

**PLANNING COMMISSION
REGULAR MEETING MINUTES
MAY 18, 2016
DOTHAN, ALABAMA**

The Dothan Planning Commission met in a Regular Meeting on Wednesday, May 18, 2016 at 9:00 a.m. in the City Commission Chambers, Dothan, Alabama.

Members Present:

Chairman George "Chuck" Harris
Vice Chairman Jerry Coleman
David Cornelius
Gayla White
David Brewer
Ron Tindall
Jim Freeland
Mickey Davis
Mike Palmer, Supernumerary

Members Absent:

Debora Pettway

Others present were: Todd L. McDonald, AICP, Planning Director; Frank Breaux, AICP, Senior Planner; Bart Barefoot, Engineering Services; Members of the Media, and Janice Palmer, Secretary, who recorded the minutes.

Chairman Harris explained to the public that some misinformation has been dispensed that the Planning Commission will be discussing property near The Highlands Subdivision, at the corner of S. Brannon Stand and Flowers Chapel Rd. This item is not on the agenda as it is a minor subdivision plat being submitted to city staff.

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 and state their name and address when addressing the Board. For the record, all meetings are recorded, and all cellular devices should be turned off or silenced.

1. Approval of Agenda

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

2. Approval of April 20, 2016 Meeting Minutes

Ms. White made a motion to approve the April 20, 2016 Meeting Minutes. Mr. Freeland seconded, and the motion to approve the April Meeting Minutes passed unanimously.

3. Disclosure of ex parte contact

Chairman Harris explained this is a new item on the Agenda going forward, for the purposes of disclosing to the public any board member's prior contact with the applicants or adjacent property owners, regarding general questions about the application process and items of concern or interest. No contacts were disclosed.

Old Business

None

New Business

- 4. RZ-16-0109: Request recommendation for Rezoning of 1620 East Burdeshaw Street, (Parcel ID 381004191001006.000), From H-I District to R-3 District, Alexander Johnson and Channie Johnson.** Mr. Breaux stated the lots are located across the street from the Tristate Plant Food site, which is in remediation. This request is to rezone a parcel with

eight lots (Lots 2 – 9), Block B of Flowers Manor Subdivision, from heavy industrial zoning to R-3, which are adjacent to single family residences (R-4), within this H-I area. They have plans to provide additional housing in this area, and the Future Land Use Map identifies the land as suitable for residential. The parcel abuts a railroad right-of-way. Single family residences are allowed “by right” within the R-3 Zoning District, and we are recommending approval. The applicant, Mr. Alexander Johnson, was in attendance, but did not address the commission. Four others were also in the audience, but no one commented on this case. ***Chairman Harris called for a motion regarding RZ-16-0109. Vice Chairman Coleman recommended that case RZ-16-0109, request for rezoning of Lots 2-9, Block B, of Flowers Manor Subdivision from H-I to R-3, be approved and referred to the Dothan City Commission for their approval. Mr. Freeland seconded and the motion passed unanimously.***

5. **RZ-16-0144: Request recommendation for Rezoning of 1111 West Burdeshaw Street from B-3 District to R-4 District, Jimmy Gay.** Mr. Breaux stated this property is located at the corner of West Burdeshaw St. and Commonwealth Court. A number of people have been interested in purchasing this lot for an allowable use in the B-3 District, but the existing structure does not lend itself to be converted for a commercial use, given the small lot size and inability to provide adequate parking, without removing the existing building. The property has declined over time, and there has been interest expressed to reuse it for residential purposes. The problem is that the property is no longer “grandfathered”, and any subsequent use will need to comply with the Table of Permitted Uses for the B-3 District. The request to be rezoned to R-4 would allow for reuse (currently a duplex property with garage apartment), and allow an investor to make it habitable again. Due to this incompatibility issue, we are recommending approval of rezoning the subject lot from B-3 to R-4 to make it consistent with the predominant residential uses in the immediate vicinity. Mr. Jimmy Gay, the owner, was in attendance, but did not address the commission. ***Chairman Harris called for a motion regarding RZ-16-0144. Mr. Freeland recommended that case RZ-16-0144, 1111 West Burdeshaw Street request for rezoning from B-3 District to R-4 District be approved and referred to the Dothan City Commission for their approval. Ms. White seconded and the motion passed unanimously.***

