



# STAFF REPORT

AGENDA ITEM: 8

**CASE NUMBER:** SAC 19-12 **L.U.C.B. MEETING:** December 12, 2019  
**LOCATION:** South of the improved section of Kirby Road and north of Sulgrave Drive  
**COUNCIL DISTRICT:** District 2 and Super District 9 – Positions 1, 2, and 3  
**OWNER/APPLICANT:** Josephine & William Schilling and Ivy Grove Kirby LLC / Ivy Grove Kirby LLC  
**REPRESENTATIVE:** W. H. Porter, P.E. – Tim Dagastino and Henry Porter  
**REQUEST:** Divesture of an unimproved portion of Kirby Road  
**AREA:** +/-6,534 square feet  
**EXISTING ZONING:** Residential Single-Family – 10 (R-10)

## CONCLUSIONS

1. The applicant is seeking the divesture of an unimproved portion of Kirby Road.
2. This connection of Kirby Road to Sulgrave Drive was physical closed circa 2000 with the construction of Kirby Parkway.
3. Easements will be required to accommodate any existing public utilities, including electric, gas, water, CATV, telephone, sewer, drainage, etc. or their relocation at the applicant/developer's expense.
4. This divesture would not have any undue or substantial effect upon the existing vehicular and pedestrian traffic flow of the surrounding area as the subject public right-of-way exists only on paper and there are no existing physical roadway improvements.

## CONSISTENCY WITH MEMPHIS 3.0

The Memphis 3.0 General Plan is not applicable as it does not address the divesture of paper right-of-way.

