

MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
STAFF REPORT **#16**

CASE NUMBER: PD 10-303 **L.U.C.B. MEETING:** February 11, 2010

DEVELOPMENT NAME: Kirby Gate Planned Development 3rd Amendment

LOCATION: Southside of Quince Road, beginning 600 feet west of Kirby Parkway and extending west to Wheels Cove

COUNCIL DISTRICT: 2

SUPER DISTRICT: 9

OWNER OF RECORD/APPLICANT: KG Land LLC (Walter Wills)

REPRESENTATIVE: Fisher & Arnold, Inc. (David Baker)

REQUEST: Amendment to Kirby Gate P.D. for addition lot lines and to the concept plan and to add office showroom as a permitted use.

AREA: 54.79 Acres

EXISTING LAND USE & ZONING: Governed by the conditions for Kirby Gate South P.D. (P.D. 05-355)

ANTICIPATED DATE OF PUBLIC HEARING BEFORE CIT COUNCIL – March 9, 2010

SURROUNDING LAND USES AND ZONING:

North: A shopping center in the Local Commercial (C-L) District and an assisted living facility in the Multiple Dwelling Residential (R-MM) District

East: A multi-story office building (approved by Planned Development), retail commercial in the Planned Commercial (C-P) District, and multi-story office buildings (Lennox Park Planned Development)

South: Commercial and office uses in the Local Commercial (C-L) and Planned Commercial (C-P) District

West: A church in the Single Family Residential (R-S10) District and recreation fields (May Park) in the Townhouse Residential (R-TH) District

