

September 25, 2012

The City of Opelika Planning Commission held its regular monthly meeting September 25, 2012 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, Ira Silberman, Mayor Fuller, Keith Pridgen, David Canon, Lucinda Cannon, Michael Hilyer

MEMBERS ABSENT: Arturo Menefee

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

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

I. Approval of August 28, 2012 Minutes

Chairman Pridgen asked for any changes or corrections to the August 28, 2012 Planning Commission Minutes.

Mayor Fuller made a motion to accept the August 28, 2012 minutes of Planning Commission as written.

Mr. Hilyer seconded the motion.

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

Nays: None

Abstention: Cherry

II. Update Previous Planning Commission Cases.

Mr. Kelley reported updates from City Council:

1. The Riddle Annexation had the first reading last Tuesday.
2. The first reading was held on Yarbrough and Floyd Annexation.
3. The first reading of the amendments of the Public Works Manual
4. The second readings will be October 2, 2012.

A. ANNEXATION and PUBLIC HEARING for Zoning District Requested

1. **Tammy S. Williams, Lot 2 Lee Road 989, 1 acre, PC recommendation to City Council, zoning request – R-1, PC zoning district recommendation to City Council**
2. **Ronald A & Sonia F. Golden, 280 Lee Road 989, 1 acre, PC recommendation to City Council, zoning request – R-1, PC zoning district recommendation to City Council**
3. **Jerry Braverman, Lot 10 Lee Road 989, 1 acre, PC recommendation to City Council, zoning request – R-1, PC zoning district recommendation to City Council**
4. **Joel & Janice Tomlin, 309 Lee Road 989, 1 acre, PC recommendation to City Council, zoning request – R-1, PC zoning district recommendation to City Council**
5. **Marshall E. Blount, 186 Lee Road 989, 1 acre, PC recommendation to City Council, zoning request – R-1, PC zoning district recommendation to City Council**

REPORT FROM AUGUST 28, 2012 to September 25, 2012 PLANNING COMMISSION MEETING

- A3. Brenton Truitt, 161 Lee Road 989**
- A4. Melissa Martin, 122 Lee Road 989**
- A5. Michael Nixon, 312 Lee Road 989**
- A6. William T. Bartlett, 228 Lee Road 989**
- A7. Maudie R. Ates, 277 Lee Road 989**
- A8. Jack & Debra Stallings, 225 Lee Road 989**

Mr. Kelley said this annexation request on Lee Road 989 is similar and in conjunction with the other requests on Lee Road 989 discussed in the last three months. The remaining Lee Road 989 property owners are petitioning at this meeting. Therefore we have all 11 property owners that are surrounded by the existing city limits that are requesting annexation.

Planning Department Report August 28, 2012

STAFF DISCUSSION: APPLIES TO THREE (3) PROPERTY OWNERS (BARTLETT, STALLINGS, & ATES) TABLED ON JULY 24; & (3) ADDITIONAL PROPERTY OWNERS (NIXON, TRUITT, & MARTIN) PETITIONING FOR ANNEXATION AUGUST 28, 2012.

The reason for staff suggesting a continuation till August 28, 2012 for the three petitioners (Bartlett, Stallings, and Ates); is the desire by six (6) additional residential parcels and possibly two (2) owners of vacant parcels in White Oak Estates to request annexation into the City of Opelika. Ms. Bartlett (a petitioner), conveyed this information via telephone July 17, 2012 to planning staff.

Nevertheless, these petitions to annex parcels in White Oak Estates have a history dating back to September, 1992 (See PC Minutes) concerning the subdivision of the property with stipulations recorded in a note on the plat map. The language on the plat map reads as follows: "Lee Road 989 has been constructed to Lee County Highway Department Standards and Not to the Standards of the Public Works Manual of the City of Opelika. The Planning Commission of the City of Opelika, at its regular meeting of September 22, 1992, granted its Final Approval to White Oak Estates, but recommended that this Subdivision Not be Annexed into the City Limits of Opelika until such time that Lee Road 989 be constructed to Fully Meet City Standards."

Walter Dorsey, City Engineer, has addressed in his report two (2) engineering design issues for Lee Road 989, and his recommendation for approval subject to three conditions.

Guy Gunter, City Attorney, has provided his opinion on the subject.

Therefore, the dilemma facing the administration is the desire of property owners within White Oak Estates to become residents of the City of Opelika unless all eleven (11) parcels collectively petition to annex together; and to underwrite extensive and expensive improvements meeting the standards of the City of Opelika Public Works Manual to Lee County Road 989.

For the City of Opelika to annex and accept maintenance of a flawed infrastructure in Lee County Road 989 (a linear distance of approximately 1,300 feet) is questionable and negates sound fiscal public policy for errors made twenty (20) years ago.

In conclusion, at this time the Planning Department does not support the annexation of White Oak Estates.

City Attorney Report August 28, 2012

The determination of whether or not the property is annexed must be made by the City Council. The Council may, if it desires, ignore the note on the plat and the recommendation of the Planning Commission. The Council must weigh the advantages and disadvantages of the annexation and decide whether the annexation is in the best interest of the public and the City.

