

The Planning Commission met Monday, August 7, 2017 at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Lee Turner, Chairperson; Art Dyas; Charles Johnson; Richard Peterson; Rebecca Bryant; Ralph Thayer; Hollie MacKellar; and David Martin; Wayne Dyess, Planning Director; Nancy Milford, Planner; Buford King, Planner; Emily Boyett, Secretary; and Ken Watson, City Attorney
Absent: Jimmy Conyers

Chairman Turner called the meeting to order at 5:05 PM and announced the meeting is being recorded. He welcomed Art Dyas to the Commission.

The minutes of the July 3, 2017 meeting were considered and Ralph Thayer moved to accept the minutes as written and was 2nd by Charles Johnson. The motion carried with abstentions by Art Dyas, Rebecca Bryant, and David Martin.

ZC 17.07 Public hearing to consider the request of Bobby and Debra Green to rezone property from R-1 Low Density Single Family Residential District to B-2 General Business District. The property is located on the west side of US Hwy. 98 (a.k.a. Greeno Road) between Hoyle Avenue and Live Oak Avenue, at 415 N. Greeno Road. Mr. Dyess gave the staff report saying the site consists of 2.6 acres and is currently occupied by an operating retail nursery and has been a retail nursery operation historically. The property is currently non-conforming and has been non-consistent with the current zoning since at least 1960 according to historical Planning Commission minutes. Mr. Dyess stated there are concerns with Greeno Road becoming stripped out and hurting Downtown if the area is zoned commercial. He said Fairhope's population can support additional commercial and not hurt Downtown. Mr. Dyess explained there are existing edges to limit the commercial boundaries with Volanta Park to the north, Auburn Experimental Station to the East, and the gully to the west. He noted no new single family homes have been constructed on Greeno Road since the 60's. Staff recommendation is to approve the zoning change request.

Mr. Green addressed the Commission and gave Power Point presentation of the history of the subject property. He stated his family has owned the property since 1932 and the nursery has been in operation on the site since 1940. He explained they propose to have a micro village and to grow organically.

Mrs. Green explained they are asking for B-2 zoning based on historical documents and use. She noted the nursery has always had business licenses with the City and the only thing that has not been commercial has been the zoning.

Mr. Turner opened the public hearing.

Taylor Wilkins, III of 330 Bay Hill Drive – He stated he recently purchased an adjacent lot to the Green's property and he does not have any problems with their proposal. He said Greeno Road has seen a lot of changes and it is not residential anymore. He suggested a plan be put in place for the Greeno Road corridor to guide the development and allow the property owners to do something with their property.

Larry Stejskal of 60 N. Ingleside Street – He thanked staff and the Commission for starting to acknowledge that Greeno Road is not suitable for residential. He stated the market is driving the changes on Greeno Road and he said he is in favor of the application.

Lawanna Maidstone of 512 Lillian Circle – She stated concerns with drainage and asked what guarantees she has that it will not be an issue. She said this rezoning will set a precedent.

Bill and Susan Rosburg of 508 Lillian Circle – She stated she liked the presentation but asked how the gully will be protected. He said he liked the plan but he had concerns with traffic and the plans for the residential area.

Mac Walcott of 12330 Live Oak Street – He stated his project, Van Antwerp, is at the end of this watershed. He encouraged property owners to partner with one another to help the issues facing the City.

TJ Murphy of 204 Tensaw Avenue – He stated he would like to see details of an overlay for Greeno Road. He said the area needs boundaries and a plan and not done piece-meal. He suggested taking what the Greens are proposing and continuing it along Greeno Road. He said this will set a precedent and the City needs the Comprehensive Plan to guide it.

Claude Puckett of 406 Maple Street – He said he remembers when the Greens were against rezoning Greeno Road. He stated the property will become worthless if something is not done. He said Comp. Plans cost money and there aren't any cities that go by them. He stated he is in favor of the request.

Having no one else present to speak, Mr. Turner closed the public hearing.

