

**PLANNING COMMISSION MEETING
MUNICIPAL CENTER COUNCIL CHAMBERS
Tuesday, January 7, 2014**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of the Municipal Center on January 7, 2014. Alderman Owens welcomed everyone and asked the Commission members as well as the audience to please speak into the microphone so they could be heard. Alderman Owens then called the meeting to order at 6:00 p.m. asking the secretary for the roll.

1. Ms. Rush called the roll of the Board to establish a quorum:

Commissioners Present: Alderman Forrest Owens, Dike Bacon, Steve Wilensky, and Susan Burrow, Hale Barclay, David Klevan, and George Hernandez

Commissioners Absent: Hale Barclay, and Mike Harless

Staff Present: Debbie Wiles, Wade Morgan, Tim Gwaltney, Andy Pouncey, and Pam Rush

2. A quorum for tonight's Planning Commission meeting was established.
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3. **ELECTION OF OFFICERS**

Alderman Owens declared the floor open for nominations for Chairman.

Ms. Burrow nominated Mr. Klevan for Chairman.

Alderman Owens asked if there were any other nominations. There were none. He said he would entertain a motion that the nominations cease and that Mr. Klevan be elected.

Mr. Bacon seconded the motion.

Alderman Owens asked for a roll call.

Roll Call: Barclay – absent; Burrow – yes; Hernandez – yes; Wilensky – yes; Bacon – yes; Harless – absent; Owens – yes; Klevan – abstain. **Mr. Klevan was elected Chairman of the Planning Commission.**

Chairman Klevan stated he would entertain nominations for Vice Chairman.

Ms. Burrow nominated Mr. Bacon as Vice Chairman. Alderman Owens seconded the motion.

Chairman Klevan asked if there were other nominations. There were none. He asked the nominations cease and that Mr. Bacon be elected by acclamation.

Chairman Klevan asked for a roll call.

Roll Call: Barclay– absent; Burrow – yes; Hernandez – yes; Wilensky – yes; Bacon –abstain; Harless –absent; Owens - yes; Klevan – yes. **The Commission members voted unanimously to elect Mr. Bacon as Vice Chairman.**

Chairman Klevan then asked for nominations for Secretary.

Ms. Burrow nominated Mr. Harless for Secretary. Alderman Owens seconded the motion.

Chairman Klevan asked if there were other nominations. There were none.

Chairman Klevan moved that the nominations cease and that Mr. Harless be elected by acclamation.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – absent; Burrow – yes; Hernandez – yes; Wilensky – yes; Bacon – yes; Harless – absent; Owens - yes; Klevan – yes. **The Commission members voted unanimously to elect Mr. Harless as Secretary.**

4. Approval of Minutes for December 3, 2013

Chairman Klevan stated for those people who just arrived, tonight’s agenda is on the front table. The first order of business is the approval of the minutes for December 3, 2013. If there were no additions, corrections or deletions to the minutes of the December 3, 2013, meeting of the Planning Commission, he would entertain a motion for approval.

Ms. Burrow moved to approve the Planning Commission minutes of December 3, 2013, as submitted, seconded by Mr. Wilensky.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – absent; Burrow –yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – absent; Owens - yes; Klevan –yes. **The motion was passed**

5. Consent Agenda: Item 5 (a) was approved.

5. (a) McDonald’s Restaurant, 2030 S. Germantown Rd., Request Preliminary and Final Site Plan Approval for a Restaurant with Drive-through Facilities

INTRODUCTION:

Applicant Name: **Loy Taylor; w/McDonald’s Corp. – Representative**

Location: 2030 South Germantown Road

Current Zoning District: “T-5” Urban Center District, operating under the “SC-1” Shopping Center Zoning District

BACKGROUND: The McDonald’s Restaurant was initially approved on February 27, 1978, as Project Development Contract Number 17. Over the years, it has had various improvements and modifications to the drive-through facility, and the building appearance. The plans were initially filed for the May 2013 PC agenda, but was withdrawn to address fire truck access issues.

DISCUSSION: McDonald's Corp. proposes to demolish the existing 5,020 sq. ft. building and construct a new 6,038 sq. ft. building on the same parcel. The drive-through will be enlarged to a double drive-through lane and the single driveway entry to Germantown Road will be replaced with two, one-way driveways. The plan as currently drawn satisfies the needs of the Fire Dept. for appropriate accessibility for its vehicles. The Fire Dept. has prepared an access plan that has vehicles entering from Germantown Rd., at the southern entrance, setting up near the front of the building, and exiting via the shared access drive to the Minor Medical/Arby's restaurant parking lot.

	EXISTING SITE	PROPOSED SITE
TOTAL SITE AREA	1.29 ac.	1.29 ac.
BUILDING SIZE	5,020 sq. ft.	5,938 sq. ft.
NUMBER OF SEATS	NA	116
NUMBER OF PARKING SPACES	71	63

STAFF RECOMMENDATION: Approval, subject to the following comments:

