

**January 24, 2006**

The City of Opelika Planning Commission held its regular monthly meeting on January 24, 2006 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: Chairman Sadler, Dr. William D. Lazenby, Jerry Posey, Arthur Wood, Dr. William B. Whatley, Mayor Fuller, Keith Pridgen, Lewis Cherry, Jesse Seroyer, Jr.

MEMBERS ABSENT: None

STAFF PRESENT: Marty Ogren, Planning Director;  
Charlie Thomas, Engineering Director;  
Brian Kriel, Opelika Light & Power;  
Alan Lee, Utilities Board;  
John Holley, City Horticulturist  
Guy Gunter, City Attorney

CALL TO ORDER: Chairman Sadler called the meeting to order at 3:02 p.m.

Chairman Sadler asked for a nomination to re-elect the Chairman and the Vice-Chairman.

Dr. Lazenby nominated Mr. Sadler and Mr. Pridgen for Chairman and Vice-Chairman.

Mr. Wood seconded the nomination.

Ayes: Wood, Whatley, Lazenby, Seroyer, Fuller, Posey, Cherry

Nays: None

Abstention: None

The nomination passed by a unanimous vote.

He stated that if there were no additions or corrections to the minutes for the Planning Commission Meeting for the month of December he would like to entertain a motion to accept the minutes as written.

Mr. Wood made a motion to accept the December 20, 2005 meeting minutes as written.

Mr. Pridgen seconded the motion.

Ayes: Wood, Lazenby, Whatley, Fuller, Pridgen, Cherry, Seroyer, Posey

Nays: None

Abstention: None

The motion to accept the December 20, 2005 Planning Commission meeting minutes passed.

**A. PLATS-Preliminary & Final PUBLIC HEARING**

**1. Springhill Heights S/D, Rev. of 4 lots, Lowndes St. & Dallas Ave., Scott Williams, P/F Approval.**

Mr. Ogren reported that the applicant is requesting preliminary and final approval for a 4 lot subdivision. The purpose of the subdivision is to building single family homes. Agenda item #11 discusses the applicant's request for modified zero lot line housing. All four lots meet the minimum lot size (7,500 square feet) requirement for an R-3 zone and minimum 25 foot front building setback.

**Planning staff recommends preliminary and final plat approval.**

Mr. Thomas, Engineering, reported that the applicant is cautioned that sewer laterals do not exist for all lots. Sewer service may be subject to payment for,

and installation of one (1) or more new sewer tabs. He recommended approval subject to the following:

- a) Provide a digital version of the final plat, per Section 4.5 of the S/D Regulations.
- b) Provision of five feet (5') of ROW along Lowndes and Dallas Avenue.
- c) No building permits may be issued until infrastructure is approved by Engineering.

Mr. Thomas said that the applicant is aware of these requirements.

Mr. Lee, Utilities Board, reported that water service is accessible to this subdivision by water mains in the R.O.W. of Dallas Avenue and Lowndes Street.

Mr. Kriel, Light & Power, reported that this development is in the Opelika Light & Power service area.

Chairman Sadler opened the public hearing.  
No comments were made from the audience.  
Chairman Sadler closed the public hearing.

Chairman Sadler asked for questions or comments.

Mr. Ogren also stated that in agenda #11 – which covers the minimum lot size in the R-3 zone, there is some right-of-way which the Engineering Department is requesting. Currently the R.O.W. is 40 ft., so the minimum lot size of some of the developed lots is a little smaller than 7,500 sq. ft. (about 7,000) so Planning staff asked that minimum lot requirements be waived. The Right-of-Way is being requested by the Engineering Department.

Chairman Sadler asked for a motion.

Dr. Lazenby made a motion to grant preliminary and final plat approval with staff requirements.

Dr. Whatley seconded the motion.

Ayes: Lazenby, Posey, Cherry, Seroyer, Wood, Pridgen, Whatley, Fuller

Nays: None

Abstention: None

The motion to grant preliminary and final plat approval with staff requirements passed.

## **2. E.E.B. Subdivision, Re-division of Parcel B, 1 lot, Columbus Parkway, Smith & McCreless, P/F Approval.**

Mr. Ogren reported that there are changes to agenda items #2 & #3. The change addresses legal concerns in how a 2 acre portion of a parcel from adjacent property owners is swapped. In our work-session review of agenda item #2 and #3, the two plats provided a one step process in swapping properties. Now, instead of two plats to review and approve for this land swap, there will actually be four plats (the four plats address the legal concern). We are adding a step in the 2-acre land swap. The Planning Commissioners have four plats before them. Staff recommends we combine agenda items #2 and #3 for plat review so it will be easier to follow the sequences involved in swapping the properties.

The applicant is requesting preliminary and final plat approval for a subdivision that involves swapping property with the adjacent property owner (Preston Holdings LLC-John Grot). The 2.5 acre parcel that is transferred to the applicant (Smith & McCreless) is located in the Northeast corner of Parcel B. The adjacent property owner's property that is received from this applicant is discussed in the

next agenda item (#3). The purpose of this subdivision or swap is so Parcel B can obtain more street frontage in the future Perimeter Road.

The plat meets preliminary and final subdivision plat requirements.

**Planning staff recommends preliminary and final plat approval.**

Mr. Thomas reported that Engineering suggests donation of the future R.O.W. as shown on the plat.

Mr. Lee reported that water service is accessible to this subdivision by a water main in the R.O.W. of South Uniroyal Road.

Mr. Kriel reported that Opelika Light & Power serves this area.