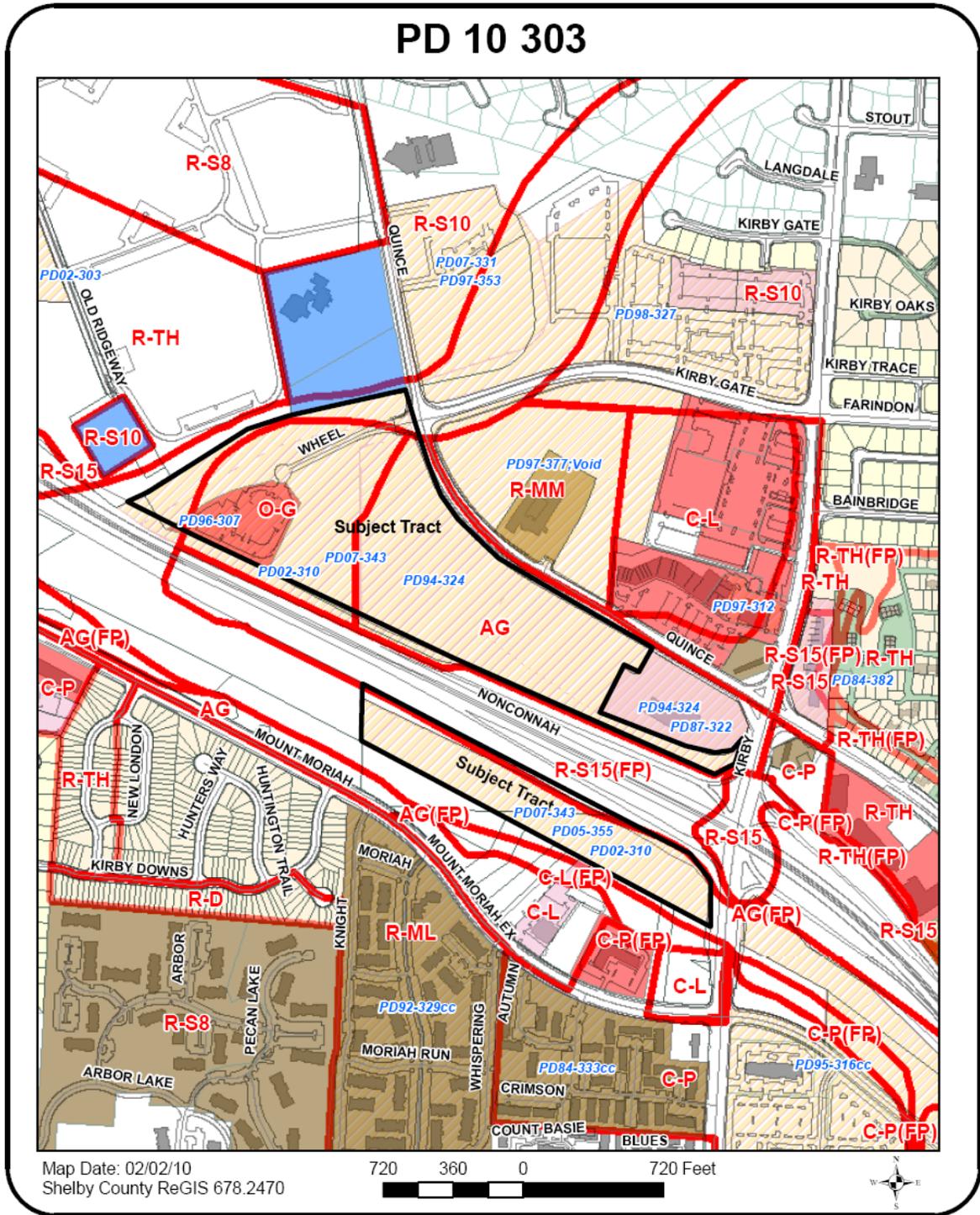
OFFICE OF PLANNING AND DEVELOPMENT
RECOMMENDATION
APPROVAL WITH CONDITIONS

Staff Don Jones

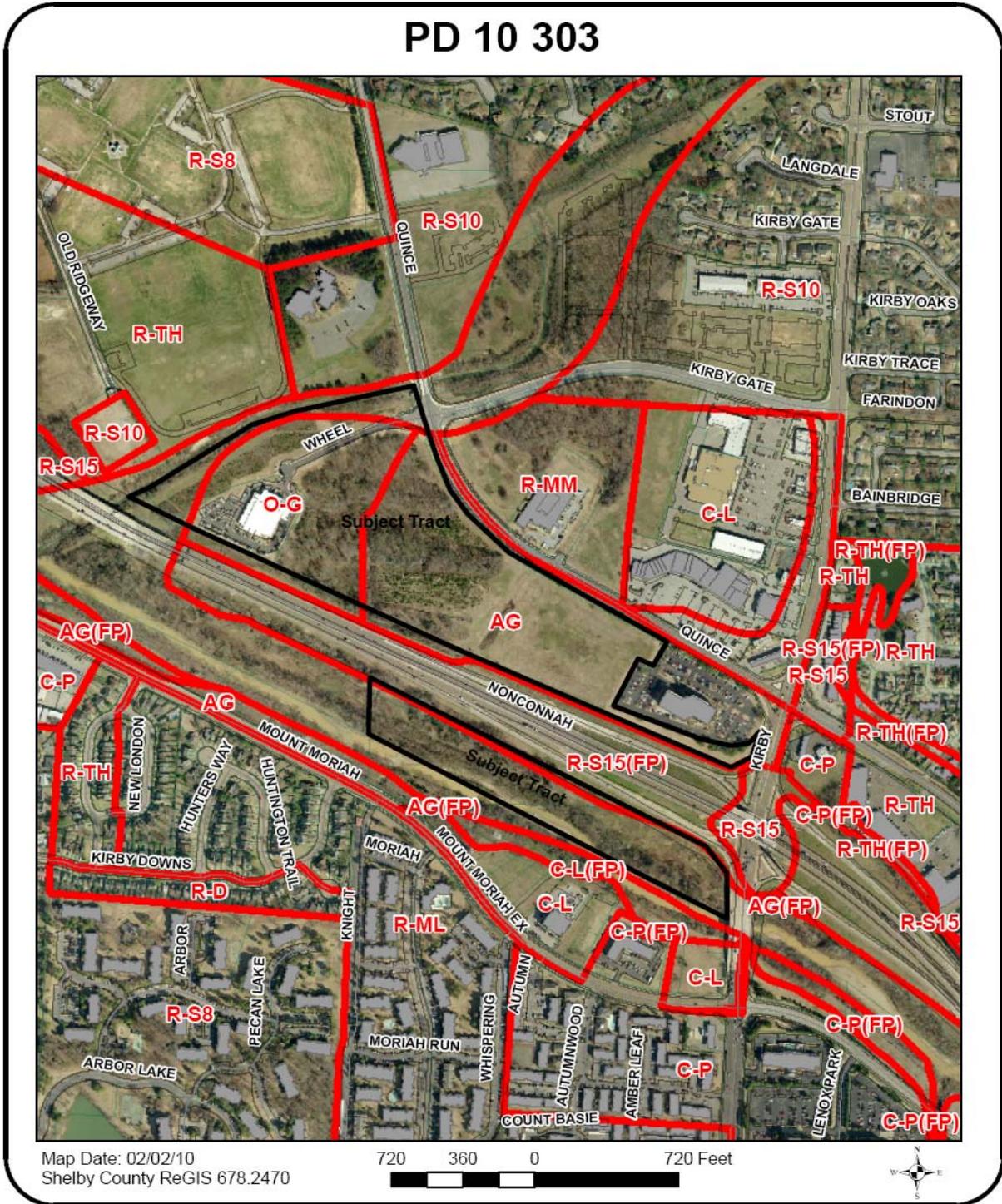
E-Mail john.jones@memphistn.gov

CONCLUSIONS

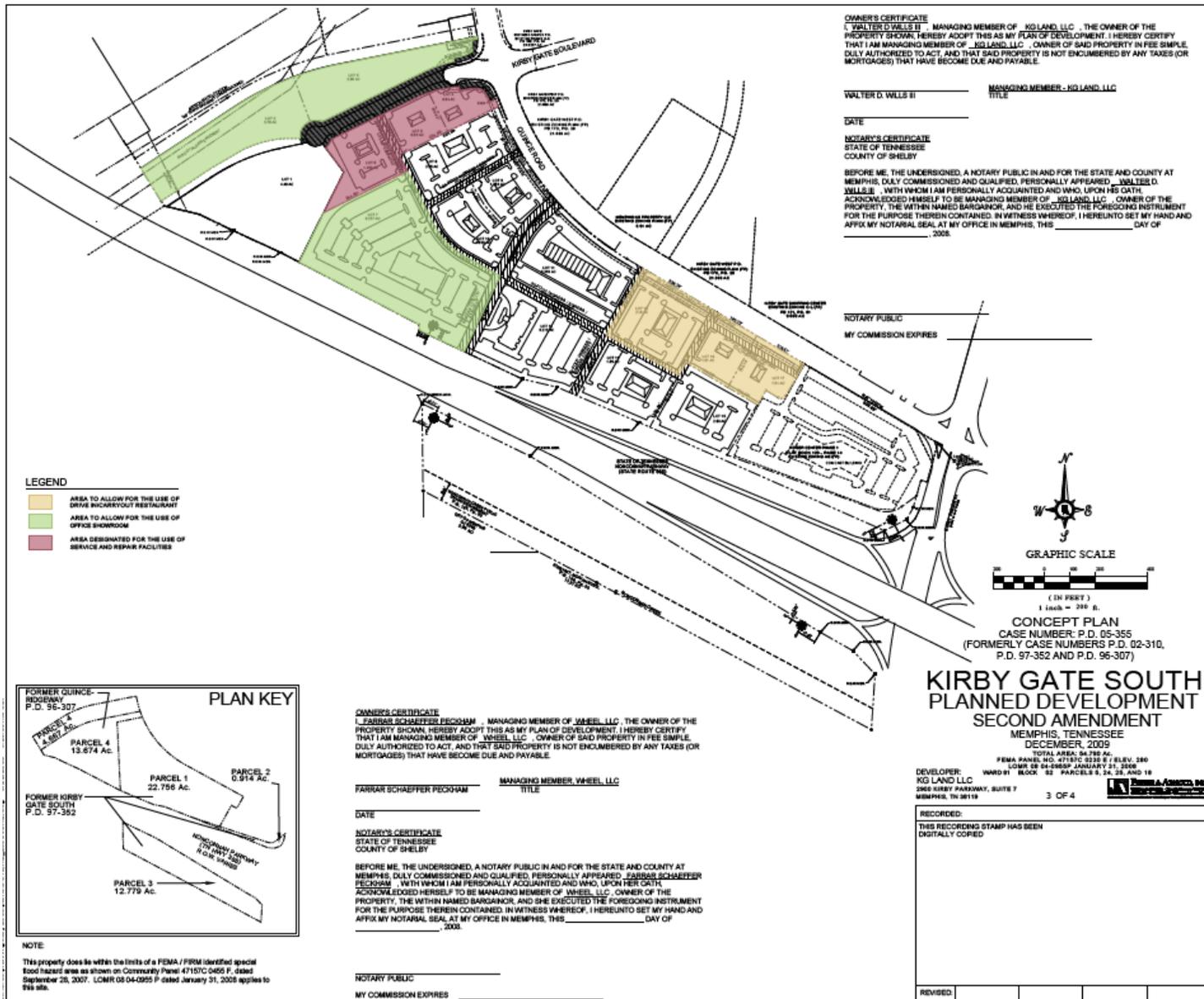
1. The original application for Kirby Gate South dates to 1996. The concept for the site at that time was an office project with some supporting retail near the Quince Road frontage. Three subsequent amendments have been filed since that time amending the permitted uses. The most recent amendment, P.D. 05-355, included the request for the Jaguar Dealership and a detailed site plan and elevations for that use
2. In total, this is a departure from the original plan of development of this site. But the staff is mindful that we are now ten years down the road from that original request and to date only one parcel on this site is developed and it is a part of the most recent amendment to the plan.
3. Each of the three proposed additional uses are in their own way problematic. However, with some attention to the conditions to require building finishes, additional screening for storage and service areas, and the orientation of buildings to both face the public streets and locate the service areas away from public views, the requested changes can be supported.



Zoning and Land Use Map



Aerial



Concept Plan

STAFF ANALYSIS

General Location:

The subject site is located at the southwest corner of Kirby Parkway and Quince in East Memphis. This property extends southward to Nonconnah Parkway and then westward some 3300 feet. The project also contains a small strip of land on the opposite side of Nonconnah Parkway which is limited in use to signage.

Site Characteristics:

This property enjoys a high degree of visibility due to its lengthy frontage along Quince Road and Nonconnah Parkway. The site sits slightly below the grade at Quince Road and below the grade from the elevated Nonconnah Parkway.

As the aerial indicates, the site is vacant with the exception of the Jaguar/Land Rover Dealership near the southwest corner. With respect to physical features there are large sections of mature trees near the center of the site and along the southern and western perimeters.

History:

The original application for Kirby Gate South dates to 1996. The concept for the site at that time was an office project with some supporting retail near the Quince Road frontage. Three subsequent amendments have been filed since that time amending the permitted uses. The most recent amendment, P.D. 05-355, included the request for the Jaguar Dealership and a detailed site plan and elevations for that use. The request was approved by Memphis City Council in 2006. Along with that request, the staff required the applicant to produce a Concept Plan for the site that would show how these seemingly unrelated land uses would work together.

Current Request:

The current request is to amend the current list of permitted uses to include restaurants with drive-in and carry out service, automobile service and repair, and office showroom.

The applicant has provided a colorized version of the Concept Plan to show what parcels would permit these additional uses. In general, the drive-in – carry out restaurant would be permitted along the Quince Road frontage; the office showroom would flank the current car dealership, and the auto service is shown on lots along the east side of Wheel Cove between the dealership and Quince Road.

Review of Request:

In total, this is a departure from the original plan of development of this site. But the staff is mindful that we are now ten years down the road from that original request and to date only one parcel on this site is developed and it is a part of the most recent amendment to the plan.

Restaurant Request- In the language of the Zoning Ordinance a Drive-In Restaurant is one that permits the consumption of food in cars on premise. This is not in keeping with the overall concept for this site. So we are modifying the request to allow restaurants with carry out service and drive thru windows. By definition, these do not permit on-site consumption in cars. Otherwise, these restaurants can fit into an overall plan for a commercial and office development.

Auto Service – These uses can be problematic due to the noise and the outdoor storage of cars and related materials. At the proposed location, the proximity to the dealership along a Cove, suggest that this could be a viable location with minimal impact to surrounding uses.

Office Showroom – Another use of land that is a marked departure from the original plan. The suggested location, along the private cove and in the rear of the site where Nonconnah Parkway is elevated, should be out of the main view from the public rights of way. The original Kirby Gate Planned Development which is located to the north of this location on the west side of Kirby Parkway includes office showroom uses which are at or near full occupancy. And unlike that location, this one is well separated from any residential uses.

General – The plan amendment did not include any elevations. So in addition to clarifying the type of restaurant that would be permitted, these revised conditions also include requirements for building finishes, the location of service bays – similar to the requirements for the approved dealership, and requirements for the location and screening of any vehicles waiting for service.

RECOMMENDATION: APPROVAL WITH CONDITIONS

OUTLINE PLAN CONDITIONS
Kirby Gate South (Second Amendment)
P.D. 05-310

I. Uses Permitted:

- A. Parcel I Any use permitted by right, Administrative Site Plan Review, a Restaurant serving alcoholic beverages, **restaurants with carry out service and drive thru window service** and a Hotel (subject to Site Plan Review before the City Council) in the Local Commercial(C-L) Use District with the following exceptions
1. Auto Service Station
 2. Gasoline sales
 3. Service and Repair
 4. Motor Vehicle Sales
 5. Motor Vehicle Service
 6. Pawn Shop
 7. Drive In Restaurant
 8. Outdoor Sales
- B. Parcel II. Integrated Center Signs as regulated by the C-L District and condition V below.
- C. Parcel III Open space and Integrated Center Signs as regulated by the C-L District, and condition V below.
- D. Parcel IV. Any use permitted by right, administrative site plan review, or special use permit in the General Office (O-G) District, plus the following commercial uses:
1. Hotel or motel
 2. Day care center, retail bakery, cleaning pick-up station, personal services establishment or photo-finishing establishment, provided they are located on the first floor of an office building and to not exceed 5,000 square feet of floor area per building.
 3. Retail shop, restaurant, or other personal service businesses are permitted with a maximum floor area of 15,000 square feet.
 4. One automobile dealership for Jaguar Land Rover Brand and support facilities.
 - a. This site shall be used only as a new automobile dealership. If the new car dealership ceases to operate, no independent used car operation will be permitted on this property.

- b. No outdoor speakers shall be permitted. Banners, flag stringers and similar sales promotions are prohibited.

5. Automobile Service and Repair at the locations shown on the Concept Plan

II. Bulk Regulations:

- A. Parcel I shall be regulated by the Local Commercial District with the following additional conditions:

- 1. The development shall comply with the setback requirements of the C-L District.
- 2. Retail commercial (non-office) uses shall observe a Floor Area Ratio of .25.
- 3. Maximum height for office - 85 feet.

- B. Parcel IV shall be regulated by the O-G District and the following additional conditions.

