

**PLANNING COMMISSION MEETING
MUNICIPAL CENTER COUNCIL CHAMBERS
Tuesday, October 1, 2013**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of the Municipal Center on October 1, 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: Alderman Forrest Owens, Dike Bacon, Steve Wilensky, and Susan Burrow, Hale Barclay, David Klevan, and George Hernandez

Commissioners Absent: Mike Harless

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 7, Pipers Garden Planned Unit Development, Northeast Corner of Dogwood Rd. and Cordes Rd. - Request Preliminary and Final PUD Approval David Baker, w/Fisher and Arnold, Inc., – has been withdrawn from the agenda this evening.

3. Approval of Minutes for September 3, 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 September 3, 2013. If there were no additions, corrections or deletions to the minutes of the September 3, 2013, meeting of the Planning Commission, he would entertain a motion for approval.

Mr. Hernandez moved to approve the Planning Commission minutes of September 3, 2013, as submitted, seconded by Ms. Burrow.

Chairman Klevan asked for a roll call.

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

4. Consent Agenda: There was none.

5. Somerset Subdivision, East Side of Exeter Rd., North of Neshoba Rd. - Request Preliminary and Final Plat Approval - Lee Davidson, w/The Reaves Firm – Applicant

INTRODUCTION:

Applicant Name: **Lee Davidson, w/The Reaves Firm – Representative**

Location: East Side of Exeter Rd., North of Neshoba Rd.

Current Zoning District: “T-3” and “T-4” Smart Growth Districts

BACKGROUND: The property was rezoned to the “T-3” and “T-4” districts from the “R” Single Family Residential district in 2007.

DISCUSSION:

SUBDIVISION LAND AREA: 10.455 acres
NUMBER OF LOTS: 43
MINIMUM LOT SIZE: 5,864 sq. ft.
TYPICAL LOT SIZE: approx. 6,100 sq. ft.
STREETS – PUBLIC/PRIVATE: Streets are public; alleys are private.

The plan was withdrawn from the September Planning Commission agenda in order to address the T-4 district requirements and concerns from the neighbors. The revised plans: 1) add a 25 ft. buffer in the T-4 zoned part and reconfigure the lots in the southwest corner; 2) remove the proposed alley from the east and south sides of the subdivision; 3) increase the widths of the lots in the T-3 area to 60 feet. The revisions eliminate one previous warrant.

WARRANTS REQUIRED:

1. Lots 5 through 18 are within the T-3 district and are required to have a minimum 24-foot front yard setback and minimum 12-foot rear setback. A 15-foot minimum front building setback is requested.
2. Lots 5 through 18 are required to have minimum side yard setbacks of 6 feet. Minimum side yard setbacks of 3.5 feet are proposed, with a further provision that the total of both side yard setbacks equals a minimum of 12 feet.
3. Lots 1 – 22, and 43 could have side-loaded garages. The T-3 and T-4 districts require garages to be placed within the “Third Lot Layer”. (See attached diagram for explanation.)
4. Lots 1 – 5, within the T-4 District, are required to have a 50-foot building setback from an “R” district boundary. The 25-foot landscape buffer can be within the setback area. The plan proposes a 35-foot building setback.

STAFF RECOMMENDATION: **Approval** provided the following comments are addressed:

A. PRIOR TO FINAL PLAT APPROVAL

1. The landscape plan shall clearly indicate that the six-foot wood fence is to be provided along the south and east sides of the subdivision and along the north side of lots 19 - 22 and the detention area.

B. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. Note on the plans the locations of MLGW transformer boxes and streetlights.
2. Provide a video assessment of the existing storm drain system in the vicinity.
3. Provide special compaction notes for all ditches.
4. Provide greater spacing between the water and sewer service lines and taps.
5. A non-destructive testing agreement for damage to Exeter Rd. from hauling operations shall be entered into.
6. On the Utility Plan, show the tap for the fire sprinkler systems.
7. Provide an irrigation system for the Common Open Space areas.
8. A no. 10 inlet is not adequate to accommodate 0.80 acres of water. Revise accordingly.
9. Add a note to the plans stating that *all private alleys are dedicated as public access easements. All private alleys (COS D) and common open space shall be maintained by a homeowners association.*
10. On the Grading and Drainage Plan, indicate a means to catch surface drainage from Boulinwood into Lots 4 and 5.

11. Provide a detail on the treatment of the dead-end of Boulinwood. Consult the Manual of Uniform Traffic Control Devices and provide fencing, landscaping, and barricades as appropriate.
12. Locate water and sanitary sewer service lines and clean-outs in areas other than the middle of lots (where walkways are placed) and within driveways.
13. Include the dimension of the distance from the drain easement and the building setback line to the property line, on Lot 18.
14. Sidewalks within all Common Open Space areas shall be installed by the developer as part of the subdivision development, prior to initial acceptance.
15. Label the alleys (1, 2, 3 ... A, B, C, for ex.) to allow for differentiation.
16. Provide a fence and landscape buffer easement along the south, east and north boundaries of the subdivision.
17. Provide a utility easement along Exeter Rd.
18. The public drainage easements near the south and east boundaries of the subdivision shall be private easements.
19. On the Landscape Plan, replace the Emerald Green Arborvitae with Hollies.

C. REGULATIONS ON ENCROACHMENTS, FENCES AND ACCESSORY STRUCTURES

1. Accessory structures (decks, patios, porches, arbors, swimming pools, fences and similar structures) may encroach into a side yard setback, provided that pools are a minimum of 5 feet from any easement.
2. Architectural elements (brick/masonry fireplaces, bay windows, courtyard walls, and similar elements) may encroach a maximum of 4 feet into the side street building setback of corner lots to allow proper detailing and function.
3. The existing trees along Exeter Rd. shall be incorporated into the subdivision. A tree may be removed or relocated, subject to the approval of the Director of Economic and Community Development, provided 1) the removal is necessary as part of the construction of a dwelling on the lot; and 2) the tree is replaced in a nearby location.

D. GENERAL COMMENTS

1. All recorded easements shall be shown on the plat. A five (5) foot utility easement is required along all property lines, adjacent to and not within any other easement.
3. All survey data shall be tied to Tennessee State Plane Coordinates and the City of Germantown monumented survey control. The final plat, construction drawings and "as built" plans shall be submitted on electronic media in DXF format.
4. 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 Planning Commission.
5. This project must comply with the Tennessee Dept. of Environment and Conservation (TDEC) NPDES regulations governing stormwater discharge. The construction drawings shall include an erosion control plan, which is in conformance with these regulations, and provide a copy of the Developer's Notice of Intent (NOI) as submitted to the TDEC. Before work commences on the project, the contractor/developer must provide the City Engineer a copy of the TDEC Notice of Coverage and a copy of the site specific Storm Water Pollution Prevention Plan.
6. 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.
7. 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.

8. No owner, developer, or tenant of property within the subdivision shall commit an act, or allow a condition to exist on property within the subdivision, which act or condition endangers life or health, violates the laws of decency, or obstructs or interferes with the reasonable and comfortable use of other property in the vicinity.
9. 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.

SMART GROWTH SUBCOMMITTEE: (DAVE KLEVAN, CHAIRMAN) The subcommittee met on September 18, 2013 and withheld a recommendation on the plan.

Alderman Owens asked about the discussion at the Planning Commission Subcommittee meeting covering the side yard setbacks, with one of them being 3.5 feet and the other one being 8.5 feet, instead of the two 6 foot setbacks?

Mr. Morgan answered yes that is true. One side would be 3.5 feet and the other side would be a greater amount so it would balance out to 12 feet.

Lee Davidson with the Reaves Firm, 5880 Ridge Bend Road stated we agree with all the staff comments.

Spence Ray with McNeill-Exeter LLC, 7700 Wolf River Blvd, Suite 103 noted what we talked about was that between the two side yards, would be 12 feet.

Alderman Owens asked about warrant number 3 with the garages either being front-loaded or side loaded garages?

Spence Ray noted they would be side-loaded garages.

David Harris wanted the language changed in warrant number 2 to read Lots 5 through 18 are required to have minimum side yard setbacks of 6 feet. Minimum side yard setbacks of 3.5 feet are proposed, with a further provision that the total of both side yard setbacks equal a minimum of 12 feet per lot.

Mr. Bacon asked about warrant number 3 being changed to read Lots 1 – 22, and 43 could have side-loaded garages. The T-3 and T-4 districts required garages be placed within the “Third Lot Layer”.

Robert Greene, 7840 Neshoba Road asked does the T3 zoning require 15,000 square foot minimum lot size? He asked about the buffer between the T3 and T4, with my house adjacent to the T4 zoning, which one of the things that is required in the T3 or T4 zoning is to have a 25-foot buffer around our property. We need an 8-foot fence separating us from the project on the other side of our fence.

Mr. Morgan answered, no the T3 district does not require 15,000 square feet.

Bob Wood, 7907 Gayle Lane asked about how many trees would be removed?

Mr. Pouncey noted with the tree board it is required that they bring a tree plan to us for residential property on planting 10 inches or above, that are going to be disrupted in a construction area. The plan would show what trees will be kept. The homeowners will have the right to keep any trees on their lot. They will be replanting trees and landscaping in the common open space area. There was a tree plan submitted with all the numbers and sizes of all the trees on the project now.

Thomas Jackson, 1697 Falling Leaf Drive, asked about the alleyway handling the drainage along with the grading levels?

Mr. Pouncey answered that they took out the driveway, but they did not take out the drainage basins. They are still there. We heard from a neighbor who was worried about the water coming toward their house and how it would be handled. Our City Engineer made a remark in the early meeting that a fence should always be 3 inches above the ground to see that the water flows to the detention pond.

Alderman Owens noted that he appreciated Mr. Green comments; he also asked if the 25-foot landscape easement would be maintained by the Homeowner Association?

Mr. Davidson answered the subdivision would be responsible for maintaining the buffer area along with the fence.

WARRANTS

PROPOSED MOTION 1: To approve warrant number 1, to allow a 15 foot minimum front building setback on Lots 5 through 18.

Mr. Wilensky moved to approve warrant number 1, to allow a 15-foot minimum front building setback on Lots 5 through 18, subject to staff comments, seconded by Mr. Bacon.

Chairman Klevan asked for a roll call.

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

PROPOSED MOTION 2: To approve warrant number 2, to allow a minimum side yard setback of 3.5 feet on Lots 5 through 18.

Mr. Wilensky moved to approve warrant number 2, to allow a minimum side yard setback of 3.5 feet on Lots 5 through 18 , with a further provision that the total of both side yard setbacks equals a minimum of 12 feet,subject to staff comments, seconded by Mr. Hernandez.

Chairman Klevan asked for a roll call.

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

PROPOSED MOTION 3: To approve warrant number 3, to allow Lots 1 – 22, and 43 to have side load garages, which is a location other than within the “Third Lot Layer”.

Mr. Wilenskey moved to approve warrant number 3, to allow Lots 1 – 22, and 43 to have side-loaded garages, in a location other than within the “Third Lot Layer”, subject to staff comments, seconded by Mr. Barclay.

Chairman Klevan asked for a roll call.

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

PROPOSED MOTION 4: To approve warrant number 4, to allow Lots 1 through 5 to have a 35 foot building setback from the existing “R” zoning district.

Mr. Wilenskey moved to approve warrant number 4, to allow Lots 1 through 5 to have a 35-foot building setback from the existing “R” zoning district, subject to staff comments, seconded by Mr. Hernandez.

Chairman Klevan asked for a roll call.

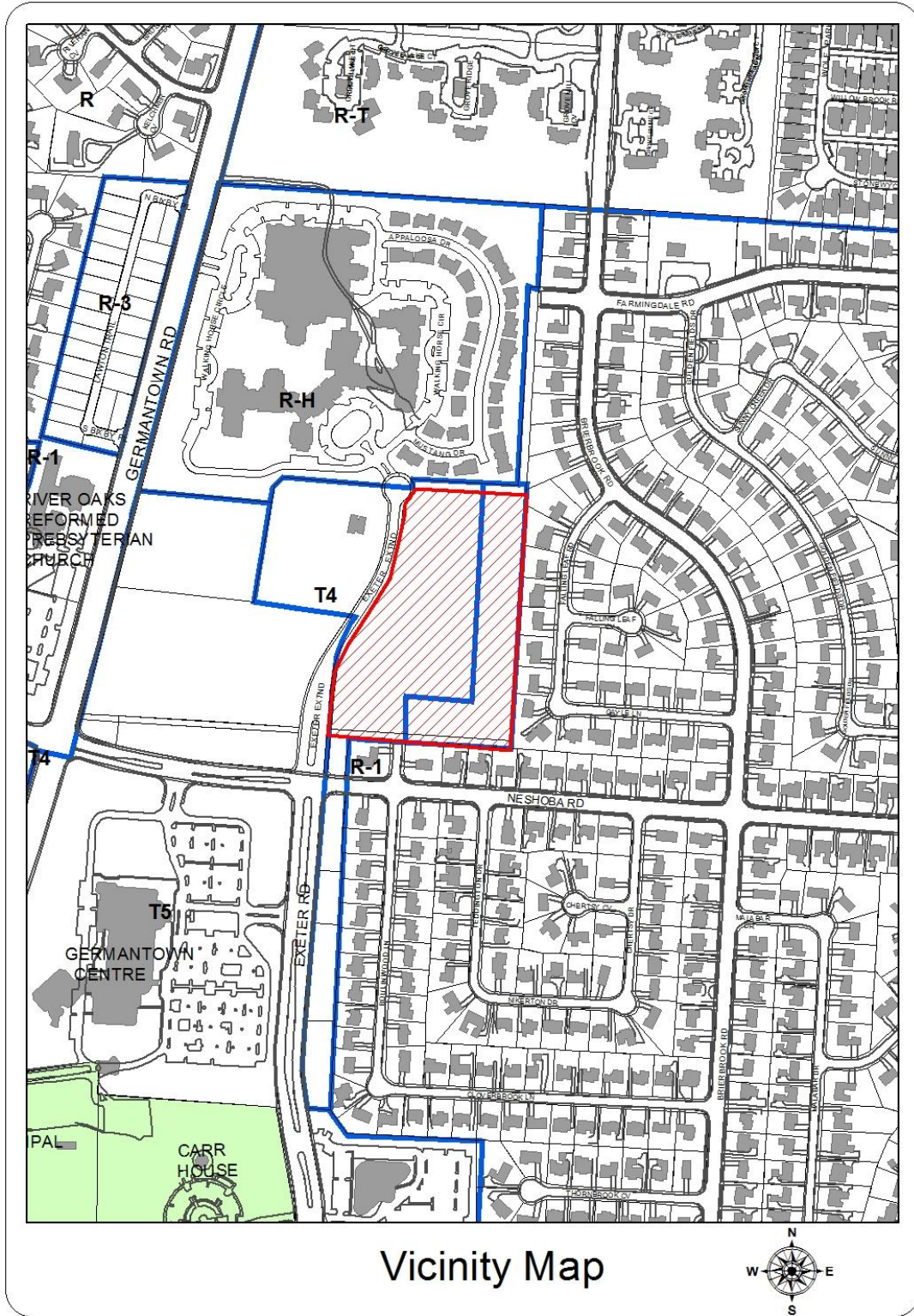
Roll Call: Barclay – yes; Burrow – abstain; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless –absent; Owens - yes; Klevan – yes. **The motion was passed**

PROPOSED MAIN MOTION: To approve the preliminary and final plat for Somerset subdivision, subject to the comments listed above.

Mr. Wilenskey moved to approve the preliminary and final plat for Somerset subdivision, subject to the comments listed above, subject to staff comments, seconded by Mr. Barclay.

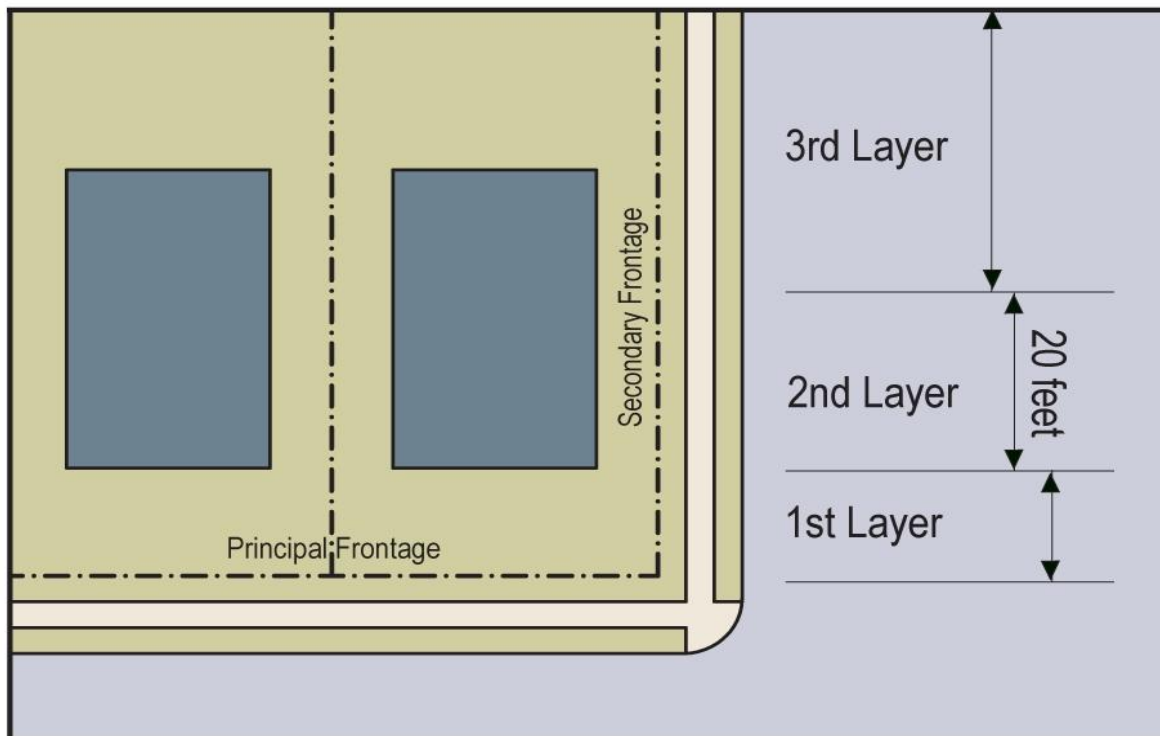
Chairman Klevan asked for a roll call.

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



Vicinity Map

d. LOT LAYERS



6. The Preserve PUD, Eastern Terminus of Woodlane Drive and Beaverwood Drive – Request Amendment to the Approved Plan to Modify a Landscape Easement

INTRODUCTION:

Applicant Name: *Dick Leike, w/West Land Co. – Representative*
Location: Lots 1 and 2 of The Preserve PUD
Current Zoning District: “R” Residential Zoning District
Description of Request: *Remove a 10 foot landscape easement between Lots 1 and 2 and the adjoining property*

BACKGROUND: On October 6, 2006, the PC approved the preliminary and final plat of The Preserve subdivision. Bourne Holdings was the original developer and completed most of the infrastructure associated with the subdivision before becoming insolvent. The mortgage bank foreclosed on the property and sold it to West Land Company, LLC. On April 5, 2011, the PC approved The Preserve Planned Unit Development, which modified the front yard setbacks and lot widths so as to make the lots more marketable. The completion of the remaining infrastructure and construction of houses began in 2013.

DISCUSSION: The specific request by the applicant is to remove a 10-foot landscape easement on the southern lot line of Lots 1 and 2. During the initial approval process of the subdivision, the developer agreed to place a 10 foot wide landscape easement between 3109 Highgate and The Preserve. The

easement requires a wood fence to be constructed on the **north side of the easement**, within Lots 1 and 2. The Design Review Commission approved the design of the fence on November 28, 2006. The easement was then recorded on February 14, 2013.

According to the applicant, the owner of 3109 Highgate is agreeable to the removal/modification of the easement.

STAFF COMMENTS:

A. PRIOR TO RECORDING OF THE REVISED PLAT:

1. Include a note on the plat, under “sidewalks”, to provide a sidewalk stub and ramp on Lot 3.

Staff Recommendation: Take whatever action the Planning Commission deems advisable.

SUBDIVISION AND SITE PLAN SUBCOMMITTEE: (MIKE HARLESS, CHAIRMAN) – The subcommittee met on September 18, 2013 and withheld a recommendation.

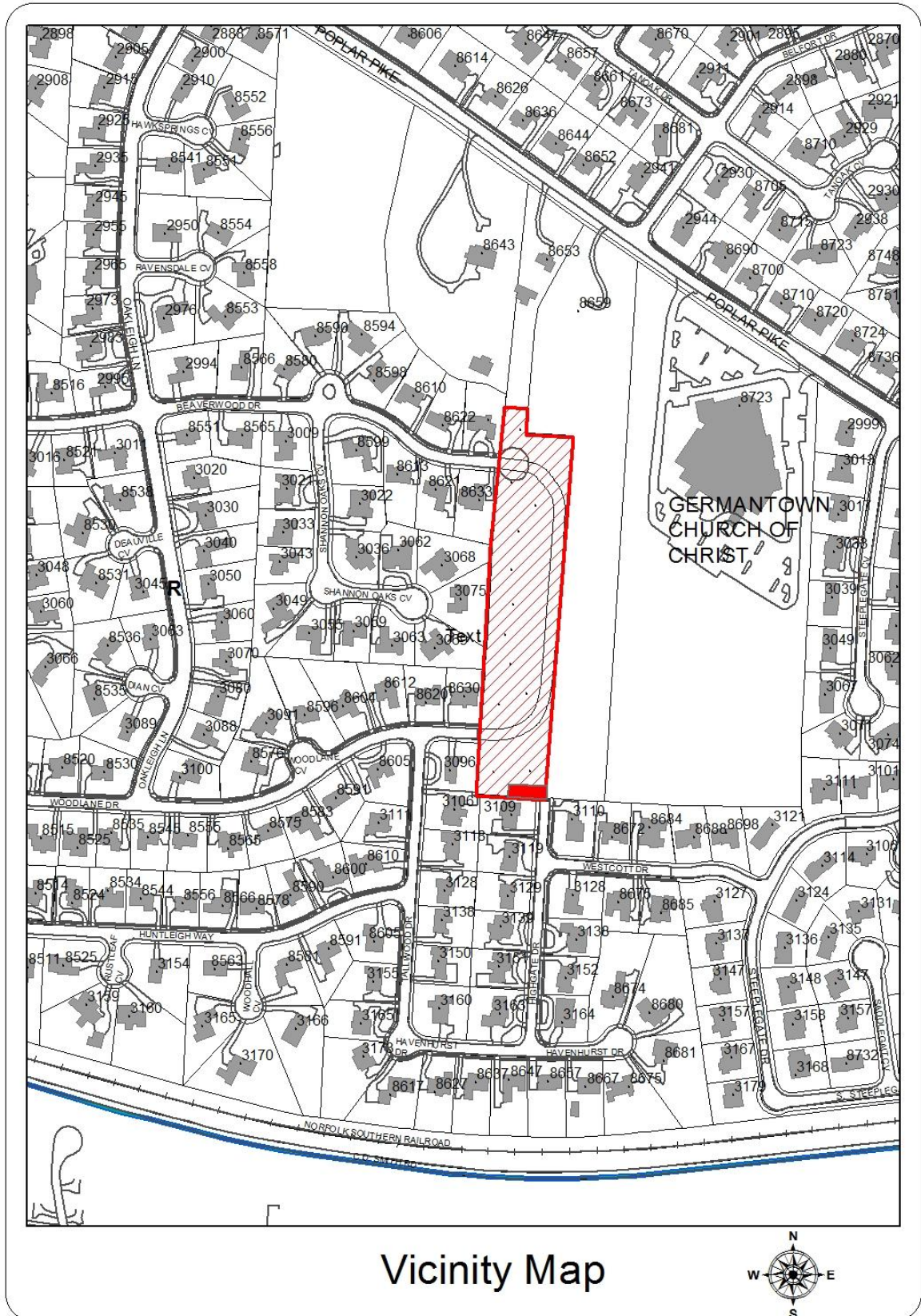
Dick Leike, 8643 Poplar Pike stated he wanted to remove the 10-foot landscape easement and fence between lot 2 and the adjoining property. He has reached an agreement with the adjoining lot owner.

