



PLANNING COMMISSION MINUTES

300 Martin Luther King Blvd.

October 25, 2022

TIME: 3:00 PM

I. WELCOME - Some items at this meeting will have a designated public hearing (noted below). Individuals are limited to one 5-minute comment period per public hearing.

II. APPROVAL OF MINUTES

The City of Opelika Planning Commission held its regular monthly meeting October 25, 2022 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, Mr. Ira Silberman, Mrs. Leigh Whatley, Ms. Lucinda Cannon, and Mr. Michael Hilyer.

MEMBERS ABSENT: Mayor Gary Fuller, Councilman George Allen, Dr. Arturo Menefee, and Mr. John Sweatman.

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.

Approval of Planning Commission Minutes September 27, 2022

RESULT:	Passed
MOVER:	Director Mike Hilyer
SECONDER:	Leigh Whatley
AYES:	Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer
NAYS:	None
ABSTAIN:	None

III. UPDATE ON PREVIOUS PC CASES

Mr. Mosley stated item number three, The Villages of Opelika, and item number ten have both requested to be tabled. These were both tabled at the last meeting and so you don't have to take any action on them.

IV. NEW BUSINESS

A. PLAT (Preliminary and Final) - Public Hearing

1. Whippoorwill Lakes SD, 18 lots, accessed from 6200 block of Lafayette Parkway, Anthony Crowder, authorized representative for Crowder Properties LLC, Preliminary and Final Approval

Mr. Mosley reported the applicant is requesting preliminary and final approval for 18 lots accessed from a cul-de-sac street named Mary Olive Road off Lafayette Parkway. Single-family home construction is planned. In this R-1 zoning district, the lots meet the 100 ft. lot width along the front property line or at the 50-foot building setback line. The lot sizes range from three (3) acre to 8.54 acres. Lot 6-B (3.11 acres), Lot 6-C (3 acres), Lot 6-D (3 acres), Lot 6-E (4.91 acres), and Lot 6-F (8.54 acres) have portions in a 100-year Floodplain. All lots will take access from Mary Olive Road.

This property is in the Saugahatchee Watershed which requires a minimum lot size of three (3) acres. Section 3.9 in the Subdivision Regulations states that residential development in the Saugahatchee Watershed shall have a minimum undisturbed vegetative buffer strips along perennial and intermittent waters based on slopes. This section also requires minimum building setbacks from perennial and intermittent waters based on slopes. In addition, the regulations provided an avenue to demonstrate to the Watershed Administrator that a lesser distance of buffer strip or building setbacks is adequate by using BMP's to reduce stream pollution (Subdivision Regulations Section 3.9 Buffer Area and Building Setback Requirements, Section a. at the end of the report⁽¹⁾). The applicant's surveyor is aware of these requirements and is working to ensure the Saugahatchee Watershed requirements are met.

Planning staff recommends preliminary and final approval subject to the following:

1. **Ensure cul-de-sac lots are a minimum of 100 feet lot width at the building line Lots 6-D – 6-I**
2. **Add a scale to the drawing.**
3. **Lot 6-A and 6-F has a note that states see Note 11. This note does not exist.**
4. **Remove the note about Opelika City Limits and Lee County Limits along the boarder, the surrounding properties are inside the Opelika City Limits.**
5. **Add the right of way width for Mary Olive Road.**
6. **The adjoining subdivision, Coggins Subdivision, Plat Book 41, Page 124, should be mentioned.**
7. **Record courses and distances should be shown alongside measured for comparison.**
8. **Add property owner to the lots adjoining 6-E and 6-F.**
9. **All utilities shall be underground.**

⁽¹⁾ Buffer Area and Building Setback Requirements.

1. A minimum one hundred (100) foot undisturbed vegetative buffer strip for slopes less than 10% or a two hundred (200) foot undistributed vegetative

buffer strip for slopes greater than 10% is required for development activities along all perennial and intermittent waters.

A minimum three hundred (300) foot building setback is required for slopes less than 10% or a five hundred (500) foot building setback is required for slopes greater than 10% along all perennial and intermittent waters.

The perennial and intermittent waters above shall be determined from the most recent versions of U.S.G.S 1:24,000 (7.5 minute) scale topographic maps, local government and reliable as determined by the Watershed Administrator shall be used.

The buffer strip and building setbacks shall be required unless the applicant demonstrates to the Watershed Administrator that a lesser distance (but not less than thirty (30 feet) is adequate by using BMP's to reduce stream pollution. Other evidence to reduce buffer distances may be based on topography, soils, geology, and other pertinent information or an impact study prepared by a professional engineer may be required.

Mr. Parker reported for Engineering, all of the Opelika Surveyors comments regarding the plat have been addressed. The Engineering Department has requested a materials and pavement investigation and report to be submitted to determine the condition and build-up of the roadway. This report noted that the pavement applied many years ago as this subdivision was constructed does not meet the pavement thickness requirements today. It will be required that the applicant apply one more inch of asphalt prior to Final Plat OR submit a performance bond of 125% of the estimated cost to apply this asphalt.

The rest of the roadway and infrastructure has been inspected by the Engineering Department and meets standards.

The Engineering Department recommends preliminary and final plat approval of this subdivision.

Mr. Parker reported for the Opelika Utilities Board, water service is accessible by private well. The plat will need to show stream buffers according to the degree of slope.

Mr. Parker reported for the Opelika Power Services, this subdivision is outside the Opelika Power Service territory.

Chairman Cherry opened the public hearing.

No comments.

Chairman Cherry closed the public hearing.

Motion to grant preliminary and final plat approval with staff recommendations

RESULT: Passed

MOVER: Director Mike Hilyer

SECONDER: Ira Silberman

DISCUSSION: Ms. Cannon asked are there going to be streetlights out there?

Mr. Parker asked do we require streetlights?

Mr. Molsey stated I don't believe streetlights are a requirement of the City.

Mr. Parker stated Tallapoosa River Electric Co-Op supplies the power here

and I don't know what they require.

Ms. Cannon stated I just think it's going to be a pretty dark subdivision.

Mr. Mosley stated it does look like they are showing some light poles on the existing right-of-way, so it does look like street lights are available.

Ms. Cannon stated I would like to suggest that they have some.

Mr. Mosley stated yes ma'am. They are showing on this survey light poles about every other lot going down the street.

AYES: Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer

NAYS: None

ABSTAIN: None

B. FINAL PLAT

2. National Village SD, Phase 8A, 55 lots, accessed at 4209 Robert Trent Jones Trail, Steve Timms and Mike Maher, authorized representative for Retirement Systems of Alabama, Final Approval

Mr. Mosley reported the applicant is requesting final approval for a 51-lot subdivision accessed from Robert Trent Jones Trail, National Village Parkway, and Lake Lodge Boulevard. The overall density for the development is 0.686 units per acre⁽¹⁾.

The proposed units will be similar in size to those on in Section 7. The lots range in size from 7,451 to 26,027 square feet. Most of the lots fall in the 9,000 – 11,000 square foot range. Most of the lots show a 15-foot building line. The lots on Street B, Lots 42-51, have a 10-foot building line. The other building lines or setbacks are described in the plat notes as 15-foot front yard setback, 5-foot side yard setback, and 10-foot rear yard setback.

This plat also creates outparcels on Lots 52, 54, 55, and 56 that act as buffers or open space between streets and the residential areas. The purpose, ownership, and maintenance of these lots needs to be noted on the plat. The existing house and building lines on Lot 53 need to be shown on this plat.

Sidewalks should be consistent with the development pattern of the rest of the PUD, at the very least sidewalks will be required on one side of the street. All utilities shall be underground.