- 1. Maximum building height - 85 feet, or six stories.
- 2. The maximum gross floor area ratio shall be 0.5.
- 3. The maximum height and building setback for any new building in this P.D. are further regulated by the Scenic Highways Act, as applicable.
- 4.
 - a. Parcel 4, the automobile sales building shall be as generally depicted on the attached picture, with earth tone colors. The building elevations shall be illustrated on the Final Plat.
 - b. The service entrances shall be designed with recessed doorways and architectural/landscaping features that mask the doorway. The doors shall remain closed except when permitting entry to or exit from the service bays.
 - c. No roof mounted HVAC shall be permitted

- 5. **Cars waiting to be serviced shall be stored behind the building and the storage area shall be screened from public view and that of adjoining lots by a combination of screening and landscaping that is subject to the review and approval of the OPD.**

C. All buildings with frontage on Quince Road:

- 1. Shall be oriented to Quince Road with actual functioning front doors.**
- 2. Shall be composed of a minimum of 80 percent brick (all four sides) with the remaining area being composed of glass, stucco, or eifs, materials.**
- 3. Shall provide a parapet or other architectural feature to screen roof-top HVAC equipment.**
- 4. Parking between the building and the street right of way shall be limited to a double row of parking stalls and a drive aisle (60 feet).**
- 5. Service bays and loading areas shall be limited to the rear elevation of the buildings**
- 6. Elevations shall be submitted with each final plat.**
- 7. Roofs shall contain a seamless metal material.**

D. Buildings that abut Nonconnah Parkway:

- 1. Shall be composed of brick, or eifs material with an earth tone color and may contain decorative metal architectural accents.**
- 2. Shall meet the requirements of B. 4. a., b., c. above**
- 3. Roofs shall be composed of a seamless metal material.**

E. All other buildings:

- 1. Shall be composed of 80 percent brick (all four sides) with the remaining area being composed of glass, eifs, or stucco and decorative metal as an architectural accents.**
- 2. Shall orient its service doors to the rear of the structure.**

III. Access and Circulation:

- A. Dedicate 42 feet from centerline of Quince Road and improve in accordance with Subdivision Regulations.**
- B. Reserve right of way 42 feet from the centerline of Ridgeway Road Extended.**
 - 1. The final plat for Parcel 4 shall provide access to Quince Road via a private drive that is designed as a tree lined lane from Quince Road to the dealership entrance (the private drive and the landscaping shall be included in Common open space).**

- C. Dedicate a 3-centered corner radius at the intersection of Quince Road and Ridgeway Road.
 - D. The City Engineer shall approve the design, and location of curb cuts.
 - E. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
 - F. Any curb cut along the Quince Road frontage beginning closer than 300 feet from the centerline of Kirby Parkway will be limited to right in/right out access only.
 - G. Curb cuts along Wheel Cove shall be subject to the review of the City Engineer during the Final Plat or Administrative Review process.**
 - H. Four curb cuts as generally shown on the concept plan shall be permitted along the Quince Road frontage. Curb cuts shall be spaced 300 feet apart.**
 - I. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.
 - J. The Final Plat shall indicate how access will be provided to Parcel III, subject to the review and approval of the City Engineer.
 - K. No access to Quince Road will be permitted from Lot 3.**
- IV. Landscaping, Screening, and Lighting: :
- A. Quince Road and Ridgeway Road shall be landscaped with Plate A-4(20 feet wide).
 - B. Internal parking lot landscaping shall be provided at minimum ratio of 300 square feet of landscaped area and one shade tree (Tree A from the approved plant list of the Landscape Ordinance) per every 20 parking spaces or fraction thereof. Required perimeter landscaping shall not be included when calculating internal landscaping.
 - 1. Parcel 4:(Lot 1)The large expanse of parking/display area west of the building footprint shall be broken up with the use of a landscaped pedestrian pathway system.
 - 2. Parcel 4: (Lot 1) The landscape plan shall be illustrated on the Final Plat.