Chairman Sadler opened the public hearing.

Mr. Newell asked Mr. Ogren to clarify on the site plan what will take place with these properties.

Mr. Ogren explained in short detail that the purpose of this subdivision or swap is so Parcel B can obtain more street frontage in the future Perimeter Road.

Chairman Sadler closed the public hearing.

Chairman Sadler asked for questions or comments.

Chairman Sadler asked for a motion.

Mr. Pridgen made a motion to grant preliminary & final plat approval with staff recommendations.

Mr. Seroyer seconded the motion.

Ayes: Wood, Lazenby, Whatley, Fuller, Cherry, Pridgen, Seroyer, Posey

Nays: None

Abstention: None

The motion to grant preliminary & final plat approval with staff requirements passed.

**3. South Lake S/D, Redivision of Parcel D & First Revision of Parcel B, 6 lots, South Uniroyal Road, Preston Holdings, LLC, P/F Approval.**

Mr. Ogren stated that this agenda item was just discussed in the previous agenda item for E.E.B. Subdivision. This agenda item is also a part of the land swap, with this item being in the southern section of the parcel which is the swap that is to the Smith & McCreless property. The last agenda item for 2 & 3, E.E.B. & Southlake is being combined by the 4 plats that were presented last together. He said that it adds another step for recording purposes.

Mr. Thomas reported that the plat title for this and the following item will be revised. He suggested donation of the proposed 150' R.O.W. as shown on the plat. PC meeting is our first opportunity to review the revised plat, which appears consistent with discussions during the work session. Subject to legal concurrence, he recommended approval.

Mr. Lee reported that water service is accessible to this subdivision by a water main in the R.O.W. of South Uniroyal Road.

Mr. Kriel reported that Opelika Light and Power provides electric service to this subdivision.

Chairman Sadler opened the public hearing.

No comments were made from the audience.  
Chairman Sadler closed the public hearing.

Chairman Sadler asked for questions or comments.

Mr. Seroyer made a motion to grant preliminary & final plat approval with staff requirements.

Dr. Whatley seconded the motion.

Ayes: Cherry, Whatley, Seroyer, Fuller, Lazenby, Wood, Pridgen, Posey

Nays: None

Abstention: None

The motion to grant preliminary & final plat approval with staff requirements passed.

#### **4. Creekstone S/D, Redivision of Parcel B, 33 lots, South Uniroyal Road, Preston Holdings LLC, Final Approval.**

Mr. Ogren reported that this plat was given preliminary approval at the July 26, 2005 meeting. The preliminary approval was for 126 lots. This is phase one of the 126 lot residential development (*a map of all phases is provided*). The applicant is requesting final plat approval for 33 lot subdivision. The purpose of the subdivision is to build single family homes. This property was rezoned from R-1 to R-3 & R2 several months ago. The R-3 rezoning area (61 acres) allows for about a 145-lot residential neighborhood. This particular plat shows 27 lots in the R-3 zone and 5 lots in the R-2 zone. The five R-2 zoned lots front along South Uniroyal Road.

The property has been rezoned R-3 & R-2, but a resolution involving this property to improve traffic along South Uniroyal Road is before the City Council. The resolution, which includes an Agreement between the City & Preston Holdings, involves the relocation of South Uniroyal Road which will align with North Uniroyal Road and create an intersection on Highway 280. At this time, the resolution has been tabled until details of the Agreement are decided.

The five R-2 lots along South Uniroyal Road are at least 150 feet deep as required for rezoning approval. Also as required, a 30 foot "dashed" buffer line is shown between the R-2 and R-3 zoning districts but it is not labeled. Planning staff recommends that the buffer line be labeled "30 foot buffer-Undisturbed Wooded Area" on the plat. The R-3 lots exceed the minimum 7,500 square foot lot size ranging from 8,200 s.f. to 14,800 s.f. The minimum front building lines (R-3=25 feet; R-2=35 feet) needs to be shown on each lot.

#### **Planning staff recommends the final plat request be tabled until the Agreement between the developer and City Council concerning the relocation of South Uniroyal Road is approved.**

Mr. Thomas reported that construction drawings have been reviewed, but not approved at this time. Applicant has agreed to drop Creekstone S/D, so the plat should be re-titled. Lots and parcels need to be renumbered accordingly. Engineering concurs with the proposed street layout. He recommended approval subject to the following:

- a) Provide a digital version of the final plat, per Sect. 4.5 of the S/D Regulations.
- b) Correct all signature lines.
- c) Wildwood & Hunter street names have been previously used. Boxwood should be changed due to existing Watswood. Final approval of street names is subject to concurrence from our public safety departments.
- d) No building permits may be issued until infrastructure is approved by Engineering.

He said that the applicant is aware of each of these requirements.

Mr. Lee reported that water service is accessible to this subdivision by a water main in the R.O.W. of South Uniroyal Road.

Mr. Kriel reported that Opelika Light & Power will provide service to this subdivision.

Chairman Sadler stated that this request is a final approval. He said that the board needs to decide what they should do based on Mr. Ogren's recommendation; he said the board can approve this based on City Council approving the resolution between the parties and it will save time with no plat signed or recorded until City Council has acted. It would save time for the developer if the board approves it now; but it's the board's decision however you want to handle it, or if you do not want it to be handled until after the City Council has reached an agreement with the land owners about the right-of-way; or the board can decide to table the request.

Mr. Posey made a motion to grant final approval with staff recommendations with a positive recommendation from City Council for the rezoning.

