

## August 27, 2013

The City of Opelika Planning Commission held its regular monthly meeting August 27, 2013 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, Arturo Menefee, James Morgan, Ira Silberman, Keith Pridgen, David Canon, Mayor Fuller, Lucinda Cannon, Michael Hilyer

MEMBERS ABSENT: None

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

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

### I. Approval of July 23, 2013 Minutes

Chairman Pridgen asked for any changes or corrections to the July 23, 2013 Planning Commission Minutes

Council Member Canon made a motion to accept the July 23, 2013 minutes of Planning Commission as written.

Dr. Menefee seconded the motion.

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

Nays: None

Abstention: None

### II. Update on Previous PC cases

Mr. Kelley reported City Council did approve Priester Road to I-1 zoning.

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

##### **1. King's Nursery Airport Property Subdivision, 3 lots, 2211 Airport Road, Mike Thomas, preliminary and final approval**

Mr. Ogren reported the applicant is requesting preliminary and final plat approval for a 3 lot subdivision located on at the corner of Airport Road and Hi-Pack Drive. The purpose of the subdivision is to sell Lot 5A-3 (17,790 sf) and Lot 5A-2 (19,474 sf). A commercial building exists on each lot. These three properties are served by septic tanks; staff contacted the surveyor and asked if field lines extended across the rear property lines of Lot 5A-3 and 5A-2 into the adjacent Lot 5A-1 (1.5 acres). He said the field lines did not cross the rear property line (The health officer is required to sign the plat.).

Staff recommends preliminary and final plat approval.

No report from Engineer.

Mr. Hawkins reported water service is accessible to this subdivision by a water main in the R.O.W. of Airport Road and Hi-Pack Drive.

Mr. Kriel reported this subdivision is in the Opelika Power Services and Alabama Power territory. An electronic copy of the plat needs to be submitted to Opelika Power Services to determine which entity will provide service to lot 5A-1.

Mr. Hilyer noted sewer is not available to this lot.

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

Dr. Menefee made a motion to grant preliminary and final plat approval with staff recommendations subject to the property owner signatures on the final plat.

Mr. Morgan seconded the motion.

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

Nays: None

Abstention: None

## **B. CONDITIONAL USE - Public Hearing**

### **2. Frances Lipscomb-Galloway & Eddie Ogletree, 707 Orchard Avenue, R-3, Allow duplex in R-3 zone (Tabled at July 23rd PC meeting)**

Mr. Kelley reported on May 29, 2013 Ms. Galloway indicated she would not petition the Zoning Board of Adjustments in June. She needs time to review the draft minutes of the Planning Commission meeting and the requirements of the administration before proceeding. Ms. Galloway is concerned about the cost of these improvements and the Wastewater Fund fee of \$8,975.20 incurred by her son, Greg Jones. Staff mailed to Ms. Galloway on May 31, 2013 a draft copy of the minutes plus the staff reports.

Staff will inform Ms. Galloway to either provide in writing or appear in person on June 18/June 25, 2013 if she desires to leave the request "on the table". If Ms. Galloway does not provide to Planning Commission her intent with the property, staff recommends denial.

UPDATE: This request "to table" by Ms. Galloway till August 27, 2013 was granted by the Commission on June 25, 2013. A Board of Zoning Appeals (BZA) has been filed for two (2) variances to be heard on August 13, 2013. Staff report will follow on the request after the BZA hearing.

UPDATE: August 13, 2012 the BZA denied two variances (side and rear yard). The roof cover and stud supports must be removed to meet rear and side yard requirements. Also, Ms. Galloway and her son, Greg Jones, may appeal the BZA decision to Circuit Court. This appeal must be made within fifteen (15) of the decision. If an appeal is filed, staff recommends the request for conditional use be tabled.

