

**CITY OF OPELIKA  
PLANNING COMMISSION MEETING  
JANUARY 26, 2021  
3:00 P.M.  
MEETING CHAMBERS  
OPELIKA MUNICIPAL COURT  
300 MLK BOULEVARD**

The City of Opelika Planning Commission held its regular monthly meeting January 26, 2021 in the Meeting Chambers, located at the Opelika Municipal Court. Certified letters have been mailed to all adjacent property owners for related issues.

**MEMBERS PRESENT:** Chairman Lewis Cherry, Ms. Lucinda Cannon, Mayor Gary Fuller, Mr. Michael Hilyer, Mr. Ira Silberman, Councilman Robert Lofton, Mr. Derek Lee, and Mrs. Leigh Whatley.

**MEMBERS ABSENT:** Dr. Arturo Menefee.

**STAFF PRESENT:** Mr. Matt Mosley, Planning Director  
Mr. Martin Ogren, Assistant Planning Director  
Mrs. Rachel Dennis, Planner  
Mrs. Claire Barber, Planning and Zoning Technician  
Mr. Scott Parker, City Engineer  
Mr. Guy Gunter, City Attorney

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

Chairman Cherry stated before we get started there is a person here that I would like to recognize. Byron Prather would you please stand up. I want you to know that we appreciate you in every way that we can think of. We appreciate you being with the City as long as you have, I believe it is 35 years. You have served this Commission for five and a half years and I want you to know that you have been a strong asset to this Commission with the attention that you paid towards the obligations of the Fire Department. I just wanted you to know that we appreciate you.

Byron Prather thanked Mr. Cherry and said, it has been a pleasure and an honor to serve with each and every one of the members. People don't know what goes on with the City until they come sit in here for a while and they can learn a lot about what happens behind the scenes.

Mayor Fuller stated I wanted to add my thoughts to yours Chairman about Opelika Fire Chief Byron Prather and what an excellent job he has done. I also want to introduce the Commission to the new Police Chief. As you know Chief John McEachern retired at the end of November and he served on the Planning Commission for a number of years. After an extensive search and interview process, Captain Shane Healey was selected to be our new Police Chief. Shane Healey is here with us, please stand up. We're glad to have you.

Shane Healey stated I gave Mr. Mosley some of my cards for those of y'all who don't know me. If you have any questions or comments just give me a call.

Chairman Cherry stated at this time I am going to turn it over to Mr. Mosley and he will do the elections for officers.

**I. Elect Officers to Planning Commission (Chairman, Vice Chairman)**

Mr. Mosley opened the nominations for the Chair position.

Mr. Hilyer made a motion to nominate Lewis Cherry as the returning Chairman.

Mr. Silberman seconded the motion.

Ayes: Silberman, Councilman Lofton, Hilyer, Mayor Fuller, Lee, Cannon, and Whatley.

Nays: None.

Abstention: Cherry.

Mr. Mosley opened the nominations for the Vice Chair position.

Mr. Hilyer made a motion to nominate Lucinda Cannon as the returning Vice Chairwoman.

Mayor Fuller seconded the motion.

Ayes: Silberman, Councilman Lofton, Hilyer, Mayor Fuller, Lee, Cherry, and Whatley.

Nays: None.

Abstention: Cannon.

## **II. Approval of December 15, 2020 Planning Commission Minutes.**

Councilman Lofton made a motion to approve the December 15, 2020, Planning Commission Minutes as written.

Mr. Lee seconded the motion.

Ayes: Silberman, Councilman Lofton, Hilyer, Lee, Cannon, Cherry, and Whatley. Nays: None.

Abstention: Mayor Fuller.

## **III. Update on Previous Planning Commission Cases.**

Mr. Mosley stated the subdivision for preliminary plat from last month located at the intersection of the Old Columbus Road and South Uniroyal has been withdrawn by the applicant and is no longer on your agenda. We also had number five withdrawn and they are still working with the property owner there.

### **A. PLAT (Preliminary Only) – Public Hearing**

#### **1. Wyndham Gates Subdivision, Pod 3, 64 lots, Emory Lane, Builders Professional Group LLC, Preliminary Approval**

Mr. Mosley reported the applicant is requesting a preliminary plat approval of a 64-lot subdivision for townhomes in the POD 3 area of the PUD Wyndham Master Plan revised and approved on Jan. 2, 2021. The approved master plan requires the Zoning Ordinance Section 8.13 Townhouse Development Standards, landscape requirements, and gateway requirements to be met for this development. This plat shows eight (8) lot clusters of townhomes totaling 64 townhouse use lots and 8.22 acres of open space.

The entirety of Tract 4 will need to be shown on the preliminary plat. Tract 4 is 46.179 acres. The developer will request a future subdivision of this lot to divide the townhouse area of POD 3, a section shown as 13.67 acres, from the 46.179 acres of Tract 4. This plat also shows 64 townhome lots and two open space lots. Lot 172 (7.69 acres) and Lot 173 (0.53 acres) as open space. The final plat should state access, usage, and ownership of the open space. The density of this POD is set by the approved master plan as 12 units per acre. The proposed development is 5.3 units per acre or less.

The Zoning Ordinance Section 8.13 Townhouse Development Standards states the minimum lot per townhouse shall be no less than 1,800 sf. Of these 64 townhouse lots, the smallest is 2,500 sf, and the largest is 4,407.57 sf. The townhomes setback requirement needs to be determined and stated in the notes. The development is required to meet all of Section 8.13 Townhouse Development Standards and the PUD Wyndham Master Plan. A site plan will be required for administrative review, but the use was already approved through the Master Plan. The applicant stated the units will be approximately 1,700-1,800 SF (excluding 2 car garages) and the building façade will be a mix of brick and hardie with vinyl soffit and fascia.

Staff recommends a buffer meeting the residential buffer requirements be placed between non-single-family pods and single-family pods. Otherwise, gateway corridor buffers shall be required along Marvyn Parkway.

**Staff recommends preliminary plat approval subject to:**

- 1. Sidewalks shall be required on at least one side of the street.**
- 2. All utilities shall be underground.**
- 3. Townhouses shall follow the standards of the zoning ordinance.**
- 4. Add a note with the setback requirements for the townhomes listed.**
- 5. Access points for the open space areas shall be provided from cul-de-sacs**

- and other rights-of-way.
6. Residential buffers shall be provided.
  7. Gateway cladding standards and buffers shall apply to the development of Tract 4.
  8. This development appears to be a portion of an unsubdivided, larger parcel fronting on Marvyn Parkway. The balance of the parcel should be shown as well, either as part of this subdivision plat or as an inset drawing with the remainder marked "This portion not resurveyed at this time" or similar.
  9. The owner/developer's name and address should appear on the plat.
  10. The easements shown should be labelled as to type.
  11. The names of adjacent subdivisions should be shown.
  12. Lots 131 and 132 do not appear to have enough distance for spacing requirements.

History of the Wyndham PUD Master Plan

Pod	Type	Acreage	Units	Density (units/acre)
3	Office/Townhomes	12.5	150*	12

*Pod 3 is also shown as office or townhomes. This pod is 12.5 acres and was previously shown as apartments and some green space/open space.*

Mr. Mosley reported for Engineering, all of the Opelika Surveyors comments have been addressed and the submitted plat meets all Subdivision and Public Works Manual requirements. The Engineering Department recommends preliminary plat approval.

The Engineering Department is recommending that Emory Lane be extended to Marvyn Parkway (AL Hwy 51) as part of this development. This extension and intersection shall be permitted by ALDOT and meet all the requirements of access management as directed by ALDOT. It is anticipated that this connection to Marvyn Parkway will be the primary access for this development and will prevent additional traffic on Stillwood Way and McKinley Drive. This access is not anticipated to create or enhance cut through or bypass traffic at the intersection of Marvyn Parkway and Gateway Drive.

The developer will be required to submit an infrastructure construction and grading plan for the drainage, utility, post construction detention, and roadway installation to the Engineering and Public Works Departments for review and approval.

Once this approval and all other utility approvals have been met, a Land Disturbance Permit will be issued in concurrence with any applicable State and Federal Permits. Under the monitoring of the Engineering Department and other utilities, the roadway and infrastructure will be completed and tested. Once the construction is complete and a bond is provided for the maintenance and any unconstructed public infrastructure according to the Subdivision Regulations, a Final Plat can be submitted to the Planning Commission for consideration.

Mr. Mosley reported for the Opelika Utilities Board, water service is accessible to this subdivision by a water main in the R.O.W. of McKinley Drive.

Mr. Mosley reported for the Opelika Power Services, this Subdivision is inside the Opelika Power Services and Alabama Power territory.

Mr. Mosley stated the applicant did provide a topography profile of this area so you can see the steep topography on both sides of this development. Both on the Marvyn Parkway side and the other side and also the existing sanitary sewer easements. They also showed two separate examples of townhouse types that they are considering. Both would have to meet the corridor overlay standards, meaning that they would be required to have brick, stone, stucco, wood, Hardie board, exterior materials like that. They all show a two-car garage.

Chairman Cherry opened the public hearing.  
No comments.  
Chairman Cherry closed the public hearing.

