

**PLANNING COMMISSION MEETING
MUNICIPAL CENTER COUNCIL CHAMBERS
Tuesday, August 5, 2014**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of the Municipal Center on August 5, 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 6:05 p.m. asking the secretary for the roll. Ms. Rush called the roll of the Board to establish a quorum: A quorum for tonight's Planning Commission meeting was established.

Commissioners Present: Susan Burrow, David Klevan, Hale Barclay, George Hernandez, Alderman Forrest Owens, and Mike Harless

Commissioners Absent: Dike Bacon, and Steve Wilensky

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

1. Approval of Minutes for July 1, 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 July 1, 2014. If there were no additions, corrections or deletions to the minutes of the July 1, 2014, meeting of the Planning Commission, he would entertain a motion for approval.

Alderman Owens moved to approve the Planning Commission minutes of July 1, 2014, as submitted, seconded by Mr. Barclay.

Chairman Klevan asked for a roll call.

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

2. Thornwood Planned Unit Development, Northeast Corner of Germantown Rd. and Neshoba Rd. – Request Preliminary and Final Site Plan Approval of Phase 2

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 Outline Plan was approved by the Planning Commission on April 1, 2014 and by the Board of Mayor and Aldermen on May 12, 2014. The Planning Commission approved the Phase 1 preliminary and final site plan, on June 3, 2014.

DISCUSSION: Phase 1 of the project consisted of the interior drives, utility infrastructure and mass grading of the site. **Phase 2 consists of a 5,000 square foot retail jewelry store building.** Phase 3 consists of a 108 room, 4-story hotel.

PHASE 2:

DEVELOPMENT:	0.609 ac.
Retail Building	5,000 sq. ft
Parking provided	25 spaces
Parking required	15 spaces
Maximum parking allowed	25 spaces
Building Height	28 feet; 2 stories

A Project Description from the applicant is attached.

WARRANTS:

The following warrants from the standard development regulations are required for Phase 2:

1. The T-5 regulations require parking to be in the third lot layer, but can be allowed by warrant on non-pedestrian streets such as Germantown Rd. (sections 5.1.2.A and 7.1.3. C and D) (23-778.B.1 and 23-794.B). Parking is proposed within the second lot layer (between the front building line and a point 20 feet behind the front line) on both the Germantown Rd. and internal street frontages.
2. The T-5 district requires at least 60% of the sidewalk level story of the Principal Frontage to be in clear glass (section 6.3.4.A and 6.3.4.B) (23-787.D). The proposed building has 40% of the Principal Frontage of the sidewalk-level story in clear glass. The developer explains that the jewelry store needs security for its back-room workstations.

In those instances where reasons are shown that would justify a deviation from the strict requirements of the provisions of the SmartCode, 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 SmartCode 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."

DESIGN CHECKLIST:

1. *Site Layout:* The project consists of a 5,000 square foot, two-story retail building, with parking located on the east and south sides of the building.
2. *Building Elevations:* the building's front and sides are to finish with a combination of brick and limestone façade. A color rendering has been provided. Material samples will be available at the PC meeting.
3. *Street Improvements and Curb Cuts:* The store will have vehicle access to Thornwood's internal street and pedestrian access to Germantown Rd. and the parking lot.
4. *Parking Lots:* Parking is to be located on the south and east sides of the building.

5. *Exterior Lighting*: Site lighting is to consist of glob top fixtures mounted on 15 ft. tall parking lot poles. . Light fixtures are to be LED mounted in a dark bronze finished fixture. **The poles are to be concrete, and the color is not specified.**
6. *Garbage Collection Area*: the dumpster is to be located in the southeast corner of the site.
7. *Vents*: Locations are not provided.
8. *Gas, Electric and Water*: meter locations not indicated.
9. *Mechanical Units*: information on the location of HVAC and other units is not provided.
10. *Emergency Generators*: none indicated on the plan.
11. *Landscaping*: A landscaping plan has been provided.
12. *Mailboxes*: None proposed.

STAFF COMMENTS:

A. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. Provide a temporary turn-around for fire and other emergency equipment within Lot 4, at the southern end of the entrance drive to phase 2.
2. Modify the Neshoba Rd. median for left turns into the development.
3. The water and sanitary sewer lines up to each lot shall be public, and built to City standards. The entire roadways shall be a utility easement.
4. The two main storm drains shall be public.
5. Provide detailed information on the location and screening of all HVAC, mechanical units, utility meters and similar equipment. All such utility equipment shall be screened from public view.

B. GENERAL COMMENTS AND REQUIREMENTS

1. Signs must be approved by staff by a separate application. Any sign shown on a site plan or building elevation plan are not part of the site plan approval.
2. 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.
3. 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.
4. The developer shall enter into a Project Development Contract with the City of Germantown for this project after it has received Final approval.
5. The applicant shall provide proof of TDEC approval for the water system and sanitary sewer system. Contact Bill Hinch with TDEC for information.
6. 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.

7. 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:
8. 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.
9. 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.
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. 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.
12. 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

Andrew Pouncey of 8401 Briar Creek Drive stated he is representing Spence Ray and McNeill Real Estate Properties. He introduces the team: Terry Townsend with McNeill Real Estate Properties, Lee Davidson with The Reaves Firm, Bob Richards, Polly Richards and Anthony Richards with the Bob Richards Jewelers, Scott Woodard is the Architect of the Bob Richards Jewelers, and Pat Wilcheck the owner of the property. He addressed: 1) The issue of traffic, including the access alignment of Germantown Road, the intersection of Germantown Road and Neshoba Road and the intersection of Neshoba Road and Exeter Road (traffic light versus roundabout), 2) The warrants regarding parking and glass on the principal frontage along Germantown Road and 3) The site/building aesthetics.

The Jeweler's building must have security for its back-room workstations. Bob Richards Jeweler's will be located on the corner of Germantown and Neshoba Road and the proposed design keeps the customer

parking within close proximity of this store to provide secure access for these patrons with expensive jewelry purchases. The parking spaces have been grouped around the entrance on both the east and south sides of the building based on the size and shape of the lot and personal security. The hotel has rooms along Germantown Road frontage and each room's security and quiet play a large role in the success of the hotel as a quality place to stay.

He also asked that the Fire Marshal re-examine the need for the temporary turn-around for fire and other emergency equipment within lot 4, at the southern end of the entrance drive to Phase 2. Phase 1 was approved for full build out including the fire needs and will be complete prior to Phase 2 and 3.

Ron Rukstad, Executive Director with the Village of Germantown of 7820 Rocking Horse Trail stated yes we are in favor of the traffic light, due to the safety for the 300 seniors at the Village. It is challenging and very dangerous.

Mr. Pouncey stated that the Village of Germantown and McNeill Real Estate Properties will share the traffic light total cost of \$250,000 for Design and Construction.



To: Mr. Tim Gwaltney, P.E.
Germantown City Engineer

From: James F. Collins, P.E. 

Date: July 17, 2014

Subject: Thornwood PD Traffic Impact Study Dated July 2014

We have completed our review of the traffic impact study for the proposed Thornwood PD on the northeast corner of Germantown Road and Neshoba Road. In the course of this review, we discovered that some of the figures showing the project traffic were improperly drafted and the traffic volumes were incorrectly reported. We have worked with the engineer to obtain the corrected site volumes and have conducted our analysis based on the revised information.