PROPOSED MOTION: To approve the amendment to The Preserve PUD, subject to the comments listed above.

Mr. Bacon moved to approve the amendment to The Preserve PUD, subject to staff comments, seconded by Ms. Burrow.

Chairman Klevan asked for a roll call.

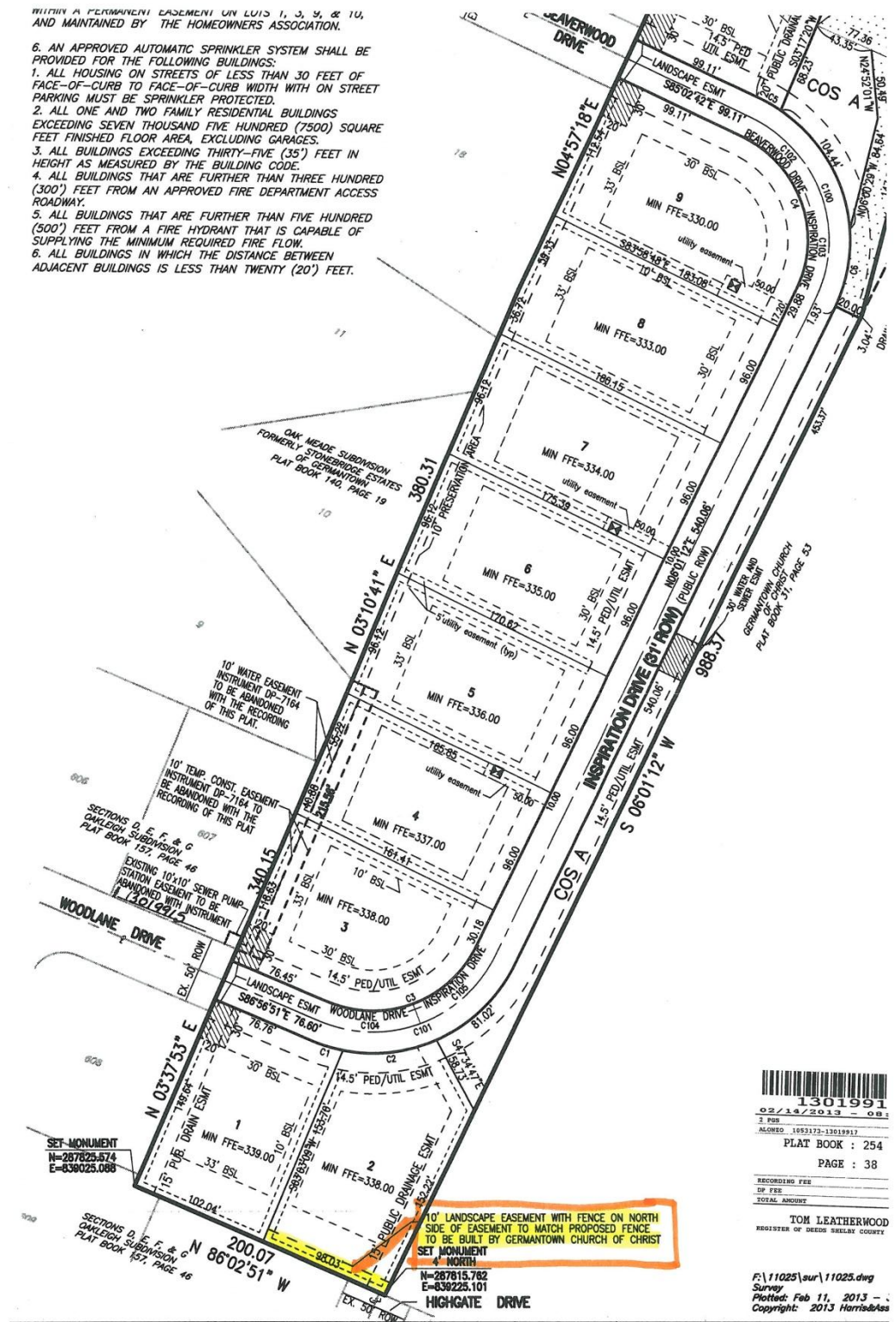
Roll Call: Barclay – yes; Burrow – yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – absent; Owens - yes; Klevan – yes. **The motion was passed**



WITHIN A PERMANENT EASEMENT ON LOTS 1, 3, 9, & 10,
 AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION.