- C. Equivalent landscaping may be substituted for that required above, subject to the approval of the Office of Planning and Development.
- D. Required landscaping shall not be placed on sewer or drainage easements.
- E. Existing trees shall be preserved wherever possible.
- F. Nonconnah Parkway frontage of Parcels One and Two and Four shall be landscaped with a 20 foot wide area composed of deciduous trees subject to the approval of the Office of Planning and Development.
- G. Lighting shall be directed so as not to glare onto residential property.
 - 1. Parcel 4: All outdoor lighting shall be directed downward to the extent possible and shall not be directed toward Bill Morris/Nonconnah Parkway.
 - 2. Lighting Fixtures shall have a shoe box design with “dark sky technology lensing.
- H. Refuse containers shall be completely screened from view from adjacent properties.
- I. All HVAC equipment shall be screened from view through the use of landscaping, fencing or architectural features.
- J. A detailed landscape and lighting plan shall be approved by the Office of Planning prior to the issuance of any building permit. Further, no final use and occupancy permit shall be issued without the express written certification by the Office of Planning and Development that the development is in conformance with the approved landscaping and site lighting plan.
- L. The landscaping requirements for locations other than those specified above, such as the lots are either side of Wheel Cove or the streetscapes along internal private drives shall meet the minimum requirements of the A-1 or A-2 Plates depending on the arrangement of the internal parking.**
- M. Along the west property line of Parcel IV (Lots 2 & 3) the existing tree line shall be maintained for a minimum width of 30 feet.**

- V. Signs: Signs for Parcel I shall be regulated by the C-L District requirements, signs for Parcel IV. shall be regulated by the General Office District and signs for Parcels II and III are indicated below with the following exceptions or additional requirements.
- A. Detached signs, except where noted below, will be limited to a maximum of 20 feet in height, and 100 square feet in sign area.
 - B. Integrated Center Signs with a maximum height of 35 feet and a maximum area of 250 square feet shall be permitted at the locations shown on the Outline Plan.
 - C. All detached signs shall be ground mounted, no pole signs shall be permitted.
 - D. All detached signs shall be setback a minimum of 15 feet from the right of way.
 - E. The total number and total square footage of detached signs, shall not exceed what is permitted by the sign regulations in the C-L District and O-G District as applicable.
- VI. Drainage:
- A. Design and construction of the storm water conveyance and management facilities for this project shall be in accordance with the Subdivision Regulations and the “City of Memphis Drainage Design Manual”. Adequate non-buildable area shall be provided on each final plan for required on-site storm water detention facilities as determined by drainage calculations performed in accordance with the Drainage Manual and approved by the City Engineer.
 - B. This project must be evaluated by the Tennessee Department of Health and Environment regarding their jurisdiction over the water courses on this site in accordance with the Water Quality Control Act of 1977 as amended (TCA 69-30101 et seq).
 - C. All drainage emanating on-site shall be private. Easements will not be accepted.
 - D. All drainage plans shall be submitted to the City Engineer for review.

- VII. The Land Use Control Board may modify the bulk, access, parking, landscaping, loading, screening, signage, and other site requirements if equivalent alternatives are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder may, within ten days of such action file a written appeal to the director of the Office of Planning and Development, to have such action reviewed by the Appropriate Governing body.
- VIII. A final plan shall be filed within five years of the approval of the outline plan. The Land Use Control Board may grant extensions at the request of the applicant.
- IX Any final plan shall include the following:
- A. The Outline Plan conditions.
 - B. A standard improvement contract as defined by the Subdivision Regulations of r any needed public improvements.
 - C. The exact location and dimensions including height, of all buildings, parking areas, utility easements, drives, trash receptacles, loading facilities, and required landscaping and screening areas.
 - D. The number of parking spaces
 - E. The location and ownership, whether public or private of any easement.
 - F. If applicable, a statement conveying all common facilities and areas to a property owner's association or other entity, for ownership and maintenance purposes.
 - G. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City Engineer's Office. Such maintenance shall include, but not be limited to: removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.
 - H. The 100 year flood plain boundary line and elevation. plat and engineering plans.
 - I. The Floodway boundary shall be reflected on the final plat and engineering plans.