There are three primary traffic issues related to this development. The first is the alignment of the main site drive on Germantown Road with the driveway to the church on the west side of Germantown Road. The second issue is the delays projected to be experienced for the southbound left turn from Germantown Road to Neshoba Road in the PM peak hour. The third issue is the operation of the intersection of Neshoba Road and Exeter Road. Each of these issues is addressed below.

The traffic study states that the main site drive on Germantown Road is offset to the south of the driveway to the church on the west side of the road by 100 feet. The report further states that the queue of vehicles turning left into the site is expected to not exceed two vehicles. If one vehicle is waiting to turn left into the church driveway, that only leaves 25 feet between the back of the vehicles, which is not enough room for another vehicle. If the two driveways are offset by 100 feet, this situation will be unsafe. At the July 16, 2014, Planning Commission Subcommittee meeting, the applicant stated that the two driveways were offset by 120 feet. If the two driveways are offset by 120 feet or more, the likelihood of left turning vehicles interlocking is greatly reduced.

The traffic study appendix shows that during the PM peak period, the southbound left turn from Germantown Road to Neshoba Road is expected to experience significant delays and vehicular queues upon full build-out of the development. No resolution of this issue is proposed. Since the issue is created by traffic destined for the site, it is likely that these trips will divert to the two driveways on Germantown Road to avoid these excessive delays. This will place more importance on having the appropriate offset between the main drive and the church drive to prevent vehicles from interlocking.

The final issue is the intersection of Neshoba Road and Exeter Road. As is indicated in the traffic study, this intersection already has operational issues that will be made worse by the development of this site. Two potential solutions are offered: convert the intersection to a roundabout or install a traffic signal. Based on the data presented in the traffic study, it does not appear that this intersection will

Kimley»»Horn

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meet the warrants outlined in the MUTCD for the installation of a traffic signal after full build-out of the site plus five years. However, as stated in the study, this intersection is projected to operate very well as a roundabout. The installation of a roundabout at this location has been considered for several years, after first being considered during the development of the Smart Growth Study. The developer has expressed some concern about the accommodation of bicycles and pedestrians at the roundabout. Both the Federal Highway Administration and the American Association of State Highway and Transportation Officials provide guidance documents that provide solutions for the safe accommodation of pedestrians and bicyclists at roundabouts. Using these guidelines, safe accommodation of pedestrians and bicyclists can be provided.

The installation of a roundabout at this location appears to be the best operational solution. However, there was reluctance expressed by the Planning Commission members about the installation of a roundabout at this location. It is my recommendation that this potential solution not be dismissed and that at a minimum the developer be required to provide any additional right-of-way required for the installation of the roundabout.

I will be glad to discuss this study and project with you further.

kimley-horn.com

6625 Lenox Park Drive, Suite 117, Memphis, TN 38116

901 374 9109



CITY OF GERMANTOWN
Community Development Department Engineering Division

MEMORANDUM

DATE: July 25, 2014
TO: Dr. Lipinski, Spence Ray
FROM: Tim Gwaltney
COPY: Cameron Ross, Wade Morgan, Lee Davidson, James Collins, Planning Commission Members
SUBJECT: Thornwood PUD – Comments Related to Traffic Impact Statement

We received the second revised Thornwood PUD Traffic Impact Study (TIS) on July 9, 2014. After staff's and our Traffic Consultant's (Kimley-Horn – KHA) review, comments (attached) were generated on July 17, 2014. A meeting was held on July 23, to discuss those comments. The remainder of this e-mail serves to summarize the results of that meeting and to provide the Planning Commission project status:

Meeting at McNeil Commercial Investment office - July 23, 2014

Attendees: Spence Ray (Developer), Lee Davidson (Developer's Engineer – Reaves Firm), Marty Lipinski (Developer's Traffic Engineer), Andy Pouncey (Developer's Representative), James Collins (City's Traffic Consultant – KHA), Tim Gwaltney (City Engineer)

After staff's/consultant's review of the revised TIS, three (3) main issues remained as mentioned in KHA's July 17 memo. Each of those issues are described and were discussed in the meeting. Meeting results are *italicized*.

1). Thornwood's proposed main Germantown Road driveway being offset from the church driveway across Germantown Road such that a "left-turn overlap" was created. Please see third paragraph of the KHA memo.

A graphic was presented indicating the actual centerline to centerline offset is approximately 120'. The actual distance from WB drive aisle into the church to the EB drive aisle into Thornwood is approximately 140'. We are comfortable with this distance and have concluded this is no longer an issue.

2). The TIS indicated excessive left-turn delays for SB Germantown Road onto EB Neshoba with no recommendations for mitigation. This placed more emphasis on adequate driveway offset spacing mentioned in item 1 above. Please see fourth paragraph of KHA memo.

As stated above, we are comfortable with the driveway-offset distance. Therefore, this item is no longer an issue.

3). The intersection of Exeter and Neshoba remains as an outstanding item.

Please see paragraph 5 & 6 of the KHA memo. In summary, the TIS indicates that the existing 2-way stop control will not operate efficiently after full build-out of the site. The TIS indicates that modifying the intersection to a 4-way stop does not meet MUTCD warrants for a multi-way stop and would operate less efficiently than the 2-way stop. The TIS indicates that a signalized intersection would operate efficiently, yet would not be warranted in accordance with the MUTCD. The TIS indicates that a roundabout would operate efficiently and safely.

Spence indicated that an agreement with The Villages was near in which McNeil Properties and the Villages would split the cost of designing and installing a traffic signal 50/50, no cost to the City. Spence also mentioned that The Villages was interested in the signal going in immediately with the initial phase of site construction. Obviously, monetarily, that would be good news for the City. However, as mentioned previously, a traffic signal is not warranted now and is not anticipated to be warranted after full-build out of the site. The City will be at risk of liability if it knowingly allows a signal to be installed that does not meet warrants.

From a purely engineering standpoint, a roundabout remains as the best intersection treatment. After discussing the roundabout with the developer, we believe a roundabout design can be provided that will also safely accommodate bicyclists and pedestrians. For the phases under consideration to date, Phase 1 being the infrastructure for the entire site, Phase 2 being the jewelry store and Phase 3 being the hotel, no intersection improvements are needed. When the remaining residential phases along Exeter or the commercial (retail and restaurants) phases come on-line, that is when intersection improvements are definitely needed.

James Collins with Kimley-Horn 6625 Lenox Park Drive, Suite 117, Memphis, TN 38115 stated there are three primary traffic issues: 1) The alignment of the main site drive on Germantown Road with the driveway to the church. If the two driveways are offset by 120 feet or more, the likelihood of left turning vehicles interlocking is greatly reduced. 2) The delays projected to be experienced for the southbound left turn from Germantown Road to Neshoba Road in p.m. peak hours. These trips will divert to the two driveways on Germantown Road to avoid these excessive delays. 3) The operation of the intersection of Neshoba Road and Exeter Road. The installation of a roundabout at this location appears to be the best operational solution.