Staff recommends final approval subject to the following:

1. **Note that Lots 52, 54, 55, 56 are open space or green space and who will maintain these areas.**
2. **Area on Lot 55, behind the exiting lots on Lone Eagle Lane shall be left undisturbed.**
3. **Street A, B, and C should have their final names added before the plat is signed and recorded.**
4. **Show existing house on Lot 53 and building setback lines**
5. **Install sidewalks on at least one side of all streets.**
6. **All utilities shall be underground.**
7. **The flood note mentions a Phase 1D, not 8A.**

8. **Give name and recordation data for the portion of the previous subdivision that is being redivided. This appears to be Sunbelt Heights Subdivision, Plat Book 24, Page 123 but those lots are numbered, not lettered. If another subdivision, please provide the data for that one instead.**
9. **The plat name is misspelled in the title block.**
10. **Note 7 is incorrect in relation to Lots 42-51.**

(1) Planning Commission granted preliminary approval and a positive recommendation to City Council for a PUD amendment at the May 2021 Meeting. City Council approved the PUD amendment for this area July 20, 2021.

Mr. Parker 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, aggregate base and pavement have been placed.
- All stop and roadway signs have been installed.
- Maintenance Bond of 25% of the estimated total infrastructure cost will need to be submitted.
- Performance Bond of 125% of the estimated cost to place the remaining roadway surface and sidewalks 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 ROW and lots have been 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. Parker reported for the Opelika Utilities Board, water service is accessible by Robert Trent Jones Trail.

Mr. Parker reported for the Opelika Power Services, this subdivision is outside the Opelika Power Service territory.

Motion to grant final plat approval with staff recommendations

RESULT: Passed

MOVER: Lucinda Cannon

SECONDER: Ira Silberman

DISCUSSION: Mr. Hilyer stated we can go ahead with the final approval but we will hold signatures. We have no vacuum test, no videos of the sewer testing, no street signs, and no asbuilts. Those will have to be completed before we sign the plat.

Mr. Cherry asked are you recommending that we go ahead and approve this?

Mr. Hilyer stated we will hold signatures. We are not going to sign the plat until it's complete.

AYES: Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer

NAYS: None

ABSTAIN: None

3. The Villages of Opelika SD, Phase 1, 50 lots, accessed from 3000 Hi Pack Drive, Brian Lee, authorized representative for SP Opelika Ventures, LLC, Final Approval

Mr. Mosley stated the applicant has requested that this item remain tabled until they can finish the street and sewer as well as a couple of other items.

C. CONDITIONAL USE - Public Hearing

4. Emily Key, accessed at 80 North Uniroyal Road, C-3, GC-P, Paintball field (outside recreation).

Mr. Mosley reported the applicant/property owner is requesting conditional use approval for a paintball field. The proposed outdoor recreational game is in a general commercial zoning district (C-3, GC-P). The paintball field property is 5.1 acres and about 3.5 acres is in the floodplain. A portion of the floodplain will be part of the paintball field. The paintballs are biodegradable, so paintballs in the floodplain are not a threat to water quality. If the floodplain is too wet, then paintball will be postponed for another day.

The applicant plans to open with one paintball field (210' x 120' or somewhat larger) and over time add two more fields. The applicant desires for the land to remain natural for this type of outdoor activities. Some minor brush clearing with hand tools is planned to make pathways and trails for participants to follow if desired including trails in the floodplain area. The floodplain topography will not be changed. Removing trees and heavy equipment grading is not planned; some grading may be necessary for the driveway and parking lot area.

Paintball hours of operation are Saturdays beginning at 9 AM until dark and Sundays from 12 noon until dark. A maximum of 35 people are able to play at one time. The paintball field must be reserved for groups to play. The paintball field is available on weekdays (M-F) for a birthday party or other special occasions by appointment. The limited days and hours of operation reduces any impact on adjacent properties.

Typically, a paintball game consists of five players on each team. A game plays several 'rounds.' So, when four out of five people on a team are hit with a paintball then a round is over. Then the two teams (10 participants total) reload their guns, strategize for round 2, and resume play. Or new teams are chosen and Round 2 is played. Only paintballs will be used, no paint grenades or smoke grenades will be used. The games are supervised by two referees. Each paintball field will have two referees. If additional fields are added two referees for each field are required.

The applicant said the paintball field's boundary lines are 210' x 120' or maybe a little larger. The boundary lines of a paintball field are identified with an 8-foot-high fence made of construction fabric material installed along the boundary lines. The fabric fence will also stop errant shots. The applicant said the paintballs shot from guns will have a maximum range or travel distance of 150 feet. The distance from the boundary line fencing to adjacent property

lines will be more than 150 feet. Therefore, errant shots near the boundary line fences will fall short of adjacent properties or adjacent right of ways (North Uniroyal Road and Columbus Parkway). The nearest adjacent commercial structure from the applicant's property line is 72 feet; the nearest dwelling is 82 feet.

The applicant plans to construct two to four 10' x 12' fort-like structures made of pallets on the paintball field. The pallet structures will be at different locations on the field used by participants. The wall structures are made of 4"x 4" corner posts with 4'x 4' pallets attached to the posts and pallets laid on the ground for a floor. The roof is a primitive style made of branches and thatch. A larger pallet structure will be built as a convenience store to purchase snacks and drinks. A storage shed will be installed on the property to store the paint balls; the paint balls must be stored at a regulated temperature so they do not deteriorate and cannot be used. There will be no building for a person to enter.

The applicant desires to install recycled asphalt for the parking lot and driveway from North Uniroyal Road.

Outdoor lighting will not be provided, because paintball activities end when its dark. If the business is successful, business hours may be extended and outdoor lighting installed.

Portable toilet facilities (porta potties) will be used for restrooms and the number of toilets depend on the number of paintballs players and how many hours they will be on the property. The applicant said that at least two portable toilet facilities potties will be provided.

Power will be available for the business but no public water.

Recommendations

Conditional use approvals with conditions satisfied by the applicant become permanent approvals. Staff recommends a time limit on this conditional use for two years so staff can address possible unexpected concerns with this outdoor recreation use in a natural setting. All business and management activities are conducted outside. There are no permanent buildings proposed. The Zoning Ordinance has no standards on commercial outdoor recreation uses. The two year time limit allows the applicant time to establish her new business (the applicant's first outside recreational business) and provides the City time to review relaxed standards and requests from the applicant such as temporary portal toilet facilities, observe conditions of the recycled parking lot material, if the minimum 12 off street parking requirements are adequate, and address any concerns with no public water for the business, and any other unforeseen negative outcomes that may need attention.

Staff recommends a temporary conditional use approval for two years that expires on November 1, 2024 subject to the following conditions.

1. The paintball business must cease from business activities on Nov 1, 2024. At any time before the Nov 1, 2024 expiration, the applicant/property owner may apply for renewal or permanent conditional use approval. After November 1, 2024, the applicant is required to submit a new conditional use permit application. Additional conditions may be required with the new conditional use request to address any issues or concerns.
2. A public sewer system connection is not proposed for this use. Portable toilet facilities will be used. The portal toilets must be hidden and/or screened with an opaque fence as

necessary out of view from right of ways and the parking lot. Before the business opens the health department must determine the required number of portable toilet facilities to be installed to serve participants and employees to protect public health. The health department requirements must be provided to Planning staff prior to the business license issued.