6. **DPMA-16-0149: Request approval of a Development Plan for the expansion of the rental equipment parking lot at United Rentals, 1321 Montgomery Hwy, L-I District, Ronnie Driskell.** Mr. Palmer recused himself from voting on this item due to his business relationship with United Rentals. Mr. Breaux stated United Rentals proposes to expand their inventory storage area to the vacant parcel to the west of the current site (formerly Solomon Chevrolet). This adjacent parcel is improved with a partially paved parking surface, and the only proposed improvements include security fencing, peripheral landscaping along the front of the property, and the addition of gravel to the southernmost unpaved half of the property. There is an elementary school and R-4 zoning to the south of the property, which requires a Type 2 buffer along this property line. Staff asks for the applicant to put the landscaping on the outside of the chain link fence, where shrubbery will be visible from the street. Also, there is a 10 foot landscaped area required along all rights-of-way unless otherwise reduced by the Planning Commission, which has not been proposed, and will need to be addressed today to meet the zoning requirements. In addition, the applicant proposes an 8 foot tall chain link fence around the property and along the front of the site, but the zoning prohibits anything above 4 feet in height within a required front yard. Therefore, they will have to relocate the fence or ask the Board of Zoning Adjustment for a variance to that requirement. Since they own the entire block, this should not be an issue. Other than the above mentioned 10 foot landscaping requirement along the street to the west, the plans are acceptable. Mr. Ronnie Driskell, Driskell Engineering, and Mr. Buchanan, United Rentals were present to address the board. He stated they are planning to slat chain link fencing with the landscaping, and have agree to moving the fencing back to the front yard setback line with the landscaping in front. Chairman Harris stated the staff recommended approval with seven (7) conditions, and asked if Mr. Driskell can abide by the requirements. He responded that United Rentals is in agreement with all the conditions, and he is requesting the Planning Commission to reduce the 10 foot landscape requirement along Wheat Street (condition #2). He explained that this area would require the tearing up of asphalt and concrete to plant landscaping, and

they are proposing to move the PVC slatted fence from the side already in use to the entrance for contractor pick-up. He stated the Type 2 buffer near the elementary school will be on the outside of the fence. **Chairman Harris called for a motion regarding DPMA-16-0149, including applicant's request for the Planning Commission to approve a reduction to the 10 foot landscape requirement along Wheat Street (item 2 of staff conditions). Ms. White made a motion to approve case DPMA-16-0149, excluding item 2, and including the remaining conditions. Vice Chairman Coleman seconded the motion. Ms. White amended her motion to include item 2, as referenced above, and recommended the Planning Commission approve a reduction to the 10 foot landscape requirement along Wheat Street. Vice Chairman Coleman seconded this amended motion. The amended motion was approved and passed unanimously.**

1. The 8 foot tall fence must either be removed from the required front yard or a variance to the requirements of Section 114-183(B)(3)(b) obtained from the BZA;
2. The Planning Commission waived the 10 foot landscape requirement along Wheat Street;
3. Buffer plantings within the Type 2 buffer must be located on the outside of the fence;
4. The comments of all city departments must be incorporated into the final construction plans before a building permit is issued by the Building Official's Office;
5. Resubmit the development plan incorporating all design changes;
6. All future correspondence or building permit plan submittals must make reference to Case DP-16-0149 and,
7. The Development Plan approval will lapse and re-approval by the Planning Commission will be necessary if a building permit is not obtained within one year of the approval date.

