

**PLANNING COMMISSION MEETING
MUNICIPAL CENTER COUNCIL CHAMBERS
Tuesday, June 3, 2014**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of the Municipal Center on June 3, 2014. Chairman Klevan welcomed everyone and asked the Commission members as well as the audience to please speak into the microphone so they could be heard. Chairman Klevan 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: Susan Burrow, Dike Bacon, Steve Wilensky, David Klevan, Alderman Forrest Owens and Mike Harless

Commissioners Absent: Hale Barclay and George Hernandez

Staff Present: David Harris, Wade Morgan, Tim Gwaltney, Cameron Ross and Pam Rush

2. A quorum for tonight's Planning Commission meeting was established.

Chairman Klevan stated there is a change to the agenda tonight on item number 7:

- Western Gateway Small Area Plan Rezoning - Bounded by Poplar Ave., 6755 Poplar Ave., Poplar Pike and the western City Limit - City of Germantown – Applicant has withdrawn tonight.

3. **Approval of Minutes for May 6, 2014**

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 May 6, 2014. If there were no additions, corrections or deletions to the minutes of the May 6, 2014, meeting of the Planning Commission, he would entertain a motion for approval.

Mr. Bacon moved to approve the Planning Commission minutes of May 6, 2014, as submitted, seconded by Ms. Burrow.

Chairman Klevan asked for a roll call.

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

-
4. **Harvest Church/Forest Hill Baptist Church, 3645 Forest Hill-Irene Rd – Request Preliminary and Final Site Plan Approval**

INTRODUCTION:

Applicant Name:	<u>Michael Rogers, w/Fisher-Arnold, Inc. – Representative</u>
Location:	Northwest corner of Winchester Rd. and Forest Hill-Irene Rd.
Zoning District:	“R” Single Family Residential Zoning District

BACKGROUND: Forest Hill Baptist Church was built in 1998, according to the Shelby County Assessor Records. The property was annexed by Germantown in 2001. The Board of Zoning Appeals approved on May 13, 2014, a Use on Appeal for the expansion of the parking lot.

DISCUSSION: The applicant states that Harvest Church shares the building with Forest Hill Baptist Church, and has experienced significant growth recently. The Harvest Church congregation exceeds the capacity of the sanctuary and meets in the fellowship hall. Based on current attendance figures, an additional 132 parking spaces are needed. See the application letter of explanation for additional information.

The proposed 132-space parking lot expansion is on the southwest area of the church's site. The site plan also indicates a future expansion of the parking area. A new driveway to Winchester Rd. is also proposed.

TOTAL SITE AREA	14.37 ac.
NUMBER OF PARKING SPACES PROPOSED	132

A Project Description from the applicant is attached.

STAFF COMMENTS:

A. PRIOR TO FINAL SITE PLAN APPROVAL

1. Provide an analysis of the downstream drainage capacity, including the need for on-site storm-water detention and the capacity of the existing 15 in. drainpipe. Use the 25-year storm event.

B. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. The driveway connection to Winchester Rd. is subject to the approval of the City of Memphis. Provide confirmation of approval prior to Germantown construction plan approval.
2. Provide flow calculations for the proposed fire hydrant at the end of the long, dead-end run. A looped water system is recommended.

C. GENERAL COMMENTS

1. 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.
2. 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:

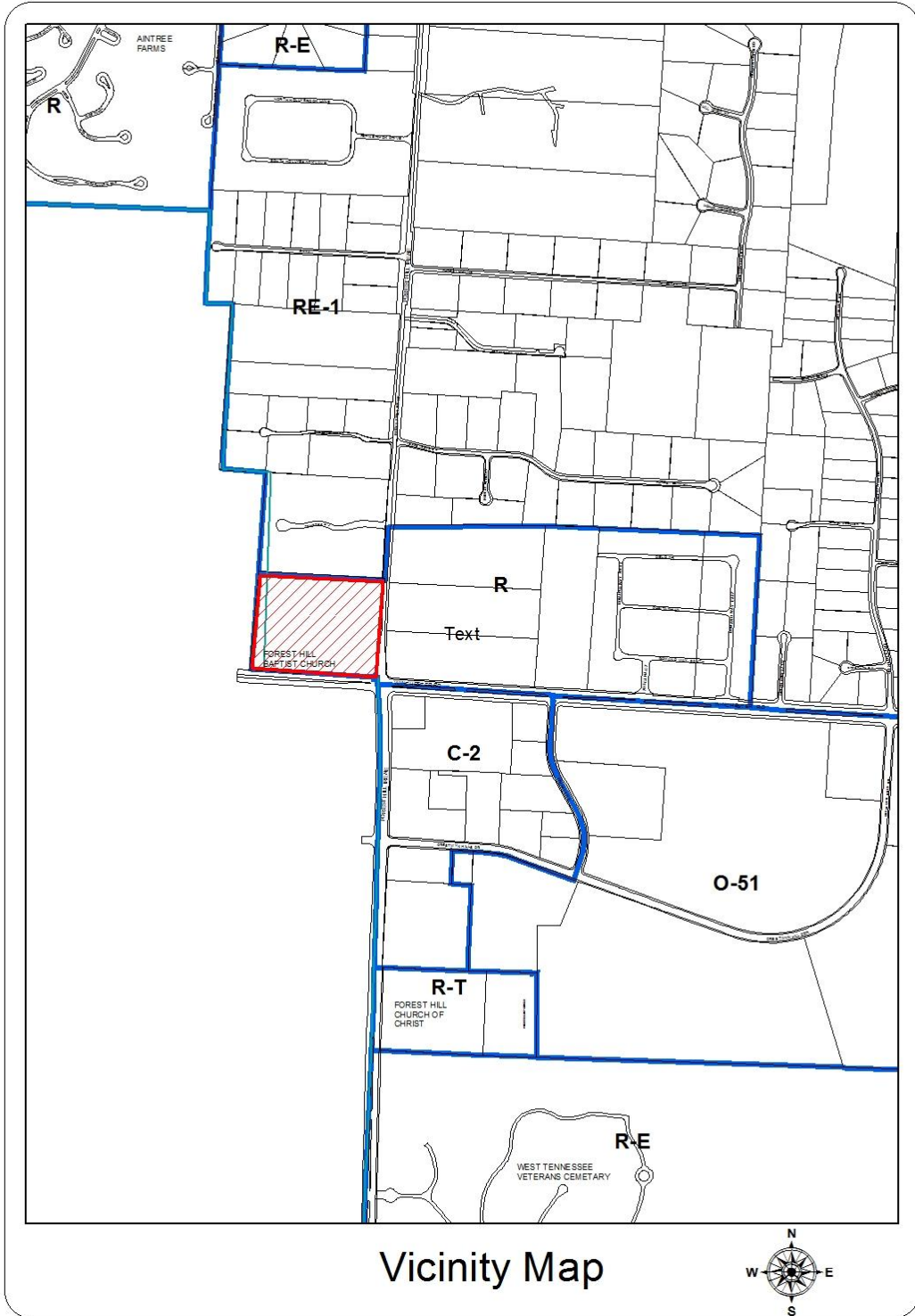
I, _____, a duly licensed professional engineer in the State of Tennessee, hereby certify that I have designed the drainage in accordance with the Design Standards of the City of Germantown and have considered upstream and downstream conditions that affect drainage to include topography, present and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