3. Provide at least 12 hard surfaced parking spaces for participants and employees. One parking space must be handicap accessible. (Section 8 Off-Street Parking provides – “Outdoor Recreational Uses: One parking space per 4 expected patrons at capacity.”) A buffer consisting of understory trees and shrubs is required between the parking spaces and North Uniroyal Road.
4. Only traditional paintball rounds (paintball shots) may be used. Paint grenades or smoke grenades are prohibited.
5. The applicant stated that a paintball round (shot) from a paintball gun will not exceed the distance from the boundary line fence to a property line to prevent paintballs from entering adjacent properties and right of ways. The applicant must have a sign posted that a player’s paintball gun must be tested before play resumes to determine if the player’s equipment exceeds velocity and the maximum 150 foot distance is exceeded.
6. The 8 foot high boundary line fence must be installed before paintball activities begin. A fence at 8 feet or higher requires a building permit.
7. The 10 x 12 pallet structure and store structure may require a building permit.
8. No scrap material, scrap vehicles or vehicle parts, scrap lumber or similar material allowed.
9. If outdoor lighting is installed a photometric plan is required approved by Planning providing light brightness that does not exceed one footcandle at all property lines.
10. Any activities within the flood plain shall be reviewed by the City of Opelika’s flood plain coordinator or Chief Building Official.
11. Amended conditional use shall be required for additional or expanded fields, a significant clearing of the property or playing area encroaching to within 150 feet of a property line.

Mr. Parker reported for Engineering, the Engineering Department cannot determine from the application what is going to be constructed or permitted. It is being assumed that the applicant will be required to submit a site 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.

The Engineering Department has no other comments or concerns with this proposed conditional use.

Mr. Parker stated from the report, it does not sound like a permit will be required from the Engineering Department for this development.

Mr. Parker reported for the Opelika Utilities Board, no comments.

Mr. Parker reported for the Opelika Power Services, this subdivision is inside the Opelika Power and Alabama Power Service territory.

Chairman Cherry opened the public hearing.

Emily Key, Key Concepts LLC, applicant, stated I am currently the owner of Axe Marks the Spot downtown, so this would not be my first entertainment venue for the citizens of Opelika. As far as having scrap vehicles and scrap materials, the goal for the first field is to be an apocalyptic theme. In the 80's when Chernobyl happened and everyone was commanded to leave the Village of Pripyat, I've been there in Ukraine and it's eerie and it's creepy to walk through these houses and streets and grocery stores where everyone just up and left. It makes for the perfect arena for a modern warfare type of paintball game. I do plan on having a little path cleared in the middle of the pallet structures. The structures themselves will be designed as homes, just little 10 feet by 12 feet shacks. I am the tiny house person so its kind of like that too with a little fridge, stove, a chair in the corner, and a newspaper lying on the ground so that it looks like everyone just up and left. Having a scrap vehicle with all the glass removed from it so that nothing can be shattered, broken, or hurt anybody, is part of the field. When Mr. Ogren and I were discussing this, we didn't even mention anything about vehicles until he submitted this report, so I would like that aspect removed if possible. I am concerned about the temporary approval. I am a three-time business owner and I have never opened a business knowing that two years from now it might be taken away from me. I know that I might cause it to be taken away if I am not successful and it's not making enough money. But as far as November 1, 2024, this Board being able to decide that maybe you don't like what I'm doing and not give me that further approval, at that point I would have invested a lot of my time and energy and finances into something for this community just to have it shut down. Then it truly would look like Pripyat, the outside of Chernobyl, at that point because it would be a ghost town in a matter of a week. If you can't do permanent approval, I would like at least something longer than two years. Even if you do take it away in the future, give me some time to make some of my money back before you do.

Chairman Cherry closed the public hearing.

Motion to grant temporary conditional use approval for two years that expires on November 1, 2024 with staff recommendations

RESULT: Passed

MOVER: Lucinda Cannon

SECONDER: Ira Silberman

DISCUSSION: Chairman Cherry asked is there an age limit?

Emily Key stated in general, anyone under the age of eight or so would not be allowed.

Chairman Cherry asked is supervision going to be required?

Emily Key stated paintball referees will be on site.

Chairman Cherry asked do you know that there is a stream on this property?

Emily Key stated yes, it follows the northern property line.

Chairman Cherry asked is there going to be any protection against people getting in the stream?

Emily Key stated I can put some sort of barrier up, but the field itself is going to have its own barriers per say and the creek runs along the northern property line, so people won't be traversing the creek at all. The creek will not be cutting through the actual fields or anything.

Chairman Cherry asked they won't be able to cross them?

Emily Key stated no. It's on the northern property line. Not enough of my property is on the other side of it.

Chairman Cherry asked are you going to put some protection down to keep them out of the creek?

Emily Key stated I can.

Mr. Mosley stated the blue line on the map is not the actual creek, that's the floodplain. The stream runs along the north part.

Chairman Cherry asked is there going to be adequate supervision there for people who get bit by a snake or something like that?

Emily Key stated yes sir. When you are playing paintball, you actually have to have a referee to keep people from cheating. I will have an extensive liability policy the same as with the axe throwing place.

Chairman Cherry stated I know you will have a liability policy, but that doesn't help someone who just got bit by a snake.

Emily Key stated yes sir.

Ms. Cannon stated the reason for the temporary approval doesn't have anything to do with your past businesses, but in the past businesses that you've had, you probably had water, sewer, toilets, lighting, and this has none of that. Before you go to that expense, we would like for it to be temporary and then you put in all of that. It's not to keep you from succeeding.

Emily Key stated my issue with that is that there are no plans for that and if I come back in two years and that's a demand, then that would shut the business down. It's outdoors for a few hours of the day. I've played professional paintball on teams in high school and it's kind of standard for paintball fields, especially in wooded areas. I'm not even sure about bringing sewer in in a floodplain that close to the creek. The plans just aren't there for the sewer. Possibly water, because it's only like \$4,000 with Opelika Utilities, but I just can't see bringing sewer in and there are no city ordinances that require it. I wanted composting toilets, but there are State ordinances against those for some reason. Without there being any ordinance against the portable toilets, it's a little disconcerting that it's a problem when there aren't any rules against it if that makes sense.

Mr. Silberman stated the concern I have is one of due diligence for this Commission. A lot of this is in the floodplain area. Do we know for a fact that the paint itself is not a problem long-term in terms of its runoff into the water? Is there some reference that we can refer to on that?

Emily Key stated yes sir. It's completely biodegradable.

Mr. Mosley stated I haven't seen any long-term studies on it but everything that I have seen does point to them being nontoxic and not an issue from an environmental standpoint.

Mr. Silberman asked and the degradable factor is not a negative?

Mr. Mosley stated if they get wet, I think they will start to fall apart. It doesn't appear that there have been any negative issues that have been discovered

just with the paint and paintballs themselves.

Mr. Silberman asked is there anything that we can reference to that point?

Emily Key stated only online research that I don't have to show you right now.

Mr. Mosley stated that generally lines up with what I saw. For the most part the balls themselves do not pose an issue.

Mr. Silberman stated you don't think it's necessary, but I would love to see some record of the fact that it's not an issue.

Mr. Mosley stated I can try to find some of that and send it to you.

AYES: Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer

NAYS: None

ABSTAIN: None

5. Candy Lanier, 2200 Frederick Road, C-2, GC-P, Roofing contractor office and warehouse.

Mr. Mosley reported the applicant is requesting conditional use approval for an office of contractor without equipment and material yard in a C-2, GC-P zoning district. The office is for a roofing contractor– Ram Roofing Services. The proposed office and warehouse are on Frederick Road across the street from the National Bank of Commerce, near offices & retail shops, restaurants, and Tiger Town shopping center. A C-2 zone is defined as office and retail type uses. However, outside storage for an “office of contractor without equipment and material yard” may be allowed with conditional use approval by the Planning Commission. A contractor’s office with equipment and material yard is prohibited. The property owner said the business owner understands that at the 2200 Frederick Road location the roofing company cannot have many vehicles stored, and the storage of material or equipment outside is prohibited. The roofing company has 6 employees, and currently located in Auburn.