Mr. Pridgen seconded the motion.

Chairman Sadler asked for a vote.

Ayes: Fuller, Pridgen, Wood, Whatley, Cherry, Seroyer, Lazenby, Posey

Nays: None

Abstention: None

The motion to grant the final plat approval with staff recommendations with a positive recommendation from City Council for the rezoning passed.

##### **5. Gibson Estate S/D, 11 lots, Grand National Parkway, Gibson Family, P/F approval.**

Mr. Ogren reported that the applicants are requesting preliminary and final plat approval for an 11 lot "estate subdivision". This subdivision was discussed at the December 15<sup>th</sup> Planning Commission Work-session. The applicant was willing to postpone a decision on the plat until this meeting so staff could discuss this "estate subdivision" with the City Attorney.

The primary issue concerns approving a subdivision plat to settle a family will, but the 11 lots will have access to an unimproved future street. The future street is 2,730 feet long (1/2 mile). The Gibson family cannot afford to build the street (at least \$450,000) to City standards as required for subdivisions. The Gibson's are asking the City to waive the street improvement requirements since the plat is a "not-for-profit" subdivision, approval settles a family estate, and the family cannot afford to build the street. The Gibson's are willing to add statements on the plat saying (1) the city is not responsible for any improvements on the "future street", (2) the lots will remain in the immediate Gibson Family, (3) only one dwelling per lot allowed, and (4) no further subdivision of lots until "future street" built to city standards.

The City Attorney does not see any practical solution toward approving the subdivision. If the subdivision is approved without street improvements and if a Gibson Family member needs long term medical care, then the sale of their 5+ acre parcel may be the primary source of income in order to obtain emergency care. However, if the plat requires the street to be approved before the lot is sold then the cost of the street would significantly deplete the income that was to be used for medical care. This type of situation would compel the City to approve selling a lot so someone could obtain medical care. The future street would no longer be improved. This scenario, or other similar situations, would put the City

in a difficult dilemma requiring the property owner to build the street City standards before medical care could be obtained.

**The below report was prepared for the December 20, 2005 meeting.**

The purpose of this subdivision is to formalize existing conditions on certain properties and assist in settling a will for the Gibson Family. In past meetings, the Planning Commission has reviewed and approved "estate subdivisions" different from standard subdivisions (Sellers Family in 1997 and Ledbetter Family in 2001). The Commission has varied regulations to accommodate a will, but also added special requirements to secure future public interest.

The existing condition to be formalized involves Lots 1 through 5. There are five homes on the Gibson Family property. The total area of the Gibson property is 44.7 acres. The subdivision provides a lot for each of the home so a family member can own their own land. Also, lots 1 & 2, 4 & 5 do not meet the 3 acre minimum lot size required for lots in the Saugahatchee Watershed. However, the homes have existed since the 1970's and this is treated as an existing condition. No further development is planned for Lots 1, 2, 4, and 5. The homes on Lots 1, 4, and 5 has access from an easement since the 1970's. The easement also provided access to the adjacent property owner (Dr. Jere Colley) south of the Gibson property. The easement will remain in place for the adjacent property owner, but the same 60 foot strip will be dedicated as a future street.

Lots 6 through 11 are vacant. The lots range from 4.5 to 6.4 acres. These lots meet the 3 acre minimum lot size requirement for lots within the Saugahatchee Watershed. The plat also shows Lots 6 through 11 having access to a dedicated 60 foot "Reserved for Future Street." The future street is 2,730 feet long (1/2 mile). The Gibson Family members are requesting one dwelling per lot be allowed for Lots 6 through 11 without requiring the family to build the street to city standards [*For standard subdivisions, street improvements are required*]. If the plat is approved, these six lots (as well as Lots 1, 4 & 5) will have access on an unimproved future street. A recommended condition for this approval is that the homes must only be occupied by members of the immediate Gibson Family<sup>1</sup>. If a lot is proposed to be sold to someone outside the immediate Gibson family then the 60 foot "Reserved for Future Street" must first be built to city standards before the property is sold. In past meetings, the Planning Commission has approved estate subdivisions and not required the heirs to build public streets to city standards.

Planning staff recommends that this subdivision be reviewed as a 'not-for-profit' family estate subdivision and not a standard subdivision subject to the following conditions and reason. The note at the bottom of the plat stipulates these conditions.

1. The subdivision reflects an existing situation and settles a family will.
2. All lots are to be owned by the immediate family. The 60-foot "Reserved for Future Street" shall be brought up to city standards before a lot fronting on the said future street is sold outside the immediate family.
3. No further subdivision of Lots 1 through 11, except for Lot 3, shall be permitted until the 60 foot "Reserved for Future Street" is brought up to city standards.
4. Only one dwelling per lot shall be permitted.
5. The note located on the bottom of the plat must be added to each deed or the recorded plat is considered null and void.
6. A copy of the deeds should be submitted to the Planning Department showing that each deed includes the note that was added to the plat [*#6 added at the January 24<sup>th</sup> Planning Commission meeting*].

Planning staff recommends preliminary and final plat approval subject to the above conditions.

---

<sup>1</sup>The property owner's parents, spouse, son(s), daughter(s), mother-in-law, and father-in-law.

Mr. Thomas reported that Engineering has no objection to approval, subject to the following conditions:

- a) Provide storm-water management plan with calculations.
- b) Dedicate and name (Gibson Lane) sixty feet (60') of public right-of-way (R.O.W.), with a temporary cul-de-sac.
- c) Each proposed property owner should sign a release in favor of the City for any and all R.O.W. maintenance, in perpetuity, unless and until such time as the R.O.W. is improved to Public Works Manual standards in effect at the time of construction. Further, all such maintenance is strictly the responsibility of the property owners. Said release should be included in, attached to, or otherwise linked, to each property deed, recorded, etc.
- d) Lot addresses will be unusual, with Lot numbers associated with a single Grand National Parkway address and mail delivery will only be at Grand National Parkway.
- e) No services will be provided on "Gibson Lane", including, but not limited to trash pick up, mail delivery, etc., unless and until such time as the R.O.W. is improved per item c, above.

He stated that if approved, applicant needs to provide a digital version of the final plat, per Sect. 4.5 of the S/D Regulations.

Mr. Lee reported that water service is accessible to this subdivision by a water main in the R.O.W. of Grand National Parkway. This subdivision is in the Saugahatchee Watershed Protection Area, and meets the intent of the plan. He also stated that the developer will be responsible for extension of the water main from Grand National Parkway to the lots if any development occurs.

Mr. Kriel reported that this subdivision is in the Tallapoosa River Electric Co-op service area.

Chairman Sadler opened the public hearing.  
Citizen came forth and stated their approval for the subdivision.  
Chairman Sadler closed the public hearing.

Chairman Sadler asked for questions or comments.

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

Mayor Fuller seconded the motion.

Mr. Pridgen stated that it was discussed at the work-session requiring at the end of the road a temporary cul-de-sac just incase emergency vehicles needed to get to the houses; right now according to the plat it's a dead end.

Chairman Sadler asked the applicant if he had a problem with the request.

Mr. Gibson said no, and Mr. Sprayberry said they were looking into that request.

Chairman Sadler asked for a vote.

Ayes: Cherry, Whatley, Wood, Pridgen, Fuller, Posey, Lazenby

Nays: None

Abstention: Seroyer

The motion to grant preliminary and final plat approval with staff recommendations passed.

**6. Capps-Palmer S/D, 1<sup>st</sup> Addition, 1<sup>st</sup> Revision, 6 lots, Gateway Drive, Final Approval.**

Mr. Ogren reported that the applicant is requesting final plat approval for a 10-lot subdivision. The lots range from 1.6 to 20 acres. This plat was given preliminary plat approval at the September 2005 meeting. At the September 2005 meeting preliminary plat approval was for 8 lots. At that meeting there was discussion with the applicant about a new street connecting Gateway Drive to Hamilton Road (at the Stonybrook Road entrance). The Commission and an adjacent property owner saw an opportunity to connect the two streets to enhance street networking and to encourage development between Hamilton Road and Gateway Drive. The new street is shown as "Clayton Drive" on the plat and runs from Gateway Drive to the adjacent property owner's lot line. The vicinity map on the plat shows the entire street running from Gateway Drive to Hamilton Road. At the December 20<sup>th</sup> meeting, the City Council approved rezoning of this property from R-1, GC-1 to C-3, GC-1.

The plat meets final plat requirements including all the lots meeting the 150-foot minimum lot width requirement for a GC-1 zoning district.

Planning Staff recommends final plat approval.

Mr. Thomas reported that construction plans have been received, but not reviewed at this time. He recommended approval subject to the following:

- a) Provide a digital version of the final plat, IAW Section 4.5 of the subdivision regulations.
- b) Final approval of street names is subject to concurrence from our public safety departments. The Clayton street name has been previously used.
- c) Approval of construction plans, including revised striping on Gateway Drive, yet to be finalized.
- d) Correct Lot 1 of existing Capps-Palmer S/D to Parcel 1, per recorded plat.
- e) Sewer laterals may not be available and are subject to payment of tap fees.
- f) A note on the plat that "No direct access to Gateway Drive is allowed from Lots 1A, B, C, 2A or 2B.

Mr. Thomas said the applicant is aware of each of these requirements.

Mr. Lee reported that water service is accessible to this subdivision by a water main in the R.O.W. of Clayton Way and Capps Landing.

Mr. Kriel reported that electric service to this development will be divided between Alabama Power Co., and Opelika Light & Power.

Chairman Sadler opened the public hearing.  
No comments were made from the audience.  
Chairman Sadler closed the public hearing.

Chairman Sadler asked for questions or comments.

Dr. Lazenby made a motion to grant final plat approval with staff recommendations.  
Mr. Posey seconded the motion.

Ayes: Posey, Lazenby, Whatley, Cherry, Pridgen, Fuller, Wood, Seroyer  
Nays: None  
Abstention: None

The motion to grant final plat approval with staff recommendations passed.

**7. Lucy Jackson S/D, 3<sup>rd</sup> Revision, Saugahatchee Lake Road, 6 lots, Bernice Fauntleroy, P/F Approval.**

Mr. Ogren reported that the applicant is requirements preliminary and final plat approval for a 6 lot single-family residential subdivision. This plat was given final approval at the April 2005 Planning Commission meeting but the plat was never recorded. The 120 day deadline to record a final plat has expired.

The lots range in size from 8,000 square feet to 10, 800 square feet. The lots are large enough to meet the development standards (minimum setbacks, lot width) for the R-3 zone. Lot 2A-1 and Lot 2B are 2.48 and 1.61 acres respectively. At a later time the applicant will subdivide these lots with public street access onto the "proposed 60' right-of-way".

The plat meets preliminary and final plat requirements.

Planning staff recommends preliminary and final plat approval.

Mr. Thomas reported the design drawings have been reviewed and approved with comments. The Jackson Street name has been previously used and cannot be approved. Lots 2A-1 and 2A-2, or any future subdivision of them, must take access from the proposed road. That is any additional access to Veteran's Parkway from this subdivision is prevented by access management. Subject thereto, he recommended approval.

Mr. Lee reported that water service is accessible to this subdivision by a water main in the R.O.W. of Saugahatchee Lake Road.

Mr. Kriel reported that Opelika Light & Power will provide service to this subdivision.

Chairman Sadler opened the public hearing.

Ms. Johnnie McDougal came forth and stated that she lives in this community and is all for improvements, but is opposed to the proposed subdivision because of the lot size proposed for each of these lots. She said that it appears to be less than 7,500 square feet and she lives on a one acre lot and feels that this will cause hers and surrounding property values to decrease.

Chairman Sadler stated that the zone she lives in and the zone for the proposed lots is in an R-3 and the minimum lot size required is 7,500 square feet. He said the lot size for the proposed lots is 8,000 to 10,000 square feet.

Ms. McDougal said that she feels that the proposed lots would not be appropriate with what is already out there because most lots are at least an acre or more.

Mr. Jimmy Jackson came forth and stated that he too has property near the proposed lots and until today wasn't aware of the R-3 zone. He said that he doesn't have a problem with new houses being built near his property, but feels the lots are too small with what is already there about  $\frac{3}{4}$  acre or more per each owner. He asked that the request for the subdivision be denied.

Chairman Sadler closed the public hearing.

Mr. Pridgen stated that this is a difficult situation and the home owners that surround this proposed subdivision would like for the lots to be larger but by law the board has to go by how it's currently zone which in this case is R-3 (minimum 7,500 square feet) for each lot. He said that if the board approves this then he would recommend that lots 2A-4 and 2A-5 only have access onto the Jackson Street road instead of direct access onto Saugahatchee Lake Road.

Mr. Seroyer asked if the developer was present that plans to build on the lots.

Ms. Fauntleroy stated that she plans to build nice homes, and stated that they should be better than what is presently built surrounding this property.

Chairman Sadler asked for a motion.

Mr. Seroyer made a motion to deny the request.  
Mayor Fuller seconded the motion.

Mr. Gunter, City Attorney, said according to the law; if the proposed plat meets all existing standards of the city it has to be approved, but if it fails to meet those standards of the city the law says that the Planning Commission must put in the minutes the reasons in which it fails to meet the existing standards. He said he doesn't feel that compatibility with existing houses is a standard for it; it would be a standard you could consider in zoning, but once the property is zoned you should evaluate the plat in light of the existing zoning so if it meets the 7,500 sq. feet criteria ; it would be in compliance with the existing zoning ordinance of the City of Opelika and the board couldn't deny it because the lots are too small because that's the way it's zoned—so you would have to specify in the minutes that it fails to comply with the subdivision regulations or the zoning ordinance or some other aspect, and it appears to comply with the ordinance.

Mayor Fuller asked if this proposed subdivision is in the watershed.

Mr. Lee, Utilities Board, said no.

Chairman Sadler stated that according to what Mr. Gunter said, the board may have to approve the request.

Chairman Sadler asked Mr. Seroyer if he would like to withdraw his motion based on the City Attorney's comments or would he prefer the board to vote.

Mr. Seroyer said he would like the board to vote.

Chairman Sadler asked for a vote.

Ayes: Seroyer, Fuller

Nays: Cherry, Wood, Whatley, Pridgen, Posey, Lazenby

Abstention: None

The motion to deny the request failed due to lack votes.

Chairman Sadler asked for another motion.

Mr. Posey made a motion to grant the preliminary and final plat approval with staff recommendations and the recommendation that the 2 lots discussed will only access onto Jackson Street.

Mr. Pridgen seconded the motion.

Ayes: Cherry, Wood, Whatley, Posey, Pridgen, Lazenby

Nays: Seroyer, Fuller

Abstention: None

The motion to grant the preliminary and final plat approval with staff recommendations passed.

## **B. ADMINISTRATIVE PLATS - RATIFY**

### **8. Orr Industrial Park, Resub. of parcel J, 2 lots, Williamson Avenue, QRS Properties LLC, Ratify.**

Mr. Ogren reported that this plat is an administrative subdivision that needs to be ratified. The 2 lot subdivision involves creating a lot to sale or donates to the East Alabama Museum. The East Alabama Museum desires this property

because it was a former location of a World War II POW camp. The POW property is added to the museum's archives and maintained by the museum.

The plat is before the Planning Commission because administrative plats are required to be ratified by the Planning Commission.

All Planning Department Subdivision Plat requirements have been met.

Planning staff recommends that the Planning Commission ratify the plat.

Mr. Thomas reported that the applicant is cautioned that sewer laterals do not exist for all lots. Sewer service may be subject to payment for, and installation of one (1) or more new sewer taps.

Mr. Lee reported that water service is accessible to this subdivision.

Mr. Kriel reported that Opelika Light & Power will provide service to this subdivision.

Chairman Sadler asked for comments or questions.

Chairman Sadler asked for a motion.

Mayor Fuller made to motion grant the administrative plat request.  
Dr. Lazenby seconded the motion.

Ayes: Posey, Pridgen, Fuller, Whatley, Wood, Lazenby, Seroyer, Cherry

Nays: None

Abstention:

The motion to grant the administrative plat request passed.

