

A regular scheduled meeting of the **Planning Commission** was held on Thursday, June 3, 2021, at 6:00 p.m., in the Board Chambers of Town Hall.

Staff members present were: Town Attorney, Mr. Nathan Bicks; Development Director, Mr. Jay Cravens; Town Planner, Mr. Jaime Groce; Assistant Town Planner, Mrs. Nancy Boatwright; Planner; Fire Marshal, Mr. Paul Witt; and Administrative Specialist, Sr., Mrs. Sheryl Jones.

Pledge of Allegiance

Chairman Cotton led the Pledge of Allegiance.

Roll Call to establish a Quorum

Cotton – Present, Rozanski – Present, Kilmurray – Present, Goddard – Present, Johnson – Present, Given – Present, Gilbert – Present, Jordan – Present, Worley – Present.

Quorum Present.

Approval of Minutes

Chairman Cotton asked if there were any changes or corrections to the minutes from the May 6, 2021 meeting.

Hearing none, Chairman Cotton called for a motion to approve the minutes from the May 6, 2021 meeting.

Motion by Commissioner Jordan, and seconded, to approve the minutes from the May 6, 2021 meeting.

Hearing no discussion, Chairman Cotton asked Mrs. Jones to call the roll.

Roll call:

Kilmurray – Yes, Jordan – Yes, Gilbert - Abstain, Worley – Yes, Johnson - Yes, Given – Yes, Rozanski – Yes, Goddard - Abstain, Cotton – Yes.

Motion Approved.

Approval of Agenda

Chairman Cotton asked if there were any additions or deletions to the Agenda.

Mr. Groce noted there were four changes to go over.

Item 6b Consent Agenda – Applicant is asking for a deferral until the July 1st meeting for the Perkins 2 lot subdivision, so when the motion for approval of the agenda is made, they can grant the request. They still need more time to work through some design issues.

Request to move Item 7e to Item 7a – 1088 W. Poplar – Final Plat to be heard first in the Formal Agenda, applicant has a scheduling conflict.

Case #215735 & Case #215420 – Applicant request to be deferred to the August 5th meeting.

Motion by Commissioner Rozanski and seconded, to approve the agenda as modified.

Hearing no further discussion, Chairman Cotton asked Mrs. Jones to call the roll.

Roll call:

Gilbert - Yes, Rozanski – Yes, Worley – Yes, Goddard - Yes, Jordan – Yes, Given – Yes, Johnson - Yes, Kilmurray – Yes, Cotton – Yes.

Motion Approved.

Consent Agenda:

Case #215831 – Oak Grove P.D. Phase 4, Section F – Request approval of a Final Plat for a 23 lot residential subdivision located south of Section D, east of Section G and north of Section B within the Oak Grove PD.

To approve the Final Subdivision Plat for a 23 lot residential subdivision located south of Section D, east of Section G and north of Section B within the Oak Grove PD subject to the Conditions in Exhibit 1:

1. This development is subject to all applicable standard conditions of approval as adopted by the Board of Mayor and Aldermen, Resolution 2006-54.
2. Add the number of lots to the title block.
3. Correctly identify Phase 4G as being recorded.
4. The Engineering Division requires the following:
 - a. Prior to plat recording, please provide a 11 x 17 drawing showing the area (s.f.) of all public easements and r.o.w. dedicated with this plat
 - b. The min. F.F.E.s will be reviewed once the As-Built topo is submitted. Changes may be needed before the plat is recorded.
 - c. Surveyor’s Certificate: Change “Class” to “Category”.

EXHIBITS
1. PC Conditions of Approval (5/28/21)
2. Applicant’s Cover Letter (4/7/21)
3. Woodgrove Master Plan (4/10/18)
4. Plat Recording Checklist
5. Final Subdivision Plat (received 4/7/21)

Case #215143 – Oak Grove P.D. Phase 4, Section H – Request approval of a Preliminary Plat for a 37-lot residential subdivision located south and west of section E, west of Section G and north of future Section C-1.

To approve the Preliminary Plat for a 37 lot residential subdivision located south and west of section E, west of Section G and north of future Section C-1 subject to the Conditions in Exhibit 1:

1. This development is subject to all applicable standard conditions of approval as adopted by the Board of Mayor and Aldermen, Resolution 2006-54.
2. The Engineering Division requires the following:
 - a. Prior to plat recording, provide a 11 x 17 drawing showing the area (s.f.) of all public easements and r.o.w. dedicated with this plat.
 - b. The plat will still need to be filed for Final Approval before it is recorded.

EXHIBITS
1. PC Conditions of Approval (5/28/21)
2. Applicant’s Cover Letter (2/26/21)
3. Woodgrove Master Plan (4/10/18)
4. Preliminary Subdivision Plat (received 5/11/21)
5. Construction Drawings (Grading & Drainage Plan, Landscaping Plan) (received 5/11/21)

- c. The min. F.F.E.s will be reviewed once the As-Built Topo is submitted.

Case #216184 – Bailey Station P.D., Phase 10 (Chadwick Subdivision) – Request approval of the vacation of utility easements on Lots 17, 18 and 19.

To approve the vacation of utility easements on Lots 17, 18 and 19 subject to the Conditions in Exhibit 1:

1. This development is subject to all applicable standard conditions of approval as adopted by the Board of Mayor and Aldermen, Resolution 2006-54.
2. Provide a revised Final Plat showing the abandoned easements with a “Delta 1” at all revisions for review and approval before the plat can be re-recorded.
3. Include a certificate stating why the plat is being re-recorded with spaces for the Mayor and Planning Commission Secretary to sign.

EXHIBITS

1. PC Conditions of Approval (5/28/21)
2. Cover letter with criteria for easement vacation/abandonment (4/26/21)
3. Utility provider approval letters (4/26/21)
4. Public Services approval (5/20/21)
5. Surveys of lots with legal descriptions of easements (4/26/21)
6. Aerial Vicinity Map (4/26/21)
7. Recorded Final Plat (12/21/16)

Case #215736 – Hidden Creek PD, Phase 2 - Request approval of a Preliminary Subdivision Plat for a 39-lot residential single-family subdivision on 19.204 acres located directly west of Phase 1 on Crooked Creek Road.

To approve the Preliminary Subdivision Plat for a 39-lot residential single-family subdivision subject to the Conditions in Exhibit 1:

1. This development is subject to all applicable standard conditions of approval as adopted by the Board of Mayor and Aldermen, Resolution 2006-54.
2. Provide exhibits showing the current Collierville Fire Department ladder truck tracking template through entrance and the entire subdivision. Adjustments to lot lines and right-of-way may be required to address any concerns of the Fire Marshal.
3. Prior to plat recording, provide a 11” x 17” drawing or PDF showing the area (square foot) of all public easements and right-of-way dedicated with this plat.
4. At time of the Final Plat, N.&E. is required to be shown for all boundary corners.
5. At time of Final Plat, show the location of the two (2) required permanent concrete corner monuments labeled them as “Found” or “Set”.
6. At time of Final Plat, the min. F.F.E.s need to be shown. These will be reviewed once the AsBuilt Topography is submitted.
7. At time of Final Plat, drainage easements shall be dimensioned and tied down.
8. At time of Final Plat, show the typical five (5) foot utility easements on the lots.
9. Show the area of the Greenbelt Trail that is to be dedicated to the Town on the Plat.
10. The developer shall dedicate and improve the greenbelt trail to the Town's standard width.
11. One copy of the state approved Sewer Plan shall be provided to the Engineering Department and Public Services. Construction of the sanitary sewer shall not begin until the state approval is received.

EXHIBITS

1. Conditions of Approval (5/28/21)
2. Applicant’s Cover Letter (5/12/21)
3. Preliminary Subdivision Plat (5/12/21)
4. Tree Protection Plan (5/12/21)
5. Landscape Plans & Fence Detail (5/12/21)
6. Grading & Drainage Plan (5/12/21)
7. Traffic Letter (3/31/21)
8. Stormwater Runoff Narrative (5/12/21)
9. PD Pattern Book Excerpt: Pedestrian Circulation (10/22/2018)

12. One copy of the state approved Water Plan shall be provided to the Engineering Department and Public Services. Construction of the water shall not begin until the state approval is received.
13. Show the remainder of the subject property as a “Future Development Tract” within the limits of this plat.
14. Note on the plat that this subdivision is a “Resubdivision of the 63.043 Future Development Tract included in Phase 1.”
15. Add a note underneath the site data that explains which lots can be “hook loaded” so that the front yard setbacks can be verified or add a note that specifies that the builder will determine which lots will be hook loaded or front loaded at the time of the building permit.

Case #216526 – Accessory Structure 3104 East Country Place Drive – Request approval of an accessory structure larger than 1,200 square feet

To approve the residential accessory structure over 1200 square feet in size at 3104 Country Place Drive East, subject to the conditions in Exhibit 1:

1. Building permits shall be obtained from the Codes Division before construction of the additions.
2. The total size of all accessory structures combined on the property shall not exceed 30% of the size of the principal structure (the house) (§151.025(D)(1)).

EXHIBITS
1. Conditions of Approval (5/28/21)
2. Cover Letter (5/13/21)
3. Photo of House (2021)
4. Plot Plan & Architectural Elevations (5/13/21)

Hearing no further discussion, Chairman Cotton called for a motion.

Motion by Commissioner Jordan, and seconded, to approve the Consent Agenda.

Goddard - Yes, Worley - Yes, Rozanski - Yes, Given - Yes, Kilmurray - Yes, Gilbert - Yes, Johnson - Yes, Jordan - Yes, Cotton – Yes.

Formal Agenda

Case #215746 – 1088 W. Poplar Avenue Subdivision (Formerly Fitness Center Subdivision) Final Plat – Request approval of a 3-Lot commercial subdivision.

Mrs. Nancy Boatwright gave the staff presentation. The request for approval of a three lot commercial subdivision located at 1088 W. Poplar (formerly known as the Fitness Center Subdivision) and it will include LA Fitness’ lot 1. Planning Commission approved a preliminary plat in 2018 for a 4 lot subdivision on this site. The BMA approved in 2018 a development agreement and final site plan for LA Fitness on a single 8.5 acre lot. The final plat is different from the preliminary plat approved by the PC in 2018. The number of lots has been reduced from 4 to 3 with a rear lot not being created at this time, maybe later. The lot numbers have been changed with LA Fitness being lot 1 and included some new easements. The subdivision will be a unified development which allows an aggregation of the lots with setbacks, parking, yard requirements

EXHIBITS:
1. Conditions of Approval (5/28/21)
2. Applicant’s cover letter (5/7/21)
3. Town Attorney Memo (5/11/21)
4. 2/1/18 Planning Commission Minutes
5. 6/25/18 Board of Mayor and Aldermen Minutes
6. Plat Recording Checklist
7. PC-approved Preliminary Subdivision Plat (2/1/18)
8. Preliminary Plat from LA Fitness Construction Plans (7/20/18)
9. Proposed Final Subdivision Plat (5/7/21)

based on the perimeter of the lot lines of the subdivision.

In 2018, because of the public safety concerns, the BMA required conditions of approval for LA Fitness and the Final Development Agreement with the conditions that require the one building only on the 8.5 acres. The future Site Plan applications will be required to include a Traffic Impact Analysis acceptable to the Town Engineer or the Town Administrator and approval of any development agreement could not happen until a second access is provided to the property.

The Town Attorney has cautioned that lot sizes of new lots could constrain the uses of the commercial lots. Future users or occupants could have uses constrained by traffic generations by the proposed uses or other fixed limitations such as the lot depth and lot width. Lot 2 and 3 are developable but may not be appropriate for uses, such as retail buildings or medical offices with high parking demands or fast food use with multiple drive-thru lanes.

