



CITY OF OPELIKA
CITY COUNCIL
WORKSESSION MEETING AGENDA
300 Martin Luther King Blvd.
February 1, 2022
TIME: 6:40 PM

1. CALL TO ORDER
 1. George Allen, Erica Norris, Tim Aja, Todd Rauch, Eddie Smith
2. PRESENTATIONS
 2. Request Advertise for PH: Rezoning, South 10th Street and Avenue C, from M-1, GC-S and C-2, GC-S to C-1.
 3. Request Advertise for PH: Vacate 16' Alley, South 10th Street and Avenue C.
 4. Request Advertise for PH: Zoning Ordinance Section 7.3 District Regulations & Use Categories, and Section 7.7 Downtown Residential Living.
3. RESOLUTIONS
 5. Oppose State Legislation that Eliminates the Necessity of Citizens to Obtain a Concealed Carry Permit.
4. ORDINANCES
5. GENERAL UPDATES
6. REVIEW/DISCUSS CURRENT COUNCIL MEETING AGENDA
7. GENERAL / DISCUSSION
8. END OF WORK SESSION

“In compliance with the Americans with Disabilities Act, the City of Opelika will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the ADA Coordinator 72 hours prior to the meeting at (334)705-2083.”

City of Opelika

Planning Commission Report

Action Requested:	Rezoning: 7.8 acres from M-1, GC-S, C-2, GC-S to C-1
Location of Property:	South 10 th Street and Avenue C
Property Owner(s):	Marsh Real Estate Investments, LLC Jim Daws, authorized representative
Current Zoning:	M-1, GC-S and C-2, GC-S
Proposed Zoning:	C-1 (downtown district)
Existing Land Use:	Commercial buildings, Undeveloped property

Surrounding Zoning Districts And Land Uses:

North	C-2, GC-S	Commercial
South	C-1 & C-2	Commercial
East	C-2, GC-S	Municipal Court property
West	C-1 & C-2	Commercial

Rezoning

The applicant is requesting rezoning 7.8 acres from M-1, GC-S and C-2, GC-S to C-1 for a market-rate apartment development. The development consists of four 4-story apartment buildings with a total of 182 units with outside and inside amenities. The 7.8 acre rezoning property is bordered by three right-of-ways: South 10th Street, Avenue C, and Central of Georgia railroad right-of-way. Clanton Street runs adjacent/parallel to the railroad; the Clanton Street and railroad ROW combined provide a 150 foot wide space between the rezoning property and the businesses along Clanton Street. The southeast border of the rezoning property is the only side that is not a right-of-way; a law office and the Municipal Court property borders the development on the southeast side.

The rezoning property is adjacent to a C-1 zoning district, and C-1 property is across Avenue C from the rezoning property. The corner lot at 10th Street and Avenue C is zoned C-2, and the adjacent lot to this corner lot is zoned C-1. In 2016, this narrow 7,400 sf lot was rezoned from C-2 to C-1 as well as the former Opelika Light & Power property is zoned C-1; the former Opelika Power (2.4 acres) property is across Avenue C from the rezoning property. (The rezoning property is also in the Gateway Corridor overlay zoning district that runs along South 10th Street. The boundary line for the Historic District is along South 10th Street and borders the rezoning property.)

The adjacent land uses on all sides of the 7.8 acre rezoning property are zoned C-2 or C-2, GC-S except the C-1 zone property across Avenue C. The adjacent land uses along South 10th Street are two business offices, a law office (Dean & Barret), two vacant commercial buildings, and two undeveloped lots. The adjacent properties on Avenue C are the 'Shops at Southerly' providing retail tenant space and the former Opelika Power building vacant. Along Clanton Street are three businesses, a church, and an undeveloped lot. The subject location is a convenient place to live, its close to work space and near downtown shops and restaurants. All within walking distance.