6. AN APPROVED AUTOMATIC SPRINKLER SYSTEM SHALL BE PROVIDED FOR THE FOLLOWING BUILDINGS:

1. ALL HOUSING ON STREETS OF LESS THAN 30 FEET OF FACE-OF-CURB TO FACE-OF-CURB WIDTH WITH ON STREET PARKING MUST BE SPRINKLER PROTECTED.
2. ALL ONE AND TWO FAMILY RESIDENTIAL BUILDINGS EXCEEDING SEVEN THOUSAND FIVE HUNDRED (7500) SQUARE FEET FINISHED FLOOR AREA, EXCLUDING GARAGES.
3. ALL BUILDINGS EXCEEDING THIRTY-FIVE (35') FEET IN HEIGHT AS MEASURED BY THE BUILDING CODE.
4. ALL BUILDINGS THAT ARE FURTHER THAN THREE HUNDRED (300') FEET FROM AN APPROVED FIRE DEPARTMENT ACCESS ROADWAY.
5. ALL BUILDINGS THAT ARE FURTHER THAN FIVE HUNDRED (500') FEET FROM A FIRE HYDRANT THAT IS CAPABLE OF SUPPLYING THE MINIMUM REQUIRED FIRE FLOW.
6. ALL BUILDINGS IN WHICH THE DISTANCE BETWEEN ADJACENT BUILDINGS IS LESS THAN TWENTY (20') FEET.



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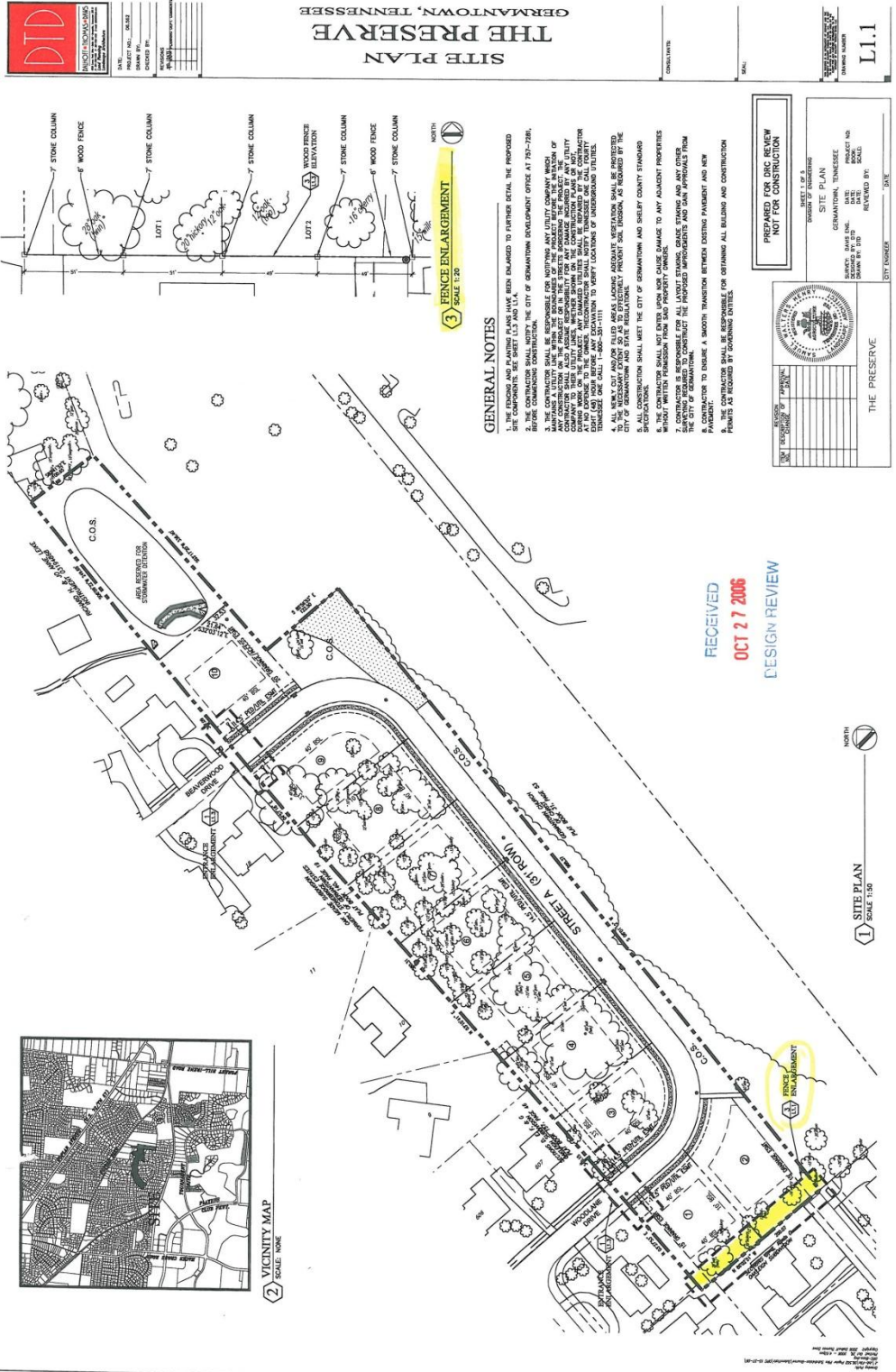
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10' LANDSCAPE EASEMENT WITH FENCE ON NORTH SIDE OF EASEMENT TO MATCH PROPOSED FENCE TO BE BUILT BY GERMANTOWN CHURCH OF CHRIST SET MONUMENT 4 MONTHS

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 ALLOWED: 1052173-13019917
 PLAT BOOK : 254
 PAGE : 38
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 REGISTER OF DEEDS SHELBY COUNTY

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 Survey
 Plotted: Feb 11, 2013
 Copyright: 2013 Harris&Ass

Originals out for Scanning



7. Amendments to the Germantown Smart Code, Article VII of the Code of Ordinances

INTRODUCTION:

Applicant Name: City of Germantown

BACKGROUND: The Smart Code was initially adopted in August 2007, as part of the Smart Growth Plan for the central business district and surroundings. The Smart Code added the T-3 (Sub-urban Zone), T-4 (General Urban Zone) and T-5 (Urban Center Zone) districts to the list of land development districts. Land and building density, configuration, height and design standards for each district were created.

DISCUSSION: The Lawrence Group recently completed the draft future land use plan for the Poplar Avenue West Small Area Plan. A component of that plan is the preparation of Smart Code regulations to make possible the implementation of the plan.

The proposed regulations add the T-6 (Urban Core Zone) to the available development districts. That zone “consists of the highest density, with the greatest variety of uses, and civic buildings of regional importance. It may have larger blocks; streets have steady street tree planting and buildings set close to the frontages.” A maximum building height of 8 stories (10 floors with a Warrant) is permitted. Buildings may be located with no setback from property lines and a 12-foot maximum front setback (40 ft. from Poplar Ave.) required.

In summary, staff has reviewed the document in detail, spoken with the consultant to make certain changes, and incorporated them into the document you are viewing. The following represent the differences between the “existing” Smart Growth Code and the “new” Smart Code:

Everywhere you saw Smart Growth Code; it now reads Smart Code because it will be the Code for each one of the non-residential nodes with an approved small area plan. Once a node has an approved plan, the term node is dropped and it then becomes a “district”. The Six Objectives of Goal 7 of Vision 2020 were omitted. We believe that they were first inserted to show relevance and early on explain the reason for the existence of this document. We did not believe this was ordinance language.

You should find this easier to read because the tables, charts, etc. were brought forward from the Appendix to be closer to the associated text. Also, redundancy was omitted.

Only the PC members shall have voting privileges for warrants. The Smart Code Review Subcommittee (SCRS) will still include two members of the DRC and EDC for making recommendations.

LEED requirements and benefits were omitted throughout the document. Restricted zone standards stand out better, as a way to note buffers to areas outside the Smart Code Districts.

The Fire Code was updated to say “the current International Fire Code as approved by the BMA”.

Since the “new” Smart Code was written the BMA approved a resolution allowing the Mayor, or Vice Mayor, in the Mayors absence, to approve a development contract, after the Director of Development, the City Engineer and the City Attorney signed off that it was correct to form and content and that all administrative and plans were complete. This saved probably six weeks of time for the developer.

If you are looking for the size of “logos”, they are now considered a “sign”, so you refer to that area.

Lastly, the consultant consolidated the specific instances where warrants might be considered.

After all the going back and forth between the “existing” and the “new” documents, you find that it is much better organized for reading and understanding, a product of experience, and more up to date.

STAFF RECOMMENDATION: Approval

Mr. Bacon moved to approve the Amendments to the Germantown Smart Code, Article VII of the Code of Ordinances, subject to staff comments, seconded by Mr. Wilensky.

Chairman Klevan asked for a roll call.

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

8. Poplar Avenue West Small Area Plan - Request Approval of the Plan

INTRODUCTION:

Applicant Name: City of Germantown

Location: An area bounded on the north by Poplar Ave., on the east by the Kirby Farm House property, on the south by Poplar Pike and on the west by the western City Limit

DISCUSSION: The Lawrence Group recently completed the draft future land use plan for the area. The plan recommends various public improvements, traffic signals and regulatory changes.

STAFF RECOMMENDATION: Approval

SMART GROWTH SUBCOMMITTEE REPORT: (DAVID KLEVAN, CHAIRMAN) The subcommittee met on September 18, 2013, and withheld a recommendation.

Ms. Burrow moved to approve the Poplar Avenue West Small Area Plan, subject to staff comments, seconded by Mr. Wilensky.

Chairman Klevan asked for a roll call.

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

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

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

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

12. **ADJOURNMENT:** The meeting adjourned at 7:23 p.m.