The applicant stated the roofing company does not require outside storage of material or equipment. The company has a total of 10 parking spaces available next to the office & warehouse building for company vehicles, customers, and employee parking. The business owner said 3 or 4 employees will be staying at the office during the work week and after work hours 3 company vehicles will be parked behind the building. Only office work activities take place on Frederick Road.

The office warehouse will occupy a 3,360 square foot (sf) building with two roll-up doors (see photo below) on a 2.37 acre lot. (The roll up doors do not face Frederick Road but face the east side wall.) Any storage of roofing materials, supplies, and equipment will be kept inside the 3,360 sf building. Three other buildings are on the same 2.37 acre property but are not associated with the roofing business: an 1,800 sf tire store with street frontage along Frederick Road, and two buildings (3,800 sf and 4,400 sf) in the rear yard area used as commercial warehouses.

The exterior material of the 3,360-sf building has been improved. The property owner installed stone on the front wall covering the metal panels. The east wall with two roll-up doors faces an open parking lot and driveway that is visually exposed to Frederick Road. On the east side, stone was installed about 3 feet high along the entire east side. For the most part, the west side wall is partially screened from Frederick Road by the higher elevation of the adjacent property. These improvements were approved at the March 2022 Planning Commission meeting when a

car stereo business requested conditional use approval.

The property was first developed in the 1980s before the Landscape Regulations were approved. Most of the property is asphalt. As stated in Section 8.20 Zoning Ordinance if physical constraints exist (ex. asphalt) that prohibit the site from compliance then the site must comply as much as possible. The existing asphalt is considered a physical constraint that prohibits the property from conforming to the landscape requirements.

A dumpster is shown on site plan about 430 feet from Frederick Road near the rear property line of the 2.37-acre lot; the dumpster is not completely screened, but partially screened by an existing building and appears not seen from Frederick Road. If dumpster is seen from Frederick Road, then dumpster must be enclosed with an opaque fence and gated.

Recommendation

Staff recommends approval subject to no outside storage of materials and equipment.



Mr. Parker reported for Engineering, if no significant changes are proposed for the site, the Engineering Department has no other comments or concerns with this proposed conditional use application.

Mr. Parker reported for the Opelika Utilities Board, no comments.

Mr. Parker reported for the Opelika Power Services, this subdivision is inside the Opelika Power and Alabama Power Service territory.

Chairman Cherry opened the public hearing.

No comments.

Chairman Cherry closed the public hearing.

Motion to grant conditional use approval with staff recommendations

RESULT:	Passed
MOVER:	Director Mike Hilyer
SECONDER:	Leigh Whatley
AYES:	Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer
NAYS:	None
ABSTAIN:	None

6. Blake Rice, Barrett-Simpson, authorized representative for Staley Fincher, accessed at 3650 Pepperell Parkway,, C-3, GC-P, Veterinarian clinic (Fur Buds).

Mr. Mosley reported the applicant is requesting conditional use approval to construct a commercial building for a veterinarian clinic (Fur Buds) with two outside fence run areas. This business desires to move to 3650 Pepperell Parkway on 0.75 acres of a 17-acre parcel. A future subdivision will need to be approved for this portion to be divided into a separate lot. The applicant's representative stated nothing will be stored outside of the building.

The veterinarian clinic is shown with 11 parking spaces including one handicap space. Which meets the minimum standard. The applicant will have a shared driveway with an easement for ingress and egress on Pepperell Parkway along the western property line for future development of the lot.

The applicant's representative presented elevations of the veterinarian clinic on the front and sides. The building exterior walls will consist of fiber cement siding and trim as shown in the exhibits attached. The applicant's representative stated the rear side cladding material will be fiber cement siding and trim as well. All building elevations meet the exterior material requirements in the Gateway Corridor.

The applicant's representative submitted a landscape plan for this site. The landscape minimum point requirements for this site of 20,988 sf are 80 base points plus 11 parking points. This plan provides 107 base points and 11 parking points. A parking lot buffer is required for this property. Due to the configuration of the lots, the parking lot buffer will need to be placed on the edge of the development on the north side of the paved area. A wooden privacy fence is shown on the site plan (this is only for the rear area).

A private dumpster for this development is shown on the site plan. This area should be behind the wooden privacy fence. In addition, all utility meters, air conditioning units and similar mechanical units shall be screened so as not to be visible from a public right-of-way. All rooftop mechanical units shall be screened from the designated gateway corridor by a parapet wall or other means. Plans must be approved by the relevant utility company for safety.

The proposed outside lighting must not exceed one (1) foot-candle at a property line. The applicant's representative is aware that the brightness of outdoor lighting must not exceed one (1) foot-candle at a property line. Outside lights for nonresidential properties/uses must be made up of a light source and reflector so that acting together, the light beam is controlled and not directed across an adjacent property. It is the intent of this provision to prevent light from spilling over to adjacent properties in amount that can create negative impacts (See Section 7.6 Gateway Corridor Overlay District, 6, a). Lighting Requirements)

Our Zoning Ordinance has Section 8.15 that provides standards for Veterinary Clinics:

As herein, defined, all veterinary clinics shall meet the following standards:

- A. *All areas for treatment, diagnosis and over-night boarding of animals shall be completely enclosed and heated and air conditioned in order to eliminate noise, odor, and insect problems.*
- B. *Fenced outdoor exercise areas shall be permitted provided no animal shall be boarded in such areas or be boarded in areas with direct access to such areas or exercised between the hours of 9:00 p.m. and 7:00 a.m. Such fencing shall be a minimum of six*

- (6) feet in height and shall be opaque or screened with landscape materials approved by the Zoning Administrator.*
- C. *Small domestic animals only shall be permitted on the premises and all horses, cows, sheep, goats, pigs, wild animals, food animals and other large animals shall be excluded except in the manufacturing zones.*
- D. *No veterinary clinic building or exercise area shall be established closer than one hundred (100) feet to any boundary of property in a residential zone.*

Staff recommends conditional use approval subject to the following:

- 1. Comply with Section 8.15 Veterinary Clinic Standards listed in this report.**
- 2. Add the parking lot buffer (northside) to the Landscape Plan.**
- 3. Outdoor lighting must not exceed one (1) foot candle at the property line. Outside lights for nonresidential properties/uses must be made up of a light source and reflector so that acting together, the light beam is controlled and not directed across an adjacent property. It is the intent of this provision to prevent light from spilling over to adjacent properties in amount that can created negative impacts (See Section 7.6 Gateway Corridor Overlay District, 6, a). Lighting Requirements).**
- 4. All utility meters, air conditioning units and similar mechanical units shall be screened so as not to be visible from a public right-of-way. All rooftop mechanical units shall be screened from the designated gateway corridor by a parapet wall or other means. Plans must be approved by relevant utility company for safety.**

Mr. Parker reported for Engineering, the applicant will be required to submit a site 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.

Mr. Parker stated it is shown on the site plan that there is a service drive off of Pepperell Parkway. It should be noted that this is a shared drive and that it should be shared with the property to the west of this property. That has been discussed before and there is no issue for that with the applicant.

The Engineering Department has no other comments or concerns with this proposed conditional use application.

Mr. Parker reported for the Opelika Utilities Board, no comments.

Mr. Parker reported for the Opelika Power Services, this subdivision is outside the Opelika Power Service territory.

Chairman Cherry opened the public hearing.

No comments.

Chairman Cherry closed the public hearing.

