

**MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND  
DEVELOPMENT**

**STAFF REPORT**

**#9**

**CASE NUMBER:** PD 11-316 **L.U.C.B. MEETING:** October 13, 2011

**DEVELOPMENT NAME:** Kirby Gate West (Revised) Planned Development

**LOCATION:** North side corner of Quince Road; +/-980 feet west of Kirby Gate Road

**COUNCIL DISTRICT:** 2

**SUPER DISTRICT:** 9

**OWNER OF RECORD:** Wills and Wills L.P. (Walter Wills)

**APPLICANT:** Jack Erb Company

**REPRESENTATIVE:** Fisher and Arnold Engs, Inc (David Baker)

**REQUEST:** Retail and office uses **AREA:** 2.11 Acres

**EXISTING LAND USE & ZONING:** Vacant land in the Residential Urban-3 (RU-3)  
and Residential Urban – 3 Floodplain (RU-3 [FP]) Districts

**OFFICE OF PLANNING AND DEVELOPMENT  
RECOMMENDATION**

**Approval with Conditions**

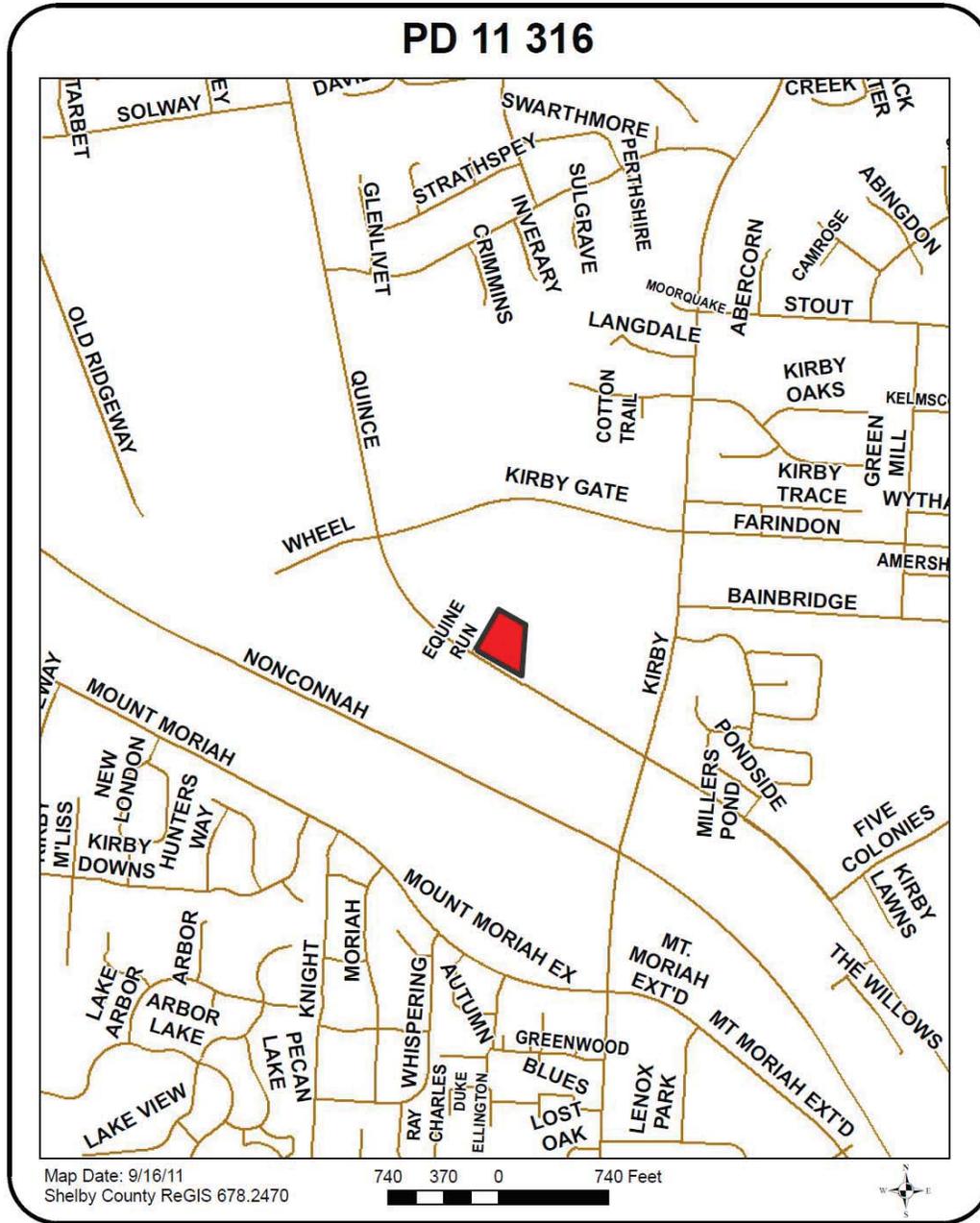
Staff: Don Jones

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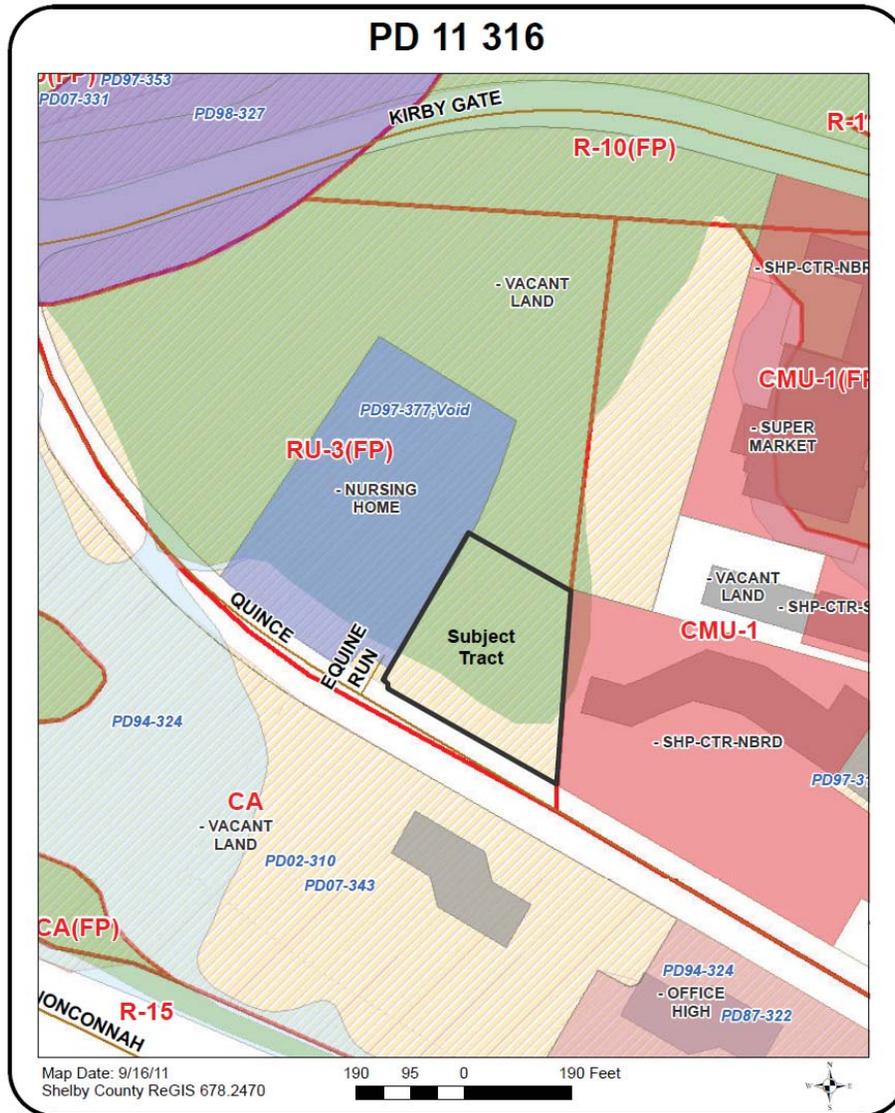
**CONCLUSIONS**

1. The subject property was previously included in a Planned Development (Kirby Gate West – P.D. 97-377). The Outline Plan expired in April of 2003.
2. The proposed development is consistent with the development pattern in this area. The proposed conditions borrow from the approved conditions for the Kirby Gate South P.D. so that the streetscape and building appearances will be consistent.

### General Location Map



### LAND USE AND ZONING MAP



#### SURROUNDING LAND USES AND ZONING:

- North:** Vacant land in the Residential Urban -3 (RU-3) and Residential Urban-3 Floodplain (RU-3 [FP]) Districts
- East:** A retail commercial shopping center in the Commercial Mixed Use -1 District
- South:** Predominately vacant land in the Kirby Gate South Planned Development (P.D. 10-303)
- West:** An assisted living facility in the Residential Urban – 3 (RU-3) and Residential Urban -3 Floodplain (RU-3[FP]) Districts

# PD 11 316



Map Date: 9/16/11  
Shelby County ReGIS 678.2470

190 95 0 190 Feet







## **STAFF ANALYSIS:**

### General Location and Overview:

The subject property is a two acre site located on the north side of Quince Road approximately 1,000 feet west of Kirby Parkway. This area is also known as the Kirby Gate area and there are three other large tracts of land to the north, west, and south of this site that are in approved planned developments with the name Kirby Gate; Kirby Gate Business Park, Kirby Gate Northwest, and Kirby Gate South.

The Kirby Gate area generally extends west of Kirby Parkway to Howard Creek; and northward from Nonconnah Parkway to Kirby Gate Cove. The Kirby Gate projects include or have been approved for a mixture of uses including office and office warehouse, retail and service based commercial, and medical uses including doctors clinic, out-patient medical service, convalescent care and hospice.

The subject property was previously included in a Planned Development (Kirby Gate West – P.D. 97-377) which included the subject property and an additional 18 acres to the north and west of this site. The planned development was approved for a mix of office, commercial, multi-family units and a hotel. The Outline Plan was approved by the Memphis City Council, but a final plat was never recorded. The Outline Plan expired in April of 2003. In the meantime, an assisted living facility was developed under the existing zoning and is located immediately west of this site.

The current plan for just over two acres is submitted as a revised plan. The applicant has indicated that he did not have a firm plan for the balance of the land. Current P.D. requirements include the filing of a conceptual plan for the development of the subject site. Thus, the applicant has filed a revised application for the 2+ acres where there is a firm concept plan.

### Review of Request:

The proposed site plan divides the subject area into two development parcels. Parcel one proposes a 16,000 square foot discount, department store with a separate drive thru window for a pharmacy, and parking between the building and the street. Parcel two is a 1,500 square foot office or retail use with limited parking between the building and street.

The Kirby Gate area is a large area of land that includes some intensively developed areas some equally large areas of undeveloped land. In this instance, the original Kirby Gate Shopping Center abuts this site to the east. To the west is the aforementioned assisted living facility which in a one story building. Immediately north of the subject property is vacant land in the multiple dwelling district and to the south across Quince Road is a mostly undeveloped site, Kirby Gate South PD which permits a mix of office and retail uses.

The proposed development is consistent with the development pattern in this area. The proposed conditions borrow from the approved conditions for the Kirby Gate South P.D. so that the streetscape and building appearances will be consistent.

**RECOMMENDATION:            APPROVAL WITH CONDITIONS**

## **OUTLINE PLAN CONDITIONS**

Kirby Gate West – Revised – Planned Development  
P.D. 11-316

### **I. USES PERMITTED:**

#### **A. Parcels 1 and 2:**

Retail Sales and Service, and Office as regulated by the CMU-3 District, except the following uses are not permitted:

1. Animal Hospital, Veterinary/Pet Clinic
2. Convenience store with Gas pumps/Gas Station
3. Greenhouse or Nursery, Commercial
4. Payday Loans and Title Loan establishment
5. Pawnshop
6. Tattoo, Palmist, Psychic or Medium
7. Outdoor Retail Sales or Open air sales (not to be confused with the outdoor display that is permitted in Chapter 4.9)
8. Flea market
9. Automotive Sales or Service
10. Any retail or service use that requires Outdoor Display or Storage in excess of what is permitted for “Outdoor Display and Sales” as discussed in Section 4.9.4 of the Memphis and Shelby County Unified Development Code (UDC).

#### **B. Upper-Story Residential and Live-Work uses as regulated in the Household Living category of the CMU-3 District are permitted.**

### **II. BULK REGULATIONS:**

#### **A. Building Setbacks for Parcel 1 and 2 shall be:**

1. Front facing Quince Road – 30 feet  
Front facing internal roads – 20 feet
2. Side – 0 feet when adjacent to non – residential  
10 feet when adjacent to residential
3. Rear - 0 feet when adjacent to non – residential  
10 feet when adjacent to residential

#### **B. Maximum building heights - A maximum of 35 feet.**

- C. Buildings shall be composed of a minimum of 80 percent brick (all four sides) exclusive of windows and doors. The remaining building facades may include brick, or other masonry materials. Exposed decorative materials may be permitted for doorways and windows, but shall not be primary building material.
- D. Roofs shall contain an architectural quality standing seam or seamless metal material, architectural shingle or membrane roof system.

### **III. ACCESS, CIRCULATION, AND PARKING:**

- A. Quince Road shall be dedicated to 42 feet from the centerline and improved in accordance with the alignment on file with the City Engineer's Office.
- B. The design, number, and location of curb cuts are subject to the review and approval of the City Engineer.
- C. Internal circulation between all phases of similar development shall be provided.
- D. Equine Lane shall be dedicated and improved as 50' wide right-of-way, and 30 feet of pavement and shall meet the design requirements of the Subdivision Regulations.
- E. Parcel 1 shall provide bicycle parking at the number and location required by Sub-Section 4.6.3 C of the Memphis and Shelby County Unified Development Code.
- F. Final Plat shall indicate the actual location of the drive thru window and demonstrate adequate queuing space for 4 vehicles.
- G. Dedicate an appropriate property line radius to accommodate sidewalks and handicapped access ramps within the right of way of the proposed street at the corner of Quince and Equine Run. The required curb radius is 20 feet.
- H. The developer shall provide a temporary asphalt turn around (33' radius) at the end of Equine Run.
- G. 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,

#### IV. LANDSCAPING:

- A. Quince Road frontage shall be landscaped with an S-11 Plate or an equivalent that is acceptable to the Office of Planning and Development (25 feet wide.) An equivalent will consider keeping the existing grass strip and sidewalk at their current location and providing the berm, grass area, trees and shrubs behind the sidewalk in a 25 foot wide area.
- B. Equine Lane road frontage shall be landscaped with a S-10 Plate (10 feet wide), or an equivalent that is acceptable to the Office of Planning and Development. The equivalent will be permitted to provide a grass strip and sidewalk in the right of way and trees and shrubs in the 10 foot wide area behind the grass strip.
- C. Internal parking lot landscaping shall be provided at a minimum ratio of 300 square feet of landscaped area and one shade tree (Tree A from the approved plant list of the Landscaped Ordinance) per every 10 parking spaces or fraction thereof. Required perimeter landscaping shall not be included when calculating internal landscaping. The required planting area shall be equal to 15% of area devoted to parking.
- D. Equivalent landscaping may be substituted from that required above, subject to the approval of the Office of Planning and Development.
- E. Lighting shall be consistent with the requirements of Chapter 4.8 of the Unified Development Code and the lights shall be directed so as not to glare onto residential property.
  - 1. Photometric analysis shall be provided to show that this requirement is being met. If necessary, certification from the lighting industry that such analysis is consistent with the guidelines the IESNA may be required.
- F. Refuse containers and loading area shall be completely screened from view from the adjacent residentially zoned properties as described in Section 4.7.8.
- G. HVAC and Utilities will likewise be required to provide screening as required by Section 4.7.8. Roof mounted HVAC shall required screening by an architectural element such as a parapet.
- H. Screening the north property line to address F. and G. above shall consist of a Class I Buffer with a fence and trees spaced 25 feet on center.
- I. Existing trees shall be preserved wherever possible.

- J. A detailed landscape and site lighting plan shall be approved by the Office of Planning and Development prior to the issuance of any building permit. Further, no final use or 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.

**V. SIGNS:**

- A. The maximum size for detached signs shall be 100 square feet.
- B. All detached signs shall be set back a minimum of 10 feet from the right-of-way of all public streets.
- C. The maximum height for detached signs shall be according to road frontage:
  - 1. Quince Road - 20 feet.
- D. No signage, (detached or attached) shall be permitted along the Equine Lane frontage.
- E. Changeable Copy Automatic (a.k.a electronic message boards) shall be prohibited.

**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 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 watercourses on this site in accordance with the Water Quality Control Act of 1977 as amended (TCA 69-3-101 et. seq.).
- C. All drainage emanating on site shall be private. Easements will not be accepted.
- D. 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.

- E. Required landscaping shall not be placed on sewer or drainage easements.
- 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 Bodies.
- 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. If approved by the Memphis City Council, this Planned Development will supersede and replace the previous Outline Plan.
- IX. ANY FINAL PLAN SHALL INCLUDE THE FOLLOWING:**
- A. The outline plan conditions.
  - B. A standard subdivision contract as defined by the Subdivision Regulations for 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.

## GENERAL INFORMATION

**Street Frontage:** Quince Road ..... +/- 376 Feet  
Equine Lane ..... +/- 265 Feet

**Planning District:** Quince

**Census Tract:** 213.20

**Zoning Atlas Page:** 2235

**Parcel ID:** 081053 00071

**Zoning History:** A Planned Development (P.D. 97-377), Kirby Gate West was approved for a 21 acre site by the City Council in April of 1998. The Outline Plan divided the property into two development areas and permitted a range of uses including retail commercial, office, multi-family and a hotel. A Final Plan was never filed so the Outline Plan lapsed.

## 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. The proposed street, Equine Run, does not meet the standards of the UDC in width. Since this is expected to provide access for commercial traffic and shows a truck dock at the rear of the proposed Fred's, the street width should be a minimum of 36 feet from face of curb to face of curb with the required amount of right-of-way on either side to accommodate landscaping and sidewalks in accordance with the UDC. Since this is an amendment to the previously approved outline plan, the UDC will govern.
5. Dedicate an appropriate property line radius to accommodate sidewalks and handicapped access ramps within the right of way of the proposed street at the corner of Quince and Equine Run. The required curb radius is 20 feet.

6. The developer shall provide a temporary asphalt turn around (33' radius) at the end of Equine Run.

Curb Cuts/Access:

7. The City Engineer shall approve the design, number and location of curb cuts.
8. 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:

9. 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.

Site Plan Notes:

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

General Notes:

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

**City Fire Division:**

No comments received.

**City/County Health Department:**

No comments by the Water Quality Branch & Septic Tank Program.

**City Board of Education:**

The subject property does not appear to be adjacent to any property which has been identified as belonging to Memphis City Schools (MCS). No identifiable impact on MCS' school-aged population nor MCS' property interests.

**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:

- **STREET NAMES:** Please label the proposed 50' ROW, located on the west side of the PD as "Equine Run Lane". **It is the responsibility of the owner/applicant** to contact MLGW–Address Assignment @ 729-8628 and submit proposed street names for review and approval.
- **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 **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 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 easement or dedicated utility easement without prior MLGW approval.
  
- **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 Builder Services: (901) 729-8675 for application of utility services.
  - All commercial developers must contact MLGW's Builder Services line at 729-8630 (select option 2) to initiate the utility installation process.
- **It is the responsibility of the owner/applicant** to pay the cost of any

**AT&T/Bell South:**

AT&T Tennessee has no comment.

**Memphis Area Transit Authority (MATA):**

No comments received.

**OPD-Regional Services:**

No comments received.

**OPD-Comprehensive Planning:**

No comments received.

**Memphis Park Commission:**

No comments received.

**Neighborhood Associations:**

**Kirby Trace Neighborhood Association:**

No comment received