Recommendation

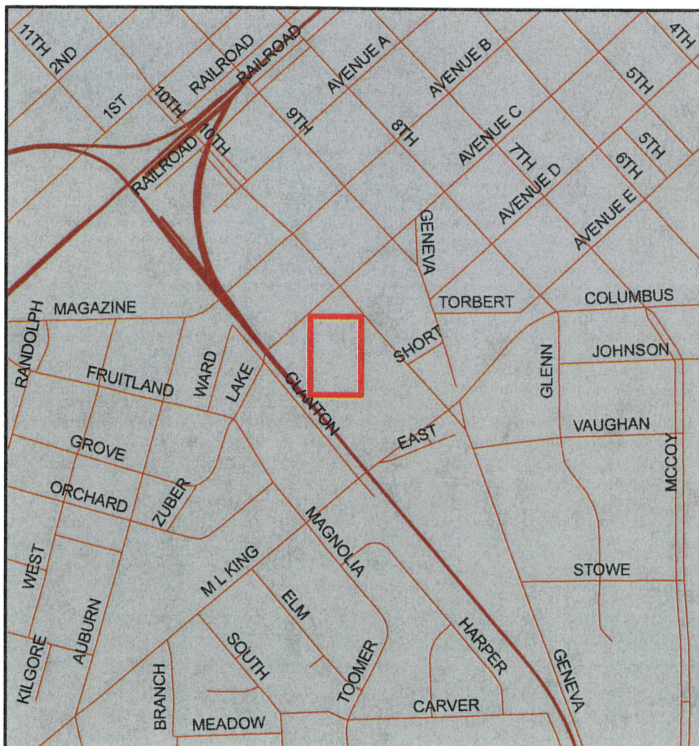
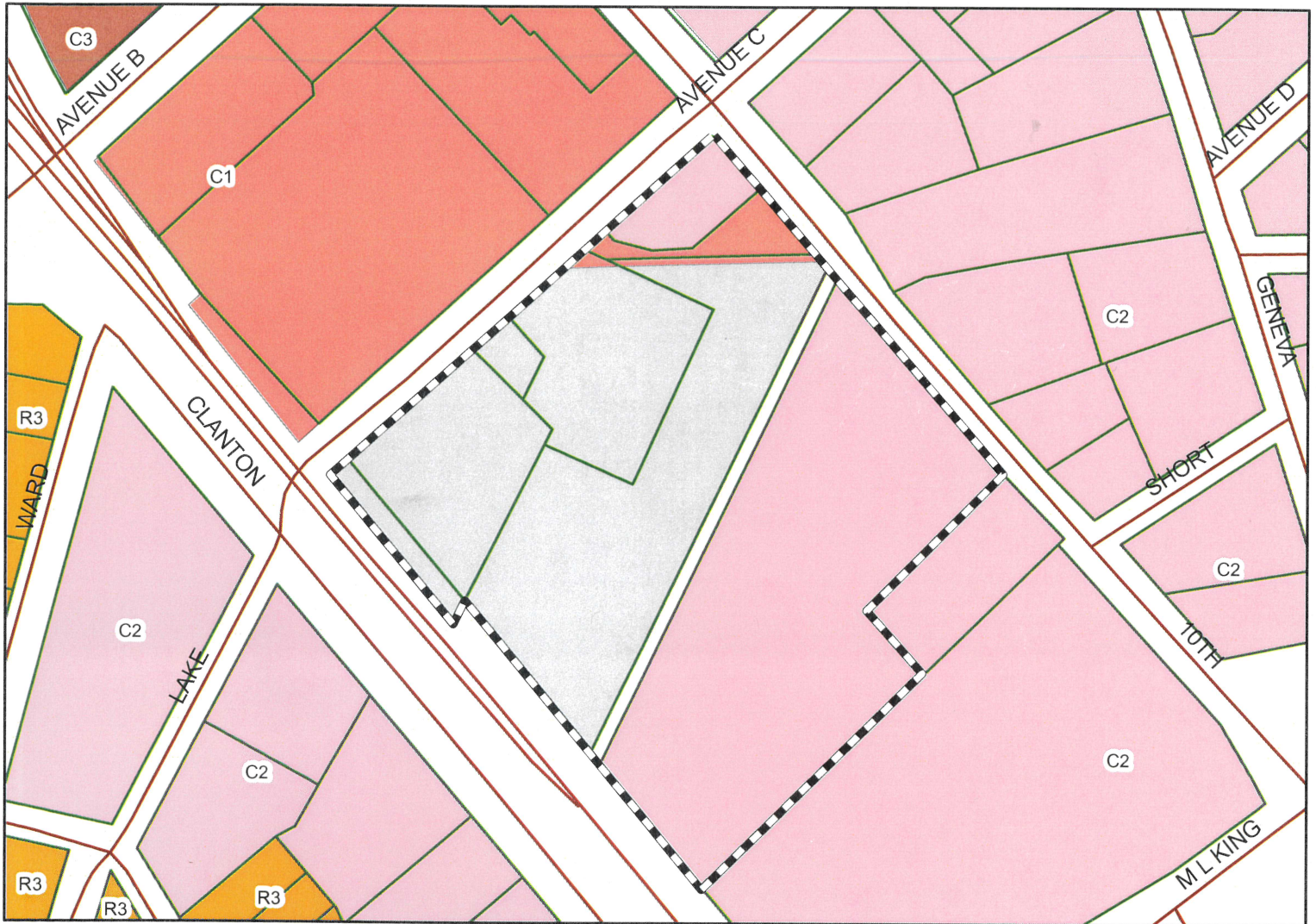
In past years, more retail shops, offices, and restaurants opened in the C-1 downtown district, then interest in living downtown (loft apartments) increased; the "Downtown Living" ordinance (1997) was adopted to accommodate the demand for commercial and residential uses together in the downtown C-1 district. In recent years, in the vicinity of South 8th Street and Avenue D and in walking distance to downtown, single family home construction has increased. The existing mixed use in C-1 has proven to be appropriate providing downtown residential occupants convenient access to offices, commercial uses, and entertainment. The mixed use or the blending together of commercial with loft apartments & nearby single family homes has now encouraged multi-family development (apartments).