STAFF RECOMMENDATION: Approve the request for conditional use of the structure as a duplex subject to the following conditions if no appeal is filed in Circuit Court:

1. Comply with BZA decision and remove the roof covering and studs from the structure to satisfy rear and side yard requirements.
2. Paint the structure.
3. Comply with Public Works Manual requirements via City Engineer set forth in the May 28, 2013 minutes of the Planning Commission. (See Attachment)
4. Pay the Wastewater Fund Fee current bill balance as of 08/31/13 in the amount of \$8,975.20

Previous City Engineer reported at the June 25, 2013 Planning Commission is to be considered as conditions that apply.

Sanitary sewer service is available to this 0.48-acre parcel via an in-place gravity main within the Donald Avenue right-of-way; however, sanitary sewer service is currently provided via a connection to the sanitary sewer service on the adjacent parcel to the north. The site has already been developed with a multi-family residential structure. No paved, on-site parking spaces are evident.

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

1. Four paved, on-street parking spaces and a paved access drive to Donald Avenue shall be constructed on the parcel for the residents. The developer's engineer shall submit design plans for the parking spaces and access drive to the Engineering Department for review and approval prior to construction. All construction shall be completed to the satisfaction of the Engineering Department prior to the issuance of a certificate of occupancy for the duplex units.
2. The owner shall settle all unpaid sanitary sewer bills with the City.
3. The existing sanitary sewer service shall be disconnected and a new sanitary sewer service shall be installed between the structure and the Donald Avenue right-of-way.

Mr. Hawkins reported water service is accessible to this location by a water main in the R.O.W. of Donald Avenue. Each unit must have a separate meter.

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

Chairman Pridgen opened the public hearing.

No comments from the public.

Chairman Pridgen closed the public hearing.

Mr. Kelley did speak with Ms. Galloway and Greg Jones to appeal to Circuit Court on the BZA decision.

Mr. Hilyer made a motion to deny conditional use approval because this property is illegally attached to city sewer, an outstanding bill over the last three years, and they do not meet the setback regulations and need to come into compliance with the other condition listed.

Mr. Cherry seconded the motion.

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

Nays: None

Abstention: None

Mr. Gunter asked Mr. Kelley to provide this information to Ms. Galloway and make it known that when these conditions are complete they may make another application to apply for conditional use.

Mr. Pridgen asked to note that the overdue balance will grow over time.

### **3. Marrell Hartley, 1418 2nd Avenue, C-3, Automobile sales**

Mr. Ogren reported the applicant is requesting conditional use approval for an auto sales lot in a C-3 zoning district. For years an auto sales dealership (Bence Hartley) occupied this same property before it closed about five years ago. The applicant will be selling used cars no dealerships. The interior of the existing 6,000 building will be remodeled including new flooring and an upgrade of the electrical system. The rear section of the building will be used to clean and detail automobiles; the business will not be providing auto repairs or maintenance. The site plan provided shows 24 parking spaces for automobile display and 10 parking spaces for customers and employees.

The property was first developed in the 1960s and most of the property is asphalt; the only unpaved area for landscaping is a 450 square foot area in front of the building; the landscape plan shows two trees and 25 shrubs planted in this area. The applicant will be adding more landscaping that involves removing asphalt, blocking or curbing the planting area to divert storm water, and add soil. The landscape plan shows two landscape islands (15' x 30') consisting of crepe myrtles that will be constructed along the east boundary of the auto display area. Also, a 130 foot long (5' wide) landscape strip with 43 shrubs are planned along the front property line. The applicant is requesting that the construction and landscaping in the 130 foot planting area be delayed for one year. Then in September 2014 the applicant will landscape along the front property line as shown on the landscape plan.

We discussed at the work session signage for this location. Mr. Hartley is asking for two wall signs on the side of the building and will not have a freestanding sign. I have attached a photo of the proposed signs to the report.

Staff recommends approval subject to all landscaping installed including the 130' area along the front property line with a one year conditional use.

No report from Engineer.

Mr. Hawkins reported water service is accessible to this subdivision by a water main in the R.O.W. of 2nd Avenue.

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

Mr. Hilyer reported this location is on city sewer.

Chairman Pridgen opened the public hearing.

Mr. Hartley, 209 Lancelot Lane, the reason of my request is the buffer was not expected. I would like to do it right. I plan to have all landscaping done in 6 months or less. Mr. Hartley agreed to have all landscaping done within the year timeline.

Chairman Pridgen closed the public hearing.

Mr. Silberman made a motion to grant conditional use approval with staff recommendations having landscaping completed by September 2014.

Mr. Hilyer seconded the motion.

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

Nays: None

Abstention: None

## **6. Approve two story additions to Justice Center at the intersection of Frederick Road and Gateway Drive.**

Mr. Ogren reported Justice Center Addition

1st Floor = 23,907 sf

2nd Floor = 16,964 sf

Total Area = 40,671 sf

The addition provides administration offices including an office for Court Clerk and District Attorney. A court room will be constructed but the interior furnishings will not be completed at this time.

Exterior changes include the following:

- New monument sign at the corner of Gateway Drive and Frederick Road
- Remove one entrance driveway on Gateway Drive
- 110 new parking spaces, they need to install a landscape island every 25 parking spaces
- New perimeter driveway and widen existing driveway

- Add storm water detention area at the corner of Gateway and Frederick Road.

No report from Engineer.

Mr. Hawkins and Kriel had no reports.

Chairman Pridgen opened the public hearing.

No comments from the public.

Chairman Pridgen closed the public hearing.

Mr. Cherry and Mr. Pridgen agreed as a recommendation only to line up the two northern streets and connect to relieve traffic congestion.

Mrs. Cannon made a motion to grant conditional use approval with staff recommendations.

Mr. Hilyer seconded the motion.

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

Nays: None

Abstention: None

### **C. TEXT AMENDMENTS TO ZONING ORDINANCE – Public Hearing**

#### **4. Amend Section II, Definitions: Micro-distillery, and a separate definition for brewpubs.**

Mr. Kelley reported Richard Patton (Cotton District, LLC) contacted the Mayor in June, 2013 about the possibility of a micro distillery in the 700 block of N. Railroad Avenue. Thereafter, John and Jimmy Sharp, father and son from Montgomery, talked with the Mayor about their desire to co-manage a micro distillery, John Emerald Distilling Company.

Mayor Fuller contacted various city departments to determine how such a use could be accommodated in the 700 block of N. Railroad Ave.

For Planning, the zoning ordinance does not address micro distillery. Therefore, a definition needs to be established for the use and the location of such activities in appropriate zoning districts. Also, new legislation in 2011 for Alabama permits brewpubs. A definition is also needed for that use and the appropriate zoning districts.

In July, 2013, Mayor Fuller, City Attorney Guy Gunter, Community Development Administrator/Historic Preservation Coordinator Lisa Harrelson, and Planning Director Jerry Kelley visited the Richland Rum Distillery in Richland, Georgia. Collectively, the group believed after that visit, a micro distillery located on N. Railroad Ave. had merit for consideration with certain parameters.

For your consideration, the following definition is submitted for a micro distillery and brewpub.

#### **RECOMMENDATION**

Amend Section II, Definitions to include the following two uses:

Micro distillery: An establishment for the manufacture, blending, fermentation, processing, and packaging of alcoholic beverages with a floor area of 10,000 square feet or less that takes place wholly inside a building and produces no more than 75,000 proof gallons of alcohol beverages annually. The Planning Commission may consider a conditional use permit via a separate application to increase by no more than 20% for a maximum of 90,000 proof gallons. A tasting room is also allowed. The micro-distillery must be properly licensed by any state or federal regulatory agency with jurisdiction over the facility, including the Alabama Beverage Control Board. All activities must

occur within the building and outdoor storage is prohibited. (This definition is neither a micro-brewery nor micro-winery.)

Brewpub:--A brewpub is any premise upon which beer is actively or continuously brewed for consumption on the premises where manufactured. A brewpub must be located in a building designated as a historic building, located in a historic district, or located in any economically distressed area designated as suitable by the municipal governing body. The beer brewed by a brewpub cannot be possessed, sold or dispensed except on the premises where it is brewed. A brewpub cannot produce more than 10,000 barrels of beer in one year. Moreover, the brewpub must contain and operate a restaurant or otherwise provide food for consumption on the premises.

Engineering, neither Mr. Hawkins nor Kriel had a report.

Chairman Pridgen opened the public hearing.

Jimmy Sharp spoke saying they would like to locate John Emerald Distillery at 706 N. Railroad Ave. We agree with the 75,000 proof gallons.

Chairman Pridgen closed the public hearing.

Mr. Silberman made a motion to send a positive recommendation to City Council with staff recommendations.

Mayor Fuller seconded the motion.

Commissioners and staff discussed the differences and regulations of similar business activities (restaurants serving alcohol) related to alcohol and food.

Chairman Pridgen stated we had to create the definition micro-distillery and what we have for brewpub is straight from the state regulations.

Mr. Silberman called for question.

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

Nays: None

Abstention: None

**5. Amend Section 7.3 Specific District Regulation, Subsection C. Use Categories, Add Brewpubs & Micro-distillery.**

Mr. Kelley reported it is necessary to determine the zoning district via the Matrix Table for the proposed uses.

Staff Recommendation: Amend Section 7.3, Subsection C to read as follows:

<b>Uses</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>M-1</b>
Micro distillery, brewery, or winery	C	N	C	A
Brewpub	A	A	A	A

Mr. Hawkins, Engineering, nor Mr. Kriel had a report.

Chairman Pridgen opened the public hearing.

No comments from the public.

Chairman Pridgen closed the public hearing.

Mr. Cherry made a motion to send a positive recommendation to City Council with staff recommendations.

Mr. Silberman seconded the motion.

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

**D. REZONING – Public Hearing**

**9. Joseph Shepherd, Jr. & Robert Betts, Jr., 312 & 314 Samford Avenue, 1.4 acres, from R-4, GC-2 to I-1, GC-2**

Mr. Kelley reported the applicants are requesting I-1 to market the two (2) vacant parcels for office use. With educational institutions adjacent on the north and east, and adjacent residential uses plus a church on the south and west, the I-1 district is a compatible future land use for offices near this major intersection. A conditional use request must be approved by the Planning Commission if rezoning is approved by City Council. At that time, issues such as access, parking, and building materials will be addressed.

Staff Recommendation: Approve I-1.

Mr. Hawkins nor Engineering had a report.

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

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

Mr. Cherry made a motion to send a positive recommendation to City Council with staff recommendations.  
Dr. Menefee seconded the motion.

Mr. Morgan stated his concerns for traffic flow in this area.

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

**E. OTHER BUSINESS**

**7. Presentation by Norm Milner on off-premise commercial signs**

Mr. Kelley stated at the work session Mr. Norman Milner presented his case for off-premise commercial signage. At that time the Commission asked for Planning Staff to take a look at this and bring some ideas back for discussion only at the next meeting. I did hear back from the Federal Highway Administration concerning LED Safety signage study. The word is the study is on the shelf and there is no anticipated time of bringing it forth.

**8. Update from Gateway Corridor subcommittee – Mike Hilyer, Cindy Cannon, David Canon, Ira Silberman, and staff**

Mr. Kelley reported during the past 3 months the subcommittee has reviewed a variety of topics related to the Gateway Corridors. Some conclusions and modifications are proposed with discussion continuing on two topics; Building Materials and Lighting. With summer vacations, some weekly meetings have been cancelled. However, the progress we have made is commendable. Our goal is to bring forth our ideas and recommendations to the PC meeting in September for presentation and collective discussion.

Specifically, we believe that there should only be ONE Gateway Corridor. We will recommend modifications and additional extensions of current gateway corridors. We will recommend changes to the Matrix Table based upon only ONE gateway corridor overlay instead of TWO.

Thanks to the PC for the opportunity to improve and clarify our gateway corridor regulations and we look forward to dialogue with PC on this topic.

With no further business on the agenda, Chairman Pridgen adjourned the meeting at 4:06 p.m.

\_\_\_\_\_ Keith Pridgen, Chairman

\_\_\_\_\_ Rachel Dennis, Secretary