Ms. Cannon stated how many square feet are these units?

Mr. Mosley stated I don't know that we have been given any information on the square footage of the units. The individual lots are all about 25 by 100 so they are about 2,500 square foot lots but I don't have any information on the actual unit size.

Mayor Fuller made a motion to grant preliminary plat approval with staff recommendations.

Mr. Lee seconded the motion.

Ayes: Silberman, Councilman Lofton, Hilyer, Mayor Fuller, Lee, Cannon, Cherry, and Whatley.

Nays: None.

Abstention: None.

## **B. FINAL PLAT**

### **2. The Chimneys Subdivision, Sections 4 & 5, 35 lots, Westpoint Parkway, Mike Maher, Final Approval**

Mr. Mosley reported the applicant is requesting final approval for a 35-lot subdivision off West Point. The purpose for the subdivision is to build single family homes. The subdivision is in an R-3 and R-4 zoning district. Eight of the 35 lots (Lot 18 to Lot 25) are in an R-4 zone located along the west property line. The lots meet the minimum 7,500 square foot lot size and 60-foot lot width requirements. These eight R-4 lots range in size from 10,840 square feet (sf) to 19,546 sf. In the R-3 zone, 26 lots range in size from 16,561 sf to 22,036 sf.; in the R-3 zone the minimum lot size is 10,000 sf and lot width is 70 feet. Lot 35 is 20 acres reserved as phase two for this development. Underground utilities are installed along the new street, Soapstone Way, and the extension of Lizlin Drive.

In 2005, the adjacent subdivision (Stephens Woods, Phase IV) constructed Lizlin Street and left a "60' Reserved for Future Street" stub-out at the east property line of The Chimneys. Lizlin Street is now extended to The Chimneys subdivision providing an alternative access.

Note #7: Lot 1, Lot 2, Lot 3, and Lot 4 front along West Point Parkway; Note #7 states that these four lots must take access onto Soapstone Way not Westpoint Parkway. A 30-foot access easement is added across the south property line of these four lots that extends to Soapstone Way.

Note #8 concern the homeowner's association maintaining the open space and storm water retention area on Lot 35; storm water run-off from Lot 35 is to an existing 20 foot drainage and utility easement located along the south property line of Lot 35. (The said 20' D&U is shown on the revised plat.)

Parcel A (Crown Castle Pt, Inc., owner) and Parcel B (Public Service Towers, Inc, owner) are adjacent properties east of Lot 6 and Lot 7. A 12' wide private easement is shown along the rear property line of Lots 6, 7, 8, and 9 so these two adjacent properties have public street access onto Soapstone Way.

Note #11 The adjacent property (Frederick Waugh, property owner) between Lot 25 and Lot 26 has access to Soapstone Way. The Soapstone Way right-of-way was extended to the adjacent property.

#### **Staff recommends final approval subject to the following:**

##### **1. Install underground utilities and sidewalks on at least one side of all streets.**

Mr. Mosley reported for Engineering, all of the Opelika Surveyors comments regarding the plat have been addressed. The Engineering Department has been inspecting the construction and testing of the infrastructure in this subdivision. A Certification of Completion will be completed and signed by the Engineering and Public Works Directors as soon as all the infrastructure completion items below have been met and a positive recommendation for approval will be given:

- All drainage structures, curb and gutter, aggregate base and first layer of pavement have been placed.
- All sanitary sewer and water line have been installed. The test and inspection reports will need to be submitted and accepted and approved by the utility/Public Works Department.
- All stop and roadway signs will need to be installed.
- Performance Bond of 125% of the estimated cost remaining infrastructure

- including the final layer of asphalt and sidewalks will need to be submitted.
- Maintenance Bond of 25% of the estimated total infrastructure cost will need to be submitted.
- As-built documents of the roadway, and storm drain in the form of an Autocad and PDF digital file will need to be submitted to the Engineer Department. The required data should include location and elevations of all the inverts of the systems.
- The R.O.W. and lots will need to be graded, and stabilized with seed and mulch, and other erosion/sediment control items will need to be added to protect against erosion and sediment issues.

If these requirements are met, the Engineering Department recommends final plat approval.

Mr. Mosley reported for the Opelika Utilities Board, water service is accessible to this subdivision by a water main in the R.O.W. of Stephens Woods subdivision. The water system is not complete at the time of this report, remaining items include service line installation, testing, and final inspection.

Mr. Mosley reported for the Opelika Power Services, this Subdivision is inside the Opelika Power Services and Tallapoosa River Electric Co-Op territory.

Mayor Fuller made a motion to grant final plat approval with staff recommendations. Mr. Hilyer seconded the motion.

Ms. Cannon asked what are the issues?

Mr. Hilyer stated we do not have the sewer film on any of the sewer systems yet. We don't have as-builts for public works or engineering and we don't have bonds.

Ms. Cannon stated do we need to have these things in line?

Mr. Hilyer stated we can hold the plat as we have done before on some of them until they are addressed.

Chairman Cherry stated it won't be signed until they are addressed.

Ayes: Silberman, Councilman Lofton, Hilyer, Mayor Fuller, Lee, Cannon, Cherry, and Whatley.

Nays: None.

Abstention: None.

#### **D. CONDITIONAL USE – Public Hearing**

##### **3. Ferren Morgan, 2800 Pepperell Parkway, C-3, GC-S, Lounge (Level 1 Bar & Lounge)**

Mr. Mosley reported the applicant desires to open a bar and lounge<sup>1</sup> for on-premise consumption of beer, wine and liquor. The applicant has no plans to sale alcohol for off-premise consumption (example: selling unopened containers for off-premise consumption). In the C-3, GC-S zoning district most all commercial uses are outright allowed if there is *'no display of products outside building'*, however a lounge requires conditional use approval. This type of lounge is called a "barcade"; the lounge is named "Level 1 Bar & Lounge." A barcade serves alcohol and provides classic video games (pac-man, frogger), current video games, and holds video tournaments. This barcade will also have a menu and dining area.

The lounge will occupy tenant space in the new 20,655 square foot Pepperell Village shopping center (phase 1) that is near completion; the shopping center (phase one) has space for eight tenants and includes 109 parking spaces. The tenant space for the lounge is 2,125 square feet (25'x 85'). The shopping center will meet all site plan, landscape plan, and elevation requirements as provided on plans and from site inspections.

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<sup>1</sup> Lounge. Any place or premise in which liquor or wine is offered for sale or consumption within the building in which the establishment is located and which meets the minimum requirements of the Alabama Alcoholic Beverage and Control Board and Chapter 3, Alcoholic Beverages of the Opelika City Code.

Level 1 Bar & Lounge hours of operation are 4 pm to 9 pm Monday thru Thursday and noon to midnight Friday thru Sunday (After 10 pm all customers must be at least 21 years old.). Between four to eight employees are needed to run the business depending on the weekday.

A floor plan of the bar & lounge is provided in your packet: (1) Kitchen area with gas stove, food prep & worktable areas. (2) Bar & bartender area has 9 bar chairs. (3) Customer seating area for food & drinks include 11 four person tables, 1 two person table, and 3 four person tables for outdoor dining located on sidewalk. There is a total of 58 customer chairs with tables for food & drinks plus 9 bar chairs. (4) The "Platform" area (11' x 14') shown on floor plan is for a band to perform live. (A dance hall is not provided.) The lounge is required to meet Life Safety Codes concerning maximum occupants allowed to minimize danger due to fire.

Two 'gaming station' areas are provided: (1) 5 two person gaming tables with LED TV (2) 6 one person tables with LED TV used for tournament play.

### **Recommendation**

**Staff recommends approval for the bar and lounge.**

Mr. Mosley reported for Engineering, the permitting for this site will all be handled through the Building Inspections department and there will not be a need for an additional submittal to the Engineering Department for this site.

The Engineering Department has no other comments or concerns with this proposal and recommends conditional use.

Mr. Mosley reported for the Opelika Utilities Board, Opelika Utilities presently serves this use.

Mr. Mosley reported for the Opelika Power Services, this Subdivision is inside the Opelika Power Services territory.

Chairman Cherry opened the public hearing.

No comments.

Chairman Cherry closed the public hearing.

Mr. Hilyer made a motion to grant conditional use approval with staff recommendations. Mr. Lee seconded the motion.

Mr. Silberman asked did a public notice go out for this item?

Mr. Mosley stated no sir there is not a formal public notice for Conditional Use other than putting it on the website and in the newspaper.

Ayes: Silberman, Councilman Lofton, Hilyer, Mayor Fuller, Lee, Cannon, Cherry, and Whatley.

Nays: None.

Abstention: None.

#### **4. Micah Melnick for Katie Zimmerman, 1400 Grand National Parkway, R-1, BigHouse Foundation (non-profit organization)**

Mr. Mosley reported the applicant is requesting conditional use approval to have a semi-public use (non-profit office, clothes closet, and event space) located at 1400 Grand National Parkway. The subject property is 8.85 acres and undeveloped. The applicant wishes to build a permeant home for the BigHouse Foundation to operate.