Sarah Wilkerson Freeman of 7684 Apahon Lane, stated since March of this year, the Smart Growth Sub Committee, Planning Commission and BMA have been voting on applications for the proposed Thornwood development without the benefit of an accurate Traffic Impact Study. This means that the public has also been misguided and misinformed as to what we might expect in terms of safety and inconvenience resulting from this development as we drive to work, take our children to school, and go about our daily lives.

On July 16, the Smart Growth Sub Committee met to review the Thornwood Preliminary and Final applications for Phases 2 and 3. The next day, James Collins, the City's traffic engineering consultant wrote that he had completed his review of the traffic impact study for the proposed Thornwood and "In the course of this review, we discovered that some of the figures showing the project traffic were improperly drafted and traffic volumes were incorrectly reported. We have worked with the engineer to obtain the corrected site volumes and have conducted our analysis based on the revised information."

He goes on to state that "during the PM peak period, the southbound left turn from Germantown Road to Neshoba Road is expected to experience significant delays and vehicular queues upon full build-out of the development. No resolution of this issue is proposed."

Furthermore, Mr. Collins stated that the operational issues at the intersection of Neshoba Road and Exeter Road will be "made worse" by the proposed development. Considering how close that intersection is to the Germantown Road intersection (and no one has talked tonight about the fact that these two problem intersections are so close to each other), Mr. Collins advised that the best way to handle the increased traffic is to create a roundabout at Neshoba and Exeter—a solution the PC has repeatedly dismissed.

Neither the Smart Growth Sub Committee nor the PC has met (except for tonight's Executive Session) since Mr. Collins revealed his "discoveries." Perhaps tonight the public will be given more accurate projections as to the impact Thornwood will have on the safety of those who live near and use those intersections. However, to grant Final approval of these initial phases without having the time and opportunity to reflect on the future dangers this development will create is unwise.

Special courtesies were extended to this developer with an understanding that Thornwood would not create traffic nightmares and dangerous conditions for drivers, pedestrians, and cyclists. Instead, the City was given an inaccurate traffic impact analysis and potentially life-threatening problems with no good solutions.

The people rely upon this body to consider first and foremost, above revenues and other material considerations, the safety of human beings. Considering the hazardous conditions the developer proposes to create, I respectfully request that these applications be rejected.

Herschel Freeman of 7684 Apahon Lane stated the developer and the Village of Germantown are asking you to build a traffic light and they will each kick in \$125,000. It has already been proven in the traffic

study by Kimley Horn that the traffic light would not work. That is throwing money at a problem, which is a safety hazardous and should not be considered.

What causes this in the first place; the plans for the site are far in excess of what was proposed as the proper amount of residential and business in the Smart Growth Code. What's happened is you are over building the site and causing all these traffic problems. The roundabout would be a nightmare with the senior citizens, which none of you will like it. Why don't you consider scaling back the scope of the project, so the amount of traffic it will generate will lead to a suitable solution.



CITY OF GERMANTOWN

TENNESSEE 1930 South Germantown Road • Germantown, Tennessee 38138-2815
Phone (901) 757-7200 Fax (901) 757-7292 www.ci.germantown.tn.us

August 5, 2014

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

RE: Thornwood PUD – Phase 2 & 3
Proposed New Building for Hampton Inns & Suites
Proposed New Building for Bob Richards Jewelry

The Germantown Economic Development Commission supports and recommends approval of the Phase 2 and Phase 3 plans for the Thornwood Planned Unit Development. The retail space and hotel will advance the Germantown Smart Growth Plan and will be a positive force for improvement to our property tax and sales tax base.

Sincerely,

By:


Jerry Klein, Chairman Economic Development

cc: Cameron Ross – Director of Economic and Community Development
Wade Morgan – Chief Planner



CITY OF
GERMANTOWN
TENNESSEE

1930 South Germantown Road • Germantown, Tennessee 38138-2815
Phone (901) 757-7200 Fax (901) 757-7292 www.germantown-tn.gov

July 30, 2014

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

RE: Thornwood PUD – Phase 2 & 3
Proposed New Building for Hampton Inns & Suites
Proposed New Building for Bob Richards Jewelry
Germantown, TN

Per your request, review of the material sample selections for the finishes for the exterior of both buildings to be constructed on the site located on Germantown Road, north of Neshoba Road, Phase 2 & 3 of the PUD, has been completed by the Design Review Commission members of the Planning Commission Smart Growth Subcommittee.

Based on the materials samples presented by the applicant for both buildings, all materials were found to be acceptable in sustainability, color, and texture for use on the exterior of the proposed buildings. The proposed materials for the exterior of the proposed buildings work within the normal criteria reviewed by the Design Review Commission for commercial buildings outside the Smart Grow review. The placement, continuity and coordination of the proposed materials could not be reviewed until such time as detail elevation drawings are submitted for review by the applicant showing location of use of products proposed. The members also recommend that on the Hampton Inn & Suites color board, that all materials have the manufacturer's name, product identification or model number, and color name of the item.

Review of light fixtures to be used on the proposed buildings was not included in our review since information was not available at time of review. The members recommend that the applicant have a photometric plan prepared by a qualified firm to show lighting levels in and around the site. Further, all lighting fixtures and their data sheet should be included with the photometric plans along with location of each fixture on the site or building.

Further, final approval granted by the Planning Commission be subject to the detail elevation drawings of each building as mentioned, and the photometric plans and light fixture data sheets be prepared by the applicant and submitted for review. This information will also be required for inspection by the Code Enforcement Department to determine that products have been used in manner as approved by the Planning Commission.

However, the proposed building materials for both buildings are acceptable and recommend to the Planning Commission for approval of the proposed building materials to be used on the two buildings.

Sincerely,

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

cc: Cameron Ross – Director of Economic and Community Development
Wade Morgan – Chief Planner

SMARTGROWTH SUBCOMMITTEE: (DAVID KLEVAN, CHAIRMAN) The Smart Growth subcommittee met on July 16, 2014 and withheld a recommendation.

WARRANTS

PROPOSED MOTION 1: To approve warrant number 1, which will allow parking within the second lot layer (between the front building line and a point 20 feet behind the front line).

Chairman Klevan moved to approve warrant number 1, which will allow parking within the second lot layer (between the front building line and a point 20 feet behind the front line), subject to the comments listed in the staff report, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Alderman Owens voted yes, because of the building itself and the design of the site; he thinks they have illustrated some good site planning practices. The building has two frontages and only one of them is where the parking is being requested in that second lot layer.

Mr. Hernandez voted yes, the deviation certainly is within the intent of the Smart Growth regulations and consistent with the overall plan.

Mr. Harless vote yes, primarily because I think this is good utilization of the space and it takes care of the customers that will be visiting the stores.

Ms. Burrow voted yes, she think it is a good site plan with being on corner lot and knowing the subject of his business, you want safety to be first in your thoughts.

Mr. Barclay voted yes, based on the layout of this site and bearing in mind with the intent of Smart Code as well as security for the future patrons of this site.

Chairman Klevan voted yes, the biggest indication is the proper screening on the front and it will blend with the intent of our Smart Code.

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

PROPOSED MOTION 2: To approve warrant number 2, that will allow the building to have 40% (30.8 ft.) of the Principal Frontage of the sidewalk-level story in clear glass.

Chairman Klevan moved to approve warrant number 2, that will allow the building to have 40% (30.8 ft.) of the Principal Frontage of the sidewalk-level story in clear glass, subject to the comments listed in the staff report, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Mr. Barclay voted yes, for the security and the operations of the store, for purposes of the Smart Code.

Mr. Harless voted yes, primarily because there will be some false windows, that will appear to be glass windows behind shutters and it will also provide security for a business that certainly needs security. I think Germantown is one of the safest areas in our community.

Alderman Owens voted yes, for the reasons stated earlier and for the bahama shutters that they used as a substitute and for security reasons.

Ms. Burrow voted yes, for the aesthetics and the screening.

Mr. Hernandez voted yes, with the unique circumstances of this business a warrant is needed. I think it warrants the bahama shutters being an alternative.

Chairman Klevan voted yes, I appreciate the applicant working with us through the phases and the second thing is the safety and security.

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

MAIN MOTION

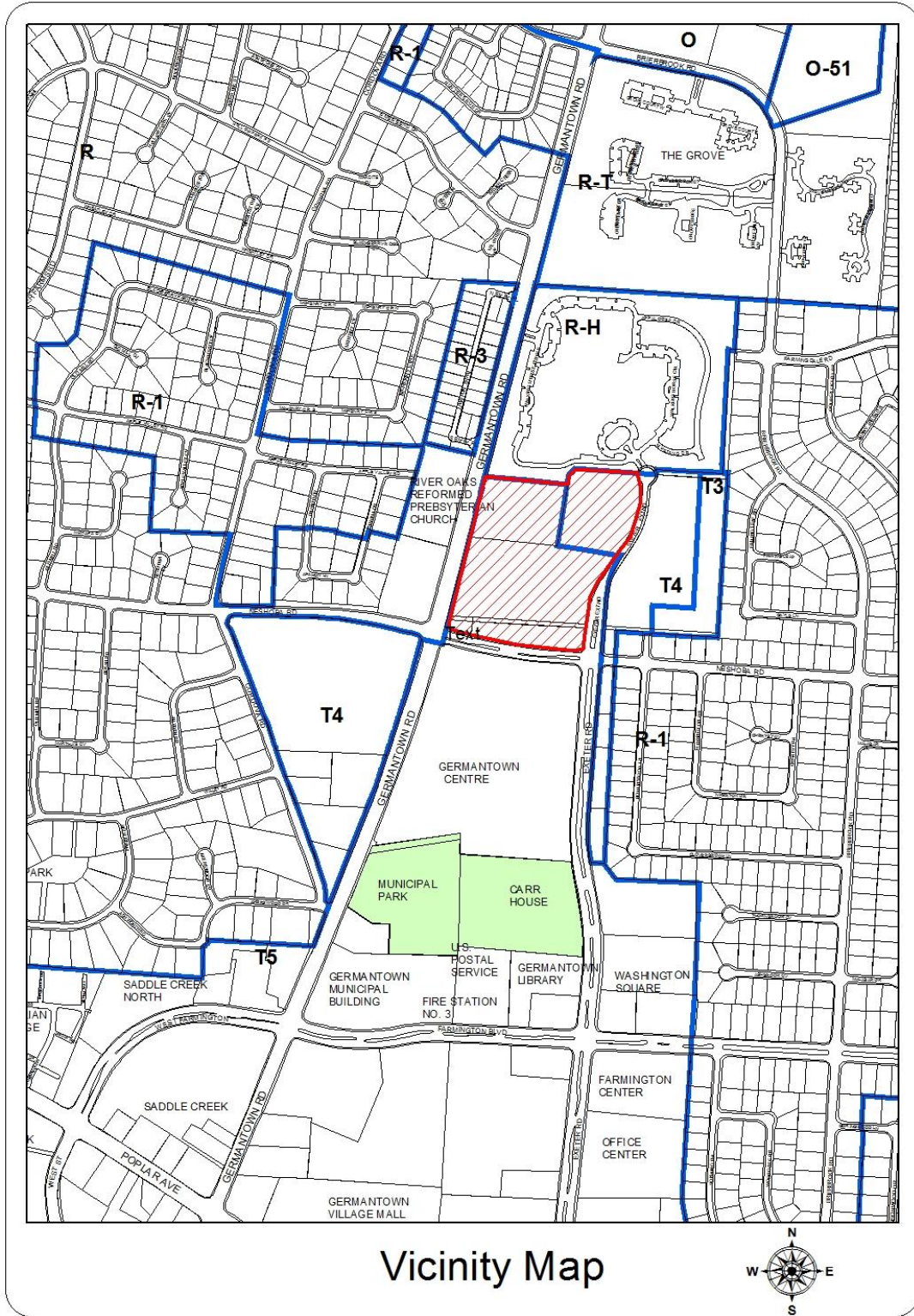
PROPOSED MOTION: To approve the preliminary and final site plan for Phase 2 of the Thornwood PUD, located on the northeast corner of Germantown Road and Neshoba Road, subject to the comments listed in the staff report.

Chairman Klevan moved to approve the preliminary and final site plan for Phase 2 of the Thornwood PUD, located on the northeast corner of Germantown Road and Neshoba Road, subject to the comments listed in the staff report, subject to the comments listed in the staff report, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Mr. Harless commented that the staff indicated they wanted a turn-around for the Fire Department and I think the majority of the Planning Commission supports not requiring that at this time.

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



Vicinity Map



Commercial Real Estate

June 11, 2014

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

RE: Warrants for Thornwood PD., Ph. 2 & 3 (Jeweler's/Hotel)

Dear Cameron:

Please include with our packet of materials for July approval of Thornwood PD, Ph. 2 & 3 our request for the following "warrants" associated with these two (2) phases.

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, and peculiar and exceptional practical difficulties or undue hardship" upon the property owner are applicable.

1. **Warrant #1: 6.3.4.A.** - Minimize Blank Walls & **Warrant #2: 6.3.4.B.** - Required Transparency Zone. Both "warrants" are requested for both Phase 2 & 3, based on the submitted facades for both the Jeweler and the Hotel. The 1st Warrant states, "no facade shall exceed 20 feet without such elements (i.e. windows) as outlined in the Code." The 2nd Warrant states, "no less than 60% of the Principal Frontage of the sidewalk-level story shall be made up of clear glass, including windows and doors". Each user has differing justification for these warrants: the Jeweler's building must have security for its back-room work stations. The Hotel has rooms on along the Germantown Road frontage and each room's security and quiet play a large role in the success of the Hotel as a quality place to stay.
2. **Warrant #3 7.1.3.D.** - Parking Area Location. Bob Richards Jewelers is located on a corner lot and fronts on Germantown Road and an internal street. The proposed design keeps the customer parking within close proximity of this store to provide secure access for these patrons with expensive jewelry purchases. The parking spaces have been grouped around the entrance on both the east and south sides of the building based on the size and shape of the lot and personal security.

