

**PLANNING COMMISSION MEETING
MUNICIPAL CENTER COUNCIL CHAMBERS
Tuesday, January 6, 2009**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of the Municipal Center on January 6, 2009. Alderman Drinnon welcomed everyone and asked the Commission members as well as the audience to please speak into the microphone so they could be heard. Alderman Drinnon then called the meeting to order at 6:00 p.m. asking the secretary for the roll.

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

Commissioner Present: Rick Bennett, Susan Burrow, Alderman John Drinnon, Mike Harless, David Klevan, Forrest Owens, Lisa Parker, Dike Bacon.

Staff Present: David Harris, Jerry Cook, Wade Morgan, Lauren Johnson, Tim Gwaltney and Pam Rush.

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

1. ELECTION OF OFFICERS

Alderman Drinnon declared the floor open for nominations for Chairman.

Ms. Burrow nominated Mr. Klevan for Chairman.

Alderman Drinnon asked if there were any other nominations. There were none. He said he would entertain a motion that the nominations cease and that Mr. Klevan be elected.

Mr. Owens seconded the motion.

Roll Call: Bennett – yes; Burrow – yes; Drinnon – yes; Parker – yes; Bacon – yes; Harless –yes; Owens - yes; Klevan – abstain. **Mr. Klevan was elected Chairman of the Planning Commission.**

Chairman Klevan stated he would entertain nominations for Vice Chairman.

Dike Bacon nominated Mr. Owens as Vice Chairman. Mr. Bennett seconded the motion.

Chairman Klevan asked if there were other nominations. There were none. He asked the nominations cease and asked for a roll call.

Roll Call: Bennett – yes; Burrow – yes; Drinnon – yes; Parker – yes; Bacon – yes; Harless –yes; Owens - abstain; Klevan – yes. **The Commission members voted unanimously to elect Mr. Owens as Vice Chairman.**

Chairman Klevan then asked for nominations for Secretary.

Ms. Burrow nominated Mr. Bennett for Secretary. Mr. Owens seconded the motion.

Chairman Klevan asked if there were other nominations.

Chairman Klevan moved that the nominations cease and that Mr. Bennett be elected by acclamation.

Roll Call: Bennett – abstain; Burrow – yes; Drinnon – yes; Parker – yes; Bacon – yes; Harless –yes; Owens - yes; Klevan – yes. **The Commission members voted unanimously to elect Mr. Bennett as Secretary.**

Chairman Klevan welcomed the two new commission members on the Planning Commission Ms. Parker and Mr. Harless.

Chairman Klevan stated there is a change in tonight's agenda: Item 5 has been moved to the Consent Agenda as item 2a.

2. Approval of Minutes for December 2, 2008

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 December 2, 2008. If there were no additions, corrections or deletions to the minutes of the December 2, 2008, meeting of the Planning Commission, he would entertain a motion for approval.

Alderman Drinnon moved to approve the Planning Commission minutes of December 2, 2008, as submitted, seconded by Ms. Burrow.

Chairman Klevan asked for a roll call.

Roll Call: Bennett – abstain; Burrow – yes; Drinnon – yes; Parker – abstain; Bacon – yes; Harless – abstain; Owens - yes; Klevan – yes. **The motion was passed**

Consent Agenda: Chairman Klevan stated the second order of business is the approval of the Consent Agenda. He then proceeded to read the Consent Agenda item:

3. Lot 1B, Forest Hill-Irene Commercial Subdivision – South side of Forest Centre Drive, west of Forest Hill-Irene Road – Request Preliminary and Final Site Plan Approval

BACKGROUND: On June 14, 2004, the Board of Mayor and Aldermen approved the rezoning from “R-T” Residential Multi-Family to “C-1” Neighborhood Commercial. On August 10, 2004, the Board of Zoning Appeals granted a variance to reduce the required planting screening required for commercial zoned property adjacent to residential zoned property from twenty-five feet to fifteen feet for Common Open Space area “A”. On September 7, 2004, the PC granted Final Plat approval. On September 28, 2004, the Design Review Commission (DRC) granted the Landscape and Lighting Plan approval to the full Forest Hill-Irene Commercial Subdivision. On October 11, 2004, the Board of Mayor and Aldermen approved Subdivision Development Contract No. 458 for the subdivision. Eight of the ten lots have been approved by the Planning Commission and Design Review Commission for site development with seven of the approved lots under development contract. On July 1, 2008, the Planning Commission granted Preliminary and Final Plat Approval to Re-subdivide Lot 1.

DISCUSSION: Forest Hill-Irene Commercial Subdivision is a nine lot commercial subdivision that totals 7.42 acres. There is a landscape easement (of undefined acreage) that was built with the subdivision. The interior street is a private street (31' R.O.W.) with stubbed access to the developing property to the north (Stonecreek Center), and shared access with Corporate Gardens to the south. The main access to the site is from Forest Hill-Irene Road with secondary access through Corporate Gardens and Stone Creek. The landscape area along Forest Hill-Irene Road is thirty-five feet wide and twenty feet wide along the internal street.