**RECOMMENDATION:**  
*Approval with conditions*

**GENERAL INFORMATION**

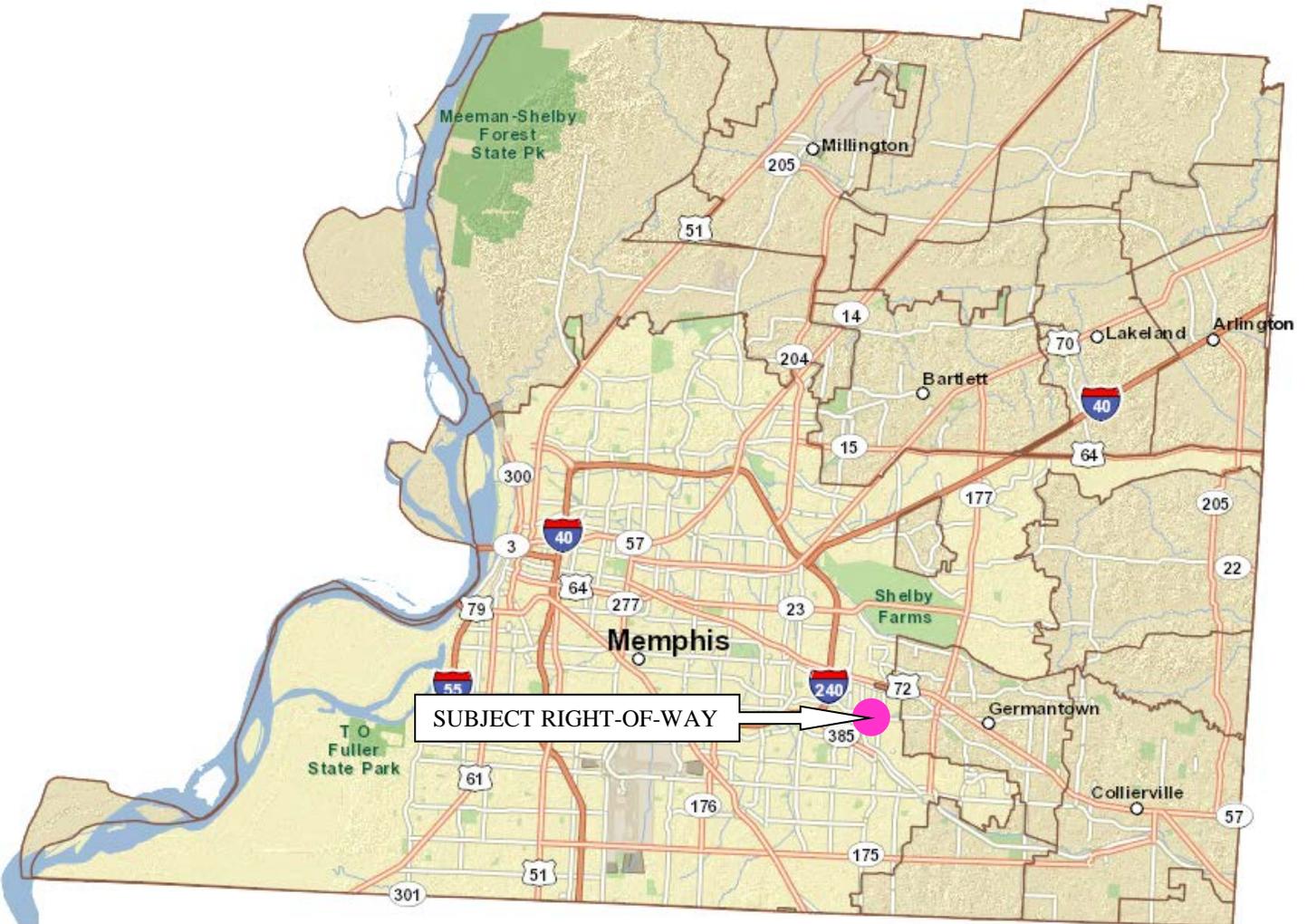
**Zoning Atlas Page:** 2250

**Existing Zoning:** Residential Single-Family – 10 (R-10)

**PUBLIC NOTICE**

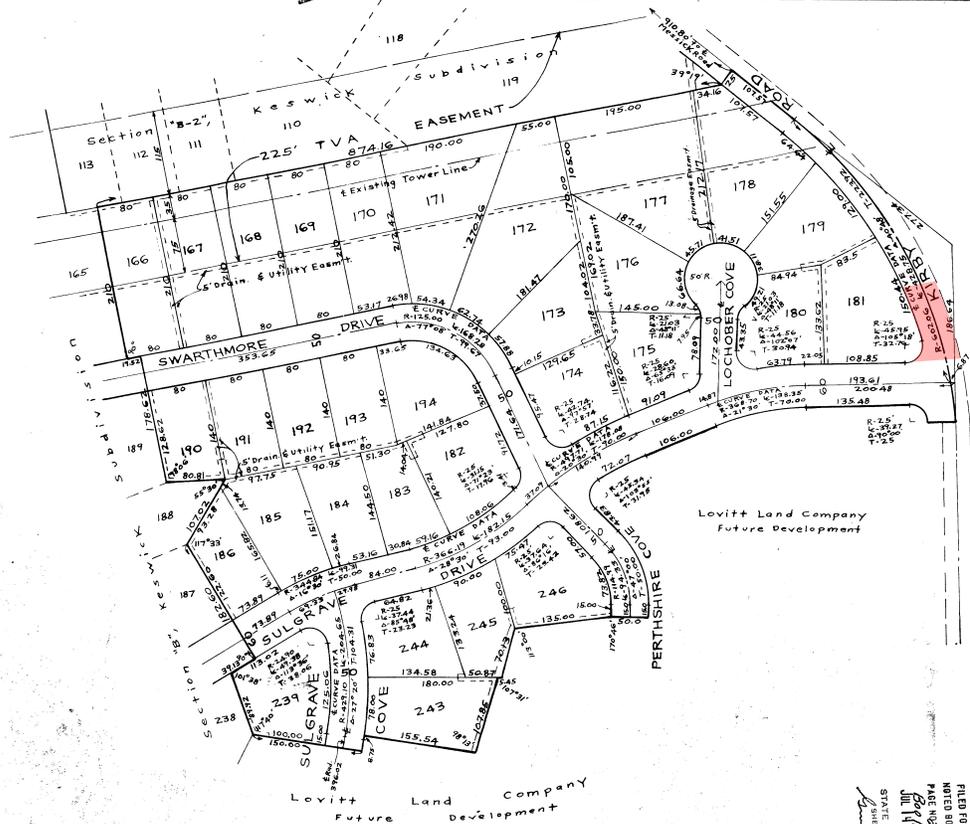
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed. A total of 3 notices were mailed on November 26, 2019.

**LOCATION MAP**



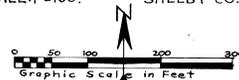
Subject right-of-way located within the pink circle, Kirby-Trace neighborhood

**KESWICK SUBDIVISION SECTION B-3 (1966)**



**KESWICK SUBD'N.  
SECTION "B-3"**

DEVELOPER: LOVITT LAND COMPANY  
ENGINEER: SHROYER ENGINEERING CO.  
ZONED: "R" E "R-1" 14.740 AC. MAY 1966  
SCALE: 1"=100'



A 09416  
 FILED FOR RECORDATION  
 NOV 23 1966  
 PAGE 1  
 11/23/66  
 SHROYER ENGINEERING CO.  
 ENGINEER  
 STATE OF TENNESSEE

This is to certify that we have surveyed the property shown herein designated SECTION "B-3", KESWICK SUBDIVISION; that this plat correctly represents the survey thereof; and, that we have designed all storm drainage water therein to assure that neither said subdiv'n. nor adjoining property will be damaged by flood water by reason of change in topography or character of land use affecting the velocity and volume of water entering, or leaving, same.

*[Signature]*  
 Engineer  
 Tennessee Certificate Number 1057

We, Lovitt Land Company by L. B. Lovitt, Jr. President, the undersigned owners of the property shown herein, hereby adopt this plat and protective covenants as our plan of subdivision and dedicate the streets as shown to the public use forever and hereby certify that we are the owners of the property and that said property is not encumbered by any mortgages or taxes that have become due or payable.

By L. B. Lovitt, Jr.

State of Tennessee, County of Shelby:  
 Before me, a Notary Public of the State and County aforesaid, personally appeared L. B. Lovitt, Jr. of Lovitt Land Company the within named party, a Corporation, and that he as such officer being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself as President.

Witness my hand and notarial seal this 26 day of May, 1966.

My Commission expires 7/20/67  
*[Signature]* Notary

Approved by the Memphis and Shelby County Planning Commission.  
 Date June 3, 1965 By Walter A. Moore  
 Director