3. 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.

4. 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.

STAFF RECOMMENDATION: Preliminary Site Plan Approval, subject to the comments listed in the staff report.



Vicinity Map

CITY OF GERMANTOWN
PLANNING COMMISSION APPLICATION

(Please all that apply): Sketch Plan; Preliminary Site Plan; Final Site Plan
 Preliminary Plat; Final Plat
 Grading / Tree Removal; WTF (Wireless Transmission Facility)

Rezoning From: _____ To: _____
 Other: _____

Submittal Date: 05/09/14

PROJECT INFORMATION

Name: Harvest Church Parking Addition
Address: 3645 Forest Hill - Irene Road
Project Location Description: Harvest Church/Forest Hill Baptist Church at northwest corner of Forest Hill-Irene Road & Winchester Road - 3645 Forest Hill-Irene Road

No. of Acres: 14.37

PLEASE ATTACH A LETTER EXPLAINING THE PROJECT, IN DETAIL, AND LISTING ALL VARIANCES FROM THE SUBDIVISION AND ZONING REGULATIONS.

OWNER/DEVELOPER INFORMATION

Name: Forest Hill Baptist Church Address: 3645 Forest Hill - Irene Road / Germantown, TN 38138
Phone No.: (901) 754-7455 Fax No.: _____
Email Address: _____

AGENT/REPRESENTATIVE INFORMATION

Name: Michael Rogers Title: Principal
Company Name: Fisher Arnold Address: 9180 Crestwyn Hills Drive / Memphis, TN 38125
Phone No.: (901) 748-1811 Fax No.: (901) 748-3115
Email Address: mrogers@fisherarnold.com
Who will represent this proposal at the Planning Commission meeting? Michael Rogers

ENGINEER/SURVEYOR INFORMATION

Engineer Name: Fisher Arnold Address: 9180 Crestwyn Hills Drive / Memphis, TN 38125
Phone No. (901) 748-1811 Fax No.: (901) 748-3115
Email Address: mrogers@fisherarnold.com
Surveyor Name: Fisher Arnold Address: 9180 Crestwyn Hills Drive / Memphis, TN 38125
Phone No.: (901) 748-1811 Fax No.: (901) 748-3115
Email Address: mrogers@fisherarnold.com

3. Not for Profit Entities. If the applicant submitting the Application ("Applicant") is a not for profit entity, the authorized representative of the Applicant must list below the name and business or home address of the President (or equivalent chief executive officer) and the members of its board of directors:

Applicant: Harvest Church of Memphis
President or Equivalent Chief Executive Officer: Bill Garner Paul Garner

Members of the Board of Directors of the Applicant:

Name	Business or Home Address
<u>Kennon Vaughn</u>	<u>4883 Corece Ave. Memphis TN 38117</u>
<u>Steve Winstead</u>	<u>1558 Massey Pointe Ln Memphis, TN 38120</u>
<u>Bill Garner</u>	<u>3080 Laurinburg Cr. Germantown TN 38138</u>

4. Not for Profit Entities. If the owner and any lessee of the land which is the subject of this Application ("Owner and Lessee") is a not for profit entity, the authorized representative of the Owner and Lessee must list below the name and business or home address of the President (or equivalent chief executive office) and the members of its board of directors:

Owner and Lessee: Forest Hill Baptist Church of Germantown TN
President or Equivalent Chief Executive Officer: Tommy Condrey James Corkey
Members of the Board of Directors of the Owner and Lessee:

Name	Business or Home Address
<u>JANICE WHITE</u>	<u>9135 Holmes Rd Collierville TN 38017</u>
<u>DON CHUTE</u>	<u>1671 Von Hall Drive.</u>
<u>Tommy Condrey</u>	<u>1987 EDWARDS MILL RD. GERMAN TOWN, TN 38139</u>

Mr. Harless asked if the City had approval from the City of Memphis for a curb cut?

Mr. Morgan answered no not at this point.

Matt Regenold with Fisher Arnold 9180 Crestwyn Hills Drive stated we contacted the City today with the drainage calculation and they are in review. At the same time, we are reviewing the street curb permit with the preliminary conversation and they did not have a problem with it based on the drainage.

Chairman Klevan stated so you are aware of what our conversion was with staff, they were originally going to give you a preliminary and you would have to come back next month. We are going to go ahead

and vote on it as requested for Preliminary and Final Site Plan, subject to the final approval of the drainage submission today and the curb cut for the City.