The 7.8 acre rezoning property is adjacent to a C-1 zoning district. There are three adjacent commercial uses (offices) on South 10th Street, but most adjacent properties across South 10th Street and Avenue C are vacant commercial buildings or undeveloped lots. The proposed zoning is reasonable given the current condition of the adjacent land uses. The zone would provide more downtown residential and compatible uses.

Planning Staff recommends Planning Commission send a positive recommendation to the City Council to rezone the property M-1, GC-S and C-2, GC-S to C-1.

At the January 25th meeting, the Planning Commission voted 9 to 0 to send a positive recommendation to City Council to approve the rezoning request from M-1, GC-S, C-2, GC-S to C-1. Staff requesting to advertise for a City Council public hearing.

MARSH REAL ESTATE REZONING, SUBDIVISION AND VACATION OF ROW SOUTH 10TH STREET AND AVENUE C M-1, GC-S & C-2, GC-S TO C-1



The applicant is requesting rezoning 7.8 acres for a multifamily development. The subdivision combines 7 lots into one lot. The vacation of right-of-way removes an undeveloped 16 foot alley. The rezoning property is bordered by two streets and a railroad right-of-way.



Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without verification by an independent professional qualified to verify such information.

City of Opelika Planning Commission Report

Action Requested:	Vacate a 16 foot Alley
Location of Property:	Alley between 405 & 411 South 10 th Street extending to the railroad right-of-way or at 410 Clanton Street
Property Owner(s):	Marsh Real Estate Investments, LLC Jim Daws, authorized representative
Current Land Use	Vacant commercial buildings and undeveloped
Current Zoning	C-2, C-2, GC-S & M-1, GC-S
Flood Zone:	FEMA Map #01081C0000G – Nov. 2, 2011 Flood Zone “X” – No portion in flood hazard area
Staff Comments:	

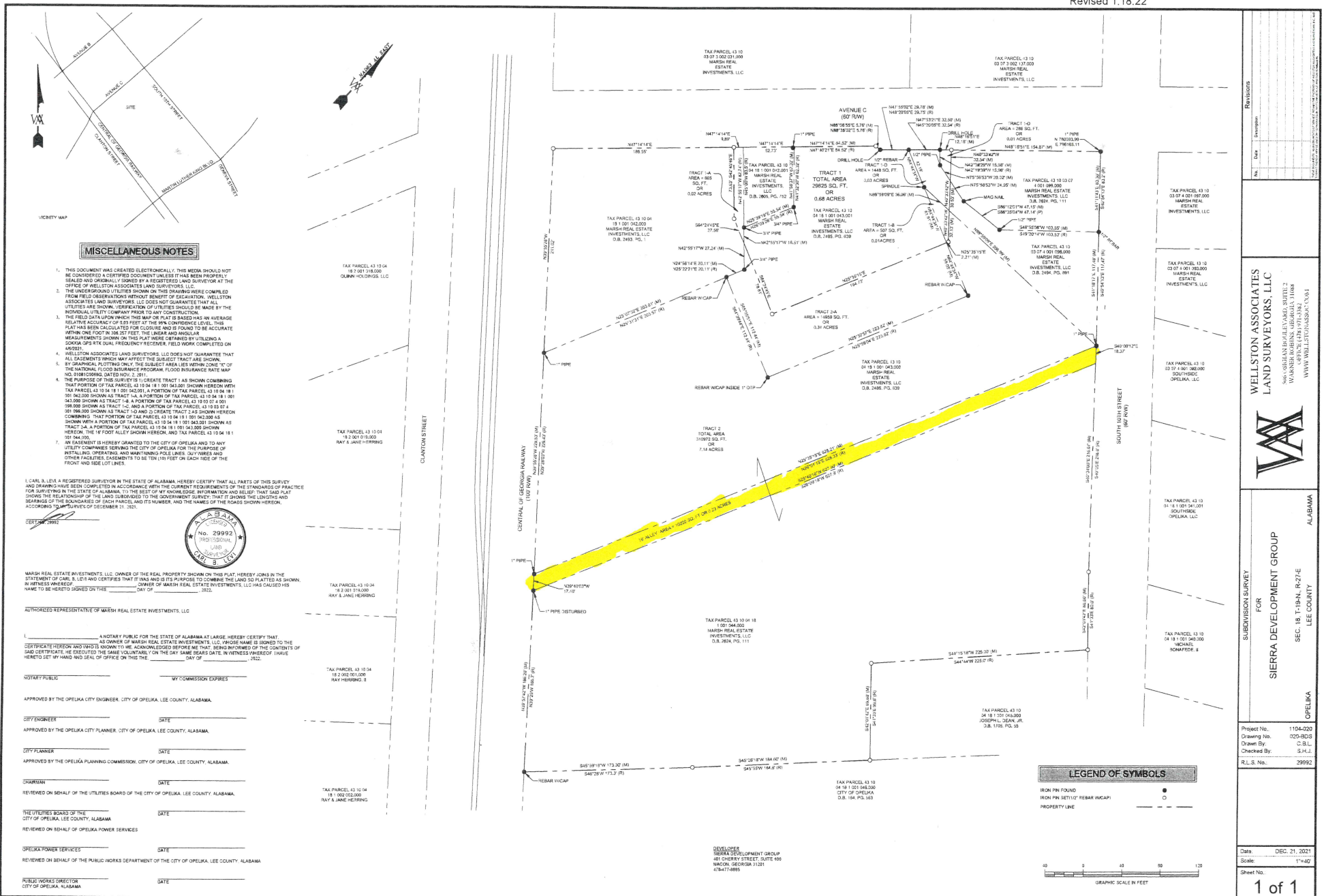
The petitioner is requesting to vacate a 16 foot wide undeveloped alley (right-of-way) for a future development. The petitioner owns the property on each side of the alley therefore the only petitioner. The alley runs from the petitioner’s northeast property on South 10th Street to the southwest property line at the Central of Georgia railroad right of way. The alley is 628 feet long.

The alley has no identifiable access from South 10th Street or the Central of Georgia railroad right-of-way next to Clanton Street. The alley exists on “paper only” on the Grant Lands SD, Resubdivision of Lots 10 & 12 & A Portion of Lot 9, Block 47

Recommendation

Staff recommends a positive recommendation be sent to City Council to vacate the 16’ x 628’ right-of-way from South 10th Street to the Central of Georgia railroad right-of-way.

At the January 25th meeting, the Planning Commission voted 9 to 0 to send a positive recommendation to City Council to vacate the 16’ alley. Staff requesting to advertise for a City Council public hearing.



