

CASE SUMMARY

APPLICATION TYPE: ROW CLOSURE



File Number: 5-B-21-SC
Application Filed: 3/26/2021
Applicant: RICHARD CLARK

Related File Number:
Date of Revision:

PROPERTY INFORMATION

General Location:

Other Parcel Info.:

Tax ID Number: 120 N/A

Jurisdiction: City

Size of Tract:

Accessibility:

GENERAL LAND USE INFORMATION

Existing Land Use:

Surrounding Land Use:

Proposed Use:

Density:

Sector Plan: Northwest City

Sector Plan Designation:

Growth Policy Plan: N/A (within City limits)

Neighborhood Context:

ADDRESS/RIGHT-OF-WAY INFORMATION (where applicable)

Street: Glenmore Dr.

Location: Between its southeast terminus at West Hills Bynon Park and Bennington Drive

Proposed Street Name:

Department-Utility Report: The City's Engineering Department and KUB have requested to retain any easements that may be in place should this closure be approved.

Reason: Due to current corner lot codes (Article 10.3.1 Fence and Article 10.3.2 Pool Placement), the dead end street does not allow proper use of my property at 7916 Bennington Drive. Pool and fence applications were submitted but were denied due to current codes and street. Due to this hardship, I am asking for the closure of the dead end street of Glenmore Drive between 7916 Bennington and 8000 Bennington Drive.

ZONING INFORMATION (where applicable)

Current Zoning: N/A

Former Zoning:

Requested Zoning:

Previous Requests:

Extension of Zone:

History of Zoning:

PLAN INFORMATION (where applicable)

Current Plan Category:

Requested Plan Category:

SUBDIVISION INFORMATION (where applicable)

Subdivision Name:

No. of Lots Proposed:

No. of Lots Approved: 0

Variances Requested:

S/D Name Change:

OTHER INFORMATION (where applicable)

Other Bus./Ord. Amend.: Due to current corner lot codes (Article 10.3.1 Fence and Article 10.3.2 Pool Placement), the dead end street does not allow proper use of my property at 7916 Bennington Drive. Pool and fence applications were submitted but were denied due to current codes and street. Due to this hardship, I am asking for the closure of the dead end street of Glenmore Drive between 7916 Bennington and 8000 Bennington Drive.

PLANNING COMMISSION ACTION AND DISPOSITION

Planner In Charge: Michelle Portier

Staff Recomm. (Abbr.): Deny closure of Glenmore Drive from its southern terminus point at West Hills and Bynon Park to its intersection with Bennington Drive since it provides public access to the park and leaves open the option for the park to develop in this area, possibly including a more defined public entry at this

Staff Recomm. (Full):

Comments:

1. Glenmore Drive is a developed right-of-way that runs the length of one parcel and terminates at West Hills and Bynon Park. It is located midblock between Sheffield Drive and N. Winston Road and runs perpendicular to Bennington Drive.
2. Glenmore Drive is a developed right-of-way and provides a means of public access to the park.
3. Glenmore Drive also provides driveway access to both abutting properties. Should the right-of-way be closed, the paved portion would function as a shared driveway into those lots.
4. The application states the reason for the closure request is to allow the recently installed fence and pool to remain. Neither meets the zoning ordinance requirements regarding corner lot setbacks and fence height, so the applicant hopes to close this right-of-way to add half its width to his property.
 - a. Once the surrounding residents began to express opposition, the applicant expanded the reason to include public safety as a reason for the closure.
 - b. Once Planning notified the applicant of our recommendation to deny the closure request, the applicant expanded the reason for the closure to include flooding.
5. A brief history of the pool and fence installation:
 - a. The City's Plans Review and Inspections Department has a record of an unpermitted pool being installed in 2015. It was an above ground pool that was removed, and the matter was resolved and closed.
 - b. In late July 2020, a Notice of Violation and a Stop Work Order were issued for unpermitted construction and/or installation of an above-ground pool, a fence and interior renovations.
 - c. In early August 2020, the applicant submitted site plans for the pool, but plans were denied because it was located in the corner-side yard and did not meet the required corner yard setback. Additionally, the fence height exceeds the maximum allowed and is located in the right-of-way.
 - d. In late August 2020, the applicant filed for a BZA variance to increase the height of the fence, but withdrew the application before the meeting. The notes for the BZA case state the application was being withdrawn so the applicant could pursue a ROW closure instead. To date, a variance has not been sought.
6. Staff has received multiple objections to this request, as neighbors use it to access the park. The park has official entries on its eastern boundary off of Sheffield Drive and its western boundary off of N. Winston Road. The park runs longer east to west, so these entries are located at the park's farthest points. There is no access from the south, as the park abuts the interstate. This right-of-way provides a closer point of entry for people living mid-block along Bennington Drive.
7. Mr. Clark has stated he would be willing to provide an access easement to allow pedestrian access for people to cross the property and access the park. He submitted drawings for review (see Exhibit B),

and Planning met with the City's Engineering, Plans Review and Inspections, and Parks and Recreation departments on 5/21/2021.

a. Option 1 would propose new signs. The drawings are not labelled with what the signage would say, but

presumably, the signage would notify drivers it was a private right-of-way. However, since no other physical changes are proposed and the paved surface would remain the same, it would likely do little to

dissuade drivers from using the right-of-way.

b. Option 2 proposes painted patterns to denote a crosswalk for pedestrians.

- ADA has regulations regarding the cross-slope of the path, the slope along the path of travel, and the width of the surface, and revising the existing pavement from its current street standards to ADA standards would cost well into the tens of thousands of dollars.

- The Engineering staff has submitted this statement in review of the various plans:

In evaluating the proposed options for the Glenmore Drive closure, we would not support the proposed

layouts. To create a safe and functional pathway for pedestrians that meets ADA standards, the pathway

would need to be physically separated from vehicular traffic/vehicular use areas (i.e. a sidewalk located

behind a curb, typically with a 2' grass strip). Given the existing constraints in the area, it would be

difficult and costly to build a sidewalk without significantly impacting adjacent properties.

c. Option 3 proposes bollards and Option 4 proposes a gate to prohibit vehicular travel past the driveways.

- However, planning staff concludes it to be in the best interest of the community to leave the access to

the park as is, which would preclude all options submitted.

8. Regarding the closure request, the following departments and organizations had these comments:

a. Planning does not believe closure of the right-of-way is in the public's best interest, as it provides public

neighborhood access to the park and leaves open the option for the park to develop in this area, possibly

including a more defined access point at this location. Planning consulted with the Parks and Recreation

Department on this closure.

b. The City Engineering Department does not object to the right-of-way closure since it costs the city to

maintain the right-of-way. However, should this right-of-way be closed, the City will reserve easements for

all drainage facilities and utilities if there are any current facilities located in or within five (5) feet of the

property described herein. If any existing facilities or utilities are found not feasible to the site development

or use, they may be removed and relocated, subject to City Engineering and/or other applicable easement

holder review and approval.

c. The City's Fire Department had no comments.

d. TDOT had no Comments as this is not a state route.

e. KUB: We have reviewed our records and find that we have existing utility facilities located within the

subject right-of-way. The approximate locations of these facilities are indicated on the enclosed prints.

However, KUB does not release and hereby retains all easements and rights for existing utility facilities,

whether or not shown on these prints. Should this right-of-way be closed, KUB will require the following

permanent easements for its utility facilities.

- Sewer: 7.5 feet on each side of the centerline of the sewer line, 15 feet total width

f. AT&T did not submit any comments.

Action: Denied

Meeting Date: 6/10/2021

Details of Action:

Summary of Action:

Deny closure of Glenmore Drive from its southern terminus point at West Hills and Bynon Park to its intersection with Bennington Drive since it provides public access to the park and leaves open the option for the park to develop in this area, possibly including a more defined public entry at this

location.

Date of Approval:

Date of Denial: 6/10/2021

Postponements: 5/13/2021

Date of Withdrawal:

Withdrawn prior to publication?: ☐ **Action Appealed?:** 6/25/2021

LEGISLATIVE ACTION AND DISPOSITION

Legislative Body: Knoxville City Council

Date of Legislative Action: 9/21/2021

Date of Legislative Action, Second Reading:

Ordinance Number:

Other Ordinance Number References:

Disposition of Case: Withdrawn

Disposition of Case, Second Reading:

If "Other":

If "Other":

Amendments:

Amendments:

Appeal was withdrawn

Date of Legislative Appeal:

Effective Date of Ordinance: