

# MUNICIPAL PLANNING COMMISSION

August 13, 2019 Regular Meeting at 7 p.m.

Brandon Butler, Chairman  
Daniel Jenkins, V Chairman  
Mike Anderson, 1<sup>st</sup> Secretary  
Salvatore Cali, 2<sup>nd</sup> Secretary  
John Blade, Mayor

Derek Burks, Commissioner  
Jim Power  
Sheree Qualls  
Hayley Schulist

**Present:** Butler, Jenkins, Anderson, Cali, Blade, Burks, Power, Qualls, Schulist

**Absent:** -

**Staff Present:** City Manager Scott Collins, Micah Sullivan, City Engineer Kevin Blackmer, City Attorney Tim Potter, Codes Clerk Sharon Hall

- Butler Called Meeting to Order at **7:00PM**
- Opening Prayer and Pledge –**Butler led Prayer and Pledge**
- Approval of Agenda –**Qualls made a motion for approval. Burks Seconded. Butler stated under Old Business strike 1 & 2, have asked to be moved to September meeting. Vote taken; all were in favor.**
- Citizen Comments (limited to the first five citizens to sign in and three minutes each)  
**None**
- Approval of Minutes: **None**

## NEW BUSINESS

1. Site Plan, Innovative Lawns. Property located on Hwy 96 N (Map 18, Parcel 47.09). CG Zoning District. Property owned by R. Eric Grisham.  
**Butler asked does staff have any comments or updates. Sullivan stated if they remember this was brought before them last month, they have been back and forth with the owner and the Engineer, they have submitted those plans to us. There were a couple little things but he believes they will be dealt with during the pre-construction, such as permits and other things they have to get & so forth that they need this approval before they go forth with that, ask Engineer was there anything else that they had on that. Blackmer stated just a couple things, construction permit comes in prior to doing earth work, the sign, some technical information for the retaining wall, all things that can be done. Sullivan stated with that staff does make a recommendation for this project. Mr. Grisham stated they are new to this process, not looking to cut any corners going to make all the requirements, looking forward to being part of the business community here in Fairview, they have been in the business since 1998. This is a big investment for his wife and him to relocate here and they are really excited to get started. Permits or anything left on the table, he thinks his Engineer Trent has already got those taken care of; they haven't been submitted but they are ready to go, they are just looking forward to going through the process with the building and grading permits, they will definingly have that for them, they just want to get started. Questions for him anything he can answer, any concerns about their plans. Jenkins stated Mr. Grisham you said you have been in business since 1998, landscaping the whole time. Mr. Grisham stated yes. Jenkins stated is this his first headquarters, where it's new construction. Mr. Grisham stated they have leased properties and rented and rented, this is something they have dreamed of**

and talked about, something they had wished they would have done earlier about a year ago they said we're not getting any younger if we're going to do this let's do it. They decided to buy a property and make it everything that they ever wanted, displays for customers to do demonstrations of irrigation function & lighting & have beautiful displays. He thinks their landscaping was one of the items that have come up, he personally isn't an architect, he has a business degree, he honestly didn't think this was going to be his career had he had known he would have become an architect. Jenkins stated congratulations. Schulist asked what area do they primarily service. Mr. Grisham stated Williamson County Burks made a motion for approval. Power Seconded. Vote was Taken. All were in favors.

2. Final Plat, Sweetbriar Springs, Ph2. Property located on Sweetbriar Ln (Map 22, Parcel 18). R-20 Zoning District. Property owned by Marlon Cunningham.

Butler asked staff do they have anything for them. Collins stated yes one concern that Mr. Blackmer made, we do have one question for them, everything else he understands is fairly straight forward, it relates to lot 18A. If they are looking at the document it's at the far-right corner, it's the largest lot in the little cull-de-sac, our concern with lot 18A as it exists, that it encompasses residential construction and a detention pond. The largest portion of that lot, the flag lot on the right-hand side, is the detention pond and the area of the back of the lot would be where a home would be built. Collins stated they do have some concerns specifically about that lot, where the detention pond would be a part of a residential lot in that the homeowner would be responsible for that detention pond. They would also be able to manipulate that lot as they saw fit given the fact that they are the owner of it. Collins stated he has sent Mr. Cunningham an email about this concern and he sent him a document about this, he also met with him today about this. He wanted to provide the document to them so they are all on the same page, he and Mr. Cunningham had a great discussion today regarding this and the only question was the creation of this lot as how they see it. Collins stated he did state there was a conversation between himself, Kristin Costanza was here and Will Owen, who was the Engineer at the time, the document he provided them with was meeting notes from June 26, 2018. In the additional notes section "The contractor desires to create one additional lot that would be comprised of the detention pond between lots 18 & 19 a portion of lot 18, or the southeastern portion as this depicted. The Planning Director to advise contractor on required procedure to accomplish said desire but City Engineer and Planning Director did not identify any obstacles to accomplish desire to add one lot as long as proper procedure is followed". Collins stated he cannot assert them tonight whether proper procedure was or was not followed, that's not their concern tonight. The concern pacifically is the detention pond being part of a residential lot. Collins stated Mr. Cunningham can likely speak on those discussions of that meeting that took place, what he can tell them is that lot as it's drawn is not reflected in the construction plans. The construction plans show the detention pond as a separate lot, which he assumes was discussed in the original conversation. So, absent of any other matters to be brought up by staff and Engineer our primary concern is that specific lot not be a residential lot and be a detention lot only. Butler asked who maintains it if it's not an owned property if not HOA. Collins stated if there's not HOA it would be Mr. Cunningham or his assigns. Collins

