

**PLANNING COMMISSION MEETING
MUNICIPAL CENTER COUNCIL CHAMBERS
Tuesday, April 5, 2011**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of the Municipal Center on April 5, 2011. Vice Chairman Owens welcomed everyone and asked the Commission members as well as the audience to please speak into the microphone so they could be heard. Vice Chairman Owens 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: Jon Still, Susan Burrow, Alderman John Drinnon, Mike Harless, Forrest Owens, Lisa Parker.

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

Staff Absent: Dike Bacon, David Klevan

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

1. Approval of Minutes for March 1, 2011

Vice Chairman Owens 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 March 1, 2011. If there were no additions, corrections or deletions to the minutes of the March 1, 2011, meeting of the Planning Commission, he would entertain a motion for approval.

Ms. Parker moved to approve the Planning Commission minutes of March 1, 2011, as submitted, seconded by Ms. Burrow.

Vice Chairman Owens asked for a roll call.

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

2. Consent Agenda There was none.

3. Request Preliminary and Final Plat Approval for Carters Grove Subdivision, Section B

INTRODUCTION: This is a request for preliminary and final subdivision plat approval for a 5-lot subdivision of estate-sized lots on a 7.32-acre parcel at the southwest corner of Poplar Avenue and Carters Grove Lane.

BACKGROUND: The parcel was approved as lot 12 of Section B of the Carter's Grove subdivision when the Planning Commission approved that subdivision on November 2, 1976. That subdivision included a condition that Lot 12 could be re-subdivided as long as no lot is smaller than the smallest lot in the Carters Grove Subdivision, section A.

DISCUSSION: The subdivision is to consist of five (5) lots accessed from a public street (Carters Grove Cove) that will connect to Carters Grove Lane. No lot will have access to Poplar Avenue. The existing driveway to Poplar Ave. will be removed as part of subdivision development. The smallest lot is 1.32 acres, which is the same as the smallest lot in Section A of Carters Grove subdivision. A stream running along the west property line will be placed within a natural area easement to protect the flow of that stream. There are two existing houses on the property. The larger of the two will be retained and the smaller one will be demolished.

The Technical Advisory Committee met on March 10, 2011 and had the following comments on the request:

A. PRIOR TO FINAL PLAT APPROVAL

1. Carters Grove Lane has no sidewalks on either side. The applicant has stated their desire to not install sidewalks within this subdivision. The applicant should submit a written request to the Planning Commission for a variance from the subdivision regulations to not construct sidewalks along Carters Grove Lane or Carters Grove Cove. The applicant should also request a variance from grading for sidewalks also. Sidewalks will be required along the Poplar frontage.

B. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. The Grading and Drainage Plan shall indicate the removal of the retaining wall along Carters Grove Lane.
2. Any new retaining wall shall be placed outside the public right of way or a hold harmless agreement shall be provided.
3. Grading along Poplar Ave. shall be indicated.
4. All plans shall change references to "Memphis and/or Shelby County" to City of Germantown.
5. Utility Plans shall indicate the removal of the overhead powerline serving lot 1 and replacement with underground service. The removal shall be part of subdivision development.
6. Off-site drainage work along Poplar west of the subdivision will require construction easements.
7. A permanent water source capable of supplying the required fire flow shall be made available prior to combustible materials placed at the site.
8. An "all weather" engineered driving surface consisting of a single layer of asphalt of not less than 24 feet of unobstructed width shall be in place prior to combustibles accumulating on site.
9. An automatic sprinkler system shall be required for:
 - a. All one and two family residential buildings exceeding 7500 square feet of finished floor area.
 - b. All structures that are more than 300 feet from an approved fire department access roadway.
 - c. All structures in which the distance between the adjacent buildings is less than 20 feet
10. The contractor/developer shall provide flow test data to ensure the required fire flow is available.

11. The Grading and Drainage Plan indicates a 3:1 slope on the north side of Carters Grove Cove. The slope should be modified to be less severe.
12. The ¾-inch water service line may be insufficient for the size of houses that may be built. TAC recommends a 1-inch line and a separate 1-inch irrigation line.
13. Water service to lot 1 shall be shown on the Utility Plan.
14. The Utility plan shall indicate the abandonment of the water service within Poplar and the removal of the service all the way to the main.
15. Wells are to be used for irrigation purposes only and shall be periodically evaluated as per Health Dept. regulations. The City of Germantown Public Services Department shall be provided a copy of the evaluation.
16. Traffic Control Plans shall indicate that no construction traffic will be allowed south on Carters Grove Lane. All traffic shall be directed to Poplar Ave.
17. 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.

