

**PLANNING COMMISSION REGULAR MEETING MINUTES  
JANUARY 20, 2016  
DOTHAN, ALABAMA**

The Dothan Planning Commission met in a Regular Meeting on Wednesday, January 20, 2016 at 9:00 a.m. in the City Commission Chambers, Dothan, Alabama.

**Members Present:**

Chairman George "Chuck" Harris  
Vice Chairman Jerry Coleman  
David Brewer  
Debora Pettway  
David Cornelius  
Gayla White  
Jim Freeland  
Mickey Davis  
Ron Tindall

**Members Absent:** None

Others present were: Todd L. McDonald, AICP, Planning Director; Frank Breaux, AICP, Senior Planner; Robert Cox, P.E., Traffic Engineer; Members of the Media, and Kim Vann, Secretary, and Janice Palmer, PT Secretary, who recorded the minutes.

Chairman Harris explained that the Planning Commission does not rezone properties but rather recommends rezoning to the City Commission for approval. He suggested any group present designate a spokesperson to address any questions or concerns.

**1. Election of Officers**

*Ms. White made a motion to nominate and elect Mr. George "Chuck" Harris as Chairman. Mr. Tindall seconded. There being no other nominations, the motion passed unanimously. Mr. Freeland made a motion to nominate and elect Mr. Jerry Coleman as Vice Chairman and Kim Vann as Secretary. Mr. Davis seconded. There being no other nominations, the motion passed unanimously.*

**2. Approval of Agenda**

*Ms. Pettway made a motion to approve the agenda as presented. Vice Chairman Jerry Coleman seconded and the motion passed unanimously.*

**3. Approval of December 18, 2015 Meeting Minutes.**

*Ms. Pettway made a motion to approve the December 18, 2015 Meeting Minutes. Mr. Brewer seconded and the motion to approve the December Meeting Minutes passed unanimously.*

**Old Business**

*None.*

**New Business**

- 4. RZ-15-0728: Request for recommendation of a Rezoning for 6 lots located at 2669 Hartford Hwy. and 2653 Hartford Hwy., Chickasaw Heights (Parcel ID 38-09-08-27-3-000-009.000, 38-09-08-27-3-000-018.000, 38-09-08-27-3-000-017.000, 38-09-08-27-3-000-010.000, 38-09-08-27-3-000-016.000), from A-C District (Agricultural-Conservation) to a B-2 District (Highway Commercial), Billy Max & Peggy F. Cheshire and Earl F. & Marilyn D. Enfinger.** Mr. Breaux stated that this is a joint application of the lot owners and discussed the location. Mr. Breaux stated that the surrounding properties are primarily commercial and zoned B-2. Chairman Harris asked if anyone was present regarding this request and the applicants identified themselves. There were no further questions. **Chairman Harris**

*called for a motion regarding RZ-15-0728. Mr. Coleman recommended that case RZ-15-0728, request for rezoning of Lots 1, 2, 3, 9, 10, and 11 of Lot B, Chickasaw Heights, be approved and referred to the Dothan City Commission for their approval. Ms. White seconded and the motion passed unanimously.*

5. **RZ-15-0739: Request for recommendation of a Rezoning for 411 Montana St. from R-4 (Residential, Attached, High Density (2-7 units) District to a B-2 (Highway Commercial) District, Sam Moore.** Mr. Breaux stated that the property is located at the corner of Powell and Montana and is the site of an old dry cleaning business. Mr. Breaux stated it has been abandoned for a number of years ago and is located in an R-4 District, which means it is a non-conforming use that cannot be reestablished. Mr. Breaux stated the owner is requesting to rezone to B-2 to re-establish a commercial property at this location. Otherwise, the property is useless unless it is rezoned. Chairman Harris asked who was present concerning this item. Mr. Sam Moore, the applicant and owner of the property was present. Mr. Moore asked a question regarding item #6: "The existing building and site improvements are nonconforming and any future use of the site for a more intensive use than that of a dry cleaners will require the approval of the Planning Commission (if rezoned as proposed)". Mr. Moore asked if the "intensive use of a dry cleaners" language can be deleted and just have the wording read "commercial building". Mr. Breaux said this language is included due to some non-conformities with the physical aspects of the site (parking, etc.). He further explained that if a use that requires more parking is located on the site, it still has to meet the requirements of the zoning. Mr. Breaux stated that as long as the use continues with a similar use it is protected but if the use changed to a restaurant, etc., where the parking demands are greater, it would have to comply or the site modified. Mr. Moore understood this explanation and agreed to leave the language as-is. Chairman Harris asked if there was anyone in the audience wishing to speak and there were none. *Chairman Harris called for a motion regarding RZ-15-0739. Mr. Coleman recommended that case RZ-15-0739 request for rezoning property located at 411 Montana St. from R-4 to B-2 be approved and referred to the Dothan City Commission for their approval. Mr. Davis seconded and the motion passed unanimously.*
  
6. **RZ-15-0749: Request for recommendation of a Rezoning for Lots 1-10, Block "B" and Lots 1-5, Block "C", Sullivan Heights Subdivision, from L-I District (Light Industrial) to R-1 District (Residential Single-Family, Low Density), initiated by The City of Dothan.** Mr. Breaux discussed the location of the residential homes currently zoned L-I in Sullivan Heights. Mr. Breaux stated that during the construction of Ross Clark Circle, some of the lots disappeared that were originally platted. Mr. Breaux discussed current issues with some lots being non-conforming because single-family uses are not allowed in a light industrial zoning district. Mr. Breaux stated the owners of these homes are in a situation where they cannot expand due to the non-conforming use and that if the homes are not lived in for more than 6 months, they cannot be re-established as single family residences. Mr. Breaux stated the City has taken the initiative to identify the problem lots and initiate the rezoning so that the individual owners do not have that cost. If the property owners want to opt out of this rezoning, they can, but the City is doing this rezoning to clean up the zoning map and as a courtesy to those property owners. Chairman Harris asked who was in attendance concerning this case. Mr. Vince Edge spoke as a representative of Mr. Frank Sullivan, and his sister, Sarah Wiggins, and trustees of his brother's estate, who own several pieces of property affected by this application. Mr. Edge discussed the location of his clients lots as the first 4 lots from the NW going down Sullivan Dr., that are subject to the application and clarified that they own a portion Lot 2, and Lots 3, 4, and 5 (of Block B). Mr. Edge stated these are vacant lots which have never been improved with homes, and the owners wish to "opt out" of this application so that those lots remain light industrial (L-I). They also either individually, or in combination, own the former China Star (Montgomery Hwy. corner), and a number of the parcels that front Montgomery Hwy. heading in a SE direction, and they have some concern about the rezoning of those lots to residential since they share a back lot line with them. Mr. Edge stated that the owners are concerned that this will impose additional development/redevelopment requirements in the form of a larger setback line or enhanced buffering requirements which do not

currently exist. Chairman Harris asked if any residential property owners were in attendance. Mr. Gary Bennett of 1931 Sullivan Dr. was present and stated he is in favor of the rezoning. Mr. Bennett asked what prompted the City taking action to rezone at this time. Mr. Breaux restated that the City identified these problematic properties and initiated amending the city zoning map to make sure that there is consistency between the land use, the future land use plan and the existing improvements. Mr. Breaux stated that otherwise, each individual property owner would need to request a rezoning at their own expense. Mr. Bennett asked a question regarding the increase or decrease in property value between the two zoning districts. Mr. Breaux stated that R-1 protects the single family homeowner today with any improvements. Mr. Breaux discussed examples such as if the owner moves and disconnects the utilities for more than six months, and then returns to live in the house, under current zoning, the homeowner cannot re-establish the single family use because it is in a district that does not allow that use. Chairman Harris reconfirmed with Mr. Edge that he represents a portion of Lot 2, and all of lots 3, 4, and 5. Mr. Coleman asked for clarification about the differences between Block B and Block C. Mr. Breaux discussed the locations of Blocks B and C. Mr. Breaux continued that the motion needs to specify that Lots 2-5, Block B be excluded. Mr. Tindall reaffirmed that Mr. Edge had mentioned the vacant lots along Montgomery Hwy. which will abut a new residential zone, and that the development of those vacant parcels could incur buffering requirements. Mr. Brewer asked the staff if a verbal request to "opt out" is sufficient, or whether Mr. Edge, as representative of the property owners, needs to make a written request to document ownership of the lots. Mr. Breaux prefers a written request from the property owners before the request goes to the City Commission. Mr. Edge agreed and will deliver the written request to Mr. Breaux. **Chairman Harris called for a motion regarding case RZ-15-0749 Rezoning of Lots 1-10, Block "B" and Lots 1-5, Block "C", from L-I District (Light Industrial) to R-1 District (Residential Single-Family, Low Density), excluding Lot 2 (partial lot), and Lots 3, 4, and 5 of Block B. (Lot 1 was previously taken by the highway expansion). Mr. Coleman recommended that case RZ-15-0749 Rezoning of Lots 2 -10, Block "B" and Lots 1- 5, Block "C", Sullivan Heights Subdivision from L-I District (Light Industrial) to R-1 District (Residential Single-Family, Low Density), be recommended to the City Commission for their approval, with an amendment to Lot 2 (partial lot), and Lots 3, 4, and 5 of Block B to opt-out of this rezoning request upon receipt of a written request to staff. Mr. Freeland seconded the motion and the motion passed by a vote of 8 in favor and one opposed (Pettway).**

7. **Consent Items: Minor Development Plans & Subdivision Plats**

Mr. Breaux reported the following:

Brannon Park Subdivision re-plat which is the site of the new kidney dialysis clinic. Higgins Electric plat approval to create three commercial lots. A two-lot subdivision on Murphy Mill Rd. next to Deer Valley, and a minor development plan for a new office for a professional engineer on Grove Park Lane.