The BigHouse Foundation is a non-profit that serves to meet the needs of foster children, adopted children, and their families in our community and throughout Alabama. This location would house a clothing closet, office space, and event space. The applicant has stated they will not have any residential or overnight use. On a daily average, this location will have 10 or fewer people onsite working or in for services. The applicant plans to have scheduled monthly meetings; an example would be a mom's group with approximately 25 in attendance. Another event would be annual or seasonal events with 50 to 100 people attending; an example would be a July 4<sup>th</sup> Cookout. The plan shows a playground space that will be fenced and future storage will be for off season donations.

The site plan shows 17 paved parking spaces. The site plan also shows a future parking area to be gravel to the right of the paved parking. For everyday operations they will be required to have 15 total parking spaces for the 3,455 sf of community center and 2,810 sf of warehouse based on the parking requirements in our zoning ordinance<sup>2</sup>.

Landscaping is required for this use and the applicant has noted landscaped areas. The developed area is estimated to be one acre and will require 120 landscape points. These points will be likely be met by existing trees as shown in the 50-foot tree line buffer to the rear and sides of the property. This is to reduce and eliminate potential impacts to the neighbors.

### **Recommendation**

**Staff recommends approval subject to the following conditions:**

- 1. Landscaping should be located between any parking areas and adjoining properties.**

Mr. Mosley reported for Engineering, the permitting for this site will all be handled through the Building Inspections department and there will not be a need for an additional submittal to the Engineering Department for this site.

The Engineering Department questions the need for the separate exit lane. If there is not a legitimate reason for this extra lane it should be removed from the plan.

The Engineering Department has no other comments or concerns with this proposal and recommends conditional use.

Mr. Mosley reported for the Opelika Utilities Board, water service is accessible to this use by a water main in the R.O.W. of Grand National Parkway.

Mr. Mosley reported for the Opelika Power Services, this Subdivision is outside the Opelika Power Services territory.

Chairman Cherry opened the public hearing.

Micah Melnick, representative, stated I am the founder and executive director of BigHouse Foundation and first I just wanted to thank you guys for considering our proposal. We have been in Opelika serving foster families in Lee County and the surrounding area for over 12 years. We would like to stay here; we love being in Opelika and serving families in this area and we do that in a number of ways. We feel that having this location that we've been dreaming about for many years at our disposal would give us the opportunity to invest in those relationships with families, continue to support them through resources, and give them an opportunity to build community with each other. We're just grateful for the opportunity. We're so excited we found some land and we hope that it fits Opelika's vision for that area and that we are able to make that work. I am happy to answer any questions if you have any specific questions.

Mr. Silberman stated for clarity is this a corporate office for the state or is it regional?

Micah Melnick stated we began here in Opelika and we serve Lee County and surrounding areas and then in some programs we do serve the state, but we have the headquarters right here.

Mr. Silberman stated so you're looking to go statewide?

Micah Melnick stated in some of our programs yes but one of the most important things about this space is having a place where families can come together and so that won't necessarily be statewide that will be more in this community.

Chairman Cherry closed the public hearing.

Mr. Lee made a motion to grant conditional use approval with staff recommendations. Mr. Hilyer seconded the motion.

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<sup>2</sup> Opelika Zoning Ordinance Section 8.1 Off-Street Parking F. and G  
*Community and recreation center. One (1) space per two hundred and fifty (250) square feet of gross floor area, or one (1) space per four (4) patrons to the maximum capacity, plus one (1) space per employee on the largest shift.*  
*Warehouse. One (1) space per employee on the largest shift plus one (1) space per four thousand (4,000) square feet of gross floor area.*

Mr. Lee stated I would just like to say as a foster family ourselves, this organization is great. What they do for the foster families in this organization is really good and they help a lot. When we have gotten kids that come into care at nine o'clock at night, the next morning they bring diapers and gift cards to help us get set up with those children and it's just a great ministry that we have here in Opelika.

Ayes: Silberman, Councilman Lofton, Hilyer, Mayor Fuller, Lee, Cannon, Cherry, and Whatley.

Nays: None.

Abstention: None.

**~~5. Lacarris Jackson, 2000 Marvyn Parkway, Suite 1, Bar and restaurant~~  
WITHDRAWN**

This item was withdrawn by the applicant prior to the meeting.

Mayor Fuller made a motion to adjourn at 3:30 p.m.

Mr. Hilyer seconded the motion.

Ayes: Silberman, Councilman Lofton, Hilyer, Mayor Fuller, Lee, Cannon, Cherry, and Whatley.

Nays: None.

Abstention: None.

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Lewis A. Cherry, Chairman

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Matt Mosley, Secretary