May 22, 2012

The City of Opelika Planning Commission held its regular monthly meeting May 22, 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, Arturo Menefee, Keith Pridgen, David Canon, Lucinda Cannon, Michael Hilyer

MEMBERS ABSENT: Ira Silberman, Gary Fuller

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
Guy Gunter, City Attorney

CALL TO ORDER: Chairman Pridgen called the meeting to order at 3:01 p.m.

I. Approval of April 24, 2012 Minutes

Chairman Pridgen asked for any changes or corrections to the April 24, 2012 Planning Commission Minutes.

Dr. Menefee made a motion to accept the April 24, 2012 minutes of Planning Commission as written.
Mr. Hilyer seconded the motion.
Ayes: Cherry, Morgan, Menefee, Cannon, Hilyer
Nays: None
Abstention: Council Member Canon

A. <u>PLATS (preliminary and preliminary & final) – Public Hearing</u>
1. Gates Subdivision , Resubdivision of lots 28 & 29, 2 lots, Lee Road 922, Sharron Bach, preliminary and final approval

Mr. Kelley reported the corrections suggested have been made based upon the comments at work session. Planning Department recommends preliminary and final plat approval.

Mr. Dorsey reported sanitary sewer service is not available to either residential lot in this two-lot re-division, which is located outside the Opelika corporate limits on Lee Road 922. Both lots contain in-place residential structures, but none are shown on the plat.

The Engineering Department recommends preliminary and final plat approval, subject to the following:
I had a list of items from work session and most of those have been taken care of.
1. Provide a revised vicinity map that more clearly indicates the location of these lots relative to major highways.

Mr. Hawkins reported this subdivision is in the Beauregard Water Authority's service area.

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

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

Dr. Menefee motioned to grant approval for preliminary and final plat with staff recommendation.
Ms. Cannon seconded the motion.
Ayes: Cherry, Morgan, Menefee, Council Member Canon, Cannon, Hilyer
Nays: None
Abstention: None

B. <u>CONDITIONAL USE APPROVAL</u>

2. The Rental Center, 411 26th Street, C-3, GC-2, Rental equipment-construction & homeowner

Mr. Ogren reported the applicant is requesting conditional use approval to open "The Rental Center" a rental equipment business on 26th Street near Pepperell Parkway. (The business is moving from its Auburn location on Opelika Road.) The business will occupy an existing 4,700 square foot building. Most of the business activities are the sales, service, and rental of lawn care equipment (mowers, weed eaters, hedge clippers). They are manufacture dealers for Snapper, Stihl, and Shindaiwa. The business also offers moving truck rentals through 'Budget Truck Rentals'. The property has an existing 3,500 square foot outside fenced area. The Budget trucks and repaired lawn mowers' ready for pick-up' will be stored in the fenced area.

This site plan provided meets minimum requirements. The plan shows nine off-street parking spaces including two handicapped spaces. Landscape requirements are met; the property was landscaped from the previous business; five trees are planted along the east property line and shrubs planted along the edge of the parking lot; see landscape plan attached. The applicant is requesting outside display of rental equipment; the outside display is during business hours only; after business hours the outside display will be stored in the building. Staff asked the applicant to show on the site plan where equipment will be stored outside; some equipment is located on the right-of-way. The applicant is aware equipment cannot be stored on the right-of-way.

Staff recommends approval as submitted.

Mr. Dorsey reported sanitary sewer service is available to this existing commercial structure via an in-place gravity main along the southern property boundary. This main is located within an existing utility easement. Eight paved, on-site parking spaces are available, of which one is designated for use by the disabled. Additional parking is provided via a graveled area along the northern end of the building.

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

1. No equipment for sale or rent shall be displayed within the North 26th Street right-of-way.
2. All off-street parking requirements for equipment sales and rental can be satisfied.

Mr. Hawkins reported Opelika Utilities currently serves this location.

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

Mr. Cherry motioned to grant conditional use approval with staff recommendation.
Mr. Morgan seconded the motion.

Chairman Pridgen recommended the landscape area be cleaned and maintained.

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

3. Harper Family Partnership, 1702 Frederick Road, C-2, GC-2, Event center-special meetings, receptions

Mr. Ogren reported the applicant is requesting conditional use approval to construct an "Event Center" facility on Frederick Road next to the Jeffcoat Funeral Home property. The Event Center is located on the same 17.6 acre parcel as the 'Cock of the Walk' restaurant.

The site plan provided shows a proposed 5,420 square foot facility next to a 2.2 acre pond. The facility has barn style architecture with barn style doors & windows and a gambrel roof (see elevation drawings attached). The exterior walls are wood - vertical board & batten siding. The maximum capacity of the building is 300 people. Off street parking requirements are one parking space per four people at maximum capacity so 75 parking spaces are required. *The revised site plan shows 75 parking spaces that will be paved or Geotextile pavers installed i.e... Geotextile paver is a plastic filter fabric that allows water to pass through and protects the stone base and soil beneath the paver; the paver is strong enough for vehicles. (The 80 overflow parking spaces are removed; see the revised site plan.)* Planning staff recommends that ~~at least~~ the required 75 paved parking spaces be paved or a honey-comb cell pervious material designed for parking lots used.

The landscape plan meets minimum requirements. The plan shows 83 shrubs and 182 trees will be planted. The plant material is determined from a 2.8 acre developed area. *Planning staff recommends a 50 foot wide undisturbed wooded buffer between the event center property and the adjacent residential property owner to the north.* The applicant desires to preserve as many existing trees as possible.

Staff recommends approval subject to the recommendations in this report. Recommendations are underlined.

Mr. Dorsey reported sanitary sewer service is available to this undeveloped commercial site via an in-place gravity main within the Frederick Road right-of-way. However, the existing site topography and sewer depths will not accommodate a connection without a pump at the proposed building. Access to the site will be gained via a two-lane drive that intersects Frederick Road along the eastern property boundary. 28 paved and 108 unpaved on-site parking spaces are indicated. Six of these spaces must be designated for use by the disabled. Stormwater will be managed by the in-place pond to the west of the building. Garbage will be collected by private carrier from a dumpster located along the northern side of the building.

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

1. The developer's engineer shall provide a complete set of site construction plans to the Engineering Department for review and approval prior to the issuance of a building permit.
2. If any off-street parking spaces are approved with grass surfaces, the boundaries of each space shall be defined by an approved permanent marking that can be easily seen by drivers.
3. The overflow parking area at the south of the building shall be designed with a looped driving aisle to reduce reverse vehicle movements.

Mr. Hawkins reported Opelika Utilities currently serves this location.

Mr. Kriel reported this use is in the Opelika Power Services territory. Easements shall be granted for any existing electrical facilities. If any electrical facilities must be moved, the developer shall incur the full cost to relocate. Underground electric utilities are available to this subdivision, the developer will be responsible for paying the estimated difference between overhead and underground service

Mr. Cherry motioned to grant conditional use approval with staff recommendation.
Mr. Hilyer seconded the motion.

Mr. Hilyer asked would the road way be curbed and guttered.

Mr. Randy Wilson stated yes.

Mr. Hilyer asked is the geo-tech style plastic paver approved for use in Opelika.

Mr. Ogren stated I know geo-tech pavers have been used as pavers, but they are not specifically listed in the ordinance.

Mr. Kelley stated that requiring a pervious paver does not happen often but given the drainage issue and this request required planning commission conditional use approval this was an option we could recommend as staff.

Chairman Pridgen stated this facility constructed near a pond and in a low area then this is a good case to use pervious pavers. This is an event center that will likely not be used every day. We already have a concern with water run-off and water flow into the pond. I think it would be a good option.

Mr. Hilyer stated I might not necessarily have a problem with this product. I would like to know more about what it is. That is, either it is approved or not approved product.

Mr. Wilson stated we are willing to pave all the required spaces and stripping like we typically do. In the front part here we asked for grass parking because we wanted to maintain the pastoral connotation that goes with a barn. We are not sure about the cost of the geotextural fabric that we are negotiating with here. I have used pervious concrete in two other instances. One at the Salvation Army project in Auburn and at the Duck Samford Stadium renovation, the pervious parking filled with silt quickly and become less pervious.

Chairman Pridgen suggested we make as a condition of approval that the product to be used as a pervious geotextual fabric or similar type of pervious material be determined by the Engineering and Public Works Department.

Mr. Cherry amended the original motion for conditional use approval to include approval of pervious paved section to be approved by Public Works and Engineering prior to installation.

Mr. Hilyer seconded.

Chairman Pridgen addressed the letter from the neighboring residents and concerns.

Mr. Hilyer stated I also spoke with Mr. Bill Trant at Jeffcoat Trant Funeral Home. He did not have any concerns at all. He just wanted to make sure that if he had a funeral taking place and you had outdoor music, that you work with the funeral home and be respectful to the family.

Mr. Slater commented that most of the issues in their letter have been addressed. We are concerned about the three main issues: access, traffic, and noise.

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

4. Corey Marmaduke, 25 Samford Ave., C-3, GC-2, Automobile storage

Mr. Ogren reported the applicant is requesting conditional use approval for an automobile storage yard at 25 Samford Avenue. The applicant will not be storing wrecked automobiles but storing automobiles that have been repossessed *(Auto repossession business-a creditor reclaims a car when someone has fallen behind on car payments)*. The automobiles will enter & exit the property from Samford Avenue. In

January 2007 the Planning Commission approved an automobile wrecker service on this same property.

The auto storage yard is bordered by three streets - Samford Avenue, Plum Avenue, and Dover Street. Across Samford Avenue are commercial uses - Price Small Engine Repair, the Business Office Center, and a church - Emmanuel Temple Church. Across Plum Avenue and Dover Street are single family homes in an R-5 zoning district. The adjacent properties on the north side are single family homes in a C-3, GC-2 zone.

The site plan shows the area were automobiles will be stored (yellow border). Staff estimates that about 75 to 100 automobiles could be stored on the property. An existing chain link fence with barb-wire encloses the auto storage yard for security. Planning staff is concerned about the appearance of the property from a major gateway corridor (Samford Avenue). Also, the adjacent properties on the south (Plum Avenue) and east sides (Dover Street) are residential zoned properties located adjacent to the auto storage yard. A visual screen (opaque fence, slats in existing chain-link fence, and/or landscape buffer) to hide the automobiles is recommended. However, the business owner is concerned about the security of the automobiles if a visual screen is installed. That is, the visual screen will hide someone who is vandalizing/burglarizing the automobiles.

Planning staff discussed outdoor security with the Police Department (Captain K.C. Foxe). The officer said if the property is completely screened then police officers on patrol will not be able to see inside to inspect the property for unlawful activities. The officer mentioned that motion sensor lights are effective; if motion sensor lights are installed the business owner should notify the Police Department that sensor lights are installed on his/her property; then the police officers while on patrol could drive by the property and know that the auto storage yard should be dark. Outdoor lighting is also a deterrent from crimes at night. Other methods to discourage burglarizes/vandalism are camera security systems and guard dogs.

On the west side of the property (Samford Ave.) a few trees, shrubs, and a building exists that serve as a partial visual screen from the auto storage yard *(see photo attached "Samford Avenue")*. Staff recommends that a solid opaque fence be installed or slats inserted in the existing chain-link fence. Also, staff recommends a row of shrubs or trees (Nellie R. Stevens, Emeralds Green Arborvitae, or Brodie eastern red cedar) planted adjacent to the fence to enhance the view from Samford Avenue.

Dover Street runs along the east side of the property *(see photo attached "Dover Street")*; the auto storage yard is elevated above Dover Street from six to eight feet; only the first row of automobiles is seen in most areas. Existing trees and vegetation and the property elevated serves as a visual buffer in most areas along the east side. Staff recommends the east side (Dover Street) remain as-is.

Plum Avenue borders the property on the south side *(see photo attached "Plum Avenue")*. Staff recommends slats inserted in the existing chain link fence or an opaque fence installed to visually screen the property from Plum Avenue. The opaque fence should begin at the east side of the Plum Avenue driveway and end at the intersection of Plum Avenue and Dover Street.

On the north side a single family home is located adjacent to the auto storage yard; the home fronts along Dover Street. Staff recommends slats inserted in the existing chain link fence, an opaque fence installed, and/or a row of shrubs/trees planted so the auto storage yard is not seen from the residential property.

Staff also recommends that the vehicles stored on the premises be restricted to the enclosed area shown on the site plan.

Planning staff recommends approval subject to the recommendations in this report. Recommendations are underlined.

Mr. Dorsey reported no report.

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

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

Mr. Hilyer motioned to grant conditional use approval with staff recommendation.
Mr. Morgan seconded the motion.

Dr. Menefee expressed concerns for the appearance of the property and how are we to be assured when and what types of landscaping are going to be used and installed.

Chairman Pridgen stated as part of the motion we can ask for a landscape plan with specific shrubbery used as we do in other…

Dr. Menefee stated that this auto storage yard is located in our gateway corridor and I feel these recommendations should be part of the motion.

Mr. Gunter suggested that we add no wreck or inoperable vehicles be stored on the premises.

Chainman Pridgen asked if the landscaping as a condition for approval that we add to the motion that the landscaping be approved by the Planning Department.

Mr. Kelley asked for clarification. If this auto storage yard for operating vehicles transitioned into a storage yard for wrecked vehicles then the business owner would have to come back to the Planning Commission if it were to be inoperable or wreaked.

Council Member Canon stated yes.

Ms. Cannon asked if these cars would be stored more than 30 days.

Council Member Canon stated possibly.

Mr. Hilyer stated we should have larger plants planted and a time limit to install the landscaping and slats. If not his approval is revoked.

Mr. Kelley stated I have a problem of a time table of these conditions this would fall on code enforcement to enforce.

Mr. Hilyer stated we need to make sure these conditions are met.

Mr. Kelley agreed to the time limit on landscaping and the slats installed in the fence. I think what we could do is on occasion we could stop by the property and do an inspection.

Mr. Hilyer amended the original conditional use motions to include a 30 day time period to produce and install a mature landscape plan, allowing no wreaked or inoperable vehicle storage, and installing the slats in the fence.
Mr. Morgan seconded.

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

C. <u>ZONING ORDINANCE TEXT AMENDMENT – Public Hearing</u>

5. Amend Section 9 Sign Regulations, Add new section 9.7.2 concerning outside lighting (Tabled at April 24th meeting)

Mr. Kelley reported during the past six (6) months, there has been a rash of inquiries concerning outline lighting for building features of commercial businesses. A franchise

is a typical commercial business, which mandates such a feature Dairy Queen for example or a private business such as Irish Pub. The sign ordinance is clear in Section 9.2, A. 4 that flashing strips or flashing strings of lights are prohibited except under certain parameters.

However, the City Attorney has suggested that staff consider an amendment to clarify Outline Lighting.

Staff recommends the following amendment: ADD SECTION 9.7.2 OUTLINE LIGHTING to read as follows: Outline Lighting includes any arrangement or display of lighting tubes or compact fluorescent bulbs used to outline the features of a building including the building's frame, roof line, shape, or window dimensions. Outline lighting includes both temporary and permanent arrangement of digital tubing or bulbs whether located inside or outside a building if such tubing or bulbs is visible to the public from a public right-of way. Outline lighting shall be operable and maintained at all times.

Outline lighting is permitted in C-1, C-2, C-3., I-1, and Commercial PUD's including both overlay districts, GC-1 and GC-2.

Outline lighting in the Downtown Historic District shall be white only.

On May 10, 2012, the Historic Commission recommended 5-0 that colored lights be permitted in the Downtown Historic District. White lights are "too boring" in the opinion of the Commission. At the request of the Commission, add for emphasis, cite Section 9.2, Subsection A, Paragraph 4 Prohibited and Illegal Signs as a part of the amendment.

Also, the State Historic Commission has neither a preference nor a position on color of lights in a historic district.

THE MAIN STREET BOARD WILL MEET ON MONDAY, May 21, 2012 AND PROVIDE A RECOMMENDATION ON OUTLINE LIGHTING. THIS INFORMATION WILL BE PROVIDED AT THE MEETING ON MAY 22, 2012.

On May 21, 2012 the Main Street Board made the following recommendations for consideration to the Outline Lighting Text Amendment:

1. Allow the string/tube lighting.
2. No outline lighting of building or roof
3. White lights only.
4. No LED (Light Emitting Diode)

Commissioner Silberman suggested language to include all non-directional lighting (By conversation on May 21, 2012, at the Planning Department office).

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

Mr. Hilyer stated the neon lights were outlawed in some places because they cause fire.

Ms. Harrelson emphasized that the LED lights create an odd color. That is, the white lights look blue.

Chairman Pridgen stated we should study this with staff and bring this back next month.

D. <u>OTHER BUSINESS</u>

6. Discuss proposed amendments to Section 4.4 Final Plat Approval, B. Improvements concerning performance bonds

Mr. Kelley reported Commissioners: Mr. Dorsey, Mr. Hilyer, and I are preparing for your discussion at the work session some ideas for improving our present performance security instruments set forth on p. 23 (enclosed) of the subdivision ordinance. Specifically, we will be asking your feedback on Security Instrument (Warranty Bond/a

percentage), warranty bond time period (years), time period to correct deficiencies (# of days before calling the bond), administration and monitoring. We will have a draft ready for your review and proceed at your direction to set a public hearing in June to amend the subdivision ordinance.

A quote from the Planning Advisory Services of the American Planning Association states: "Zombie subdivisions—entitled but incomplete residential projects—have become a powerful symbol of the Great Recession in many communities nationwide. When the housing market collapsed in 2008, many developers went belly up, leaving hundreds, if not thousands, of subdivisions in development limbo. These zombie subdivisions depress property values and run the risk of risk of public nuisances."

Given either the overbuilding or overplatting that happened in Opelika, we are dealing with some unfinished or unbuilt subdivisions. However, we are encouraged that so far in 2012 Opelika has permitted as of May 11, 2012, sixty-four (64) single family homes in existing subdivisions.

Nevertheless, our performance guarantees need updating. Performance guarantees for improvements gained popularity during previous downturns, but as Opelika has experienced, performance guarantees don't always cover the full cost of either correcting faulty infrastructure or completing the improvements.
Staff is asking for your input and support on the following items:

1. Either require simultaneously after preliminary plat approval both a performance bond and a warranty bond, OR a performance bond with submission of construction drawings after preliminary plat approval and a warranty bond prior to Planning Commission giving final plat approval.
2. Increase the warranty bond from 25% to 50% of the construction cost to correct problems if necessary.
3. Increase the term of the warranty bond from two (2) years to three (3) years.
4. Provide thirty (30) days to correct problems instead of twenty-one (21) before calling the warranty bond.
5. Instead of the City Engineer and "appropriate city departments" providing administration and monitoring of the bonding procedure; the City Engineer shall administer this process.
6. Require two (2) signatures, the City Engineer and Public Works Director to release a bond.

Public Works, Engineering, and Planning know that requiring a financial guarantee ensures that owners will carefully weigh their decision to subdivide. However, as we have experienced with some subdivisions in Opelika, performance guarantees don't always cover the full cost of completing the improvements. Depending upon the type of guarantee, Opelika must also be careful about collecting before an instrument expires. Also, in some cases, Opelika may have to go through costly legal proceedings to collect the money. Our subdivision ordinance does need revisions for financial guarantees so that taxpayer dollars do not undermine for flawed infrastructures by same developers.

Also, in Subsection A; Paragraph 2 states that preliminary and final plat approval shall not be given in the same meeting unless the plat does not involve the construction of any public improvements. Historically, which probably occurred in the "boom years" prior to the recession, staff and Planning Commission allowed preliminary and final plats to be approved simultaneously at the same meeting after a public hearing. This was undoubtedly due to heavy monthly caseload and shortage of staff. Unless the Planning Commission desires to amend the subdivision ordinance to allow same, the staff will begin enforcing the ordinance as written effective September 1, 2012. (This is a recommendation from Planning)

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

Chairman Pridgen stated the wear surface should be a priority.

Mr. Cherry agreed that the structures are completed before the lots are sold and built.

Mr. Hilyer stated the problem is the Commission allowing preliminary and final approval at one meeting. It should be two separate meetings. Final approval should signify all infrastructure completed. Within two year sold or not the final surface should be in place.

Mr. Cherry stated that one street has been a problem. The street with the roundabout from Veterans to Lee Scott [Academy Drive]. That never was a completed street as far as final surface is concerned. The waiting period is too long. They should have a warranty bond that comes with the application for final approval.

With no further business on the agenda, Chairman Pridgen adjourned the meeting at 4:00 p.m.

_____ Keith Pridgen, Chairman

_____ Rachel Dennis, Secretary