

**MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT**  
**STAFF REPORT** **#1**

**CASE NUMBER:** S 09-012 **L.U.C.B. MEETING:** November 12, 2009  
*09/10/09*

**DEVELOPMENT NAME:** Fairway Subdivision

**LOCATION:** West terminus of Fairway Avenue; +/-1,300 feet west of Horn Lake Road

**COUNCIL DISTRICT:** 6

**SUPER DISTRICT:** 8

**OWNER OF RECORD:** Southern Housing Company

**EQUITABLE OWNER / APPLICANT:** Coastal Phoenix Investment, LLC

**REPRESENTATIVE:** McCaskill and Associates - Tim McCaskill

**REQUEST:** 156 lots served by both public and private streets

**AREA:** 43.38 Acres

**EXISTING LAND USE & ZONING:** Single Family Residential (R-S6) District

**SURROUNDING LAND USE & ZONING:**

**North:** Single-family dwellings in the Single-Family Residential (R-S6) District

**East:** Single-family dwellings in the R-S6 District

**South:** Single-family dwellings and vacant property in the R-S6 District

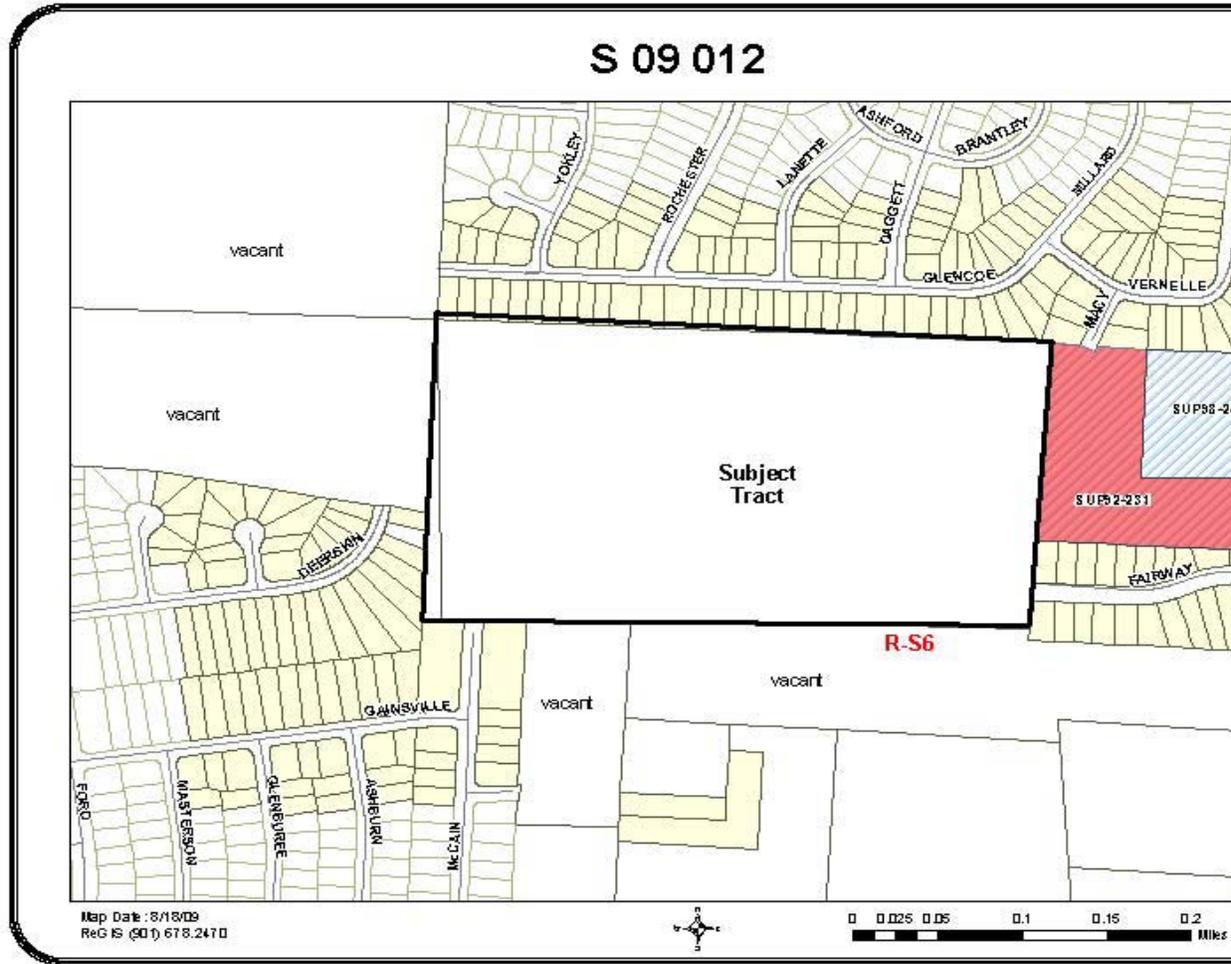
**West:** Single-family dwellings and vacant property in the R-S6 District

**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION**

*Approval With Conditions*

## CONCLUSIONS

1. The proposed subdivision will be served by a combination of both public streets and private streets. Fairway Avenue and McCain Drive south of Fairway Avenue will be constructed as public streets to continue the public street network. All other streets will be private, but constructed to meet or exceed existing requirements for public streets including bonding and inspection by the City Engineering Office.
2. Single-family homes will be constructed on each lot. Two different models will be used with a heated area of 1,415 square feet and a total building area of 1,848 square feet including carports. This compares to existing homes immediately north and south of the site that on average are 800 to 1,100 square feet in area and homes immediately east that are 1,200 to 1,300 square feet in area. The proposed exterior materials consist of brick and hardy-plank siding with asphalt shingle roofs.
3. The proposed subdivision will be developed with homes that will include a “rent to own” provision under guidelines from the Department of Housing and Urban Development (HUD). While the initial ownership of all homes will be held by one developer for a minimum period of 20 years, renters can build equity for purchase of their residence after this time. The HUD program also requires the developer to establish an escrow account to fund maintenance of the property including streets, sidewalks, street lighting, water, sewer and other utility infrastructure, and interior and exterior maintenance.
4. While the zoning of the property permits a minimum lot size of 6,000 square feet (50 feet wide by 120 feet deep typical) the typical lot proposed is 60 feet wide by 140 feet deep or 8,400 square feet in area. The proposed lot sizes meet or exceed the existing lots of the subdivisions adjacent to the property.
5. Concerning amenities and natural resource protection, the development will have a paved pedestrian link to the adjoining O.L. Cash Park abutting the development to the west. In addition, a large common open space area is being provided as a connection to the adjoining park and as a stream buffer/detention area along the south side of Fairway Avenue.
6. The development will also include a tree lawn 10 feet in width between the face of curb and front of sidewalk which will allow the planting of shade trees along the streets, both public and private. A sidewalk 5 feet in width will be included.
7. The subdivision is recommended for approval with conditions. With security provided by the developer in the form of bonding both public and private infrastructure including construction inspection by City Engineering, the continuous escrow account funding required of the developer by HUD, and HUD oversight, This should allay fears that the development will not be sustainable.



Zoning Map



**Aerial Photo**



**Fairway Avenue looking west**



**Fairway Avenue looking east**



**Taylor Way looking north. Soils testing truck in the background.**



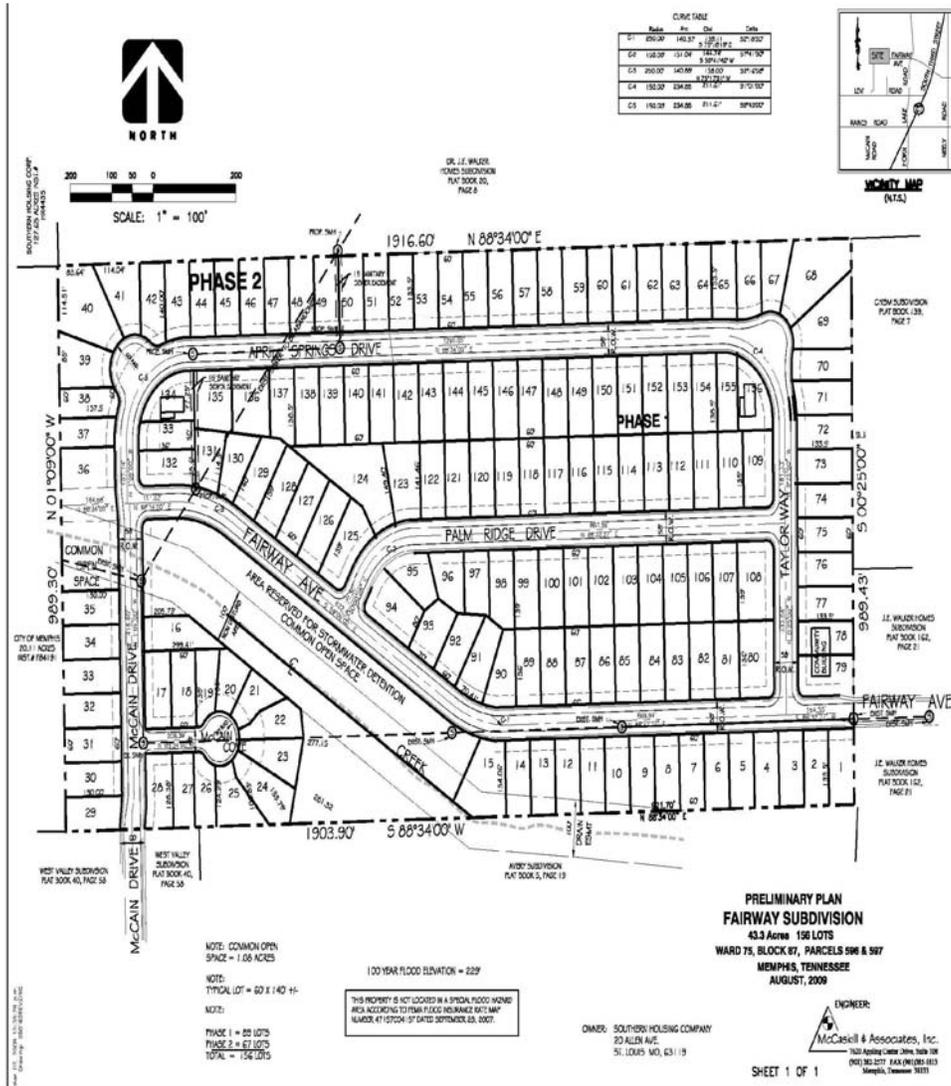
**Existing northern terminus of McCain Drive**



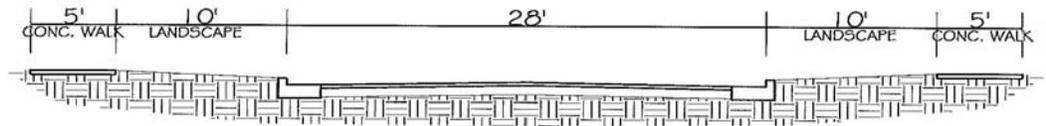
**McCain Drive looking south from site**