City of Opelika

Planning Commission Report

Action Requested: Text Amendment –
 Amend Section 7.3 A. District Regulations
 Amend Section 7.3 Use Categories
 Amend Section 7.7 "Downtown Residential Living"

Amendments:

AREA REQUIREMENTS ¹	R-1	R-1A	R-2	R-3 ²	R-4/M	R-5/M	C-1	C-2	C-3	M-1	M-2	I-1	GC-P	GC-S
Minimum Lot Size (vs.) 10,000	43,560	30,000	15,000	10,000	7,500	7,500							20,000	15,000
Dwelling Units Per Acre ^{2,3}	1	1.25	2.5	3.5	9	16	36 16 ⁴	16	16					

Section 7.3.C

USES	DISTRICTS															
	R-1	R-1A	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
Duplex	N	N	N	C	<u>AC</u>	<u>AC</u>	A	A	N	N	N	N	N	N	C	C
COMMERCIAL																
Mausoleum ⁷	C	C	N	N	N	N	N	N	N	N	C	C	N	A	<u>NC</u>	N
Columbarium ⁸	C	C	N	N	N	N	N	N	N	N	C	C	N	A	<u>NC</u>	<u>NC</u>
Crematorium ⁹	C	C	N	N	N	N	N	N	N	N	C	C	N	A	<u>NC</u>	N

7. On a property with a Gateway Corridor – Primary designation, a mausoleum shall be considered a conditional use only as an accessory use to a cemetery. The use is otherwise prohibited in the GC-P as a primary use or accessory to another use.
8. On a property with a Gateway Corridor – Primary or Secondary designation, a columbarium shall be considered a conditional use only as an accessory use to a cemetery or church. The use is otherwise prohibited in the GC-P or GC-S as a primary use or accessory to another use.
9. On a property with a Gateway Corridor – Primary designation, a crematory shall be considered a conditional use only as an accessory use to a funeral home. The use is otherwise prohibited in the GC-P as a primary use or accessory to another use.

SECTION 7.7 DOWNTOWN RESIDENTIAL LIVING

¹Date of Amendment: February 6, 2018 Ordinance No. 01-18 – GC-P/GC-S added and side yard on street added to table. Notes 5-6 covering Gateway requirements moved to Section 7.6.

² Date of Amendment: July 15, 2014- R-3 any final subdivision plat recorded prior to September 17, 2013 shall meet the following area requirements: Min. Lot Size 7,500 sf, Min. Lot Width 60 ft.; and Front Yard Setback 25 ft. Any deviation from area requirements prior to September 17, 2013 shall be considered by the Board of Zoning Appeals

A. Purpose.

It is the purpose of this section to establish regulations to accommodate commercial and residential uses in the downtown area. This section contains criteria designed or intended to:

- a) Contribute to the economic vitality of the downtown area by permitting housing with conditional use approval in the C-1 zoning.
- b) Provide better security, preserve property values, and preserve the character of the downtown area by ensuring that housing is permitted in such a manner that will not alter the character of the downtown area.
- c) Promote the maintenance and preservation of buildings in the downtown area.
- d) Meet housing needs especially for those working downtown.

B. Conditional Use Approval.

Conditional use approval is required for residential dwellings in the C-1 zoning district. During site plan review, the Planning Commission may impose reasonable restrictions and condition on approval of proposed residential housing developments to maintain the character of the downtown business district. The developments to maintain the character of the downtown business district. The Planning Commission may vary or wave requirements if circumstances of a particular proposal so warrant. The Planning Commission shall use the following criteria in determining whether to grant conditional use approval:

- 1. The proposed residential use shall not decrease the value of adjoining properties.
- 2. The proposed residential use shall not inhibit the economic growth or development of the downtown area.
- 3. The proposed residential use at the proposed location shall not endanger the public health or safety, or create a nuisance. The proposed use shall promote and preserve decent, safe, and sanitary housing in the downtown area.
- 4. The proposed residential use shall not be approved if the combinations of residential and commercial uses are incompatible. Pertinent factors to be considered in evaluating any application are noise, smell, hours of commercial operation, and the impact of the proposed development on pedestrian and vehicular traffic.
- 5. The proposed residential use shall not be approved if the Planning Commission determines parking is adequate or on-street parking by the occupants and their guests will adversely affect nearby businesses. Parking for boats, campers, or trailers is prohibited in the C-1 district.
- 6. During site plan review and prior to the issuance of the conditional use permit, the Planning Commission may request repairs of any exterior surface or architecture which is deteriorated, decayed, or damaged. Routine maintenance or repairs of exterior surfaces or architecture may be required in subsequent years, if necessary, to sustain the existing form of the building in design, material, and outer appearance. The Historic Commission shall monitor the conditions of properties and shall initiate such appropriate action of proceeding as is necessary to prevent deterioration in accordance with the provisions of Section VI, VII, and VIII of the Historic Ordinance.

