

**PLANNING COMMISSION MEETING
MUNICIPAL CENTER COUNCIL CHAMBERS
Tuesday, August 6, 2013**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of the Municipal Center on August 6, 2013. Chairman Klevan welcomed everyone and asked the Commission members as well as the audience to please speak into the microphone so they could be heard. Chairman Klevan then called the meeting to order at 6:06 p.m. asking the secretary for the roll.

1. Ms. Rush called the roll of the Board to establish a quorum:

Commissioners Present: Hale Barclay, Alderman Forrest Owens, Dike Bacon, George Hernandez, David Klevan, Mike Harless, Steve Wilensky and Susan Burrow.

Commissioners Absent:

Staff Present: David Harris, Wade Morgan, Tim Gwaltney, Andy Pouncey and Pam Rush.

2. A quorum for tonight's Planning Commission meeting was established.

Chairman Klevan stated that item number 6, the Somerset Subdivision, East side of Exeter Road, North of Neshoba Road, request Preliminary and Final Plat approval, has been withdrawn from the agenda this evening.

3. Approval of Minutes for July 2, 2013

Chairman Klevan stated for those people who just arrived, tonight's agenda is on the front table. The first order of business is the approval of the minutes for July 2, 2013. If there were no additions, corrections or deletions to the minutes of the July 2, 2013, meeting of the Planning Commission, he would entertain a motion for approval.

Mr. Bacon moved to approve the Planning Commission minutes of July 2, 2013, as submitted, seconded by Ms. Burrow.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – yes; Burrow –yes; Hernandez - yes; Wilensky – abstain; Bacon – yes; Harless –yes; Owens - yes; Klevan – yes. **The motion was passed**

4. Consent Agenda: Item number 4 (a) was approved.

4. (a) Laurel Oaks Planned Unit Development, West side of S. Germantown Road, North of River Oaks Presbyterian Church - Request Amendment to the Fence Requirements

INTRODUCTION:

Applicant Name: **John Duke – Builder**

Location: 1550 Lawton Trail, within the Laurel Oaks PUD, on the West Side of Germantown Rd., North of River Oaks Presbyterian Church

Current Zoning District: “R-3” Two Family Districts

BACKGROUND: The Laurel Oaks PUD was approved by the Planning Commission on October 5, 2004, and the Subdivision Development Contract (No. 461) was approved by the BMA on December 12, 2004.

DISCUSSION: Lot 1 (1550 Lawton Trail) is a corner lot at the intersection of Lawton Trail Drive and Bixby Place. A house is currently under construction, with the garage and front entrance facing Lawton Trail. The owner of the house desired to obtain additional useable yard area by locating a fence along the Bixby Place frontage 1 foot behind the existing sidewalk. The fence is proposed to be wood, with brick columns space 8 feet apart. The fence is to extend approximately 50 feet from the existing wall along Germantown Road.

The PUD conditions allow fences to encroach 5 feet into the front yard area along Lawton Trail, but do not address fence setbacks along Bixby Place. The standard requirement is for fences (over 30 inches in height) to not extend past the front building line (15 feet in the case of Laurel Oaks).

The attached graphic illustrates the dwelling under construction and the proposed fence along Bixby Place.

5. Firestone Complete Auto Care Center, South side of Poplar Ave., east of Johnson Rd., (Lot 6 of the Poplar/Johnson Road Commercial Subdivision) – Request Preliminary and Final Site Plan Approval

INTRODUCTION:

Applicant Name: **Harvey Marcom, w/The Reaves Firm – Representative**

Location: South side of Poplar Avenue, west of Stringer’s Poplar Point Landscape Nursery

Current Zoning District: “SC-1” Shopping Center District

BACKGROUND: The Poplar Ave/Johnson Rd. Commercial Subdivision was approved by the Planning Commission on August 5, 1997 and by the BMA on December 8, 1997 as Contract No. 403.

DISCUSSION: Bridgestone Retail Operations, LLC (parent company of Firestone Complete Auto Care Centers) proposes a nine bay, 7990 sq. ft. car care center on the easternmost, and last undeveloped, lot in this subdivision.

TOTAL SITE AREA	1.091.29 ac.
BUILDING SIZE	7,990 sq. ft.
NUMBER OF SEATS	NA
NUMBER OF PARKING SPACES	41 (9 spaces in bays; 30 exterior spaces)

The applicant revised their plans to respond to the comments of the Technical Advisory Committee.

STAFF RECOMMENDATION: Approval, subject to the following comments.

A. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. The subdivision plat with the revised easements shall be re-recorded prior to construction plan approval.
2. Provide oil and water separators in the drains in the parking lot.
3. Provide proof to the Public Services Dept. that a used oil service has been contracted.
4. Remove the drain inlet from the utility easement.
5. Show the existing sidewalk on Poplar Pike with dashed lines, similar to the existing sidewalk on Poplar Ave.
6. Identify the existing water service line to this lot.
7. Place the fire water line in a water line easement, instead of a utility easement.
8. Note the #10 drain inlets as #10 modified.
9. Add a drain headwall at the basin on the east side of the driveway entrance on Poplar Ave.

B. GENERAL COMMENTS

1. The developer shall enter into a Project Development Contract with the City of Germantown for this project after it has received Final approval from the Design Review Commission.
2. The applicant shall provide proof of TDEC approval for the water system and sanitary sewer system.
3. If approved, all materials shall be specified on the construction plans for the proposed project. The applicant must receive Final Construction Plan approval from the Department of

Community Development before the Memphis/Shelby County Office of Construction Code Enforcement may issue a building permit for the project.

4. The applicant is required to include the following formal written statement by a certified and licensed professional engineer to be placed on the grading and drainage plans, signed, dated and sealed:

I, _____, a duly licensed professional engineer in the State of Tennessee, hereby certify that I have designed the drainage in accordance with the Design Standards of the City of Germantown and have considered upstream and downstream conditions that affect drainage to include topography, present and future land use, existing zoning, and location of natural water courses.

5. The Developer agrees to comply with the following requirements, unless otherwise authorized in writing by the City Engineer:
 - (a) All streets shall be kept clear and free of dirt and debris;
 - (b) All construction activity shall begin no earlier than 7:00 a.m. and end no later than 6:00 p.m., Monday thru Saturday, and no construction activity shall be permitted on Sundays; and
 - (c) The Developer and Lot Purchasers shall provide the Department of Community Development with the name, address and phone number of person(s) to be contacted and responsible for correcting any of the above should the occasion arise to do so.

Harvey Marcom with the Reaves Firm, Inc., 5880 Ridge Bend Road, Memphis, TN 38120 noted this was a tough site to work with. He stated there would not be an outdoor PA system. The horn honking must be an industry wide safety standard, and is required for safety on the site.

SUBDIVISION AND SITE PLAN SUBCOMMITTEE REPORT (MIKE HARLESS, CHAIRMAN): The subcommittee met on July 17, 2013 and withheld a recommendation.

PROPOSED MOTION: To approve the preliminary and final site plan for the Firestone Complete Auto Care Center, on Lot 6 of the Poplar/Johnson Road Commercial Subdivision, subject to the attached comments.

Mr. Harless moved to approve the preliminary and final site plan for the Firestone Complete Auto Care Center, on Lot 6 of the Poplar/Johnson Road Commercial Subdivision, subject to staff comments, seconded by Mr. Bacon.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – yes; Burrow – yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – yes; Owens - yes; Klevan – yes. **The motion was passed**

6. Amendments to Chapters 3 (Alcoholic Beverages), 17 (Subdivisions) and 23 (Zoning) of the Germantown Codes of Ordinances

INTRODUCTION: The zoning regulations were initially adopted to address community values about the use of land and buildings, and have been amended over the years to adapt to new building issues, changing technology, and changing desires of residents. As the regulations are applied to real-life conditions, situations that were not originally envisioned become apparent and over-sights are discovered.

DISCUSSION: The proposed amendments address various situations that need clarification:

1. **Section 3-116 (Alcoholic Beverages – Location of Establishments)** – While this is not part of the Zoning Regulations, it does relate to the required zoning of places that sell alcoholic beverages. This section limits places that sell alcoholic beverages to the C-2 (General Commercial) zoning district. When the Smart Code and associated districts were adopted in 2007, section 23-804 (Table 10: Specific Functions) permitted Liquor Selling Establishments to located in T-5 districts, subject to the approval of a warrant. Staff recommends that Section 3-116 be amended to include the T-5 district as a permitted district.
2. **Sections 23-187 (R-E District), 23-212 (RE-1 District), 23-236 (R District), 23-261 (R-1 District), 23-286 (R-2 District) and 23-311 (R-3 District)** – These section address the location and similar physical characteristics of accessory buildings within single family residential districts, and are all essentially identical. Accessory buildings are not permitted beyond the front line of the principal building, with corner lots being defined as having front building lines on both streets. However, double frontage lots (lots that have frontage on 2 streets that do not intersect) are not directly addressed by this section. Illustrations of double-frontage lots are attached. The definitions section of the Zoning Regulations identifies both frontages of a double frontage lot as a front yard. Therefore, storage buildings and similar structures are effectively not permitted on double frontage lots.