Mr. Wilensky asked if there was representative from either of the churches here tonight?

Mr. Morgan answered no, but both churches applied for the application to be expanded.

SUBDIVISION AND SITE PLAN SUBCOMMITTEE REPORT: (MIKE HARLESS, CHAIRMAN) – The subcommittee met on May 21, 2014 and withheld a recommendation.

PROPOSED MOTION: To approve the preliminary site plan for a parking lot for the Harvest Church/Forest Hill Baptist Church at 3645 Forest Hill-Irene Road, subject to the comments listed in the staff report.

Chairman Klevan moved to approve the preliminary site plan for a parking lot for the Harvest Church/Forest Hill Baptist Church at 3645 Forest Hill-Irene Road, subject to the comments listed in the staff report as submitted, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

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

5. Thornwood Planned Unit Development, Northeast Corner of Germantown Rd. and Neshoba Rd. – Request Preliminary and Final Site Plan Approval of Phase 1

INTRODUCTION:

Applicant Name: **M. Spence Ray, w/McNeill Commercial Real Estate - Representative**

Location: Northeast Corner of Neshoba Rd and Germantown 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. The Thornwood PUD outline plan was approved by the Planning Commission on April 1, 2014, and by the Board of Mayor and Aldermen on May 12, 2014.

DISCUSSION: Phase 1 of the project consist of the interior drives, interior curb, gutter and sidewalks, pedestrian crossings at Exeter, Neshoba and mid-block Neshoba, utility infrastructure and mass grading of the site.

PHASE 1:
TOTAL SITE AREA 3.236 ac.

A Project Description and explanation of the warrant from the applicant is attached.

WARRANTS: The following warrant from the standard development regulations is required for Phase 1:

2. The Smartcode Regulating Plan designates a Landscape Preservation Area along a section of the Germantown Rd. frontage north of Neshoba Rd., where a “buffer of existing trees shall be preserved to maintain the green transition into the smart growth area”. The Thornwood PUD proposes an alternative landscape plan within that area.
3. The illustration for Thoroughfare Assembly CS-90-58 (Main Street) indicates angled, “back-in” parking along both sides of the street.

STAFF COMMENTS:

A. WARRANT COMMENTS:

1. The Regulating Plan does not provide dimensions of the Landscape Preservation Area, nor a description of what should constitute the buffer, other than “existing trees”. A 32 foot depth appears reasonable, given site conditions, and a minimum tree diameter of 10 inches is consistent with standard City requirements for a tree survey. Using those criteria, there are 3 existing trees within the Landscape Preservation Area (two 12 in. diameter Gum trees and one 10 in. diameter Elm). Those trees total to 34 in. in total diameter. The proposed landscape plan for the Germantown Rd. frontage will replace those 3 trees with 12 Honey Locust or Magnolia totaling 48 in. diameter.

B. PRIOR TO FINAL SITE PLAN APPROVAL

1. Contact the City Engineer regarding the traffic study. The traffic study should address traffic patterns associated with each phase of the development, among other issues. A revised traffic analysis was received Friday, May 30 and is being reviewed. Comments and a recommendation will be made prior to the Planning Commission meeting.

C. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. Water, sanitary sewer and storm-drain utilities in the main access streets shall be public below ground; a maintenance agreement shall be prepared as part of the contract approval.
 2. Remove from the plat the parking space stripes, planter boxes and similar non-permanent items, prior to recording.
 3. Water and sanitary sewer lines should go around, not through, the central roundabout.
 4. Pavers that are located within the public ROW should be of a material acceptable to the City (non-brick) or have a maintenance responsibility agreement with the HOA. Pavers shall be designed and engineered to support the impact loads of fire department apparatus.
 5. TAC questions the need to grade all the way to the curb of Exeter and Neshoba and suggests retaining the existing grade and trees.
 6. Contact the City Engineering Dept. regarding numerous questions/comments on the Grading and Draining and Utility Plans.
2. Provide a phased erosion control plan.
 3. The utility plan should indicate where the fire protection tie-ins for lots 3 and 4 will occur.

4. Landscaping, such as but not limited to, trees, shrubs, flowers, plants, grass, or hedges shall not restrict fire department access to fire hydrants, post indicator valves, fire department connections, valves, buildings, structures, out buildings, storage units, ingress travel ways, or egress travel ways.
5. Indicate the existing sewer service to Lot 4.
6. Provide an easement and agreement for the tie-in to the drainage system and off-site grading on the Village at Germantown property.

C. 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 applicant shall provide proof of TDEC approval for the water system and sanitary sewer system. Contact Bill Hinch with TDEC for information.
4. 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.
5. 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:
6. 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.

STAFF RECOMMENDATION: Approval, subject to the conditions listed above.

MEMORANDUM

TO: David Klevan, Planning Commission Chairman

FROM: Andrew Pouncey, R.L.A.

DATE: May 8, 2014

RE: 32 ft. Preservation Easement along Germantown Road on property identified as Thornwood PD.

David:

As you know I am working with McNeil Commercial Real Estate. The issue that I am addressing is the 32 ft. Preservation Easement so designated by the Smart Growth Regulating Plan.

It is my understanding that the term "preservation easement" is not defined in the code. From past experience, "preservation easements" have been areas along the rear of properties that are set aside to maintain the existing vegetation.

The situation with Thornwood PD is unique in that this "preservation easement" established along Germantown Road was meant to be a green space set aside to provide a sense of welcome to the Central Business District and soften the site, much as you see across the street on the church property.

Several major differences exist in that (1) Thornwood PD is a Smart Growth T-5 zoned property and the church (like most) is zoned residential, and (2) the existing condition of the site does not offer much in the way of a green screen that is appropriate to a more urban situation. I will illustrate.

Thornwood PD, in a T-5 zoned district is encouraged by ordinance to bring its buildings to the street. The "preservation easement" makes good sense as a buffer to the church. But in that setting, and in any non-residential setting, Smart Code or Traditional, the City wants the business/office to put their best foot forward. That's why the Design Review Commission is charged with its review.