18. The applicant/developer, during the construction phases of the project, shall:
 - (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 or Federal holidays; and,
Provide the Department of Economic and 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.

C. PRIOR TO RECORDING OF THE SUBDIVISION PLAT

1. Provide a 5-foot utility easement **inside of all other easements** on each lot.

STAFF RECOMMENDATION: Approval, subject to staff comments.

Butch Porter, W.H. Porter Consultants 4821 American Way, Suite 100, Memphis, TN 38118 described the design concept and characteristics of the subdivision. He stated the Grading and Drainage Plan indicates a 3:1 slope on the north side of Carters Grove Cove. The slope will be modified to be less severe. The new houses could be one to three stories high with a deck off the back over looking the woods. The front of the house would be a one story. The Grading and Drainage Plan will also be revised to indicate the removal of the retaining wall along Carters Grove Lane. We will use the same brick on the retaining wall to be consistent.

Ms. Parker asked if Dr. Muller's existing driveway would stay?

Mr. Porter stated we will make a new driveway to Carter Grove Cove to the new cove.
Vice Chairman Owens asked if anyone in the audience wanted to speak in opposition to the subdivision.

Doug Dickens stated he is the developer of Pinnacle and suggested a more sensitive approach to the layout.

SUBDIVISION & SITE PLAN REVIEW SUBCOMMITTEE REPORT: (Forrest Owens, chairman) - The subcommittee met on March 16, 2011 and withheld a recommendation on the request.

PROPOSED MOTION: To grant preliminary and final approval of the Carters Grove Subdivision, Section B, subject to the staff comments.

Alderman Drinnon moved to grant preliminary and final approval of the Carters Grove Subdivision, Section B, subject to the staff comments, seconded by Mr. Harless.

Vice Chairman Owens asked for a roll call.

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

4. Request Preliminary Approval of the Conversion from Private to Public of the Streets and Infrastructure within the Gardens of Oakleigh PUD

INTRODUCTION: The Gardens of Oakleigh Planned Unit Development requests preliminary approval of the conversion of their development’s streets and infrastructure from private to public ownership and maintenance.

BACKGROUND: The Gardens of Oakleigh Planned Unit Development (Phases I and II) consists of 46 lots for single-family dwellings on 12.87 acres. It was approved by the Board of Mayor and Aldermen as Subdivision Development Contracts 997 (Phase 1) on October 28, 1996, and 437 (Phase 2) on June 24, 2002.

The Residential Street and Infrastructure Conversion Policy was approved by the Planning Commission on September 7, 2010, and by the Board of Mayor and Aldermen on September 27, 2010. The approved policy is included with this packet.

DISCUSSION: The Gardens of Oakleigh Homeowners Association (HOA) is requesting preliminary approval from the Planning Commission of the conversion of their private streets, curbs, water system and sanitary sewers to public streets and infrastructure. Section II (A) of the Policy describes the process and criteria in more detail. The Policy provides for a multi-step approval process, with preliminary planning commission approval as the first step. The HOA has submitted a letter and plat of the PUD (attached) as required by the Policy. The HOA also submitted a petition signed by all lot owners within the PUD requesting the conversion. If preliminary approval is granted, the HOA may then compile the more detailed information needed for Final Planning Commission approval. Approval from the Board of Mayor and Aldermen of the request for conversion of the streets is also necessary as a final step, as is a contract between the City and the HOA. The contract will describe the detailed repairs and other events that must occur prior to the City’s acceptance of the streets.

The preliminary approval application calls for a map of the subdivision/PUD and an analysis of the expected maintenance cost to the City during the next ten years. The HOA has submitted the information

required for preliminary approval of their request. Their analysis anticipates initial repair costs in the range of \$40,000 to \$50,000 and maintenance costs over the next 10 years of \$60,000 to \$70,000.

The Technical Advisory Committee met on March 10, 2011 and had the following comments on the request:

1. The Gardens of Oakleigh has a connection to Windstone Way Drive, a public street within the Windstone Gardens subdivision.
2. The HOA will maintain ownership of the street lights, street signs, Common Open Space, guest parking spaces, alleys, decorative paving at the Poplar Pike entrance, detention ponds and the irrigation system.
3. The City of Germantown will own and maintain the streets and wet utilities (water, sanitary sewers, storm drainage, and side-yard storm drain easements).
4. TAC recommends a new asphalt overlay be provided as part of the street repairs.
5. The HOA must submit the documentation required for final planning commission approval, including a diagnostic review of the infrastructure and an implementation plan for infrastructure improvements, as described in the Street and Infrastructure Conversion Policy.

STAFF RECOMMENDATION: The application meets the requirements for preliminary approval of private to public conversion of streets and infrastructure.

Mr. Pouncey noted the Fire Marshal approved the width of the entrance into the Gardens of Oakleigh. Does the ownership remain with the HOA for the median at the entrance?

Mr. Morgan confirmed that information. The drive entrance is not quite the full 20 feet as required, but is a few inches short of that. The Fire Marshal has reviewed it and given his okay; it does meet the standards for fire access. The answer to your question is yes, there is a small median at Poplar Pike and that would stay in the ownership of the HOA. In addition to that, the HOA will maintain ownership of the streetlights, street signs, Common Open Space, guest parking spaces, alleys, decorative paving at the Poplar Pike entrance, detention ponds and the irrigation system.

Harvey Marcom, The Reaves Firm, 5880 Ridge Bend Road, Memphis, TN 38120 stated he is representing the HOA and said there are several members of the HOA here tonight, if you have any questions.

Mark Davis, The Reaves Firm, 5880 Ridge Bend Road, Memphis, TN 38120 stated The Gardens of Oakleigh Planned Development consists of two phases with a total of 46 lots. The development has two points of access, one on Poplar Pike and the other on Windstone Way within the adjacent Windstone Gardens development. The Gardens of Oakleigh is not gated and the residents wish to remain so. The HOA will submit a diagnostic review of the infrastructure and an implementation plan for infrastructure improvements, as described in the Street and Infrastructure Conversion Policy. The City recommends a new asphalt overlay be provided as part of the street repairs. The City of Germantown will own and maintain the streets and wet utilities (water, sanitary sewers, storm drainage, and side-yard storm drain easements). The homeowners association has been in discussion with the City of Germantown for sometime regarding the conversion issue, long before the conversion policy was adopted. It is the opinion of the association that approval and subsequent addition of Phase II to the development significantly diminished the qualities typically inherent to a private development by converting a single access cul-de-

sac road movement to a through street system. Through this action, traffic was increased, road surfaces were put under greater stress and traffic unrelated to the subdivision was introduced. Therefore, it is our opinion the infrastructure should be converted to public ownership, maintained by city resources, open to fire, and police protection.

SUBDIVISION & SITE PLAN REVIEW SUBCOMMITTEE REPORT: (Forrest Owens, chairman) - The subcommittee met on March 16, 2011 and withheld a recommendation on the request.

PROPOSED MOTION: To grant preliminary approval of the conversion from private to public of the streets and infrastructure within the Gardens of Oakleigh subdivision.

Alderman Drinnon moved to grant preliminary approval of the conversion from private to public of the streets and infrastructure within the Gardens of Oakleigh subdivision, seconded by Ms. Burrow.

Vice Chairman Owens asked for a roll call.

Ms. Burrow stated she was glad that you decided not to ask for gates.

Vice Chairman Owens stated the HOA must submit the documentation required for final planning commission approval, including a diagnostic review of the infrastructure and an implementation plan for infrastructure improvements, as described in the Street and Infrastructure Conversion Policy.

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

5. Request Outline and Preliminary Plan Approval of The Preserve Planned Unit Development (Conversion of Subdivision to PUD)

INTRODUCTION: The developer of The Preserve subdivision requests the conversion of that subdivision into a Planned Unit Development to modify the standard development and building requirements to meet the specific development objectives. The request is outline plan and final plan approval.

BACKGROUND: The Preserve is a ten (10) lot residential subdivision on a 5.86-acre site. The lots range in size from 15,193 square feet (0.349 ac) to 17,285 square feet (0.397 ac). The subject property is zoned “R”. The access to the site will be by the extension of Beaverwood and Woodlane Drives. The subdivision was originally approved in 2006 as Development Contract No. 485, between the City and Bourne Holdings. Bourne Holdings completed most of the infrastructure associated with the subdivision before becoming insolvent. The mortgagee bank foreclosed on the property and sold it to West Land Company, LLC. The subdivision was then approved as Development Contract No. 495.

DISCUSSION: The developer proposes to convert The Preserve to a PUD in order to accomplish three objectives: 1) reduce the required front yard setback from 40 feet to 30 feet; 2) reduce the width of lots 4 through 8 to 96 feet from 100 feet; and 3) construct a sidewalk on the **east** side of the subdivision street (Inspiration Drive, plus the south side of Woodlane Drive and north side of Beaverwood Drive). The developer plans to construct “cottage style” houses with three (3) car garages, and has stated that the reduced setback and sidewalk location are needed for appropriate sitting of the houses and adequate space for the garage. The reduction in lot widths is being done to enlarge the two corner lots (3 and 9).

