

**PLANNING COMMISSION SMART CODE REVIEW SUBCOMMITTEE MEETING**  
**Economic Community Development**  
**Blue Conference Room**  
**Wednesday, December 17, 2014**

The meeting of the Planning Commission Smart Code Review Subcommittee was scheduled and held in the Economic Community Development Blue Conference Room on December 17, 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 5:40 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 Smart Code Review Subcommittee meeting was established.

**Commissioners Present:** Susan Burrow, David Klevan, Hale Barclay, Alderman Forrest Owens, Dike Bacon, and Mike Harless

**Smart Growth Subcommittee Present:** Keith Saunders, John Walker, and Jerry Klein

**Commissioners Absent:** George Hernandez

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

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

**INTRODUCTION:**

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

Location: Northeast Corner of Neshoba Rd and Germantown Rd.

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

**BACKGROUND:** The property was rezoned from the "R" Single Family Residential District to the T-4 and T-5 districts as part of the Germantown Smart Growth Plan in 2007. The Thornwood PUD outline plan was approved by the Planning Commission on April 1, 2014, and by the Board of Mayor and Aldermen on May 12, 2014.

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

**PHASE 1:**  
TOTAL SITE AREA 2.113 ac.

**STAFF COMMENTS:**

- A. PRIOR TO CONSTRUCTION PLAN APPROVAL
1. Water, sanitary sewer and storm-drain utilities in the main access streets shall be public below ground; a maintenance agreement shall be prepared as part of the contract approval.
  2. Remove from the plat the parking space stripes, planter boxes and similar non-permanent items, prior to recording.
  3. Water and sanitary sewer lines should go around, not through, the central roundabout.

4. Pavers that are located within the public ROW should be of a material acceptable to the City (non-brick) or have a maintenance responsibility agreement with the HOA. Pavers shall be designed and engineered to support the impact loads of fire department apparatus.
5. TAC questions the need to grade all the way to the curb of Exeter and Neshoba and suggests retaining the existing grade and trees.
6. Contact the City Engineering Dept. regarding numerous questions/comments on the Grading and Draining and Utility Plans.
7. Provide a phased erosion control plan.
8. The utility plan should indicate where the fire protection tie-ins for lots 3 and 4 will occur.
9. Landscaping, such as but not limited to, trees, shrubs, flowers, plants, grass, or hedges shall not restrict fire department access to fire hydrants, post indicator valves, fire department connections, valves, buildings, structures, out buildings, storage units, ingress travel ways, or egress travel ways.
10. Indicate the existing sewer service to Lot 4.
11. Provide an easement and agreement for the tie-in to the drainage system and off-site grading on the Village at Germantown property.

B. GENERAL COMMENTS AND REQUIREMENTS

1. All recorded easements shall be shown on the plat. A five (5) foot utility easement is required along all property lines, adjacent to and not within any other easement.
2. All survey data shall be tied to Tennessee State Plane Coordinates and the City of Germantown monumented survey control. The final plat, construction drawings and "as built" plans shall be submitted on electronic media in DXF format.
3. The developer shall enter into a Project Development Contract with the City of Germantown for this project after it has received Final approval.
4. The applicant shall provide proof of TDEC approval for the water system and sanitary sewer system. Contact Bill Hinch with TDEC for information.
5. If approved, all materials shall be specified on the construction plans for the proposed project. The applicant must receive Final Construction Plan approval from the Department of Community Development before the Memphis/Shelby County Office of Construction Code Enforcement may issue a building permit for the project.
6. The applicant is required to include the following formal written statement by a certified and licensed professional engineer to be placed on the grading and drainage plans, signed, dated and sealed:
7. 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.

8. 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.
9. 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.
10. Total acres disturbed shall be provided. A NOC is required for TDEC for the NPDES, Phase II. The NOC shall be posted on the site at all times and the stormwater reports/documentation/inspections shall be available at all times. The SWPP shall be posted at the site and available. Inspections must be performed by personnel who have completed the Level I – Fundamentals of Erosion Prevention and Sediment Control course.

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

Chairman Klevan welcomed everyone to the Special Called meeting of the Smart Code Review Subcommittee. First, we will deal with five items; then we will adjourn, and reconvened as a full Planning Commission meeting and deal with two items this evening. There are four voting members present: Ms. Burrow, Mr. Bacon, Mr. Barclay, and Mr. Harless. The others are in an advisory capacity. As Chairman, I serve as ex-officio while overseeing everything. When the votes are called those four people will be the voting members this evening.

The purpose of this evening meeting is to deal primarily with a technical issue that has been brought to the attention of the City. Our smart code had a typo in it, and the staff will make the changes. We are going to deal with Thornwood PUD Phases 1, 2 and 3 that has already been presented, approved and voted on by the Planning Commission. The warrants were issued and voted on by the Planning Commission and the BMA approved them. Items 4 and 5 were presented two weeks ago at our Planning Commission meeting. They were on the agenda. They were requested to withdraw, because of the language technicality that was brought to the staff by a citizen. The research has been done with much effort. I am requesting those be heard in their entirety in the Subcommittee and we will vote on those plans' approval. Then we will adjourn as a Subcommittee, and we will reconvene as the Planning Commission. The Planning Commission will address any warrants that are requested at that time and then we will vote on those warrants.

Mr. Ross stated we are here to address issues that were associated with a procedure technicality that was brought to our attention prior to the last Planning Commission meeting on December 4, by a concerned citizen. Those do pertain to the revisions of the Smart Code that was passed by the Board of Mayor and Aldermen and prepare by the Lawrence Group in November 2013. They did modify several sections of the code related to design related issues that was pointed out as part of the Western Gateway Charrette. However, inadvertent modified within that was portions of the approval process (section 23-744A2(c)). That section says the applicant shall be given opportunely to resubmit plans to reflect comments from

Technical Advisory Committee (TAC) and the Smart Code Committee (SCC) shall convene and vote on site plan or subdivision plat approval. A portion that the Lawrence Group changed was not part of our request. We have been operating on the design standards, the warrant applications and associated technical details associated with all the projects that have come in. However, there have been no votes by the Smart Code Committee prior to going forward to the Planning Commission. In 2007, much work was done by our team to make sure we had a process that worked for Germantown, rather than a standard process that the consultant team, which was also the Lawrence Group, at that time used. They reverted back to their previous document and we missed it. Therefore, at this point internal measures are in process that is going to insure that the over sights do not happen again. We are taking a long hard-calculated look, line by line of the code, compare to the 2007 code, and intend to make the changes back the way Germantown wants it. That way there is proper citizen's participation where it works with the City of Germantown. We will have it to the Planning Commission Subcommittee on January 21, 2015, for your review prior to your February 3, Planning Commission meeting.

Mr. Ross made a presentation on Thornwood Phases 1, 2, and 3. On Phase 1, the request is for preliminary and final site plan approval. Phase 1 of the project consists of the interior drives, interior curb, gutter and sidewalks, pedestrian crossings at Exeter, Neshoba and mid-block Neshoba, utility infrastructure and mass grading of the site as shown on the site plan that was filed with the application.

Landscaping, such as but not limited to, trees, shrubs, flowers, plants, grass, or hedges are not to restrict fire department access to fire hydrants, post indicator valves, fire department connections, valves, buildings, structures, out buildings, storage units, ingress travel ways, or egress travel ways.

The Phase 2 request is for preliminary and final site plan approval. Phase 2 consists of a 5,000 square foot retail jewelry store building.

The Phase 3 request is also for preliminary and final site plan approval. Phase 3 consists of a 108 room, 4-story hotel.

Andrew Pouncey, 8401 Briar Creek Drive, introduced their team; Spence Ray with McNeill Commercial, Harvey Marcom, and Lee Davidson, with the Reaves Firm; Terry Townsend and Mark Underwood with McNeill Commercial. I am reinforcing what Mr. Ross stated. All our plans are consistent with the prior recommendation of the Smart Code Committee that were associated with Phase 1, 2, and 3 that were previously approved.

The following persons spoke regarding the request:

**Against:**

Sarah Wilkerson Freeman, 7684 Apahon Lane. As you know, I had Pam Rush send you a letter today, so I will read some on it for you tonight. The citizens got very little notice for the Planning Subcommittee meeting. She is opposing the Smart Growth Subcommittee, Planning Commission meeting, especially the City Administrator and the developers insist that this body vote on all the phases.

**(Ms. Freeman submitted the following letter)**

*To the Smart Code Sub-Committee and Planning Commission:*

***According to the November 2013 version of the Smart Code: "The benefits of development, redevelopment or usage of property pursuant to the Smart Code zoning districts are expressly conditioned upon full compliance with all provisions of the Smart Code."***

*Two days ago, on the morning of December 15, 2014, Germantown's head of Economic and Community Development, Cameron Ross, revealed to me that the Thornwood developer, city planners, city attorneys, Smart Code Sub-Committee, Planning Commissioners, including Alderman Liaison Forrest Owens, and staff have not been adhering to the November 2013 Smart Code in the*

*oversight procedures and legal steps required for the Thornwood development application. Instead, the 2007 version of the Smart Growth Code, which was nullified by the passage of the November 2013 Smart Code, was used by City Planner Wade Morgan, City Attorney David Harris, and others in the processing of the 2014 Smart Growth project applications. Thornwood's representative, Andy Pouncey, seems to have used a variety of versions of codes in guiding the application through the process.*

*This means:*

- 1.) The initial reviews by TAC and the Planning staff, especially City Planner Wade Morgan and City Attorney David Harris, do not reflect knowledge of the duly enacted law and, in turn, guided you to fail to adhere to the November 2013 Smart Code ordinances.*
- 2.) During Smart Code Sub-Committee meetings, you were given wrong information and legal advice as to the requirements of the Code, **including what did and did not require Warrants.***
- 3.) According to the 2013 Smart Code, multiple Warrants that the developer would need to proceed in a legal fashion have not been applied for AND Warrants that the Planning Commission was led to believe were legal were in fact in direct violation of the November 2013 Smart Code.*

*This egregious failure to perform official duties was not recognized by City officials until just prior to the Planning Commission meeting of December 2014 when a citizen pointed out that, per the requirements of the November 2013 Smart Code, the Smart Code Sub-Committee had failed to vote on the Phases Four and Five of the development. The law required this as the first step in the legal process towards final approval. Upon recognition of this failure during the PC meeting, Mr. Harris wisely advised the applicant to withdraw his request for Warrants that were scheduled for a vote that evening. **Not until that night was Mr. Harris and City Administrator Patrick Lawton aware that the developer, with the help of City staff, had been failing at all phases to comply fully with the November 2013 Smart Code.***

*The failure of the applicant to fully comply occurred at the very beginning of the process when he failed to adhere to the requirements of the Sketch Plan Review as stipulated by the 2013 Smart Code. Furthermore, the Outline Plan was not voted on by the Sub-Committee again, this vote is the first official step in the legal application process. To shift this to some other place in the sequence violates the November 2013 Smart Code in which the legal process is clearly stated. City officials swear an oath to uphold the ordinances of Germantown. Unfortunately, numerous officials were misled and unwittingly violated that oath.*

*For ten months, citizens directly impacted by this development have been trying desperately to communicate with city officials to let them know that their understanding of the Smart Code was not the same as what the City was applying to the Thornwood development. When citizens met with the developer's representative, Andy Pouncey, we communicated to him that what they were proposing directly violated the 2013 Smart Code. The citizens put their complaints, specifically concerning the Warrants, in the form of a petition to the Planning Commission in June 2014, but it was completely disregarded. **According to the November 2013 Smart Code, a four-inch diameter tree is considered a "significant natural feature."** This protection of a "significant" tree, much less an "existing" one, was never acknowledged by the developer's representative, city staff, or attorneys because that language does not appear in the 2007 Code.*

*That is only one of a myriad of examples of critical differences between the old 2007 Smart Code and the legally binding 2013 Smart Code. The most relevant difference between the two codes is*

that the 2013 Smart Code requires the Smart Code Sub-Committee to vote on applications **before any other procedures can be pursued**, such as the Planning Commission's votes on Warrants. This did not happen.