Motion to grant conditional use approval with staff recommendations

RESULT:	Passed
MOVER:	Director Mike Hilyer
SECONDER:	Lucinda Cannon

AYES:	Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer
NAYS:	None
ABSTAIN:	None

7. Blake Rice, Barrett-Simpson, authorized representative for William C. Starr, 2521 Loyalty Loop Road, C-2, Office warehouse and retail development.

Mr. Mosley reported the applicant is requesting conditional use approval to construct two commercial buildings: one (1) building for offices with warehouse space and retail space, and one (1) building containing six (6) units (2,400 sf each) for office warehouse use. The office showroom space with warehouse area and the office warehouse units may require an additional conditional use approval depending on the specific use in each unit and zoning requirements. The office, showroom, and warehouse building and office warehouse units will be required to be approved individually for business licenses and meet all city requirements with no outside storage allowed. The parking ratio used for this development is commercial support uses: One space per 4000 sf of warehouse space and one (1) space per 250 sf of office space. Building #1 on Lot 1 shows 29 parking spaces (2 handicapped). Building #2 on Lot 2 shows 21 parking spaces (1 handicapped).

The office, showroom, and warehouse building on Lot 1 (10,000 sf Building #1) are estimated to have 10 employees. Building #1 will have 4,000 sf of office and retail area with 12,000 sf of warehouse space. This location will have three 20 foot roll up doors on the east side of the building. Building #1 has 29 paved parking spaces (2 handicapped). The building setbacks and parking requirements are met. At this time no exterior elevations have been provided for this project. The applicant's representative stated they will use Gateway approved cladding materials (brick, stone, or EFIS) on the front façade and extend the materials halfway down the sides of the building on Lot 1. This building will not have any outside display or storage. The office warehouse units may require an additional conditional use approval depending on the specific use in each unit and zoning requirements. A private dumpster for this development is not shown on the site plan. If a dumpster is needed in the future, the location and screening will need to be reviewed and approved by the Planning Department.

The applicant's representative submitted a landscape plan for Lot 1. The landscape minimum point requirements for this site of 55,178 sf are 140 base points plus 30 parking points. This plan provides 141 base points and 31 parking points a total of 172 points provided. A parking lot buffer is required for this property.

The office and warehouse building on Lot 2 (14,400 sf Building #2) Building #2 will have 1,200 sf of office area with 13,200 sf of warehouse space divided into 6 units. This location will have a 15 foot roll up door on the front of each unit and the four unit on the south will also have an additional 15 foot roll up door on the rear. Building #2 shows six (6) paved parking spaces (1 handicapped) in the front of the building and nine (9) gravel parking spaces in the rear of the Lot 2. The individual tenant space will determine the parking uses. If a tenant needs additional parking for the use, the nine (9) gravel parking would be required to be paved at that time. The building setbacks and parking requirements are met. At this time no exterior elevations have been provided for this project. The applicant's representative stated this building will not have any outside display or storage and this building will have metal cladding. The warehouse office space for lease will be required to be approved individually for business licenses and meet all city requirements with no outside storage allowed. The office warehouse may require an additional conditional use approval depending on the specific use in each unit and zoning requirements. A private dumpster for this development is not shown on the site plan. If a dumpster is needed in the future, the location and screening will need to be

reviewed and approved by the Planning Department.

The applicant's representative submitted a landscape plan for Lot 2. The landscape minimum point requirements for this site of 68,227 sf are 156 base points plus 21 parking points. This plan provides 156 base points and 21 parking points. The landscape plan provided for Lot 2 meets the minimum requirements.

Staff recommends conditional use approval subject to the following:

- 1. Approval of a subdivision to create the lots shown, the remainder of the lot will be required to have road frontage.**
- 2. Add the parking lot buffer (west side) to the Landscape Plan for Lot 1.**
- 3. The office warehouse retail building and office warehouse units will be required to be approved individually for business licenses and meet all city requirements with no outside storage allowed. Future uses may require additional conditional use approvals and must meet the use requirements of the zoning district based on the site.**
- 4. Dumpster areas and screening must be approved by Planning Department prior to installation.**

Mr. Parker reported for Engineering, the public road Loyalty Loop does not extend past the intersection. It is requested that the public entrance to the parking lot from the east be removed. The other proposed buildings south of the intersection are not accessed through a public street.

The applicant will be required to submit a site 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.

The Engineering Department has no other comments or concerns with this proposed master plan amendment application.

Mr. Parker reported for the Opelika Utilities Board, no comment.

Mr. Parker reported for the Opelika Power Services, this is inside the Opelika Power Service territory.

Chairman Cherry opened the public hearing.

No comments.

Chairman Cherry closed the public hearing.

Motion to grant conditional use approval with staff recommendations

RESULT: Passed

MOVER: Director Mike Hilyer

SECONDER: Ira Silberman

DISCUSSION: Mr. Silberman asked is that detention pond a current active pond?

Mr. Parker stated there is no pond there. That is their proposed location for

the detention.

Mr. Silberman asked so it will be plumbed into?

Mr. Parker stated the storm drain will connect to the new one.

AYES: Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer

NAYS: None

ABSTAIN: None

8. Blake Rice, Barrett-Simpson, authorized representative for TNT Properties, Inc, 1450 Columbus Parkway, C-3, GC-P, Building supply store and garden center.

Mr. Mosley reported the applicant is requesting conditional use approval to construct a building supply and garden center. The 1.87-acre property on Columbus Parkway is adjacent to Burger King and about ½ mile from Exit 62 on I-85. Other recent developments near the building supply store are the Exxon and RaceTrac gas station and convenience stores, and Guthrie's restaurant. The building supply property will front along Columbus Parkway and a new street is proposed on the east side of the property. The new street has a temporary cul-de-sac adjacent to the building supply property. At a later time, the street will be extended for future developments to the north and west of the building supply store.

The site plan shows a 18,000 sf building supply store with a wrap-around porch on two sides. A 1,125 sf garden center is in the rear yard area. The development is providing 42 off street parking spaces with 2 handicap parking spaces. The parking spaces requirement is based primarily on the retail square foot area. Other parking spaces are determined on the store's office square foot area and warehouse area.

The front exterior material is a combination of brick and cementous lap siding. The store's main entry door and front elevation faces the new street. A wrap around porch faces the new street and Columbus Parkway. At this time, the elevation facing Columbus Parkway is not available. The exterior material is a combination of brick and cementous siding that is an approved exterior material in the Gateway Corridor. For this future corner lot, the front elevation provided should be installed on both streets.

The landscape plan meets minimum requirements; a total of 25 trees and 10 shrubs are proposed (225 base & parking lot points required; 225 points provided). The size of trees and shrubs planted must meet the minimum size requirements as provided in the Landscape Regulation. A 15-foot-wide landscape buffer consisting of five trees is shown along Columbus Parkway. Staff recommends shrubs planted between the trees. The property meets the maximum 70% impervious surface ratio (ISR) allowed; the proposed impervious area is 67% of the property. A private dumpster is shown in the rear yard facing the temporary cul-de-sac. The dumpster must be enclosed with an opaque fence on all sides and an opaque double gate.

Recommendation

Staff recommends approval subject to the following:

- 1. Add shrubs between the trees that front along Columbus Parkway.**
- 2. The front elevation provided must be installed on Columbus Parkway and the future new street.**
- 3. The wall signs shown on elevations are for illustration purposes and not part of this conditional use review. A Sign Permit application will be provided to applicant after conditional use approval.**
- 4. All outside sales and storage shall be limited to the areas shown on the site plan.**

Mr. Parker reported for Engineering, the City is in process of designing and constructing the Columbus Parkway North Access Road that this site will access from. ALDOT will need to review and approve this design for construction.

The applicant will be required to submit a site 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.

The Engineering Department has no other comments or concerns with this proposed master plan amendment application.