The City must assume the responsibility to control, manage, supervise, regulate, repair, maintain and improve all public streets or parts thereof lying within the territory annexed, provided such public streets or parts thereof are dedicated to, accepted by, and were controlled, managed, supervised, regulated, repaired and maintained by the County. The Council should consider the impact on City finances of maintaining and improving the streets within the annexed territory.

When property is annexed, the City must provide fire protection. An annexation automatically dissipates the strength of the firefighting forces of the municipality. For this reason, ISO maintains a close watch for annexations and, if a very large area is annexed to a municipality, ISO will reevaluate the fire defenses available to the whole area. This is a factor which the City Council should take into consideration when deciding to annex territory.

There are a number of other factors that the Council should consider in determining whether the annexation is in the best interest of the City. These factors include:

- (1) Will the annexation affect voting?
- (2) What costs will be involved to provide water and sewage extensions to the annexation area and to provide solid waste disposal services?
- (3) Will the annexation promote sound urban development?
- (4) What impact will the annexation have on City schools?
- (5) What benefits will the City derive from the annexation, i.e. additional taxes and revenues?

It is my suggestion that the Planning Department prepare an impact report regarding the proposed annexation. The report should include a cost/benefit analysis. The impact report will be a valuable tool for the Council to consider in deciding whether to approve the proposed annexation.

If you have any questions, please don't hesitate to call me.

Guy Gunter

Email written to Gerald Kelley from Lori Lein of the Alabama League of Municipalities on September 8, 2012

From our Selected Readings:

Notwithstanding the adoption of a resolution as required in Section 11-49-80 and 11-49-81, Code of Alabama 1975, the annexation of unincorporated territory into a municipality, after July 7, 1995, shall result in the municipality assuming responsibility to control, manage, supervise, regulate, repair, maintain and improve all public streets or parts thereof lying within the territory annexed, provided such public streets or parts thereof were controlled, managed, supervised, regulated, repaired, maintained and improved by the county for a period of one year prior to the effective date of the annexation.

The municipality must also assume the responsibility to control, manage, supervise, regulate, repair, maintain and improve all public streets or parts thereof lying within the territory annexed, provided such public streets or parts thereof were dedicated to, accepted by, and were controlled, managed, supervised, regulated, repaired, maintained, and improved by the county for a period of less than one year prior to the effective date of the annexation when such public streets or parts thereof were also approved upon construction by the municipal planning commission of the annexing municipality.

Except as herein provided, this section does not require a municipality to assume responsibility to control, manage, supervise, regulate, repair, maintain or improve any street or part thereof located within the territory annexed which was not being controlled, managed, supervised, regulated, repaired, maintained and improved by the county prior to the effective date of the annexation, nor does this section require a county to assume responsibility to control, manage, supervise, regulate, repair, maintain or improve any street or part thereof located within the territory annexed which was not being controlled, managed, supervised, regulated, repaired, maintained and improved by the county prior to the effective date of the annexation.

After July 7, 1995, when the annexation of unincorporated territory by a municipality results in a public street or part thereof which was dedicated to, accepted by, and was controlled, managed, supervised, regulated, repaired, maintained and improved by the county for a period of one year prior to the effective date of the annexation, or for a period of less than one year prior to the effective date of the annexation when such public street or part thereof was approved upon construction by the municipal planning commission, being located outside the corporate limits of the annexing municipality while at the same time bounded on both sides by the corporate limits of the annexing municipality, the county governing body shall consent to the annexation of such public street or part thereof by the municipality. Once consent is given by the owners of such public street or part thereof to annexation by the municipality, the municipality shall annex that portion of the public street or part thereof which is bounded on both sides by the municipal corporate limits. Once the annexation becomes effective, the municipality shall assume responsibility for the public street or part thereof as provided above.

Nothing contained in Section 11-49-80 and 11-49-81 shall prohibit a county and a municipality from entering into a mutual agreement providing for an alternative arrangement for the control, management, supervision, regulation, repair, maintenance or improvement of public streets or parts thereof lying within the corporate limits of an incorporated municipality.

A municipality may adopt a resolution pursuant to Section 11-49-80 and 11-49-81 of the Code of Alabama to accept responsibility for county roads within the corporate limits. If the municipality does not adopt this resolution, the county remains responsible for the road, unless it was annexed into the municipality after July 7, 1995, or unless other factors are present. AGO 2001-254, AGO 2002-277, and AGO 2003-034.

Planning Department Report September 25, 2012

STAFF DISCUSSION AND RECOMMENDATION TO PLANNING COMMISSION FOR CONSIDERATION ON AUGUST 28, 2012 BY ALL PETITIONERS:

Mr. Kelley reported at this time only three (3) additional property owners in White Oak Estates have petitioned for annexation. Three (3) single family property owner addresses at 186, 280, and 309 Lee Road 989 did not petition annexation. Also, owners of vacant lots one (1) and eleven (11) did not petition annexation.

The dilemma remains for planning staff as to supporting annexation of White Oak Estates when five (5) property owners do not support annexation and Lee County Road 989 was constructed ignoring city road design standards. (See Engineering Report) Also, the County Engineer has no record of any construction plans being submitted for review. The developer simply built the road without either city or county approval. However, since 2000 when the County Engineer began keeping a log of paved county roads requiring maintenance, no maintenance has been requested by property owners and none provided by the county. Remarkably, the paved wearing surface of the road is in good condition.

One possibility which planning staff discussed with Ms. Bartlett would be if all eleven (11) property owners agreed to annexation, that annexation may occur if the road could be converted from a public right of way to a private right of way via the creation of a homeowner's association; whereby the association would assume maintenance of the road, not the City of Opelika. Ms. Bartlett stated that even with unanimous property

owner consent to annexation, the financial responsibility of road maintenance would be too expensive for property owners.

Planning staff believes that a “hop scotch” approach to annex six (6) parcels along approximately 1300 linear feet of Lee Road 989 is not a prudent decision, and weakens public policy regarding annexation by accepting a road built without adherence to either city or county road standards.

RECOMMENDATION: DENY PETITIONS TO ANNEX

PLANNING STAFF DISCUSSION AND RECOMMENDATION TO PLANNING COMMISSION FOR CONSIDERATION ON SEPTEMBER 25, 2012 BY ALL ELEVEN (11) PETITIONERS IN WHITE OAK ESTATES TO ANNEX INTO THE CITY OF OPELIKA.

Since all property owners have petitioned for annexation and are adjacent to the city limits, the remaining policy issue to be resolved is undertaking the financial responsibility by the city for major design deficiencies/maintenance of Lee County Road 989 as outlined by the City Engineer.

Planning staff is of the opinion that the petitioners could form a homeowner’s association and convert Lee County Road 989 to a private street (ex. White Oak Lane) via an agreement with the City of Opelika. The road itself is in good condition; only the “two camel back humps” create a design flaw which cannot meet city street design standards. However, the petitioners have stated that the burden of correcting existing road design flaws is financially impossible for eleven (11) owners.

A phone conversation with the County Engineer indicated that he would not support an agreement between the City of Opelika and Lee County for county maintenance if the road is annexed into the city; although this is an option that could be explored between the governing bodies. (See response by Lori Linn, attorney at Alabama Municipal League)

Fire Chief Adkins indicates in his memo that depending on the individual property owner’s insurance company; their premium is based upon either a zone category or ISO rating. (See Chief’s Memo)

Planning staff does not believe annexation should be determined strictly upon the desire to attend a particular school system; especially when public policy in road design is compromised and potential city liability is an option when the road does not meet the criteria set forth in the Public Works Manual of the City of Opelika, if annexed.

RECOMMENDATION: Forward a recommendation of APPROVAL TO ANNEX subject to EITHER Lee County and City of Opelika reaching an agreement of continued county road maintenance for Lee County Road 989 if annexed; OR convert the road from public to private via creation of a homeowner’s association whereby all eleven (11) property owners in the subdivision petition the city to abandon the public right of way creating a private street relieving the City of any design errors and maintenance responsibilities.

If neither option is viable; DENY the petitioner’s request to annex.

Engineer’s Report August 28, 2012 and September 25, 2012

Mr. Dorsey reported sanitary sewer service is not presently available to these five developed residential parcels proposed for annexation. However, sanitary sewer service is available, since the subdivision containing these lots is located approximately 600 feet east of the City’s Eastside Wastewater Treatment Plant. All parcels have public street access via Lee Road 989, which has been maintained by the Lee County Highway Department since its construction in 1992.

The Opelika Engineering Department has a long-standing policy with the Lee County Highway Department that all new streets within the City's planning jurisdiction shall be constructed to the more stringent standards of the two governmental agencies. When this subdivision was presented to the Planning Commission in 1992, the City had the more stringent standards, so the Engineering Department requested the developer provide construction plans for the street and storm water system for its review and approval. However, the developer proceeded to construct the streets and storm water system without the Engineering Department ever having an opportunity to review and approve its plans. In fact, due to the numerous design deficiencies, we do not believe that an engineer was ever hired by the developer to produce any plans for this subdivision. As the result of an absence of approved construction plans, the Planning Commission required the developer's surveyor to include a note on the recorded subdivision plat stating the road was not constructed to the standards contained in the City's Public Works Manual and that no properties in this subdivision be annexed until the road had been improved to meet the City's standards. The two southernmost lots in this subdivision were annexed in 1995, but only after the portion of Lee Road 989 that adjoins these lots had been improved to the City's public works standards.

The Engineering Department recently performed a visual inspection to evaluate the condition of the existing road and storm water system. Although the condition of the pavement on Lee Road 989 appears to be in very good shape after 20 years of use, there are two design concerns that, once the road becomes part of the City's maintenance responsibility, place the City at greater risk than normal:

1. The vertical geometry on this roadway does not appear to meet any acceptable and recognized standards for adequate sight distance by drivers. For example, there is a crest curve on the road with vertical grades estimated to be steeper than twelve (12) percent on both sides of the curve. In order for a driver to have adequate sight distance while cresting this hill and traveling at the proposed 30 miles per hour speed limit, the vertical curve length must be at least 450 feet. The length of this vertical curve is estimated to be approximately one-third of the required distance, which translates to an acceptable sight distance for a vehicle traveling less than 20 miles per hour. There are also similar sight distance restrictions for the sag curve to the south of the crest curve.
2. There are no provisions to allow storm water to drain under the roadway at its low point near the cul-de-sac. Water presently sheet flows across the road from the eastern side to the western side, which creates a greater risk of hydroplaning during and after rainstorms.

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

1. The petitioners provide an as-built drawing of the road and its storm water system to the Engineering Department for review so an accurate assessment of the deficient design criteria can be made.
2. Once the deficiencies have been identified, construction plans shall be prepared by a professional engineer to correct those deficiencies in accordance with the City's Public Works Manual. These plans shall be reviewed and approved by the Engineering Department prior to construction.
3. All construction to correct the deficiencies shall be completed and inspected by the Engineering Department.

Mr. Kelley reported for public safety all of the residences that are located on Lee Road 989 are located within 5 miles of a City of Opelika Fire Station. They are also within 1000 feet of a fire hydrant. This should give them a Class 2 ISO rate. However, remember that not all Insurance Companies use ISO rating. Some use zones and sub-zones to determine premium rates.

Fire Chief Terry Adkins

Mr. Hawkins reported Tammy S. Williams, Lot 2 Lee Road 989

Water service is accessible to this location by a water main in the R.O.W. of Lee Road 989.

Ronald A & Sonia F. Golden, 280 Lee Road 989

Opelika Utilities currently serves this location

Jerry Braverman, Lot 10 Lee Road 989

Water service is accessible to this location by a water main in the R.O.W. of Lee Road 989.

Joel & Janice Tomlin, 309 Lee Road 989

Opelika Utilities currently serves this location

Marshall E & Deborah A. Blount, 186 Lee Road 989

Opelika Utilities currently serves this location

Mr. Kriel reported these areas are outside the Opelika Power Services territory.

Chairman Pridgen opened the public hearing.

Mr. Bartlett, 228 Lee Road 989 noted, we have lived and worked in the community for many years. Our son is attending Opelika and desires to play baseball under Coach Sullivan (Opelika High School).

Chairman Pridgen closed the public hearing.

Mayor Fuller made a motion to send a positive recommendation to City Council with staff recommendations and a further discussion with the county about a partnership.

Mr. Hilyer seconded the motion.

Mr. Morgan asked if the speed limit were restricted to less than 20 mph would that meet the code requirements for the elevation issue.

Chairman Pridgen stated our task as Planning Commission is to give a recommendation to the City Council one way or the other. I do not feel like there is a great option that we can pass along. The only way that the city can be truly protected is if the road were reconstructed to meet City street construction standards. Or, if the county agrees to accept maintenance and liability.

Mayor Fuller asked how long is this road.

Mr. Kelley answered from the property owners to the cul-de-sac approximately 1100 linear feet.

Mr. Silberman asked is it within reason to request the city to reduce the speed limit to less than 25 mph. Will that satisfy the liability of the city?

Mr. Dorsey stated I couldn't say because I have not reviewed any plans to answer that question.

Council Member Canon asked who prepares the impact study and is it practical to do so.

Mr. Kelley stated the greater question is regardless of how or who prepares the study it is estimated that the specific dollar figure will be exorbitant to bring the street up to City standards just so the city can maintain the street. We will have to determine how much of a cost liability that would be for the city to bring that road up to standards.

Mayor Fuller asked what if we removed the humps and had a temporary gravel road bed where the two humps used to be but they are back even with the pavement.

Mr. Hilyer stated I do not know the humps are drastic.

Mr. Dorsey suggested the street may have been constructed with severe vertical curves is because of the material under the road. There may be an abundance of rock under the street. We do not know what type of material is under the road.

Mr. Hilyer agreed.

Mr. Morgan stated could a speed bump be added or a roundabout to slow the traffic.

Mrs. Bartlett stated there is not a man-made speed bump on the bottom of the second hill, but there is a natural bump that causes drivers to slow down.

Council Member Canon stated a cost-benefit analysis would provide us with the information we need to make this decision.

Mayor Fuller stated that the City maintains streets all the time. That is part of what the city does. I would like to go out and look at this area.

Mayor Fuller amended the original motion to table the request for further discussion with the county and review of the property.

Mr. Hilyer seconded the motion.

Mrs. Bartlett stated as homeowners I feel like we could afford speed bumps or additional signage.

Chairman Pridgen stated the biggest issue is the liability. If someone breaks the law and gets hurt on the road and claims a lack of vision would the city be liable? The council will have to decide if it will be feasible to accept the street as-is into the city by taking on the liability of the cost and the actual cost of road construction.

Mrs. Bartlett suggested signs that say limited sight distance.

Mayor Fuller asked that staff produce a survey for us showing assessed value, number of children in school, and what the estimated advalorem tax will be for the property owners.

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

Nays: None

Abstention: None

6. Opelika Land & Timber, Inc., accessed from Capps Drive, approximately 4.25 acres, PC recommendation to City Council, zoning request - C-3, GC-1, PC zoning district recommendation to City Council

Mr. Kelley reported Conditional Use Approval was granted by the Planning Commission on August 28, 2012 for a Carmike Theatre at Capps Landing by Opelika Land and Timber along with a subdivision revision of Capps-Palmer Subdivision, 8th revision.

Walter Dorsey, City Engineer, determined and Planning concurred that a 4.25 acre sliver of land was outside the city limits on September 4, 2012. While the error did not impact the theatre structure, the driveway and parking behind the theatre must be annexed. Mr. Benson was contacted and an annexation petition filed on September 6, 2012.