Staff recommends that accessory structures be allowed within the yards of double frontage lots that are located between the building line and the street to which there is no vehicular access. The majority of double frontage lots in Germantown have fences along the street, which the “rear” of the house faces, so that accessory structures are screened from view from the street. There should be further requirements that the street frontage be screened by a site-proof fence (typically wood or masonry), and accessory structures should be limited in height to 10 feet.

3. **Section 17-1 (Policies)** – In 2009, the Subdivision Regulations were amended to create the category of “minor subdivision” to allow administrative approval of revisions to existing subdivisions that do not create new lots. Situations that would fall under the minor subdivision category include relocation of easements, relocation of lot lines, the merging of two lots into one, and similar situations. The proposed amendment adds the word “revision” to the description, to make clear the intent relates to modifications to existing subdivisions, and not to the creation of new lots.

AMENDMENTS:

1. **Sec. 3-116. - Location of establishments.**

It shall be unlawful for any person to operate or maintain any wholesale or retail establishment for the sale, storage, or distribution of alcoholic beverages in the city except at locations (a) within the C-2 Commercial or T-5 Urban Center zoning classification of the zoning ordinances of the city and (b) within a congregate care facility located in the R-H retirement housing zoning classification of the zoning ordinances of the city, but only in conjunction with common dining, social, and recreational facilities located therein.

2. **Sec. 23-236. - Accessory buildings.**

Accessory buildings/structures and other outdoor accessory constructions and items that are normal and incidental to single-family dwellings; excluding, but not limited to, satellite receiving antennas (covered in section 23-2), basketball goals, temporary lawn game apparatus,

decorative items, lawn furniture, birdhouses, decorative garden structures and similar appurtenances, shall be located in compliance with the following:

- (1) No accessory buildings/structures and other outdoor accessory constructions shall extend beyond the front line ~~of the building~~ of the principal building, nor shall they extend into the required side yard between the front and rear lines of the principal building. On corner lots, both sides of the principal building that face the intersecting streets are classified as front building lines of the principal building. On double frontage lots, accessory buildings/structures may be located between the principal building line and the non-accessible street, provided 1) there is a sight-proof fence along the non-accessible street, and 2) the accessory building/structure is located a distance equal to at least the height of the structure from all lot lines.
 - (2) Location:
 - a. No accessory building or structure shall be located within a recorded easement.
 - b. An accessory building or structure with a height of eight feet or more may extend into the required rear yard, but shall be located a distance equal to at least the height of the structure from the rear and side lot lines.
 - c. An accessory building or structure with a height of less than eight feet may extend into the required rear yard, but shall be located a minimum of three feet, six inches from the rear and side lot lines.
 - (3) No accessory building shall exceed 20 feet in height.
 - (4) Accessory buildings shall not cover more than 25 percent of the required rear yard.
 - (5) Accessory buildings, structures and other accessory items and uses are not allowed on lots that do not have a principal building.
 - (6) Flagpoles shall be located on any yard, provided that they are located a distance equal to or greater than their own height from the nearest property line. Flagpoles shall not be located within a recorded easement; and shall not exceed 20 feet in height.
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3. Section 17-1 (Policies)