Mr. Parker reported for the Opelika Utilities Board, no comments.

Mr. Parker reported for the Opelika Power Services, this subdivision is outside the Opelika Power Service territory.

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

Motion to grant conditional use approval with staff recommendations

RESULT:	Passed
MOVER:	Lucinda Cannon
SECONDER:	Director Mike Hilyer
DISCUSSION:	Mr. Hilyer asked Mr. Mosley does this material on the outside meet the Gateway Corridor requirements?
	Mr. Mosley stated it does. This is Hardie Board, basically lap siding, and then brick. Both are allowable materials.
	Mr. Silberman asked what is the material on the cul-de-sac?
	Mr. Parker stated it will be paved. The whole thing will be paved because they are taking access off the cul-de-sac as well.
AYES:	Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer
NAYS:	None
ABSTAIN:	None

D. TEXT AMENDMENTS TO THE ZONING ORDINANCE - Public Hearing

9. A public hearing to consider a recommendation to the City Council on proposed text amendments to the Zoning Ordinance: Section 2.2 Definitions; Section 7.3 C. Use Categories (matrix table); Section 7.8 Village Commercial District; Add new section: Section 8.28.3 Medical Cannabis Dispensaries

Mr. Mosley reported in 2021, the State of Alabama legalized the cultivation, processing, distribution, and sales of cannabis for medical purposes. The legislation that enabled this practice also created a new state agency to oversee the regulation of this practice. The state has since created a large number of rules regulating each aspect of the process to prevent the

misuse of cannabis for purposes not allowed by the state. The state also allowed individual cities to determine whether they would allow the sale of medical cannabis. In October 2022, the Opelika City Council passed a resolution that would allow the sale of cannabis for medical purposes. Staff has reviewed both state regulations and other guidance to ensure that all aspects of the process are accounted for.

The State of Alabama's regulations already limit the proximity of medical cannabis dispensaries to schools, childcare facilities and daycares. They also regulate the amount of security provided to both the facility and parking lots. They provide regulations that limit entry into the facility to those with a medical cannabis card or a caretaker. Finally, the regulations prohibit use on site.

The City of Opelika Planning Department is recommending that the use be limited to our non-residential zones. We have included manufacturing zones as they may be combined with a cannabis processing facility. We have also include that they be allowed in the Institutional zone as it contains the hospital and many of our medical offices. In all zones the use would be considered conditional. We have also provided distance requirements from residential zones and other medical cannabis dispensaries. The state is only allowing 39 dispensary permits in the first round and it would be very unlikely that they would locate multiple dispensaries in the same city.

By limiting the agglomeration of these businesses, we hope to reduce any potential negative impacts that may occur. Typically, this has been more of an issue with recreational cannabis. It is important to point out that the federal government still considers marijuana or cannabis a Schedule 1 drug with no acceptable medical use.

Recommendation: A positive recommendation to City Council for the text amendment

SECTION 2.2 Definitions

Medical Cannabis Dispensary. An entity licensed by the Alabama Medical Cannabis Commission under § 20-2A-64 or § 20-2A-67, Code of Alabama 1975 (as amended), authorized to dispense and sell medical cannabis at dispensing sites to registered qualified patients and registered caregivers pursuant to Article 4 of the Darren Wesley 'Ato' Hall Compassion Act (Act 21-450). This shall include both independent medical cannabis dispensaries and the dispensary function of an integrated medical cannabis facility. These regulations shall not apply to the other functions of an integrated medical cannabis facility including cultivation, processing, or secure transportation.

Section 7.3.C

USES	DISTRICTS														
	R-1	R-2	R-3	R-4	R-4M	R-5	R-5M	C-1	C-2	C-3	M-1	M-2	I-1	GC-P	GC-S
COMMERCIAL Medical Cannabis Dispensary	N	N	N	N	N	N	N	N	C	C	C	C	C	C	C

SECTION 7.8 VILLAGE COMMERCIAL DISTRICT

B. Permitted Uses.

3. The following uses are Not Allowed:

(All other uses previously listed)

Medical Cannabis Dispensaries

SECTION 8.28.3 MEDICAL CANNABIS DISPENSARIES

A. Purpose and Intent

The purpose and intent of this section is to regulate the dispensation of medical cannabis within the City of Opelika. The following regulations are intended to supplement the regulations adopted by the State of Alabama Medical Cannabis Commission to address the health, safety, and welfare concerns for the citizens of the City of Opelika. These regulations shall apply to licensees who have either a standalone Medical Cannabis Dispensary license or the dispensary portion of an Integrated Medical Cannabis Facility license.

B. Use Standards and Dispersal Requirements

1. Medical cannabis dispensaries are prohibited unless the proposed use is located more than 2,500 feet from another medical cannabis dispensary.

The separation distances shall be measured in a straight line from property line of the proposed dispensary to the property line of the existing dispensary.

2. Medical cannabis dispensaries are prohibited unless the proposed use is located more than 500 feet from any property used primarily for a single-family residence or property zoned for primarily for residential uses. The following zones are considered residential zones for the purpose of this section: R-1, R-1A, R-2, R-3, R-4, R-4M, R-5, R-5M, VR-1, VR-2, or PRD. The separation distances shall be measured in a straight line from property line of the dispensary to the property line of the residential use.
3. If the proposed medical cannabis dispensary meets the criteria in Section 8.28.3 B.1 and B.2, this use is permitted by conditional use permit ("CUP") only.
4. Burglar bars, steel gates, and steel-roll down doors or shutters are prohibited on the exterior of a structure when visible from any public or private street. Interior security burglar bars, steel gates and roll down doors shall allow 80 percent visibility into the tenant space and shall be fully retractable during business hours of operation.
5. All medical cannabis dispensaries shall be in compliance with all local and state requirements at all times.

Mr. Parker reported for Engineering, no report.

Mr. Parker reported for the Opelika Utilities Board, no report.

Mr. Parker reported for the Opelika Power Services, no report.

Chairman Cherry opened the public hearing.

No comments.

Chairman Cherry closed the public hearing.

Motion to send a positive recommendation for text amendment to City Council with staff recommendations

RESULT: Passed

MOVER: Lucinda Cannon

SECONDER: Ira Silberman

DISCUSSION: Mr. Silberman asked is this going to be licensed to private industry to operate?

Mr. Mosley stated yes it will.

Mr. Silberman asked will the hours be designated by the State?

Mr. Mosley stated I am not sure if the State designates hours. Most of the medical cannabis facilities that we have looked at appear to run regular retail hours. They are not open 24 hours a day and they typically try to be as inconspicuous as possible and try to not stand out.

Mr. Silberman stated I know of one in Pennsylvania that is open until midnight. That sounds like a lot of hours.

Mr. Mosley stated they are required to have lighting and an on-site security professional at all times when employees are present.

AYES: Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer

NAYS: None

ABSTAIN: None

V. OLD BUSINESS

E. **REZONING - Public Hearing**

10. (a) Amendment to the Future Land Use Map, accessed from Anderson Road, 229.2 acres, from a low-density residential land use category to a mixed-use category.

(b) Rezoning request, Foresite Group, LLC, authorized representative for Keith B. Norman, Electra Estates, 229.2 acres, accessed from Anderson Road, from R-1 to PUD *(This item was tabled at the September 27, 2022 meeting at the applicant's request)*

Mr. Mosley stated the applicant has requested that this item remain tabled until the November Planning Commission meeting.