**TVA Transmission Line paralleling south property line**

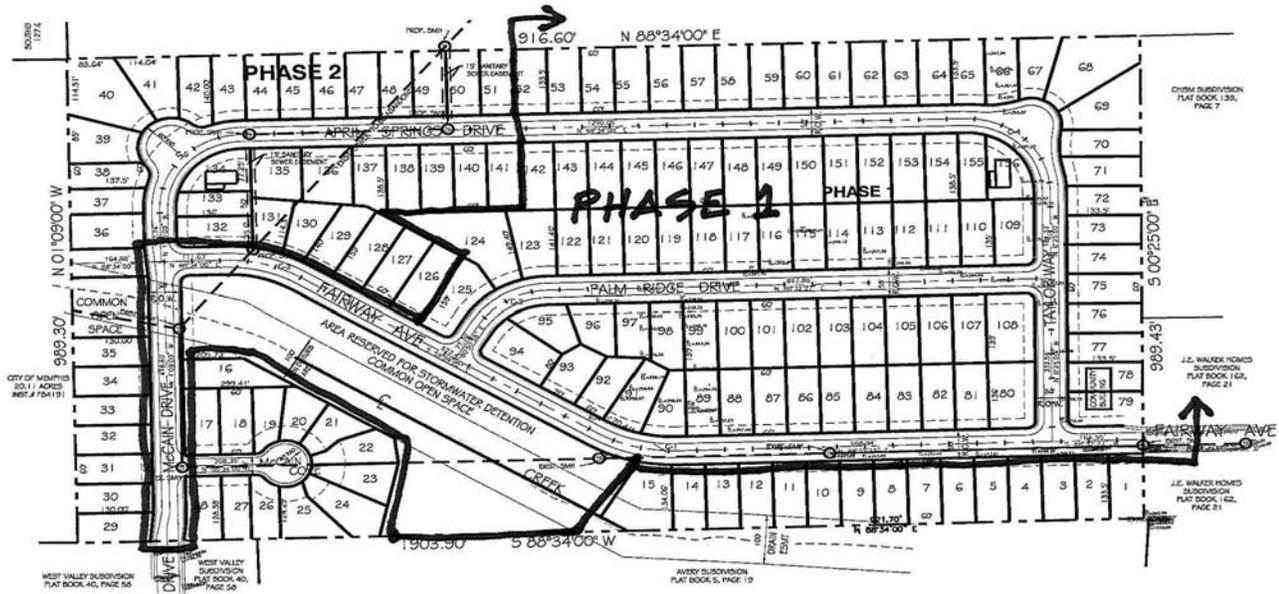


Proposed preliminary plan



TYPICAL STREET SECTION

**Proposed Street Section For All Streets Except McCain Cove**



Proposed Phasing Plan

## **STAFF ANALYSIS**

***Area and Subject Property Character*** – The subject property is located in southwest Memphis in an area that has seen limited new home construction in recent years. Neighborhoods abutting the subject property both north and south are approaching 40 years in age with the exception of the homes directly east of the subject property between the subject property and Horn Lake Road which are some of the newest in the area being built in the late 1990's.

The subject property is 43 acres in size and wooded with elevation differences of 20 feet over the property which will require grading of the site to develop. Natural resources on the site also include a creek at the southwest corner of the property that will be retained as a natural waterway within a common open space area that will be partially improved as a stormwater detention area.

Lots in the area are comparable to the proposed development. Typical lot widths are 60 feet with lot depths of 120 to 140 feet. The typical lot size proposed is 60 feet in width by 140 feet in depth.

Two public streets currently stub into the site (Fairway Avenue and McCain Avenue). Fairway Avenue is a major local street with 52 feet of right-of-way while McCain Street is a minor collector street with 60 feet of right-of-way.

### **Development Proposal**

The applicant proposes development of the property into a total of 156 lots for the construction of single-family homes. The development proposal is atypical of traditional subdivisions in that all the homes to be built will be rental and owned by the developer for a period of 20 years before they can be purchased under a "rent to own" agreement. Under the auspices of federal government oversight, the developer will operate the development under the Department of Housing and Urban Development (HUD) 221d4 requirements which require that development

financing include the ability for renters to accumulate equity toward their rental home for eventual purchase and further that the developer create an escrow account to fund the maintenance of the property including streets, utilities, street lights, sidewalks, and interior and exterior maintenance of the homes.