C. Development Standards.

Dwelling units may be of the efficiency, studio, and one (1) bedroom, ~~or two (2) bedroom types~~ or three (3) bedroom types. Each dwelling unit shall have its own independent kitchen, bathroom(s), and bedroom(s). In cases where the Planning Commission deems it necessary, it shall determine which rooms are designated as bedroom(s), kitchen, entrance ways, etc.

Buildings within the C-1 zoning district shall be non-residential on the first floor unless otherwise permitted within this section through conditional use approval.

Buildings located in the C-1 zoning district within the area from 1st Avenue to Avenue B and from South 7th Street to South 10th Street shall meet the following requirements:

Minimum floor area requirements for commercial uses on the first floor (street level):

A minimum floor area of forty percent (40%) of buildings on the first floor shall be reserved for commercial uses. The minimum forty percent (40%) floor area shall be located in the front portion of a building facing the primary street and front entrance into the building. The rear portion of the first floor may be used as a residence. The resident occupying the rear portion of the building shall be limited to the property owner or the business owner of the said forty percent (40%) of the front portion of the building unless the residential and non-residential uses have separate entrances. ~~It is prohibited for any other type of household or family unit to occupy the rear portion of buildings. It is prohibited for a property owner to rent the entire first floor area of a building as a residence.~~ A maximum width of six (6) feet of the front façade may be used as a private entryway to access the rear portion of the building used for residential uses. Conditional use approval is required. A floor plan drawn to scale shall be submitted designating at least forty percent (40%) of the front portion of the building as reserved for commercial uses.

Buildings located outside of the area from 1st Avenue to Avenue B and from South 7th Street to South 10th Street may be a single purpose residential or contain first floor residential subject to conditional use approval.

Minimum requirements for commercial or residential uses on the second floor or higher in the C-1 zoning district:

Residential dwelling units may occupy the second floor or higher of nonresidential buildings. The second floor or higher areas shall be designated nonresidential or residential by floor. No mixed uses are allowed on the second floor or higher floors of nonresidential buildings in C-1 zoning districts. ~~If the second floor or higher is designated residential the property owner is not limited to the type of households occupying the second floor or higher.~~ Minimum floor area per residential dwelling ~~on the second floor~~ shall be four hundred (400) square feet.

~~Single Purpose Residential: No building in a C-1 zone will be used as a single purpose residential use.~~

D. Design Guidelines.

1. Design plans for the structure shall be prepared and sealed by a registered architect or professional engineer and shall comply with all zoning requirements, the building code, and other applicable codes and regulations.

2. Prior to issuance of the conditional use permit, the applicant shall file copies of the design plans with the Building Official and the Fire Protection Official. No certificate of occupancy shall be issued until the premises in question have been inspected and found by the Building Official and Fire Protection Officer to comply with the requirements of the zoning ordinance.

3. Properties located within a designated historic district shall follow the applicable design guidelines for that district.

4. Buildings shall be oriented with the primary entrance facing right-of-way adjoining the front property line.

5. Parking shall not be allowed between the front façade of the building and the right-of-way. Where parking does adjoin a right-of-way, landscaping or a short screen wall shall be installed.

6. All mechanical units, storage tanks, meters, grease traps, refuse bins, or service connections shall be screened so they are not visible from the right-of-way in front of the building. For buildings located on the corner, mechanical units, storage tanks, meters, grease traps and refuse bins shall be screened to the greatest extent possible.

Staff Comments – The proposed text amendments cover changes to the permitted use table and requirements for residential in the downtown area. The changes represent practical changes based on existing uses and zoning within the city.

Residential in the C-1 zone

Staff has determined that the current density applied to the C-1 zone would generally net one or no allowed units in the C-1 zone. The current density of 16 units per acre is one of the highest in the city. However, most lots in downtown range in size from 2,500-5,000 square feet. A density applied to this would generate between 1-2 units of residential. Many cities have moved away from densities and towards a minimum unit size, which Opelika also has. Staff felt it may be best to move the density higher at this point instead of removing any density maximum. A density of 36 units per acre would result in 2-4 units in most of existing buildings. Most of the C-1 zone would also be subject to the historic guidelines which would prohibit buildings out of size or context with surrounding properties.

The Carver-Jeter plan made some recommendations for additional residential in the downtown area. Specifically, it mentioned increasing the area zoned C-1. It also noted that outside of the core downtown, the requirement for non-residential uses on the 1st floor should be removed. The changes to Section 7.7 allow areas outside of the area from 1st Avenue to Avenue B and from South 7th Street to South 10th Street to have first floor residential or be single use residential buildings. Additionally, staff has added some requirements that open parking should not be a primary feature on the front of properties in the C-1 zone. This would not restrict the existing lots that are present, but would ensure that future parking areas be located behind the building or be screened if located on the side or in a more visible location.

Finally, staff has modified where duplexes are allowed by right, changing them to conditional in the R-4 zone. It has also been raised that many of our funeral homes and cemeteries are located on gateway corridors. However, accessory uses like columbarium, crematories, and mausoleums are not allowed at these locations. The text amendment would allow these uses to be conditionally permitted in this zone as an accessory use.

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

At the January 25th meeting, the Planning Commission voted 9 to 0 to send a positive recommendation to City Council to approve the text amendments. Staff requesting to advertise for a City Council public hearing.

RESOLUTION NO. _____

RESOLUTION OPPOSING THE PASSAGE OF HB 44 AND HB 66 OF THE 2022 REGULAR SESSION OF THE ALABAMA LEGISLATURE, WHICH ELIMINATES THE NECESSITY OF CITIZENS TO OBTAIN A CONCEALED CARRY PERMIT

WHEREAS, the City Council (the “Council”) of the City Opelika (the “City”) supports the Second Amendment to the United States Constitution and recognizes its duty to protect the welfare and safety of all Opelika citizens; and

WHEREAS, the Second Amendment does not provide an unlimited right to carry a concealed weapon without a permit and handgun permit laws do not infringe on Second Amendment rights, as upheld by the United States Supreme Court in District of Columbia v. Heller; and

WHEREAS, the Council has the legal, moral, and ethical responsibility to assist the Opelika Police Department in its duty to protect the safety and welfare of Opelika citizens; and

WHEREAS, House Bill 44 (HB44) and HB 66 (HB 66), along with companion Bills 1 and 12 in the Alabama Senate, would authorize individuals to carry a pistol or other firearm concealed in a vehicle or concealed about his or her person without a permit; and

WHEREAS, under handgun permit laws as currently written in Alabama, it is the legal duty of the Lee County Sheriff to issue concealed carry pistol permits to all Lee County residents who are duly qualified under the law to possess a concealed pistol; and

WHEREAS, the handgun permitless carry bills as currently written and pending in the Alabama Legislature would eliminate common-sense protections in Alabama gun laws; and

WHEREAS, the Council recognizes the importance of the Lee County Sheriff’s ability to prevent unqualified persons from possessing a concealed carry pistol permit and fully supports his ongoing efforts to do so; and

WHEREAS, any effort by the Alabama Legislature to eliminate the necessity of citizens to obtain a concealed carry pistol permit or any effort to curtail the Lee County Sheriff’s ability to enforce concealed carry permit requirements is dangerous to our citizens, to our law enforcement officers and is contrary to good public policy; and

WHEREAS, any effort by the Alabama Legislature to eliminate the necessity of citizens to obtain a concealed carry pistol permit or any effort to curtail the Opelika Police Department’s ability to ensure that only qualified persons receive and keep a concealed carry pistol permit

would result in a substantial negative impact on public safety; and

WHEREAS, concealed carry permit holders are statistically less likely to commit a crime than private individuals who are legally allowed to carry a concealed pistol without a permit; and

WHEREAS, states with handgun permitless carry laws not only see an increase in violent crime, but also a rise in accidental gun deaths due to lack of safety and storage training, which increase children's access to guns, gun-related suicides, and everyday disputes that turn into shootings, such as road-rage and workplace disputes, bar fights and routine encounters with law enforcement; and

WHEREAS, the passage of HB 44 and HB 66 (and their companion Senate Bills) will lead to increased gun violence in the State of Alabama; and

WHEREAS, the passage of HB 44 and HB 66 will needlessly jeopardize the safety of law enforcement officers; and

WHEREAS, the passage of the handgun permitless carry laws will counteract local efforts to reduce gun violence and hinder law enforcement's ability to seize illegal guns; and

WHEREAS, passage of the handgun permitless carry laws will dismantle Alabama's conceal carry permit requirements and let people, including some violent criminals and people with no firearm safety training, carry hidden, loaded guns in public; and

WHEREAS, Alabama has a perfectly workable handgun permitting system and abolishing it is a textbook example of a solution in search of a problem; and

WHEREAS, the Council stands in solidarity with Sheriff Jay Jones and Police Chief Shane Healey, who believe that HB 44, HB 66 and similar permitless carry laws do not represent the best interests of Opelika residents, or law enforcement personnel who have vowed to protect and serve.

NOW, THEREFORE, BE IT RESOLVED by the City Council (the "Council") of the City of Opelika, Alabama, as follows:

Section 1. That the Council does hereby declare its strong opposition to any efforts by the Alabama Legislature to pass HB 44 and HB 66 or similar legislation, which will eliminate the necessity of citizens to obtain a concealed carry permit.

Section 2. That the Council urges the Lee County local legislative delegation and all state legislators to reject HB 44 and HB 66 or similar permitless carry legislation, being that the

health, welfare, and public safety of the City of Opelika requires it.

Section 3. That the City Clerk is hereby directed to forward copies of this Resolution to all members of the Lee County legislative delegation.

ADOPTED AND APPROVED this the _____ day of _____, 2022.

PRESIDENT OF THE CITY COUNCIL
OF THE CITY OF OPELIKA

ATTEST:

CITY CLERK

STATE OF ALABAMA
LEE COUNTY

RESOLUTION OF THE LEE COUNTY
COMMISSION

WHEREAS, the Lee County, Alabama County Commission is fully supportive of the Second Amendment to the United States Constitution and simultaneously recognizes its duty to protect the welfare and safety of all Lee County citizens; and

WHEREAS, the Lee County Commission has the legal, moral and ethical responsibility to assist the Lee County Sheriff in his duty to protect the safety and welfare of the citizens of Lee County; and

WHEREAS, the Lee County Commission recognizes and fully supports the efforts of the Lee County Sheriff in protecting public safety in Lee County; and

WHEREAS, it is the legal duty of the Lee County Sheriff to issue concealed carry pistol permits to all Lee County residents who are duly qualified under the law to possess a concealed pistol; and

WHEREAS, the Lee County Commission recognizes the importance of the Lee County Sheriff's ability to prevent unqualified persons from possessing a concealed carry pistol permit and fully supports his ongoing efforts to do so; and

WHEREAS, any effort by the Alabama Legislature or any other entity to eliminate the necessity of citizens to obtain a concealed carry pistol permit or any effort to curtail the Lee County Sheriff's ability to ensure that only qualified persons receive and keep a concealed carry pistol permit is dangerous to our citizens, to our law enforcement officers and is contrary to good public policy; and

WHEREAS, any effort by the Alabama Legislature or any other entity to eliminate the necessity of citizens to obtain a concealed carry pistol permit or any effort to further curtail the Lee County Sheriff's ability to ensure that only qualified persons receive and keep a concealed carry pistol permit would result in a substantial negative impact on public safety.

WHEREAS, it is the sworn duty of the Lee County Sheriff to protect and prevent harm to the law abiding citizens of Lee County. Any substantive change to, or the elimination of the current law utilized by all law enforcement officers to further the investigation and arrest of persons engaged in criminal acts, will act to hinder the Sheriff's ability to fulfill this sacred duty.

NOW, THEREFORE, BE IT RESOLVED BY THE LEE COUNTY COMMISSION as follows:

We fully support the Second Amendment to the United States Constitution and the protections it affords to all citizens of Lee County by its application and reaffirm our obligation to promote public safety for all Lee County citizens;

We fully support the Lee County Sheriff and his office in the effort to promote and ensure the safety and welfare of the citizens of Lee County;

We hereby denounce and strongly oppose any effort by the Alabama Legislature or any other entity or organization, to affect the Lee County Sheriff's ability to provide for the safety and welfare of all Lee County citizens by eliminating the necessity for obtaining a concealed carry pistol permit. We also denounce and strongly oppose any further weakening or further restriction of the Lee County Sheriff's ability to determine which Lee County residents are duly qualified to possess and keep a concealed pistol. We further denounce any action which would result in substantial changes or the elimination of the existing and highly-effective law, the application of which serves to aid law enforcement in protecting the citizens of Lee County.

DONE this 8th day of November, 2021.

Lee County Commission

Chairman