The TAC, Sub-Committee, Planning Commission, and Aldermen were not been provided bonafide advice or direction based on the 2013 ordinances and confusion persists among the planning staff. Since the City just discovered this serious mistake, **the Sub-Committee and Planning Commission have not had enough time to review and consider whether or not the Thornwood applications for Phases I, II, III, IV, and V adhere to the 2013 laws.** Indeed, the 2013 ordinances governing the building of exits, entrances, and driveways have been ignored. **No Warrants were granted to allow the developer to build entrances across a protected zoning feature which is designated as an unbroken buffer along Germantown Rd. on the Smart Growth Regulating Map—which is the legally binding zoning map.**

This extraordinary oversight is another critical example of the developer's failure to comply with the 2013 Smart Code.

The developer's representative, attorneys and staff want you to help them paper over and attempt to cover up their errors by agreeing to convene and vote as a Sub-Committee, in spite of their and your inadequate knowledge of the 2013 Smart Code. You have a responsibility to resist this pressure. When the application went through the process, your failures to adhere to the 2013 Code were due directly to the failures of paid advisers. **However, any further actions by you, except tabling the votes, will make you complicit in a desperate and ill-advised eleventh-hour procedure that further violates the 2013 Smart Code.**

The wise and prudent course is to conduct no further business on this application and review only applications that attempt to adhere to the 2013 Smart Code. In 2015, the developer could submit applications that adhere to the 2013 Smart Code. A TAC, Smart Code Sub-Committee, and Planning Commission that knows that code, and is guided by legal advisers and staff that know the code, could review applications that comply with the code and the process could go forward in a legal fashion. Citizens and elected officials have not been properly included in an application process based on the 2013 Smart Code. That should be rectified.

As things stand to date, many aspects of the proposed Thornwood development do not fully comply with the 2013 Smart Code. It is your duty to insist that they do. Likewise, any city official who has sworn to uphold the ordinances of Germantown has a responsibility to prevent such violations.

With sincere respect for the services you perform,  
Sarah Wilkerson Freeman  
240-3961

Chairman Klevan asked was proper notification made to the citizens about these meetings?

Jim Jacobs, 7684 Apple Valley Road; my comment is dealing with the landscaping buffer preservation zone along Germantown Road. I am not entirely clear on what your procedure is tonight, because you mention, Chairman Klevan, that you were dealing with a Subcommittee vote, but not the warrants associated with phase 1, 2, and 3. I believe it is a warrant that my comments are addressed to.

Chairman Klevan answered you might want to reserve your comments on warrants until the Planning Commission meeting. The warrants have been legally voted on by the Planning Commission according to the Smart Growth Code of 2013 and then was approved by the Board of Mayor and Aldermen.

Mr. Ross stated phase 5 is the warrant you are looking for on the Planning Commission.

Mr. Jacobs noted he picked up a brochure in the EDC lobby called Germantown Smart Growth Plan and on the inside is a statement; (The Regulating Plan is different from a traditional zoning map because of its descriptive and regulatory elements. It calls for specific functions and helps to ensure that any buffer set forth in the Code is enforced). My comments toward the warrants that are ask to disturb the landscape buffer, because the information you have distribution as a City says that those buffers are going to be enforced. It seems to me, issuing a warrant is going exactly against the proclamation that the City makes.

Mr. Morgan answered yes agenda was put in the newspaper (Memphis Daily News) and notices mailed to the property owners within 300 feet.

**SMARTGROWTH SUBCOMMITTEE:** The Smart Growth subcommittee met on May 21, 2014 and withheld a recommendation.

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

Mr. Bacon moved to approve the preliminary and final site plan for Phase 1 of the Thornwood PUD, located on the northeast corner of Germantown Road and Neshoba Road, 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; Bacon –yes; Harless –yes. **The motion was passed**

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**3. 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.

**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 too finished with a combination of brick and limestone façade. A color rendering has been provided. Material samples were 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 was provided to Planning Commission.
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

11. 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.
12. 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.
13. 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.
14. The developer shall enter into a Project Development Contract with the City of Germantown for this project after it has received Final approval.
15. The applicant shall provide proof of TDEC approval for the water system and sanitary sewer system. Contact Bill Hinch with TDEC for information.
16. 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.
17. 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:
  18. 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.
19. 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.
20. 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.
21. 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.

22. 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.

**SMARTGROWTH SUBCOMMITTEE:** The Smart Growth subcommittee met on July 16, 2014 and withheld a recommendation.

**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.

Mr. Bacon 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, seconded by Mr. Harless.

**Chairman Klevan asked for a roll call.**

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

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**4. 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(section 6.3.4.A and 6.3.4.B) (23-787.D). 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."

The Technical Advisory Committee (T.A.C.) met on June 12 and made the following comments:

**STAFF COMMENTS:**

**A. PRIOR TO FINAL SITE PLAN APPROVAL**

1. The Traffic Impact Study states that the northern driveway serves only the future development (Lot 3) but the site plan indicates 2 connections. Either revise the site plan to match the TIS or revise the TIS to match the site plan.
2. Provide a graphic indicating all existing driveways along the west side of Germantown Rd. and the proposed Somerset Drives on the east side of Exeter Rd. The plans appear to place Thornwood drive locations so as to create a left-turn trap scenario.
3. Provide clear recommendations in the TIS on the Exeter/Neshoba intersection. Should a traffic signal be installed, and if so, when?

**C. 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.

**D. GENERAL COMMENTS AND REQUIREMENTS**

23. 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.
24. 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.
25. 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.
26. The developer shall enter into a Project Development Contract with the City of Germantown for this project after it has received Final approval.
27. The applicant shall provide proof of TDEC approval for the water system and sanitary sewer system. Contact Bill Hinch with TDEC for information.
28. 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.
29. 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:
  30. 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.
31. 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.
32. 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.
33. 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.

34. 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.

**SMARTGROWTH SUBCOMMITTEE:** The Smart Growth subcommittee met on July 16, 2014 and withheld a recommendation.

**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.

Mr. Bacon 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 – absent; Bacon –yes; Harless –yes. **The motion was passed**

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**5. Thornwood Planned Unit Development, Northeast Corner of Germantown Rd. and Neshoba Rd. – Request Preliminary and Final Plan Approval of Phase 4**

**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 4 consists of a 258-unit apartment development.

**PHASE 4:**

|                      |                          |
|----------------------|--------------------------|
| DEVELOPMENT PROGRAM: | 5.275 ac.                |
| Apartment Building   | 258 units;               |
|                      | 366,904 sq. ft footprint |
| Building Height      | 4 stories                |
| Parking provided     | 395 spaces               |
| Parking required     | 387 spaces               |

Maximum parking allowed

NA

A Project Description from the applicant is attached.

**WARRANTS:**

The following warrants from the standard development regulations are required for Phase 4:

2. **WARRANTS:** The plan proposed access to individual dwelling units from the interior of the development. Common access is provided at a lobby entrance at the building's southwest corner (near the Thornwood roundabout). It does not reflect direct building entrances accessible from the adjacent sidewalks along the street frontages of the site as required by **Section 23-786. C.** Building entrances requires all buildings with more than 4 sidewalk-level residential units along a single street shall have individual entrances to such units directly accessible from the required Sidewalk or adjoining Open Space.

The Technical Advisory Committee (T.A.C.) met on November 19 and made the following comments:

**STAFF COMMENTS:**

**B. PRIOR TO PREIMINARY SITE PLAN APPROVAL**

1. Information needed:
  - A. Lighting plan – provide average foot-candle illumination table and details as required by sec. 23-796 B and C.4.
  - B. Building material samples;
  - C. Provide a color rendering of the building elevations;
  - D. Pedestrian circulation plan;
  - E. Fire truck access plan;
  - F. Bicycle parking - 20 bike spaces required;
  - G. Percentage of each frontage in clear glass and solid wall;

**C. PRIOR TO FINAL SITE PLAN APPROVAL**

3. Modify plan to reflect Phase 1 construction plan review comments.
4. Final Plat Sheet – add a note and show pictorially with dashed lines the Neshoba/Exeter intersection: “Future Roundabout”
5. Remove/relocate decorative crosswalks appropriately.
6. The fire protection water supply for each structure shall be a minimum of 8 inches in diameter to supply the required fire flow demand. A fire flow calculation shall be submitted to the fire marshal's office, by a fire protection engineer, for the Thornwood development, illustrating the fire flow demand. The fire flow calculations shall be completed for the entirety of the development as well as each structure. This shall be completed prior to the start of the developments infrastructure.
7. The water supply for the fire protection system shall be fed from 2 separate water sources and looped so as not to create a dead end.

8. Lower level parking below fire department access shall meet all the requirements of the International Fire Code (IFC) 2006 edition, NFPA 2010 edition, Tennessee Code Annotated **68-101-103. Parking garages and bus terminals**, and the International Building Code (IBC) 2009 edition.
9. Lower level parking below fire department access and parking garages shall accommodate the fire department ambulance and brush truck vehicles. (Dimensions of vehicles available upon request)
10. There shall be a minimum of 2 points of ingress/egress from each lot at the fire department access level as required by NFPA and IFC.

C. GENERAL COMMENTS AND REQUIREMENTS

1. All recorded easements shall be shown on the plat. A five (5) foot utility easement is required along all property lines, adjacent to and not within any other easement.
2. All survey data shall be tied to Tennessee State Plane Coordinates and the City of Germantown monumented survey control. The final plat, construction drawings and "as built" plans shall be submitted on electronic media in DXF format.
3. The developer shall enter into a Project Development Contract with the City of Germantown for this project after it has received Final approval from the Design Review Commission.
4. The applicant shall provide proof of TDEC approval for the water system and sanitary sewer system. Contact Bill Hinch with TDEC for information.
5. If approved, all materials shall be specified on the construction plans for the proposed project. The applicant must receive Final Construction Plan approval from the Department of Community Development before the Memphis/Shelby County Office of Construction Code Enforcement may issue a building permit for the project.
11. 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:
12. 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.
13. 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.
14. 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.

Mr. Ross made a presentation on Phase 4. Phase 4 is the area on the east and north side on the site. This is a multi-family, mini-phase that consists of 258 units; it will have 4 stories and have 395 parking spaces provided. The parking requirement is 387 spaces. The warrant would be, as the code outlines it access to individual ground units from the outside of the building. The plan proposed provides individual access to ground units from the interior of the development and common access is provided at the lobby entrance at the building southwest corner. It does not directly reflect building entrances accessible to the public from an adjacent sidewalk along the street frontage or access to individual units from the street frontage as required by the code. There are building entrances at corners of the building similar to the same access that you would have at a hotel or a city condominium unit. This was a security feature that the developer thought would be actuate for marketing this development. There will be a warrant brought up to you in the regular Planning Commission.

Spence Ray, with McNeill Commercial 7700 Wolf River Blvd., Suite 103, stated when we started this project there were some concerns about the street frontage and views of the building were protected from looking at the back of building and garages. When you get into urban planning, one of the things is consistent; you see many of these projects done in larger cities with a plan like this. When we started, we engaged the Lawrence Group to help us with this. We felt like they were involved in the original design and would have some good ideas for us to look at.

The corners of the streets are a hard 45-degree corners, it encourages pedestrians crossing those walks. On the southwest corner where the mixed-use phase 5 is, the 2 buildings on each opposite side corner are retail and office buildings. The building labeled number 2 is a garage, number 5 is the hotel, and number 6 is the jewelry store. The parking is an actual structure unto its own. It is separated from the other buildings or adjacent to, but a separate use. We believe that it performs 2 things: 1) is you drive into a parking garage, and if you are on the second or third floor you are having to travel vertical down to the floor level that you are using, 2) the garages, which on the corners is labeled number 2, on southeast corner is label number 3 and northeast corner label 4. The garages are exposed to the street and so even though we can try to creek those garages through some landscaping and some design features. It is still a garage that has open entrances that you see automobiles in.

Therefore, what we did was take the design of both of these phases and put the structure parking under the buildings. Therefore, even though you are seeing all the parking for 2 large developments, none of that parking is visible from the street. Therefore, when you are driving down Germantown Road, Exeter Road or Neshoba Road you will not see a single parking space from either one of those elevation. We have 4 entrances total. It gives us the ability to hide dual frontages, with urban planning another feature you see in most the cities is alley ways, and alley ways in the residential type development, is houses that is backing up to houses and the alley way is for a rear loading garage or for a garbage truck pickup.

There are 258 units and each unit will be provided with a reserved parking spot per bedroom, because our parking covers all the underground of the foundation of the building. The parking, which is reserved for the units, will be the one closest to the elevator that goes closest to your unit. We feel like that is a real benefit to someone who is taking grocery from his or her car. Even though the garage is not heated and air conditioned, you would never have to walk in an external exposed place from the weather to your unit. All of the corridors have heating and air conditioning like a nice hotel.



Mr. Pouncey stated we did a traffic study and it showed a few increases in the traffic. On Phase 4 of the multi-family, it is really 3 and 4 stories. Warrant 1 is requesting to approve 0.344 acre private Civic Space, warrant 2 is to allow a total of 266 parking spaces.

Mr. Harless asked when that property was undeveloped and walked we identified 4 inch trees that were keepers. How many trees were identified?

Mr. Pouncey answered in phase 1 we were asked to identify everything 10 inches and thicker. In that greenway preservation we find 3, there were 2 sweet gum trees, which is junk and then another trash tree in the ditch. Then we also told you that we were going to save some of the big trees, which ending up being 4 to 5 trees.

Mr. Ray answered one of the things that is important to realize is the landscape screen that is on Germantown Road that was in the buffer. That screen was designed for trees that grow very slow and we are planting big trees, but they are still growing very slow. Almost 25 feet has been cut by Memphis Light Gas and Water in last 3 months. Everything that we went out and walked, crawled, and surveyed through has been cut.

Ms. Burrow asked if they would have security?

Mr. Ray answered yes. There will be someone at the front desk 24 hours every day with cameras that cover the entire development.

Keith Saunders, Chairman of the Design Review Commission, noted he appreciates you taking into consideration what we review, and I think some of the features that we were trying to get too. After seeing what you have done now, that really sets the tone for that particular type of the building. The material you are using will be very easy to maintain and last a long time. I think you have done a good job hiding the parking and with the heavy landscaping on phase 5 for the apartments you are bringing in the green space you need.

Mr. Bacon noted he applauded the standpoint of the plan with the underground garage.

Chairman Klevan stated he applauded the material you are using for this development. I seen some new smart growth development in West Tenn. and in the Nashville area, and they have used some materials such as siding and brick combination. What you are using is much classier, going all brick. I know using the other material is so much less expensive way to go.

Jerry Klein, Chairman of the EDC, noted from an economic standpoint we are behind the project with the urban design.

The following persons spoke regarding the request:

**Against:**

Hershel Freeman, 7684 Apahon Lane, noted there are 258 units at the residential and there is going to be one parking space for each bedroom, so I'm assuming there going to be 258 bedrooms as a minimum. There are only 246 spaces. There are only proposing to be 203 spaces. Therefore, I do not understand why they are not 258 spaces. What happens if you have a married couple stay and they each have their own car. 1) Where is that second car supposed to go? They said of all the spaces are underground which is wonderful. However, there are 18, which are above ground and those are adjacent to the civic space. Now, the civic space is the only place in the entire complex, where citizens can go have a park like setting and enjoy themselves. 2) Why are you putting 18 parking spaces around that? 3) Where are the cars going to go for the retail and restaurant goers?

Sarah Wilkerson Freeman, 7684 Apahon Lane, said there are few things I want to cover starting with the blank spot on a zoning feature, does not mean you can just build over it. You need to amend the warrant to show the 4-inch trees. It is in the ordinance. Mr. Pouncey decided to count 10-inch trees only.

Lyndsey Pare, 7899 Gayle Lane, I like the underground parking, but I am concerned about the safety of parking, that is out of view of everyone. I have a concern about where all the drainage will go from this project, and hopefully not toward my house.

Deanna Wade, 1706 Pinnacle Creek Drive, I am actually one of the people that sits at my kitchen window and look out at this whole development. I am not clear on the traffic study or the amendments. We ride bicycles and are fast walkers, and you cannot get across that traffic light in the proper time before it turns red. I need to know what we have in place when this development starts, on how it is going to affect traffic flow. This needs to be pedestrian friendly through Germantown. Germantown Road is not pedestrian friendly and anyone who says it is, must be crazy.

Mr. Ray answered the multi-family phase 4 is using a 258-unit mix with one-half being 2 bedrooms and another half being 1 bedroom; and would require 387 parking spaces. This development has 395 parking spaces with an extra 7 parking spaces for our staff. The parking is not visible from the street. In all the parking structures, all of our security cameras will cover every parking structure, and hallway of every building. The hotel has its own security cameras. There will always be someone at the front desk watching the cameras. There is a basin for the 17 acres; the drainage will be directed to our detention area.

**SMARTGROWTH SUBCOMMITTEE:** The Smart Growth subcommittee met on November 17, 2014 and withheld a recommendation.

**PROPOSED MOTION:** To approve the preliminary and final site plan for Phase 4 of the Thornwood PUD, located on the northeast corner of Germantown Road and Neshoba Road, subject to the comments listed in the staff report.

Mr. Bacon moved to approve the preliminary and final site plan for Phase 4 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 – absent; Bacon –yes; Harless –yes. **The motion was passed**

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

**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 4 consists of 258-unit apartment complex. Phase 5 consists of 32,182 square feet of retail space, 6,156 square feet of office space, and 20 apartment units.

**PHASE 5:**

|                         |                         |
|-------------------------|-------------------------|
| DEVELOPMENT PROGRAM:    | 2.576 ac.               |
| Mixed Use Building      | 71,777 sq. ft footprint |
| Building Height         | 2 Stories               |
| Parking provided        | 261 spaces              |
| Parking required        | 135 spaces              |
| Maximum parking allowed | 203 spaces              |

A Project Description from the applicant is attached.

**WARRANTS:**

The following warrants from the standard development regulations are required for Phase 5:

1. The plan proposed does not reflect direct street entrances for building and ground level tenants. **23-787 C. All buildings and ground level tenants shall provide a functioning entrance, operable during normal business hours for ingress and egress, facing the Frontage Line. Buildings located on street corners may have a corner entrance.** (There could be 3 separate warrant votes needed, one for each street and the Thornwood drive)
2. The plan proposes a total 276 parking spaces. **Section 23-792, Table A: sets the maximum number of permitted parking spaces for office and retail functions at 5 spaces per 1,000 sq. ft.,** which is a maximum of 203 spaces for the office and retail component of this development.

The Technical Advisory Committee (T.A.C.) met on November 19 and made the following comments:

**STAFF COMMENTS:**

**A. GENERAL COMMENTS AND REQUIREMENTS**

1. All recorded easements shall be shown on the plat. A five (5) foot utility easement is required along all property lines, adjacent to and not within any other easement.
2. All survey data shall be tied to Tennessee State Plane Coordinates and the City of Germantown monumented survey control. The final plat, construction drawings and "as built" plans shall be submitted on electronic media in DXF format.
3. The developer shall enter into a Project Development Contract with the City of Germantown for this project after it has received Final approval from the Design Review Commission.
4. The applicant shall provide proof of TDEC approval for the water system and sanitary sewer system. Contact Bill Hinch with TDEC for information.

5. If approved, all materials shall be specified on the construction plans for the proposed project. The applicant must receive Final Construction Plan approval from the Department of Community Development before the Memphis/Shelby County Office of Construction Code Enforcement may issue a building permit for the project.
6. The applicant is required to include the following formal written statement by a certified and licensed professional engineer to be placed on the grading and drainage plans, signed, dated and sealed:
7. 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.
8. 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.
9. 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.

Mr. Ross stated Phase 5 consists of a mixed-use development. Phase 5 will have as part of the site plan a mixed-use space with a 2 story building height, again with underground constructed parking. It will approximately have 32,182 square feet of retail space, 6,156 square feet of office space, and 20 apartment units. The parking will be provided with 261 spaces, which is an increase of the required parking allowed of 135. The warrant that will be brought to you is for added parking. The maximum parking allowed is 203 spaces.

**SMARTGROWTH SUBCOMMITTEE:** The Smart Growth subcommittee met on November 19, 2014 and withheld a recommendation.

**PROPOSED MOTION:** To approve the preliminary and final site plan for Phase 5 of the Thornwood PUD, located on the northeast corner of Germantown Road and Neshoba Road, subject to the comments listed in the staff report.

Mr. Bacon moved to approve the preliminary and final site plan for Phase 5 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 – absent; Bacon –yes; Harless –yes. **The motion was passed**



# CITY OF GERMANTOWN TENNESSEE

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

December 8, 2014

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

RE: Proposed Thornwood Development

Dear Chairman Klevan;

The Economic Development Commission has been informed of the plans for the Thornwood development via staff updates at the Economic Development Commission meetings as well as by the EDC representation on the Smart Growth subcommittee. The Economic Development Commission expects that this project will provide economic benefit for the City of Germantown. Subject to the technical issues that must be approved by the Planning Commission, we strongly support and recommend approval of phases 4 and 5 of this proposed development.

Sincerely,

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

Jerry Klein, Chairman  
Germantown Economic Development Commission

cc: Marie Lisco, Economic Development Manager  
Cameron Ross, Economic & Community Development Director

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# Planning Commission Subcommittee Minutes

December 17, 2014

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## CITY OF GERMANTOWN TENNESSEE

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

December 1, 2014

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

RE: Thornwood Development – Phases 4 & 5  
Germantown Road & Neshoba Road  
Germantown, TN 38138

Per your request, the DRC members of the subcommittee has reviewed the revised elevations for both phases. Phase 5 is the apartment building located on the northeast corner of the development and consists of brick and limestone exterior within 5 stories. Phase 4 consist of retail and apartments located on the southwest corner and is a brick and limestone exterior within 3 stories. The reason for the review of the revised elevation was based on the request of the subcommittee that perhaps some variation in materials would help with the overall appearance of both buildings. The revised elevations presented by the applicant did in fact have changes to the variation of material placement, but no changes in type of materials requested to be used on the original submittal.

The member requested that in Phase 4 that the various between each retail store might be more like the vision of Smart Grow in the change from storefront to storefront as in an urban setting. The revised elevation only showed the change in brick to limestone and not changes to storefront in regard to windows, doors, etc. However, after reviewing Phase 4 changes, it was the opinion of the members that the sharp contract between colors of brick to limestone was not the desired variation that was being requested. After further review, the member recommend that the brick and limestone be used as submitted in the original elevations at the subcommittee meeting. Further, due to the fact that the elevation of the site does not allow street level entries into each retail store, the proposed concept for the building is the better one to use in this development. Therefore, it is the recommendation of the DRC members that brick and limestone placement shown on the elevations presented at the subcommittee meeting be the one used. Member recommend that further details of the sign band be provided in order to limit light emitting from either the top or bottom of the band from the halo lighting proposed of the signs.

Phase 5 was presented with brick and limestone for the exterior of the building. The request of the members was to see if variation in use of materials might be better in regard to appearance of the building. The applicant provided a revised elevation showing limestone being used at the balconies walls and below the windows that align with the balconies in lieu of brick. This does provide some change in the appearance of the building and was not totally objectionable, however, it was the opinion of the members that this may in fact make the building look too "busy". The limestone area below the balcony opening and that of the limestone below the windows were not of the same height and alignment. This was discussed with the applicant and asked if the balconies could be aligned with the top of the area below the windows to give a more symmetrical appearance. This would require that low height railing be placed on top of the balcony wall. However, this alignment, in the opinion of the members, would be more acceptable if the limestone was to be used. Further, the applicant changed the main entry elevation by adding limestone within the border of the original limestone detail. This was found to be very attractive and brought an elegant touch to the building. In summary of Phase 5 review, it is of the opinion of the members that the originally submitted elevations has be more elegant and sophisticated appearance than the revised. However, the members would like for the applicant to use the revised limestone entry elevation for the project.

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December 17, 2014

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Thornwood Development – Phases 4 & 5  
Germantown Road & Neshoba Road  
Germantown, TN 38138  
December 1, 2014  
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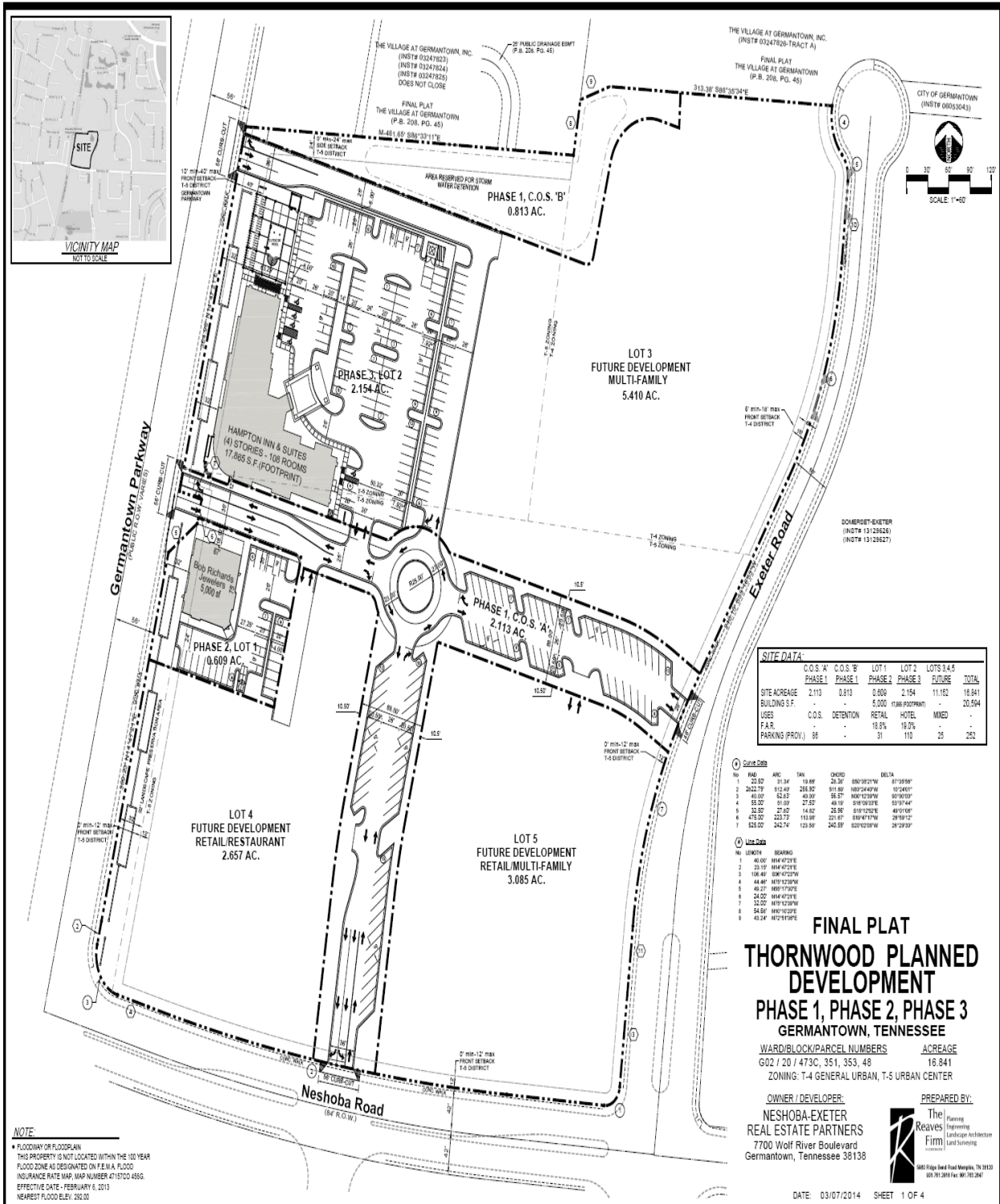
Based on the materials samples presented by the applicant for both buildings, all materials were found to be acceptable in sustainability, color and texture for use on the exterior of these buildings in Phases 4 & 5. The proposed materials for the exterior for the proposed buildings work within the normal criteria by the Design Review Commission for commercial building outside the Smart Growth review. The proposed materials for both buildings are acceptable and recommend to the Planning Commission for approval for the proposed materials to be used on both buildings as submitted.

In summary, the elevations of both buildings work well with the prior two building approved for Phase 2 & 3, ie, Hampton Inns & Suites and Bob Richards Jewelry. The overall concept of the development is one that will be a strong northern anchor for the Smart Growth future development to the south. The applicant has presented buildings that have long life and are sustainable, along with elegance and practicability.

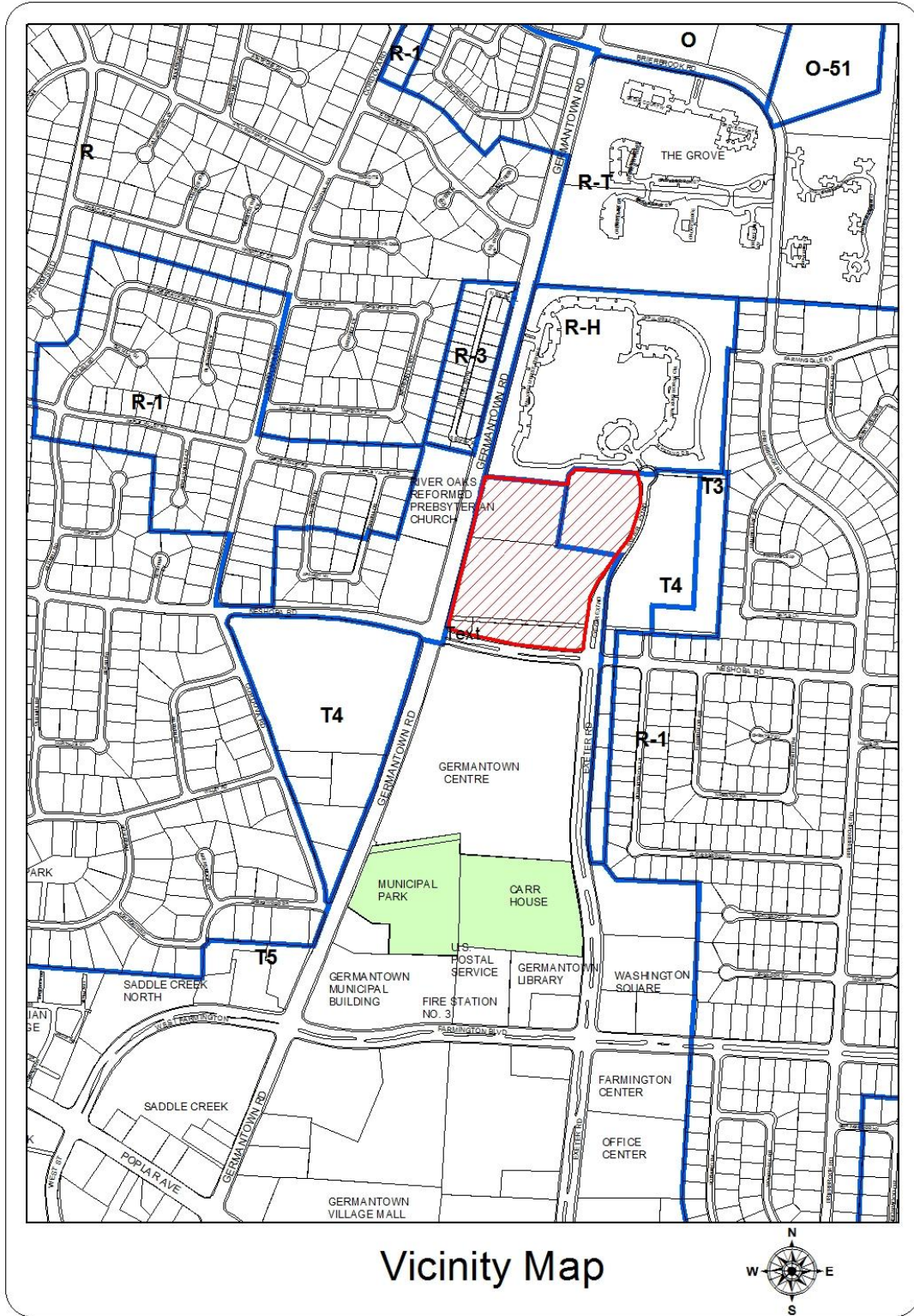
Sincerely,

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  
Spence Ray – McNeil Commercial Real Estate  
John Walker – DRC Member







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



**DISCLOSURE OF OWNERSHIP INTERESTS**

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

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

Applicant: Neshoba Exeter Real Estate Partners

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

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

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

Owner and Lessee: \_\_\_\_\_

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

| Name  | Business or Home Address |
|-------|--------------------------|
| _____ | _____                    |
| _____ | _____                    |
| _____ | _____                    |
| _____ | _____                    |



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.

1. Chairman Klevan asked if there was any old business to come before the Commission. There were none.
2. Chairman Klevan asked if there was any new business to come before the Commission. There were none.
3. Chairman Klevan asked if there were any liaison reports. There were none.
4. **ADJOURNMENT:** The meeting adjourned at 7:15 p.m.