11. Rezoning request, Michael T. Johnson, Holland Homes, Inc, authorized representative for Rodney C. and Laurie S. Jones, 204.3 acres, accessed at 3200 block Columbus Road, PUD zoning request subject to City Council approval *(This item was tabled at the September 27, 2022 meeting at the applicant's request)*

Mr. Mosley reported this agenda item was tabled at the September 27th Planning Commission meeting. At the September meeting, Planning proposed that the 674 residential lots ranging from 1,800 sf to 5,000 sf was an intensive increase of lots for the existing rural environment. Staff proposed adding additional 70 foot lot widths to mirror surrounding developments. In a rural area, one acre lots (43,560 sf) with 100' lot widths are the minimum lot size requirement. The applicant has amended the master plan. The following is a comparison of the September 27th master plan with the October 25th revised mater plan.

	<u>Sept 27th</u>	<u>Oct 25th</u>
Single Family Home Lots	436	438
Twin Home Lots	198	142
Townhome Lots	40	34
Total Lots	674	614
Dwellings per acre	3.2	2.9
Open Space	92.5	104.9

The revised master plan shows a decrease of 60 lots from 674 to 614 units in the overall number of dwelling units (i.e., single family homes, twin homes, and townhomes). At the Sept 27th meeting, all 436 single family home lots were 40 feet wide; the revised master plan shows 24 of the total 438 single family home lots with 70-foot lot widths. The decrease in single family home lots as well as twin home and townhome lots, there is an increase in open space, the amenity lots and open space areas increased by 12.4 acers from 92.5 acres to 104.9 acres.

This represents almost 50% of the property in open space. The 70-foot lots are located at the entrance of the PUD near Columbus Parkway. This street also connects to the proposed subdivision to the west which also has 70-foot wide lots. The remainder of the lots are 40-foot wide or less. The overall density of the property is 2.9 units per acre.

Staff's position has been that the large majority of the lots in this area are either large lot rural (1 acre +) or R-2 or R-3 lots (10,000 to 15,000 square foot lots). The applicants single-family home lots would be 5,000 square feet. The applicant's contention is that they could develop this many or more 70 foot, 10,000 square foot lots, but they would need to grade the entire site and remove the large buffers and open space.

In some sense, this concept is similar to a conservation subdivision. Conservation subdivisions are where the density and development is clustered in the most developable areas, while the natural features like streams, wetlands or steep slopes are preserved. This reduces infrastructure and grading costs, as well. Typically, these developments are paired with low impact standards to reduce impervious surface and improve drainage. This clustering will allow the developer to build smaller more affordable housing units.

This development does place approximately 50% of the most undevelopable areas into open space including some streams and steeper areas. The development also proposes smaller lots. The 40-foot lot has only been proposed in a couple of developments throughout the city through the use of a PUD. Under the City's traditional zoning the minimum R-5 lot is 60 feet in width and 7,500 square feet in area. A major concern of the 40 foot wide lots is that they don't leave much room for a front yard. The 2-car parking pad is approximately 18-20 feet in width, occupying half the yard. The remainder is often used for utility placement. Because of the front yard coverage with parking lots, the sites do not have area for more than two vehicles as on-street parking would often interfere with driveway entrances for the next residence.

Each residential lot has a typical landscape package of shrubs and trees provided by the developer after a home is constructed. In addition to the landscape package, the revised master plan narrative, requires at least one street tree is for each single-family home lot, at least one tree for each twin home structure (1 tree per two lots), and two trees planted for each townhouse building (two trees per building). An additional 648 trees will be installed. The additional trees improve curb appeal, property values, and creates a more desirable street.

On the south end of the September 27th master plan, three primary streets about 1,000 feet long each are shown with 40-foot-wide single family home lots (147 lots total) on both sides of the streets. The 147 homes are on each side of the three streets, driveway access is from the street, and off-street parking in the front yard of a 40' wide lot. The October 25th revised master plan relocates twin home lots in-between the single-family home lots on two streets. An alley is provided to access the twin home lots along the rear lot line; the rear yard alley access and rear yard off-street parking for the twin homes reduces the repetition of aligned single-family homes on 40' wide lots on both sides of the street. This improved layout provides a quality effect for the neighborhood. For comparison, the Sept 27th master plan shows 147 single family homes on both sides of a primary street; the October 25th revised plan shows 58 single family homes with direct access on both sides of a primary street.

Other improvements on the revised master plan include a street stub-out to the adjacent property on the east and south property lines. About 2.1 acres of open space is added along the rear lot line of 87 single family homes. Other amenity lots are identified: '0.89 Acres and 1.1 Acres - Open Space Quad. Lawn for recreation, '.72 Acres Open Space – Putting Green', and

‘Open space for Bocce Ball Court’. “.21 Ares – Open Space - Dog walk.

The site will take access from two roads connecting to Columbus Parkway (US 280). The western access is across from Betty’s Lane and the start of the divided median. All access from Columbus Parkway will require ALDOT review and approval. The applicant has provided a sidewalk on one side of the street with some additional sidewalk near amenities. Staff would recommend sidewalks be located on both sides adjacent to residential development.

Staff recommendations

The revised master plan is an improvement to the September 27th master plan. Staff still has concerns with the unit type being proposed at this location in a more rural location. This type and intensity of development could only be recommended at this location in a clustered or conservation type development. Staff recommends Planning Commission make a positive recommendation to City Council subject to the following:

1. Sidewalks be provided on both sides of the street adjacent to residential properties.
2. A residential bufferyard described in Section 10.6.D.1 be placed between the townhome product and the adjacent property to the west.
3. All attached single family homes shall meet the Gateway Corridor cladding requirements.
4. Vinyl or aluminum siding shall not be the primary cladding material for single-family homes.

Planning staff’s September 27th report is below for review.

September 27th Planning Report

The applicant is requesting to rezone 209.7 acres from an R-1 zoning district (rural) to a PUD (Planned Unit Development) subject to City Council approval of the annexation property. The rezoning property is accessed from Columbus Parkway and located about one mile east of intersection South Uniroyal Road & Columbus Parkway. The adjacent properties next to the rezoning property are all rural, undeveloped, and on 35 acres or larger parcels. The adjacent properties on the east and south side of the annex property are outside the City limits.

In 2020, a 38-acre adjacent property on the west side of the 209.7 acre rezoning property was rezoned to R-3. In the R-3 zone the minimum lot size is 10,000 sf. Preliminary approval was granted for 101 residential lots at 10,000 sf or larger for the 38-acre property. The applicant today is requesting a PUD zoning district on 209.7 acres for single family home lots, twin home lots, and townhome lots. The proposed minimum lot size is 5,000 square feet for single family home lots, 3,125 sf twin home (duplex) lots, and 1,800 sf townhome lots; 92.5 acres of the 209.7 acre development is open space or amenity lots.

The developer (Holland Homes) for the 209.7 acre development is also the developer for the Fox Run Parkway development that was approved to PUD in 2020 now under construction. The Fox Run development is the same development proposed for the 209.7 acre property; both locations are a residential mix of single-family home, twin homes, and townhomes lots. The 2020 approved Foxrun PUD is 47 acres with 272 residential units; the Columbus Parkway proposed PUD is larger at 209.7 acres with 674 units. 92 acres of the 209.7 acres are labeled

open space or amenity lots on the master plan. (Several streams run through the 209 acres so development is not feasible for most of the 92 acres.) The proposed development style would match the Fox Run Village project.

Staff Recommendation

In most rezoning requests, a transition occurs from one zoning district to another to gradually rezone property allowing an increase of residential lots (example: from R-1 to R-2 or from R-3 to R-4), etc.). The rezoning in a consecutive order allows steady growth especially near commercial or industrial growth areas. The 209.7 acre rezoning is located adjacent to the City limits, the predominate land use is rural and undeveloped. The adjacent properties are either outside the Opelika City limits and those properties in the City limits are zoned R-1 (rural) except a recent rezoning to R-3. Minimum lot size in R-1 is one acre (43,560 sf). Staff believes the scale of the proposed PUD development with 674 lots and lot sizes ranging from 5,000 sf to 1,800 sf is not a balanced transition in this rural area. The 674 lots are an intensive increase of lots compared to the one acre minimum lot size in the R-1 zone.