Our engineer had this easement identified in the field for your benefit and I trust you saw what is existing and how it doesn't match many of our pre-conceived ideas of an ideal landscape. Of the trees that a "tree survey" requires you to locate (10" or greater), there are only 34" of tree, the sum of two (2) sweetgums and one (1) elm (typically considered trash trees). These trees do not stand on a flat landscape. Within this easement is a very rough and winding ditch that is as much as 10 ft. deep. The balance of the material is privet and scrub material. This is the area in which the utilities and underground drainage are to be routed to carry the water from the west side of Germantown Road to the east and onward to The Villages. An additional consideration

in plant choice must be taken is the width of the pruning allowance set forth by MLGW under its 3-phase wires on the east side of Germantown Road. The current poles are within the 10 foot rights-of-way behind the curb and their employees are allowed to trim 15 ft. either side of the poles, therefore encroaching 10 ft. into the 'preservation easement.

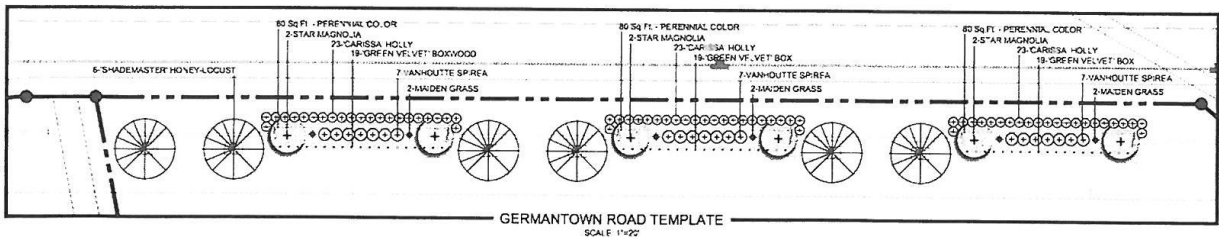
We have proposed a fresh new landscape that more closely fits the definition of "Streetscape" in the Smart Code. The sidewalk along the street is removed and brought within the "preservation easementJ". The rights-of-way then becomes a 10 ft. lawn. The streetscape approaches the area along Germantown Road in total, including the roadways, the visible frontages and the amenities of the public frontages. We have provided seating with a brick seat wall in three areas, a walk that is away from the street and available to the public, landscaping for shade and aesthetics, protection from the sights and sights of the traffic on a major road and still a respectful view into the site to the benefit of the businesses.

We have proposing the following PLANT MATERIAL as shown in the attached drawing:

6	Shademaster Honey Locust	5" Cal.
6	Star Magnolia	3" Cal.
240 sq. ft.	Perennial Color	Pots
69	Carissa Holly	5 gal.
57	Green Velvet Boxwood	3 gal.
6	Maiden Grass	1 gal.
21	Vanhoutte Spiraea	5 gal.

The trees (Locust/Magnolia) alone equate to 48 inches in diameter as opposed to three (3) trash trees equaling 34", that might not survive the installation of utilities in that area.

This design is repeated to the north along Germantown Road, so the entire length of the property receives this treatment. We believe that now and into the future, this landscape, or streetscape will provide a beautiful and inviting entrance to the center of



this City.

Thank you for your consideration.



May 9, 2014

Mr. David Klevan
Chairman of Germantown Planning Commission

RE: Further discussions on the proposed 17 acre development identified as Thornwood PD, between the developer and The Village representatives.

Dear Mr. Klevan:

As the Executive Director of The Village at Germantown, I am summarizing further discussions that have taken place with representatives of McNeil Commercial Real Estate (developer), on the proposed Thornwood PD. We met with their representatives on April 30, May 5 and May 8, with discussions centered on a prepared list of concerns by The Village. Each time that we have met the developer has provided information to indicate his willingness to accommodate these concerns. We understand that these revisions will be incorporated into their plans to be submitted for the June Planning Commission meeting.

The following points have been discussed to our satisfaction:

1. We were very concerned that the developer would stripe parking spaces on both Exeter and Neshoba, in part, because of the Smart Code Plan. The developer has reports that he will receive a letter from the Director of Economic & Community Development Services stating that parking on the street (Exeter or Neshoba) is a decision of the City of Germantown. The developer has agreed not to illustrate striped spaces for parking on both streets as we believe that the roads are not wide enough to provide safe passage for vehicles.
2. The developer has agreed to revise the landscape template along Exeter to remove any breaks in the landscape area, provided originally for pedestrian access to parking spaces. They have offered to provide a berm (two (2) foot elevation) in the landscape area, allowing for a 3:1 mowable slope.
3. We have been concerned whether or not the developer's detention basin will accommodate water flowing toward The Village. McCaskill & Associates has provided an email noting their review of the grading/drainage plan and are comfortable with the design submitted.
4. The developer has revised his landscape plan to illustrate the construction of a six (6) foot wood fence with 2 ft. square piers (30 feet on center) for the entire length of the northern property line. In addition, they have met with our landscape consultant to ensure that there is a healthy screen between the two properties, including the installation of plant material on The Village property when necessary.

Mr. David Klevan
May 9, 2014
Page 2

5. The developer has provided a Traffic Study to help in our understanding of the impact of Phase 1, Phase 2 (Bob Richard's Jewelers) and Phase 3 (Hampton Inn). We understand that when further development is submitted, a revised Traffic Study will also be submitted.

In the approved Outline Plan, the developer stated that he will work with the City on the design/installation of the intersection at Exeter and Neshoba (whether it is a four-way stop, a traffic light or roundabout). The Village, with the developer's support, prefers that a roundabout **not** be considered an alternative, for the general public as well as the residents of The Village, due to the adjustment in driving behavior to a manner that is foreign to drivers in the City of Germantown, much less the entire Memphis area. This could be detrimental for those who are more familiar with stop signs and stoplights.

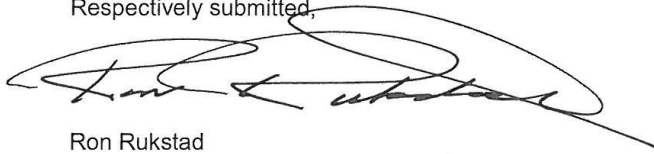
The developer also supports the view of The Village that no parking signs be placed on Exeter (north of Neshoba) in the likelihood that drivers believe that no sign means parking is allowed.

In another matter, we ask for the opportunity to sit down with Administration and Economic & Community Development for the City of Germantown to discuss two items: (1) how the proposed median for Germantown Road conflicts or not with left turns out of The Village on Germantown Road and (2) why a four-way stop cannot be installed at Exeter and Neshoba at such time as the infrastructure is constructed for Thornwood PD.

We appreciate the time, effort and revisions that McNeil Commercial Real Estate has made to accommodate the representatives of The Village. We trust that all of the above concerns will become part of the revisions that are to be made to the submitted application/drawings.

Thank you for your consideration. We look forward to your thoughts regarding our concerns.

Respectfully submitted,



Ron Rukstad
Executive Director

cc: Planning Commission Members
Mayor and Board of Aldermen
Cameron Ross, Director of Economic & Community Development Services
Wade Morgan, AICP, Chief Planner
McNeil Properties, Spence Ray
Senator Mark Norris, attorney

Andy Pouncey at 8401 Briar Creek Drive stated he is representing Spence Ray and McNeill Real Estate properties; we did a tree survey and met with the neighbors on some issues. I have some pictures and a video for you to watch tonight of the site. I also have a letter from the Village of Germantown attached below. The Regulating Plan does not provide dimensions of the Landscape Preservation Area, nor a description of what should constitute the buffer, other than “existing trees”. A 32 foot depth appears reasonable, given site conditions, and a minimum tree diameter of 10 inches is consistent with standard City requirements for a tree survey. Using those criteria, there are 3 existing trees within the Landscape Preservation Area (two 12 in. diameter Gum trees and one 10 in. diameter Elm). Those trees total to 34 in. in total diameter. The proposed landscape plan for the Germantown Rd. frontage will replace those 3 trees with 12 Honey Locust or Magnolia totaling 48 in. diameter. He read the following warrant about SmartCode Regulating Plan designates a Landscape Preservation Area along a section of the Germantown Rd. frontage north of Neshoba Rd., where a “buffer of existing trees shall be preserved to maintain the green transition into the smart growth area”. The Thornwood PUD proposes an alternative landscape plan within that area.

Alderman Owens asked about what they could do with the glare of the 8-foot lights?

Spence Ray answered they will have a diffuser inside the globe casting the light down.

Mr. Wilensky asked if they could point out where the hotel would go?

Mr. Pouncey answered it is on the northern part.

Mr. Bacon asked about the drainage issues. If you came in and installed a 3x5, underground pipe or decided not to put the drainage underground, but improved the ditch. The City is not going to allow a ditch to remain in an unimproved condition. You would have to grade and use riprap to stabilize the banks and none of the neighbors or community would want a ditch along Germantown Road.

Mr. Pouncey answered in regards to drainage; you have to receive what has been giving to you. You can't just fill in a ditch with that much water; you have to calculate what comes from upstream.

Sandra Wilkerson Freeman at 7684 Apahon Lane stated in regards to the proposed Thornwood PUD, the Smart Growth Plan adopted by the BMA in 2007 specifically states on pg. 47 that the following development principles apply to the section of the property along Germantown Rd. and north of Neshoba: (reading from her letter)

“Retain landscape and tree mass as entry feature to town center. A tree-buffer should be maintained on [the property (see Regulating Plan)] . . . as opposed to standard solution of clear cutting and stripping out the property, which would be in flagrant contradiction to the place-making goals of the 2020 Vision Plan.”

When Smart Growth was first considered, my neighbors and I were repeatedly assured that this principle would stand--that the “landscape preservation” areas indicated on pgs. 47- 48 in the Smart Growth and Regulating Plan could not be clear-cut or stripped, that to do so would be a "flagrant contradiction" to the SG Plan.

"Flagrant contradiction" is a very strong phrase indicating that preserving the “tree mass” and “existing trees,” which is the language of the Smart Code, was a core development principle to be specifically applied to the property considered today-- designated in green on the Regulating Plan. Staff and the PC should neither arbitrarily reject the Regulating Plan nor be concerned with tree sizes. The SG Plan stipulates retention of “tree mass” and the SG Code stipulates retention of “existing trees.” To arbitrarily

insert issues of tree size and type into deliberations in order to allow clear cutting sends a message to developers and residents that the SG Plan, Code, and Regulating Plan mean nothing.

The developer's representative, Andy Pouncey, stated at a meeting of concerned residents that the principal reason the developer wanted to clear-cut the existing "tree mass" was to make Thornwood's businesses more visible from Germantown Road. In his May 8 letter to Planning Commission Chairman Klevan, Mr. Pouncey intimated that the designated landscape preservation area does not "make sense" as a buffer for the T-5 zoned business district, even though that was included in the Regulating Plan to protect residential areas from urban encroachment. By proposing to obliterate the "tree mass," that was specifically designated for preservation, Mr. Pouncey rejects the explicit principles of Smart Growth and asks you to do the same.

To vote in favor of a proposal that "flagrantly contradicts" what the PC and BMA voted to adopt in essence violates the word, the repeated promises and legislated actions, of the PC and BMA. The credibility of this body and the BMA is at stake and faith has been placed in you to keep the promises made to Germantown residents and uphold the very protections you voted to create. For the PC to allow a developer to persuade it too arbitrarily and "flagrantly contradict" the promises and legislated acts of the BMA is unwarranted, unwise, and a severe breach of faith. Thank you for your consideration.

Herschel Freeman at 7684 Apahon Lane stated on May 20 my wife sent an email to Chairman Klevan and Alderman Owens quoting from the 2007 Smart Growth Plan, which opposed clear cutting of the landscape preservation area of the property that we are currently discussing. The Smart Growth Plan stipulates retention of "tree mass" and the Smartcode stipulates retention of "existing trees." Mrs. Freeman talked to Cameron Ross about this language and when did the Planning Commissioners first become aware of this portion of the Smart Growth Plan? He said not until you brought it to our attention. This was the job of the staff and should have been brought to their attention months ago, so it could have been a factor into the Thornwood discussion.

I was here for Mr. Pouncey's presentation for the last Planning Subcommittee meeting and at no time did any commissioners say this is in direct contradiction to the original Smart Growth Plan. His presentation was about certain type of trees that he called trash trees and there are not enough trees in large diameter to keep. The entire area would be better off clear cutting and we plant with far fewer trees. Concerning the fly over that we just saw, please note the utility poles/boxes are invisible, but in reality that will be very visible and unsightly with the current screening missing. The outer window of large trees is not what we will be getting; the proposal is for trees and grates that will take years to achieve that height and planters that will not provide landscape screening.

Jim Jacobs at 7684 Apple Valley Road stated I have lived here for 28 years and have seen multiple changes on the section of Germantown Road including (GPAC, church, school, Village of Germantown, and a PUD) they have always kept the beauty of Germantown Road. This plan to eliminate the growth in the landscape preservation area seems to be a contradiction to the terms; it will resolve to a break in the field and the view of the City as residents and visitors first enter Germantown. It is not in the spirit of the Smart Growth and the plan presented tonight with clear cutting.

Alderman Owens asked if the Village of Germantown endorses the project?

Ron Rukstad, Executive Director with the Village of Germantown stated yes we are.

SMARTGROWTH SUBCOMMITTEE REPORT: (DAVID KLEVAN, CHAIRMAN) The subcommittee met on May 21, 2014 and withheld a recommendation.

1. MAIN MOTION

PROPOSED MOTION: To approve the preliminary and final site plan for Phase 1 of the Thornwood PUD, located on the northeast corner of Germantown Road and Neshoba Road, contingent upon the review of the revised traffic analysis and subject to the comments listed in the staff report.

Chairman Klevan moved to approve the preliminary and final site plan for Phase 1 of the Thornwood PUD, located on the northeast corner of Germantown Road and Neshoba Road, contingent upon the review of the revised traffic analysis and subject to the comments listed in the staff report, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Roll Call: Barclay –absent; Burrow –no; Hernandez – absent; Wilensky – yes; Bacon –yes; Harless –yes; Owens -yes; Klevan –yes. **The motion was passed**

Ms. Burrow voted no; the reason being is what Mr. Jacob stated earlier. I understand what we are trying to do, but we were involved in the Smart Growth and I think we wanted to keep that to be a beautiful historical looking site.

Alderman Owens wants to set up a meeting with staff and the Planning Commission for a work session on the Smart Growth Landscape Preservation Plan (for trees and green spaces) before another project comes forward. I would like to see a revised definition of what the preservation area is and better language of what is being reserved, as the result of future development within the next couple of months.

Mr. Wilensky stated one of the things we are asked to do, is to do our personal visible homework. At least drive around both of the area and property. One of our commissioners walked around the property. I was part of the Vision 2020, and my vision goes beyond the fly over which is very helpful. I understand that there may be aspect within, when it is all done and that it doesn't look like this. We are looking for a nice go to area that isn't a living space.

2. WARRANT

PROPOSED MOTION 1: To approve warrant number 1, to allow the alternative landscape plan, as submitted with the phase 1 application, within the Landscape Preservation Area along a section of the Germantown Rd. frontage north of Neshoba Rd.

Mr. Harless moved to approve warrant number 1, to allow the alternative landscape plan, as submitted with the phase 1 application, within the Landscape Preservation Area along a section of the Germantown Rd. frontage north of Neshoba Road, seconded by Mr. Wilensky.

Chairman Klevan asked for a roll call.

Mr. Bacon voted yes; I have always been in favor of the preservations of the trees, but I have learned over the years with the development of the site, reality of saving trees is often a conflict. The ditch must be improved and will be detrimental to the preservation area. The proposed alternative is of high quality. The warrant is justified from the standpoint of quality to the development.

Ms. Burrow voted no; but it is still a very attractive project.

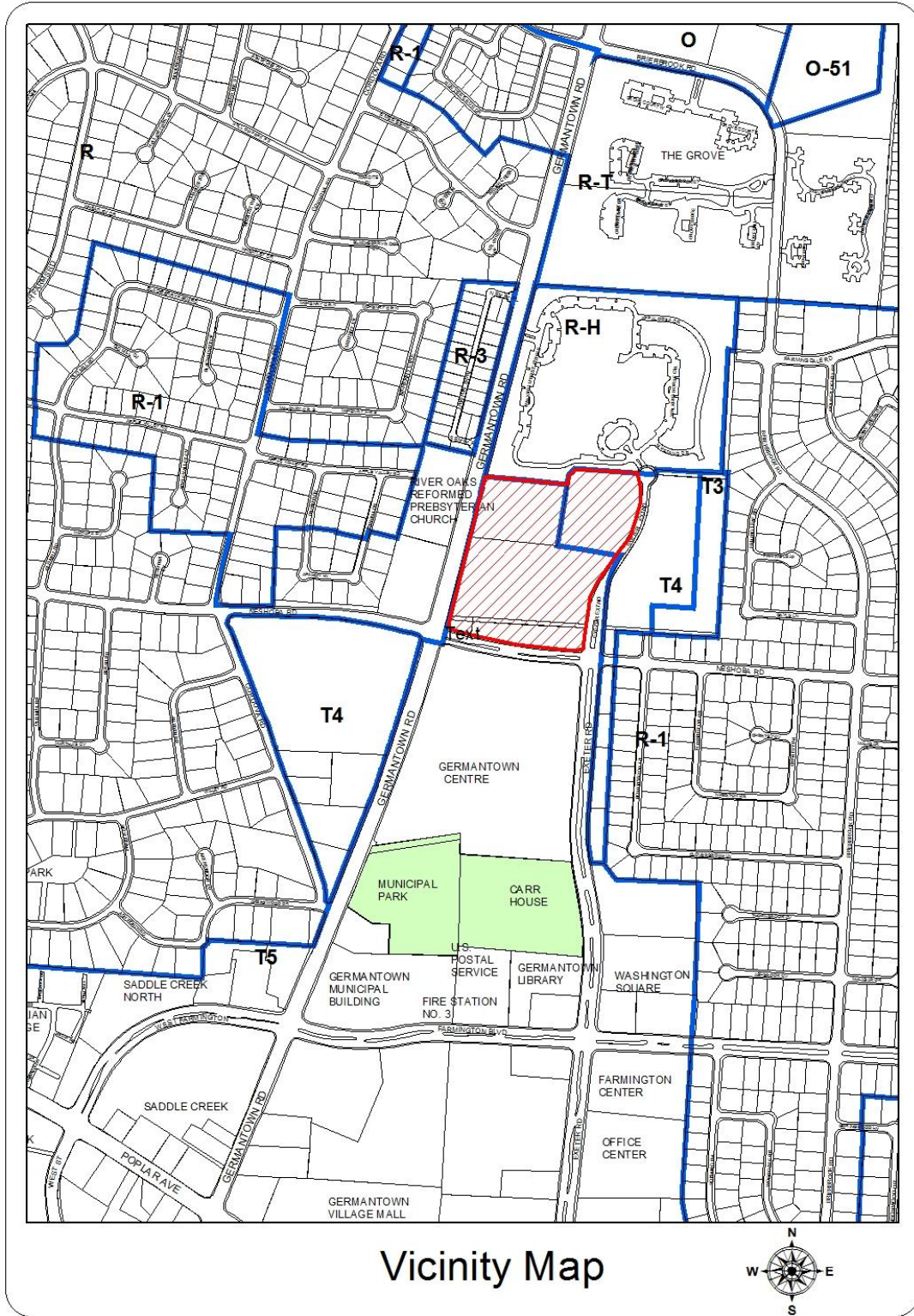
Mr. Harless voted yes; the intent of Smart Growth is to make entry into our City a unique experience and preserve the quality of our City. The plans from 2007 have the very best intention and still do. However, I think as the reality comes to each piece of property and we look at, you have to consider each of the issues. I had the unique experience of walking this property and it is very much over grown with many scrub trees with thorns, lots of trash, litter, beer/soda cans, and lunch bags. The ditch was in some cases 10 feet wide and 6 feet deep and the erosion was working its way. If you want to make this property pleasing to our visitors as well as the residents, I believe the preservation easement is something we need to do. The quality of life will improve with the developer's improvement of this property.

Alderman Owens voted yes; my comments are as previously stated.

Mr. Wilensky voted yes; I think it is even a bigger vision stake, as we begin to view this project with the lifestyle being close to GPAC, library, GAC and walking safety down the street.

Chairman Klevan voted yes; we are learning some things in Smart Growth that might have changed over the 7-year period since we initiated this. It becomes an education process. I appreciate the Freeman's for bringing forth some very good ideas and bringing us reeducation on what our code says. A warrant can be done in instances where the reasons for the provisions of the SmartCode are intended to govern and regulate all matters involving the use and development of land within the Smart Growth zoning districts. However, in those instances where reasons are shown that would justify a deviation from the strict requirements of the provisions of the SmartCode as to property to which the SmartCode applies by operation of law or by election of the property owner, the PC shall have authority to permit such deviations. Any such deviation, for the purposes hereof, shall be referred to as a "warrant". 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" [section 23-741](#) and is consistent with the urban design guidelines and/or development concepts in the "Germantown Smart Growth Plan". Like the zoning changes there has be a valid reason. I think if we utilize our warrant for the preservation area as we have used them in the past on height requirements and setbacks if the intend is there with that said on, page 47 where it does say to retain landscape and tree mass as entry feature to town center. A tree buffer should be maintained on both properties to create a special sense of entry into the City as opposed to the standard solution of clear cutting and stripping out of the property, which would be in flagrant contradiction to the place-making goals of the 2020 Vision Plan. The intent of the warrant is to allow an alternative instead of the open ditch.

Roll Call: Barclay –absent; Burrow –no; Hernandez – absent; Wilensky – yes; Bacon –yes; Harless –yes; Owens -yes; Klevan –yes. **The motion was passed**



Vicinity Map



Commercial Real Estate

May 23, 2014

Mr. Cameron Ross
Director of Economic & Community Development Services
1920 S. Germantown Rd.
Germantown, TN 38138

RE: Warrants for Thornwood PD., Ph. 1

Dear Cameron:

Please include with our packet of materials for June approval of Thornwood PD, Ph. 1 our request for the following "warrants" associated with our Phase 1 submittal.

We understand that 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 adopted small area plan applicable to each location. We believe that in both "warrant" requests "principles of good land use planning, the topography of the property, and peculiar and exceptional practical difficulties or undue hardship" upon the property owner are applicable. We also believe that in particular, our interpretation of the "preservation easement" will be a substantial improvement to the public good and not impair the intent and purpose of the provisions of this Code.

1. Warrant #1: 2.2.1(F) - Landscape Preservation. The Regulating Plan designates areas where a buffer of existing trees shall be preserved to maintain the green transition into the Smart Code zoning districts. Such an area is designated within a 32 ft. band along a portion of the subject property abutting the rights-of-way on Germantown Road. Please see our letter of May 9, illustrating and explaining why the topography of the property and the existing landscape do not provide a desirable green transition into the Smart Code District. The plan we have submitted will be a substantial improvement to the public good and not impair the intent and purpose of the Code.
2. Warrant #2 A.3 - Thoroughfare Assemblies for the Central Business District. The (new) internal streets of Thornwood PD are identified CS-90-58 (Main Street) and parking is shown as angled on both sides. As parking on Exeter Rd. (Option A), a roadway on the exterior of the site, is identified as back-in angled parking, we did not want to presume that there was a discrepancy in the text. Therefore, if CS-90-58 (Main Street) was intended to be back-in angled parking, we would request a Warrant, as we believe that the general public would be put at risk and find it difficult to adjust to this style of parking found only on these internal streets within the City of Germantown. If angled parking is the original intent, then no warrant would be required.

Additional warrants may be required with additional phases.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Spence Ray".

M. Spence Ray,

CITY OF GERMANTOWN

PLANNING COMMISSION APPLICATION FOR PLANNED UNIT DEVELOPMENT (P.U.D.)

(Please all that apply): Sketch Plan; Outline Plan (Master Plan); Amendment to Outline Plan;

Preliminary Plan (individual phases); Final Plan (individual phases);

Phase: 1 of 3 Date of Outline Plan (Master Plan) Approval: _____

Other: _____

Submittal Date: March 7, 2014

PROJECT INFORMATION

Name: Thornwood Planned Development

Address: _____

Project Location Description: 17 acre mixed use development located at the northwest corner of Germantown Road and Neshoba Road. Phase 1 consists of the common open space with drives & utility infrastructure.

No. of Acres: 0.906 acres

PLEASE ATTACH A LETTER EXPLAINING THE PROJECT, IN DETAIL, AND LISTING ALL WARRANTS OR VARIANCES FROM THE SUBDIVISION AND ZONING REGULATIONS.

OWNER/DEVELOPER INFORMATION

Name: Neshoba-Exeter RE Partners Address: 7700 Wolf River Blvd, Ste. 103

Phone No.: 901-754-7774 Fax No.: 901-754-7668

Email Address: sray@mcneillcre.com

AGENT/REPRESENTATIVE INFORMATION

Name: M. Spence Ray Title: General Partner

Company Name: McNeill Commercial RE Address: 7700 Wolf River Blvd, Ste. 103

Phone No.: 901-754-7774 Fax No.: 901-754-7668

Email Address: sray@mcneillcre.com

Who will represent this proposal at the Planning Commission meeting? M. Spence Ray

ENGINEER/SURVEYOR INFORMATION

Engineer Name: Harry L. Davidson, P.E. Address: 5880 Ridge Bend Road

Phone No.: 901-761-2016 Fax No.: 901-763-2847

Email Address: ldavidson@reavesfirm.com

Surveyor Name: Michael K. Frye, RLS Address: 5880 Ridge Bend Road

Phone No.: 901-761-2016 Fax No.: 901-763-2847

Email Address: mfrye@reavesfirm.com

DISCLOSURE OF OWNERSHIP INTERESTS

In order to assist staff and appointed and elected officials of the City of Germantown in complying with Ordinances of the City relating to conflicts of interest, the following information is required to be furnished:

1. For Profit Entities. If the applicant submitting this Application ("Applicant") is a for-profit entity, i.e. general partnership, limited partnership, corporation, limited liability company, R.E.L.T., a trust, or any other form of for-profit business entity, the authorized representative of the Applicant must list below the respective names and business or home addresses of all persons or entities which own 10% or more of the ownership interests in the Applicant. (If another business entity owns 10% or more of the ownership interests in the Applicant, all persons owning a 10% or more interest in such last mentioned entity must be identified by name and business or home address.) (If a trust owns a 10% or more interest in the Applicant, all beneficiaries of 10% or more of the trust assets must be identified by name and business or home address.) The amount of ownership interest does not have to be disclosed.

Applicant: Neshoba Exeter Real Estate Partners

Persons or Entities Owning 10% or More of the Ownership Interests of the Applicant:

Name	Business or Home Address
<u>M. Spence Ray</u>	<u>7700 Wolf River Blvd, Ste 103, Germantown 38138</u>
<u>Phillip H. McNeill</u>	<u>7700 Wolf River Blvd, Ste 103, Germantown 38138</u>
<u>LLCMTN Holdings TN</u>	<u>7700 Wolf River Blvd, Ste 103, Germantown 38138</u>

2. For Profit Entities: If the owner and any lessee of the land which is the subject of this Application ("Owner and Lessee") is a for-profit entity, i.e. general partnership, limited partnership, corporation, limited liability company, R.E.L.T., a trust, or any other form of for-profit business entity, the authorized representative of the Owner and Lessee must list below the respective names and business or home addresses of all persons or entities which own 10% or more of the ownership interests in the Owner and Lessee. (If another business entity owns 10% or more of the ownership interests in the Owner and Lessee, all persons owning a 10% or more interest in such last mentioned entity must be identified by name and business or home address.) (If a trust owns a 10% or more interest in the Owner and Lessee, all beneficiaries of 10% or more of the trust assets must be identified by name and business or home address.) The amount of ownership interest does not have to be disclosed.

Owner and Lessee: _____

Persons or Entities Owning 10% or More of the Ownership Interests of the Owner and Lessee:

Name	Business or Home Address
_____	_____
_____	_____
_____	_____
_____	_____

Vicinity Map



Date: 02/06/14
Prepared By:
Property Research Data

6. Chairman Klevan asked if there was any old business to come before the Commission. There was none.
7. Chairman Klevan asked if there was any new business to come before the Commission. Alderman Owens noted the Germantown Charity Horse Show is this week and the FedEx Golf tournament along with the Farm Park is opening this Thursday.
8. Chairman Klevan asked if there were any liaison reports. There was none.
9. **ADJOURNMENT:** The meeting adjourned at 7:06 p.m.