Recommendation: Approve the annexation and zoning of C-3, GC-1 of 4.25 Acres

Mr. Dorsey reported sanitary sewer service is available to this 4.252-acre land area via an in-place gravity main that drains in a north-to-south direction along the western section line of Section 25. No habitable structures are proposed to be constructed within this land area. The purpose for the annexation request is to allow the proposed westward extension of the Capps Drive right-of-way to be located within the Opelika corporate limits.

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

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

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

Chairman Pridgen opened the public hearing.

No comments were given from the public.

Chairman Pridgen closed the public hearing.

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

Mr. Cherry seconded the motion.

Ayes: Cherry, Morgan, Silberman, Fuller, Cannon, Hilyer

Nays: None

Abstention: Council Member Canon

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

7. Greg Jones, 2 lots – Lot line erasure, 707 Orchard Avenue, P/F approval

Mr. Kelley reported Mr. Bernard Jackson in here representing Mr. Jones. The applicant is requesting preliminary and final approval to combine two lots into one lot via a lot line erasure at 707 Orchard Ave. Staff has sent corrections to Curtis Pierce, surveyor, (see attached letter) and he has yet to respond with a deed and revised plat. This lot line erasure plat is scheduled to return to municipal court on Wednesday, September 26, 2012 after a previous hearing in which Judge Hand ruled to return with a current recorded deed to the property and plat approved by Opelika Planning Commission

On Thursday afternoon, September 20, 2012, Mr. Bernard Jackson presented to the Planning Commission a revised preliminary/final plat prepared by Curtis Pierce, surveyor for Greg Jones. After review of the revised plat, the Planning Department cannot recommend final plat approval at this time. Two major items need to be submitted before final plat consideration; a copy of the new deed and the signatures of property owners and notary seal, plus a few minor corrections still required on the final plat. The Planning Commission recommendation will be presented to Judge Hand at the hearing in Municipal Court on September 26, 2012.

STAFF RECOMMENDATION: Approval of preliminary plat only as submitted on September 20, 2012.

Mr. Dorsey reported sanitary sewer service is available to all lots in this proposed subdivision via in-place gravity mains within the Orchard Avenue, Randolph Street, Donald Avenue and West Street rights-of-way. All lots have been developed with residences and/or accessory structures.

The Engineering Department has reviewed the revised plat that was submitted by the surveyor just prior to last Thursday's work session. The review was performed for the purpose of verifying specific revisions requested in a September 10 letter from the Planning Department to the surveyor. Our review has determined that only five of the thirteen specific revisions have been addressed properly.

Therefore, the Engineering Department recommends preliminary plat approval only at this time. All items listed in the Planning Department's letter must be addressed satisfactorily prior to final plat submittal.

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

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

Chairman Pridgen opened the public hearing.

Mr. Jackson stated I have been working with the surveyor and Mr. Jones to try and resolve some of the issues at hand. These are minor changes. Today I am going to ask the Commissioners to put the minor changes aside and approve the plat for final approval subject to this changes being made. I have a deed that is notarized and ready

to be recorded. There was a death and the plat has signatures of two of the three property owners. This is an old unplatted subdivision. It is unfortunate that Mr. Jones did not take this up before. Mr. Jones has every intention to resolve these changes and not drag this out. The neighbors have no problems with the subdivision. Mr. Hilyer noted that the City's sewer service is provided to the property. The sewer has not been billed.

Chairman Pridgen stated that the plat is a lot line erasure.

Chairman Pridgen closed the public hearing.

Ms. Cannon made a motion to grant preliminary plat approval with staff recommendations.

Mayor Fuller seconded the motion.

What are the five minor facts?

Mr. Pridgen stated preliminary and final plat approval is for the cases that are clean and have no minor or major difficulties. Preliminary is a separate meeting where we begin the process to eliminate the minor or major issues. Then we come back at the next meeting to with everything completed [for final approval]. We have too many difficulties at this time that we discussed at the Work Session. I feel comfortable with only preliminary approval at this time.

Mr. Kelley reviewed the minor correction still needed.

1. Parcel numbers are missing.
2. Front yard setbacks are missing.
3. The deed (just provided).
4. Indicate where iron pins are found or set.
5. Map designation in regards to the flood plain.
6. Bearing and distance on all properties (5 along West Street).
7. The major one is missing signatures.

Mr. Gunter stated a lot line erasure does not constitute a waiver of any zoning violations or issuance of a certificate of occupancy. This property is not zoned for apartment building or a group home.

Mr. Jackson stated that zoning is our next step and we will request a zoning change. At this time, we are asking approval of the subdivision plat.

Ms. Cannon amended the motion to grant preliminary plat approval with staff recommendations including the statement a lot line erasure does not constitute a waiver of any zoning violations or issuance of a certificate of occupancy. This property is not zoned for apartment building or group home.

Mayor Fuller seconded.

Mr. Kelley stated that the subdivision request is not Planning staff's request but is a request from Judge Hand that we see a lot line erasure and the property deed. We have other judicial procedures to follow related to this property.