stated in this case if it was approved as presented then the concern would be that would be at the discretion of the residential lot owner for the function of the detention pond and the future maintenance of the detention pond. Hayley asked does the detention pond have to be inspected annually. Collins stated it has to be maintained it doesn't have to be inspected unless there was a future claim that it didn't function as it designed it would be the owner of the detention pond to make that repair, in this case it would be all on the homeowner, Mr. Cunningham or the HOA. Anderson stated the homeowner doesn't own it the City doesn't own it; Mr. Cunningham owns it what happens when he passes who is responsible at that time. Collins stated there would be some sort of assigned ownership after that in some form where it wouldn't simply be able to go away, worse case it would be his estate. Butler asked what type of action would the City be able to take if he just let it go and had no maintenance on it. Collins stated Mr. Potter can answer that but at some point, we would have to handle that, the group that would have the greatest ability to enforce any action on that would be the adjoining property owners or the ones who were originally designed to be served by the detention pond. If it became a public health hazard in some such way that The City had to take ownership or take responsibility for that we would that through a legal action not through an ownership matter for the City. Butler stated he thinks that the worrisome part is somehow The City of Fairview has taken on properties like that prior and there are a lot of neighborhoods that are served like this. So, in the future discussions we need to decide if they need language that prohibits this. Burks asked Potter if the property owner doesn't maintain it and it floods over into someone else's home who is liable. Potter stated yes, the property owner. Anderson stated in Land Use if you have a drainage right of way that crosses a persons property that person can't do anything to interfere with that, like put up a fence or block it off but if you have a drainage right of way you can put up a fence as long as you don't inhibit the water, two different animals there. This one the way it's written sound confusing and he don't like the way, don't want The City to owner it but don't want the homeowner in ten years and he passes his estate defaults or whatever and no one takes care of this, that's where he see's it going. Collins stated ultimately the person responsible for it will be the deed holder. Butler asked Cunningham does he own this property is he the deed holder. Cunningham stated in his opinion this was an error by the Engineer when he drew it up this way to start with. Hayley asked what would happen if the deed holder defaulted on their property taxes. Collins stated we would handle as any other default, just go through the collection process. Hayley stated at some point would there be the possibility of repossessing or taking control of that piece of property. Collins stated we would not want to tax control under any circumstance. Burks stated this seems very similar with the discussion the had with Red Bud Springs with the retainer pond, with the retainer pond or detention pond, there was some issues with that because it belonged to an owner until they realized the responsibility that comes with that, the Board had issues with that, seems to be the very same thing. He would be concerned that neighbors are going to have to go after someone that owns a house because of a pond, if there was a catastrophic failure and how do we enforce to fix all that, they could file bankruptcy and be out of there, then what do we do. He knows The City don't own it but this comes back to we approved this and we would have to fix it. Cunningham stated this is what he would be open to do to fix this problem, if he

could have that flag lot, lot 18 A, he will create a Home Owners Association for this neighborhood that will fix this problem, if he can have that lot and cut that off from that lot, it's a huge lot. Burks asked what happens when the Home Owners Associated dissolves two years later. Collins stated the difference in that scenario, lets assume for purposes of this conversation for what he just heard from Mr. Cunningham, unless he heard something different, that lot 18A would no longer become a residential lot it would simply be a detention pond lot, absent of any home or structure and the HOA created would individually or collectively own lot 18A, is that his understanding of that. Cunningham stated they would own the detention pond, lot 18A is the pond and the building site, if he cuts that detention pond off have a flag lot 18A, the detention area would be common area at that point. Collins stated as long as it met the design standard for the driveway access and other thing, we would not be opposed to that. Cunningham stated he thinks that would be an easy fix to make that work, plenty room on that side to make that work. Cunningham stated when he and Will Owen was setting in the preconstruction meeting he had brought that up to him what would be his options and he was scaling everything off and he basically came up with what they see there on the plan, but he would have that pond issue but through the homeowners association he could correct that. Anderson asked is there any part of that pond are where some play stuff could be put on it. Cunningham stated maybe a little bit up at the front of it but also there is the pump station to the left-hand side of it. Collins stated the staff would respectfully request that not be done for the simple fact of not having the detention pond becoming an attractant to youth or other kids. Collins stated affectively the conversation is lot 18A as it would exist and the back side of that would become affectively lot 18B which would be a residential lot subject to the zoning or the subdivision as it is laid out then there would be a HOA corrected for the ownership of detention pond in such case would be the default of the entire HOA. Where every property in the subdivision would be subject to their percentage ownership of any liability, as he understands it. Cunningham stated and it's on the plat he's got to fence it also. Butler ask is that something they could approve now continent staff handling that or does he want to see the revision. Collins stated in that case if they were to approve contingent upon those, they would simply report back to them at the next meeting whether or not it had been drawn to standard, if it has, they will move forward, if not it will be brought back to them. Butler stated they will have to sign the final plat so they would have a chance to review. Collins stated yes sir that's correct. Cunningham stated this has been going on four months he knows he created some of this with the curbs but he has fixed that, is there anyway he could get a vote with approving or not approving with the contingency of him changing what they are talking about on the plat so he could get it recorded quicker, instead of waiting another month, it would really help him it's really starting to cost him because of the interest on this. Jenkins stated Mr. Cunningham he really appreciates him proposing a solution, he loves the fact that he's saying he will do a HOA. One thing he notice was the bullet points on the plat, it's accentually a maintenance schedule for the detention pond. How can they make sure, if this gets passed through with the HOA, if the HOA owns that and are responsible for maintaining it, follows the maintenance schedule that is written out here in the plans? Collins stated we don't have any enforcement ability it would simply be the other members of the HOA that we would require for the enforcement.

Jenkins stated it would give them guidance, they could hire a landscaping company to come out and make sure this is done in these intervals, if there is a heavy rain, come out check it out and inspect it, get it taken care of. Sullivan asked Blackmer with the topography between 18 & 18A going so steeply down into that detention if that back-flag lot doesn't become a lot would they need to review construction plans on what that wall will be since there will be a driveway up tight to that property line. Blackmer stated they will definitely have to look at that with the next submittal and make sure that and along with the access, because now it's showing 15 feet getting back in there, making sure all that meets the standards of accessing and making sure the grades are properly for those retaining walls. Collins stated and the protection is this will have to be signed off as a plat by a representative of the Planning Commission as a formal acceptance. Power stated and that wouldn't be signed unless all the contingencies have been completed. Collins stated yes. Burks made a motion to approve contingent up this 18A being turned into lot with the detention pond as a separate lot with that separate lot also be contingent upon approval by the City Engineer, Staff to make sure it does meet all the requirements, particularly if they have to put in a wall. Jenkins Seconded. Anderson asked about the HOA association. Jenkins recalled his motion. Burks made a motion to amend the motion to include there be a Home Owners Association created to own the detention pond. Jenkins Seconded. Vote was taken. All were in favor.

3. Final Plat, Randall Inman Subdivision. Property located at 2655 Fairview Blvd (Map 69, Parcel 31). RS-40/CG Zoning District. Property owned by Randall C Inman. Sullivan stated this is an odd plat, whenever it was first presented to them, they looked at it and currently the three lots make up one, that one lot has bot CG & RS-40 zoning currently. The applicant has asked to subdivide that into three lots, in doing so each lot, under the first submission still had dual zoning for each one, they have since brought back this submission that shows the top corner lot 1 as RS-40 the lots 2 & 3 both being CG (Commercial General). Sullivan stated under this Boards prevue they can't do they can't do the zoning but The Board of Commissioners can't do rezoning without The Planning Commission giving the actual lot lines. At that point The Board of Commissioners would be going to imaginary points, can't do that, so is being presented tonight for a vote that will only be past with The Board of Commissioners, going forward, with the rezoning. So, it will be a contingency on that vote and once that vote is passed for the three individual lots being rezoned the subdivision will be plated at that point. Blackmer stated the only thing he would add along the King Road and the State Route frontage, there's not any kind of easement on there, the right of way basically goes to the edge, there is a drainage easement that divides the CG line and the RS-40 zoning. He would say it would be important to have an easement line along those frontages to maintain the storm water run off and drainage, culverts and any headwalls that are present. Butler asked so they could request that easement to be added. Power asked so at this time they are sending this to The Board of Commissioners and it will come back to them. Sullivan stated no sir at this time they are looking at it as if the zoning is correct and they are making a vote that one lot would be turned into 3 lot subdivision, that is what their vote tonight is however it won't be able to be recorded until the Board of Commissioners makes their vote for the rezoning. So, without the approval of