SITE DATA

Area	.52 acres
Total Required Parking	19 spaces

Total Proposed Parking	19 spaces
Handicap parking	2 space
Regular parking	17 spaces
Building Footprint Area	3,787 square feet
Pervious	32.66% (4,866.89 sq. ft.)
Impervious	67.34% (15,345.09 sq. ft.)

The Technical Advisory Committee (T.A.C.) met on December 11th and made the following comments:

STAFF COMMENTS:

A. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. The applicant shall provide a note on the Site Plan stating that the two streetlights are proposed for this project contract.
2. P.I.V. fire line and domestic water service shall be shown on the water plan.
3. This site will require an NOC approval from TDEC.

B. GENERAL INFORMATIONAL SPECIFIC TO THIS PROJECT

1. This property is not on the City of Germantown sanitation pickup collection system. The applicant shall enter into a private sanitation contract for that service.
2. The impervious ratio allowed is 35% per the Design Review Manual. The applicant shall request a minor green space variance by the DRC.

C. GENERAL REQUIREMENTS

1. All construction activities of one acre or more must be permitted through the EPA Phase II Final Rule NPDES permit coverage.
2. 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. The City of Germantown Fire Department requires that the applicant provide an approved water supply and driving surface prior to bringing any combustibles on site or beginning any construction.
4. All survey data shall be tied to Tennessee State Plane Coordinates and the City of Germantown monumented survey control for Final Plan approval. The Final Plan, construction drawings and "as built" plans shall be submitted on electronic media in a format acceptable to the City.
5. The Developer agrees to the following language which is provided in the Project Development Contract:
 - 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 through Saturday, and no construction activity shall be permitted on Sundays; and

- c. The Developer 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.

PROPOSED MOTION: To grant preliminary and final site plan approval for Lot 1B of the Forest Hill-Irene Commercial Subdivision located on the south side of Forest Centre Drive, west of Forest Hill-Irene Road, subject to staff comments.

Approved by the Planning Commission, January 6, 2009.

Chairman Klevan stated at the Executive Session this evening, the following items were placed on the Consent Agenda by the Planning Commission: **Forest Hill-Irene Commercial Subdivision, Lot 1B**. As part of the Consent Agenda, these items will **not** be presented, discussed or voted upon individually. If you would like to have discussed before the Planning Commission this evening, please come forward at this time.

Chairman Klevan stated again, **Forest Hill-Irene Commercial Subdivision, Lot 1B** have been placed on the Consent Agenda and will be voted upon as one motion and will not be discussed individually unless someone on the Commission or in the audience comes forward to remove that item from the Consent Agenda. Does anyone interested in any of these matters wish to be heard?

Chairman Klevan stated seeing no one come forward; I would like to note that on all matters concerning the Consent Agenda, the vote of each member of the Planning Commission would constitute an acknowledgement that the member has read the application or proposal, the staff reports and the Subcommittee report. I am prepared for a motion for approval of the Consent Agenda.

Mr. Owens moved to approve the Consent Agenda as read, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Roll Call: Bennett – yes; Burrow – yes; Drinnon – yes; Parker – yes; Bacon – yes; Harless –yes; Owens - yes; Klevan – yes. **The motion was passed.**

4. Nottoway Planned Development (P.D.) – Poplar Avenue at Chatsworth Drive, opposite Poplar Estates Parkway – Request an Amendment to the P.D. for the Installation of Gates

BACKGROUND: On December 5, 2000, the Planning Commission (PC) approved a request to rezone the subject property from “R” Low Density Residential to “R-2” Medium Density Residential. On January 22, 2001, the Board of Mayor and Alderman (BMA) approved the zoning change on Third and Final reading. On February 6, 2001, the PC approved a request for Preliminary Plat that included a variance for lot sizes, building setbacks and street dimensions. On May 1, 2001, the PC granted Final Plat approval. The BMA approved Subdivision Development Contract No. 425 for Nottoway P.D. on July 9, 2001. On November 19, 2008, the PC subcommittee reviewed the current application and requested more information regarding Homeowners’ Association (HOA) by-laws and crime statistics (see attached). The application was tabled until the January PC meeting.

DISCUSSION: The specific request by the applicant is to approve an amendment to the P.D. for the installation of gates. The subdivision has existing private streets. Two gates are proposed for this application:

1. Chatsworth Drive at Poplar Avenue: The proposed gate will be located 119.9' from Poplar Avenue. The access reader will be located 60' from Poplar Avenue. The gate will feature a 25' wide entrance with one double-swing gate for entry and exit into the P.D. Denied vehicles will be able to make a fluid forward exit movement around the median out onto Poplar Avenue.
2. Hazelton Drive at Poplar Avenue: The proposed gate will be located approximately 50' from Poplar Avenue. There is no access reader at this location as this is a 'Residents Only' entrance with private 'click to enter' access. The gate will feature a 25' wide entrance with one double-swing gate for entry and exit into the P.D. The median will be trimmed 10' to allow a fluid forward exit movement for denied vehicles. A ground-mounted "Residents' Entry Only" sign will be placed at the Hazelton Drive entrance.

