MINUTES OF REGULAR MEETING
GOODLETTSVILLE PLANNING & ZONING BOARD

Date: October 7, 1996 Time: 5:00 P.M. Place: City Hall

Present:		Also Present:	
John Coombs	Gary Webster	David Wilson	Rhonda Jarrett
Bobbie Ann Wilson	Jim Thomas	Claudia Davis	L. Steven Bridges, Jr.
Mary Ann Gourley	Jim Galbreath	Bill Terry	Melody Collins
Pat Lydon	Margaret Wall	Charlie Lowe	Terry Crunk
		Deputy Chief Richard Pope	Larry D. McClanahan
Absent:		Kim Vowell	Skip Wild
Jim Hitt	Jim Driver	Brad Cather	

The meeting was called to order by John Coombs and prayer was offered by Mary Ann Gourley. The minutes of the September 9, 1996 meeting were adopted as submitted.

Bill Terry indicated **Item #7 for approval of Grading and Drainage Plan for A to Z Storage, Lot 8 Jackson Park Subdivision,** has been withdrawn at the staff's recommendation and the owner and engineer for that item were notified.

Item 2 (#19-94) to consider the request of Gresham, Smith and Partners for approval of Final Master Plan of Greens of Rivergate, Davidson County Tax Map 33, Parcel 236.

Staff reviewed. Bill Terry noted this item was deferred last month pending a meeting between the legal counsel of Greens of Rivergate and the city's legal counsel with their respective staffs, and also to have the City Attorney review the Declaration of Easements which have been submitted. The meeting resulted in the Greens of Rivergate Partnership agreeing to write a letter specifying what they were doing in the way of management control and Skip Wild, their attorney, distributed a copy of this letter to each board member at this meeting.

John Coombs noted that he appreciates the concerns and the efforts of the management to resolve the problems that have occurred in this apartment complex.

Deputy Chief Pope indicated the Police Department acknowledges that management has taken aggressive steps to resolve some of their problems. For the last three months management has not been renewing the leases of problem tenants and the real problem tenants are being evicted. Police calls to the Greens of Rivergate have declined dramatically. There has been a problem with payment to the security officers but apparently this is being worked out. The position of the Police Department is that this development will have no more problems than any other apartment complex, as long as they keep up the work they are doing now and particularly maintaining the on-site manager.

Bill Terry reminded the board the actual issue before them is the request for an amendment to the master plan. This amendment would make the property, now in one ownership in one tract, into two fee simple tracts that would have Phase 1 of the project on one tract and Phase 2 of the project on another tract. The original submission and approval of the master plan did not contemplate any division of property. There are a few minor technical details that would need to be addressed both on the master plan and on the Declaration of Easements if the board chooses to proceed.

Jim Galbreath inquired to Skip Wild that the attorney for the city has not signed off on this letter he has circulated? Skip Wild noted a meeting was held with Joe Haynes and the city staff and a letter was prepared to mirror that discussion. The letter was sent to Joe Haynes for his review and approval. Wild noted he has not heard if Haynes has approved the letter. Bill Terry questioned the procedure for the city attorney to approve the letter because the letter is submitted to the board to detail what they have done and what they will continue to do as a part of the management of this project. If that is the case, Wild noted it is a misunderstanding on his part and his client is willing to sign the letter. They have not done so as they were waiting for Mr. Haynes.

Galbreath noted if that is the case he felt the board should have an opinion from the city attorney. Bill Terry said he talked with Joe Haynes and in his opinion, it is not a legally binding document. Galbreath asked Wild if he intended this to be a legally binding document and Wild indicated it was a letter of understanding. Galbreath indicated he is uncomfortable with a letter of understanding based on the dialogue from previous meetings and some of the things he has been able to research. He suggested that the board seek a binding agreement that would insure a better environment than the city has experienced in Phase 1 before making a decision on Phase 2. Pat Lydon questioned if such a document could be done legally. John Coombs noted that there was a question on the part of the city attorney as to how this document could be a binding arrangement with management and it would be almost impossible from a management standpoint to produce such a binding document. Bill Terry noted he felt this was the opinion of Mr. Wild, that this type of agreement and understanding would apply to the understanding between this board and the current owners and managers of the property. It would not necessarily apply to any new owners that might come in.

Jim Galbreath noted it could not be transferable and Pat Lydon added it could not change the personnel. John Coombs indicated that herein lies the problem the board faces. The concerns regarding Phase 1 are addressed very adequately but it does not address the concerns on the Phase 2 development that could be under separate management if the property is divided. The issues of the amenities and the access/egress is not a problem, but the potential management separation of the two parcels is the major concern and he urged the board to deliberate this issue with much caution.

Skip Wild indicated it is every citizen's obligation to obey the law and he believes Mr. Haynes agrees that there was some problem possibly with the city imposing on one landowner certain obligations that would apply solely to that landowner and singling out that landowner as different from others in the city. He said there appears to be a question of discrimination and whether there is the authority to have that kind of agreement that would be requirements greater than the fact that they would obey the law.

John Coombs noted the board must address all future developments. If the board grants this request, it establishes a precedent that this city may not be willing to address with future developments that are not as willing to cooperate with the city.

Jim Thomas stated this has been a very dynamic evolving discussion. Each discussion has revealed new things that would have had some effect in previous deliberations. This board has continued to learn new things that he would have wanted to be able to consider throughout the entire evolution of this project. The board cannot single out, and works very hard making sure they do not impose guidelines or restrictions on any single property owner. Certainly, documentation can show this to be true. As discussions have gone on, new things have been learned about the intent of the project that he certainly was not aware when the project was initially brought to this board. (Thomas had to leave the meeting at this point due to another obligation.)

Mary Ann Gourley, Bobbie Ann Wilson, John Coombs, and Jim Galbreath offered questions and comments stating they have numerous concerns and problems with approving this request.

Bill Terry noted the most unusual aspect of this issue is that this project is rental. There is no ownership involved in the apartment dwellers themselves, and every apartment complex in the city and every apartment complex that he knows of anywhere else is owned as one entity. Splitting a rental project into two parcels presents the possibility that it can be subdivided which is the intent here and that it can be sold, thereby dividing the project.

Mr. Wild noted there was no intention to mislead anyone and he understands the conceptual problem. What they are asking for is perfectly legal, to subdivide this property to build the second phase under separate financing. Their intent is to construct a project that is identical to the project that was approved at the outset. They have typically owned their complexes for a minimum of 10 years so they can assure the board that this would remain under the same management throughout that entire period.

John Coombs noted there may not ever be an opportunity for this development or the management to sell this property or turn it over to separate management but the concern is, there will always be the possibility of dealing with two entities in the management of these properties. Given the state of conditions the city has been exposed to in the last 90 days, and dealing with the problems experienced, he questioned what if there were two separate ownerships that the city would have to address possible similar issues with at another time. If the city has no other apartment complex PUD in the city under two management entities, we establish a precedent by doing so with this project.

Mr. Wild noted the way the project is approved now under the current plan, there is nothing that would require this owner to have it under one single management group. Practically, that is what is going to happen. Coombs noted theoretically if you have it as one single entity, there would be one management for the complete complex.

Mr. Wild noted the city cannot control anything but the enforcement of the law and if you have a bad manager in place, then what the city can do is enforce the law. They are fortunate in this case to have good management in place and what they contemplate in the development of Phase 2 is that they will have the same management in place for ten years and possibly beyond that. That is precisely why it is very unlikely that the property would be sold.

Coombs conceded to Wild that it is very unlikely but there is always that possibility. Mr. Wild indicated there is that possibility with every property in the city, every apartment property, shopping center, etc. Coombs answered not as long as it is under one parcel design. Mr. Wild said there is this danger and it exists whether there is one or ten owners. The city really does not have any legal right to dictate management. You can only speculate what happens if this is under two management groups, which is not likely to happen, but it might be two of the best management groups in town

Mr. Wild questioned if there was any understanding from the outset that there would be a single manager. It was not specified. He conceded that would be an assumption that the board would have made, but the question is how relevant is it that there is one or two managers. John Coombs said evidently there are some very concerned people on the board that share the same serious concerns about that possibility.

Mr. Wild indicated his client has told him they would be willing to add to the letter an obligation on their part that if this property were sold to another owner, to obligate that owner to manage the property in the same manner they have set out in their letter.

John Coombs noted that the document is a non-binding agreement and he felt a new owner would not agree to such a condition. Mr. Wild noted they could enforce that on the owner as a condition and he did not know if there was any way they could give them something the city could enforce.

Pat Lydon questioned if the language would be that the plans for Phase 2 would include the same on-site management as Phase 1 for ten years. Mr. Wild confirmed this to be correct. Bill Terry questioned also what would happen after ten years? The property will still be in Goodlettsville. Bobbie Ann Wilson noted we would all be here in ten years and they will be gone. Mr. Wild replied that he did not know about these properties after ten years. John Coombs noted there is a lot of hypothetical vision but his real concern is establishing a precedence that would permit another future apartment complex development as a planned unit development to come in and parallel this situation as a precedent.

Kim Vowell, representing the developer, noted the reason for this request is a business issue to correct their financing problems. The precedent issue actually creates another set of issues and problems that can be dealt with in that eventuality. He asked to separate the issues of the management from the request to divide the property in order to take care of their financial problem. If they were to sell to another entity, to every possible extent they would obligate themselves to the satisfaction of the board and the city's counsel. They are willing to continue to discuss and to firm up their letter and perhaps there is some way to make this a more legally binding document. He does not want this to be declined because they haven't done a good enough job in getting the board comfortable.

John Coombs, noted if the agreement could be drafted to be a legal binding document with the approval of the city attorney, then this board could defer action until that document could be prepared. However, the document would not address the concerns of the board regarding setting a precedent and the potential problems that would be created if the property is divided.

Kim Vowell expressed this is the only way they know of to deal with their financing dilemma. He believes they can and are willing to compile a legal and binding document.

John Coombs questioned if the issue of the board is the division of the property or the legal binding agreement to attach to the property? Bobbie Ann Wilson and other board members indicated their priority is the division of the property establishing a precedence. Coombs noted that if that is the concern of the board, any documentation that could be drafted may be a moot effort.

Mr. Wild indicated he feels what they have asked the board to do is legal. They have complied with all the ordinance requirements to permit the subdivision. They would have to take a very serious view at any legal regress they would have if the board does not approve this and that would extend to possibly discrimination against his client and violations of the Fair Housing policies of the United States government. From a legal standpoint they feel this is very serious and they would hope the board would take into account that there could be serious consequences with disapproval of this request.

John Coombs said based on the comments of the applicant's attorney, he recommended to defer any action on this item until further deliberation can be held with the city and it's attorney and counsel.

Jim Galbreath made a motion to defer this request until the board can obtain legal counsel and opinion from the city attorney. Bobby Ann Wilson seconded the motion and the board unanimously approved.

<u>Item #1 (19-94)</u> to consider the request of Gresham, Smith and Partners for approval of Subdivision Plat of Lot 5A, Section 2, Rivergate Acres Limited, Davidson County Tax Map 33, Parcel 236.

Due to the action on the previous item, this item could not be considered unless the Master Plan reached approval and was therefore also deferred.

<u>Item #3 (#12-96)</u> to consider the request of L. Steven Bridges, Jr. for approval of Final Plat for resubdivision of Jarrett Property, Davidson County Tax Map 18, Parcel 42.

Staff reviewed. Bill Terry noted this plat divides one lot on Moncrief Avenue into two lots, creating one new building lot. There are a few minor corrections recommended. There is a question about the water pressure on Moncrief. Madison Suburban Utility was contacted and stated there is plenty of water and adequate pressure to accommodate this additional lot.

Steve Bridges indicated there would be no problem making the corrections recommended by staff.

Mary Ann Gourley indicated she has had calls from residents on Moncrief concerned about the water pressure. David Wilson suggested obtaining a letter from Madison Utility stating the pressure is adequate. John Coombs suggested the Fire Department be consulted also about the pressure.

Pat Lydon made a motion for approval of the Final Plat, subject to the corrections recommended by staff and securing a letter from Madison Suburban Utility District stating their is adequate water pressure. Margaret Wall seconded the motion and the board unanimously approved.

<u>Item #4 (#18-96)</u> to consider the request of L. Steven Bridges, Jr. for approval of Final Plat for resubdivision of Lots 5, 6, and 7, Third Addition Roscoe Place, Davidson County Tax Map 26-05, Parcel 101, 102, 103.

Staff reviewed. Bill Terry indicated this plat subdivides three lots into two which can meet current zoning requirements. There are a few minor corrections and additions recommended by the staff.

Mary Ann Gourley made a motion to approve this final plat subject to the staff recommendations. Bobbie Ann Wilson seconded the motion and the board unanimously approved.

<u>Item #5 (5-95)</u> to consider request of Larry D. McClanahan for approval of Final Master Plan for Woodmen of the World Lodge Building, Davidson County Tax Map 33-4, Parcel 202.

Staff reviewed. Bill Terry noted the preliminary plan has been approved. The final plan as submitted contained many items that need to be corrected. The plan has been resubmitted by the engineer with a few items remaining to be corrected. The existing sign does not meet the setback requirements, may pose a sight problem, and may cause a problem in the future if additional right of way is needed to widen this intersection. The Woodmen of the World have indicated they would renovate this existing sign.

Larry McClanahan indicated they have been willing to renovate the sign and use it simply because it is there. They agreed it would be less complicated to tear it down and not pursue a setback variance and risk an investment on their part that may have to be removed in the future. He also noted the awning is a structure attached to the building.

Charles Lowe indicated there are still some drainage problems with the plan but his firm has not fully reviewed the revised plan. Bill Terry noted there is some concern about the building design and recommended the side facing Dry Creek Lane be bricked instead of painted block. There are several items needed on the plan related to landscaping. He emphasized the species should be hardy to this area. He recommended approval should be subject to the staff and city engineer's approval of the corrections needed on the plan.

Margaret Wall made a motion for conditional approval of the final master plan, subject to the corrections and recommendations of the staff and City Engineer. Gary Webster seconded the motion and the board unanimously approved.

<u>Item #6 (19-96)</u> to consider request of Diel Engineering, Inc. For approval of Final Plat of Crunk Acres, Sumner County Tax Map 140, Part of Parcel 22.04.

Staff reviewed. Bill Terry noted this property on Madison Creek Road, owned by Jack Crunk, has had some illegal subdivision of the tract in the past. Two lots have been deeded off this tract without any road frontage. Building permits have been denied on these tracts. Melody Collins, Mr. Crunk's daughter, is attempting to clean up the other problems and create legal building lots with road frontage. This plat would eliminate two of the three lots which were created without an approved plat. Two lots will be established and a residual tract will remain with over five acres. While this plat would help the current situation, several problems still remain. There is a 10' strip between a fence and the northern property line which is the original 10' easement to the property in the rear of the original tract. This strip of property should be included in the lot and should be shown as an easement through the lot. There is a problem with the septic fill lines which need correction. There are a few other technical details which should be corrected on the plat.

Terry Crunk and Melody Collins agreed with John Coombs that they would encourage their engineer to communicate with the City Planner and come up with a plat to correct as much of the current problems as possible.

Charles Lowe indicated there is a creek along the frontage at Madison Creek Road and recommended common use easements for the three tracts to use one bridge onto these tracts because of the narrow width of the lots.

Pat Lydon made a motion to defer this item until the November meeting. Bobbie Ann Wilson seconded the motion and the board unanimously approved.

The meeting was adjourned at 7:05.

John Coombs

John Coombs, Chairman

Claudia Davis

Claudia Davis, Recording Secretary