this Board for the subdivision they won't be able to go forward to The Board of Commissioners for the rezoning. Butler stated so currently this is one parcel subdividing into three, so they are reviewing the subdivision of that one large parcel into three separate parcels then The Board of Commissioners will approve the zoning. Jenkins asked were the two buildings The Stop & Save. Sullivan stated yes Stop & Save and Brothers Construction next to it. Jenkins asked looking at our Fairview 2040 plan, were they planning on intending to have this area to be any residential. Sullivan stated he doesn't know; he didn't look at the 2040 plan but he knows this area is heavily residential currently. Qualls asked was he suggesting they approve it the drainage easement added at the highway. Sullivan stated that would be the staff recommendation. Burks made a motion for approval subject to all the staff comments they have heard tonight including being approved by The Board of Commissioners as well as the easements being added onto the highway frontage. Blade Seconded. Vote was taken. All were in favor.

## **BONDS**

### **1. Audobon Cove Subdivision, Bond Reduction.**

Recommended Performance Bond: \$880,054.69

Recommended Reclamation Bond: \$313,437.50

**Qualls recused herself. Sullivan stated they came to us about a month ago asking for a reduction. Will Owen was out on-site end of last week/beginning of this week and sent him this morning the new amounts for the reduction. Sullivan stated currently the letter of credit is \$1,570,000.00 and he thinks the Reclamation Bond is coming up later but they would like them both be reduced. Butler stated he thinks all the water, sewer & drainage has been installed, thinks their getting ready to pour curb, so his assessment would deduct the amount from that improvement amount from the work that has been completed today. Hayley asked has this been signed off on. Butler stated this is Will's signed off recommendation. Burks made a motion to approve based on the recommendations by Will Owen. Power Seconded. Vote Taken. All were in favor.**

## **Reports for Discussion and Information**

- **City Planning Staff – Sullivan thanked them for being here at the Work Shop as well as the meeting, knows they got the Work Shop a little late. Again as they have been saying for the last year they are working to get some of the regulations to get straightened up, cleaned up, we have made great headway but we still see things that need to be addressed and hope they are okay with them bringing them before them thanks them for working with those, looking at those and working with them for the betterment of the community.**
- **City Manager – Nothing**
- **City Engineer – Blackmer stated he just wanted to say he appreciates the opportunity to help work with City Staff as an outside consultant improvement, lots of things he's starting to see, some change made, that the rules are evenly being established and he thinks that's the goal and that's his purpose.**
- **City Attorney – Nothing**

## **COMMUNICATION FROM THE PLANNING COMMISSION MEMBERS**

Burks – Burks stated when he first came on the Planning Commission he remembers talking to Mr. Owen after looking at their Subdivision Regulations and Zoning Ordinances, trying to find something that was referenced in another ordinance that said go see this and this didn't exist. That's where we were about three years ago there were a lot of problems, things have been removed by vote things that were still there, things have been added that were not there. He doesn't know how people were able to do business based upon that, he knows it wasn't easy. So, they asked Mr. Owen what it would take to fix those problems, take out what needs to be removed and add in what's been voted on, it seemed like a fairly simple process but it's been a very exhausting process. At least now we are on equal footing because we know what's suppose to be there. Now it's a process of going through it and saying now what do we change now that we know what it's supposed to be. So hopefully the citizens and everyone will bear with them as they go through and start fixing these problems. They've got to cut through a gordian knot now that they can actually see what the knot is, thank you all for your consideration of that.

Schulist – **Nothing**

Anderson – **Nothing**

Power- **Nothing**

Cali – **Nothing**

Qualls – **Nothing**

Blade- **Nothing**

Jenkins – **Nothing**

Butler – Butler stated just to continue our discussion on those retention ponds, he would say there's probably a good chance that Phase I of Sweetbrier has a retention pond with a residential lot on it. He thinks that 75% of the neighborhoods our here probably do that don't have HOA's, so if there is a way, they could add language to prohibit that, going forward. He thinks in previous it's been the way because it's been done, maybe our new staff will not do that which would be great. We just want to make sure that the language is there to cover that to direct people to insure they know it's not there.

**ADJOURNMENT** – Butler stated he will entertain a motion to adjourn. Anderson made a motion to adjourn. Butler so moved. All in favor. Adjourned at 7:51P.m.

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Chairperson

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Secretary