A. B. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. Storm water runoff is concentrated at the east end of the parking lot and discharges through two curb openings onto adjacent property. There is no permanent erosion control at the two curb openings. The applicant shall contact the adjacent landowner (Kroger Corp.) about constructing a permanent means to accommodate runoff. Temporary measures shall be provided on the construction plans, in case construction of McDonald's occurs first.
2. The fire department connection is shown as a wet line. Revise to indicate a dry line with the post indicator valve on the supply to the riser (wet).
3. HDPE pipes and bends in the drainage piping are not allowed by Germantown standards.
4. Replace the proposed plan title blocks with standard Germantown title block.
5. All recorded easements shall be shown on the plat. A five (5) foot utility easement is required along all property lines, adjacent to and not within any other easement.
6. All survey data shall be tied to Tennessee State Plane Coordinates and the City of Germantown monumented survey control. The final plat, construction drawings and "as built" plans shall be submitted on electronic media in DXF format.
7. The developer shall enter into a Project Development Contract with the City of Germantown for this project after it has received Final approval.
6. The applicant shall provide proof of TDEC approval for the water system and sanitary sewer system.
8. If approved, all materials shall be specified on the construction plans for the proposed project. The applicant must receive Final Construction Plan approval from the Department of Community Development before the Memphis/Shelby County Office of Construction Code Enforcement may issue a building permit for the project.
9. The applicant is required to include the following formal written statement by a certified and licensed professional engineer to be placed on the grading and drainage plans, signed, dated and sealed:

I, _____, a duly licensed professional engineer in the State of Tennessee, hereby certify that I have designed the drainage in accordance with the Design Standards of the City of Germantown and have considered upstream and downstream conditions that affect drainage to include topography, present and future land use, existing zoning, and location of natural water courses.

10. The Developer agrees to comply with the following requirements, unless otherwise authorized in writing by the City Engineer:
 - (a) All streets shall be kept clear and free of dirt and debris;
 - (b) All construction activity shall begin no earlier than 7:00 a.m. and end no later than 6:00 p.m., Monday thru Saturday, and no construction activity shall be permitted on Sundays; and
 - (c) The Developer and Lot Purchasers shall provide the Department of Community Development with the name, address and phone number of person(s) to be contacted and responsible for correcting any of the above should the occasion arise to do so.

11. The Shelby County Code, Section 3-25 [Reference 1200-3-11-02 (Asbestos)] require building owners and/or operators to submit a notification of intent to do demolition or renovation at least ten (10) working days prior to the start of the activity even if no asbestos is present so compliance can be verified. Notification also includes the submittal of an asbestos survey report. Please contact the Health Department at (901) 544-7349 for more information.

SUBDIVISION AND SITE PLAN SUBCOMMITTEE REPORT: (MIKE HARLESS, CHAIRMAN) The subcommittee met on December 18, 2013 and recommended approval on the consent agenda.

PROPOSED MOTION: To approve the preliminary and final site plan for the McDonald's Restaurant at 2030 S. Germantown Rd., subject to the preceding comments.

Mr. Bacon moved to approve the item on the Consent Agenda, subject to comments contained in the staff report, seconded by Ms. Burrow.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – absent; Burrow –yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – absent; Owens - yes; Klevan –yes. **The motion was passed**

Chairman Klevan stated before the presentation of item 6 on the agenda (Whole Foods):

At the outset, I would like to advise everyone that the Whole Foods developer has filed a separate application to close a portion of Pete Mitchell Road south of Poplar Avenue to the proposed crash gate as shown on the site plan. That road closure application will not be heard by the Planning Commission tonight. In the event that the Planning Commission approves the site plan for the Whole Foods market, then the road closure will be heard on Tuesday, January 21, 2014 at 6:00 p.m.

6. Whole Foods Market, Southeast Corner of Poplar Ave. and Pete Mitchell Rd. – Request Preliminary and Final Site Plan Approval

INTRODUCTION:

INTRODUCTION:

Applicant Name: *Cindy Reaves, w/SR Consulting, LLC – Representative*

Location: Southeast corner of Poplar Ave. and Pete Mitchell Rd.

Zoning District: "T-4" General Urban and "T-5" Urban Center Districts

BACKGROUND: The property was rezoned from the “R” Single Family Residential District to the T-4 and T-5 districts as part of the Germantown Smart Growth Plan in 2007.

DISCUSSION:

TOTAL SITE AREA	4.98 ac.
BUILDING SIZE	41,050 sq. ft.
NUMBER OF PARKING SPACES	235 provided 108 required 205 maximum allowed
BUILDING HEIGHT	38 ft. (two story) 2 story minimum

SUMMARY OF PLAN REVISIONS:

Pete Mitchell Rd., to the western edge of the pavement, has been purchased from the abutting landowner, Mr. Norwood. An application to close Pete Mitchell Rd. to public access between Poplar Ave. and the southern property line of Whole Foods has been filed for Planning Commission approval. A crash gate is to be installed on Pete Mitchell, south of the store’s entrance drive. A six foot-tall brick fence is to be constructed along the south property line.

WARRANTS:

In those instances where reasons are shown that would justify a deviation from the strict requirements of the provisions of the Smart Code, the Planning Commission shall have authority to permit such deviations. A warrant is an official decision that permits a practice that is not consistent with a specific provision(s) of this Code, but is justified by its "intent" and is consistent with the urban design guidelines and/or development concepts in the "Germantown Smart Growth Plan".

The following is from the Smart Code section of the zoning regulations: “In determining justifiable reasons for granting a warrant, the PC shall take into account, among other relevant factors that may be applicable, the relationship of the property to other properties, whether the deviation would be in accord with the intent of the SmartCode, principles of good land use planning as same may evolve over time, the topography of the property, and peculiar and exceptional practical difficulties or undue hardship upon the owner of the property. In determining whether to grant a warrant, financial hardship shall not alone be considered sufficient to justify a deviation. In all events, the PC shall take into consideration whether the proposed deviation may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the SmartCode provisions.”

The following warrants from the standard development regulations are required:

1. The southern 250+/- feet of the site is within the T-4 District. Parking within that area for a T-5 use requires approval of a warrant.
2. The Principal Pedestrian Entrance is not provided on a Frontage Line.
3. The T-5 district requires all parking to be within the 3rd lot layer. Parking is proposed within the 1st and 2nd lot layers. Buildings on a non-pedestrian-oriented street (Poplar Ave.) may have parking on the frontage by warrant.
4. Parking within 50 feet of low-density zoning is required to be parallel to the property line of the low-density zoned property. The proposed parking is perpendicular to the property line.
5. The T-5 district sets a maximum of 205 parking spaces for a building of this size. The plan proposes 235 spaces.

CLOSURE OF PETE MITCHELL RD. In conjunction with the purchase of Pete Mitchell Rd., the plan proposes the closure of that road as a public access way. The existing portion of the road south of Whole Foods property line will remain open for southbound traffic only.

STAFF COMMENTS:

A. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. Provide a demolition plan for the existing dwellings that, at a minimum indicates the location of all utilities to be abandoned. Abandoned utilities shall be capped at the main.
2. Determine if the retaining wall at the northeast corner of the building inhibits sight distance according to AASHTO standards and correct if necessary.
3. Contact Bob Joralemon to discuss and revise the Utility Plan.
4. Provide easements for off-site drainage.
5. Evaluate the need for a run-off dissipater where site drainage exits off-site.
6. Replace the Transited water line in Pete Mitchell Rd. with currently acceptable material.
7. Evaluate the need for the sanitary sewer lift station on the south side of the building and replace with gravity flow if feasible.
8. Provide a Phase 3 Erosion Control Plan for erosion control measures after construction

B. GENERAL COMMENTS AND REQUIREMENTS

1. All recorded easements shall be shown on the plat. A five (5) foot utility easement is required along all property lines, adjacent to and not within any other easement.
2. All survey data shall be tied to Tennessee State Plane Coordinates and the City of Germantown monumented survey control. The final plat, construction drawings and "as built" plans shall be submitted on electronic media in DXF format.
3. The developer shall enter into a Project Development Contract with the City of Germantown for this project after it has received Final approval.
4. The applicant shall provide proof of TDEC approval for the water system and sanitary sewer system. Contact Bill Hinch with TDEC for information.
5. If approved, all materials shall be specified on the construction plans for the proposed project. The applicant must receive Final Construction Plan approval from the Department of Community Development before the Memphis/Shelby County Office of Construction Code Enforcement may issue a building permit for the project.
6. The applicant is required to include the following formal written statement by a certified and licensed professional engineer to be placed on the grading and drainage plans, signed, dated and sealed:

- a. I, _____, a duly licensed professional engineer in the State of Tennessee, hereby certify that I have designed the drainage in accordance with the Design Standards of the City of Germantown and have considered upstream and downstream conditions that affect drainage to include topography, present and future land use, existing zoning, and location of natural water courses.
7. No owner, developer, or tenant of property within the subdivision shall commit an act, or allow a condition to exist on property within the subdivision, which act or condition endangers life or health, violates the laws of decency, or obstructs or interferes with the reasonable and comfortable use of other property in the vicinity.
8. The Developer agrees to comply with the following requirements, unless otherwise authorized in writing by the City Engineer:
 - (a) All streets shall be kept clear and free of dirt and debris;
 - (b) All construction activity shall begin no earlier than 7:00 a.m. and end no later than 6:00 p.m., Monday thru Saturday, and no construction activity shall be permitted on Sundays; and
 - (c) The Developer and Lot Purchasers shall provide the Department of Community Development with the name, address and phone number of person(s) to be contacted and responsible for correcting any of the above should the occasion arise to do so.
9. Total acres disturbed shall be provided. A NOC is required for TDEC for the NPDES, Phase II. The NOC shall be posted on the site at all times and the stormwater reports/documentation/inspections shall be available at all times. The SWPP shall be posted at the site and available. Inspections must be performed by personnel who have completed the Level I – Fundamentals of Erosion Prevention and Sediment Control course.
10. The Shelby County Code, Section 3-25 [Reference 1200-3-11-02 (Asbestos)] require building owners and/or operators to submit a notification of intent to do demolition or renovation at least ten (10) working days prior to the start of the activity even if no asbestos is present so compliance can be verified. Notification also includes the submittal of an asbestos survey report. Please contact the Health Department at (901) 544-7349 for more information.

STAFF RECOMMENDATION: Approval, subject to the conditions listed above

Cindy Reaves with SR Consulting, LLC 5909 Shelby Oaks Drive, Suite 200, Memphis, TN stated I want to thank everyone for coming tonight. We really appreciate the support that Germantown has given Whole Foods. I would like to introduce the team starting with:

Price Ford, Walter Allen and John Planchon with Integra Realty Services, Charlie Oates with Oates Commercial Properties representing Whole Foods, Mike Farish, Joe Jarrett with Whole Foods, and Jason Kimball, Mitch Deutsch with Greenberg Farrow-Atlanta, Dean Thomas with Dalhoff Thomas Design, and Bob Sweeney. Whole Foods has been looking at Germantown as a location for over three years. The proposed building is 41,000 SF on 4.58 acres and located at SE corner of Poplar Avenue and Pete Mitchell in the core of Germantown. They are the “Best Companies to work for” by Fortune Magazine 16 consecutive years. The first store opened was in Austin, TX in 1980. Since then over 365 stores throughout the UK, Canada and 40 states and more than 80,000 team members with sales of \$12.9 Billion. It is the eighth largest food and drug company store in the US. They offer shoppers the widest variety of natural and organic product available, Whole Foods Market is a dynamic leader in the quality food business that aims to set the standards of excellence for food retailers. Cypress Realty will develop the project and Price Ford, Principal of Cypress Realty is here to give a brief overview of their firm.

The property was zoned in 2007, Smart Code was very appealing to Whole Foods which it supports their vision and concept for their new store. This eliminates four rental houses and four potential sites into one. The building is 245 feet from the adjacent properties; it is the only development on the block until Norwood develops. It has also been proven that Whole Food has the potential to draw higher end retail and restaurants in the surrounding area once they have chosen a site.

We have tried to work with the neighbors and met on multiple occasions to listen to concerns and implement solutions to their concerns. The three things we heard were:

1. Install a brick fence along southern most property line.
2. Close Pete Mitchell Road and install a crash gate at our entry to prohibit traffic from entering Dogwood from Pete Mitchell.
 - Purchase additional property
 - Redesign the site
 - Shift the road so all improvements are within existing edge of pavement
 - Work with Fire Department
 - Agree to install a crash gate for emergency access only and make all the improvements needed.
3. Save a 36-foot oak tree on southern property line.
4. Hours of operations are 8:00a.m. to 9:00 p.m.
5. Delivery times are 6:00 a.m. to 2:00 p.m.

Price Ford, President of Cypress Realty Holdings Company stated we have been working on this project for 10 months with many people. I would like to thank Kingsway Christian Church, with Germantown staff Andy Pouncey, Wade Morgan, Jody Dwyer, and Tim Gwaltney. I would also like to take this minute to thank Ken Norwood and his two sons who have been willing to sale us a 10-foot strip of land that we needed to redesign this site to accommodate the neighbors concerns. This Whole Foods will have 150 employees.

Joe Jarrett discussed the economy impact of Whole Food's and social responsibility. Their annual report stated an average 35.4 million dollars at our local sales tax revenue 2.75% that equate to 973 thousand dollars. An estimate praise value 12 million dollars, this project would generate 92 thousand dollars property tax revenue to Germantown. Whole Foods will have between 150 to 160 employees. In addition, to the economy impact Germantown non-profits and charities would also benefit, they are very focus on community involvement. The store in east Memphis has contributed \$60,000 to locate non-profits organizations and donate up to \$30,000 of product.

Walter Allen, Senior Management of Integra Real Estate Services talked about real estate values staying the same and increasing with Whole Foods being in Germantown.

Charlie Oates, with Oates Commercial Properties discussed Whole Foods method for site selection. They identify a target intersection with the best combination of demographics, critical mass, and synergy of retails such as hospitals, government offices, and other businesses.

We worked every parcel from the four corners of that intersection until we find all the potential sites. After touring all area sites and identifies what ones are possible, a favorite is chosen to be presented to the real estate committee at the corporate headquarters in Austin, TX. We considered everything basically in the City limits of Germantown, which were Kirby Parkway, on the west to east of Forest Hill Irene on Poplar Avenue and from the Wolf River Boulevard on Germantown Road south of Poplar Avenue. The west end of Poplar Avenue was determined to be too close to the east Memphis store and Forest Hill was eliminated because there is not enough critical mass synergy. Poplar Avenue and Germantown was chosen as the target intersection. On June 25 and 26, we had a final site approval tour with three high-

ranking executives at Whole Foods: Nora Smith, VP of Real Estate, Omar Gates, Southeast Region President, Ken Myers, Executive VP of Operations for the eastern U.S.

We considered many sites in the overall area and the sites that were turned down near the target intersection included the Kroger at Germantown Collection; not enough parking; Office Max at Germantown Village Square: not enough parking and poor visible, and the Arthur property. Whole Foods was not interested in that unless the existing bank building was purchase separately and taken down and our building put in its place. Based on the proximity to Poplar Avenue and Germantown Road intersection, the visibly and the traffic signal at Pete Mitchell Road which is part of this deal, and the site plan presented on the tour.

All three executives agreed the subject site was the only site that they were interested in, presented to the real estate committee and the only site in Germantown that they would consider.

On June 26, we met with the Mayor, City Administrator, and Director of Economic Development, Chief Planner, Economic Development Planner, and Economic Development Consultant. We were warmly welcome from all the City staff at Germantown. The Whole Foods Executives told them this was the only site that they were interest in and would like to open a store on this site as soon as possible.

Ron Poe is a lawyer in Germantown who is representing Dolly Willis. Her property faces Pete Mitchell Road. We need more tax revenue for Germantown with the new school system.

In Favor of Proposal

- 1) Ralph Berry: 9276 Ingleside Farms – active supporter of (2000) spoke on line effort in rapport, tax money, healthy food options, and it is a great location.
- 2) Jeff Mann: 9489 Fox Hill Circle North – supported the location.
- 3) Ken Norwood: 7750 Dogwood Road – I am not opposed of Wholes Foods and it is the best location.
- 4) Melissa Jones: 3036 Shannon Oaks Cove – I want options for shopping and it is great for the Smart Growth Plan.
- 5) Michelle Fulmer: 1570 Riverdale Road – I would like to shop in Germantown.
- 6) (Name inaudible): 1576 Riverdale Road – It is a perfect use for this property.
- 7) Jimmy Luke: 2350 Carters Grove Lane – I cannot think of a better use for this site. It is top-notch location for Whole Foods.
- 8) Andy: 2624 Forest Hill Irene Road – Whole Foods is a wonderful use for this property and it is needed for Germantown, vote yes.
- 9) Brad Federman: 8999 Jenna Road – We want to preserve Germantown with good decisions, bring right partners, Whole Foods is the right partner, vote yes.
- 10) Mary Leslie: 7541 Apple Valley Road – I support the healthy food movement, I believe Whole Foods will bring that to the community of Germantown, they support local producers as well, vote yes.

Opposition

1) Richard Glassman: 7787 Dogwood Road – He is the HOA President of the Dogwood property owners; Dogwood Road residents donate twice what Whole Foods donate to local service organizations. Whole Foods has not contacted us at all about the plans. The public meeting was a fiasco. We do not know the height of the building. He questioned the accuracy of the revenue figures. The neighbors never requested a 6-foot wall. However, we said an 8-foot wall only. Ms. Clara Tragesser will see a lighted parking lot with many parked cars from her house. This is the requested list that was presented to Whole Foods from our HOA:

Wall separating Mrs. Clara Tragesser and Terry property:

- a) Raise the height of the wall to 8 feet from current grade level. (If a 2 foot cut down is done, then 8-foot wall in addition to the 2 foot cut down).

- b) Wrap the wall on the west side along Pete Mitchell north to the location of the crash gate.
- c) Wrap the wall on the east end around north for 100 feet.

Lighting:

- a) Eliminate any lights standards within 30 feet of the property line on the south portion of the project.
- b) Reduce lighting standard heights on the last row of lights on the final plans by 50%.
- c) Ambient lighting flow onto the properties that front on Dogwood should be reduced by 50%.

Parking and hard surfaces:

- a) Eliminate the most southern row of parking that is immediately adjacent to the properties that front on Dogwood.
- b) No traveled portion of the parking lot would be less than 100 feet from the property line of the properties that front on Dogwood.

Buffer:

- a) There would be created a 100 feet buffer between the property line of the properties that front on Dogwood and the first construction of the project of any kind i.e., there would be a no build zone/green space of 100 feet from the property lines of the properties that front on Dogwood. The location of the wall would be construction at the northern most point of this no build/green space so that the 100 feet between the wall and the property lines of the properties that front on Dogwood would remain natural and free growing for the most part.

Plantings:

- a) There would be planting of mature plantings in the green space/no build zone no less than every 50 feet on the Dogwood side of the wall and along the inside of the entire brick wall likewise, no less than every 50 feet.

We believe that these requests are very reasonable and have been evaluated and revised several times by the members of our group and others.

- 2) Joan Terry: 7830 Dogwood Road stated three reasons to oppose; removal of trees, 50% reduces the value of our homes, noise, lighting, traffic will increase, and deny location.
- 3) Boy Scouts Troop 87 - Bryce Hayes, Charlie Sullivan, Jordan, Nickoli German, and B. Dobbs: We like it to be preserved for the wildlife, nature, trees and for hiking and riding bikes.
- 4) Pat Pitts: 2040 Quail Creek Cove, Memphis; she thinks it is inappropriate to put a grocery store next to a church and school due to selling any alcohol beverage. She stated there was an ordinance on how many feet away it had to be which is 200 feet from residential property (sec.3:114 of City Code).
- 5) Norris Magee: 7691 Dogwood Road requested this project be delayed until next month. He discussed the Vision 2020 Plan on the Smart Growth mixed land use for Germantown.

Alderman Owens asked if you would consider modifying the wall 2 feet?

Ms. Reaves answered we did some sight line renderings that we can pass out to the commission now. It shows the 6-foot wall and the distance between Ms. Clara Tragesser and the Terry's home with the sight line, which we could discuss. When we set our meeting with Ms. Clara Tragesser, we also invited Joan Terry and Mr. Norwood, the other people that came to the meeting were the Glassman's and we did not know they were invited.

Ms. Burrow asked was everyone sent out a notice to meet?

Ms. Reaves answered yes, there was the week of Thanksgiving and the Vice President of Whole Foods came down and attended that meeting. It was a very involved meeting.

Mr. Bacon asked if Mr. Glassman attended that meeting?

Ms. Reaves noted yes, he did.

Mr. Hernandez asked about the planting, am I correct that your plans show the mature planting (evergreen type trees) and a green space buffer in front of the wall? Will the ambient lighting be reduced to 0% foot-candles instead of 50%?

Ms. Reaves answered yes, we have beefed up the plantings and Dean Thomas is here tonight with the new planting plan.

The electric engineer was confused. She really did not know what ambient lighting look like. Ambient lighting comes from sources like the moon and streetlights of which we really do not have any control. The lighting that we plan to install provides no contribution at all to shine of the light over the property line. It will be set at 0%. In reducing the light fixtures to 7 foot tall, which they are 14 foot now, you could be a 6-foot man and could touch the light fixture and with all the SUV and most of them have luggage racks on top of them by reducing them down to 7 foot tall. The streetlight at the end of your driveway is 8 foot tall and we just though 7 foot was reducing a whole lot of the standards. The 14-foot still gives the lighting we need and it eliminates the hot spots so you can have enough light to see in the trunk of your car when loading groceries.

Alderman Owens asked if there are fixtures within 30 feet of the property line? The buffer is within 34 feet.

Ms. Reaves noted no, there are not any lighting fixtures within 30 feet.

Mr. Wilensky asked about why more parking is needed?

Ms. Reaves stated Whole Foods would like to have more parking, due to training classes during the day.

Mr. Bacon wanted to address the cut through traffic issues on Dogwood Road.

Ms. Reaves we have spend 100's of thousands of dollars to close Pete Mitchell Road to have the approval to be able to do this. We are purchasing almost 10 foot of Mr. Norwood property. There will be a crash gate that will be located at our entry and Pete Mitchell Road transition up to Dogwood Road. We fell that would help eliminate the traffic. As far as people coming out of Whole Foods taking a right onto Poplar Avenue and then taking a right up to Dogwood Road. We do not feel that people will do that, because it is not a short cut to get to Hacks Cross Road.

Chairman Klevan asked Mr. Jarred to explain the estimate of the sales tax impact of \$35.4 million dollars in the annual store sales (average corporate figure). How did you come up with the estimate of the sales tax?

Joe Jarred stated their annual report stated an average 35.4 million dollars at our local sales tax revenue 2.75% that equate to 973 thousand dollars. An estimate praise value 12 million dollars, this project would generate 92 thousand dollars property tax revenue to Germantown.

Chairman Klevan asked Mr. Morgan to address the beer ordinance for Ms. Pitts.

Wade Morgan stated there is an ordinance on how many feet away it has to be, which is 200 feet from residential property (sec.3:114 of City Code). Both would require approval from the Board of Mayor and Alderman for beer permits for the location where it is going to be sold.

Chairman Klevan stated part of the Smart Growth process, which is supposed to be a time saver is bringing together the Design Review Commission and the Economic Development Commission in the decision making process. Even though they are not, voting members, they are part of the review process and in the pass; we never made knowledge of that fact. I asked each Chairman to submit a recommendation to the Planning Commission and I would like to read that in to our record for the public.

December 18, 2013

David Klevan, Chairman
Germantown Planning Commission
City of Germantown
1930 South Germantown Road
Germantown, TN 38138-2815

RE: Proposed New Building for Whole Foods
Poplar Ave @ Pete Mitchell Road
Germantown, TN

Per your request, review of the material sample selections for the finishes for the exterior of the proposed building for Whole Foods to be constructed on the site located on Poplar Ave at Pete Mitchell Road has been completed by the Design Review Commission members of the Planning Commission Smart Growth Subcommittee.

Based on the material samples presented by the developer, all materials were found to be acceptable in substantiality, color, textures and placement within the exterior of the proposed building. Continuity and coordination of the proposed materials around the proposed building work within the normal criteria reviewed by the Design Review Commission for commercial buildings outside the Smart Grow review.

Therefore, the proposed materials for the new Whole Food building are acceptable and recommend to the Planning Commission for approval.

Sincerely,

By: 
Keith B. Saunders, LEED AP BD+C
Chairman, Design Review Commission

December 23, 2013

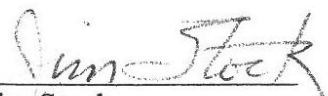
David Klevan, Chairman
Germantown Planning Commission
City of Germantown
1930 South Germantown Road
Germantown, TN 38138-2815

RE: Proposed New Building for Whole Foods
Poplar Ave @ Pete Mitchell Road
Germantown, TN

The Economic Development Commission has participated in the various meetings with the Planning Commission and representatives of Whole Foods regarding their interest in establishing a retail facility at the above mentioned location.

The Economic Development Commission feels that this project will generate a significant economic benefit for the City of Germantown. Subject to the technical issues that must be approved by the Planning Commission, we strongly support and recommend approval of this proposed facility.

Sincerely,

By: 
Jim Stock
Chairman, Economic Development Commission

Alderman Owens asked staff on the site if you could illustrate the portion of the property that is zoned T-5. In the T-5 zone with a grocery store, retail use such as this would be allowed by right. I know we have warrants that we are looking at this evening; is this correct? Therefore, if we have a retail use who wanted to locate and didn't have warrants, such use as Dollar Tree, and Family Dollar store something to that affect they may locate here and we could basically have to give it site plan approval.

Mr. Morgan stated you see there is a little faint line on the site plan that is the separation point between T-4 parking area district and T-5 is where the building and the additional parking are.

Andy Pouncey noted yes, that is correct.

Mr. Pouncey stated the center of Germantown, which is the original 1 square mile, was mixed uses; you had churches, grocery store, and residents living side by side. Since then every other use until the time of Smart Growth has been a single use. When Smart Growth came along and proposed mixed use, they did not mean mixed use would have every use in the book, in one piece of property like the original, where you would have a mixed use within that district.

Ms. Burrow asked what the height of T-4?

Mr. Pouncey answered the T-4 could be three stories max or 18 feet and then every story after 15 feet.

Mr. Bacon asked what the height of T-5?

Mr. Pouncey answered the T-5 could be five stories by right and six stories by warrant or 78 feet and then every story after 38 feet.

APPROVAL OF WARRANTS

WARRANT 1:

(The southern 250+/- feet of the site is within the T-4 District.)

PROPOSED MOTION: To approve a warrant allowing parking for a T-5 use within the T-4 District.

Mr. Bacon moved to approve a warrant allowing parking for a T-5 use within the T-4 District, as submitted, seconded by Mr. Hernandez.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – absent; Burrow –yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – absent; Owens - yes; Klevan –yes. **The motion was passed**

Mr. Bacon stated he will be voting yes; primary based on good planning practice or support the development moves for T-5.

Ms. Burrow stated she will be voting yes; because it is consistent with the Smart Growth Plan.

Mr. Hernandez stated he will be voting yes; he believes this warrant is consistent with the urban design guidelines in the Germantown Smart Code Plan.

Mr. Wilensky stated he will be voting yes; over the years, so much has been preserve and he believes if we try to stand as is, we cannot survivor, going forward. So, then it does become the case looking at want is the best use.

Alderman Owens stated he will be voting yes; he struggled with the property began zoned T-4 and T-5 you have to recognize the fact that a retail establishment can come here and it could be for multiple mixed uses. Then I being to think that we have something pretty good here and special for the use. Probably the biggest one here is the parking issue, allowing that parking on a T-4 zone for a grocery store. However, I am concerned we could have an apartment building with parking in a T-4 zone. I would rather have a surface parking lot with a wall and buffer behind my house. The developers did a good job in terms of restricting access on Pete Mitchell Road, shielding the lighting from the residents, landscape plan for the 6-foot wall. I would rather restrict the delivery times from 6:00 a.m. to 7:00 a.m.

Chairman Klevan based on being consistent with the Smart Growth I am voting yes.

WARRANT 2:

PROPOSED MOTION: To approve a warrant allowing the Principal Pedestrian Entrance to be at a location other than on a Frontage Line.

Ms. Bacon moved to approve a warrant allowing the Principal Pedestrian Entrance to be at a location other than on a Frontage Line, as submitted, seconded by Mr. Bacon.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – absent; Burrow –yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – absent; Owens - yes; Klevan –yes. **The motion was passed**

Ms. Burrow stated she will be voting yes; because you will need this access to be able to go to other parts of their develop random area for the Smart Code. I think it would be consistent with that.

Mr. Hernandez stated he will be voting yes; giving the geography of this parcel fronted on Poplar Avenue makes good sense for the safety point of view.

Mr. Wilensky stated he will be voting yes; we study the traffic flow extensively and we know that this remain consistent with the unlined to the Smart Code.

Mr. Bacon stated he will be voting yes; normally Poplar Avenue is not a pedestrian walkway for a proposed development would not work.

Alderman Owens stated he will be voting yes; based on good site planning principles.

Chairman Klevan stated he will be voting yes; with the Version Store, it is much the same with that entrance, it is a safety feature and it works very well.

WARRANT 3:

(The T-5 district requires all parking to be within the 3rd lot layer.)

PROPOSED MOTION: To approve a warrant allowing parking to be located within the 1st and 2nd lot layers.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – absent; Burrow –yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – absent; Owens - yes; Klevan –yes. **The motion was passed.**

Ms. Bacon moved to approve a warrant allowing parking to be located within the 1st and 2nd lot layers, as submitted, seconded by Mr. Hernandez.

Mr. Bacon stated he will be voting yes; primarily because of island parking and 1st and 2nd block layers allows a larger buffer to be created on the south property.

Alderman Owens stated he will be voting yes; I agree with what Mr. Bacon said. The more we push the parking up away from the neighbors the better.

Mr. Hernandez stated he will be voting yes; for the same reasons stated above.

Chairman Klevan stated he will be voting yes; and for those reasons, I am moving everything forward including the building and parking with it. It just makes good sense for Smart Growth.

Ms. Burrow stated she will be voting yes; it just makes good sense for Smart Growth with good parking.

WARRANT 4:

(Parking within 50 feet of low-density zoning is required to be parallel to the property line of the low-density zoned property.)

PROPOSED MOTION: To approve a warrant allowing parking to be perpendicular to the property line of low density residentially zoned property.

Ms. Bacon moved to approve a warrant allowing parking to be perpendicular to the property line of low-density residentially zoned property, as submitted, seconded by Mr. Hernandez.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – absent; Burrow –yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – absent; Owens - yes; Klevan –yes. **The motion was passed**

Mr. Bacon stated he will be voting yes; primarily based on the fact that in this instance with this kind of site plan to have parallel parking or not to add perpendicular parking to the property line.

Ms. Burrow stated she will be voting yes; due to the lay of the land.

Mr. Hernandez voted yes; primarily because the applicant has done an excellent job of screening this from the residential area.

Alderman Owens stated he will be voting yes; for the reasons Mr. Hernandez stated that included the wall and berm.

Mr. Wilensky stated he will be voting yes; in a combination for all the reasons already given, in the interest of time.

Chairman Klevan stated he will be voting yes; once again being consistent with our Smart Growth intent.

WARRANT 5:

(The T-5 district sets a maximum of 205 parking spaces for a building of this size.)

PROPOSED MOTION: To approve a warrant allowing 235 parking spaces.

Ms. Bacon moved to approve a warrant allowing parking 235 parking spaces, as submitted, seconded by Ms. Burrow.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – absent; Burrow –yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – absent; Owens - yes; Klevan –yes. **The motion was passed**

Mr. Hernandez stated he will be voting yes; due to the density of the property with different classes and commercial retail that will occur during the day, which will require additional parking.

Ms. Burrow stated she will be voting yes; they told us they are very busy during lunch and they will be offering classes with different things going on that will bring more people. Therefore, I do not want them to start parking in the church parking lot.

Alderman Owens stated he will be voting yes; for the reasons stated earlier with the mixed uses such as classroom training.

Mr. Bacon stated he will be voting yes; the parking is above the typical required in Germantown. I would not be voting to approve the warrant, if the site design did not create the kind of buffer that it has on the side property line.

Mr. Wilensky stated he will be voting yes; for the reasons Mr. Bacon stated, the sensitivity toward all the property issues. When you drive through a parking lot where do you usually park, most people try to park closest to the store. Therefore, there may be during the peak times when that lot will over flow or become full.

Chairman Klevan stated he will be voting yes; for the same reasons stated earlier and because it is consistent with underline intent for Smart Growth. Knowing that probably 30% of these parking spaces are going to be used by employees, so it makes good sense to keep everything on site as much as you possibly can.

Chairman Klevan stated all five (5) warrants have passed with the votes and its comments. The six recommendation was supposed to be the proposal for the closure of Pete Mitchell Road and we dealt with that at the beginning of the meeting.

Chairman Klevan at the outset, I would like to advise everyone that the Whole Foods developer has filed a separate application to close a portion of Pete Mitchell Road south of Poplar Avenue to the proposed crash gate as shown on the site plan. The Planning Commission will not hear that road closure application tonight. In the event that the Planning Commission approves the site plan for the Whole Foods market, then the road closure will be heard on Tuesday, January 21, 2014 at 6:00 p.m. The first reading for the BMA is on January 27 and the second is February 10th along with the third reading being February 24, 2014.

MAIN MOTION:

SMARTGROWTH SUBCOMMITTEE: (DAVID KLEVAN, CHAIRMAN)

The subcommittee met on December 16, 2013, and withheld a recommendation on the request.

PROPOSED MOTION: To approve the Preliminary and Final Site Plan for the Whole Foods Market, located on the southeast corner of Poplar Avenue and Pete Mitchell Road, subject to the comments listed above, and to the approval of the closure of the portion of Pete Mitchell Road south of Poplar Avenue to the proposed crash gate as shown on the site plan.

Mr. Bacon moved to approve the Preliminary and Final Site Plan for the Whole Foods Market, located on the southeast corner of Poplar Avenue and Pete Mitchell Road, subject to the comments listed above, and to the approval of the closure of the portion of Pete Mitchell Road south of Poplar Avenue to the proposed crash gate as shown on the site plan, seconded by Mr. Hernandez.

Chairman Klevan asked for a roll call.

Roll Call: Barclay – yes; Burrow –yes; Hernandez - yes; Wilensky – yes; Bacon – yes; Harless – yes; Owens - yes; Klevan –yes. **The motion was passed**

Mr. Hernandez made a comment; I have been a resident in Germantown for 27 years on the other side and have sat up here for 2 years. I really do appreciate all the comments about the positive and negative for this proposal. The real struggle that we all have whether acting as residents or representatives for the City trying to do what is best for the individuals and each of the citizens and the best for the City as a whole. I do see the applicant has made some reasonable accommodations to the concerns and request of the neighbors. I think it is moving toward a resolution, Whole Foods will work well for everyone. Unfortunately, I think it is a fact though that any City that has more than one zoning district, will by natural have zoning districts that abut each other. At some point, it will be residential that is backing up commercial and commercial backing up to residential.

Alderman Owens we will be having a board retreat on January 7, 2014 and we will be discussing projects that will be coming up for the next year. I will be requesting the City Administrator add to this agenda the traffic study for the Dogwood Road residents.

Mr. Bacon stated he will be voting yes; we have struggle with many of the proposed developments. I have lived in Germantown for 20 years and I feel like I have a say in the quality of our community. It is wonderful that we get to see people come out, oppose their views, and participate in the process. We talked about it in our executive committee meeting with the existing zoning T-4 and T-5 there are many by right options for development proposals that are a lot less palatable. I like to applaud the development and the investment group of Whole Foods along with staff that worked so hard to try to make this site plan proposed development work. I think that pushing the building up close to Poplar Avenue is a unique solution; it is very similar to the Verizon Store where it gets it up close to Poplar Avenue away from the neighborhood.

Ms. Burrow stated she will be voting yes; assembling the parcels in to one parcel is ideal. The uses are something that we need for our City and Economic Development.

Mr. Hernandez stated he will be voting yes; for the statement, I made previously.

Mr. Wilensky stated he will be voting yes; we sit up here as a citizen volunteer and with the showing that is here tonight; this is my second term; this is by far the largest turn out we have ever had for any issue. We get the largest packages delivery to our house a couple times a month; then we have our subcommittee meeting where we ask questions, we are learning and we do not know for sure if we are doing this right. We look at the facts presented to determine what we think, those facts are to make the best decision we can for Germantown. What we need is revenue-generating assets that will benefit this community.

Alderman Owens stated he will be voting yes; for the statement, I made previously. I strongly encourage you to make it an 8-foot wall.

Chairman Klevan stated he will be voting yes; this has been a long process. I cannot tell you how much I appreciate your professionalism and the courtesy that, everybody has shown each other in discussing the pros and cons, this evening. I have never seen a room this big and quiet, but in church. I want to thank the Boy Scouts that came tonight. That is so cool. You were organized and made a very professional speech. I encourage you to keep it up and speak for what you believe in as you go forward. Some of the things I wrestled with were; what can you do for the neighborhood, and the two biggest things that it boiled down

to are: we had some control over protecting the access to Dogwood Road from Pete Mitchell Road. That we have done with the closure of Pete Mitchell Road and the emergency vehicle access where it would be no longer access to Dogwood Road. Therefore, it could create less traffic because that access point has been stopped. That has been consistent with Methodist Hospital, Sutherland Clinic, and Kingsway Church and they were protected. Second, I would highly encourage between now and the BMA meeting to accommodate the idea of an 8-foot wall to help screen the back for the residents.

3. Chairman Klevan asked if there was any old business to come before the Commission. There was none.
4. Chairman Klevan asked if there was any new business to come before the Commission. There was none.
5. Chairman Klevan asked if there were any liaison reports. There was none.
6. **ADJOURNMENT:** The meeting adjourned at 8:16 p.m.