

CASE SUMMARY

APPLICATION TYPE: OTHER BUSINESS

KNOXVILLE-KNOX COUNTY

M P C
METROPOLITAN
P L A N N I N G
C O M M I S S I O N

T E N N E S S E E

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File Number: 5-D-06-OB Related File Number:
Application Filed: 4/7/2006 Date of Revision:
Applicant: JOHN K. KING, ATTORNEY FOR OPPONENT
Owner:

PROPERTY INFORMATION

General Location:
Other Parcel Info.:
Tax ID Number: 999 999 Jurisdiction:
Size of Tract:
Accessibility:

GENERAL LAND USE INFORMATION

Existing Land Use:
Surrounding Land Use:
Proposed Use: Density:
Sector Plan: Sector Plan Designation:
Growth Policy Plan:
Neighborhood Context:

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

Street:
Location:
Proposed Street Name:
Department-Utility Report:
Reason: Appeal of MPC decision to certify for recording the final plat of the Resub of Lot 13, Cartref, Block A (9-SW-05-F)

ZONING INFORMATION (where applicable)

Current Zoning:
Former Zoning:
Requested Zoning:
Previous Requests:
Extension of Zone:
History of Zoning:

PLAN INFORMATION (where applicable)

Current Plan Category:
Requested Plan Category:

feet and the curb cut is 20 feet.” We do not require that the driveway and curb cuts be identified on the final plat. As previously stated, the lots meet the access requirements. Documentation for the proposed driveways (including application for the right-of-way permit) is provided when the property owner applies for the building permit. At that time, the property owner will be required to comply with the requirements of the zoning ordinance. For most lots the driveway location is not known until the specific house plans are selected. The plat provides adequate public street frontage to provide driveways and curb cuts in accordance with City requirements.

“The proposed access is off an easement and the easement does not comply with the requirements of Section 64-24.42 and 64-25 in that the proposed plan unnecessarily creates double frontage lots.” With all lots meeting the minimum frontage requirements, a joint permanent easement is not required for meeting the legal access requirements. The “common area / shared access easement” shown on the final plat is not a joint permanent easement as identified in the Subdivision Regulations and therefore the “common area / shared access easement” does not create double frontage lots. There are many instances of lots meeting the frontage access requirements that have either shared or cross access easements with adjoining parcels.

“Additionally, the final plat does not reflect or show the required paved width of the easement which is required to be 20 feet, so the final plat does not show conformity with Section 64-24.50 of the Subdivision Regulations.” As identified in Item 5 above, the “common area / shared access easement” is not a joint permanent easement and therefore is not subject to the requirements of Section 64-24.50.

“The proposed development does not enhance the sound development of the neighborhood in which the subdivision lies, in violation of Section 62-20 of the Subdivision Regulations.” Section 62-20 of the Minimum Subdivision Regulations is within a section of the code labeled “Streets and Roads” and Section 62-20 is captioned “Relation to Adjoining Road System”. No new roads are proposed for this subdivision. In Knox County Circuit Court on October 17, 2005, Judge Workman ruled that the application of Section 62-20 as a basis for denial of the proposed subdivision of this property into four lots was not valid. With the minor changes between the previous final plat and the revised plat that is before us at this time, it would seem reasonable that the ruling would still apply. If a developer of the subdivision decides to utilize the shared access easement over the common area to provide a single access to the lots from Sherwood Dr., that single access would be superior to providing four individual driveway connections to Sherwood Dr. and Westland Dr.

Based on the above findings, Planning Commission Staff made the determination that the final plat complied with the Minimum Subdivision Regulations and Knoxville Zoning Ordinance and pursuant to Section 36-35 on the Minimum Subdivision Regulations, certified the final plat for recording. Staff certified the final plat on April 7, 2006 and it was recorded that same day.

Current Appeal:

On April 7, 2006, Mr. John K. King, the attorney for the opponents, filed an appeal of the Planning Commission Staff’s certification of the final plat. In the appeal application, under reasons for the appeal, Mr. King stated that the final plat does not meet requirements of Subdivision Regulations and the decision to certify plat for recording is improper.

Comments:

MPC Action: Denied **MPC Meeting Date:** 5/11/2006

Details of MPC action:

Summary of MPC action: Appeal denied

Date of MPC Approval: **Date of Denial:** 5/11/2006 **Postponements:**

Date of Withdrawal: **Withdrawn prior to publication?:** **Action Appealed?:** 5/16/2006

LEGISLATIVE ACTION AND DISPOSITION

Legislative Body: Knoxville City Council

Date of Legislative Action: 8/15/2006 **Date of Legislative Action, Second Reading:**

Ordinance Number: **Other Ordinance Number References:**

Disposition of Case: approved appeal **Disposition of Case, Second Reading:**

If "Other": Postponed 6/6, 7/5, 7/18, 8/1 **If "Other":**

Amendments:

Date of Legislative Appeal:

Amendments:

Effective Date of Ordinance: