landscaping, lighting, noise, odor and architecture. Compatibility does not mean “the same as”. Rather, compatibility refers to the sensitivity or development proposals in maintaining the character of existing development. (Loveland, Colorado)

Both definitions are almost verbatim from cities in two different states.

Our Planned Unit Development Regulations (Section 8.18), Subsections A. Purpose; B. Definition; C. Applicability; and D. Ownership provide the basis for Subsection E. Planned Unit Development Review Criteria.

The nine (9) criteria of Subsection E. I believe and what I have observed across the country and the philosophy of most planners in general is the opinion that compatibility does not mean “the same as”. Rather than a “just like me” preference as voiced by many property owners in the general area of abutting subdivisions, the criteria primarily addresses the compatibility topic of land uses within the boundary of the PUD zoning district.

As I mentioned in the staff report on August 18, 2011: the opinion of property owners expressing opposition to Bowery Quarters that multiple residential housing options along with a small village commercial activity is not their choice; the planning staff respects their opinion but does not concur with their position.

This term of “compatibility” related to land use and zoning may ultimately be decided in the judicial system.

At this time the Planning Commission must make a recommendation (Approval, Conditional Approval, or Denial) to City Council as set forth in Subsection N. Paragraph 6.

Mr. Dorsey reported sanitary sewer service is available to the subject property via one 10-inch gravity main and one 8-inch gravity main that drain across the property in an east-to-west direction. Vehicular access is gained via Palin Avenue to the west, which intersects Oakbowery Road, and a third leg at the intersection of Rocky Brook Road and Hillflo Avenue to the east. Rights-of-way for future road extensions to the north and south will be dedicated. Two roundabouts will provide traffic calming within the development. Approximately 81 acres of the subject property are located either within wetlands or the 100-year flood zone, and the entire land area is located within the Saugahatchee Lake watershed. Storm water will be managed through the construction of two lakes on the existing stream channels. The southeastern-most portion of the subject property will contain an independent/assisted-living facility. The center of the subject property will be developed as a small commercial hub with service-related businesses. Loft apartments will be available on the second floors of the commercial buildings. The remainder of the developed land will contain a combination of single-family detached residences, courtyard homes, duplexes, and cluster homes. A community center with swimming pool, tennis courts, and several passive parks will

provide recreation opportunities. Paved pedestrian/golf cart paths will be constructed along all public rights-of-way and walking paths will also be constructed along the wetlands areas.

The Engineering Department has a positive recommendation for this rezoning request, subject to the following:

1. The developer shall provide a traffic impact study. The study shall determine the traffic impacts from this development upon the surrounding collector roads and intersections, such as Oakbowery Road, Rocky Brook Road, Hillflo Avenue, Lafayette Parkway, and Morris Avenue, and what, if any, improvements should be made along these roads and intersections to accommodate the increased traffic. This study shall be completed and available for review prior within ninety (90) days of passage by the City Council.

Bowery Quarters Traffic Comparison

Due to several traffic impact concerns that were raised at the August 18 work session by the Planning Commission, the Engineering Department has prepared a comparison of traffic impacts between the Bowery Quarters if it is developed in its current Planned Unit Development (PUD) land use versus its development as a traditional detached single-family residential subdivision.

My source for the calculations used to estimate vehicle trips is the Trip Generation Manual, 6th Edition, as published by the Institute of Transportation Engineers.

Several assumptions were made for this comparison:

- Only land areas outside of the wetlands and/or 100-year flood zone are developed.
- The traditional residential subdivision is developed under R-2 zoning regulations, as sanitary sewer service is available throughout the development.
- For the purpose of estimating vehicle trips, cluster homes, garden homes, duplex homes, loft apartments, condos, and independent living apartments indicated on the Bowery Quarters Master Plan are all classified in the 'Residential Condominium/Townhouse' category in the ITE Manual.
- The proposed retail shops in the Bowery Quarters' commercial town center will have no net traffic impact upon the streets outside the Bowery Quarters; i.e., the external vehicle trips they generate will be offset by reduced external trips by Bowery Quarters residents.