The south area of parking touches on the frontage along Germantown Road. Therefore, We are requesting a "warrant" from 7.1.3.D. that states that "for buildings on Non-Pedestrian-Oriented Streets, parking areas may be allowed on the Frontage by Warrant along Germantown Road, Poplar Avenue and other non-pedestrian-oriented streets". As per 7.1.2.C. - Parking lots shall be masked from the Frontage by a Liner Building or Street screen as specified in Section 7.3.2.E. Our plans illustrate a street screen along Germantown Road.

Sincerely,

A handwritten signature in black ink, appearing to read "MSR".

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: 2 of 3 Date of Outline Plan (Master Plan) Approval: _____
Other: _____
Submittal Date: June 6, 2014

PROJECT INFORMATION

Name: Thornwood Planned Development - Phase 2
Address: _____
Project Location Description: 17 acre mixed use development located at the northwest corner of Germantown Road and Neshoba Road. Phase 2 consists of a 0.609 acre parcel for a jewelry store.
No. of Acres: 0.609 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:

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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
_____	_____
_____	_____
_____	_____
_____	_____



June 6, 2014

Mr. Wade Morgan
Chief Planner
City of Germantown
1920 S. Germantown Road
Germantown, TN 38138

**RE: Thornwood Planned Development
17 Ac. At Germantown Road and Neshoba
Germantown, TN**

Dear Mr. Morgan:

Enclosed are the applications for the P.U.D. - Final Plan (Phases 2 and 3) approval for portions a 17 acre parcel located on the east side of Germantown Road, north of Neshoba Road. The property containing Phases 2 and 3 is zoned T5.

Enclosed with the application are the following items:

- Final Plat and Site Plans
- Building Elevations

The Planned Development will allow mixed uses in accordance with the T4 and T5 zoning districts. Planned uses include high end multi-family areas, retail, restaurants, office and a hotel.

The property to the north contains the Village at Germantown, a retirement community with a mix of apartments and townhomes. The property to the west, across Germantown Road, is a church site. To the south, across Neshoba Road, is the Germantown Performing Arts Center, an athletic club. The property to the east, across Exeter, is being developed as single family residential and is zoned T3 and T4.

Phase 1 will consist of the interior drives, the utility infrastructure in the drives and the mass grading of the future development parcels. Phase 2 is the jewelry store site containing 0.609 acres. Phase 3 is the Hampton Inn site containing 2.162 acres.

We believe this is an exciting project that will be an asset to the City and an example of the development opportunities created by the "Smartcode Zoning". Your help with this process is greatly appreciated. Please feel free to call me if you have any questions.

Sincerely,



Lee Davidson, P.E.
Vice President

\\1DHIGGS\Data\TRF MARKETING\Admin. Projects\2013\2013-0223 Thornwood PUD\City of Germantown \Phase 2 & 3 App 06062014

3. Thornwood Planned Unit Development, Northeast Corner of Germantown Rd. and Neshoba Rd. – Request Preliminary and Final Site Plan Approval of Phase 3

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 Outline Plan was approved by the Planning Commission on April 1, 2014 and by the Board of Mayor and Aldermen on May 12, 2014. The Planning Commission approved the Phase 1 preliminary and final site plan, on June 3, 2014.

DISCUSSION: Phase 1 of the project consisted of the interior drives, utility infrastructure and mass grading of the site. Phase 2 consists of a 5,000 square foot retail jewelry store building. Phase 3 consists of a 108 room, 4-story hotel.

PHASE 3:

DEVELOPMENT PROGRAM:	2.152 ac.
Hotel Building	108 rooms;
	17,865 sq. ft footprint
Parking provided	110 spaces
Parking required	108 spaces
Maximum parking allowed	NA

A Project Description from the applicant is attached.

WARRANTS:

1. The T-5 District requires at least 60% of the sidewalk-level story of the Principal Frontage to be in clear glass (sections 6.3.4.A and 6.3.4.B, (SmartCode) sections) the building has less than 60% of the Principal Frontage of the sidewalk-level story in clear glass. The developer explains that the hotel rooms facing Germantown Rd. are best served by privacy and quiet.

In those instances where reasons are shown that would justify a deviation from the strict requirements of the provisions of the SmartCode, 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 SmartCode 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."

Site Layout:

1. Site Layout: The project consists of a 108 room, 4-story (54.5 ft. ht.) hotel building. The building is to be situated near the Germantown Rd. and internal street frontages, with parking to the north and east areas of the parcel.
2. Building Elevations: the building's front and sides are to finished with a combination of brick and stone veneer. A color rendering has been provided. Material samples will be available at the PC meeting. **The material samples are not clearly identified as to manufacturer and product names.**
3. Street Improvements and Curb Cuts: The store will have vehicle access to Thornwood's internal street and pedestrian access to Germantown Rd. and the parking lot.
4. Parking Lots: Parking is to be located on the north and east sides of the building.
5. Exterior Lighting: Site lighting is to consist of glob top fixtures mounted on 15 ft. tall parking lot poles. . Light fixtures are to be LED mounted in a dark bronze finished fixture. **The poles are to be concrete, and the color is not specified.**
6. Garbage Collection Area: the dumpster is to be located in the northeast corner of the site.
7. Vents: Locations are not provided.
8. Gas, Electric and Water: meter locations not indicated.
9. Mechanical Units: information on the location of HVAC and other units is not provided.
10. Emergency Generators: none indicated on the plan.
11. Landscaping: A landscaping plan has been provided.
12. Mailboxes: None proposed.

STAFF COMMENTS:

- A. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. Modify the Neshoba Rd. median for left turns into the development.
2. The water and sanitary sewer lines up to each lot shall be public, and built to City standards. The entire roadways shall be a utility easement.
3. The two main storm drains shall be public.
4. Provide detailed information on the location and screening of all HVAC, mechanical units, utility meters and similar equipment. All such utility equipment shall be screened from public view.
5. Provide names of the manufacturer and products of all exterior building materials (brick, stone, windows, doorways, etc.)

B. GENERAL COMMENTS AND REQUIREMENTS

1. Signs must be approved by staff by a separate application. Any sign shown on a site plan or building elevation plan are not part of the site plan approval.
2. 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.
3. 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.
4. The developer shall enter into a Project Development Contract with the City of Germantown for this project after it has received Final approval.
5. The applicant shall provide proof of TDEC approval for the water system and sanitary sewer system. Contact Bill Hinch with TDEC for information.
6. 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.
7. 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:
8. 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.
9. 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.
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. 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.
12. 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: Preliminary and Final Site Plan Approval, subject to the conditions listed above

Andrew Pouncey of 8401 Briar Creek Drive stated he is representing Spence Ray and McNeill Real Estate Properties. He introduced Danny Bounds and Michael Tusher of Bounds and Gillespie as the Architects for the project: (Hampton Hotel).

He addressed the warrant relating to the first floor windows being tinted and not clear glass, due to the need for privacy and quiet issues related to traffic were addressed with Phase 2, and he made himself available for issues relating to aesthetics.

Mr. Harless asked if an emergency generator would be on the site?

Danny Bounds with Bounds and Gillespie Architects 7975 Stage Road stated it was not deemed necessary for this site. We will have emergency lighting with battery backup.

Alderman Forrest Owens asked about the materials around the pool equipment?

Mr. Pouncey answered it was bricked.

Sarah Wilkerson Freeman of 7684 Apahon Lane stated as you move forward and make decisions on what can go on this site. Please consider that we do not know the future of what will be on this site. Therefore, I hope the attention that our neighborhood has showed to you, with all our concerns about the impact of safety and the density of this site. Please as you go forward consider scaling back the density of this site, there is no desperate need in Germantown for revenue that requires we put our citizens in danger. We have tried very hard to actually adhere to the illusion of Smart Growth. When the Smart Growth plan was put before us, there was not any indication in the use of this site, that there would be two ingress/egress off Germantown Road on this site. It was supposed to be an unbroken landscape screen. You all changed the development by allowing this commercial density. The landscape impact study shows the problems that will be created.

SMARTGROWTH SUBCOMMITTEE: (DAVID KLEVAN, CHAIRMAN) The Smart Growth subcommittee met on July 16, 2014 and withheld a recommendation.

WARRANTS

PROPOSED MOTION 1: To approve warrant number 1, that will allow the building to have less than 60% of the Principal Frontage of the sidewalk-level story in clear glass.

Chairman Klevan moved to approve warrant number 1, that will allow the building to have less than 60% of the Principal Frontage of the sidewalk-level story in clear glass, subject to the comments listed in the staff report, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Mr. Hernandez voted yes, I think the justification for the smoked glass versus the clear glass is well justified.

Alderman Owens voted yes, I have no problem with the smoked glass especially, based of it being over 60% of the principal frontage.

Ms. Burrow voted yes, for the privacy, and comfort.

Mr. Barclay voted yes, for the security and privacy for the hotel guests.

Mr. Harless voted yes, for safety, and security.

Chairman Klevan voted yes, based on the privacy, comfort, and safety, which is all within the Smart Code. The amount of glass is less than 60%.

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

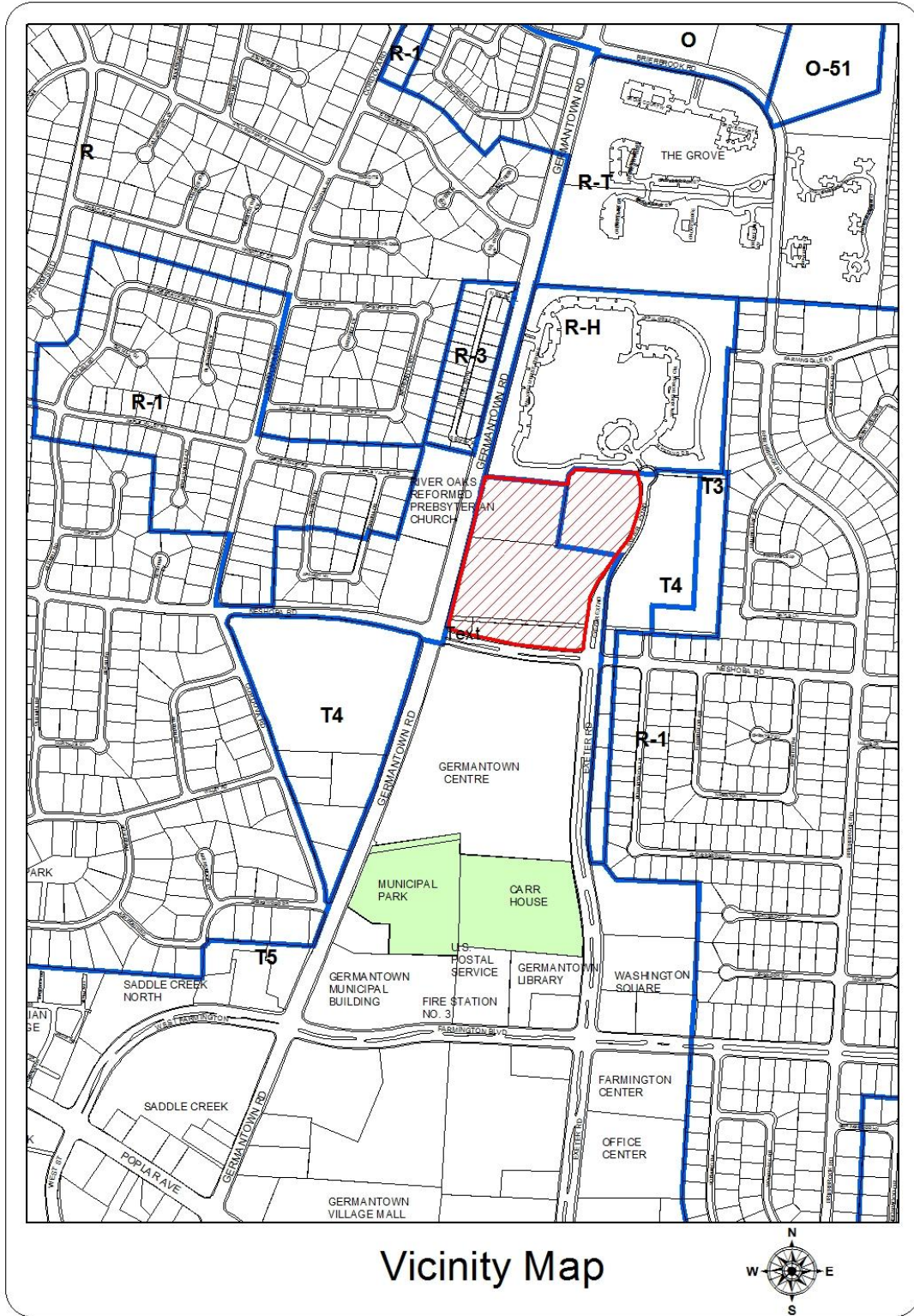
MAIN MOTION

PROPOSED MOTION: To approve the preliminary and final site plan for Phase 3 of the Thornwood PUD, located on the northeast corner of Germantown Road and Neshoba Road, subject to the comments listed in the staff report.

Chairman Klevan moved to approve the preliminary and final site plan for Phase 3 of the Thornwood PUD, located on the northeast corner of Germantown Road and Neshoba Road, 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 – yes; Wilensky – absent; Bacon – absent; Harless –yes; Owens -yes; Klevan –yes. **The motion was passed**



Vicinity Map



Commercial Real Estate

June 11, 2014

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

RE: Warrants for Thornwood PD., Ph. 2 & 3 (Jeweler's/Hotel)

Dear Cameron:

Please include with our packet of materials for July approval of Thornwood PD, Ph. 2 & 3 our request for the following "warrants" associated with these two (2) phases.

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, and peculiar and exceptional practical difficulties or undue hardship" upon the property owner are applicable.

1. **Warrant #1: 6.3.4.A.** - Minimize Blank Walls & **Warrant #2: 6.3.4.B.** - Required Transparency Zone. Both "warrants" are requested for both Phase 2 & 3, based on the submitted facades for both the Jeweler and the Hotel. The 1st Warrant states, "no facade shall exceed 20 feet without such elements (i.e. windows) as outlined in the Code." The 2nd Warrant states, "no less than 60% of the Principal Frontage of the sidewalk-level story shall be made up of clear glass, including windows and doors". Each user has differing justification for these warrants: the Jeweler's building must have security for its back-room work stations. The Hotel has rooms on along the Germantown Road frontage and each room's security and quiet play a large role in the success of the Hotel as a quality place to stay.
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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: 2 of 3 Date of Outline Plan (Master Plan) Approval: _____

Other: _____

Submittal Date: June 6, 2014

PROJECT INFORMATION

Name: Thornwood Planned Development - Phase 2

Address: _____

Project Location Description: 17 acre mixed use development located at the northwest corner of Germantown Road and Neshoba Road. Phase 2 consists of a 0.609 acre parcel for a jewelry store.

No. of Acres: 0.609 acres

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

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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

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Owner and Lessee: _____

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

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



June 6, 2014

Mr. Wade Morgan
Chief Planner
City of Germantown
1920 S. Germantown Road
Germantown, TN 38138

**RE: Thornwood Planned Development
17 Ac. At Germantown Road and Neshoba
Germantown, TN**

Dear Mr. Morgan:

Enclosed are the applications for the P.U.D. - Final Plan (Phases 2 and 3) approval for portions a 17 acre parcel located on the east side of Germantown Road, north of Neshoba Road. The property containing Phases 2 and 3 is zoned T5.

Enclosed with the application are the following items:

- Final Plat and Site Plans
- Building Elevations

The Planned Development will allow mixed uses in accordance with the T4 and T5 zoning districts. Planned uses include high end multi-family areas, retail, restaurants, office and a hotel.

The property to the north contains the Village at Germantown, a retirement community with a mix of apartments and townhomes. The property to the west, across Germantown Road, is a church site. To the south, across Neshoba Road, is the Germantown Performing Arts Center, an athletic club. The property to the east, across Exeter, is being developed as single family residential and is zoned T3 and T4.

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We believe this is an exciting project that will be an asset to the City and an example of the development opportunities created by the "Smartcode Zoning". Your help with this process is greatly appreciated. Please feel free to call me if you have any questions.

Sincerely,



Lee Davidson, P.E.
Vice President

\\1DHIGGS\Data\TRF MARKETING\Admin. Projects\2013\2013-0223 Thornwood PUD\City of Germantown \Phase 2 & 3 App 06062014

4. 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: City of Germantown - Applicant
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, (including 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.

Ms. Burrow moved 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, subject to the comments listed in the staff report, seconded by Mr. Harless.

Chairman Klevan stated from a City and community undertaking, I think you cannot fully vet anything further than we have this item. For the past nine months, the process has been undertaken from our commission to BMA, the BMA back to us. We thoroughly looked at it again and made some adjustments. The opportunity for the community, both the developer and neighborhood, was given several times and I

can't think of anything else that could be done, other than to move forward and I think after nine months it's time to give birth.

Alderman Owens stated I express my appreciation to the Planning Commission and the BMA. As you know this was the third time from the BMA to the Planning Commission, I know it was long process along with staff getting to this point and we said as much as we could.

Mr. Barclay voted yes, keeping good zoning practices in mind and for the future of Smart Growth development.

Ms. Burrow voted yes, I think this will be a great improvement for the City.

Alderman Owens voted yes, based on sound planning practices and good urban design principles for a thorough review through these many months, so I vote yes.

Mr. Harless voted yes, I am very excited about this Western Gateway. This could be the entry into Germantown and its going to provided new economic opportunity and from a beautification standpoint.

Mr. Hernandez voted yes, I think this rezoning is certainly consistent with the Smart Growth plan. The overlay is just phenomenal with the consideration given back and forth with property owners and the developer. I think this is the best solution.

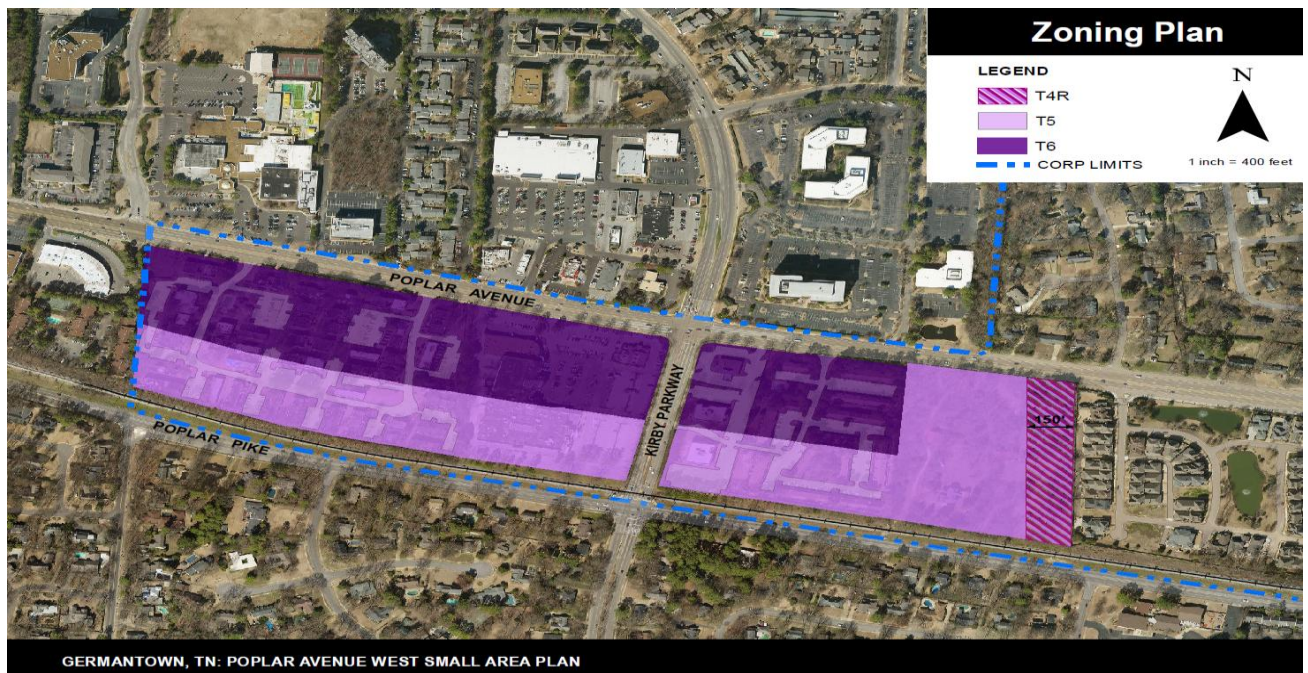
Chairman Klevan voted yes, for sound practices that have been displayed here. Through all that we have done, the public and developer input was allowed. The process took awhile, but I think we came out with the best product available.

Chairman Klevan asked for a roll call.

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



▲ EXISTING ZONING



5. Amendment to the City of Germantown’s Zoning Code: Add the category of “Health Care Facility” to the Definitions Section and add Health Care Facility to the list of Permitted Uses; and add the categories of “Medical Services/Offices” to the Definition Section and add “Medical Services/Offices” to the list of Permitted Uses.

INTRODUCTION: ECD staff proposes that the definition of “hospital” be modified to better reflect the current trends in the provision of medical facilities that provide outpatient and in-patient treatment for medical and behavioral health conditions. The proposed definition changes to the City of Germantown’s Zoning Code, Section 23-2 “Definitions” will affect uses in the following zoning districts:

C-2 “General Commercial District”; SC-1 “Shopping Center District”; O “Office District”; O-51 “Office District”; O-C “Office Campus”; O-T “Office-Technology District”;

Currently a “hospital” is only allowed in C-2. Staff’s recommendation is that the proposed “Health Care Facility” be applied as a use in C-2, O-51, and O-T.

Medical Offices/Services will be allowed by right in all of the districts outlined above.

EXISTING TEXT:

Definitions Section 23-2: Hospital means an institution which is primarily engaged in providing to short-term inpatients, for relatively temporary periods of acute physical illness, injury or disability, by or under the supervision of physicians, diagnostic and therapeutic services for medical or surgical diagnosis, treatment and care of physically injured, disabled or sick persons, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, emergency room services and training facilities for health professions personnel. The term "hospital" does not include institutions engaged in providing for the diagnosis and treatment of tuberculosis, leprosy, mental illness, mental retardation, abnormal mental conditions, or alcohol or drug abuse. The term "hospital" does not include institutions primarily furnishing relatively permanent, long-term or domiciliary care such as nursing homes, recuperation or convalescent centers, homes for the aged, extended care facilities, facilities for long-term care, skilled nursing facilities or intermediate care facilities.;

Definitions Section 23-2: Medical services means those establishments, which provide aid or merchandise relating to or concerned with the practice of medicine; excluding sanitariums, convalescent, and rest home services. (See Code 651 in the Standard Land Use Coding Manual, reprinted March, 1977.);

SC-1 “Shopping Center District” Section 23-432.(3) Medical services such as, but not limited to, advertising firms, rental and leasing services and mailing services.;

Section 23-440. (3) a3. Hospitals: At least 2.5 parking spaces shall be provided per bed;

C-2 “General Commercial District” Section 23-402.(2) Personal services such as, but not limited to, tailor shops, beauty parlors, barber shops, photographic studios, laundries, child care facilities and hospitals;

O “Office District” Section 23-462. (7) Medical services such as, but not limited to, doctors' offices and dentists' offices;

O-51 “Office District” Section 23-492. (3) Medical services such as, but not limited to, doctors' offices and dentists' offices;

O-T “Office-Technology District” Section 23-649. (3) Medical services such as, but not limited to, doctors' offices and dentists' offices;

O-C “Office Campus District” Section 23-673. (4) Medical services such as, but not limited to, doctors' offices and dentists' offices;

PROPOSED TEXT AMENDMENTS:

Definitions Section 23-2: Health Care Facility: (formerly Hospital) means a hospital or other similar institution which is primarily engaged in providing medical, emergency, surgical, obstetric, nursing, physical rehabilitation, hospice or behavioral (including chemical dependency) health care to persons suffering from illness, injury, disease, or other physical or mental conditions and other health care facilities licensed by the State of Tennessee Department of Health. This classification includes facilities for inpatient or outpatient treatment, and can include emergency rooms, operating rooms, laboratories,

diagnostic facilities, medical and administrative offices, teaching facilities, meeting areas, cafeterias, maintenance and structured parking facilities.

Definitions Section 23-2: Medical Office/Services: (formerly Medical Services) means an office or clinic for health care professionals, including but not limited to medical doctors, dentists, eye care specialists, chiropractors, nurses, physical therapists, acupuncturists and other health care practitioners licensed by the State of Tennessee Department of Health. The majority of patient encounters involve examination, diagnosis, treatment, or surgical procedures on an outpatient basis. Also included in this definition are establishments, which provide services, supplies, equipment or merchandise, related to the health care field.

SC-1 “Shopping Center District” Section 23-432. ~~(3) Medical Office/Services services such as, but not limited to, advertising firms, rental and leasing services and mailing services.;~~

Section 23-440. (3)a3. ~~Hospitals: At least 2.5 parking spaces shall be provided per bed;~~

C-2 “General Commercial District” Section 23-402. ~~(2) Personal services such as, but not limited to, tailor shops, beauty parlors, barber shops, photographic studios, laundries, child care facilities and hospitals;~~

O “Office District” Section 23-462. (7) ~~Medical Office/Services services such as, but not limited to, doctors' offices and dentists' offices;~~

O-51 “Office District” Section 23-492. (3) ~~Medical Office/Services services such as, but not limited to, doctors' offices and dentists' offices;~~

O-T “Office-Technology District” Section 23-649. (3) ~~Medical Office/Services services such as, but not limited to, doctors' offices and dentists' offices;~~

O-C “Office Campus District” Section 23-673. (4) ~~Medical Office/Services services such as, but not limited to, doctors' offices and dentists' offices;~~

C-2 “General Commercial District” Section 23-402. (16) Health Care Facility;

O-51 “Office District” Section 23-492. (7) Health Care Facility;

O-T “Office-Technology District” Section 23-649. (9) Health Care Facility;

STAFF RECOMMENDATION: Approval of text amendments as proposed.

ZONING SUBCOMMITTEE: (SUSAN BURROW, CHAIRMAN) – The subcommittee met on July 16, 2014 and withheld a recommendation.

PROPOSED MOTION: To recommend approval of the amendment to the Zoning Regulations that will add the category of “Health Care Facility” to the Definitions Section and add Health Care Facility to the list of Permitted Uses; and add the categories of “Medical Services/Offices” to the Definition Section and add “Medical Services/Offices” to the list of Permitted Uses.

Ms. Burrow moved to recommend approval of the amendment to the Zoning Regulations that will add the category of “Health Care Facility” to the Definitions Section and add Health Care Facility to the list of Permitted Uses; and add the categories of “Medical Services/Offices” to the Definition Section and add

“Medical Services/Offices” to the list of Permitted Uses, subject to the comments listed in the staff report, seconded by Mr. Harless.

Mr. Harless asked about the term "hospital" does it include institutions engaged in providing for the diagnosis and treatment of tuberculosis, leprosy, mental illness, mental retardation, abnormal mental conditions, or alcohol or drug abuse. The term "hospital" does not include institutions primarily furnishing relatively permanent, long-term or domiciliary care such as nursing homes, recuperation or convalescent centers, homes for the aged, extended care facilities, facilities for long-term care, skilled nursing facilities or intermediate care facilities. Does the new text now allow for all those things?

Mr. Ross answered it does more as an applied use. The other physical or mental conditions and other health care facilities licensed by the State of Tennessee Department of Health. This classification includes facilities for inpatient or outpatient treatment, and can include emergency rooms, operating rooms, laboratories, and diagnostic facilities, medical and administrative offices, teaching facilities, meeting areas, cafeterias, maintenance and structured parking facilities.

Chairman Klevan asked for a roll call.

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

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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 wanted to congratulate all the teachers, school board members, faculty, and all the staff for the opening day of the new schools.
 8. Chairman Klevan asked if there were any liaison reports. There was none.
 9. **ADJOURNMENT:** The meeting adjourned at 7:30 p.m.