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

Nays: None

Abstention: None

C. CONDITIONAL USE APPROVAL

8. First Presbyterian Church of Opelika, 900 2nd Avenue, C-2, New church sanctuary

Mr. Ogren reported First Presbyterian Church is requesting conditional use approval to construct a new sanctuary, a covered walkway (17' x 36'), and a pergola (6' x 33'). These structures are located in the front yard area along 2nd Avenue. The covered

walkway and pergola is between the existing sanctuary and the new sanctuary. The sanctuary will be setback off the 2nd Avenue right-of-way about 14 feet in order to line-up with the existing sanctuary. At the October 9th Zoning Board meeting the applicant is requesting a 16 foot front yard variance from the 30 foot minimum front yard setback requirement. If approved the new sanctuary will align with the existing sanctuary. The site plan shows two 14' x 45' temporary mobile class rooms. At a future Planning Commission meeting the Church will request permission and a time period for the temporary classrooms. The existing sanctuary building will remain as-is. At a later time the existing sanctuary may be renovated. The existing floor area is 8,554 square feet; the new sanctuary is about 8,830 square feet. The new sanctuary at maximum capacity will provide 350 seats.

The plans meet minimum requirements for off-street parking and landscaping. The minimum parking requirement is 88 parking spaces; 88 spaces are provided. Forty-three parking spaces will be added in the rear yard area along 3rd Avenue (see site plan). These spaces will consist of grasspavers. The church has a lease agreement with the adjacent property owner (Papa Joe's Bar-b-que) for 21 parking spaces. A lighting plan was provided for lights installed in the parking lot. The plan shows the foot-candle at the north property line along Third Avenue and adjacent to the R-2 zoning district. At the north property line the illumination is less than one foot candle. The landscape plan meets minimum requirements. The plan was to preserve as many existing trees as possible. Most of the base points required will consist of trees that are preserved. Nine trees (pecan or oak) with a diameter of 24" or more will be preserved. Landscaping added consist of 8 crepe myrtles, 3 dogwoods, 5 Japanese elko trees, and 29 Japanese hollies. An existing 250 foot long buffer of Leyland cypress will remain along the west property line. The exterior material of the new sanctuary will match or complement the existing sanctuary.

Planning Staff recommends conditional use approval as submitted.

Mr. Dorsey reported sanitary sewer service is available to this 1.86-acre institutional site via in-place gravity mains within the Second Avenue, Third Avenue and North Ninth Street rights-of-way. Vehicular access is available via two in-place curb cuts on Ninth Street. One of the Ninth Street curb cuts will be removed and replaced with a new curb cut on Third Avenue. 67 on-site parking spaces are proposed. 24 of the total spaces will have a paved surface, while the remaining 43 spaces will be a grass surface over a porous material that allows surface water to percolate into the soil. 21 additional paved parking spaces are currently available for use on Sundays at the adjacent barbecue restaurant on Second Avenue.

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

1. Indicate three parking spaces for use by the disabled to be located at the nearest point to an accessible building entrance.
2. Indicate paved surface within the right-of-way for all portions of the new Third Avenue curb cut.

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

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

Mayor Fuller made a motion to grant conditional use approval with staff recommendations.

Mr. Morgan seconded the motion.

Ms. Cannon asked about the lighting range.

Parker Lewis representing from Hydro Engineering Solutions, stated the one footcandle indicator means light (as a candle) will not extend more than one foot beyond the property line. I will ask that of the design team. I don't believe that they want to spend any extra on a power bill. I know that is not their intent.

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

Nays: None

Abstention: None

9. Conner Auto Collision, 3300 Pepperell Parkway, C-3, GC-2, Auto repair shop and towing service

Mr. Ogren reported Conner's Collision Center is requesting conditional use approval for an auto repair and towing service business. The property (37,500 square feet) is the former Mr. Fresh business on Pepperell Parkway. A 6,000 square foot building (40' x 150') with eight bay doors exist on the property. In two to four months the applicant plans to close down their Airport Road business site and relocate to the Pepperell Parkway property. The business performs auto body work & painting. The business may perform minor engine repairs (brakes, tune-up) to those wrecked vehicles undergoing auto body repairs on site. About 85% of business activities are auto body and auto painting, and about 15% of the business is auto towing & storage. The business has five employees.

Conner's participates in 'wrecker rotation' (Wrecker rotation is when the police department provides a towing business a one week time period to pick up cars involved in accidents. After a business participates for one week then the next business on the rotation has a turn to tow automobiles for a week). The property has a 7,300 square foot area in the rear yard reserved for auto storage. The applicant's tow truck will access the auto storage yard from Blanton Avenue. (Blanton Avenue is located along the rear property line. See site plan). The applicant plans to secure the auto storage area with a fence and gate. The applicant plans to install a black chain link fence and insert black slats on all sides of the fence to provide a visual buffer. The applicant will remove the existing wooden fence and replace it with the said black chain link & slats. Planning staff recommends that the fence be at least 6 feet high and a black fence and inserts be installed on all sides of the fence. The applicant said a maximum of 10 to 12 automobiles will be stored on site. Typically the automobiles remain on the property a maximum of three to four days until the auto insurance company or auto owner removes the automobile. If a stored vehicle is not removed it is taken to the applicant's property in the county. Some of the automobiles stored are repaired by the business. Planning staff recommends that the storage of any automobile not exceed 30 days.