The initial submittal by the developer contained 170 lots with all streets being private, the premise being the developer would have better management capability by controlling all components of the development including access. The developer has acquiesced and agreed to provide Fairway Avenue and McCain Street as public streets after the Office of Planning and Development objected to not continuing the public street network to tie in to the existing public street stubs. The remaining streets in the development will be private. In order to allay the fears of the planning and engineering staffs that private street development on this scale would not be sustainable due to the lack of private street construction quality requirements, the developer has agreed to bond the private street improvements, build them to public street standards, and provide the inspection of them by the City Engineering Office. The developer has stated that the HUD requirements for street construction already exceed those of the City Engineer.

All streets, both public and private (with the exception of McCain Cove) will be developed using a street cross section that introduces a wide tree lawn from the face of the curb (10 feet wide) with a wider sidewalk (5 feet) for a total right-of-way width of 58 feet. This will assure that there is adequate room for shade tree installation along the streets at one spaced no more than 40 feet apart from the other. This will greatly enhance the appearance of the street and provide a sidewalk wide enough to meet the current requirements of the Americans With Disabilities (ADA) Act. This will also provide a more walkable street with less pavement than currently exists on both the existing sections of Fairway Avenue and McCain Road.

An existing creek bisects the site at the intersection of Fairway Avenue and McCain Drive. The creek will be retained in its natural state and included in a common open space feature that extends across McCain Drive west to provide a tie-in to O.L. Cash Park. The tie-in will be enhanced by a paved walking trail 10 feet in width from McCain Road to the park.

A community building is illustrated on proposed Lots 78 and 79. This may require a Use Variation if it is determined the use cannot be established under R-S6 Zoning. If this use were developed, it should be more centrally located within the development such as in the area of Lots 94 and 95.

A minimum front yard building setback of 20 feet is proposed along all streets. It is recommended that the Fairway Avenue frontage of Lot 1 and 79 provide a minimum setback of 25 feet as a setback transition to the adjoining 30-foot setback east of here on Fairway Avenue and that the same be provided on the

McCain Drive frontage of Lots 28 and 29 for the same purpose. Further, it is recommended that the minimum building setback along McCain Cove be 30 feet to permit the planting of a shade tree in the front yard of each lot.

## **CONCLUSIONS**

The development provides the opportunity for new housing stock in the area. It also continues the public street network and introduces a street cross section that helps enhance neighborhood walkability and provide a more attractive streetscape. Common open space is being provided which also serves as protecting an existing natural resource (the creek) and providing a connection to the adjoining public park. With the commitment of the developer to provide surety and construction quality to all streets at a public street standard, sustainability issues are minimized with respect to providing a privately-owned street network. Conditions of approval follow. The plan is supported based on these being adopted.

### **RECOMMENDATION: Approval of the preliminary plan subject to the following conditions:**

1. All streets may be classified as private drives with the exception of Fairway Avenue and McCain Drive from its existing terminus north to Fairway Drive which will be developed as public streets.
2. Both the public and private streets (with the exception of McCain Cove) shall be developed with a street cross section 58 feet in width that includes 28 feet in pavement, a 10-foot wide tree lawn from face of curb to the front of the sidewalk, and a sidewalk 5 feet in width. The tree lawn shall consist of shade trees being planted no more than 40 feet apart and a minimum tree size of 2 to 2.5 inches caliper at planting.
3. McCain Cove may be developed as a private street with a cross section of 43 feet.
4. The minimum front yard building setbacks on all streets is 20 feet with the following exceptions:
  - Fairway Avenue frontage of Lots 1 and 79 – 25 feet
  - McCain Drive frontage of Lots 28 and 29 – 25 feet
  - Lots fronting on McCain Cove – 30 feet
5. The front yards of the McCain Cove lots along McCain Cove shall include the planting of one shade tree per lot.
6. The common open space and private streets shall be owned and maintained by a property owners association with its ownership and maintenance responsibilities delineated. An instrument establishing this including any ownership and maintenance

requirements of HUD shall be recorded prior to or concurrent with the recording of the final plat.

