

MUNICIPAL PLANNING COMMISSION

September 11, 2018, Regular Meeting at 7 p.m.

Brandon Butler, Chairman
Daniel Jenkins, V Chairman
Christie Slaughter, 1st Secretary
Mike Anderson, 2nd Secretary
Patti Carroll, Mayor

Derek Burks, Commissioner
Salvatore Cali
Jim Power
Sheree Qualls

Present: Jenkins, Butler, Slaughter, Anderson, Carroll, Burks, Power, Qualls

Absent: Cali

Others Present: City Engineer Will Owen, City Manager Scott Collins, City Attorney Andrew Mills, City Planner Kristin Costanzo, Codes Clerk Sharon Hall, Codes Inspector Micah Sullivan

- Butler Called Meeting to Order at **7:10PM**
- Opening Prayer and Pledge –**Butler led Prayer and Pledge**
- Approval of Agenda – **Burks made a motion for approval. Qualls Seconded. All were in favor.**
- Citizen Comments (limited to the first five citizens to sign in and three minutes each) - **None**
- Approval of Minutes: **August 14, 2018 Regular Meeting**
Power made a motion for approval. Power Seconded. All were in favor.

OLD BUSINESS

1. Western Woods Subdivision, Phase 4 – request for subdivision acceptance and reduction to a maintenance bond. 38 lots on 5.9 acres located along Wiley Circle, Spicer Court, and Colquitt Way. Property zones RS-5 PUD.
Staff Comments: As discussed at the August 2018 meeting, all improvements have been installed by the developer and the required as-built drawings were submitted. This item was deferred from that meeting to allow the developer and the city additional time to work on several items.
Jenkins recused himself. Butler asked do they have any updates on the drainage or are we kind of in the same spot. Costanzo stated she hasn't heard, she knows, not the developer but the builder has gone out and done individual site improvements as far as grading lots and fixing some infrastructure as far as drainage. As far as the City and the developer working together with the neighboring property owner to remove the pipe from Wiley Circle, she hasn't heard of anything. Butler asked did the developer know he was back on the agenda tonight. Costanzo stated we didn't ask him to be present since it seems apparent they've had any final resolution and she hasn't heard from the City Manager since he was supposed to be working with the developer. City Manager had step out so he couldn't give an update. Burks made a motion to defer. Carroll Seconded. All were in favor.

NEW BUSINESS

2. Preliminary Plat/Development Plan, Otter Creek Estates. Six (6) proposed lots on 8.8 acres. Property located at 7329 Taylor Road (Tax Map 042, Parcel 77.00). RS -40, Single-Family Residential Zoning District. Property owned by Tony Cavender.

Daniel Jenkins read below Staff Comments.

Staff Comments:

Minimum building setbacks shown on the lots and in the typical lot layout graphic is incorrect and should reflect RS-40 zoning (50' front, 25' side, and 20' rear);

Show lot width at the setback line (each lot is required to be 150' wide);

Surveyor's Note #4 shows incorrect setback information;

Zoning district shown in Site Data block is incorrect and should read RS-40;

Zoning district shown on Map 042, Parcel 78.00 is incorrect and should read RS-40;

Existing sewer force main does not currently extend the length of the Property and should be labeled as existing and proposed to reflect current Conditions;

Utility certification blocks should reference WADC, not the Planning Commission, and the last line referencing Section 5.5 of Fairview

Subdivision Regulations should be removed in its entirety.

Mr. Parker with SEC is present. Anderson asked was they aware of these Comments before tonight. Costanzo stated yes, we always send the comments About a week before the plans are due back, so the majority of these were sent to the Engineer on the project, not to Mr. Parker that is present tonight, it was Mr. House who submitted the plan. She will note that the 2nd comment that show the Lot width at the setback that each line each lot is required to be 150' wide, that is Not on there as the original submittal. They were supposed to add the correct Set back information, the lot lines and the setbacks aren't actually correct for the Zone, it doesn't appear that all of these lots are going to meet the 150' lot width. Some of these comments were addressed but not all of them in their entirety. Butler asked Mr. Parker to come up to the podium. Carroll asked Mr. Parker was they going to be able to accommodate these. Mr. Parker stated yes they can make any changes the staff wants them to make, thinks she's correct on the 150' lot width parcel, they would probably end up losing a lot, everything else would be just some comments they could make on the plat. Carroll asked are they willing to give up a lot to make it fit. Mr. Parker stated he will have to go and talked to Tony but if that's the only way it can be recorded he's sure that's what they will have to do. Burks stated he's not a big fan on doing contingencies because historically they have issues with the contingencies getting done, something he would consider a deferral on to make sure when it comes back it is done correctly. Butler asked can they make a deferral with recommendations or should they decline with recommendations where it can be resubmitted. Wills stated should make deferral that all staff comments be made. Burks made a motion to defer till next meeting that all staff recommendation changes being made to the preliminary plat to be resubmitted. Power Seconded. Owen asked Mr. Parker, the sewer service is step tanks that will be connected to the eventual Otter Creek step system. Parker stated he thinks connected to the force main. Butler stated yes, he things the force main is extended from that Mangrum. Carroll did they get everything included, to be cleared for the record. Butler stated yes. Vote was taken. All were in favor.

3. Discussion Item – standard sidewalk policy, variance procedure, and fee-in-lieu

Fund.

Burks stated he ask that this discussion take place, we have some sidewalks to no where in this City which is really bazaar. There's a couple in Western Woods, some on Horn Tavern Road, three or four homes that have sidewalks to just each other, just doesn't make sense especially when you have to consider the City has to maintain those sidewalks. So, he thinks what they really should be looking at is a sidewalk fund, when they find a situation appropriate where they allow a variance and determine what is to be paid in the sidewalk fund, that they could use that fund to build more sidewalks or repair and maintain some of the current sidewalks that we have. Butler stated just for reference, that one to the left and right there are some big parcels, thinks when it was approved it was kind of the thought that maybe one day connectivity, when you do it when you don't. Sometimes when they talk about the fund it seems it more of a higher cost to pay in that what the developer would pay to install, sometimes they will just say they will install the sidewalks, so he thinks it's a good idea. Butler stated he thought this was about the standards. Burks stated he thinks this should be part of the conversation as well but they at least need to have this part in for the developers to have the opportunity and it needs to be reasonable. Anderson asked if they use a fund and they use a generic amount are they going to use a bid standard that they would find on bidding on commercial concrete work because those things are totally different, to him a fund based on a generic cost can really get expensive or inexpensive. To him that can be very complicated to come up with a justifiable number, he's all for the fund. Carroll stated they have something, she can't tell you the times, the Horn Taverns, the Totty's wanted to pay into the sidewalk fund in lieu of, were they just asking for a variance and they didn't have it. Owen stated Mayor his best recollection is the language is in the Subdivision Regulations currently, he believes the issue was (would need to talk with Tom Daugherty on this) he doesn't think there is a line item in the City's budget that establishes this fund and therefore keeps those funds separate from anything else, so he thinks that's where the pitfall was. Burks stated he doesn't think it sets out the amount either. Owen stated correct, it does not. Burks stated he understands the challenges of trying to figure it out but at the same time there are situations that they just don't want sidewalks. Western Woods is a good example because the sidewalks are in the middle of people's driveways. He is sure other municipalities have this, he's okay with plagiarism, they can go see what Davidson County, other part of Williamson County does, he's sure this has been accomplished. Costanzo stated it's in the report that she gave them, he apologies he hasn't had time to read it. Costanzo stated based on his request to put this on the agenda, there is a graphic attached Exhibit A, to their sheet they have in front of them and she's not going to read it all, the graphic does have a aerial view of Hickory Springs, the 5 lot Totty Subdivision that Commissioner Burks has referenced, she believes it was 560' of lineal frontage they have on Horn Tavern, where they did put in 5 foot sidewalk because the requirement was in the Subdivision Regulations. She wasn't

here but she remembers reading in the minutes about the practicality of that a variance and what not. Article 4.104 of the Subdivision Regulations does state you have to have sidewalks on both sides of the streets in all new residential subdivisions, all sidewalks have to be 5 feet. All sidewalks are supposed to be ADA compliant, because the sidewalk requirement is in the Subdivision Regulations it's completely within the authority of the Planning Commission if they wanted to grant a variance when a subdivision comes before them. Usually it's justified based on topographical reasons like drainage ditches, steep slopes, etc., that would make it difficult from a practical Engineering standpoint that's a good reason to be able to grant a variance. Costanzo goes over the sheet, the first "alternative provision" where a developer can make payment to a city fund for sidewalk construction has never occurred, nor is there a dedicated sidewalk fund to which a developer can make a payment. This is something that can be looked at if the PC so chooses. The second "alternative provision" where a developer can install sidewalks at another location is interest but would most likely prove to be tricky should it ever be invoked, as there is no police to determine a suitable other location and the associated characteristics of such a project, with the added complication of liability, quality, and other concerns. Other scenarios exist, and specifically in the recent (Kenny Taylor subdivision along Taylor Road) where developers have requested a variance from the provision to install sidewalks for a number of reasons. Costanzo stated she thinks it would be a good plan to come up with, whether or not the Board sees fit to create a fund, it seems like it would level the playing field because sidewalks are expensive, someone could say your making me do one here you're not making him do one. The City also looses that infrastructure that we want so we could have them put them in if it makes sense and is feasible if it doesn't we could potentially get money to put in to fix sidewalks in the right of way, extend them where we need them, etc. Other info in the sheet that they can read over and they can certainly discuss it more, research it in the coming months at the will of the PC. Carroll stated for some foresight, the reasons they put the sidewalks in the regulations was they thought they would eventually connect together, it's great but they may have to look at these holes for 20 years. She thinks some of the things they may need to consider is once the overlay map and the comprehensive plan is done maybe that's something you could say the is growth areas. They never know who is going to sell their property, develop their property and there's not a good guideline, it's just having that forethought of what you want your community to look like. Carroll stated as far as the City it does cost the City to maintain the sidewalks. Burks stated he thinks one other consideration, if they have a sidewalk that sits for 10 or 15 years and the ADA compliance codes change and we connect to that sidewalk, will they not have to bring the part they are connecting to up to code. Owen stated currently there's no mandate in place that you'd have to retro fit all your sidewalks to any current ADA standards, any new sidewalks that are constructed you'd need to meet the current standards. Power stated right now we have a few sidewalks to nowhere, if we let people opt

out and don't put in the sidewalks, then a few years down the road someone puts in a subdivision next to them and put in sidewalks they have left out 300 feet. Butler stated then they would capture funds to eventually put in sidewalks there or somewhere else. Power stated funds don't always go where there supposed to go. Mills stated the way he reads the Subdivision Regulations, they only have two options, 1) they can have the developer build sidewalks somewhere else (agrees with the City Planner, you don't want to do that, legally and otherwise), 2) they would take that money now and put it later in that specific location, that doesn't give them the flexibility he thinks they need. When they are looking to give someone a variance they are looking at it for specific reasons. Mills stated Mr. Power had said opt out, he doesn't think they should adopt an opt out policy he thinks it should be a hardline variance policy of the geography doesn't allow this therefore you don't have to do sidewalks in this limited, exceptional circumstance, you pay us money, maybe if there is gap in there, will go fill that gap and make it one long sidewalk. Mills stated he thinks a fund may help to fill in the gaps but they are going to have to rework the way this is read because the way it is as of right now they don't have any discretion and it will have to become a budget item will have to become its own fund, there's a number of steps that have to be taken. Carroll stated there would have to be a recommendation from the Planning Commission to the BOC if they wanted the line item added. Power stated he thinks if they are going to do this and we were going to offer them a variance it needs to be a little bit painful for them because next thing they know Fairview is in the sidewalk business and he doesn't think we have staff to build sidewalks. Burks stated he doesn't think the intention is to have the City build sidewalks, it would be when we got enough funds then they would pull that money and put in a sidewalk to connect to other sidewalks and the City would bid that project out. Burks stated Western Woods was required to put in sidewalks in and it's in their driveway, grant it that's the way it was designed however they are creating an inconvenience to the homeowners. Burks stated the other thing is the grass strip between the sidewalk and the curb, hopefully they never see a recurrence of what's on highway 100 where the mailboxes are in the sidewalk. The State contractor created a sidewalk that's in violation of ADA as they made it ADA compliant, makes absolutely no sense. So, if they can require that grass strip for mailboxes and those things, they probably should redo the entire sidewalk ordinance. Owen stated all of their regulations are interrelated, case in point being establishing an absolute minimum front setback in Planned Developments of 20 feet. By creating we will no longer allow that situation that Burks described which cars would be hanging over driveways, there's at least enough depth behind the sidewalk and before you get to a garage of 20 feet to where any standard conventional vehicle would be able to park. Butler stated while he is saying that is the 20-foot setback included in the 10 foot right of way of 5-foot grass strip/5-foot sidewalk, so it's 10 plus 30, so it's 30 foot. Owen stated correct, the 20 feet would be starting from the back of the sidewalk to the structure itself. Owen stated there is a balance there