Mr. Dyess stated the buffer requirements are 20' of landscaping and the drainage will be addressed at the time of site plan or building permit. He explained Alabama Comprehensive Plans are not legal documents but they give good guidance. Mr. Dyess stated the proposed area to be rezoned is only 2.8 acres. He asked if the remaining property will remain residential and if the buffer will be maintained. Mr. Green explained too much water drains to the little ravine but the water flows across their property not from it. He stated there will remain 112' of buffer between the commercial use and the residential area. He said they will be upgrading the existing structures and emphasizing retail again but it will not be all at once. Mrs. Bryant asked the difference between incremental development versus a PUD. Mr. Dyess explained with incremental development each project is reviewed against the Zoning Ordinance by either Administrative Review or Site Plan and a PUD would be review all at once. Mrs. MacKellar asked if there is a time frame the applicant has to get started and Mr. Dyess responded no.

Richard Peterson made a motion to accept the staff recommendation to approve the zoning change request. David Martin 2nd the motion and the motion carried unanimously.

ZC 17.08 Public hearing to consider the request of Sawgrass Consulting, LLC to rezone property from R-2 Medium Density Single Family Residential District to B-4 Business and Professional District, Quinn Middleton. The property is located on the northeast corner of the intersection of State Hwy. 181 and Windmill Road, at 20040 State Hwy. 181. Mr. Dyess gave the staff report saying the property is approximately 1.31 acres and the applicant is proposing an office. Staff recommendation is favorable if the Planning Commission finds the application is not commercial creep and leap frog development.

Mr. Turner opened the public hearing.

Mac Walcott of 12330 Live Oak Street – He stated State Hwy. 181 is the next train wreck and the City needs to learn from Greeno Road. Mr. Dyess stated he would apply the

same ordinances to St. Hwy. 181 as Greeno Road. Mr. Dyas said the City needs to work with the County to make sense of development on St. Hwy. 181.

Having no one else present to speak, Mr. Turner closed the public hearing.

Mrs. MacKellar asked what type of office building is proposed and if the existing building will be utilized. Mr. Dyess responded he is unaware because this is not a site plan.

Ralph Thayer made a motion to approve the zoning change request. Art Dyas 2nd the motion and the motion carried unanimously.

Mr. Turner announced cases SD 17.16 Van Antwerp Park North and SD 17.17 Van Antwerp Park South have been withdrawn by the applicant.

SD 17.19 Public hearing to consider the request of S.E. Civil Engineering, LLC for plat approval of Van Antwerp Park Subdivision, a 2-lot re-plat, Larry Smith. The property is located on the north side of Pensacola Avenue between N. Section Street and N. Mobile Street. Mr. King gave the staff report saying the applicant contends there are two existing lots comprising Van Antwerp Park. Lot line adjustments may be approved administratively by the Planning Director or his authorized agent. Staff and counsel have researched the history of the subject property and have concluded that for subdivision purposes the property conveyed to Van Antwerp Park, LLC constitutes one lot. The Director has declined to approve the proposed re-plat. Upon advisement to staff by legal counsel, the request for re-plat include herein should not be considered by the Planning Commission. Staff recommendation is to deny the request for re-plat because the proposed re-plat does not qualify as a re-plat based on the reasons stated in the staff report.

Mr. Walcott address the Commission saying legal counsel for both sides have given opinions and he would like the Commission to vote. Mr. Turner stated the Commission is covered by the City if they vote with counsel's recommendation. Mr. Walcott stated this is a crucial decision because it is how lots are recognized in Fairhope. He said this is a fundamental real estate case.

Mac Walcott requested case SD 17.19 Van Antwerp Park Subdivision be withdrawn. Mr. Watson explained his opinion is based on all three cases and they are subject to the moratorium. Mr. Walcott asked if he will have to wait to reapply. Mr. Dyas said they know what the applicant is trying to do and he suggested he wait until the moratorium is over. Mr. Walcott stated he disagrees that there is only one lot. Mr. Dyas said the attorneys should get together and figure it out. Mr. Watson said he works for the Commission and will do as directed. Mrs. MacKellar asked when this case will come back before the Commission and Mr. Dyess stated next month.

SD 17.18 Public hearing to consider the request of Sawgrass Consulting, LLC for Plat approval of Kirkman Lane Subdivision, a 2-lot minor division, Quinn Middleton. The property is located on the northwest corner of the intersection of Kirkman Lane and S. Summit Street. Mr. King gave the staff report saying the property is approximately .62 acres and is zoned R-2 Medium Density Single Family Residential District. The applicant is proposing 2 lots. Staff recommendation is to approve with the following conditions:

1. BMP plan requirement prior to issuance of a building permit shall be noted on the plat prior to recording.

2. Individual certificate of approval blocks for water and sewer, power, and natural gas shall be included on the plat prior to recording.
3. Letters of availability for water and sewer, power, and natural gas shall be submitted for file purposes prior to recording.
4. Submission and approval of a fire flow model for the subject property.

Mr. Turner opened the public hearing.

Mike Gordon of 365 S. Summit Street – He asked the size and orientation and size of the lots. Mr. King responded the proposed lots will front on Kirkman Lane and are both approximately 102' in width.

Having no one else present to speak, Mr. Turner closed the public hearing.

Mr. Turner asked if there is an existing house on the lot and Mr. King responded it was demolished in July. Dr. Thayer noted there were drainage concerns from the neighbor. Mrs. MacKellar stated she has seen the water running down to Liberty Street. She said Kirkman is a narrow one lane access and stated concerns with additional traffic. Mrs. MacKellar asked how the City vehicles will access the lots. Ms. Milford stated a condition of approval can be added that drainage will be required at the time of building permit. Mrs. Bryant noted it does not appear there will be any more traffic on either street and the pervious area will be less. Mr. Peterson asked if sewer is available to Lot 1 and Mr. King responded sewer is in the street and service is provided across the street. Mr. Peterson said he hears about drainage every day and Mrs. Bryant asked how it is enforced. Mr. Dyess said it can be handled at the time of building permit.

David Martin made a motion to accept the staff recommendation to approve with the following conditions:

1. BMP plan requirement prior to issuance of a building permit shall be noted on the plat prior to recording.
2. Individual certificate of approval blocks for water and sewer, power, and natural gas shall be included on the plat prior to recording.
3. Letters of availability for water and sewer, power, and natural gas shall be submitted for file purposes prior to recording.
4. Submission and approval of a fire flow model for the subject property.
5. Sewer is available for Lot 1.
6. A note shall be added to the plat that states drainage shall be required at the time of building permit.

Ralph Thayer 2nd the motion and the motion carried unanimously.

IR 17.03 Request of Jason Schmitt for an Informal Review to rezone property on the south side of Nichols Avenue just east of Professional Park Drive from M-1 Light Industrial District to PUD (Planned Unit Development). No one was present on behalf of the applicant.

Old/New Business

Mrs. MacKellar thanked George Roberds for his service on the Commission and she welcomed Art Dyas.

Mr. Peterson asked about the requirements for utilities and using pre-approved equipment. Mr. Dyess stated the Water and Sewer Specifications would need to be

amended if any changes are desired. Mr. Watson said the Planning Commission is the approving body and a resolution would be needed to adopt the changes.

Mrs. MacKellar asked what needs to be done to start implementing changes to Hwy. 98 and St. Hwy. 181. Mr. Dyess stated staff is currently working on several zoning amendments but he suggested going to a form based code. He noted requirements such as parking in the rear, signage, and landscaping can make big impacts.

Election of Vice-Chair – Ralph Thayer nominated Hollie MacKellar. Rebecca Bryant 2nd the nomination and the vote was unanimous.

Having no further business, Ralph Thayer made a motion to adjourn. David Martin 2nd the motion and the motion carried unanimously. The meeting was adjourned at 7:24 PM.



Lee Turner, Chairman



Emily Boyett, Secretary