8. **Other Business:**

**Mr. Jim McCrory came to the podium, and stated he lives at 607 Kent Drive (inside the west edge of Ross Clark Circle). His concern is twofold: 609 Kent Dr., the residential building immediately next door. The buildings are separated by 10 ft. from the property line. The second is a now vacant lot across the street from his property at 700 Kent Dr. He handed out paperwork to the Board.**

The first concern: An O-3 District was established previously, providing an office friendly transition zone next to a residential district. The O-3 District was to have only office operations with a masonry wall of 6 ft. in height between the residential and O-3 District, access road to the business, and no free standing signs on the property. He did not object to the rezoning to the O-3 District under these restrictions. Later, the format of the zoning document changed, and this brings us to today. 609 Kent Dr. house was sold 12/23/2015. He learned the new owners are to open a nail salon. After researching online, he was unpleasantly surprised to find that personal service businesses are now allowed in an O-3 District (including fitness centers, spas, tanning salons, nail salons, beauty care, dry

cleaning and laundry facilities). He distributed a third handout showing the original O-3 District text. He realizes it may be impossible to do anything about 609 Kent Dr., but he hopes the Planning Commission would insist on enforcing the minimum requirements for a 6 ft. masonry wall – based on the slope of the land that could be 8 feet, and also enforce the access and sign restrictions.

He then addressed the second concern, 700 Kent Drive (across the street from his property). Several years ago there was a proposal that Denny Vision was interested in developing the property as a vision center. He was in favor of this development. He did express concern to this Planning Commission and District 6 Commissioner, that if the Denny's plan did not come to fruition and property was later sold, what the effect on the zoning would be. During the City Commission meeting at that time, the Mayor and Mr. Baxley, the District 6 Commissioner, stated prior to the vote that if the property was not used for the proposed vision center, the property would revert to an R-1 District. The property was subsequently rezoned to B-3, and he had no objection to that. However, the 2015-11-1 District Map on the City website shows the property rezoned as O-3, not B-3. Regardless of whether it is zoned B-3 or O-3, he is concerned that a new owner could establish other types of B-3 activities or O-3 personal service activities, directly across Kent Drive from his home.

Mr. McCrory is requesting four items from the Planning Commission:

1. Amend the planning document to delete personal services as a permitted activity in an O-3 zone and a return to the original uses permitted in a B-3 zone.
2. If the inclusion of personal services in the O-3 District was in error, he would like to determine if anything can be done about it.
3. Determine if the property at 700 Kent Dr. is O-3, as the online map indicates, or B-3, as he remembers the Planning Commission and City Commission passing. He would like the map on the website to indicate the correct zoning.
4. If the property at 700 Kent Dr. was indeed zoned B-3, the Planning office and this Planning Commission research it and document the statement of the Mayor and the District 6 Commissioner at the time that "if the property is not developed in accordance with the Denney Vision plans for a vision center, then it will revert back to R-1 Zoning".

Chairman Harris said he had been made aware of these issues a few days ago, and the requirements of parking, walls, entrances, etc. are in place. The personal services are permitted at this time with an O-3 zoning. Mr. McDonald said that as far as the addition of the personal services to O-3, it was changed by the Zoning Ordinance Rewrite Committee. Originally, the O-3 zone did not include personal services. He believes the ordinance text should be updated and changed, accordingly. As far as the zoning map is concerned, it is put on the City website as a courtesy and is updated periodically. We will check our GIS maps and make sure we have identified that as a map error, and make sure it is changed. Regarding No. 4 above, we have not seen this Denny development plan at the Planning Commission to date. If the Denny development plan (700 Kent Dr.) does not come to fruition, we cannot automatically move to rezone the property back to O-3. There is a legal process for doing this, and we would have to initiate that process with a public hearing, etc. The property was O-3 and rezoned to B-3, with the understanding that it would revert back to O-3, if the property was not developed according to the plans as alluded to. Mr. McDonald had a copy of the City Commission minutes stating this, which can be referred to. When 701 Kent Dr. was rezoned, a number of the requests Mr. McCrory spoke about are a part of the ordinance and will happen anyway. We have talked about several cases today where a change in the use of a property means it must comply with the ordinance, like drainage and parking. If the owner chooses to move forward, they will have to comply. Mr. McDonald said the development review process will determine access to the property as that issue is not part of the zoning process. Lighting, trash bins, and stormwater issues will be a function of the engineering services staff. Limiting the height of the structure to 1.5 stories is basically its existing structure.

Mr. McDonald summarized by agreeing that the City website map is probably wrong, and he will check that right away to correct the zoning. Mr. McDonald said that if Mr. McCrory wants

to initiate a rezoning request or text change to the ordinance, this is not a problem, but we would need direction from the Planning Commission.

Chairman Harris will work with Mr. McDonald and Mr. Breaux to initiate a change to correct the map and allowed uses in the O-3 zoning, because he believes it is a text error currently. Staff will review this and give a report at the next meeting. Mr. McCrory is welcome to come to the next meeting and a workshop.

9. **Adjourn.**

*Mr. Tindall made a motion to adjourn. Mr. Coleman seconded and the meeting was adjourned at 9:48 a.m.*



George C. "Chuck" Harris Chairman



Kim Vann, Secretary