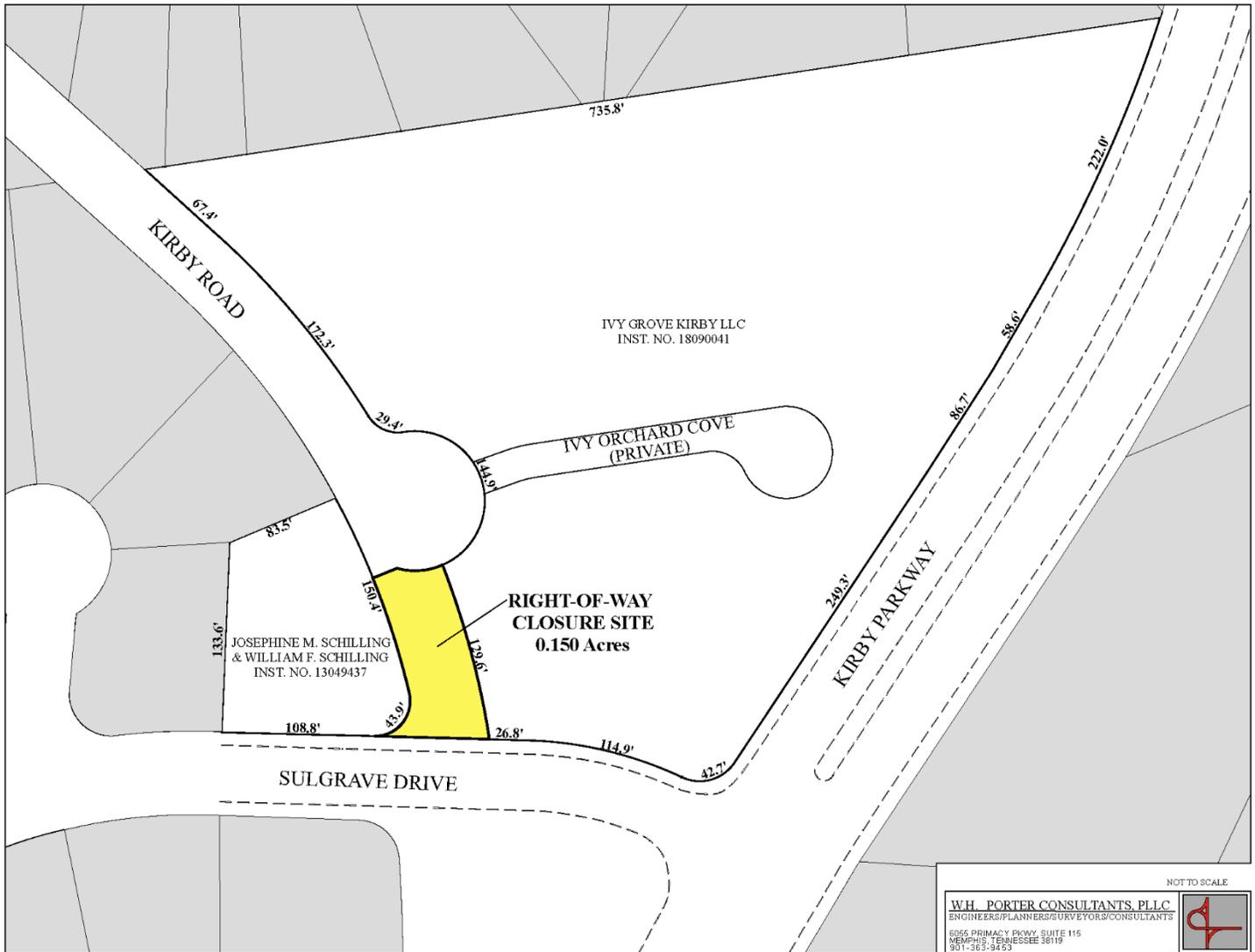
Approved by the Shelby County Commission.  
 Date 7/8/66 By [Signature]  
 Commissioner

1. All lots in this subdivision shall be used for residential purposes only.
2. The minimum ground floor area of the main building exclusive of open porches and carports shall be not less than 1500 square feet in the case of a one story residence and not less than 1200 square feet in the case of a one and one half or two story residence.
3. No fence shall be erected on any corner lot nearer to the street line than the rear house line except that it shall be permissible to erect fence from house to side lot line immediately in front of rear entrance door.
4. No permanent structure shall be moved onto any lot unless it shall conform to and be in harmony with similar structures in said subdivision and no residence of a temporary character shall be permitted.
5. No obnoxious trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
6. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty years from the date these covenants are recorded, after which time the said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change covenants in whole or in part.
7. If the parties hereto are any of them or their heirs or assigns shall violate any of the limitations and restrictions herein, it shall be lawful for any other person or persons owning any other lot in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such limitation or restriction and either to prevent him or them from so doing or to recover damages or other dues for such violation.
8. No building shall be erected on any lot until the design and plot plan thereof has been approved in writing by Lloyd Lovitt, Jr., or a committee appointed by him or a committee elected by a majority of owners of lots in said subdivision, however in the event that Lloyd Lovitt, Jr., or such committee fails to approve or disapprove such design or plot plan within ten days after submission of plans and specification to them or to it, then such approval will not be required.
9. Assessments for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear five feet of each lot. Within these covenants, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The assessment area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.
10. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

Subject right-of-way highlighted in red



**VICINITY MAP**



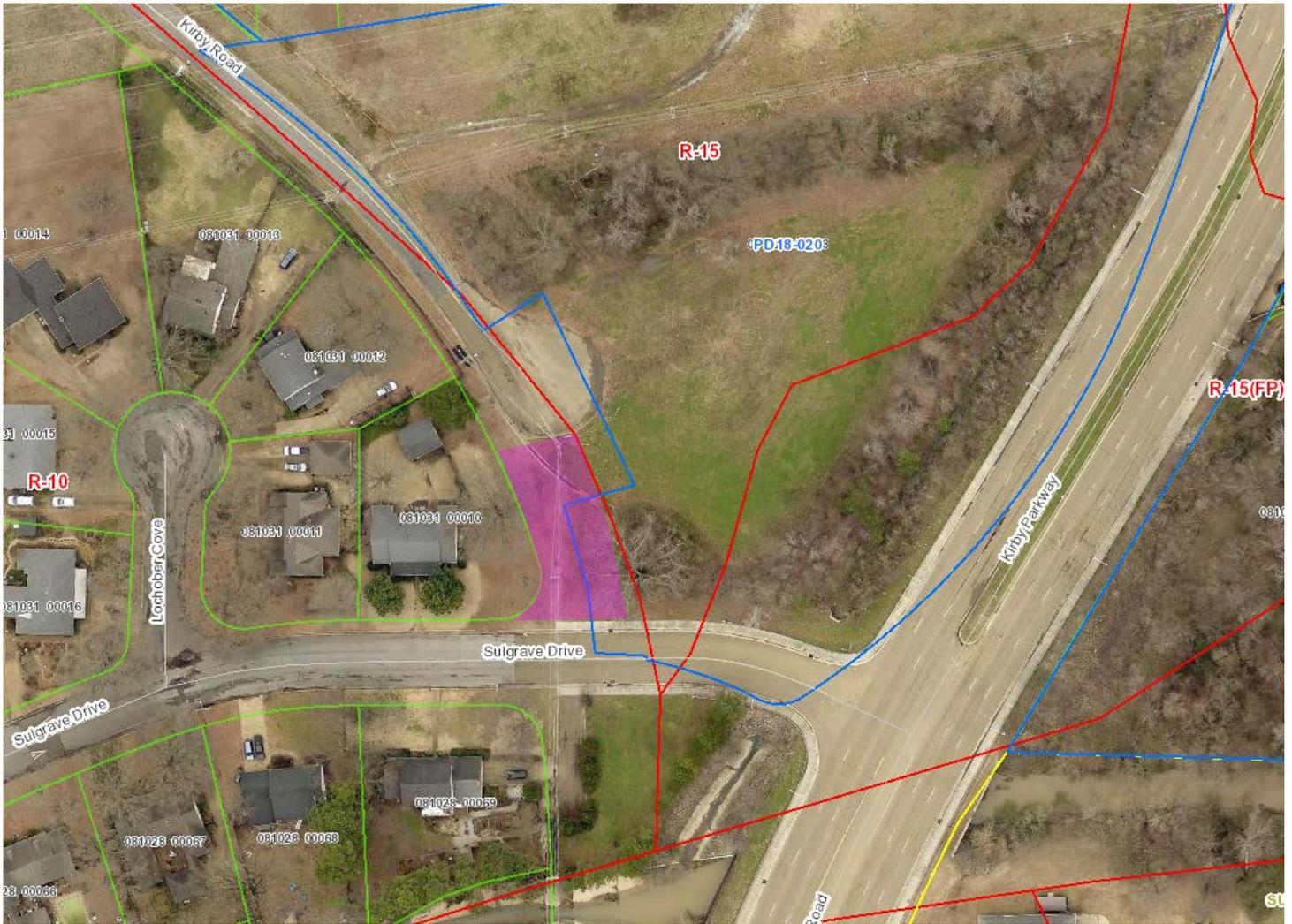
Subject right-of-way highlighted in yellow