because if the fee in lieu of is structured in such a way that it's 2,3, 4 times of the cost of the developer putting it in to his development the argument that he's always heard from developers is, why would they pay twice as much for an amenity that's going in another part of town when they could pay $\frac{1}{2}$ the price and it benefit their development. Owen stated if there is a desire by the City to see that fund build he would suggest that they set that to whatever that formula is as close or conferrable as they can to what a true cost to a private developer may be. Otherwise if it's too far to the expensive side 99% of the time they're going to choose to put it in to where it is and they are going to end up with sidewalks to nowhere, if that's something they are not desiring. Burks stated the other thing they would like is to have street trees in the City, in essence they are putting trees right on our sidewalks that are going to destroy our sidewalks, so they may want to consider backing away from street trees more to landscaping. Anderson stated on the sidewalk fund, a lot of municipalities have funds set up for various things that's collected through the permit through the housing and the development instead of trying to collect from the developer on a fee because a certain length of it not necessary to have sidewalks, if they want a sidewalk maintenance fund they should designate it in the permitting process. Carroll stated she thinks that is an excellent idea, if that's possible that would help out with maintenance. Jenkins stated shouldn't City infrastructure be covered under City taxes, to turn around and ask a developer to pay extra fee or penalty for us to maintain sidewalks doesn't think that is fair that's our responsibility as citizens to maintain our sidewalks. Butler stated he thought of makeup of sidewalk so he was going to discuss of having a sidewalk detail a street detail. The City of Franklin has a great sidewalk detail, one thing they have is a root protector, it goes against the sidewalk to prevent the roots from going through the sidewalk, they make up the concrete of 3000 psi, expansion joints of every 25 feet, to keep from the buckling. Maybe have a detail where they will have longer long-term sidewalks, less maintenance to prevent the roots from coming through to prevent the buckling and things like that. Maybe they should have a sidewalk workshop. Carroll stated that's a good idea, she is really interested on this fee issue, does other Cities have a sidewalk fund that they charge a fee for sidewalks. Costanzo stated no this fee on the back sheet is the fee that has been paid on a number of occasions, not any different than paying into the tree fund. Medical Building paid \$43,000.00 because they didn't want to plant or couldn't plant trees. Owen stated they are not talking about a fee in lieu of installation, you're just talking permanent sidewalk maintenance fee at the building permit issuance. Carroll asked had he seen that. Owen stated he thinks that's getting borderline, structured in that manner to be classified as an adequate facilities tax, impact fee or something like that, lawyer would need to do some work on that. Carroll stated her thought process was the maintenance on the sidewalks, they can look up and down highway 100 and see they have some major issues with their sidewalks. Butler stated he thinks greater standards on sidewalks are going to prevent maintenance where they aren't going to have as much

troublesome with them. Maybe they can write something up that kind of incorporates what they have now to put that fee in place, Mr. Owen uses a sidewalk rate when he set a bond so he has number that he is using that would cost for an estimation of sidewalks. Maybe he could use that number based on what it is at the time, the options are there if it comes to them they have that fund in place they have things set up. Owen stated when they have construction plans come through for subdivisions, the sidewalk detail is included in those construction plans, he does review that to make sure it is of a certain standard that will provide for a good quality installation with the hope that the long-term maintenance isn't overly burdensome based on a poor detail. Owen stated just for everyone's clarity, the sidewalks on Highway 100 was part of TDOT's widening program, when they came through several years ago, that was TDOT's contractor. The City had zero input or authority or ability to inspect or review or hold anyone accountable in those scenarios. Generally, what occurs, when there is state right of way that goes through a corporate boundary the state will have a contract agreement with the local corporate municipal entity for maintenance of their right of way within the City boundaries. Generally, in that small print of the agreement, usually everyone just thinks about mowing the right of way, if it's in your City limits, it also includes sidewalk maintenance. Once the sidewalks were installed and excepted by TDOT and the one-year warranty, he assumes there was a one-year warranty with TDOT on the work by the road contractor, after that it becomes the Cities responsibly to maintain it. Carroll thanks him for clarifying that and no way did she mean that, that's good information for the Board, it is their responsibility to maintain them now. Owen stated his recommendation would be to only consider a fee in lieu of scenario along existing right of ways, if there is a new subdivision coming in that has new streets that are being constructed then there is no reason at all, topography or otherwise in which sidewalks can't be part of the new right of way that's cleared and the road that's constructed. Burks stated he understands what the Mayor is saying don't want citizens to continue to maintain those but when they put a maintenance fee onto a developer we're putting that cost onto the citizens because that developer isn't going to eat that cost. Any fee they put on the developer get passed onto the buyer of the home. Butler stated they need to schedule a workshop on sidewalks.

