



2010-069

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Honorable Lesley Vance  
Member, House of Representatives  
Post Office Box 1429  
Phenix City, Alabama 36868

Planning Commission – Subdivisions  
– County Commissions – Russell  
County

The Russell County Planning  
Commission has final authority over  
subdivisions.

Dear Representative Vance:

This opinion of the Attorney General is issued in response to your  
request.

QUESTION

Does the Russell County Planning Com-  
mission or the Russell County Commission have  
final approval over accepting subdivisions?

FACTS AND ANALYSIS

This Office has previously explained the subdivision authority of  
the Russell County Planning Commission as follows:

Act 95-573 of the 1995 Legislative Session  
is a local act, applicable to Russell County,  
creating the Russell County Planning Commis-  
sion. 1995 Ala. Acts No. 95-573, 1198. Section  
15 of the act grants the Commission the authority  
over subdivisions and gives the Commission the  
same powers of a *municipal planning*

*commission as set forth in chapter 52 of title 11  
of the Code of Alabama. Id. at 1204.*

Opinion to Honorable Richard L. Chancey, Attorney, Russell County Sewer Authority, dated March 9, 2009, A.G. No. 2009-049, at 3-4 (emphasis added).

In addition, section 8 of Act 95-573 provides as follows:

The planning commission shall adopt a code of regulations applicable to the subdivision of land. Plats of subdivisions shall not, after the adoption of the code of regulations, be accepted for filing and recording in the probate office until they have been approved in a manner to be designated by the planning commission.

1995 Ala. Acts No. 95-573, 1198, 1201.

Municipal planning commissions are established pursuant to section 11-52-1, *et seq.*, of the Code of Alabama. ALA. CODE § 11-52-1 to 11-52-85 (2008 & Supp. 2009). The procedure for approval or disapproval of a subdivision plat is set forth in section 11-52-32, which states that “[t]he planning commission shall approve or disapprove a plat within 30 days after the submission thereof to it; otherwise, such plat shall be deemed to have been approved.” ALA. CODE § 11-52-32(a) (2008). Neither sections 8, 15, or any other provision of the act nor section 11-52-32 requires county approval of a subdivision decision of the planning commission. Moreover, section 11-52-36 specifically provides that “the jurisdiction of the planning commission over plats shall be *exclusive* within the territory under its jurisdiction.” ALA. CODE § 11-52-36 (2008) (emphasis added).

Therefore, based on these statutes, this Office, in considering a similar issue regarding a municipal planning commission in an opinion to Honorable Sam E. Loftin, Attorney, City of Phenix City, dated November 17, 1988, A.G. No. 89-00050, concluded that final authority over subdivisions rests with the planning commission, not the city council. *See also*, opinions to Honorable Donald J. Stewart, Attorney for the Planning Commission of the City of Gulf Shores, dated June 20, 2000, A.G. No. 2000-171; and to Honorable William W. Sanderson, Jr., Madison City Attorney, dated April 1, 1999, A.G. No. 99-00154 (assuming section 11-52-32 authorizes a “final” subdivision plat). Consistent with these

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authorities, the final authority over subdivisions lies with the Russell County Planning Commission.

CONCLUSION

The Russell County Planning Commission has final authority over subdivisions.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

TROY KING  
Attorney General  
By:

  
BRENDA F. SMITH  
Chief, Opinions Division

TK/GWB

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