**AERIAL**



Subject right-of-way highlighted in pink, imagery from 2018

**ZONING MAP**



Subject right-of-way highlighted in pink

**Existing Zoning:** Residential Single-Family – 10 (R-10)

**Surrounding Zoning**

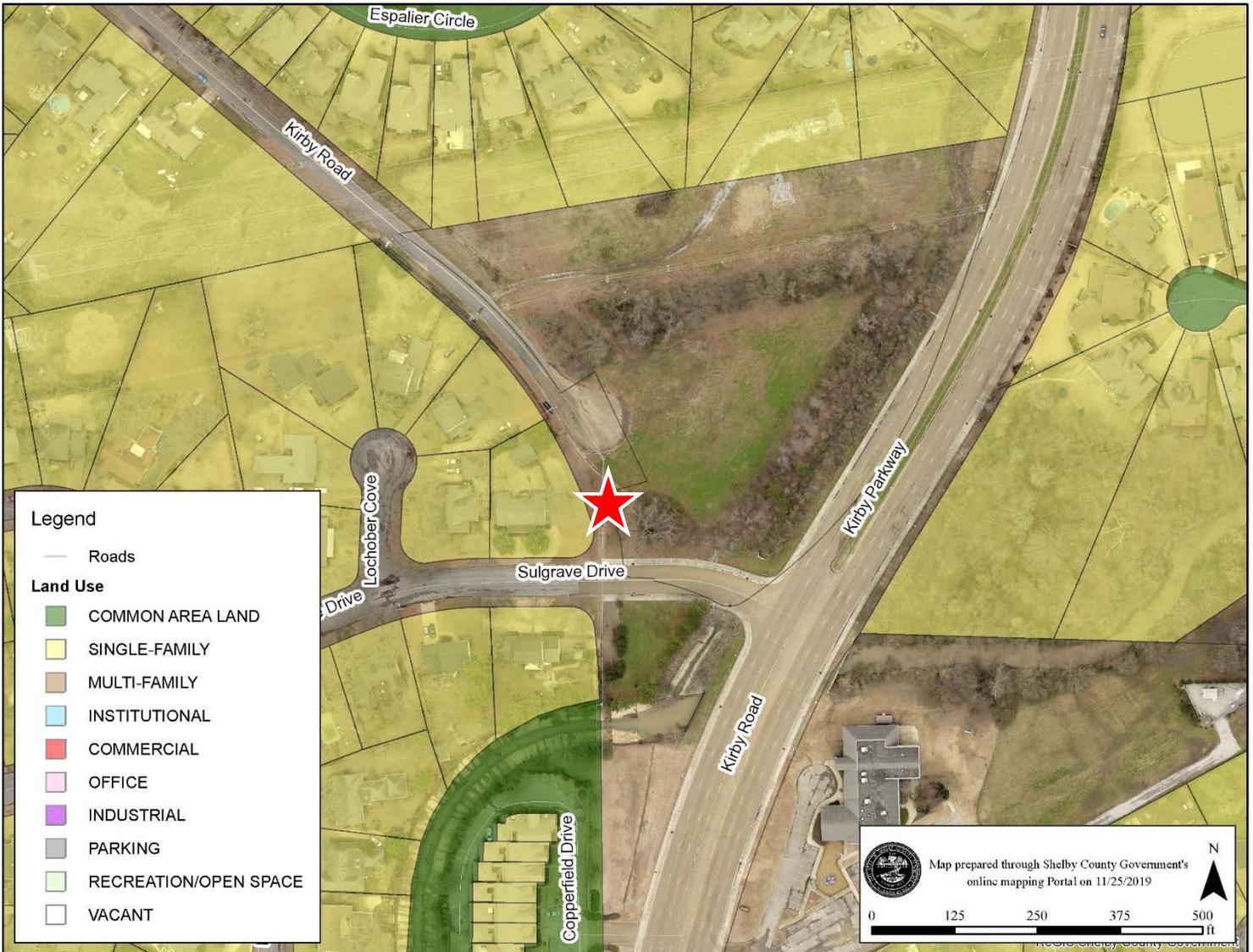
**North:** R-10, R-15, and PD 18-20

**East:** R-10 