



STAFF REPORT

AGENDA ITEM: 1

CASE NUMBER: S 19-23
LOCATION: 1190 Hayne Road
OWNER/APPLICANT: Amazing Real Estate, LLC
REPRESENTATIVE: The Bray Firm – David Bray
REQUEST: Two-lot subdivision
AREA: +/-0.579 acres
EXISTING ZONING: Residential Single-Family – 10

L.U.C.B. MEETING: January 9, 2020

CONCLUSIONS

1. This is a two-lot resubdivision of a portion of Lot 10 of the approved Oliver & Wile Park Gardens Subdivision (1946) to create lots 10A and 10B with the latter being a flag lot.
2. Requiring sidewalk on the east side of Hayne Road would be out of character with the existing block conditions.
3. The proposed lots are approximately 11,480 and 13,827 square feet.
4. As conditioned the proposed lots meet the bulk regulations of the Residential Single-Family – 10 District (R-10).
5. This subdivision is compatible with and in keeping with the character of development in the neighborhood and conforms with all applicable provision and requirements of the Unified Development Code.

CONSISTENCY WITH MEMPHIS 3.0

This proposal is consistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on pages 13-14 of this report.

RECOMMENDATION:

Approval with conditions and waivers

GENERAL INFORMATION

Street Frontage: Hayne Road +/-100.00 linear feet
Zoning Atlas Page: 2145
Parcel ID: 067067 00002
Existing Zoning: Residential Single-Family – 10 (R-10)

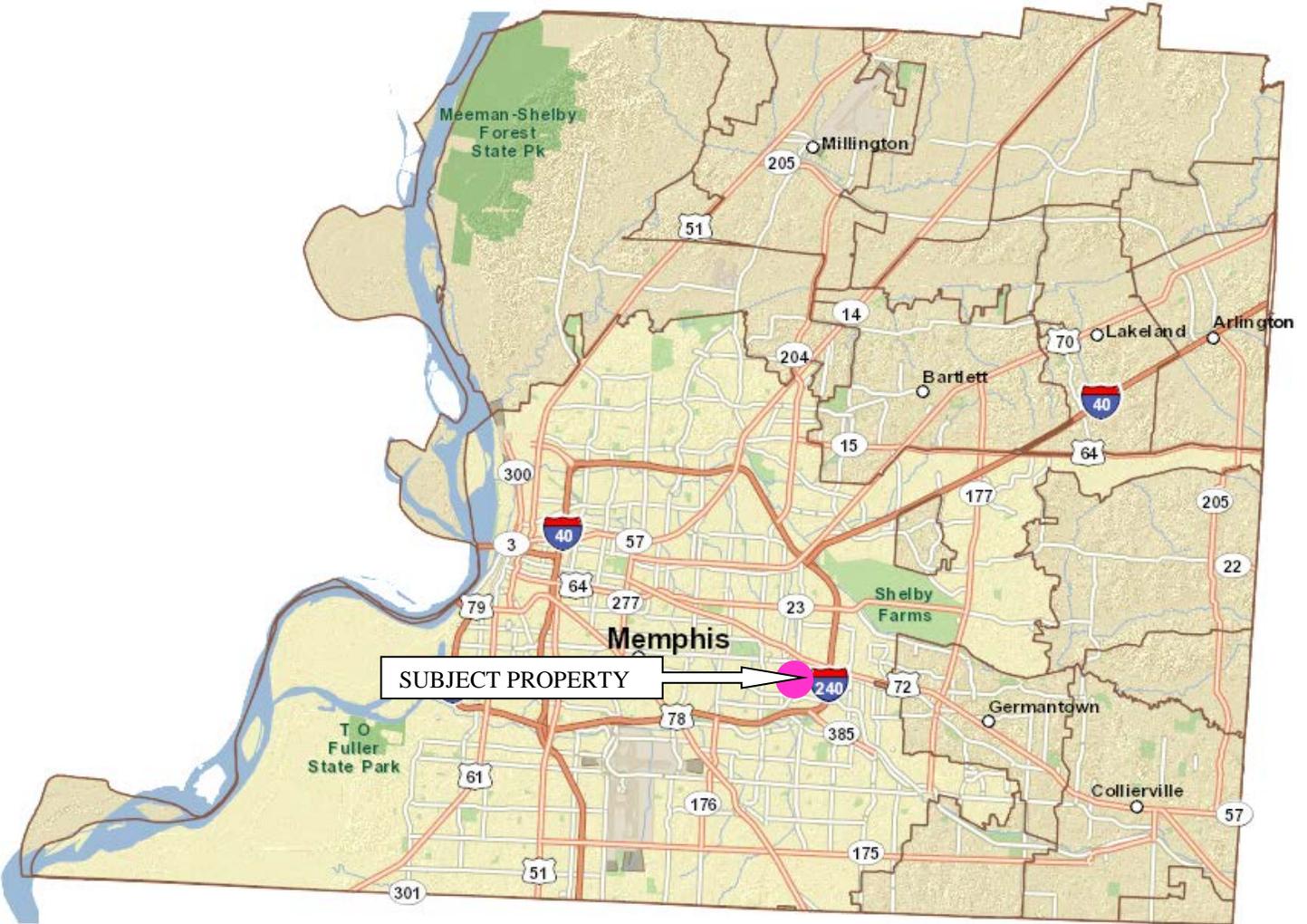
NEIGHBORHOOD MEETING

The meeting was held at 6:00 PM on Tuesday, October 29, 2019, at the Ridgeway Baptist Church, 2500 Ridgeway Road.

PUBLIC NOTICE

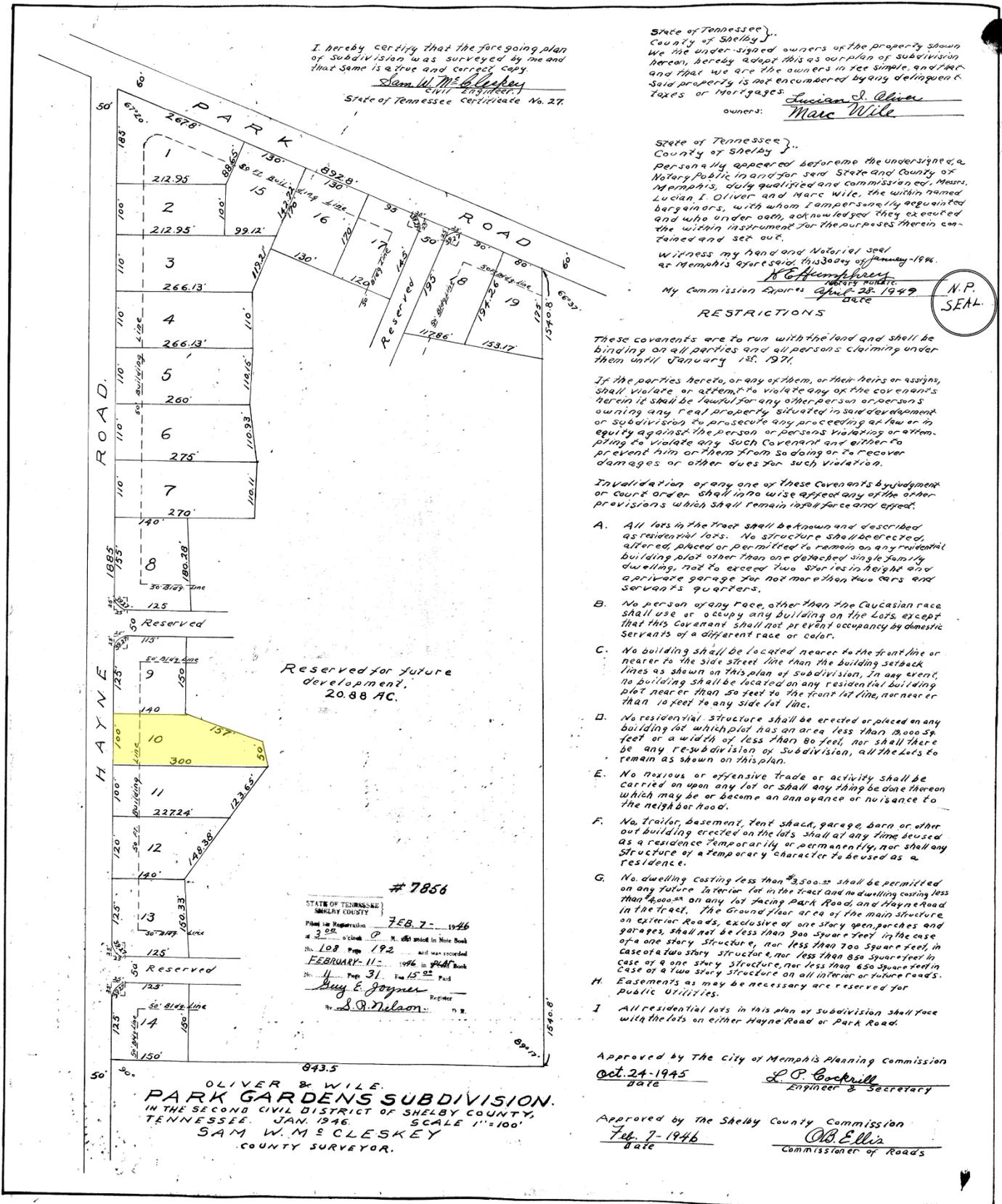
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed. A total of 69 notices were mailed on October 23, 2019.

LOCATION MAP



Subject property located within the pink circle, Sea Isle neighborhood

OLIVER & WILE PARK GARDENS SUBDIVISION (1946)



I hereby certify that the foregoing plan of subdivision was surveyed by me and that same is a true and correct copy.
Sam W. McCleskey
Civil Engineer
State of Tennessee Certificate No. 27

State of Tennessee }
County of Shelby }
We the under signed owners of the property shown herein, hereby adopt this as our plan of subdivision and that we are the owners in fee simple and that said property is not encumbered by any delinquent taxes or mortgages.
owners: Lucian I. Oliver
Marc Wile

State of Tennessee }
County of Shelby }
Personally appeared before the undersigned, a Notary Public in and for said State and County of Memphis, duly qualified and commissioned, Messrs. Lucian I. Oliver and Marc Wile, the within named bargainors, with whom I am personally acquainted and who under oath, acknowledged they executed the within instrument for the purposes therein contained and set out.
Witness my hand and Notarial Seal at Memphis aforesaid, this 30th day of January 1946.
N. P. Cook
Notary Public
My Commission Expires April 25, 1949
DATE

RESTRICTIONS

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1st, 1971.

If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the covenants herein it shall be lawful for any other person or persons owning any real property situated in said development or subdivision to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages or other dues for such violation.

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.

- A. All lots in the tract shall be platted and described as residential lots. No structure shall be erected, altered, placed or permitted to remain on any residential building plot other than one detached single family dwelling, not to exceed two stories in height and a private garage for not more than two cars and servant's quarters.
- B. No person of any race, other than the Caucasian race shall use or occupy any building on the lots, except that this covenant shall not prevent occupancy by domestic servants of a different race or color.
- C. No building shall be located nearer to the front line or nearer to the side street line than the building setback lines as shown on this plan of subdivision. In any event, no building shall be located on any residential building plot nearer than 50 feet to the front lot line, nor nearer than 10 feet to any side lot line.
- D. No residential structure shall be erected or placed on any building lot which plot has an area less than 3,000 square feet or a width of less than 80 feet, nor shall there be any re-subdivision of subdivision, all the lots to remain as shown on this plan.
- E. No noxious or offensive trade or activity shall be carried on upon any lot or shall any thing be done thereon which may be or become an annoyance or nuisance to the neighbor hood.
- F. No trailer, basement, tent shack, garage, barn or other out building erected on the lots shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character to be used as a residence.
- G. No dwelling costing less than \$3,500.00 shall be permitted on any future interior lot in the tract and no dwelling costing less than \$2,000.00 on any lot facing Park Road, and Hayne Road in the tract. The ground floor area of the main structure on exterior roads, exclusive of one story open porches and garages, shall not be less than 900 square feet in the case of a one story structure, nor less than 700 square feet, in case of a two story structure, nor less than 850 square feet in case of a one story structure, nor less than 650 square feet in case of a two story structure on all interior or future roads.
- H. Easements as may be necessary are reserved for public utilities.
- I. All residential lots in this plan of subdivision shall face with the lots on either Hayne Road or Park Road.

Reserved for future development.
20.88 AC.

7856
STATE OF TENNESSEE
SHELBY COUNTY
Filed for Registration FEB 7 1946
at 2 o'clock P. M. and recorded in Note Book No. 108 Page 192 and was recorded FEBRUARY 11 1946 in Plat Book No. 4 Page 31. Fee \$5.00 Paid
Guy E. Joyner Register
S. P. Nelson N. B.

OLIVER & WILE
PARK GARDENS SUBDIVISION.
IN THE SECOND CIVIL DISTRICT OF SHELBY COUNTY,
TENNESSEE. JAN. 1946. SCALE 1"=100'
SAM W. McCLESKEY
COUNTY SURVEYOR.

Approved by The City of Memphis Planning Commission
Oct. 24, 1945
Date L. P. Cook
Engineer & Secretary

Approved by The Shelby County Commission
Feb. 7, 1946
Date W. B. Ellis
Commissioner of Roads

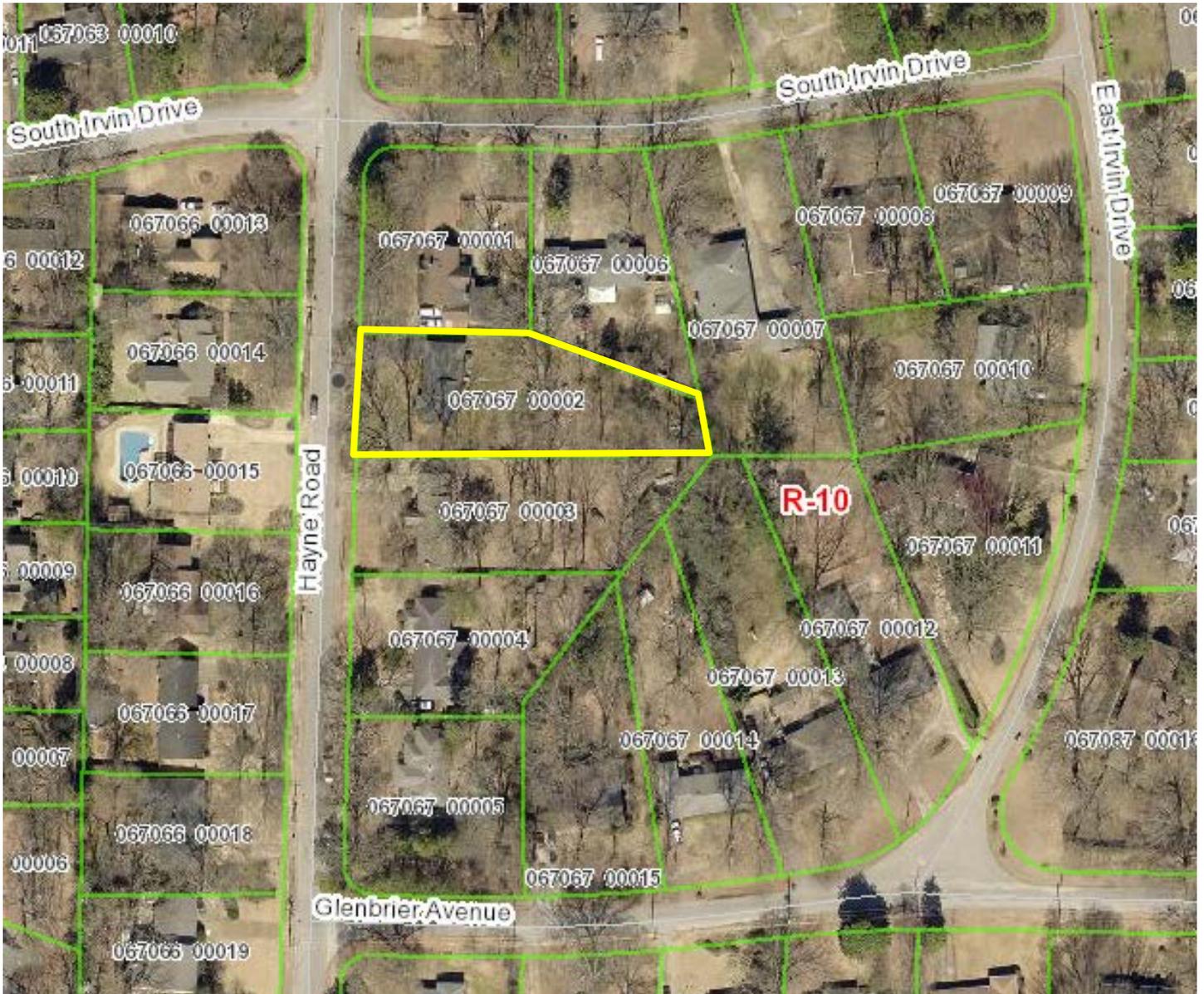
Subject property highlighted in yellow, Lot 10

VICINITY MAP



Subject property highlighted in yellow

ZONING MAP



Subject property outlined in yellow

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

Surrounding Zoning

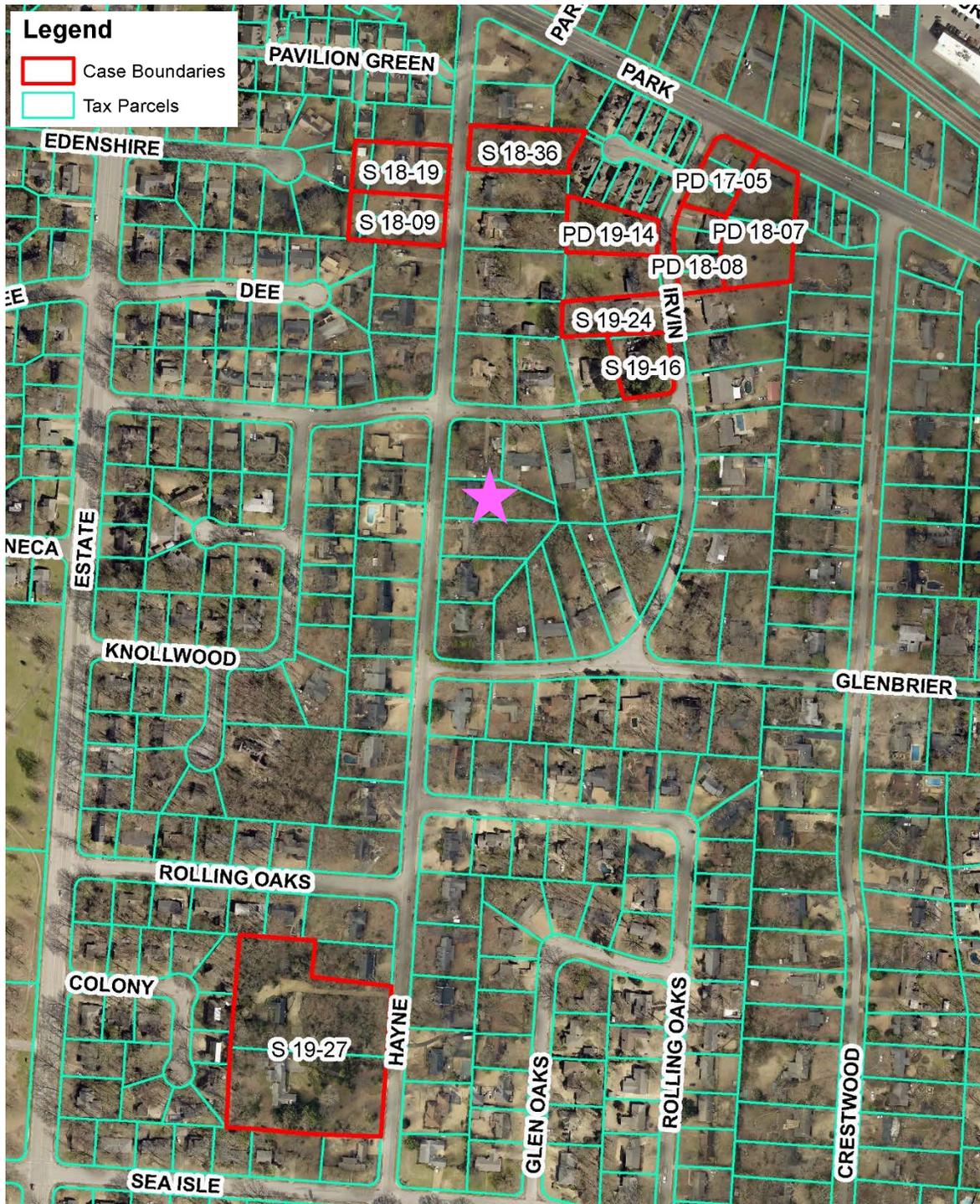
- North:** R-10
- East:** R-10
- South:** R-10
- West:** R-10

LAND USE MAP



Subject property indicated by a red star

RECENTLY APPROVED DIVISIONS OF LAND (2017-PRESENT)



PD 17-05 – 3 lots
PD 18-07 – 6 lots
PD 18-08 – 3 lots
S 18-09 – 2 lots
S 18-19 – 2 lots

S 18-36 – 2 lots
PD 19-14 – 2 lots
S 19-16 – 2 lots
S 19-24 – 2 lots
S 19-27 – 12 lots

SITE PHOTOS



View of subject property from Hayne Road looking east



View across Hayne Road from subject property looking west

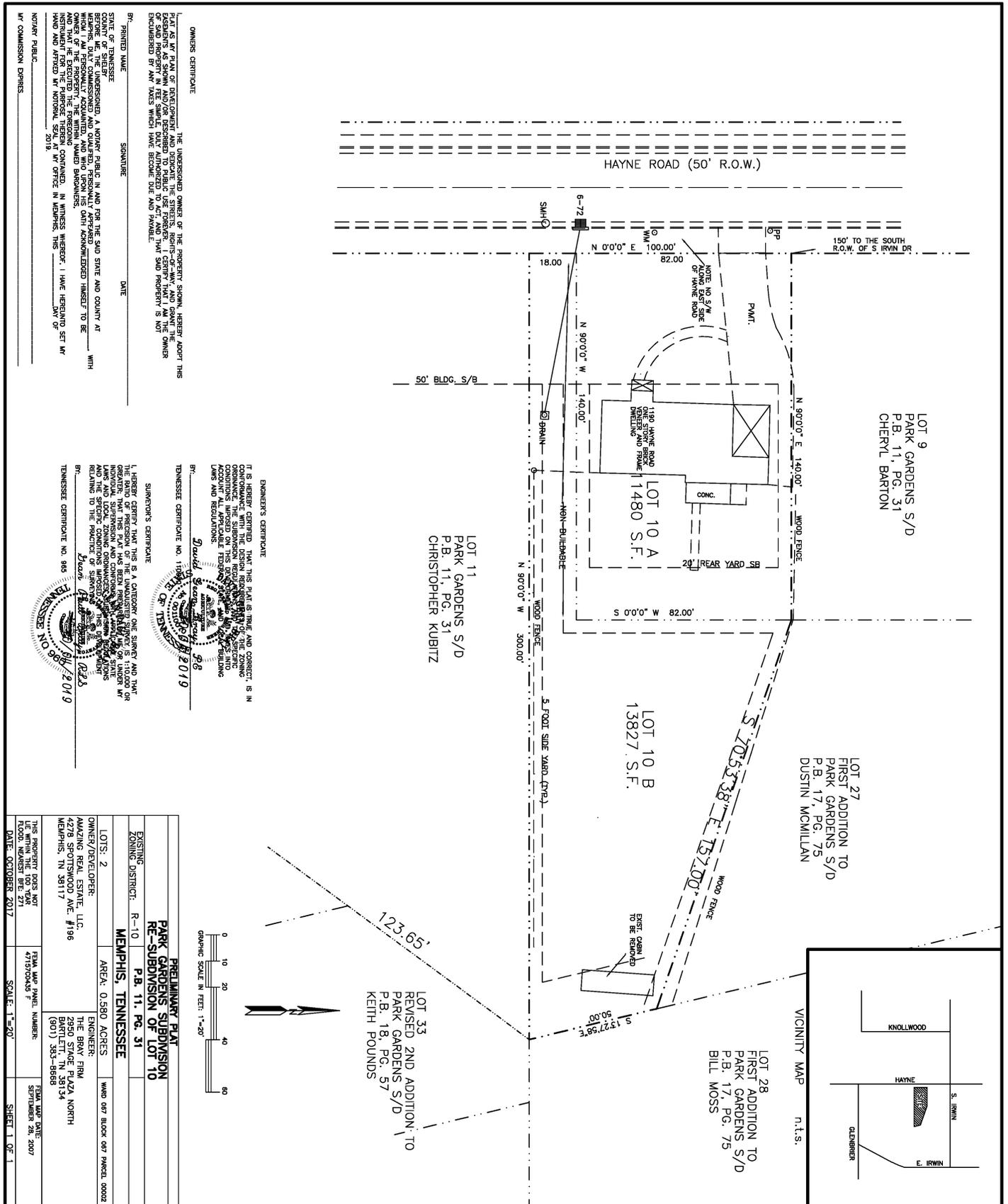


View down Hayne Road from subject property looking north

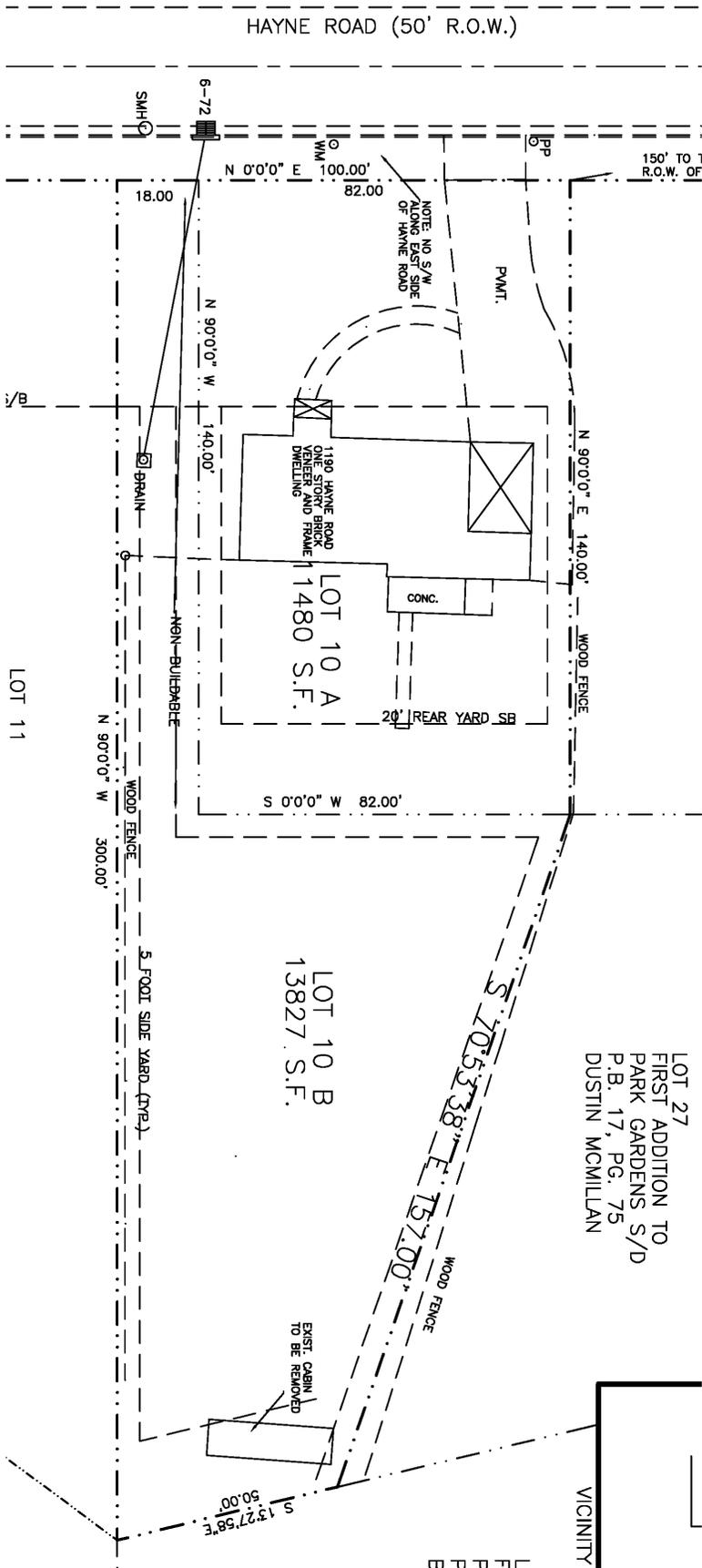


View down Hayne Road from subject property looking south

PRELIMINARY PLAN



PRELIMINARY PLAN (ZOOMED)



STAFF ANALYSIS

Request

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

The request is for a two-lot major subdivision, a resubdivision of Lot 10 of the Oliver & Wile Park Gardens Subdivision (1946).

Review Criteria

Staff agrees the major preliminary plan review approval criteria as set out in the Unified Development Code Sub-Section 9.7.7H are met.

9.7.7H Approval Criteria

1. *A major preliminary plan shall be approved by the Land Use Control Board if it meets the following criteria:*
 - a. *Conforms with all the provisions and requirements of any plans to be considered (see Chapter 1.9);*
 - b. *There are adequate public facilities available, to be provided by the applicant or programmed within the five-year capital improvements program of the governing bodies to accommodate the proposed development;*
 - c. *Conforms with all the applicable provisions and requirements of this development code; and*
 - d. *Conforms with all the provisions and requirements of other applicable codes and ordinances relating to land development not included in this development code.*
2. *The LUCB or governing body(s) may reject a preliminary plan if it is determined that the proposed subdivision is not in keeping with the character of development in the neighborhood. The LUCB or governing body(s) shall consider the following in the determination of the character of the development in the neighborhood.*
 - a. *Building setback lines of all principal structures that lie within 500 feet of the proposed subdivision.*
 - b. *Size and width of all lots within 500 feet of the proposed subdivision.*
 - c. *Proximity of arterial and connector streets within 500 feet of the proposed subdivision.*
 - d. *Diversity of land uses within 500 feet of the proposed subdivision.*

Waiver

Staff agrees the waiver findings as set out in the Unified Development Code Paragraph 9.7.7F(2) are met.

9.7.7F(2)

A waiver shall not have the effect of nullifying the intent and purpose of this development code, and the Land Use Control Board shall not grant a waiver unless the Board makes findings based upon the evidence presented in each case that:

- a. *The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located;*
- b. *The conditions upon which the request for a waiver are based are unique to the property for which the waiver is sought and are not generally applicable to other property;*
- c. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of this development code are enforced; and*
- d. *The purpose of the waiver is not based primarily upon financial consideration.*

Contextual Infill Standards

The contextual infill standards do not apply as the site is within an existing subdivision with front setbacks indicated on the final plat.

Site Description

The subject property is +/-0.579 acres and located at 1190 Haney Road, zoned Residential Single-Family – 10 (R-10), within the Ridgeway (9-C) sensitive drainage basin, and the Sea Isle neighborhood. The site is comprised of Lot 10 of the approved Oliver & While Park Gardens Subdivision (1946) and thus is a resubdivision of said lot. The site is within a residential single-family neighborhood and as such the land use in all directions is residential single-family. The west side of Hayne Road does not have sidewalks installed within this block.

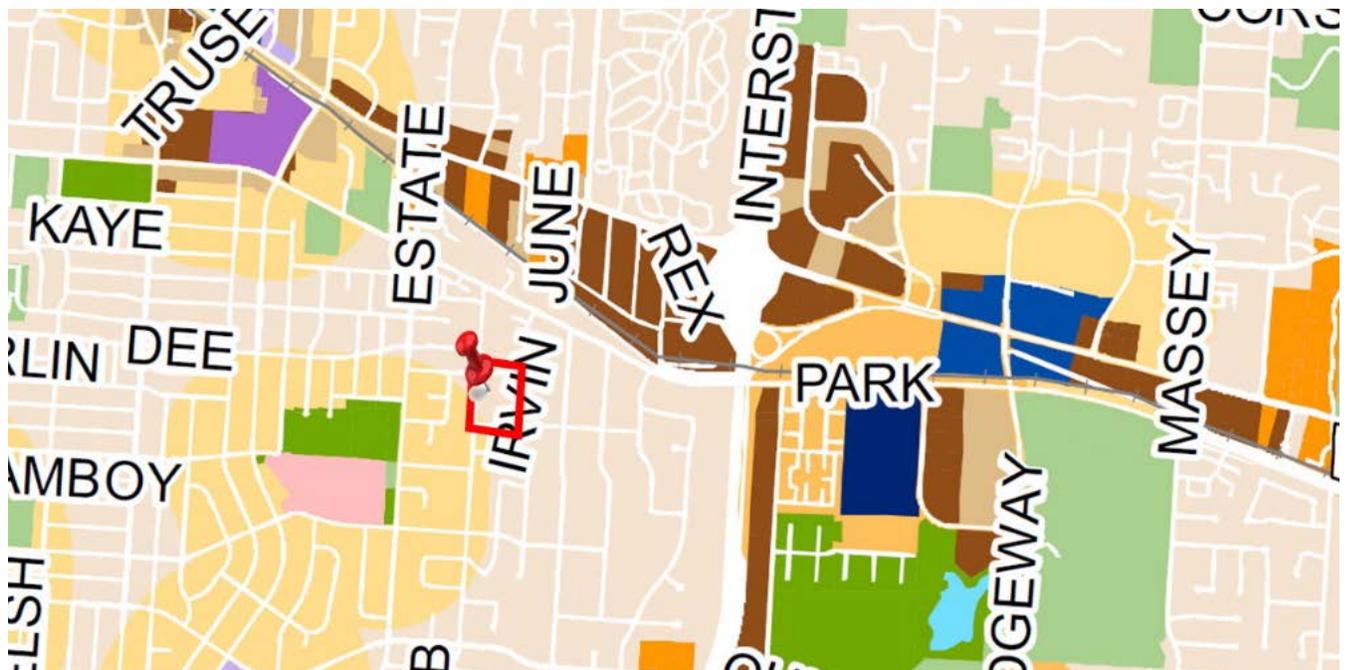
Preliminary Plan Review

- One existing lot is being subdivided to accommodate a two-lot layout
- One of the lots will be a flag lot
- The front setback for Lot 10A is proposed to maintain the existing 50-foot front setback
- The front setback for Lot 10B is proposed at 5 feet, but as conditioned would be modified to 20 feet
- The side (interior) setbacks are proposed at 5 feet
- The rear setbacks are proposed at 20 feet
- The lot sizes are proposed at +/-11,480 and +/-13,827 square feet
- Lot 10A is proposed to have 82 feet of frontage along Hayne Road
- The flag stem of Lot 10B is proposed to have 18 feet of frontage along Hayne Road
- The existing single-family dwelling unit is slated to remain

Consistency with Memphis 3.0

Staff uses the following criteria contained in Memphis 3.0 to determine consistency.

1. *The future land use planning map:* The subject site is identified as Primarily Single-Unit Neighborhood in the future land use planning map.



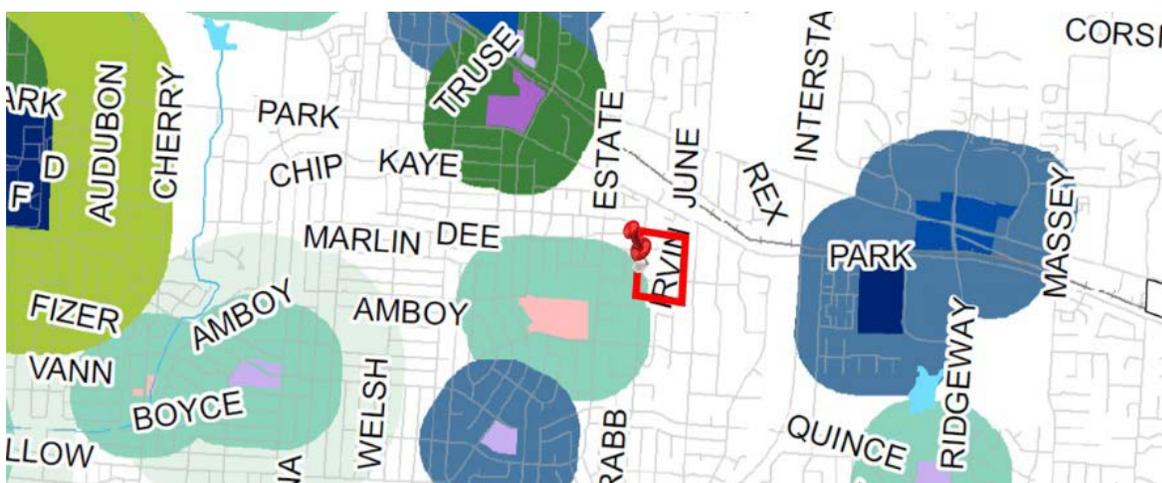
Subject site indicated by a red pushpin

2. *The land use category descriptions and graphic portrayals, including whether the proposed use is compatible with the zone districts listed in the zoning notes and the proposed building(s) fit the listed form and location characteristics:* The Primarily Single-Unit Neighborhood (NS) which are located greater than a half-mile outside of any anchor destination. These neighborhoods contain mostly detached, house scale residences, serving mostly single-family style living. This is considered the typical suburban community that is not as walkable or accessible from an anchor. See graphic portrayal to the right. “NS” Goals/Objectives: Ensure preservation/maintenance of existing single-family housing stock and neighborhoods. “NS” Form & Location Characteristics: Primarily detached, House-scale buildings, Primarily residential, 1-3 stories, Beyond ½ mile from a Community Anchor.



This application is seeking approval to subdivide the property into two residential lots and the site consists of a single family residential home. The request for subdividing the property meets this criterion, as the lots are Primarily residential and detached, house-scale buildings, 1-3 stories in height.

3. *Existing, adjacent land uses and zoning:* The subject site is surrounded by the following existing land uses: residential single-family. The subject site is surrounded by the following zoning districts: R-10. This application request is compatible with these adjacent land uses and zoning district because the proposed use is permitted in the district and the existing adjacent land uses are the same use.
4. *The degree of change map:* The subject site is identified as nothing in the degree of change map. The white color on the degree of change map, shown below, indicates there is no degree of change for the subject site.



Subject site indicated by a red pushpin

5. *The degree of change descriptions:* Not applicable, see consistency criteria 4 above.

This proposal is consistent with the Memphis 3.0 General Plan as it is compatible with the future land use category of Primarily Single-Unit Neighborhood and with the existing adjacent land uses and zoning district.

Conclusions

This is a two-lot resubdivision of a portion of Lot 10 of the approved Oliver & Wile Park Gardens Subdivision (1946) to create lots 10A and 10B with the latter being a flag lot.

Requiring sidewalk on the east side of Hayne Road would be out of character with the existing block conditions.

The proposed lots are approximately 11,480 and 13,827 square feet.

As conditioned the proposed lots meet the bulk regulations of the Residential Single-Family – 10 District (R-10).

This subdivision is compatible with and in keeping with the character of development in the neighborhood and conforms with all applicable provision and requirements of the Unified Development Code.

RECOMMENDATION

Staff recommends approval with conditions and waivers.

Conditions

1. The front setback shall be fifty (50) feet for Lot 10A and twenty (20) feet for Lot 10B.

Waivers

1. A waiver to Sub-Section 5.2.21A is granted to relieve the developer and/or building permit holder of the installation of a sidewalk along the Hayne Road frontage.

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.

Sewers:

2. City sanitary sewers are available at developer's expense.
3. All sewer connections must be designed and installed by the developer. This service is no longer offered by the Public Works Division.

Curb Cuts/Access:

4. The City Engineer shall approve the design, number and location of curb cuts.
5. The location for the new driveway apron overlaps the current location of a drain inlet and sanitary sewer manhole. Both will have to be relocated prior to the placement of the driveway apron.

Drainage:

6. A grading and drainage plan for the site shall be submitted to the City Engineer for review and approval prior to recording of the final plat.

City/County Fire Division:

- No comments.

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:

No comments received.

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 PRELIMINARY
MAJOR SUBDIVISION PLAN APPROVAL**

Date: 10.04.2019

Case #: _____

PLEASE TYPE OR PRINT

Name of Development: Park Gardens S/D, Re-subdivision of Lot 10 (P.B. 11, Pg. 31)

Property Owner of Record: Amazing Real Estate, LLC. Phone #: 901.365.4741

Mailing Address: 4728 Spottswood City/State: Memphis Zip 38117

Property Owner E-Mail Address: c.hunter@performanceproperties.biz

Applicant: same Phone # _____

Mailing Address: _____ City/State: _____ Zip _____

Applicant E- Mail Address: _____

Representative: _____ Phone #: _____

Mailing Address: _____ City/State: _____ Zip _____

Representative E-Mail Address: _____

Engineer/Surveyor: The Bray Firm Phone # 901.383.8668

Mailing Address: 2950 Stage Plaza North City/State: Bartlett Zip 38134

Engineer/Surveyor E-Mail Address: dgbay@comcast.net

Plat Street Address Location: 1190 Hayne Road

Inside of Memphis City Limits Yes No

Unincorporated Shelby County Yes No

City of _____ Reserve Area Yes No

Access to Public Water Yes No

Access to Sanitary Sewer Yes No

Distance to nearest intersecting street: 150 feet south of S. Irwin

Unincorporated Areas: For residential projects in unincorporated Shelby County, please provide the following information:

Number of Residential Units: n/a Bedrooms: _____

Expected Appraised Value per Unit: _____ or Total Project: _____

LETTER OF INTENT



The Bray Firm

Telephone 901-383-8668
Fax 901-383-8720

2950 Stage Plaza North
Bartlett, Tennessee 38134

October 4, 2019

Josh Whitehead, Director
Memphis and Shelby County
Office of Planning and Development
125 North Main Street
Memphis, Tennessee 38103

**RE: Re-Subdivision of Lot 10, Park Gardens S/D (P.B. 11, Pg. 31)
1190 Hayne Road
Memphis, Tennessee**

Mr. Whitehead:

Please find attached an application for a preliminary subdivision plan for the above captioned property. The subject property contains an existing single family residential home in the R-10 zoning district. The owner desires to subdivide the property into two residential lots both exceeding the 10,000 s.f. minimum size for the R-10 lots. The proposed Lot 10B would not meet the frontage width requirements at the street or the building line (50 feet per plat) but would exceed the requirements for the rear 160 feet of the lot. The platted 50 foot front setback off Hayne Road would remain. Side and rear setbacks would comply with the current UDC requirements for R-10 zoning. The existing structure on Lot 10A could remain under this plan but also attached to this application is a plan by the architect showing a new structure on both of the lots.

Thank you for considering this request. If you have any questions or need any additional information, please contact me.

Sincerely,

David Gean Bray, P.E.

LETTERS RECEIVED

Two letters of opposition and one request for a hold were received at the time of completion of this report and have subsequently been attached.

MEMORANDUM

TO: Jeffrey Penzes, Office of Planning and Development

FROM: Jean McInerney

DATE: January 2, 2020

RE: LUCB S 19-23 (1190 Hayne Road, Applicant Amazing Real Estate, LLC)

As a Yorkshire resident, I request the Office of Planning and Development (OPD) and the Land Use Control Board (LUCB) hold the above matter until such time as the developer/owner satisfactorily addresses concerns raised by residents and appropriately documents agreed resolutions *prior to the case being heard*.

While representatives have had some productive conversations since the stakeholder meeting, critical issues remain unresolved.

In my opinion as an informed participant in those conversations, this process, the project, and the Yorkshire Neighborhood will all benefit significantly from further collaborative efforts to achieve and document mutual agreements *before* the LUCB hears this matter.

I hope the applicant will support this request. In any event, I urge you to recommend this matter be held. Please contact me if you wish to discuss.

cc: David Bray, P.E.

Charlie Hunter

Yorkshire Design Review Committee

Yorkshire Neighborhood Subscribers

Angela Lawson, Esq.

From: Candace Stokes
To: [Penzes, Jeffrey](#)
Subject: 1190 Hayne 38119
Date: Friday, October 18, 2019 11:56:46 AM

As a resident of 5548 Roselawn I want to let you know that I oppose the request to subdivide 1190 Hayne. I've lived here 5 years and each time someone comes to my home for the first time they are so impressed with the neighborhood. Most everyone says "I never knew this neighborhood was here". They are so envious of the beautiful trees, the unique homes and how peaceful it is. It's a jewel for the city of Memphis. Don't let anything happen to the uniqueness of this area. Homes sell as soon as a sign goes up or sometimes before. There's no need to destroy this when there are many blighted areas of Memphis that need new residences and their neighborhoods redeveloped. They would appreciate this attention to their neighborhood, but we don't need the help.

Sincerely,
Candace Stokes
5548 Roselawn
Memphis, Tn 38119

From: [Colin Chapell](#)
To: [Penzes, Jeffrey](#)
Cc: skycopswest@gmail.com
Subject: 1190 Hayne Road
Date: Friday, October 18, 2019 2:45:41 PM

Mr. Penzes,

I wish to let you know that I am opposed to the application to subdivide Lot #10 of Park Gardens (1190 Hayne Road). While our neighborhood has been amenable to subdividing lots one block south of Park, this moves the subdivision of existing lots further into the heart of the neighborhood and sets a precedent that would move the character of the neighborhood from one that attracts families that want large backyards for their children. While I love that developers are as attracted to our neighborhood as families, there are places for this to happen already.

Thanks so much for your consideration,

Colin Chapell
5587 Glenwild Ave.

cbchapell@gmail.com