BONDS AND LETTER OF CREDIT

4. The Meeting Place Church – site performance bond to cover the site in the amount of \$22,000.00. Planning commission set the bond at the June 09, 2015, meeting. Bond expires September 15, 2018.

Owen stated based on the site observation today, the majority of the site has been stabilized and the former area that was graveled for parking that wasn't shown on the approved site plan has since been removed and seeded and strawed. The detention pond, the internal parts could use some seed and straw on it but he doesn't see there is any potential harm to neighboring or adjacent properties as a result to that particular part of the development not being stabilized. The exterior side walls of the pond and

the outlet structure appear to be in good order, unless there is other items that he's not aware of if the City Planner has any, he suggest this bond be released. Butler stated so the lower gravel lot is gone and the staircase has been removed. Owen stated yes, the gravel is gone and the staircase has been removed from its useable position, laying close to where it was to be. Butler stated so what if they release this and next week they put it all back. Owen stated at that point it would be no different than anything other site in the City constructing something that had not submitted a plan to be approved for that requires a plan to be submitted. Butler asked any explanation of why it has taken so long and where are they going to park now. Owen stated he hasn't been in communication with them. Costanzo stated she thinks the overflow was kind of after the fact development they were growing. At one point the pastor had approached her to see if they could concrete it because she had told them they couldn't leave it as gravel and he was going to discuss it with his engineer, told him they would have to revisit the site plan and the drainage calculations if he wanted it to drain into the valley between the church and the apartments depending upon what his Engineer says. Butler stated he wonders if they will be parking in the grass now. Costanzo stated she thinks they understand what the City was expecting. Carroll asked does he think it's good enough for releasing the bond. Owen stated as it sits today he thinks that the site is physically and general conformance to the approved site plan. Jenkins made a motion to release the bond. Qualls Seconded. All were in favor

5. First Baptist Church of Fairview – irrevocable standby letter of credit to cover the site in the amount of \$15,000.00. Planning commission set the bond at the September 13, 2016, meeting. Bond expires September 15, 2018.

Owen stated this site has been stabilized and appears to be in general conformance to the approved site plan and he would recommend to release this bond. Burks recused himself. Carroll made a motion to release the bond. Anderson Seconded. All were in favor.

REPORTS FOR DISCUSSION AND INFORMATION

- City Planner – Costanzo stated she appreciates the discussion on sidewalks, she looks forward in engaging in for debate. She thinks they have some good potential to put something in place that they all want. Butler stated so they will get a meeting scheduled for the final regulations and ordinance scheduled. Costanzo stated yes.
- City Engineer – Nothing
- City Attorney – Nothing

COMMUNICATION FROM THE PLANNING COMMISSION MEMBERS

Slaughter – It being 9/11, she just wants to thank all our 1st responders, also she is a family that has several birthdays in September and this day actually falls this significate day that they also have room to celebrate thing they have going on now.

Qualls – Nothing

Anderson – Nothing

Powers – Nothing

Cali – Not Present

- Burks – Thanks them for the lively discussion he knows it's boring but it's something that small and simple that can really affect a lot of what they do. Unfortunately, there are a lot of these small little simple things they are going to have to look at over the next several years, look forward.
- Carroll – Carroll state she agrees they talked a long time and there wasn't anything done but a workshop, welcome to Government. Carroll stated she would say that sometimes these discussions are important here because the Citizens can watch it on TV. Workshops aren't televised so it is a good thing to have this open discussion, also give the City staff a direction to know what to research some of their interest. So, when it comes time to have a Workshop all the research and data is put in front of them and they can have those discussions so when it is placed on the agenda they have an educated decision.
- Jenkins – Honored to be here.
- Butler – Butler stated great discussion tonight he agrees, thanks the Board, Mr. Owen & the team for working so hard for getting the Subdivision Regulations, Ordinances lined up, it's been a long time coming and very exciting to see a clean bill coming through there.

ADJOURNMENT – Burks made a motion to adjourned. Adjourned at 8:16p.m.

Chairperson

Secretary