### **C. CONDITIONAL USE**

#### **9. Tom Hayley, 3300 Pepperell Parkway, C-3, GC-2, small engine repair & retail sales.**

Mr. Ogren reported that the property owner/applicant is requesting conditional use approval to allow a tenant to repair small engines on lawn and garden equipment. At times, the tenant will also repair go-carts and all terrain vehicles. The property is the former *Mr. Fresh produce Store* at 3300 Pepperell Parkway near the Wal-Mart Supercenter. The property is located in a C-3, GC-2 zone and conditional use is required for repair businesses. (The tenant will also sell lawn and garden equipment; retail sales are outright allowed in a C-3, GC-2 zone). The tenant (Steve Price, *Price Small Engine Repair*) is now located at 42 Samford Avenue. He is the distributor for *Red Max, Grasshopper, and Walker* lawn and garden equipment. These companies manufacture weed-eaters, edgers, blowers, chainsaws, and lawnmowers. The tenant services the lawn and garden equipment they sale as well as other brands of lawn and garden equipment. The tenant said that most "repairs" are actually routine tune-ups or oil changes and not extensive repairs such as overhauls. The early spring and summer months are the "peak season" for the business. The tenant said up to 25 cars/trucks a day will drop-off their lawn or garden equipment for repairs/tune-ups. At times, the business will contact with a retail store to repair other types of small engines such as all-terrain vehicles and go-carts. In the past year, the tenant has out grown the Samford Avenue location and he needs a larger building. In November 2004 this same property at 3300 Pepperell Parkway was approved as a retail sales lot called "Opelika ATV."

In the 1980's, this Pepperell Parkway property was developed when the Mr. Fresh opened for business. The site plan submitted shows the existing 6,000 square foot building and 39 parking spaces that Price Small Engine Repair will occupy. Minimum parking spaces required for "repair services" are 1 parking

space per 300 square feet plus one space for each employee. The site meets the parking requirements. In November 2004 the site met Landscaping requirements as well as possibly considering the limited green space available and constraints because of the existing asphalt. The ISR is 79%; the GC-2 requirement is 75%.

Planning staff believes the proposed use is appropriate in this C-3, GC-2 zoning district. A small engine repair business is similar in activities as other automobile repair businesses located along this commercial corridor on Pepperell Parkway. Examples of other repair shops along Pepperell Parkway are a muffler shop, body shop, and auto repair and maintenance businesses.

**Planning staff recommends approval subject to the following conditions:**

1. All activities concerning repairs to lawn and garden equipment must be done inside the building or out of public view i.e., out of view from Pepperell Parkway.
2. All lawn and garden equipment and ATV type vehicles must be stored inside.
3. During business hours the display of lawn and garden equipment are allowed along Pepperell Parkway. The equipment must be displayed on private property not the Pepperell Parkway right-of-way. All display equipment must be stored indoors or out of public view after business hours.

Mr. Thomas reported that if traffic arrows shown on the site plan are to be painted, correct conflict at N.W. access to Blanton Ave. Subject thereto, he recommended approval.

Mr. Lee reported that water service is accessible to this use.

Mr. Kriel reported that Opelika Light & Power presently provides service to this building.

Mr. Holley, City Horticulturist, recommended approval.

Chairman Sadler asked for questions or comments.

Chairman Sadler asked for a motion.

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

Mr. Pridgen seconded the motion.

Ayes: Whatley, Pridgen, Cherry, Fuller, Seroyer, Lazenby, Wood, Posey

Nays: None

Abstention: None

The motion to grant the conditional use approval with staff recommendations passed.

**10. Ida Maddox, North 8<sup>th</sup> Street, church in C-1 zone-Victory in Jesus**

Mr. Ogren reported that this conditional use request was reviewed at the December 20<sup>th</sup> Planning Commission meeting. The applicant is requesting conditional use approval so their church may continue to operate at 7 North 8<sup>th</sup> Street. At the December meeting Staff reported that the church had existed at this location for at least six years and the church or property owner (Charles Brown) was unaware that Planning Commission approval was required for churches in all zoning districts. The Commission asked if there was any record of a recent building inspection of the building and if not, the Commission recommended that the building be inspected. David Newman inspected the

building and listed some 'life & safety' code violations that must be prepared before the building is occupied again.

The property owner was contacted and some repairs were completed last month. Planning staff contacted the property owner on January 19<sup>th</sup> and he said that the electrician was working on the building yesterday and repairs should be completely ready for final inspection. Planning staff expects to report on Tuesday, January 24<sup>th</sup> that the repairs are complete. The church has not been meeting at this location.

Planning staff recommends conditional use approval if the life and safety code repairs are completed and approved by the City Building Inspection Department.

Mr. Thomas, Engineering, had no comment.

Mr. Lee reported that water service is accessible to this use.

Mr. Kriel reported that Opelika Light & Power presently provides service to this building.

Mr. Holley had no comment.

Chairman Sadler asked for questions or comments.

Chairman Sadler asked for a motion.

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

Mr. Wood seconded the motion.

Ayes: Seroyer, Wood, Pridgen, Posey, Fuller, Whatley, Lazenby, Cherry

Nays: None

Abstention: None

The motion to grant conditional use approval with staff recommendations passed.

#### **11. Scott Williams, corner of Lowndes Street & Dallas Avenue, R-3, seven modified zero lot-line single family homes.**

Mr. Ogren reported that the applicant is requesting conditional use approval for seven modified zero lot-line homes at the corner of Lowndes Street and Dallas Avenue. These homes are "modified" zero lot-line because some homes will be 5 feet from the side property line. This means some homes are 10 feet apart but must meet building code requirements concerning separation.