7. The developer shall install a paved path (asphalt or concrete) opposite Fairway Avenue between Lots 35 and 36 ten feet in width to connect to O.L. Cash Park.
8. Any tree removed during construction within the common open space areas that is ten (10) inches in diameter or greater will require replacement at a 4 to 1 ratio with Tree A's a minimum caliper size of 2 to 2.5 inches. The final plat shall illustrate any trees retained or removed in these areas 10 inches and larger and the in-kind replacement locations of new trees.
9. Clear sight lines shall be established subject to the review and approval of the City Engineer. Lot reconfigurations caused by sight line changes may be approved administratively.
10. For Lots 8-15, any portion of the 100-foot wide drainage easement being part of a lot shall be established as the rear yard setback line if greater than 20 feet from the rear lot line. The drainage easement is to remain free of any structures including fences and noted on the final plat.
11. Tree Ordinance compliance is required.

## **GENERAL INFORMATION**

**Planning District:** Whitehaven/Levi

**Census Tract:** 223.10

**Zoning Atlas Page:** 2325

**Parcel ID:** 075087 00603

**Roadway Frontages:** 52 feet on Fairway Avenue; 60 feet on McCain Drive

## **DEPARTMENTAL COMMENTS**

The following comments were provided by agencies to which this application was referred:

### **City Engineer:**

1. Standard Subdivision Contract as required in Section 500 of Subdivision Regulations.

### **Sewers:**

2. City sanitary sewers are available at developer's expense.
3. The developer shall extend sanitary sewers through the site to serve upstream properties.

### **Roads:**

4. All internal streets shall be dedicated and improved as public rights-of-way on a 45 foot wide cross section (minor local), and all streets shall meet the design requirements of the Subdivision Regulations.
5. Consideration should be given to increasing the radius of the curves on Fairway Avenue because they connect two very long tangent sections. Such curves will have the propensity to cause drivers to run off the road.
6. Provide approved names for all streets reflected on the preliminary plan.
7. Clear sight lines shall be shown on the plat for Lots 108 and 157, in accordance with the Subdivision Regulations.

8. Sidewalks and handicapped access ramps shall be provided along streets and at intersections in accordance with the Subdivision Regulations and shall meet the construction requirements of the ADA.

Curb Cuts/Access:

9. The City Engineer shall approve the design, number and location of curb cuts.

Drainage:

10. An overall drainage plan for the entire site shall be submitted to the City Engineers prior to approval of the first final plan.
11. Drainage improvements, including on-site detention, shall be provided under a Standard Subdivision contract in accordance with Subdivision Regulations and the City of Memphis Drainage Design Manual.
12. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.
13. The developer should be aware of his obligation under 40 CFR 122.26(b)(14) and TCA 69-3-101 et. seq. to submit a Notice of Intent (NOI) to the Tennessee Division of Water Pollution Control to address the discharge of storm water associated with the clearing and grading activity on this site.

Site Plan Notes:

14. An adequate review cannot be made without knowing the maximum number of children at the Daycare Center.
15. Provide a continuous, one-way, on-site traffic pattern or a paved, circular turn-around that will provide for exit by forward motion without any on-site backing of vehicles.
16. Locate the pick-up/discharge area as far as possible from the entrance as practical to maximize on-site queue space for vehicles between the right-of-way and the pick-up/discharge point.
17. Provide a paved and curbed pick-up/discharge area that does not cause children to walk between parked cars or across traffic aisles.
18. All parking areas and driving aisles to be paved with asphalt or concrete.

