

**PLANNING COMMISSION MEETING
MUNICIPAL CENTER COUNCIL CHAMBERS
Tuesday, July 1, 2014**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of the Municipal Center on July 1, 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, Hale Barclay, Alderman Forrest Owens, and Mike Harless

Commissioners Absent: 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 numbers 5, 6, and 7:

- Thornwood PUD, Northeast Corner of Germantown Rd. and Neshoba Rd. – Request Preliminary and Final Site Plan Approval of Phase 2
M. Spence Ray, w/McNeill Commercial Real Estate - Representative has withdrawn tonight.
- Thornwood PUD, Northeast Corner of Germantown Rd. and Neshoba Rd. – Request Preliminary and Final Site Plan Approval of Phase 3
M. Spence Ray, w/McNeill Commercial Real Estate - Representative has withdrawn tonight.
- Western Gateway Small Area Plan Rezoning - Bounded by Poplar Ave., 6755 Poplar Ave., Poplar Pike and the western City Limit - City of Germantown – Representative has withdrawn tonight.

3. **Approval of Minutes for June 3, 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 June 3, 2014. If there were no additions, corrections or deletions to the minutes of the June 3, 2014, meeting of the Planning Commission, he would entertain a motion for approval.

Ms. Burrow moved to approve the Planning Commission minutes of June 3, 2014, as submitted, seconded by Mr. Bacon.

Chairman Klevan asked for a roll call.

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

Chairman Klevan asks if any of the Commissioners, or anyone present, would like any of the items on the Consent Agenda presented.

“On all matters concerning the Consent Agenda, the vote of each member will constitute an acknowledgement that the member has read the application or proposal, the staff and the Subcommittee report.”

Ms. Sarah Freeman stated she would like to hear item 4.(b) Cordova Road Subdivision, East side of Cordova Rd., South of Apple Valley Road.

4. **Consent Agenda:** Item 4. (a) Phase 6 of The Enclave PUD; Preliminary and Final Plan Approval was approved.
5. (a) Phase 6 of The Enclave PUD; Preliminary and Final Plan Approval

INTRODUCTION:

Applicant Name: Steve Hooper, PE, w/ETI, Inc. – Representative

Location: Northern terminus of Baynard Loop West and Baynard Loop East

Current Zoning District: R-3 Residential

Description of Request: Request Preliminary and Final Plat Approval

BACKGROUND: The Planning Commission recommended approval of the Enclave PUD Outline Plan on January 6, 2004, and the Board of Mayor and Aldermen approved the Outline Plan on February 9, 2004. The Planning Commission approved the plan for Phase 5 on July 2, 2012.

DISCUSSION: Phase 6 is the final phase of The Enclave PUD. It consists of 49 lots on a 14.49-acre section of the PUD. It extends the streets in Phase 4 to the south and Phase 5 to the southeast. Two common open space areas, with guest parking spaces provided in the larger, central open space area.

COMMENTS:

A. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. Provide a radius, instead of a 90-degree corner, at the intersection of alleys with streets.
2. Provide a more detailed description of the maintenance of COS 6E (Forest Hill-Irene future right-of-way).
3. Identify on the development plat the locations of MLGW transformer easements.
4. Number the private alleys as was done on previous plans.
5. 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. Concrete monuments shall be placed at all corners of the subdivided property.
6. All construction activities shall comply with Tennessee Dept. of Environment and Conservation, NPDES permit requirements.

B. PRIOR TO INITIAL ACCEPTANCE

1. The entire ditch within COS 6 E shall be bush-hogged and any eroded areas shall be repaired and permanently stabilized.

STAFF RECOMMENDATION: APPROVAL, SUBJECT TO STAFF COMMENTS

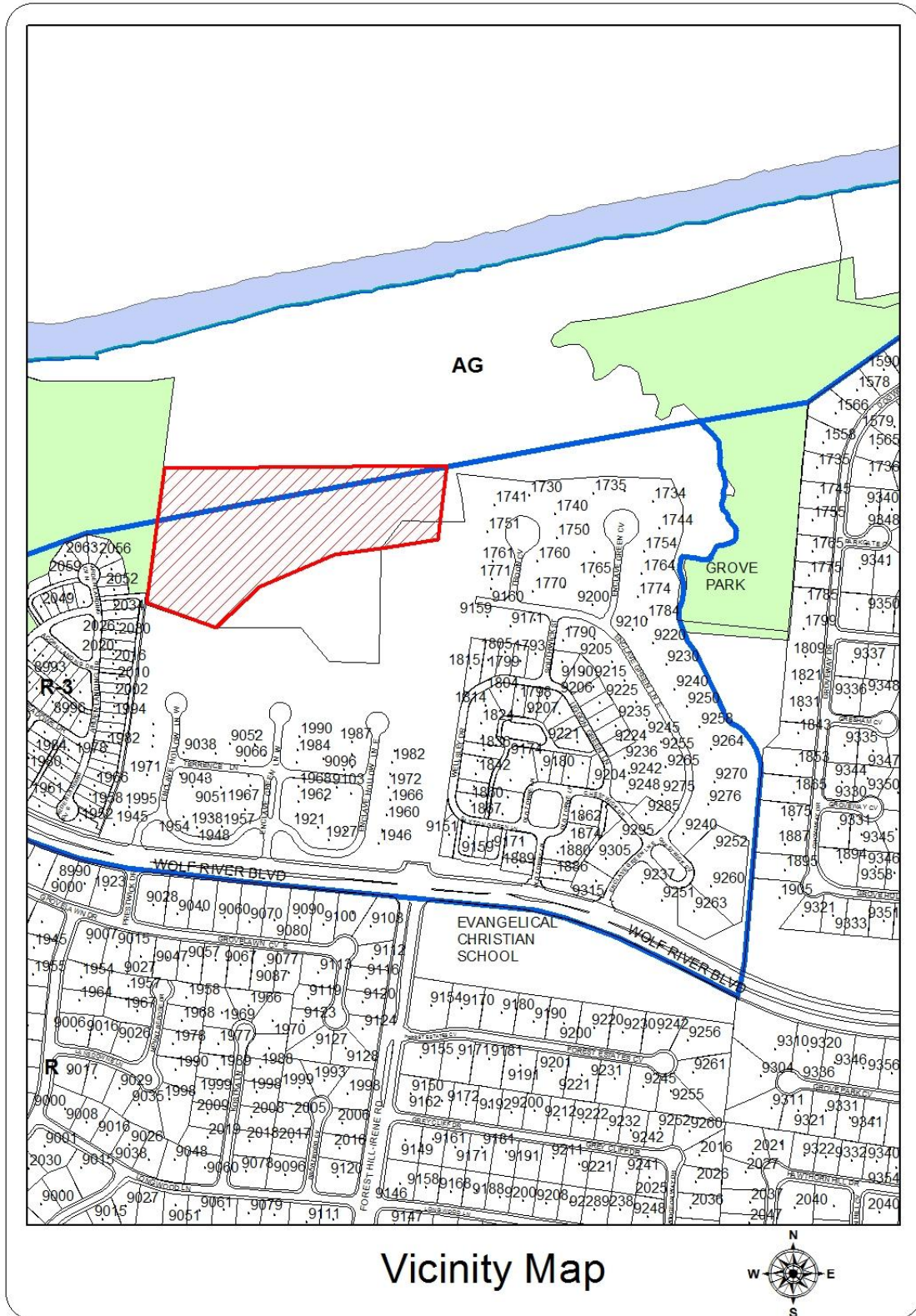
SUBDIVISION AND SITE PLAN SUBCOMMITTEE: (MIKE HARLESS, CHAIRMAN) The subcommittee met on June 18, 2014 and recommended approval on the consent agenda.

PROPOSED MOTION: To approve the preliminary and final subdivision plan for Phase 6 of the Enclave Planned Unit Development subject to the comments listed in the staff report.

Chairman Klevan announced the only item on the Consent Agenda, is item 4. (a) Phase 6 of the Enclave Planned Unit Development.

Chairman Klevan asked for a roll call.

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



Vicinity Map

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: 6 of 6 Date of Outline Plan (Master Plan) Approval: APRIL 14, 2004
Other: _____
Submittal Date: JUNE 6, 2014

PROJECT INFORMATION

Name: ENCLAVE PLANNED DEVELOPMENT - PHASE 6
Address: GERMANTOWN, TN
Project Location Description: NORTHWEST OF FOREST HILL-IRENE &
WOLF RIVER BOULEVARD

No. of Acres: 14.49 AC.

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: ENCLAVE 5+6 JOINT VENTURE Address: 985 REDDOCH COVE, MEMPHIS, TN
Phone No.: (901) 870-5076 Fax No.: 38119
Email Address: jdukehome1@aol.com

AGENT/REPRESENTATIVE INFORMATION

Name: STEVE HOOPER Title: PROJECT ENGINEER
Company Name: ETI CORPORATION Address: 1755 LYNNFIELD RD, STE. 100, MEMPHIS, TN
Phone No.: (901) 758-0400 Fax No.: (901) 754-5135 38119
Email Address: shooper@eticorp.com
Who will represent this proposal at the Planning Commission meeting? ETI CORP., STEVE HOOPER

ENGINEER/SURVEYOR INFORMATION

Engineer Name: ETI CORP. Address: 1755 LYNNFIELD RD, STE. 100, MEMPHIS, TN
Phone No.: (901) 758-0400 Fax No.: (901) 754-5135 38119
Email Address: shooper@eticorp.com
Surveyor Name: ETI CORP. Address: 1755 LYNNFIELD RD, STE. 100, MEMPHIS, TN
Phone No.: (901) 758-0400 Fax No.: (901) 754-5135 38119
Email Address: aperry@eticorp.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: ENCLAVE 5+6 JOINT VENTURE

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

Name	Business or Home Address
<u>JOHN DUKE</u>	<u>985 REDDOCH COVE, MEMPHIS, TN 38119</u>
<u>HOWARD TAYLOR, JR.</u>	<u> </u>
<u>MIKE MURPHY</u>	<u> </u>
<u>FRANK UHLHORN</u>	<u> </u>
<u>DAN TURLEY, JR.</u>	<u> </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
_____	_____
_____	_____
_____	_____

4. (b) Cordova Road Subdivision, East side of Cordova Rd., South of Apple Valley Road

INTRODUCTION:

Applicant Name: Mark McGuire, PE. – Representative
Current Zoning District: R-1 Residential
Description of Request: Request Preliminary and Final Plat Approval

INTRODUCTION: The request is to subdivide a 1.012-acre parcel into 2 lots. The subject property is zoned “R-1” Residential. The property is on the east side of Cordova Road, south of Apple Valley Road, and north of Neshoba Road. A similar subdivision was approved by the Planning Commission in 2004 but was not developed.

DISCUSSION: The proposed Lot 1 will be 21,059 square feet and has an existing house that will remain. The proposed Lot 2 will be 21,049 square feet and will be allowing the future development of a single-family home. Access to both lots will be by driveways from Cordova Road.

There is also an existing private cemetery on the property that will be on Lot 2. Walker Graveyard was recorded in 1992 in Instruments CZ 7033, V3 7090, and V7 8453 with the Shelby County Registers Office. The cemetery will consume approximately 2,500 square feet of the northeast corner of Lot 2.

STAFF COMMENTS:

A. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. The engineer shall provide drainage calculations for the subdivision to determine the extent of drainage improvements needed.
2. According to the formula provided in Section 17-60 of the Code of Ordinances, parkland dedication for this development equates to the following: $2 \times 3.3 \times 0.0033 \times 0.8 = 0.0174$ acres (759 square feet) The City shall accept no parcel less than one (1) acre unless such land adjoins other dedicated parkland. Payment in lieu of dedication shall be provided for in this instance.

B. GENERAL COMMENTS

1. 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.
2. The Developer agrees to include in all contracts between the Developer and purchaser of any part of the Subdivision (Lot Purchasers) the following, 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 through 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.
3. 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.

4. 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 watercourses.

Staff Recommendation: Approval subject to Staff Comments.

Mark McGuire at 289 Miss Camryn Lane, Collierville, TN 38017, with McGuire Engineering, LLC, stated he is here to represent this project for Ryan Anderson with RKA Investments, LLC. If you have any questions, I will be glad to answer.

SUBDIVISION AND SITE PLAN SUBCOMMITTEE: (MIKE HARLESS, CHAIRMAN) The subcommittee met on June 18, 2014 and recommended approval on the consent agenda.

PROPOSED MOTION: To approve the preliminary and final subdivision plat for the Cordova Road Subdivision, subject to the comments listed in the staff report.

Chairman Klevan moved to approve the preliminary and final subdivision plat for the Cordova Road Subdivision, subject to the comments listed in the staff report, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

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

7. Western Gateway Small Area Plan Rezoning - Bounded by Poplar Ave., 6755 Poplar Ave., Poplar Pike and the western City Limit - City of Germantown

INTRODUCTION:

Applicant Name:	<i>City of Germantown - Applicant</i>
Location:	An Area Generally Bounded by Poplar Ave (north), 6755 Poplar Ave.(Kirby Farm House, east), Poplar Pike (south) and Western City Limit (west)
Existing Zoning Districts:	”R-T” Multi-family, “O” Office, “C-2” Commercial, “SC-1” Shopping Center, “OG-1” Old Germantown Zoning Districts
Proposed Zoning Districts:	“T-5” Urban Center and “T-6” Urban Core and “T-4R” General Urban Restricted Districts

BACKGROUND: The Western Gateway Plan and the revisions to the Smart Code were both recommended for approval by the Planning Commission on September 3, 2013 The Board of Mayor and Aldermen approved the regulation amendments and the Western Gateway Plan on November 11, 2013. The Western Gateway Smart Code zoning application was initially approved by Planning Commission on December 3, 2013 and sent to the Board of Mayor and Alderman (BMA). The BMA, at their meeting on April 14, 2014, voted to send Ordinance 2014-4 to amend the zoning and apply the Smart Code Overlay

to the Western Gateway, back to Planning Commission for further review and modification concerning the Kirby Farms property, which adjoins the Nottoway PUD.

The rezoning approved by the Planning Commission in December 2013 provided:

- T-5R for 150 feet west of Nottoway and;
- T-5 for the remainder of the Kirby Farms property.

The amended application for consideration by the Planning Commission provides:

- T-4R for 150 feet west of Nottoway and;
- T-5 for the remainder of the Kirby Farms property.

In addition to what was approved by Planning Commission in December 2013, the City is requesting the rezoning of the Fountain Square Condominiums from R-T to T-6 and T-5.

DISCUSSION: The proposed rezoning will implement the recommendations of the Western Gateway Small Area Plan. Meetings were held with the neighboring property owners to further explore the Smart Code application to the area identified as Kirby Farms and currently zoned Old Germantown (OG-1). Based on those meetings and staff analysis of the Smart Code and approved West Gateway Plan, it was determined that the area overlay should be modified to T-4R, “General Urban Restricted”, for 150 feet along the east west property line and run the length of the north south property line adjacent to Nottoway. Under the change to T-4R, the allowed density for this portion of the site is reduced. The application for remainder of the site is still T-5 Urban Center. It is also staff’s recommendation that the property owners continue their discussions prior to future Planning Commission meetings regarding specific details related to the site plan.

The Fountain Square Condominiums were added to the amended application to follow in accordance with the recommendations of approved Western Gateway Plan. The rezoning, if approved by Planning Commission, will proceed to the Board of Mayor and Aldermen for three readings. After approval by the BMA, landowners will be able to bring development plans to the Planning Commission for approval.

STAFF COMMENTS:

1. The Germantown Code (Sec. 23-66) permits changes in Zoning Districts, “[w]henver the public necessity, convenience, general welfare or good zoning practice justify such action.” The basis for a zoning change could include that there was a mistake in the original zoning; or, that there has been a change in the neighborhood. Should a mistake in the original zoning not be the case, Tennessee courts have established the following criteria to help determine what is considered to be a change in the neighborhood:
 - a. Changes in population, both of the area proposed to be rezoned and in the surrounding areas;
 - b. Changes in existing road patterns or traffic, including traffic volumes, and also including the development of new roadways in the vicinity;
 - c. The need for rezoning based upon changes in whatever is classified as the “neighborhood” (which may not necessarily be limited to what one would think of as a relatively concise area), and which may include changes in population, development trends, and the existing character of nearby property and/or changes that have occurred in the character of nearby property; and,
 - d. The effect of the requested change in zoning on adjoining or nearby property.

ZONING AND ANNEXATION SUBCOMMITTEE REPORT (SUSAN BURROW, CHAIRMAN):

The subcommittee met on June 18, 2014 and withheld a recommendation on this request.

PROPOSED MOTION: To recommend approval of the rezoning of the area within the Western Gateway Small Area Plan, (excluding the Fountain Square Condominiums) from the “R-T” Multi-family, “O” Office, “C-2” Commercial, “SC-1” Shopping Center, and “OG-1” Old Germantown Zoning Districts to the “T-5” Urban Center and “T-6” Urban Core and “T-4R” General Urban Restricted Districts.



▲ EXISTING ZONING



In Favor of Proposal

- 1) Dan Rokowski with Cannon, Austin and Cannon, representing Carrefour Shopping Center at Poplar Avenue and Kirby Parkway – we would like to voice our support for the Western Gateway Development Plan in Germantown for the existing improvement and development in this area is older. The City, neighborhoods and property owners have worked together in the last year and half to develop a plan. The work of Germantown Planning Development meetings for the past four years with their positive and their follow through with the development will enhance the value of the area.
- 2) Ray Gill with Gill properties stated we are excited to be part of the Western Gateway. This property has been vacant for 18 years, until I got involved in it. I think that speaks volumes. I own the 10 acres on Poplar Avenue at the Western Gateway Small Area and thank you for opportunity to present our plan recommend by the City. We rejected the T4-R zoning 150 feet into my property extending from Poplar to the railroad. The T-4 and T-4R zoning are not applicable on this site. Let me explain what a T-4 is from the ordinance. T-4 zoning is intended to purchase small area retail limited to 5000 square feet per block. The examples are the Cooper Young area, Mclean and Faxon where the south western grill is, located near Snowden School and Evergreen along with Poplar, Overton Park, and Highpoint Terrace. These areas were developed in the 20's and 30's where you went walking to the grocery store or the hardware store was the norm. T-4 zoning is not applicable on Poplar Avenue with 40,000 cars a day. The T-4R zoning permits only parking lots and residential. T-4R eliminates mix-uses, creates pedestrian hostile parking lots and results in 150 feet of no-man's land, which is not consistent with Smart Growth. The success of the Small Area Plan in the Western Gateway depends on a mix of uses. Old fashion buffers rendering property unusable are not part of creating a walk-able mix-used development. Even though Nottoway appears as R-2 on the zoning map, it has been developed to a higher density than R-2 zoning. Nottoway density use is closer to R-H zoning; there are 6 lots larger than 10,000 square feet and 13 lots between 5,000 and 6,000 square feet with the remainder of the lots between 6,000 to 9,000 square feet. Nottoway is clearly not low density residential. Under R-2 zoning the setbacks are 40 feet in the front, 10 feet on the side, and 25 feet on the rear. Nottoway setbacks are 20 feet in the front, 3.5 on the side, and only 5 feet on the rear. The uses we propose will never generate as much noise as the trains to the south, nor as much traffic as Poplar Avenue to the north. We have a contractor ready to spend 25 million to build two Hilton Hotels when approved. The hotels alone will generate \$141,000 per year.

Opposition

- 1) Gregory Fletcher: 1889 Wellton Drive – He is the HOA President for the Nottoway Subdivision and will be representing them tonight. The Board does not oppose the Plan. What the Board does oppose is:
 - The recommendation of T4-R zoning extending 150 feet west of Nottoway's western boundary, and running the entire length of the north-south boundary between Nottoway and Kirby Farms, is appropriate and acceptable to the Board, subject to the objections and concerns.
 - The recommendation of T5 zoning beginning only 150 west of Nottoway is inappropriate and unacceptable to the Board. This recommendation represents no change to the original recommendation, permits a five or six story commercial shadow over Nottoway (a six story building may be 93 feet tall under the Smart Code), and is precisely the defect for which the BMA remanded the original Plan to the to the Planning Commission for reconsideration.
 - Mr. Ross explained that the Staff's "intent" in proposing T4-R zoning for 200 feet west of Nottoway to four stories. The Board strongly urges the Commission to execute on the Staff's intent. A four-story limitation within the 200-foot band immediately west of Nottoway would reasonably mitigate the "commercial shadow" over Nottoway, obviate the Board's primary objection to excessive building heights within close proximity of Nottoway, and represent a meaningful and acceptable adjustment of the original proposal.

- The Board indicated its willingness to accept T-5 zoning 150 feet west of Nottoway, but only if Mr. Gill agreed to enter into a covenant restricting building heights on Kirby Farms to four stories, and if that covenant were in place before T-5 zoning was adopted by the BMA. Mr. Gill has shown no inclination to so agree (although his preliminary plans for Kirby Farms do not reflect building heights above four stories). As we all know, Mr. Gill's plans are subject to change, and he has yet to propose any compromise of the original zoning classifications, which the BMA rejected.
 - The Commission should not make any zoning recommendations to BMA in the expectation Mr. Gill will agree to a height restriction on Kirby Farms. Thus (assuming the Commission cannot itself adjust the Plan's zoning specifications to restrict T-5 to four stories), the appropriate proposal should be T4-R for 150 feet west of Nottoway along the entire north-south boundary; T-4 Urban for the balance of Kirby Farms or, at the minimum, T-4 Urban for the band between 150 and 200 feet west of Nottoway. If an additional 50-foot band of T-4 Urban were proposed by the Commission, the Board would accept T-5 zoning for the balance of Kirby Farms. As the Staff obviously understands, incremental urbanism principles demand that building heights within 200 feet of Nottoway not exceed four stories. The Commission should recommend T-4 Urban between 150 and 200 feet west of Nottoway, or determine another means by which the City can limit building height in that band to four stories.
 - If Mr. Gill cannot accommodate his commercial development plans to these T-4R and T-4 Urban classifications, he should redraw this plan, or apply for a variance for the specific modifications he requires.
- 2) Misty McClendon, 1783 Oakhill Road – I attended the charrette and it excluded the hotel and included the office buildings only. The value of our home will go down.
- 3) Diane Bowen, 1842 Oakhill Road – we need a traffic study done due to the hill and left turn; the value of our homes will go down.

Chairman Klevan asked if you had this exact discussion that you presented to us, with the developer?

Mr. Fletcher stated we copied the developer on an email to you about a week ago.

Chairman Klevan asked about the entire overlay is a total of 58 acres, what we are talking about tonight is how many acres? How many acres is the entire Kirby Farms property?

Mr. Ross stated it depends, the 150 feet that is up for debate is approximately 2.6 acres. The entire Kirby Farms property is 10 acres (20%).

Chairman Klevan stated from an email I received the HOA concerns are:

- ❖ T5 zoning for the entire site.
- ❖ A private restrictive covenant that would provide for a 50-foot setback, including a 25-foot planting screen (which could include an access drive to Poplar at the extreme northeast corner of the property). This would run along the entire eastern border with Nottoway.
- ❖ On the eastern half of the property, building coverage would be limited to 70% of the site.
- ❖ Height restriction of (i) two (2) stories for the easternmost 150 feet of the site, and (ii) (4) stories for the remainder of the property.

Chairman Klevan asked if the covenant could meet those two objectives?

David Harris stated it certainly appears that the parties could reach an agreement, satisfactory to them, which would meet their concerns.

Mr. Harless: as I understand it, we are here tonight to vote on the Western Gateway. We are going to proceed with the vote, unless the City redraws it request, is that correct?

Mr. Harris answered that is possible, and there is one other possibility under our by-laws, that is the Planning Commission itself could make a motion to take this matter under advisement for one month. Then the Planning Commission, at the following meeting next month, would take it up.

Alderman Owens stated that zoning is not a site-planning tool. Mr. Gill mentions they will like to have an encroachment of meeting space for the hotel.

Mr. Ross stated it does not get in that much detail with use standards, conference center, convention center, and exhibit center or all civic uses. Those are permit by warrants in T5; now a meeting space is not permitted use.

Mr. Bacon asked do you feel like both parties have made an effort to do that?

Chairman Klevan asked Mr. Fletcher is there a possibility the Nottoway HOA could work with a private restrictive covenant as to the height restriction at the 151-200 feet level as to not shadow encroachment on your neighborhood. Is that a possibility?

Mr. Fletcher answered yes, that is something that we have proposed to Mr. Gill and Mr. Ross. Because it is a simple restrictive covenant, that just simply says in this metes and bounds, it won't go above 4 stories.

Mr. Gill answered we have looked at a possibly of building a 4 story office building, outside the 150 foot setback. We have also concerted, office over retail fronting Poplar. Which T4R prohibits, to answer your question we would not mine limited the height we would need more storage. However, we also want an option to build; we do not know the market. This is not about site plan; we are only dealing with zoning.

Chairman Klevan stated what I want to asked for is a request for a 10-minute recess. I would like both parties and staff to get together to see if there is another common ground, that we might request an extension, or if you want to go forward with this.

Chairman Klevan noted; thank you to everyone for your patience. This is newfound territory; I have been asked from many people, has this ever happened before. It is important that we all represent the community and we have been going at this for a long time. We have one chance to get it right. Therefore, with that said we will reconvene the Planning Commission. We will refer this to the staff who is the applicant.

Mr. Ross: the City would like to ask the Planning Commission to defer our application so we can continue a dialogue with the two parties to come up with some sort of solution. We feel like we made some progress in our discussion outside and there is room in the conversation to get to a solution that works for all three of us. It would be deferred a month until the August 5 meeting.

Chairman Klevan asked if both parties are aware that there is a two-week deadline. We will defer this item.

8. Chairman Klevan asked if there was any old business to come before the Commission. There was none.

Planning Commission Minutes

July 1, 2014

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9. Chairman Klevan asked if there was any new business to come before the Commission. Alderman Owens wanted to remind everyone of the July 4 Celebration starting at 4:00 p.m. and fireworks starting at 9:00 p.m.
10. Chairman Klevan asked if there were any liaison reports. There was none.
11. **ADJOURNMENT:** The meeting adjourned at 7:41 p.m.