The site plan shows the 7 lots with two lots having access to Dallas Avenue and five homes having access to Lowndes Street. The homes average about 1,350 square feet. All the lots exceed the 7,500 square feet minimum lot size requirement. The site plan also shows landscaping for the development.

In the 1970's this same property was a mobile home park. Now, the applicant who is also a builder, has removed most of the mobile homes in order to build houses. (*One mobile home is on the site that will be removed*). This is a significant improvement in this residential neighborhood. If this development is successful, the property owner/builder would like to purchase more property in the area and build homes.

#### **Recommendation**

Staff recommends approval of the proposed conditional use request subject to the following conditions that address potential drainage problems from the

construction of zero lot line homes and the specific building code requirements described below:

1. A floor plan will need to be reviewed by Building Inspections prior to a building permit approval since some of the homes will be 10 feet apart and due to the restrictive building code requirements for zero lot-line construction.
2. A site grading plan with pad elevations, swales and finished floor elevations shall be submitted to the Building Inspection Office for those homes less than 10 feet from the property line prior to the issuance of individual building permits.

Mr. Thomas reported that issue discussed at Item A.1 should be considered conditions of approval. Subject thereto, he recommended approval.

Mr. Lee reported that water service is accessible to this subdivision by water mains in the R.O.W. of Dallas Avenue and Lowndes Street.

Mr. Kriel reported that Opelika Light and Power will provide service to this development.

Mr. Holley, City Horticulturist, recommended approval.

Chairman Sadler asked for questions or comments.

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

Dr. Whatley seconded the motion.

Ayes: Posey, Whatley, Cherry, Wood, Pridgen, Fuller, Seroyer, Lazenby

Nays: None

Abstention: None

The motion to grant conditional use approval with staff recommendations passed.

#### **D. REZONING-PUBLIC HEARING**

##### **12. Trent Dollyhigh, 1702 South Uniroyal Road, 2 acres, from R-1 to R2 &**

Mr. Ogren reported that the property owner is requesting rezoning 2 acres from R-1 to an R-2 & R-3 zoning district. The property owner desires the same rezoning as approved for Preston Holdings LLC about three months ago. The Preston Holdings property borders this property on the North, South, and West side. Preston Holdings LLC may purchase the property. The property owner is moving to Georgia to take a new job. He needs to sell his home and property. The rezoning will increase his chances of selling to Preston Holdings or another buyer. Planning staff discussed with the property owner that the 30 foot undisturbed buffer would be recommended and probably be required to run through the applicant's property as the rezoning for Preston Holdings. The applicant understands the requirement.

#### **Recommendation**

The property owner is requesting the same zone as approved for Preston Holdings.

Planning staff recommends Planning Commission send positive recommendation to the City Council to rezone the property from R-1 to R-2 & R-3 as shown on the plat.

Mr. Thomas suggested sending a positive recommendation to City Council.

Mr. Lee had no report.

Mr. Kriel reported that Opelika Light & Power provides service in this area.

Chairman Sadler opened the public hearing.  
No comments were made from the audience.  
Chairman Sadler closed the public hearing.

Chairman Sadler asked for questions or comments.

Mr. Pridgen made a motion to send a positive recommendation to City Council.  
Mr. Seroyer seconded the motion.

Ayes: Pridgen, Seroyer, Fuller, Cherry, Whatley, Lazenby, Wood, Posey  
Nays: None  
Abstention: None

The motion to send a positive recommendation to City Council passed.

### **13. Montgomery Co., Inc. Andrews & Anderson Road, 600 acres, from R-1 to R3.**

Mr. Ogren reported that the applicant is requesting rezoning 584 acres from R-1 (low density residential-one acre minimum) to an R-3 (low density residential - 7,500 s.f. minimum) zone. The property has public road access on West Point Parkway, Andrews Road, Anderson Road, and Lake Condy Road. The developer's concept for this rezoning property is a gated residential community or private subdivision. A private subdivision means all the streets and open space areas are maintained through a homeowner's association<sup>1</sup>. Privacy and security is priority for gated communities. At each mentioned above that accesses the neighborhood a [electronic] gate will be provided for those authorized to enter the neighborhood. The developer says the neighborhood is modeled after the 'Greystone' residential neighborhood in Birmingham.

A master plan of the rezoning area is also provided. The master plan shows 868 residential lots. About 80% of the lots (701 lots) range from 13,500 to 40,000 square feet or greater and 20% of the lots (167 lots) range from 6,000 to 13,500 square feet. The plan also shows 109 acres of open space, 31 acres of lakes, an equestrian (horseback riding) and kennel center, and riding trails. Some portions of the development may have lots less than the 7,500 square foot minimum lot size requirement. The developer will need to request conditional use approval for these lots.

---

<sup>1</sup>The streets are required to be built to City standards in case in the future the residents decide not to be a private Subdivision and the City may accept streets, or perhaps accept under certain conditions, for maintenance.

This 584-acre rezoning property is located between the 76 acre site for the new Recreation Center site and Interstate 85 (Interchange 64). The planning process for the Recreation Center involved not only focused on the site plan layout of the Center but also discussions about construction of the Perimeter Road that will link the Recreation Center to Interchange 64. The Perimeter Road provides convenient and immediate access to the Recreation Center directly from Interstate 85. The Perimeter Road runs through the rezoning property but is omitted from the applicant's master plan.

The Perimeter Road was first adopted in 1990 following a Perimeter Road study by an engineering firm. Then, in 1992 the City hired a surveyor to establish a centerline of the Perimeter Road. In 2000 and 2004, the Perimeter Road was approved by the Planning Commission and City Council as part of the City's "future road improvement" projects and adopted in the 2000 and 2004 Opelika Comprehensive Plan. The location of the Perimeter Road in relation to the 76 acre Recreation Center parcel contributed in the decision to locate the

Recreation Center on Andrews Road. In addition, the Recreation Center in relation to the Perimeter Road also assisted in influencing the adjacent property owners (Lowe Family) to donate a portion of their family property to the City.

### Recommendation

The rezoning from R-1 to R-3 is appropriate. The southern portion of the property is located in an R-3 zone. Sewer lines are now under construction running through the property allowing the property to be rezoned from a minimum one acre lot to the smaller lots (7,500 s.f.) allowed in an R-3 zone.

Planning Staff recommends Planning Commission send a positive recommendation to the City Council to rezone the property from R-1 to R-3 subject to the Perimeter Road added to the master plan.

Mr. Thomas suggested sending a positive recommendation to City Council.

Mr. Lee had no report.

Mr. Kriel reported that part of this development will be served by Opelika Light & Power and part of it will be served by Tallapoosa River Electric Co-op.

Chairman Sadler opened the public hearing.

Mr. Waymon Abner came forth and stated his concerns with Anderson Road. He said it has 2 bad curves and many blind spots; and where the distribution center JoAnn is built you can see trucks run about 1 – 2 feet off the blacktop because of the road being so narrow.

Mr. Howard Galimore state that he lives on the corner of Andrews & Anderson Road and his concerns were very similar to Mr. Abner's. He said he was also concerned with the exit and entrance to the proposed subdivision if the rezoning is approved, and stated that it would affect the impact of the road from all the industrious development going on and it should be discussed further before this proposal is approved. He said that he doesn't have any problem with the new development his concern is with the road, and if the Perimeter Road is not approved, then where will it be built. Those are mainly his concerns.

Ms. Goree came forth and asked if 80% of the subdivision is 13,000 square feet then why 80% can't be whatever zone that is and the 20% should be something else.

Mr. Jim Fullington, 280 Land Co., came forth and stated that his company is planning the proposed subdivision called "The Gates", and stated that he would like cluster homes, very expensive lake homes, and would like a variety of homes to be addressed within this development, and in some areas they want to have homes in the price range of \$300 – \$500,000 similar to what is in Greystone S/D. He said he feels it would be very nice for the community and an asset to the City.

Chairman Sadler closed the public hearing.

Chairman Sadler asked for comments or questions.

Mr. Posey made a motion to send a positive recommendation to City Council.  
Dr. Whatley seconded the motion.

Ayes: Posey, Whatley, Seroyer, Fuller, Cherry, Lazenby, Pridgen, Wood

Nays: None

Abstention: None

The motion to send a positive recommendation to City Council passed.

**E. VACATION OF STREET/EASEMENT**

**14. Vacate portion of Ridge Road right-of-way (triangle shaped ROW) at the corner of West Point Parkway & Sawyer Drive.**

Mr. Ogren reported that the applicant is requesting the City to vacate a 33,100 square foot (0.76 acres) portion of the Ridge Road right-of-way. The triangle shaped right-of-way (ROW) is located at the intersection of Ridge Road, Sawyer Drive, and West Point Parkway, near the Civilitan Club. A about a year ago, street improvements were initiated for the Ridge Road and West Point Parkway intersection when a new street, Sawyer Drive was proposed to be constructed. The improvements involved creating a perpendicular intersection with the new Sawyer Drive and West Point Parkway. The improvement eliminated a "V" shaped intersection with West Point Parkway and Ridge Road and assisted in relieving traffic congestion generated by activities at West Ridge Park.

Vacating the R.O.W. should not result in any adverse effect to the surrounding properties. If approved, this triangle shaped R.O.W. will remain as open space owned by Preston Holdings LLC.

Planning Staff recommends approval for vacating the R.O.W. subject to a utility easement shown on a survey and recorded because utility lines exist in the R.O.W.

Mr. Thomas reported that subject to utility easements, he suggested a positive recommendation to City Council.

Mr. Lee reported that Opelika Utilities has in place a 24" water main in the R.O.W. of Ridge Road in the Southern margin of the R.O.W.; Opelika Utilities requests a 15' easement (7.5' each way of the centerline of the pipe).

Mr. Kriel reported that Opelika Light & Power provides service in this area. OLP has a 3 phase line along the street right-of-way. OLP must maintain an easement for this line if we vacate the Ridge Road right-of-way in this area.

Chairman Sadler opened the public hearing.  
No comments were made from the audience.  
Chairman Sadler closed the public hearing.

Chairman Sadler asked for comments or questions.

Mr. Seroyer made a motion to send a positive recommendation to City Council.  
Mr. Pridgen seconded the motion.

Ayes: Seroyer, Pridgen, Fuller, Lazenby, Wood, Cherry, Posey, Whatley

Nays: None

Abstention: None

The motion to send a positive recommendation to City Council passed.

With no further business on the agenda, Chairman Sadler adjourned the meeting at 3:35 p.m.

\_\_\_\_\_ H.J. Sadler, Chairman

\_\_\_\_\_ Martin D. Ogren, Secretary