General Notes:

19. The width of all existing off-street sewer easements shall be widened to meet current city standards.
20. No other utilities or services may occupy sanitary sewer easements in private drives

and yards except for crossings.

21. All connections to the sewer shall be at manholes only.
22. All commons, open areas, lakes, drainage detention facilities, private streets, private sewers and private drainage systems shall be owned and maintained by a Property Owner's Association. A statement to this effect shall appear on the final plat.

**City Fire Division:** No comments received.

**AT&T:** AT&T Tennessee has no comment regarding this new development.

**City Real Estate:** No comment.

**City/County Health Department:**

1. If any monitoring wells were installed as part of an environmental site assessment they must be filled as outlined in Section 6 of the Shelby County Well Construction Code.
2. If any abandoned water wells are present on this site they must be properly filled and abandoned as outlined in Section 9 of the Shelby County Well Construction Code.
3. Since this is a Planned Development that could require the demolition of a structure or structures at this site before starting any demolition activities the developer will need to fill out the attached questionnaire.
4. If a Demolition Permit will be required after filling out the questionnaire then the owner, developer, or contractor must contact the Asbestos Branch in the Air Pollution Control Section at (901) 544-7349 in order to secure the appropriate permit.

**City Board of Education:**

MCS has capacity to accommodate the students that will likely be generated from this development. MCS suggests that the lot numbers be redesigned in accordance to their proposed phasing. The school aged children in this area are zoned to the following schools:

Levi Elementary which is functioning at 74.8% capacity Chickasaw Middle which is functioning at 65.4% capacity Mitchell High which is functioning at 86.1% capacity

**Construction Code Enforcement:** No comments received.

**Memphis Light, Gas and Water:**

MLGW has reviewed the referenced application, and has no objection, subject to the following conditions:

- **It is the responsibility of the owner/applicant** to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- **It is the responsibility of the owner/applicant** to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- **It is the responsibility of the owner/applicant** to comply with the **National Electric Safety Code (NESC)** and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- **Landscaping is prohibited** within any MLGW utility easement without prior approval. It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance - Landscape and Screening Regulations.
- **It is the responsibility of the owner/applicant** to contact **TN-1-CALL @ 1.800.351.1111**, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc
- **It is the responsibility of the owner/applicant** to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s).
- **Fire Protection Water Services: It is the responsibility of the owner/applicant** to contact **MLGW - Water Engineering @ 528-4720** to obtain fire protection/water flow information. If water main extensions and/or an increase in existing main sizes are needed to meet the minimum fire flow rate to serve the proposed development, the owner/applicant will be responsible for the cost of these improvements.
  - Please refer to Section 12.1.1 and Appendix A of the **MLGW Water Service Policy Manual**, which is available online at the following MLGW website: [http://www.mlgw.com/images/water\\_manual.pdf](http://www.mlgw.com/images/water_manual.pdf)
- **It is the responsibility of the owner/applicant** to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.
  - All residential developers must contact MLGW's Residential Engineer at 528-4855 for application of utility services.
  - All commercial developers must contact MLGW's Builder Services line at 367-3343 to initiate the utility installation process.
- **It is the responsibility of the owner/applicant** to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

**Bell South:** No comments received.

**Memphis Area Transit Authority (MATA):** No comments received.

**OPD-Regional Services:** No comments.

**OPD-Plans Development:** No comments received.

**Memphis Park Commission:**

No comments received.

**Neighborhood Associations:**

Ford Road Residents Association: No comments received.

South Memphis Neighborhood Inc.: No comments received.

Valley Forge Civic League: No comments received.

Indian Hills Neighborhood Association: No comments received.

Weaver Rd./Mt. Pisgah Concerned Citizens: No comments received.

Walker Homes Community Association: No comments received.

Concerned Citizens of West Junction: No comments received.

Westwood Neighborhood Association: No comments received.