X. Other

- A. The Master Plan (Concept Plan) for the Kirby Gate South Planned Development shall be recorded as a part of the Outline Plan package. The Outline Plan is intended to show the general configuration of buildings, parking and circulation.
- B. The Master Plan (Concept Plan) shall be re-recorded to revise the boundaries of Parcels 1 and 4, so that these boundaries will conform to the request for changes in uses (ie. the request for restaurants with drive thru windows is in Parcel I and the request Office Showroom and Automobile Service is in Parcel IV).**
- C.
- D. The final plan of Parcel 4, Phase 1 shall show the reservation of Ridgeway Road with the required landscaping, unless and until this right-of-way is no longer required by the Metropolitan Planning Organization (MPO). If the requirement is deleted by the MPO, then the private drive shall be continued with landscaped islands as shown on the Master Plan and subject to the review and approval of the OPD.
- E. **A Final Plat shall be submitted to the OPD for review and approval. In the event that there is a disagreement between applicant and staff as to the meaning or a condition, either party may appeal the condition, other than Uses Permitted to the Land Use Control Board and if desired to the Memphis City Council.**

GENERAL INFORMATION

Street Frontage: Quince Road+/- 40 Feet
Nonconnah Parkway...+/- 650 Feet

Planning District: Shelby Farms-Germantown

Census Tract: 213.31

Zoning Atlas Page: 2345

Parcel ID: 081052 00005, 081052 00018, 081052 00024, 081052 0

Zoning History: Kirby Gate South P.D. was originally approved in 1996. The most recent amendment (P.D. 05-355) was approved by the Memphis City Council in February 2006. This amendment permitted the addition of the Jaguar/Land Rover Dealership.

DEPARTMENTAL COMMENTS

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

City Engineer:

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

Curb Cuts/Access:

3. The City Engineer shall approve the design, number and location of curb cuts.
4. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
5. The proposed curb cut locations along Quince Road as shown on the concept plan are generally acceptable.
6. Four (4) new curb cuts along the Quince Road frontage will be permitted. Curb cuts shall be spaced 300 feet apart.
7. The proposed curb cut on the Kirby Gate Blvd frontage of Lot 4 is located too close to the radius of the intersection. This curb opening shall be relocated to the common property line between Lots 4 and 5.

8. No access to Quince Road will be permitted from Lot 3.
9. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards,

Drainage:

10. 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.
11. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.
12. 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:

13. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.

General Notes:

14. The width of all existing off-street sewer easements shall be widened to meet current city standards.
15. 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.
16. Required landscaping shall not be placed on sewer or drainage easements.

City Fire Division: No comments received.

City Real Estate: None.

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 any demolition 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.
5. For your convenience go to the following link in order to locate a Microsoft Word and PDF version of the demolition questionnaire for your use:

City Board of Education: No comments received.

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:

- The subject property, **Parcel 3**, is encumbered by an existing utility right of way easement, which may include overhead and underground facilities. MLGW prohibits any development or improvements within the Easement, except as provided by the **MLGW Right of Way Encroachment Policy**.
- **It is the responsibility of the owner/applicant**, prior to any development, to contact **Ronnie Alberson, Land Rights Specialist, with MLGW @ 528-4186** and obtain written approval for any improvements within the Easement.
- **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 contact MLGW-Property Management, Land Rights Specialist @ 901-528-4186 to request a Release Deed for release of easement for any existing MLGW Easement(s) in conflict with the proposed development.
- **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 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
- **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.

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

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

OPD-Regional Services: No comments received.

OPD-Comprehensive Planning: No comments received

Memphis Park Services: No comments received.

Neighborhood Associations:

Kirby Trace Neighborhood Association: No comments received