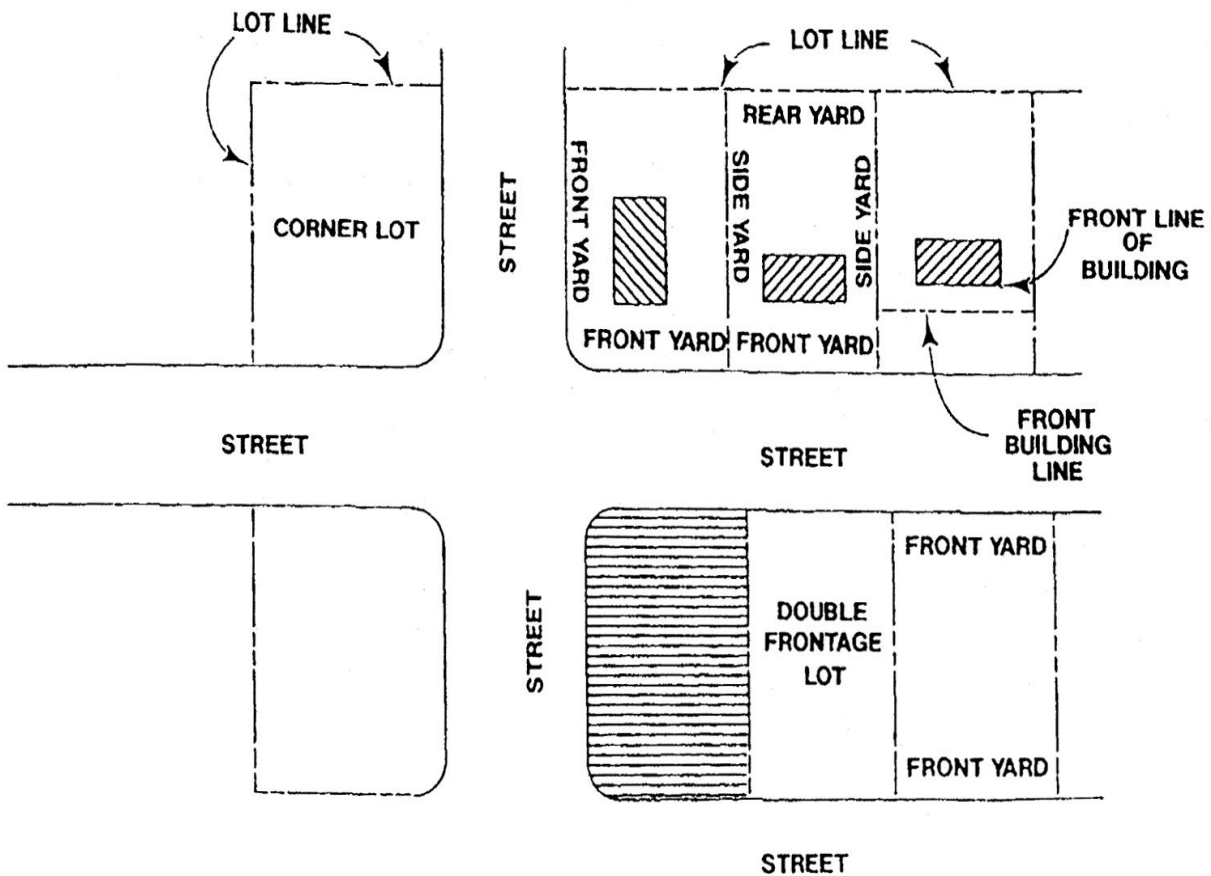
e. Minor revision to a subdivision means the shifting of existing property lines so that the total number of tracts or parcels is unchanged or the removal of existing property lines combining lots within a recorded subdivision so that the total number of tracts or parcels is reduced.

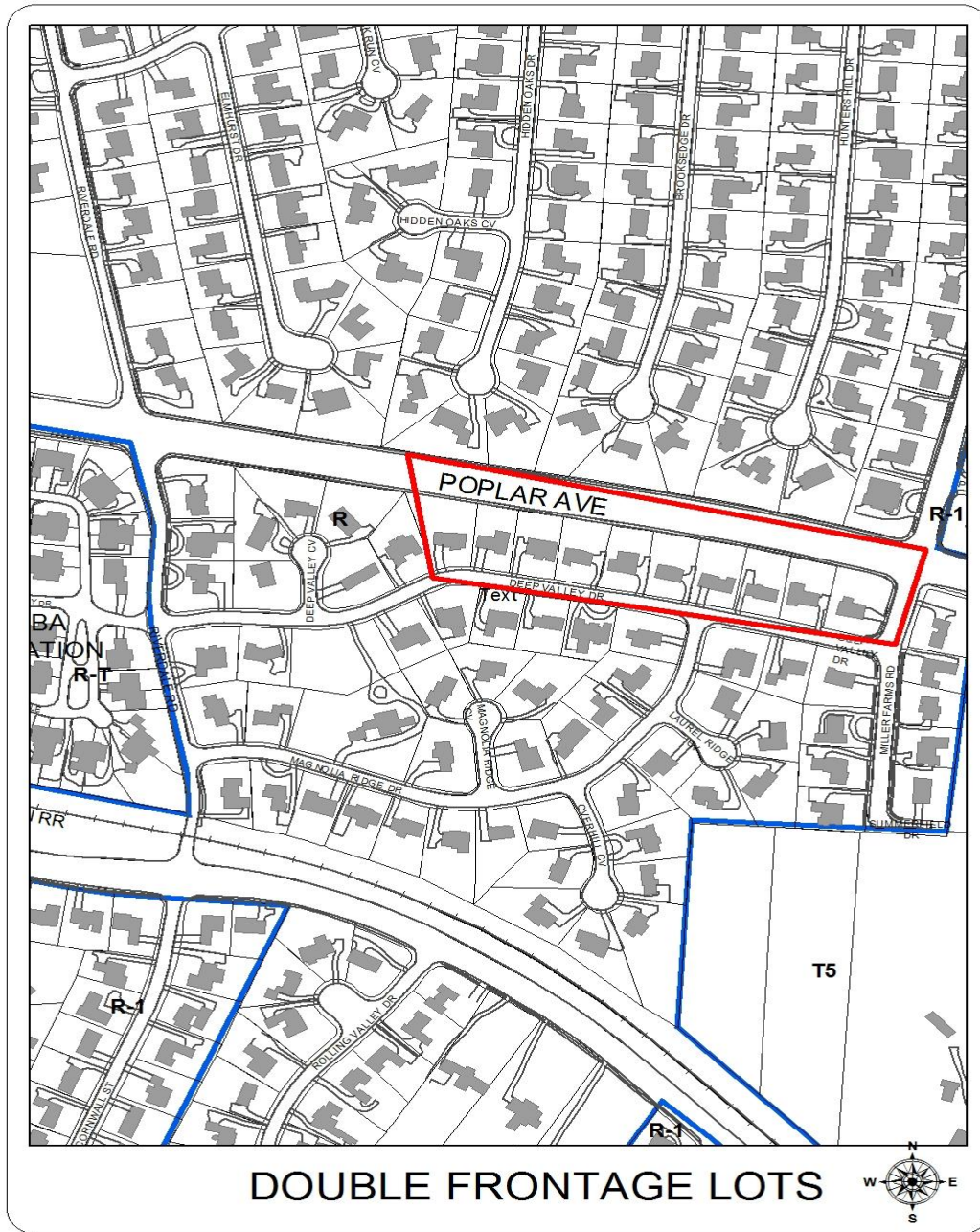
- (1) When a minor revision to a subdivision plat is presented that involves a minor lot line adjustment to a property line, combining lots or easements, or other similar changes and does not involve any street or public utility construction to serve such lot(s), the approval may be endorsed in writing on the plat by the secretary of the planning commission upon certification by the city administrator, or his designees, that the subdivision complies in all respects with these regulations and all other adopted

ordinances and policies of the governing body. No plat may be approved under this provision if such plat involves a request for a deviation from these regulations or if such plat is not in total compliance with all ordinances or policies of the city.

(2) Any person authorized to endorse approval in writing on the final plat, as provided in subpart (1), above, may refuse to endorse approval of the plat and request consideration of the plat by the planning commission at the next regularly scheduled meeting of the body.

GENERAL AREA REQUIREMENT TERMS





STAFF RECOMMENDATION: approval.

ZONING & ANNEXATION SUBCOMMITTEE: (SUSAN BURROW, CHAIRMAN) – The subcommittee met on July 17, 2013 and withheld a recommendation.

PROPOSED MOTION 1: To recommend approval of the proposed amendments to Section 3-116 location of establishments.

Ms. Burrow moved to recommend approval of the proposed amendments to Section 3-116 location of establishments, subject to staff comments, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – yes; Burrow – yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – yes; Owens - yes; Klevan – yes. **The motion was passed**

PROPOSED MOTION 2: To recommend approval of the proposed amendments to Section 23-236 accessory buildings.

Ms. Burrow moved to recommend approval of the proposed amendments to Section 23-236 accessory buildings, subject to staff comments, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – yes; Burrow – yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – yes; Owens - yes; Klevan – yes. **The motion was passed**

PROPOSED MOTION 3: To recommend approval of the proposed amendments to Section 17-1 (Policies).

Ms. Burrow moved to recommend approval of the proposed amendments to Section 17-1 (Policies), subject to staff comments, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – yes; Burrow – yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – yes; Owens - yes; Klevan – yes. **The motion was passed**

7. Chairman Klevan stated that item number 7, the Methodist Hospital Germantown, 7711 Poplar Avenue; request Preliminary and Final Site Plan Approval for an Addition to the Emergency Department has been withdrawn from the agenda this evening.

8. Chairman Klevan asked if there was any old business to come before the Commission. There was none.

9. Chairman Klevan asked if there was any new business to come before the Commission. Alderman Owens informed the members that the Wolf River Boulevard ribbon cutting, and the grand opening of the road, would be at 10:00 a.m. on Tuesday, August 20, 2013.

10. Chairman Klevan asked if there were any liaison reports. There was none.

11. **ADJOURNMENT:** The meeting adjourned at 6:45 p.m.