Other notable features on the plat include a reduced front yard open space of 30 feet rather than 40 as required by the Design Guidelines. An appeal has been filed with the DRC to be heard next week. Easements at the property lines have been provided to support eventual connections to the adjacent properties. A 27-foot-wide cross access easement has been provided to the east that will be dedicated to the adjoining property owner and lot 2 on the west side will provide a cross access easement on that side upon development and will be determined with that site plan approval.

Applicant – Kevin Vaughan – Township Development Services - 1115 Halle Park Circle, representing Crews Development. They are in agreement with all of the conditions of approval with the exception of one. They agree in concept but not in execution. Condition of approval no. 3 has language about the common areas not being maintained and the Town has to come in and can place a lien to recover any cost. They fully understand and agree but prefer that it be a note on the plat as the Declarations of Covenants have already been negotiated between the seller and Mr. Crews and they don't want to have to renegotiate. The plat with the note would be signed by LA Fitness.

Chairman asked if there were any questions for the applicant.

Commissioner Jordan asked what kind of note would be on the plat, the wording?

Applicant referred to language in Condition of Approval no. 3 that is pertinent and that wording/note would be put on the plat instead of having that inserted into the Declarations of Covenants. It is more of an expedient manner in which to deal with the note.

Mrs. Nancy Boatwright added that typically the Town reviews the covenants for every subdivision and we have been in discussions with the Town Attorney about this wording and he thinks it is better to put it in the covenants. The covenants run with the land and are permanent, but something on a plat could get lost in the future. Other changes in the covenants are the lot numbers do not match up with the current plat and other revisions to be made as well, so the covenants will need to be revised and re-signed.

The Applicant mentioned the lot numbers can be corrected and still place a note on the plat instead of revising the covenants.

Commissioner Kilmurray asked the Town Attorney about difference in having the note on the plat instead of in the covenants.

Town Attorney Nathan Bicks indicated this is beginning to be an ongoing problem with Homeowner Associations and Property Owner Associations failing to maintain properties and the Town is having to come in and do the work, so this will be a standard condition appearing going forward. He said if it is in the

easements and declaration of covenants, it is in perpetuity and cannot be changed. However, if it is a condition on the plat, it is subject to be changed in the future and come in and seek an amendment to the plat or some other legislative action to make changes to the documents. The Town Attorney desires that it is in perpetuity and that it runs with the land and not subject to being changed in the future. The Town Attorney did not have an opportunity to give input before the applicant had the declaration of covenants signed. The Town Attorney has indicated that if the Commission deems this wording to be put on the plat, he has some wording to be put in the note to make sure it last in perpetuity and is not extinguishable, this is the preferable way to do it.

Applicant – the covenants have not been signed. If the plat is recorded, it is permanent.

Discussion ensued about the difference between a note in covenants instead of on the plat.

Chairman Cotton asked if there were any more questions for the applicant or Mrs. Boatwright, hearing none, he asked for a motion.

Town Attorney Bicks recommended striking out the language in condition of approval no. 3 and replace with his proposed language to be added on the condition of approval for the subdivision stating that this condition runs with the land in perpetuity and shall not be extinguished or terminated if the other conditions are lapsed.

Motion by Commissioner Jordan, and seconded, to approve the Final Subdivision Plat for the 1088 W. Poplar Subdivision (Exhibit 9) subject to the conditions in Exhibit 1.

Commissioner Kilmurray stated she would like to amend the motion and change condition no. 3 wording to be on the plat stating “the language will run with the land and be in perpetuity and shall not be extinguished or terminated if the other conditions are lapsed” as developed by the Town Attorney. Mr. Jordan agreed to the friendly amendment and so did the second.