7. **RZ-16-0152: Request recommendation for Rezoning of 11.1 acres located behind 1004 Circleview Dr., (Parcel ID 38-09-07-36-4-002-031.000) from H-I District to A-C District, John T. Watkins, Jr.** Mr. Breaux showed an aerial view of 1004 Circleview Dr. and the subject parcel behind the home, which is landlocked and has no direct access to any roadways. He said that the request to rezone from H-I to A-C was problematic and pointed out the adjacency of heavy industrial zoning to single family developments in the area. He also noted that there is a railroad right-of-way adjacent to the applicant's 11.22 acre tract of land and explained the area and dimensional requirements of the A-C District. He informed the audience that Circleview subdivision is an older subdivision platted in the 1970's. He stated that A-C zoning also has potential compatibility issues when located next to single family residences and noted that a fully operational farm would be allowed by right if rezoned to A-C as proposed. He noted that the rezoning request stemmed from a complaint from a neighbor about the keeping of goats and chickens on the land and the negative impacts that has had on the complainant's property. He said that his investigation found that the animals were being kept at the back of the home on the H-I portion of the land. He said that the claim of the applicant has been that the property has been continuously used for agricultural purposes since the 1980's, when Mr. Watkins, Jr. purchased the property. He pointed out that the City also had statements from neighbors that this was not the case. He said that he asked the applicant to provide whatever evidence he has regarding the keeping of animals since the time of purchase because there could be a claim for grandfathering of the agricultural use. However, the situation at hand is that neither of the zoning categories is ideal. The applicant is asking for this rezoning to legitimize the keeping of livestock on the property. He said that the City has been in enforcement mode due to the chickens, goats, and roosters. He also said that there had been additional activity, as presented by a neighbor's video, where the applicant and his son had brought large hogs onto the property. He also understood from talking with the applicant that some of those animals were recently removed. He then stated that if the City moves forward with the A-C zoning, it will legitimize the keeping of any type of farm animal as a matter of right. The Future Land Use Map identifies this parcel as suitable for single family residential use, so this particular request for A-C zoning is not consistent with this future use. The majority of the 11.22 acres is in the floodplain, based on the FEMA maps.

Chairman Harris called for the representative of this case. Mr. Steve Etheredge introduced himself to the Planning Commission as the applicant's legal representative. He restated

that the property is landlocked, with no public road or available use for this property, other than the use for which is currently being used. He stated his clients do have a grandfather claim because the property has been used for the last 31 years for the purpose of keeping farm animals, and presented written statements to support and verify this claim. Mr. Watkins, bought the property in the 1980's, and he has used it continually since that time for agricultural purposes, with horses, cows, goats, or other farm animals on the property. He read a letter from Debbie Dawkins, 1003 Circleview Dr., (across the street) who is a neighbor that has lived in the subdivision since 1989, and she verified that horses, donkeys, chickens, goats, peacocks, dogs, and rabbits had been there at one time or another, and she has had no problems. He also stated Mr. William V. Joiner, 1000 Circleview Dr., wrote a letter stating he has lived there since 1985, and there have always been farm animals, including cattle. A third letter was from Mary Benton, 916 Circleview Dr., also spoke of her support for keeping animals on the property. He said his clients have looked at the incompatibility issue and believe the current zoning of H-I zoning is more incompatible than that of the requested rezoning to A-C. He said that the property will not be used according to the future planning map for R-1 because there is no way to access this land. Vice Chairman Coleman asked how the hogs were transported to the property and recently removed from the property with no access. Mr. John T. Watkins answered by saying that they were brought through the subdivision but that he did have limited access through the commercial property to the north between the property and Ross Clark Circle. Mr. Watkins stated that no one lives in the travel trailer which is currently parked on the property. Mr. Watkins said that he lives at 115 Riverfront Dr., Sparta, TN but that his son keeps the animals at this property and lives at 1004 Circleview Dr. permanently. He answered that there were no utilities connected with the 11.2 acres. Drainage is off the rooftop into a reservoir, and a creek runs through the property, but it would not be desirable for buildings due to the flooding when it rains.