The business property meets off street parking and landscaping requirements as shown on the site plan provided. Off street parking for an auto repair business are one parking space per 400 square feet of floor area and one parking space for each employee (5 employees). The business requires 18 parking spaces; 24 spaces are provided. One parking space must be designated for the handicapped. Some plant material exists from the previous business. The applicant will add landscaping in the front yard area and four oak trees are shown along the rear property line. Planning staff recommends an evergreen type shrub/tree planted along the rear lot line. The tree planted should be large enough to provide a visual barrier in at least three growing seasons. Two landscape plans were submitted following the September 20th Planning Commission Work Session. Planning staff recommends that one of the landscape plans be required in order to enhance the property and assist in providing a visual buffer given a chain-link fence with inserts will be installed to secure the storage yard. (Planning staff prefers the landscaping with 23 crepe myrtles) along Lowndes Street.) One of the landscape plans is located in the middle of the existing asphalt parking lot. In order for the parking spaces in front of the fence to have adequate distance for vehicles to enter & exit, the fence needs to be moved 5 feet to the west or toward the auto storage yard. The relocation of the fence will reduce the size of the storage yard. The applicant said a maximum of 10 to 12 vehicles will be stored in the auto storage area. There should be adequate space to maneuver a tow truck with a wrecked vehicle, and store 10 to 12 vehicles, even if the fence is relocated five feet. The landscaping will enhance the property which is located in the Gateway Corridor district.

Staff recommends approval of the automobile body repair and towing business subject to the recommendations stated in this report.

Mr. Dorsey reported sanitary sewer service is available to this 0.87-acre developed commercial site via in-place gravity mains within the Pepperell Parkway, Lowndes Street, and Blanton Avenue rights-of-way. Vehicular access is available via two in-place curb cuts on Lowndes Street and one in-place curb cut on Blanton Avenue. Blanton Avenue is an unpaved street within a public right-of-way. The two curb cuts on Lowndes Street have been marked for one-way traffic movements, with the curb cut nearest to Pepperell Parkway being marked as an entrance into the site. 24 paved, on-site parking spaces are provided, of which one must be designated for use by the disabled.

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

1. Reverse the on-site traffic circulation so the curb cut nearest to Pepperell Parkway is now the site exit and the second Lowndes Street curb cut is now the site entrance. The direction of the angled parking spaces on the site shall be reversed to accommodate the reversed traffic circulation.

Mr. Hawkins reported Opelika Utilities currently serves this location.

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

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

Mr. Hilyer seconded the motion.

Mr. Connor suggested that we would like to plant along Lowndes Street property line. The landscaping will look better near the street and will buffer the entire property better.

Ms. Cannon expressed concern about the automobile storage and parking areas.

Council Member Cannon expressed concerns about automobile storage.

Mr. Connor stated he has additional storage outside the city limits for vehicles that exceeded the limit of storing autos more than thirty days.

Mr. Kelley discussed conditional use and the limitations of the next business that might occupy this space.

Mr. Cherry stated Staff and Mr. Connor could agree on which landscape plan.

Mr. Morgan addressed the issue of the parking spaces in front of the bay doors.

Mr. Kelley stated they are required 18 spaces and have 23 spaces shown.

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

Nays: None

Abstention: None

Mayor Fuller exited the meeting at 3:56p.m.

10. John Marsh, 409 South Tenth Street, M-1, Outdoor week-end antique market

Mr. Ogren reported the applicant is requesting conditional use approval for an outdoor week-end antique market. The business will be open on Friday (7am to 6pm), Saturday (7am to 6pm) and Sunday (7am to 4pm) only. The market property consists of two lots - 2.8 acres; the property is undeveloped. The proposed walking/pedestrian area, parking lot, and driveway surfaces are gravel. The antique market is accessed from 10th Street; a 25 foot wide gravel drive will be provided. The applicant will provide 81 vendor spaces (one table) for merchandise display and 11 – 20' x 20' larger vendor spaces (two tables each) for those vendors with a large truck. The site plan shows 84 designated parking spaces for customer and vendor parking and a rear yard area reserved for an additional 30 to 40 parking spaces. The minimum off-street parking spaces required are 99 spaces. The applicant said that the parking spaces will be striped. Planning staff

recommends that the front of each required parking space be defined by using concrete bumpers, railroad ties, or an adequate material to define the front of each parking space. (If parking spaces are not clearly marked automobiles may park too far apart and take-up two parking spaces. If several automobiles take-up two parking spaces then the minimum number of parking spaces are not provided). A landscape plan is not provided at his time.

Planning Staff recommends conditional use approval for two years. After two years the property must meet minimum requirements of Section X Landscape Regulations of the Zoning Ordinance. The two year recommendation is proposed instead of one year because at times the applicant's vendors will experience inclement weather or severe seasonal weather and the outdoor business will not be open. Planning staff also recommends that the existing indoor bathrooms provided must be handicap accessible before the Antique Market opens.

Mr. Dorsey reported sanitary sewer service is available to this 1.95-acre commercial site via an in-place gravity main within the South Tenth Street right-of-way. Vehicular access is available via one shared curb cut on South Tenth Street. Access is also available to Avenue C via a 30-foot wide paved alley between South Tenth Street and Avenue C. 90 parking spaces for customers and 11 parking spaces for vendor trucks are proposed on the site. All on-site parking spaces are proposed to be on gravel surface. At least four of the customer parking spaces must be designated for use by the disabled. The nearest restrooms for customers and vendors are located in the former Sikes Feed and Seed building to the west of the site.