The Technical Advisory Committee (TAC) met on March 10, 2011 and had the following comments on the request:

D. GENERAL COMMENTS

2. The applicant has provided potential house, garage and driveway layouts for some of the lots.
3. TAC noted that there is a grade change on the east side of Inspiration Drive that will likely necessitate additional grading or a retaining wall in order to install a sidewalk.
4. The provided house and driveway layouts place some parking areas and overly wide driveways within the required front yard, which is inconsistent with the parking requirements for the "R" zoning district. TAC recommends that front yard parking pads be screened from the street. A landscape plan should be submitted as part of the approval of a foundation survey, prior to the issuance of a building permit.
5. The Preserve subdivision plat shall be re-recorded with the following revisions:
 - a. The plat shall be relabeled as "The Preserve PUD".
 - b. Lot 5 has a label indicating a "10 ft. utility easement". That should be corrected to "5 ft. utility easement".
 - c. Revise the note by lot 3 referencing a 10 by 10-sewer easement **to be** abandoned by providing the instrument number of the abandonment.
 - d. Provide the instrument number of the Declaration of Covenants and Restrictions.

STAFF RECOMMENDATION: Approval, subject to the above comments.

Mr. Dick Leike, West Land Co., 8643 Poplar Pike, Germantown, TN 38138, stated we will convert The Preserve to a PUD in order to accomplish three objectives: 1) reduce the required front yard setback from 40 feet to 30 feet; 2) reduce the width of lots 4 through 8 to 96 feet from 100 feet; and 3) construct a sidewalk on the **east** side of the subdivision street (Inspiration Drive, plus the south side of Woodlane Drive and north side of Beaverwood Drive). The developer plans to construct "cottage style" houses with three (3) car garages, and has stated that the reduced setback and sidewalk location are needed for appropriate sitting of the houses and adequate space for the garage. The reduction in lot widths is being done to enlarge the two corner lots (3 and 9). We decided to put a sidewalk across the street; we have twenty feet of land that we own, before you get to the church, from the curb. The prices of the houses will be \$550,000 to 800,000.

Larry Foster, 8630 Woodlane Drive, Germantown, TN 38138, noted he is not really against this project. However, he just wanted to point out two things that concern the homeowners in this area: 1) when this project started, we were told in 2006 these houses would be 900,000 to 1.4 million. That means it has dropped 50% in value. 2) That it would be a construction entrance, due to safety concerns for the children. There was an agreement for the construction entrance in 2006 and the homeowners want you to adhere to that.

Mr. Leike noted the market is half of what it was in 2006. He thinks the houses will still be above the prices of the adjoining houses. That should help the neighborhood in keeping their value.

Ms. Parker asked about lot 10 having a drainage problem.

Mr. Leike answered lot 10 joints the common area with a detention basin.

Mr. Harless asked if they would have a HOA?

Mr. Leike answered yes it will be.

Mr. Harless asked if the sidewalk would be next to the curb?

Mr. Leike noted he would prefer it to be next to the curb; it would be less dirt work to do. It would give you plenty of plantings, trees, parking and maybe a fence.

Vice Chairman Owens asked the City Engineer if there was any objection to the sidewalk being at the curb?

Mr. Gwaltney answered from an engineering perspective there is no objection for the sidewalk to be placed at the back of the curb.

Dennis Myles noted he was against the sidewalk being next to curb. It is an inner city type look; it is not keeping with the rest of the subdivision. He thinks keeping the grass is an important issue. He does understand there is a drainage problem there.

Alderman Drinnon asked Mr. Pouncey from a staff stand point what would you recommend.

Mr. Pouncey stated the typical rule is that you have green between the curb and sidewalk. Because the fact is there no houses across the street, it goes straight to a park, which is all green. In this situation with all the green, you have the grounds for change.

SUBDIVISION & SITE PLAN REVIEW SUBCOMMITTEE REPORT: (Forrest Owens, chairman) - The subcommittee met on March 16, 2011 and withheld a recommendation on the request.

PROPOSED MOTION: To grant preliminary and final approval of the conversion of The Preserve subdivision into The Preserve PUD.

Mr. Harless moved to grant preliminary and final approval of the conversion of The Preserve subdivision into The Preserve PUD, seconded by Ms. Parker.

Vice Chairman Owens asked for a roll call.

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

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6. Vice Chairman Owens asked if there was any old business to come before the Commission. **There was none.**
 7. Vice Chairman Owens asked if there was any new business to come before the Commission. **There was none.**
 8. Vice Chairman Owens asked if there were any liaison reports. **There was none.**
 9. **ADJOURNMENT - The meeting adjourned at 6:55 p.m.**