Ms. Martha Connor addressed the board as an owner of two properties in the Circleview subdivision: 1012 (Rental home) and 801 Circleview Dr. (her permanent home). She stated that the home at 1004 Circleview Dr. has not been occupied for 30 consecutive years. She is a realtor and had the subject property listed for sale years ago, and it was also vacant for a long time. She believes the keeping of cows, pigs, etc. will degrade the subdivision. Vice Chairman Coleman stated that the board did receive a letter from Ms. Knight, who is the renter living at 1012 Circleview Dr., and is opposed to this rezoning request. Mr. Richard Burton, 1002 Circleview (next door neighbor) said that the animals come to the property through the driveway of 1004 Circleview. He has experienced problems with the crowing roosters all day, as well as the goats and chickens getting out and coming into his yard. Recently, a goat got out and fought with a neighboring pit bull, and the owner is not always at home to manage the animals. When it rains, the animal odors are very pungent. He has since erected a privacy fence and gate on his property. He bought his home in 2008, and with regard to the grandfathering clause, there has not been a consecutive time of farm animals at the property. Between the time that the last people moved out of 1004 Circleview and Mr. Mike Watkins' (son of Mr. John Watkins) family moved back in, there were no farm animals on the property. Ms. Carol Knight, renter of 1012 Circleview Dr., who submitted written letter opposing the rezoning, stated she has lived there for 12 years and has endured the roosters also. She stated the future problems for the neighbors in the community if zoned agricultural: 1) smells and excess noises causes stress for neighbors in homes, leading to physical or mental problems and disturbs their peaceful enjoyment; 2) devaluation of the property values; and 3) future owners of the property and how they will use and maintain it. Mr. Gerald Blizzard, 914 Circleview Dr., stated he bought his home in 2007 and there were horses on the subject property. He has no problem with the farm animals. Mr. Tenzer, 912 Circleview Dr., has lived there for 13 years, and has no problem with the animals on the subject property. Mr. Keender Batchelor, a family friend and visitor, spoke on behalf of the Watkins family. He stated there are no longer any crowing roosters at 1004 Circleview. The one that is left there, but that particular kind does not crow loudly or often. He said the children in the neighborhood feed the animals and it offers a great farm life experience for them. The pigs have also been removed. Mr. Marcus Gibson, 910 Circleview Dr., moved there in 2010 and there were horses and other farm animals, which were never a problem because the fence kept them inside. The fence was damaged recently and is down on a part of the subject property, and has not been

repaired to date by Mr. Mike Watkins. Mrs. Shannon Watkins, Mr. Mike Watkins' wife, 1004 Circleview Dr., is eight months pregnant and has lived there throughout her entire pregnancy and has experienced no issues with the smells or sounds of the farm animals in her backyard, which is closer to the subject property land than anyone else in the neighborhood. She also explained she is not worried about her newborn baby being wakened because the sounds are that far away. She also stated their plans are to stay and live at 1004 Circleview, and the property will be under their control.

Mr. Tindall questioned Mr. Etheredge as to whether the property has been rented over time, and who has had control over what animals come and go, as well as taking care of their health and maintenance. Mr. Etheredge said that Mr. Mike Watkins, son of Mr. John Watkins, the applicant, lives there now and is in charge of the farm animals. The house has been rented to tenants, but not the land. Mr. Davis questioned if the City zoning citing dated April 5, 2016 is still outstanding. Mr. Etheredge stated that he has only been asked to represent the applicant and his family for the Planning Commission meeting. He was aware of the citation. Mr. Mike Watkins, son of applicant, and resident of 1004 Circleview Dr., said that the citation would be on hold until this meeting was held to see if the rezoning request would be approved. Mr. Breaux clarified by saying the father and son had met with him after the citation was issued to make their claim that the property had been continually used for the purpose of keeping farm animals. He asked both Mr. Mike Watkins and Mr. John Watkins to gather information and provide their evidence to staff for review. At that time, he was not aware they had made application for rezoning of the property. Yesterday, Mr. Breaux told Mr. Mike Watkins he would like to wait to see the facts presented at the Planning Commission meeting to determine what should happen to cure the violation, if it still exists. Mr. Freeland summarized by saying it is apparent that there has not been a constant resident occupying the home location at 1004 Circleview, immediately adjacent to the subject property seeking rezoning approval. If the house has been vacant, and the Watkins family claims there have been farm animals on this property the entire time, who has been taking care of the animals? Mr. Mike Watkins responded that the tenants took care of their own animals and our animals that were already there. Chairman Harris asked him if he had ever brought animals through the driveway and onto the property. He responded he had, and that he has had the pigs for 1.5 years, and he removed them when the neighbor complained. Mr. Mike Watkins stated he has had approval from Coldwell Banker to use their access to the circle (Ross Clark Circle). Mr. Freeland questioned Mr. Mike Watkins as to his future plans for the size of farm he hopes to have. He said he is not planning to have chicken houses, and he currently has 12 chickens and 7 goats, and may obtain a few more. The entire property is fenced, but since the storm, he has put an electric fence behind the house (including the shed storage), to keep his existing animals confined, until more fencing can be installed/repared and the entire property is secure. He will most likely not have pigs on the property in the future. He may get another horse and a couple of cows, which is a small "hobby" farm for him. Mr. Tindall explained that if the current resident of 1004 Circleview, Mr. Mike Watkins, decides to move and rent to someone else, there is no control over the activity on this parcel of land by the owner, Mr. John Watkins, Jr. There is no guarantee that this family will control this property, in terms of maintenance and care. Mr. Breaux agreed, and stated that the entitlements would be on that property for anything allowed in the A-C zoning district. He explained that the BZA hears and approves applications for special exception request on residentially zoned property for the keeping of poultry or livestock, but no roosters would be allowed, due to their crowing. As it is now, the property is zoned heavy industrial (H-I), where the use for farm animals is not allowed. Mr. Breaux verified Mr. Freeland's question that A-C zoning will allow a residential house to be built on the 11.2 acre property, given the fact that it is in the flood plain. Regarding direct access to the subject property from the commercial side, Mr. Breaux confirmed that it is a "lot of record" and has some entitlements to it, even though it has no frontage on the roadway, it is a permitted use by right to have a single family residence in an agricultural district. Mr. Etheredge stated the subdivision restrictions for Circleview and general subdivision restrictions imposed by the City Zoning Ordinances prohibit use of that lot for access unless it was rezoned for access. **Chairman Harris called for a motion regarding RZ-16-0152, for rezoning of 11.1 acres located behind 1004 Circleview Dr. from H-I District to A-C District. Vice Chairman Coleman motioned that a negative recommendation be referred to the**

Dothan City Commission. Mr. Palmer seconded, and the motion passed unanimously. Chairman Harris stated that this case RZ-16-0152 can go before the City Commission, and Mr. Etheredge would explain that process to his clients.

8. Consent Items: Minor Development Plans & Subdivision Plats

Minor Development Plans

392 Westgate Parkway – State Farm Office Expansion
377 Bic Road – Southern Blow Pipe Expansion
100 Apple Avenue – 9,000 sq. ft. Retail Building (adjacent to Publix on West Main)
1623 West Main Street – Dr. Sealock Office Expansion

Minor Subdivision Plats

Wheelless Development Commercial 84 Plat – parcel split in half
Replat Lot 2, Block A, Cooks Properties
Haven Drive Warehouse Properties (251 Oppert Rd.)
Tate Drive Commercial Subdivision

9. Adjourn.

Mr. Freeland made a motion to adjourn. Vice Chairman Coleman seconded, and the meeting was adjourned at 10:17 a.m.


George C. "Chuck" Harris Chairman


Kim Vann, Secretary