1. This development is subject to all applicable standard conditions of approval as adopted by the Board of Mayor and Aldermen, Resolution 2006-54.
2. Add the following note to the Final Plat: The BMA added a condition to the Development Agreement for LA Fitness in June 2018 that requires that the site plan applications for Lot 2 and Lot 3 will require a Traffic Impact Analysis acceptable to the Town Engineer or the Town Administrator. Site plan applications for Lots 2 and 3 must include full (updated) traffic impact studies to be considered sufficient.
3. The following language, ~~as requested by the Town Attorney,~~ shall be ~~inserted as Section 4.c. of the Declaration of Easements, Covenants, and Restrictions (DECR)~~ ***added to the Final Subdivision Plat notes:***

If, for any reason, any Common Area is not adequately maintained or repaired, whether such Common Area is to be maintained and repaired by the Developer under Section 3 ***of the DECR***, or by the Parties, as set forth under Section 4 ***of the DECR***, the Town of Collierville (“Town”) shall have the right, but not the obligation, to enter upon and maintain or repair same. The expense incurred by the Town in such regard shall be divided by the number of lots benefitting from such maintenance or repair by the Town, and the resulting figure shall be owed to the Town by each Lot owner. Said sum shall be secured by a lien upon each of the Lots and such sum shall be due and payable at the next due date of Town taxes assessed to a parcel or lot. Such sum may be collected and the lien enforced as provided by law. ***This provision will run with the land in perpetuity and survive any termination of the conditions on this plat.***

4. All references to lot numbers in the DECR shall be updated to reflect the revised lot numbers of the plat.
5. Provide all exhibits referenced (e.g., Exhibit C & D) in the DECR for review prior to recording.

Roll call:

Rozanski – Yes, Gilbert - Yes, Worley – Yes, Jordan – Yes, Given – Yes, Goddard - Yes, Johnson - Yes, Kilmurray – Yes, Cotton – Yes.

Motion Approved.

Case #215816 – 397 New Byhalia Road – Request approval of a Conditional Use Permit (CUP) for a Convenience Store on 0.92 acres.

Chairman Cotton deferred to Town Attorney Nathan Bicks to advise the Commissioners on how to proceed. This item was presented to you in the previous Planning Commission meeting. The applicant wants to present this item back to for reconsideration. If the Commission is willing to hear this matter again, it is recommended that you rescind the previous action and begin again. The Commissioners did not recommend approval, you need to discuss and vote on that before we can take any action. If the decision is made to not reconsider the matter, it can travel to the Mayor and Board of Aldermen with the previous action of the Planning Commission, which is a recommendation of denial.

Chairman Cotton called for a motion.

Motion by Vice-Chairman Rozanski and seconded, to rescind the previous action of the May 6, 2021 meeting regarding Case #215816 – 397 New Byhalia Road – Request approval of a Conditional Use Permit (CUP) for a Convenience Store with the modified no. 10 as provided and conditions in Exhibit 1.

- | EXHIBITS | |
|-----------------|---|
| 1. | Conditions of Approval (5/28/21) |
| 2. | Applicant’s Initial Cover Letter & CUP Responses (4/2/21) |
| 3. | Existing Conditions Plan (4/6/21) |
| 4. | Initial Conceptual Layout (4/6/21) |
| 5. | Aerial & Site Photographs (4/26/21) |
| 6. | Staff CUP Analysis (5/28/21) |
| 7. | Traffic Study Excerpt (4/6/21) |
| 8. | Initial 3rd Party TIS Review (4/13/21) |
| 9. | Resubmittal Summary (5/17/21) |
| 10. | Revised Conceptual Layout (5/21/21) |
| 11. | Additional Traffic Counts (5/21/21) |
| 12. | 3rd Party TIS Review Overlay (5/24/21) |
| 13. | Pump Stacking Diagram (5/24/21) |
| 14. | Revised Conceptual Layout (5/27/21) |
| 15. | 3rd Party TIS Review Overlay (5/27/21) |
| 16. | May 6, 2021 PC Minutes |

Chairman Cotton called for any discussion after receiving the motion and second. A discussion ensued about how there did not appear to be anything significantly different in the staff report and exhibits to cause a change in the vote.

Hearing no further discussion, Chairman Cotton asked Mrs. Jones to call the roll.

Roll call:

Kilmurray – No, Jordan – No, Rozanski - No, Goddard - Abstain, Worley – No, Given - No, Gilbert - Abstain, Johnson - No, Cotton – No.