Previous rezoning approvals adjacent to or near the 209.7 acre rezoning property was from R-1 to PUD or R-1 to R-3. These rezonings were a moderate transition from the existing rural character and R-1 zoning district. For example, earlier this year, an annexation & rezoning of 38 acres was approved located adjacent to the 209.7 acres; the property was rezoned to R-3; in the R-3 zone minimum lot size is 10,000 sf. Also, in 2006 on South Uniroyal Road about 1.5 miles from the proposed 209.7 acre property, rezoning was approved for the Creekstone SD (138 single family home lots), and in 2019 Drake's Landing (180 single family home), a PUD residential development was approved. Drake's Landing minimum lot size is 10,000 sf. Most lots in Creekstone SD exceed 10,000 sf.

The 2019 Foxrun PUD is compatible with the existing uses and growth patterns near the development. Opelika High School, Southern Union College, and Betts Crossing shopping center are less than a mile from the Fox Run development. Also, three residential neighborhoods that total 285 lots (Stephens Woods, The Willows, The Chimneys) are about 1.5 miles from the Foxrun PUD. The Foxrun development with a residential mix of single-family home, twin homes, and townhomes met a residential need locating next to two schools and a shopping center. (The new 6th grade City public school under construction is nearly across the street from the Foxrun PUD.) At the proposed Columbus Parkway PUD location, there is no transitioning taking place. The adjacent properties are rural, and compared to the other rezonings in the area, the 674 residential units accessed from a State highway seems incompatible.

*Staff believes the property is suited for residential uses but is concerned with 674 residential lots ranging from 5,000 sf to 1,800 sf. is a concern. Staff recommends a more moderate transition with less impact on the existing rural character and R-1 zoning district. The property should have more lots consistent with the surrounding area approximately 10,000 sf single family home lots and possibly a mix of twin home lots and townhome lots. **Staff cannot recommend approval at this time. It may be possible to revise the request to make the development more consistent with the surrounding neighborhood.***

Mr. Parker reported for Engineering, any needed adjustments to the roadway, adjacent intersections or added turn lanes will be analyzed with a traffic impact study after the Preliminary Plat is submitted and approved.

The Engineering Department has no comments or concerns with this proposed re-zoning application

Mr. Parker reported for the Opelika Utilities Board, no report.

Mr. Parker reported for the Opelika Power Services, this subdivision is inside the Opelika Power and Tallapoosa River Service territory.

Mr. Mosley stated we do have a letter from Opelika Utilities that says they can provide water to this site and sewer is available to this site as well.

Chairman Cherry opened the public hearing.

TJ Johnson, Holland Homes, representative, stated I'd like to say thank you guys for tabling this last month, giving us the opportunity to meet with Mr. Mosley twice more to continue to improve this application. Like Mr. Mosley said, we reduced density to 2.9 units per acre, which is in line with R-3 and also with Fenwick Subdivision next door. Mr. Mosley mentioned conservation subdivision and that's exactly our intent here. We've got over a hundred acres of open space and amenities, which is more than half the total property. This allows for huge, undisturbed buffers. On that picture that Mr. Mosley shows there, there's a dashed black line around the property. That's 100 feet off the property line. So, the majority of this property has more than 100 feet undisturbed buffer. What that means is there are less trees cut down, less environmental impact, less runoff and more privacy, both for our residents who move in and for the neighbors that own property out there. We're proposing walkable gathering point amenities throughout the development that'll make the neighborhood feel more like a community. Common greens, a quad, pool, clubhouse, putting green, bocce ball courts and a fire pit. Increased landscape requirements, we'll add hundreds more trees in addition to the thousands we will save by not clear-cutting the entire site. Like Mr. Mosley mentioned, we're really proud of Fox Run. We think it's an incredible neighborhood. It's a very similar product. We want to improve on that by providing rear parking to the twin homes and to the town homes, which will clean up the street frontage to make a better product for everybody and reduce parking concerns as well. We agree with the staff recommendations and are happy to provide the sidewalks. Everything we build exceeds the Gateway Corridor cladding requirements so we're happy to meet that as well. I know there's always some concern with a smaller lot, but we just truly believe that a 40-foot product, whereas you lose some of the side and front yard on each individual lot, it does allow you to provide more open space for gathering, building community and it's more enjoyable. It will be maintained by the HOA. We cut park benches, places to hang out, play bocce ball, and that sort of thing. Just for example, for all 614 lots on this application, there's over 7,300 square feet of open space. So, it's truly just a geometry problem. As the lots get bigger, that open and common space goes down. We've seen in the market that folks prefer a smaller yard that they maintain to go hang out on a bigger lot, bigger yard, bigger play area that the HOAs maintain. We truly believe that it's a better product both for Opelika and for our future homeowners. I appreciate the time. I'm happy to answer your questions.

Chairman Cherry closed the public hearing.

Motion to remove the item from the table

RESULT:	Passed
MOVER:	Director Mike Hilyer
SECONDER:	Leigh Whatley

AYES:	Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer
NAYS:	None
ABSTAIN:	None

Motion to send a positive recommendation for rezoning to City Council with staff recommendations

RESULT:	Failed
MOVER:	Director Mike Hilyer
SECONDER:	Chairman Lewis Cherry
DISCUSSION:	Ms. Cannon stated I really don't like the 40 foot front lots. It's just too small and there are so many of them. That's where I stand. Chairman Cherry asked is the density ok? Mr. Mosley stated yes. The density is 2.9 acres, which is underneath what's allowed in the R-3, which is 3.5 units per acre. I think they intentionally matched the density of the neighborhood next door, which has 10,000 square foot lots at the same density. I don't think there's a density issue here. It comes down to lot and development style. Chairman Cherry stated these streets that go into the adjoining property, there's no temporary cul-de-sac in some of them for a fire truck to turn around. Mr. Mosley stated we would require that during platting. TJ Johnson stated I'd be happy to provide that. We are only showing the connection as requested. We're happy to provide that cul-de-sac.
AYES:	Director Hilyer
NAYS:	Cannon, Chairman Cherry, Whatley.
ABSTAIN:	Silberman

Mr. Gunter, City Attorney, stated this item received a negative vote. The majority voted against it, so it will go to City Council with a negative recommendation.

VI. OTHER BUSINESS

F. Approve dates for November and December Planning Commission Meetings.

Mr. Mosley stated we recommend the date of November 29th for the November Planning Commission meeting. That will be the Tuesday after Thanksgiving. For the December meeting we are recommending the date of December 20th.

Motion to move the November Planning Commission meeting to November 29, 2022

RESULT:	Passed
MOVER:	Lucinda Cannon
SECONDER:	Ira Silberman
AYES:	Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer

NAYS: None

ABSTAIN: None

Motion to move the December Planning Commission meeting to December 20, 2022

RESULT: Passed

MOVER: Lucinda Cannon

SECONDER: Ira Silberman

AYES: Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer

NAYS: None

ABSTAIN: None

VII. ADJOURN

Motion to adjourn at 4:11 p.m.

RESULT: Passed

MOVER: Director Mike Hilyer

SECONDER: Lucinda Cannon

AYES: Cannon, Chairman Cherry, Whatley, Silberman, Director Hilyer

NAYS: None

ABSTAIN: None

Lewis A. Cherry, Chairman

Matt Mosley, Secretary