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

1. All on-site parking spaces and driving aisles for customers and vendors shall be clearly delineated on the gravel surface. The type and combination of delineating material(s) shall be reviewed and approved by the Engineering Department prior to installation.
2. Signs and pavement markings shall be placed within the public alley as necessary to discourage customer parking and to allow full access through the alley by emergency vehicles.

Mr. Hawkins reported Opelika Utilities currently serves this location

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

Chairman Pridgen opened a public hearing for additional comments and for Mr. Marsh to make a presentation.

Mr. Marsh stated we are proposing a weekend antique mall similar to Scott's Antique Mall (Atlanta). We are at the end of the outdoor season now, and we have very little time left that when the days are not cold. Our desire for the market is arts and crafts, and antiques. We do not want a flea market type business with used everyday products. Hopefully, the high cost of the booths will keep the types of items for sell at least in the higher price range and that is what we hope will happen. Also, the fact that there is going to be certain items that are not allowed such as flea market type items. We try to find a way with our properties to take those properties that are dilapidated and make improvements in a direction we want to go. You have seen that in our downtown properties in how we have improved those properties in other ways. You have to find a way, as a stepping stone, and take horrible properties and make them acceptable. This is the way we hope to do on this site.

Chairman Pridgen closed the public hearing.

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

Mr. Morgan seconded the motion.

Mr. Morgan asked if the public alleyway would stay open.

Mr. Marsh state yes.

Mr. Kelley stated we are suggesting a time limit recommendation on the conditional use. We discussed one year at least and we are suggesting a two year conditional use. We felt like a landscaping plan was premature at this point, with just an open-air antique market that is only open in seasonable good weather. If in two years, we are to the point the applicant needs to return then landscaping would be something that we would consider and require at that time.

Mr. Hilyer stated concerns about the appearance without landscaping.

Mr. Marsh stated this is a tight plan to try to make this work. That is, we do not know if we have a market for an outdoor market of this type. I desire to make it nicer than you might request if we can make this work.

Chairman Pridgen asked if Mr. Marsh is opposed to one year versus two year conditional use review.

Mr. Marsh state no. I do not know what kind of record of accomplishment we can generate in a limited time.

Mr. Cherry asked if any sheading or roof cover would be constructed.

Mr. Marsh stated no, it would all be temporary tenting and tables. Nothing will be stored there during the week.

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

Nays: None

Abstention: None

D. OTHER BUSINESS

11. Subcommittee Report - Surveyor's signature and seal provided on final plats for Planning Commission meetings

Planning Commission Subcommittee Meeting- Final Plat

Meeting Minutes

September 13, 2012

I. Call to order

Chairman Pridgen called to order the meeting of the Planning Commission Subcommittee at 8:05 on September 13, 2012 in Public Works Conference Room.

II. Attendees

The following persons were present: Chairman Keith Pridgen, Gerald Kelley, Martin Ogren, Michael Hilyer, Walter Dorsey, Rachel Dennis, Blake Rice, Jim McCrory.

III. New business

- a) Amendments to the Subdivision Regulations Section IV: Approval of Plats for clarity purposes.
 1. Change title of subsection C. Drawings to read as: C. Public Works Construction Drawings
 2. Change subsection D. Final Plat Requirements #10 to read as: Certification of surveyor certifying to accuracy of the survey and plat prior to the Planning Commission Meeting on the 4th Tuesday.
- b) Planning Commission Work Session date and time change.
 1. Move date to the second Tuesday or the third Tuesday of the month (On 09/14/12 Mr. Kelley and Pridgen discussed the dates and favor the third Tuesday. This may change once Mayor Fuller and Council have been contacted because City Council also meets on the third Tuesday.)

These dates are suggested for more time to allow the surveyors to make changes to the plats before the PC Meeting. This will also allow the surveyors a chance to hear the Commissioners comments before the final stamped and sealed plat is presented at the PC Meeting on the fourth Tuesday.
 2. Move the time of the work session to 3:00 p.m. to alleviate confusion.
- c) Administrative Change:
 1. Move the due date of staff reports to be one/two days prior to the new work session date.

- d) Subdivision Application Change:
 - 1. Add the Authorized Applicant Form to the Subdivision Application.
 - 2. Require a copy of the current deed of the property as part of the Subdivision Applications

Adjournment: Chairman Pridgen adjourned the meeting at 9:20 a.m.

Mr. Kelley reported we clarified some language and change in our subdivision ordinance. The major issue that we discussed is staff recommended instead of having our Work Session on Thursday it should be on the third Tuesday. This gives staff and applicants more time to iron out details and get corrected plats to you. The only detail we did not settle on is what time does the Commission desire to meet on the third Tuesday for Work Session at 3:00 or 4:00. We intend to implement that in October and have on the agenda the clarification points that we want to make in the Subdivision final plat ordinance.

Chairman Pridgen stated the time suggested of 3:00 for Work Session is consistency, the third Tuesday is the same day as City Council, and the negative it conflicts with Mr. Cherry and Ms. Cannon schedules. Chairman Pridgen took a vote by show of hands for 3:00 and 4:00. Tuesday at 3:00 passed.

With no further business on the agenda, Chairman Pridgen adjourned the meeting at 4:19 p.m.

_____ Keith Pridgen, Chairman

_____ Rachel Dennis, Secretary