Motion failed to carry.

Chairman Cotton received four comment cards – Ms. Shirley Seamon, Nida Dharani, Noorali Dharani and Griffin Jett were present to speak on this matter. He told them the matter is not going to be heard tonight because the Planning Commission is maintaining its prior decision.

Case #215168 – Perkins Subdivision – Request approval of Final Subdivision Plat for a 2-lot residential subdivision on 1.20 acres at 369 West Poplar Avenue.

DEFERRED TO 7/1/21 PC MEETING

Case #215735 – Green South Rowlett Street Property – Request review and consideration of a Sketch Plat for 7.10 acres located on the south side of South Rowlett Street east of Mills Street.

DEFERRED TO 8/5/21 PC MEETING

Case #215420 – Ordinance 2021-04 – Green South Rowlett Street Property – Request approval of a Rezoning of 6.49 acres from R-2: Medium Density Residential to TN: Traditional Neighborhood located on the south side of South Rowlett Street east of Mills Street.

DEFERRED TO 8/5/21 PC MEETING

Case #216277 – Ordinance 2021-10 – 258 South Center Street – Request Rezoning of 0.511 acres from R-2: Medium Density Residential to MU: Mixed Use

Ms. Donquetta Singleton presented. The property is in the Collierville Historic District. The HDC discussed rezoning and the likely exterior site changes in a non-voting work session in May, 2021. The applicant plans for non-residential use of the property, with proposed parking in the rear. In comparison from R-2 to Mixed Use, the front yard setback would range from 0 to 20 ft. and a minimum of side and rear yard setback will be 0 feet, but the final decision on setbacks will be made by the HDC. There is no minimum lot size or lot width or floor area ratio with mixed use zoning. In regard to traffic, the mixed use zoning would have minor impact. The 2040 Land Use Plan considers this property to be Traditional Neighborhood. Residential uses were anticipated to remain at this location. The 2040 plan also states that except for mixed use buildings or small infill projects, the dominate use within these areas should be residential, with non-residential uses subordinate to residential. The property is within the downtown small area plan. Changes in this area are encouraged with the Town’s “Open to Change” strategy. The subject property is surrounded by different zonings, MPO, R-2, R-4 and CB. The rezoning will not cause any adverse effects upon the adjoining properties. The public infrastructure is currently adequate in this area.

- | EXHIBITS | |
|-----------------|---|
| 1. | Applicant’s Cover Letter & Grounds for Rezoning (4/30/21) |
| 2. | Plot Plan (4/30/21) |
| 3. | Ordinance 2021-10 with Location Map and Legal Description (5/28/21) |
| 4. | Existing Zoning Map (5/25/21) |
| 5. | Future Land Use & Place Type Map Excerpt |
| 6. | Small Area Plan Excerpt: Special Area 10 |
| 7. | Staff Grounds for Amendment Analysis (5/28/21) |
| 8. | Traffic Letter (5/26/21) |

Chairman Cotton asked if there were any questions for Ms. Singleton.

Discussion ensued about the vision for this area and what uses could occur here if rezoned to Mixed Use.

Applicant – Cindy Reaves, 5809 Shelby Oaks Drive, Suite 200. She thanked the staff for their help, communication and friendly reminders. It is a unique building, very small. It is 962 sq. feet. It would be an asset to the downtown community. They have no plans to tear down the building. The building is vacant.

Chairman Cotton called for a motion.

Motion by Commissioner Given and seconded, to recommend approval of Ordinance 2021-10.

Roll call:

Jordan – Yes, Kilmurray – Yes, Given - Yes, Worley – Yes, Johnson, Gilbert – Yes, Rozanski – Yes, Goddard - Yes, Cotton – Yes.

Motion Approved.

Other Business:

Chairman Cotton asked if there was any Other Business.

Mr. Groce mentioned there is a Planning Commission meeting scheduled for July 1, 2021.

Hearing no further business, Chairman Cotton adjourned the meeting at 6:52 p.m.

Secretary, Commissioner Jeremy Given