and PD 18-20

**South:** R-10

**West:** R-10

**LAND USE MAP**

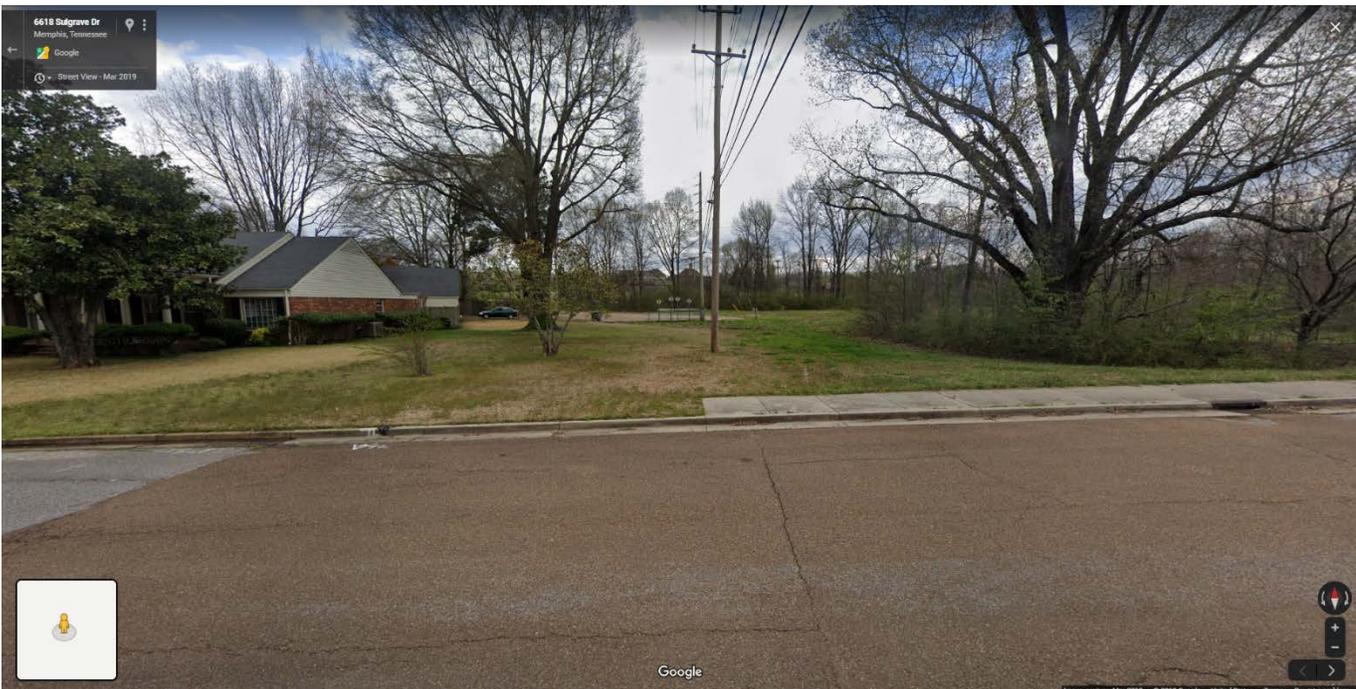


Subject right-of-way indicated by a red star

**SITE PHOTOS**



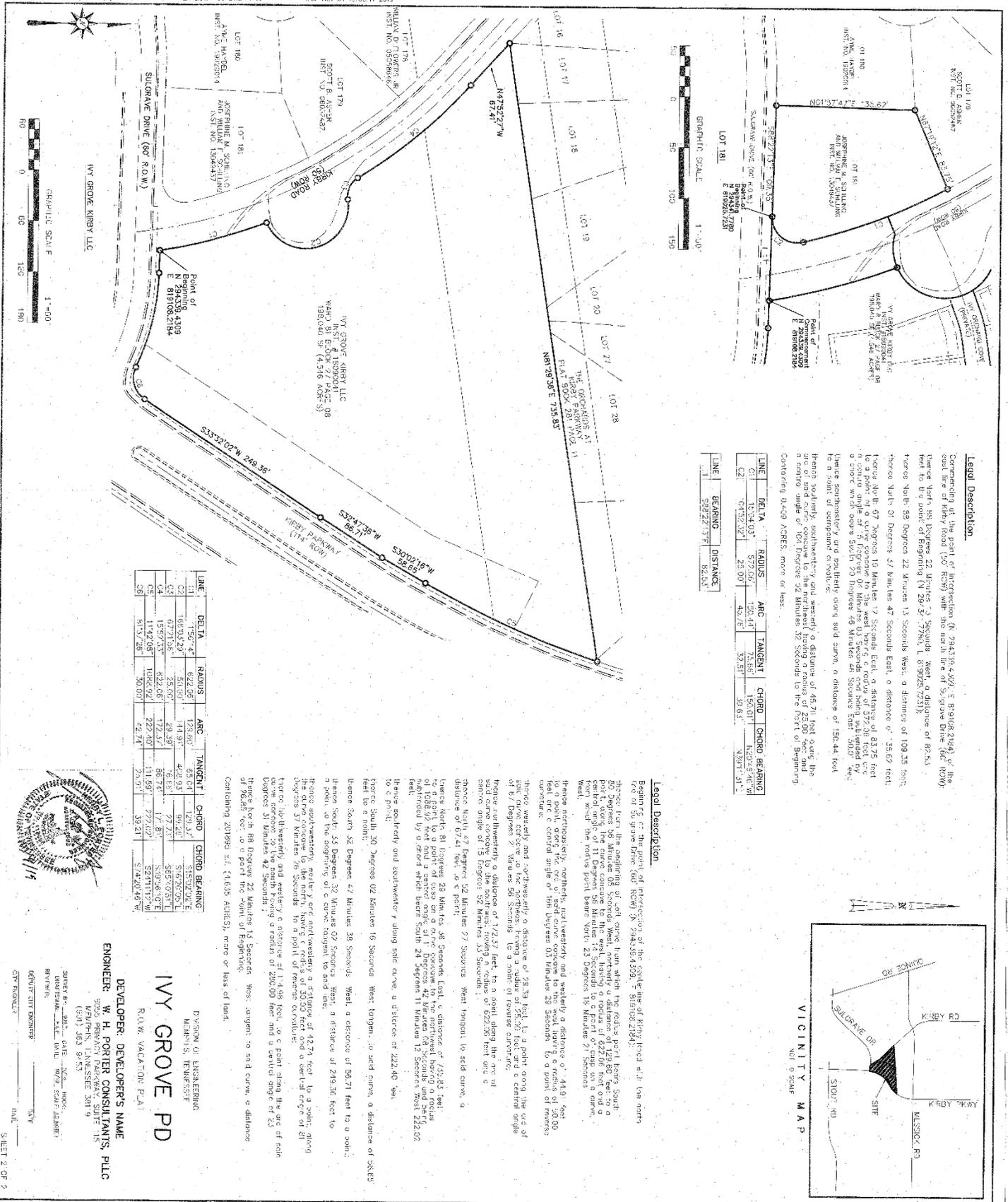
View of subject right-of-way from the improved terminus of Kirby Road looking south



View of subject right-of-way from Sulgrave Drive looking north



**RIGHT-OF-WAY VACATION PLAT - SHEET 2**

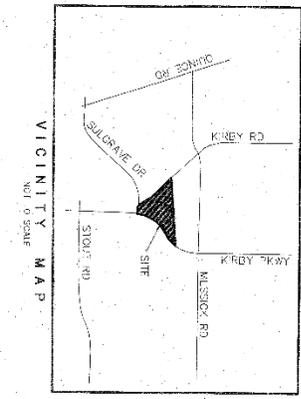


LINE	BEARING	DISTANCE
1	S89°22'17"E	82.53'

**Legal Description**  
Commencing at the point of intersection of the 294.319 x 4.501 x E 819.108 (2184') of the east line of Kirby Road (50' ROW) with the north line of Sulgrave Drive (60' ROW) thence North 88 Degrees 22 Minutes 17 Seconds West, a distance of 82.53 feet to the point of Beginning (N 29° 37' 47.78" W, L 870025.2213) thence North 88 Degrees 22 Minutes 17 Seconds West, a distance of 109.35 feet; thence North 01 Degree 57 Minutes 47 Seconds East, a distance of 135.60 feet; thence North 01 Degree 57 Minutes 17 Seconds East, a distance of 83.75 feet to a point of curve commencing to the west; thence a curve of 372.26 feet with a central angle of 11 Degrees 58 Minutes 14 Seconds to a point of tangency with curve South 29 Degrees 49 Minutes 48 Seconds East 301.07 feet; thence southeasterly and southerly along said curve, a distance of 150.44 feet to a point of compound curvature; thence southerly, southeasterly and westerly a distance of 48.70 feet and the arc of said curve commencing to the northeast having a radius of 25.00 feet and a central angle of 104 Degrees 02 Minutes 12 Seconds to the Point of Beginning containing 0.459 ACRES, more or less.

LINE	DELTA	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C1	1°56'44"	622.06'	179.86'	65.04'	120.37'	S15°02'02"E
C2	186°03'23"	503.69'	141.91'	48.33'	99.26'	S76°02'05"E
C3	6°27'18"	235.07'	29.39'	8.616'	77.71'	S65°07'05"E
C4	11°02'08"	182.06'	22.23'	17.81'	59.046'	S63°04'10"E
C5	81°07'28"	30.60'	42.74'	28.07'	37.12'	S24°11'12"W
C6	81°07'28"	30.60'	42.74'	28.07'	37.12'	S174°50'19"W

**Legal Description**  
Beginning at the point of intersection of the east line of Kirby Road with the north line of Sulgrave Drive (60' ROW) (N 294.319 x 4.501 x E 819.108 (2184')) thence North 88 Degrees 22 Minutes 17 Seconds West, a distance of 82.53 feet to the point of Beginning (N 29° 37' 47.78" W, L 870025.2213) thence North 88 Degrees 22 Minutes 17 Seconds West, a distance of 109.35 feet; thence North 01 Degree 57 Minutes 47 Seconds East, a distance of 135.60 feet; thence North 01 Degree 57 Minutes 17 Seconds East, a distance of 83.75 feet to a point of curve commencing to the west; thence a curve of 372.26 feet with a central angle of 11 Degrees 58 Minutes 14 Seconds to a point of tangency with curve South 29 Degrees 49 Minutes 48 Seconds East 301.07 feet; thence southeasterly and southerly along said curve, a distance of 150.44 feet to a point of compound curvature; thence southerly, southeasterly and westerly a distance of 48.70 feet and the arc of said curve commencing to the northeast having a radius of 25.00 feet and a central angle of 104 Degrees 02 Minutes 12 Seconds to the Point of Beginning containing 0.459 ACRES, more or less.



LINE	DELTA	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C1	1°56'44"	622.06'	179.86'	65.04'	120.37'	S15°02'02"E
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C4	11°02'08"	182.06'	22.23'	17.81'	59.046'	S63°04'10"E
C5	81°07'28"	30.60'	42.74'	28.07'	37.12'	S24°11'12"W
C6	81°07'28"	30.60'	42.74'	28.07'	37.12'	S174°50'19"W

thence southerly and southeasterly along said curve, a distance of 222.40 feet to a point of tangency with curve South 29 Degrees 49 Minutes 48 Seconds East 301.07 feet to a point of curve commencing to the west; thence a curve of 372.26 feet with a central angle of 11 Degrees 58 Minutes 14 Seconds to a point of tangency with curve South 29 Degrees 49 Minutes 48 Seconds East 301.07 feet; thence southeasterly and southerly along said curve, a distance of 150.44 feet to a point of compound curvature; thence southerly, southeasterly and westerly a distance of 48.70 feet and the arc of said curve commencing to the northeast having a radius of 25.00 feet and a central angle of 104 Degrees 02 Minutes 12 Seconds to the Point of Beginning containing 0.459 ACRES, more or less of land.



**DEVELOPER: PORTER CONSULTANTS, PLLC**  
**ENGINEER: W. H. PORTER CONSULTANTS, PLLC**  
 5000 PARKWAY PARKWAY SUITE 115  
 WEAVER, MISSOURI 64199  
 (501) 363-8763  
 SURVEY BY: DATE: SCALE: CHECK:  
 DRAWN BY: DATE: SCALE: CHECK:  
 REVIEWED BY: DATE: SCALE: CHECK:  
 DATE: SCALE: CHECK:  
 SHEET 2 OF 2

## LEGAL DESCRIPTION

Legal Description for the total area of Kirby Road to be abandoned:

Commencing at the point of intersection (N 294339.4309, E 819108.2184) of the east line of Kirby Road (50' ROW) with the north line of Sulgrave Drive (60' ROW) also being the Point of Beginning:

thence North 88 degrees 22 minutes 13 seconds West, a distance of 82.53 feet to a point;

thence easterly, northeasterly and northerly feet along said curve, a distance of 45.76 feet to a curve to the right having a radius of 25.00 feet, a central angle of 104 Degrees 52 Minutes 32 Seconds and being subtended by a chord which bears North 39 Degrees 11 Minutes 31 Seconds East, 39.63 feet, to a point of compound curvature;

thence northerly a distance of 86.62 feet along the arc of a curve concave to the west having a radius of 572.06 feet and a central angle of 8 Degrees 40 Minutes 32 Seconds and being subtended by a chord which bears North 17 Degrees 35 Minutes 01 Seconds East to a point;

thence North 68 Degrees 04 Minutes 43 Seconds East radial to said curve, a distance of 18.72 feet to a point of a curve concave to the north;

thence along easterly 33.37 feet along a curve having a radius of 50.00 feet and a central angle of 38 Degrees 14 Minutes 16 Seconds and being subtended by a chord which bears North 85 Degrees 48 Minutes 47 Seconds East, 32.75 feet, to a point of cusp on a curve, from which the radius point bears South 68 Degrees 59 Minutes 51 Seconds West to a point;

thence southerly a distance of 129.60 feet along the arc of said curve concave to the west having a radius of 622.06 feet and a central angle of 11 degrees 56 minutes 14 seconds and being subtended by a chord which bears South 15 Degrees 02 Minutes 02 Seconds East to the Point of Beginning.

Containing 6476 S.F. (0.149 ACRES), more or less of land.

## **STAFF ANALYSIS**

### **Request and Reason**

The application and letter of intent have been added to this report.

The request is for the divestiture of an unimproved portion of Kirby Road.

### **Site Description**

The subject right-of-way is a +/-50-foot wide and +/-130-foot long north-south excess right-of-way with a total area of +/-6,476 square feet immediately south of the improved section of Kirby Road at its northernmost boundary continuing southward to its southernmost boundary at its intersection with the northern boundary of Sulgrave Drive. The zoning of the area is Residential Single-Family – 10 (R-10) and the surrounding land uses are a single-family residential. The site also contains existing utility distribution facilities.

### **Consistency with Memphis 3.0**

The Memphis 3.0 General Plan is not applicable as it does not address the divestiture of paper right-of-way.

### **Conclusions**

The applicant is seeking the divestiture of an unimproved portion of Kirby Road.

This connection of Kirby Road to Sulgrave Drive was physical closed circa 2000 with the construction of Kirby Parkway.

Easements will be required to accommodate any existing public utilities, including electric, gas, water, CATV, telephone, sewer, drainage, etc. or their relocation at the applicant/developer's expense.

This divestiture would not have any undue or substantial effect upon the existing vehicular and pedestrian traffic flow of the surrounding area as the subject public right-of-way exists only on paper and there are no existing physical roadway improvements.

## **RECOMMENDATION**

Staff recommends approval with conditions.

### **Conditions**

1. Provide easements to accommodate any existing public utilities, including electric, gas, water, CATV, telephone, sewer, drainage, etc. or relocate at the applicant/developer's expense.

**DEPARTMENTAL COMMENTS**

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

**City/County Engineer:**

1. Standard Subdivision Contract or Street Cut Permit as required in Section 5.5.5 of the Unified Development Code.

Street Closures:

2. Provide easements for existing sanitary sewers, drainage facilities, MLGW overhead electrical and any other utilities or relocate at developer's expense.
3. City sanitary sewers/drainage facilities are located within the proposed closure area.
4. ~~The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.~~ **\*Comment 4 deleted per City Engineering.**
5. The applicant shall comply with all conditions of the closure within 3 years of the conditional approval of the closure by the City Council.

**City/County Fire Division:**

- No comment.

**City Real Estate:**

No comments received.

**City/County Health Department:**

No comments received.

**Shelby County Schools:**

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:

- MLGW has existing utility distribution facilities within the present public road/alley right of way. The City of Memphis shall retain an easement across the proposed street closure, from edge to edge of the road right of way, to accommodate any existing public utilities, including electric, gas, water, CATV, telephone, sewer, drainage, etc.
- It is the responsibility of the owner/applicant to bear the cost if it is necessary for MLGW facilities to be installed, removed or relocated.
- MLGW reserves the right to retain a utility right-of-way within that portion of the existing public road right of way at all times for existing utilities, or the owner/applicant may choose to relocate existing utilities at the expense of the owner/applicant.
- MLGW must be able to access any overhead or underground facilities. Consequently, no permanent structure(s) shall be constructed or erected within that portion of the existing public road right of way including fences, buildings, patios, vehicle parking or paving.
- No permanent structures, development or improvements are allowed within any utility easements, without prior MLGW written approval.

- Underground Utility separation and clearance: The subject property is encumbered by existing utilities which may include overhead and underground facilities. It is the responsibility of the owner/applicant to maintain a minimum 3-foot (3') separation between any existing underground service lines or utilities and any proposed permanent structure or facility. This separation is necessary to provide sufficient space for any excavations to perform service, maintenance or replacement of existing utilities.
- If there are existing fire hydrants within the proposed closure of the public right-of-way, these hydrants will become public hydrants on private property, and the owner/applicant will be billed an annual maintenance fee on a monthly basis by MLGW.
- If there are existing street lights within the proposed closure of the public right-of-way, MLGW will remove all street lights, and abandon underground electric feeds or remove overhead electric feeds – at the expense of the owner/applicant.
- STREET NAMES: It is the responsibility of the owner/applicant to contact MLGW–Address Assignment @ 729-8628 and submit proposed street names for review and approval. Please use the following link to the MLGW Land & Mapping website for Street Naming Guidelines and the Online Street Name Search: <http://www.mlgw.com/builders/landandmapping>
- 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 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 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.
- It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance - Landscape and Screening Regulations.
- Street Trees are prohibited, subject to the review and approval of the landscape plan by MLGW Engineering. It is the responsibility of the owner/applicant to submit a detailed landscape plan to MLGW Engineering.
- Landscaping is prohibited within any MLGW 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).
- 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.
  - o All residential developers must contact MLGW's Residential Engineer at Builder Services: (901) 729-8675 to initiate the utility application process.
  - o All commercial developers must contact MLGW's Builder Services line at 729-8630 (select option 2)

to initiate the utility application 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.

**Address Assignment:**

- NO STREET NAME CHANGES

**Office of Sustainability and Resilience:** No comments received.

**APPLICATION**



*Memphis and Shelby County*  
*Office of Planning and Development*

CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

**APPLICATION FOR RIGHT-OF-WAY VACATION/  
STREET/ALLEY/CLOSURE APPROVAL**

Date: 11/4/2019

Case #: \_\_\_\_\_

PLEASE TYPE OR PRINT

Name of/Street/Alley/ROW: Kirby Road

Property Owner of Record: Josephine & William Schilling / Ivy Grove Kirby LLC Phone #: n/a

Mailing Address: 6616 Sulgrave Drive City/State: Memphis/TN Zip 38103

Property Owner E-Mail Address: n/a

Applicant: Ivy Grove Kirby LLC Phone # 901-488-7070

Mailing Address: 3023 Centre Oak Way City/State: Germantown/TN Zip 38138

Applicant E- Mail Address: eddie@kircherllc.com

Representative: Henry L. Porter, P.E. Phone #: 901-363-9453

Mailing Address: 6055 Primacy Parkway, Suite 115 City/State: Memphis/TN Zip 38119

Representative E-Mail Address: hporter@whporter.com

Engineer/Surveyor: W. H. Porter Consultants, LLC Phone # 901-363-9453

Mailing Address: 6055 Primacy Parkway, Suite 115 City/State: Memphis/TN Zip 38119

Engineer/Surveyor E-Mail Address: hporter@whporter.com

Closure Street Address Location: 0 Kirby Road & 6616 Sulgrave Drive

Inside of Memphis City Limits  Yes  No

Unincorporated Shelby County  Yes  No

City of Reserve Area  Yes  No

Distance to nearest intersecting street: 30 feet to the intersection of Kirby Road and Sulgrave Drive

Area of ROW: 0.924 / 0.15 Square-Feet/Acres Length x Width of ROW: 125.2 x 50 Feet

Closure starts at: Approx 30 feet north of the intersection of Kirby Road and Sulgrave Drive and

Proceeds to Approx 160 feet north of the intersection of Kirby Road and Sulgrave Drive

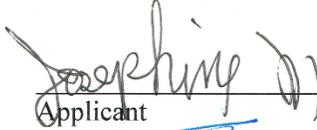
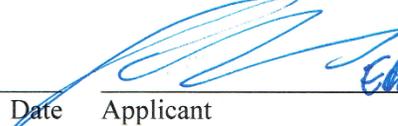
Reason for Closure: Kirby Road was physically closed in the early 2000's and has remained only a paper road since then.

Mrs. Schilling (neighbor) had maintenance issues with the property for many years. Ivy Grove PD was approved on the east side of Kirby Road earlier this year and the developer expressed interest in acquiring the land for Common Open Space purposes.

**PRE-APPLICATION CONFERENCE** - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.

**Pre-Application Conference held on:** 9/5/19 with Chip Saliba

I (we) hereby make application for approval of the street/alley closure described above and on the accompanying materials and closure plat. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.

Josephine M Schilling				<u>11/4/19</u>
Property Owner of Record*	Date	Applicant	Date	
Ivy Grove Kirby LLC				<u>12/4/19</u>
Property Owner of Record*	Date	Applicant	Date	

Property Owner of Record\*      Date      Applicant      Date

Property Owner of Record\*      Date      Applicant      Date

Property Owner of Record\*      Date      Applicant      Date

Every property owner that both abuts the right-of-way to be closed and will be deeded a respective portion shall sign this application unless the signee above is a duly elected representative of a homeowners or property owners association that will be taking ownership of the vacated right of way. See Item H at the bottom of this application for further instructions and exceptions.

Types of Vacation (from Chapter 9.8 of the Unified Development Code)

1. **Conversions** (public-to-private street conversions, pursuant to Section 5.2.18 of the UDC)  
*Note: street conversions entirely within approved subdivisions or planned developments shall be processed as revisions to the subdivision plat or planned development plat. Please refer to those appropriate applications.*
2. **Physical closures** (street and alley closures that involve the physical closure of an existing street or alley)
3. **Abandonment** (divesture of abandoned or excess right-of-way, paper streets, paper alleys and easements)

**SIGN POSTING** – A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

**LETTER OF INTENT**

**W. H. PORTER CONSULTANTS, PLLC**

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6055 Primacy Parkway, Suite 115  
Memphis, Tennessee 38119  
(901) 363-9453 FAX: (901) 363-2722

Engineers, Planners, Surveyors, Consultants

November 4, 2019

Mr. Josh Whitehead  
Planning Director  
Memphis & Shelby County  
Office of Planning and Development  
City Hall, 125 N. Main Street, Room 468  
Memphis, TN 38103

**RE: Application for Right-of-Way Vacation  
Kirby Road 30 feet north of the centerline of Sulgrave Drive**

Mr. Whitehead:

We are requesting that the Right-of-Way be vacated on Kirby Road from Sulgrave Drive to the north 125 feet. Kirby Road was physically closed in the early 2000's when TDOT constructed Kirby Parkway and constructed a cul-de-sac on Kirby Road just north of Sulgrave Drive. This left a small 0.15 acre area of land.

Ivy Grove Kirby LLC and Mrs. Josephine Schilling are the landowners on either side of the Right-of-Way. Mrs. Schilling has to call the City of Memphis numerous times a year for the property to be maintained. The landowners are requesting that the Right-of-Way be vacated and each half of the property be deeded to the respective property owner

Thanks for your time and attention to this request. Please do not hesitate to call if you have any questions or concerns.

Sincerely,



Tim Dagastino  
Project Manager/Planner

**LETTERS RECEIVED**

No letters received at the time of completion of this report.