The total developable land area (excluding wetland and flood zone areas) is 172.7 acres. Due to a portion of the developable land areas being consumed by public rights-of-way, an overall development density of two lots per acre was assumed for its development with the R-2 land use. Therefore, the 172.7 acres will allow approximately 345 detached single-family residences. When fully developed, these 345 residences will generate approximately 3,239 daily vehicle trips.

If the 172.7 acres is developed as the proposed PUD, the 137 single-family detached residences will generate approximately 1,385 daily vehicle trips, the 404 residential units classified in the 'Residential Condominium/Townhouse' category will generate approximately 2,133 daily vehicle trips, and the 96 assisted living residential units will generate approximately 206 daily vehicle trips. The total estimated daily traffic generated from all three categories is 3,724 vehicle trips, which is approximately 15 percent greater than the estimated daily traffic generated in an R-2 land use. The estimated traffic volumes for both the peak morning and evening hours are approximately 10 percent greater with the PUD development than the R-2 development.

BOWERY QUARTERS RESIDENTIAL DEVELOPMENT
AUGUST, 2011

PROJECT NAME	DWELLING UNITS				DAILY TRIPS				PEAK HOUR TRIPS - MORNING				PEAK HOUR TRIPS - EVENING			
	S.F.D.	T.H.	A.L.	TOTAL	S.F.D.	T.H.	A.L.	TOTAL	S.F.D.	T.H.	A.L.	TOTAL	S.F.D.	T.H.	A.L.	TOTAL
Bowery Quarters (PUD)	137	404	96	637	1,385	2,133	206	3,724	109	157	14	280	144	191	20	355
Traditional R-2 Subdivision	345	0	0	345	3,239	0	0	3,239	255	0	0	255	326	0	0	326

Equations Used:		Standard Deviation	Enter/Exit %
Total Daily Trips:			
Single-Family:	$T = EXP(0.920 * \ln(X) + 2.707)$	0.96	50/50
Townhouse/Condo:	$T = EXP(0.850 * \ln(X) + 2.564)$	0.83	50/50
Assisted Living:	$T = 2.15 * (X)$	N/A	50/50
Peak Hour - Morning:			
Single-Family:	$T = 0.704 * (X) + 12.090$	0.89	25/75
Townhouse/Condo:	$T = EXP(0.808 * \ln(X) + 0.209)$	0.78	18/82
Assisted Living:	$T = 0.15 * (X)$	N/A	50/50
Peak Hour - Evening:			
Single-Family:	$T = EXP(0.887 * \ln(X) + 0.605)$	0.91	64/36
Townhouse/Condo:	$T = EXP(0.777 * \ln(X) + 0.590)$	0.80	65/35
Assisted Living:	$T = 0.21 * (X)$	N/A	60/40

Chairman Pridgen asked are the roads as proposed able to withstand traffic of this nature at this time.

Mr. Dorsey stated that would be why we are recommending the developer to provide a traffic study to look at individual intersections/road and the impacts of this traffic to see what needs to be done. I do not have an answer to that question right now.

Mr. Kelley stated this was only an analysis based upon daily trip generation.

Mr. Dorsey reported this was to compare traffic of the proposed use verses another use.

Chairman Pridgen asked would it withstand at this time? You are saying you do not feel that it is appropriate with out major changes.

Mr. Dorsey stated I do not think the PUD development will be required to make major changes [to existing nearby intersections and streets] but I think there would be some changes to be considered.

Mr. Hawkins reported water service is accessible to this request by a water main in the right-of-way of Rocky Brook Road. This development will need to meet the requirements of the Saugahatchee Watershed Protection Area.

Mr. Kriel reported this parcel is in the Tallapoosa River Electric Cooperative and Opelika Light and Power service territory.

Chairman Pridgen stated at this time we will not hold a public hearing. We have held multiple public hearings to this point. We have received quite a few opinions and discussions along the way. At this time we need leave the Commission to await a motion.

Mr. Kelley suggested if the Commission is looking at a denial the City Council will want specifics as to the rational behind that denial. May I suggest to for your consideration: I think you should leave the word compatibility out of your recommendation. I think you should use the terms in some of the information that I presented. If you are concerned about a greater density for these 239 acres versus what is in the surrounding area: I think from a traffic standpoint, as Mr. Dorsey pointed out, if there is a traffic consideration in your mind that you should base it upon a 15% greater traffic generation (trips per day) than in a traditional R-2 zone. I think you should be quite specific in how you frame your recommendation to go to City Council.

Mr. Silberman made a motion to deny the request for rezoning.
Mr. Cherry seconded the motion.

Mr. Silberman stated I spoke Thursday (at the work session) to the Commission. I still believe this is a great concept just in the wrong place. I appreciate Mr. Kelley's information on the definitions. Compatibility is in the zoning regulations. I think it is a very specific part of making a decision. Compatibility is basically an opinion. If you look at the requirements in the regulation even in your definition of compatibility it talks about height, scale, mass, bulk of structure, it talks about architecture, sensitivity of development; it talks about adjacent to each other in harmony. Those words are found in the definition of compatibility and land use as well. If you weigh each on of those equal or even on weighted value compatibility still becomes a big issue. I appreciate what you are saying and I agree that we ought to give a reason for denial if that is what the Commission chooses to do. I do not think we can avoid compatibility because I think it comes into every situation you consider.

Mr. Kelley stated the only response I would make to that is that I have seen PUD's across the county from 5 acres to 3000 acres and the word compatibility within the confines of a particular PUD is what the criteria is primarily referring to. If this came in as a PUD for an industrial development on 239 acres I think you would be seeing a much different response. You are talking different kinds of residential here. I think the concerns are primarily what is inside the boundaries of the PUD not what is external to the PUD.

Chairman Pridgen stated from a legal standpoint give a recommendation that can be forwarded to City Council. I agree compatible does not mean equal. The definition that I came to is; Compatible means from existing or performing in harmonious agreeable and congenial combination of another or others. Compatible is a gray area and is an opinion from everyone. I would like to hear a little more specific discussion about compatibility in terms of a recommendation. It may be a different, a lack of harmony between the residential types in the area because of the density, and because of the traffic flow, as part of your motion for denial.

Mr. Silberman stated the size of the lots, the height of some of the buildings, multi-family homes, and any other things that are different from the surrounding properties.

Chairman Pridgen asked for any further discussion, then a vote.

Ayes: Cherry, Morgan, Menefee, Pridgen, Silberman, Council Member Canon, Cannon
Nays: None
Abstention: None

Chairman Pridgen stated a negative motion goes to City Council for voting at the next meeting. He thanked the audience for coming.

C. REZONING – (Public Hearing)

5. BLUFOO, LLC, accessed at 3200 block Oak Bowery Road, 14.5 acres, from R-2 to PUD (Planned Unit Development) (Tabled at July26th PC Meeting)

Chairman Pridgen stated Item number 5 is the original 14 acres we have already voted to send a positive recommendation for a PUD. As we mentioned earlier on the annexation portion the City Council has not voted because we have not officially sent it forward. I am asking the Commission to open this back up. Do we want to send a positive or negative recommendation to rezone these 14 acres strictly to a PUD or leave it as it is as an R-2? Do we have a motion to change our earlier recommendation from positive?

Ms. Cannon stated I think it is part of the PUD. As I revisit and think about it, it is hard to just take so many acres out of a PUD and have one opinion here and another there.

I would like to include it all as part of the PUD and not have a positive recommendation going forward.

Chairman Pridgen stated you are asking for a revote (from the June meeting) be made and you are recommending a negative recommendation to City Council on the 14.5 acres being changed from R-2 to a PUD.

Ms. Cannon made a recommendation for denial.
Mr. Cherry seconded the motion.

Chairman Pridgen stated your reasoning would be because you see this as an overall PUD project.

Ms. Cannon agreed.

Mr. Gunter stated a PUD by definition is a unified plan. It was all presented as one unified plan. I do not see how this Commission or the City Council has the right to divide it up into different sections unless the developer presented it as different sections. I do not see anything wrong with the developer presenting another proposal.

Chairman Pridgen stated it was not presented to the Planning Commission as Phase 1 and Phase 2. That could have been an error on the developer's part by not actually separating those out. If that is what the Commission feels we will move forward with this.

Mr. Gunter asked to clarify the motion.

Chairman Pridgen stated we have rescinded the previous vote from the month of June. We will vote at this time.

Mr. Kelley asked are you making a motion to rescind the approval you did in June, and this is a new motion?

Chairman Pridgen stated it is a whole package. This is a revote and send a negative recommendation.

Ayes: Cherry, Morgan, Menefee, Pridgen, Silberman, Council Member Canon, Cannon
Nays: None
Abstain: None

Chairman Pridgen stated motion goes forward to send a negative recommendation for rezoning 14.5 acres to a PUD.

8. Jerry & Jotharie McRae, 388 Lee Road 683 (Taylor Road), 5.5 acres, zoning request – R-1

Mr. Ogren reported the petitioners are requesting annexation of their property approximately located at 388 Lee Road 683 (Taylor Road). The annexation property is one single family home on 5.5 acres. The household consist of four people. The annexation of this parcel will not significantly alter the police and fire jurisdiction boundaries. The annexation is located in Ward 5 (David Canon).

Planning Department recommends a positive recommendation be sent to City Council for the annexation of the McRae property and a recommendation that an R-1 zoning district for the 5.5 acre property.

The following is included in the annexation ordinance.

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

- a. Fire and police protection shall be provided to the territory annexed. Municipal services such as public water, sewer, right-of-way maintenance/improvements, and solid waste collection may not be available to annexed properties at the time of annexation. Provisions of said services will be extended solely at the option of the City of Opelika and/or Opelika Water Works Board. Municipal services concerning busing to and from Opelika City Schools shall be decided by the Opelika Board of Education.
- b. A subdivision or development of annexed territories that exceeds the existing use or intensity at the time of annexation shall be required to utilize public sewer and/or public water service when accessible, and in accordance with City of Opelika Public Works Manual, Opelika Water Works regulations, and/or other water authorities.
- c. The City shall not be obligated to upgrade roads that are part of an annexation. In the future, if the City deemed necessary to improve the right-of-ways from which the annexed properties takes access, one of the options available to the City to provide such improvements may be to assess the property owner/owners their proportionate share of the costs of such improvements.
- d. A Fire Tax shall be charged against each property owner of territory annexed as provided under Section 8, Act No. 89 390; the property owners of said territory agree to pay all such costs.

Mr. Dorsey reported sanitary sewer service is not available to this developed 5.5-acre residential parcel. Public street access is available via Taylor Road/Lee Road 683. The annexation of this parcel will not increase the City's responsibilities for public street maintenance.

The Engineering Department has a positive recommendation for this annexation request.

Mr. Hawkings had no report

Mr. Kriel reported this parcel is outside the Opelika Light and Power service territory.

Chairman Pridgen opened the public hearing.

Mrs. Edwards, an adjoining property owner, discussed an easement/private road issue with the Planning Commission that had no direct affect to the annexation of this property.

Mr. Gunter suggested that Mrs. Edwards talk with the Lee County Engineer, Neal Hall.

Chairman Pridgen closed the public hearing.

Mr. Cherry motioned to send a positive recommendation for annexation to City Council.

Mr. Menefee seconded the motion.

Ayes: Cherry, Morgan, Menefee, Silberman, Pridgen, Council Member Canon, Cannon

Nays: None

Abstain: None

With no further business on the agenda, Chairman Pridgen adjourned the meeting at 4:04 p.m.

Keith Pridgen, Chairman

Rachel Dennis, Secretary