The Technical Advisory Committee (T.A.C.) met on November 13, 2008, and made the following comments:

STAFF COMMENTS:

A. PRIOR TO APPROVAL:

1. The City of Germantown Fire Department requires that gated subdivisions follow certain guidelines when applying for approval of the installation of gates. See attached memo. The operating system that the applicant decides to employ shall be identified to the Fire Department. Additionally, the City's Private Street Policy identifies various agencies that shall have access inside the gates, such as USPS, Germantown Public Services, etc. See the attached policy for more information.

The following comments were generated at the T.A.C. meeting to address some of the revisions that must be made to the construction plans. Additional comments may be generated at the time of construction plan review.

B. GENERAL REQUIREMENTS:

1. All recorded easements shall be shown on the plat. A five-foot (5') utility easement is required along all property lines, adjacent to and not within any other easement.
2. All survey data shall be tied to Tennessee State Plane Coordinates and the City of Germantown monumented survey control. The final plan, construction drawings and "as built" drawings shall be submitted on electronic media in DXF format. Concrete monuments shall be placed at all corners at the subdivision properties.
3. The applicant/developer during the construction phases of the project shall do the following:
 - (a) Keep all streets clear and free of dirt and debris;
 - (b) Ensure that all construction activity begins no earlier than 7:00 a.m. and ends no later than 6:00 p.m., Monday thru Saturday, and no construction activity shall be permitted on Sundays; and,
 - (c) Provide the Department of Economic & 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.
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 applicant/developer shall enter into a development agreement with the City of Germantown for this project after it has received Final approval from the Planning. This agreement will include a \$500 Plans Review Fee due upon receipt of the construction plans.

Staff Recommendation: Approval, subject to staff comments.

David Bray, 2950 Stage Plaza North, with Bray-Davis Firm, LLC noted we are in agreement with the staff conditions and will answer any questions.

Greg Fletcher, 1889 Wellton Drive, the president of the homeowner's association for Nottoway, noted by nature gates are designed to enhance security on private property against crime. Some of the neighbors did not report [crimes committed against them] vandalism of stolen lawn decorations, irrigation systems, TV's, appliances, paint and tile.

Mr. Bennett stated he is against some gates in Germantown. The police report only shows two (2) crimes in the neighborhood of identity mail theft for Germantown. The rest of the police report shows a 2-mile radius of Memphis crimes.

Alderman Drinnon asked what percent of your residents voted for the gate.

Mr. Fletcher noted we have 63 lots in the subdivision and 59 eligible voters. The number who voted for the subdivision gate were 44 in favor.

Mr. Bacon asked if there were any concerns over the sale of the lots.

Mr. Fletcher answered no, we have six lots unsold. He continued, this is a private subdivision with private streets and utilities with no access to other properties.

Mr. Bennett stated we must look at each situation individually with regards to gates.

Chairman Klevan stated his point being, there can be a delay time as much as 3 minutes for an emergency response to get the gate open with a gated community. He noted the residents needed to know this due to a serious health issue.

Phil Zerill, 6800 Old Bridge Lane, said he would like the board to know the vote was 44 to 0 because there were some people who just did not vote. He added there is no price you can put on peace of mind.

Stan Olson, 1889 Hazelton Drive, noted he has been a resident in this neighborhood for over 4 years and he has been involved a number of times with the fine Germantown Police force. He stated, it was about 10 days ago; we had a male prowler in the neighbor and the Germantown Police were there within minutes. Some of the neighbors did not report vandalism and stolen appliances in the new homes. He said, he walks the neighborhood from 3:30 a.m. until 6:00 a.m. The number of vehicles that enter our property during those hours that speed through our streets are too many. They are not there to deliver mail, or newspapers. They are not an emergency vehicle. He added, he has found people in the alley going through our mailboxes. It is for these reasons for security that I ask for your approval.

Alderman Drinnon asked residents to notify police of the thefts that were mentioned.

Ms. Burrow believes the gates are deserved, due to the subdivision backing up to the railroad and with no access to other properties.

Lowell Hays, 1924 Chatsworth Drive, stated we do not call the police every time someone steals something out of our yard. My son has built several houses in our subdivision and has had appliances, tiles and paint stolen from his new homes.

SUBDIVISION & SITE PLAN REVIEW SUBCOMMITTEE (Mr. Forrest Owens – Vice Chairman):

The Subdivision & Site Plan Review subcommittee met on November 19, 2008, and withheld recommendation.

PROPOSED MOTION: To grant the request for an amendment to Nottoway P.D. to allow for the installation of gates as shown on the plans submitted with this application, subject to staff comments.

Mr. Owens made a motion for an amendment to Nottoway P.D. to allow for the installation of gates as shown on the plans submitted with this application, seconded by Ms. Burrow.

Chairman Klevan asked for a roll call.

Roll Call: Bennett – no; Burrow – yes; Drinnon – yes; Parker – yes; Bacon – yes; Harless –yes; Owens - yes; Klevan – yes. **The motion was passed.**

5. Chairman Klevan asked if there was any old business or new business to come before the Commission. **There was none.**

6. He asked if there were any liaison reports. **There was none.**

ADJOURNMENT

The meeting adjourned at 6:35 P.M.