

**PLANNING COMMISSION MEETING  
MUNICIPAL CENTER COUNCIL CHAMBERS  
Tuesday, August 2, 2016**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of City Hall on August 2, 2016. Regular meetings of the Planning Commission are broadcast and recorded electronically. Minutes reflect a summary of the proceedings and actions taken.

1. Chairman Harless welcomed everyone and asked the Commission members as well as the audience to please speak into the microphone so they could be heard. Chairman Harless called the meeting to order at 6:03 p.m. requesting the roll call.
2. Ms. Pam Rush called the roll of the Commission and established a quorum.

**Commissioners Present:** Mike Harless, Susan Burrow, David Clark, Rick Bennett, Alderman Forrest Owens, Hale Barclay, George Hernandez, and Dike Bacon

**Commissioners Absent:** Mayor Mike Palazzolo

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

**3. Approval of Minutes for July 5, 2016:**

Chairman Harless stated for those people who just arrived, tonight's agenda is on the front table. We are going to forgo the review of the minutes for July 5, 2016. We will review them at our next monthly meeting.

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**4. a. Lot 1, Poplar Woods S/D was withdrawn by applicant prior to this meeting.**

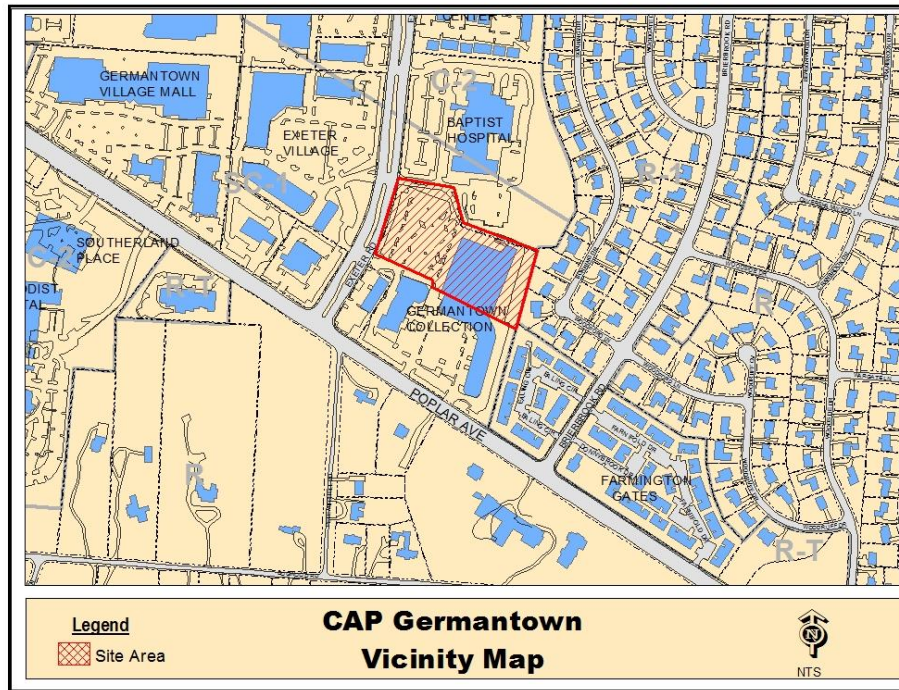
**4.b. CAP Germantown, Germantown Collection Shopping Center, 2130 Exeter Road – Request Revised Preliminary and Final Site Plan Approval (Case #: 15-536)**

Mr. Ross made a presentation of the application to the Planning Commission.

**INTRODUCTION:**

Owner Name:	CAP Germantown, LLC
Developer/Applicant Name:	CAP Germantown, LLC
Representative Name:	Blair Parker w/Blair Parker Design, LLC - Agent/Representative
Location:	2130 Exeter Road
Zoning District:	“T5” Urban Center Zoning District

\*Refer to the Disclosure Form attached for more information



**BACKGROUND:** The property was rezoned from the “SC-1” Shopping Center District to the T-5 districts as part of the Germantown Smart Growth Plan in 2007. This site was originally approved by the Planning Commission as Farmington Shopping Center in 1986. The name of development has been changed to Germantown Collection. The Board of Mayor and Aldermen approved Contract Number 93 on August 25, 1986 for the Germantown Collection. On August 18, 2015, the Planning Commission granted preliminary and final site plan approval for this development.

**DISCUSSION:** The revised plan still proposes: 1) a new retail out building to be constructed in the northwest corner of the site with frontage along Exeter Road in accordance to the T5 District regulations; however it is now modifying 2) the renovation of the existing Kroger Store to reduce the size of the building footprint from 61,332 square feet to 46,530 square feet of usable space. The renovations to the existing building will include façade improvements to match the architectural elevation of the new out buildings, splitting the building into three separate bays to function as separate retail shops and a modification of the loading dock to move from the north side of the building to the east side. The existing building renovations are in accordance with the SC-1 District regulations; the zoning under which the overall site was originally developed 1986. A 50 landscape buffer to the east that includes a masonry wall will remain unchanged.

TOTAL SITE AREA	5.3 ac.
BUILDING SQUARE FOOTAGE	66,000 sq. ft. Footprint
Out Building A	12,500 sq. ft.
Out Building B	6,970 sq. ft.
Existing Building C	17,570 sq. ft.
Existing Building D	4,670 sq. ft.
Existing Building D	24,290 sq. ft.
BUILDING HEIGHT	2 Stories
NUMBER OF PARKING SPACES (1/300)	
Parking Provided	201

Parking Required (T-5)	198
Maximum Permitted	330

See attached Site Plan Data Table and Project Description from the applicant.

**WARRANTS:**

No warrants from the standard T5 district development regulations are requested for this development:

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."

***PLANS REVISIONS TO TAC AND SUBDIVISION SUB-COMMITTEE COMMENTS:***

*The preliminary and final site plans have been revised to include additional parking (1 space) as well as the addition of store windows on the north side of the existing building. The development team also held a neighbor meeting on July 28<sup>th</sup> at 6 PM at the City of Germantown Economic and Community Development offices. Notices were sent to the entire notification area list including business neighbors. There were no neighbors in attendance. At that meeting the development team did indicate that they had spoken to two neighbors and had made calls to others that were contacted prior to the original plans approval in August 2015. Parcel dimensions have been added to the plan and all circulation plans have been updated.*

The Technical Advisory Committee (T.A.C.) met on July 16<sup>th</sup> and made the following comments:

**STAFF COMMENTS:**

**A. PRIOR TO CONSTRUCTION PLAN APPROVAL**

1. Traffic analysis letter required that includes existing and proposed traffic generation has not been altered due to plan revisions.
2. Provide preliminary economic impact information, including estimated building value, sales tax generation and employment estimates.
3. Determine if access easement across the front of the existing building extends to the north onto the Baptist Rehabilitation Hospital's property adjacent to the north of the site.
4. The utility plan shall identify the fire department connection and the post indicator valve.

5. The fire line supply shall be looped.
6. Show water services details on Utility Plan. City recommendation is avoiding multiple tenants for single meter.
7. Show sewer elevations on Sewer/Utility Plan.
8. Show 200 feet of off-site topo with existing structures above and below ground on Grading and Drainage Plan.
9. Provide downstream capacity for drainage. Provide drainage calculations on Grading and Drainage Plan.
10. Provide underground detention calculations, area, and pipe structure data on Grading and Drainage Plan.
11. Provide details on the temporary diverting storm water to BMP's.

B. GENERAL COMMENTS

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:

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

7. No owner, developer, or tenant of property within the subdivision shall commit an act, or allow a condition to exist on property within the subdivision, which act or condition endangers life or health, violates the laws of decency, or obstructs or interferes with the reasonable and comfortable use of other property in the vicinity.

8. The Developer agrees to comply with the following requirements, unless otherwise authorized in writing by the City Engineer:
  - (a) All streets shall be kept clear and free of dirt and debris;
  - (b) All construction activity shall begin no earlier than 7:00 a.m. and end no later than 6:00 p.m., Monday thru Saturday, and no construction activity shall be permitted on Sundays; and
  - (c) The Developer and Lot Purchasers shall provide the Department of Community Development with the name, address and phone number of person(s) to be contacted and responsible for correcting any of the above should the occasion arise to do so.
  
9. Total acres disturbed shall be provided. A NOC is required for TDEC for the NPDES, Phase II. The NOC shall be posted on the site at all times and the stormwater reports/documentation/inspections shall be available at all times. The SWPP shall be posted at the site and available. Inspections must be performed by personnel who have completed the Level I – Fundamentals of Erosion Prevention and Sediment Control course.
  
10. The Shelby County Code, Section 3-25 [Reference 1200-3-11-02 (Asbestos)] require building owners and/or operators to submit a notification of intent to do demolition or renovation at least ten (10) working days prior to the start of the activity even if no asbestos is present so compliance can be verified. Notification also includes the submittal of an asbestos survey report. Please contact the Health Department at (901) 544-7349 for more information.

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

**Board Discussion:**

Chairman Harless announced that two letters were received in opposition to this project.

Chairman Harless asked if there were any questions of staff.

Mr. Bacon asked if the square footage of the two front buildings had changed.

Mr. Ross answered that the square footage of the two front buildings has not changed.

Applicant Blair Parker was asked if he would like to make a presentation on behalf of the project.

Blair Parker with Blair Parker Design, LLC at 5159 Wheelis Drive, Suite 107, Memphis, TN 38117, stated that their entire design team is present tonight to answer any questions about the project. Mr. Parker was asked about the difference between what was approved last year and what is being proposed now. The difference is that last year a little bit of the building façade was moved from the front of the vacated Kroger. This year, we're leaving the front façade is basically being left where it is, and we're removing some of the building from the northeast corner of the vacated Kroger. Mr. Parker pointed out that the 60 foot green buffer on the east side of the property has been there for 25 to 30 years, and it is not being changed whatsoever. This is the area that backs up against the residents and will remain as it is. There is a masonry screen wall on the east side. This will allow for a buffer for the neighbors, and it will also fit into the community. The loading area has been moved to the back of the building. There is also a 12 foot tall screen wall around the loading dock. It would be very difficult to see any vehicles through the wall.

Chairman Harless asked whether Mr. Parker had met with the residents of the area.

Mr. Parker answered yes. We send out invitations as quickly as we could to everyone in the notification area. We actually held a public meeting on Thursday evening and no one showed up. We were there ready to answer any questions that anyone had.

Chairman Harless stated that a couple of letters have been received from the residents, and there've been some concerns about the truck activity in the back. Kroger was 64,000 square feet roughly and it is now being divided into three different bays. Chairman Harless asked how many trucks Kroger averaged per week.

Mr. Ross answered for the record that no numbers have been given by Kroger. Staff conducted research in a different way. An independent study by the State of Washington, Department of Transportation was found which analyzed truck delivery traffic for grocery stores. The average store they looked at was around 60,000 square feet, and their finding after direct onsite observation was that those stores average about 18 truck deliveries per day. That is assuming deliveries for produce, bread, coke, pepsi, beer, and ice truck. We must think about 18 deliveries per day versus the number that has been provided by the Trader Joes representatives. Trader Joes indicated one truck a day on the out parcel, and then for retail users, you are looking at one truck a week for each use. Depending on their stock, it will be one or two trucks a week. That could even be something that happens during the Christmas time. The average deliveries will be the parcel delivery van that may come to the front of house instead of the back of house. You are looking at a 90% drop in the amount of deliveries that will go to this building. There is a change in retail hours, which will be generally 10:00 a.m. to 9:00 p.m., so you are looking at deliveries that happen between 8:00 a.m. and 8:00 p.m. The developers can write that into the leases, so the deliveries can only happen between 8:00 a.m. and 8:00 p.m., and they can work with the sanitation services to make sure the dumpsters aren't emptied until 8:00 a.m.

Chairman Harless asked Mr. Parker if he had seen the covenant that passed with this property. Do you have any concerns, problems, and issues on meeting those covenants?

Mr. Parker answered yes, he has seen them. There are no problems with meeting these covenants. Mr. Parker offered to go through the covenants individually.

Chairman Harless stated that he had satisfied the concerns.

Mr. Clark asked where the 12 foot screen wall measures from. Is it from the bottom of the loading ramp or the parking lot? It is 12 feet from the parking lot. How far is the loading dock depressed? It is four feet. From your sketch, you show from the parking lot up to that wall is 6 feet or higher. There's an elevation change there, so what is the elevation change from the parking lot to that? I want to clarify whether the bottom of the loading dock there is 4 feet to that pad to the top of the wall. How much lower are we than the top of that wall?

Mr. Parker answered that the elevation change is about six feet looking at the topo.

Mr. Bennett asked, in regards to the loading dock, is there any ability to put a cover over the loading dock?

Barry Byrd with Barry Byrd Architecture, 5421 Fountain Road, Knoxville, TN 37918 said it is possible but it could create a capsulation that causes sound not to necessary dissipate up but enlarge the sound. They would rather capture some of that sound to go up and dissipate in all directions.

**Opposition:**

Ryan Bridges at 2139 Sonning Drive stated all our neighbors on Sonning Drive would like to express concern about the direct impact of relocated the existing loading dock on the property. Having just moved to Germantown this year, he is not aware of the covenant and is concerned about the noise, pollution, trucks, and the in and out traffic each day. The noises that will occur during the whole day are concerning. Neighbors believe it will have an impact on our homes, their value, and may make our backyards a little less enjoyable.

Alderman Owens asked about photometric plan that shows zero foot candles before the property line, before even the buffer. Does that differ from the previous Kroger? Mr. Ross was asked to address the number of deliveries expected and times for this based upon the studies.

Mr. Ross stated yes, just after the curb line. They were using different light all together, so there probably was a glob. This is based on the studies under its precious life as a Kroger; they averaged 15 to 18 trucks a day of various shapes and sizes, between the hours of 6:00 a.m. until 11:00 p.m. A retail operation, one that turns over sufficient amount of product will have two to three deliveries a week. So, if you look at each of these three being successful retail operations, you might be looking at six deliveries a week. The retail hours are generally 10:00 a.m. to 9:00 p.m. You are looking at deliveries that may be happening between 8:00 a.m. and 8:00 p.m. The late deliveries would most likely be the FedEx or UPS trucks six days a week. It would be a sufficient drop.

Mr. Hernandez noted that as he understood the restrictive covenant, the language in there and he quotes: "To use all reasonable efforts (including graphics, etc.) to severely limit large delivery vehicles (i.e. semi tractor trailers) providing goods and services to the occupants" so did he understand staff to say that likelihood of other smaller not tracker trailers is more likely with these new tenants.

Mr. Ross stated that it is more likely for a smaller truck to go to the front side of the building and in the front door rather than to utilize the loading dock.

**SMART CODE REVIEW COMMITTEE ACTION: MIKE HARLESS, CHAIRMAN**

The SCRC met on July 20, 2016, and requested that the applicant consider the addition of windows on the north side of the existing building and look for any opportunity to increase the parking count on the site. Both of these items have been addressed as part of this application.

**PROPOSED MOTION:** To approve the revised preliminary and final site plan for CAP Germantown, subject to the Board's discussion, staff comments in the staff report, and the plans filed with the application.

Ms. Burrow moved to approve the revised preliminary and final site plan for CAP Germantown, subject to the Board's discussion, staff comments in the staff report, and the plans filed with the application, and the staff comments, seconded by Mr. Barclay.

Chairman Harless noted as the Smart Growth Committee, the Economic Development Commission and the Design Review Commission are part of that committee, and we have letters from both chairman endorsing this project.

Chairman Harless asked for a roll call.

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

Mr. Bacon voted yes; it's encouraging after a year, this project is moving forward. I do recognize that there are concerns with the neighbors with the loading dock being relocated to the back. I think there has been sufficient effort made on behalf of the developers with the construction of a 12 foot screen wall along the loading dock to mitigate the impact on the east side of the building and also sufficient reductions in the daily trucks will mitigate the impact.

Mr. Barclay voted yes; I echo the same comments and I applaud the developers for addressing these issues that were brought up in the subcommittee. I think it is a good project.

Mr. Bennett voted yes; I appreciate the efforts of the developers to try to work within the confines of Smart Growth on this. I would ask you to take look at the dock about doing noise abatement. As the route of deliveries shows, most deliveries are going to coming off Exeter Road. They are not going to be coming around the east road that runs in the back which seems to be the issue in the covenant and to the drastic reduction of the number deliveries going from a grocery to this kind of redevelopment. Think that there is going to be less noise. I appreciate the developers adding some windows on the north side. I think it's a good project.

Ms. Burrow voted yes; the modification of an existing massive size building into three smaller buildings, which hopefully will be used as frontage for good retail stores. The location is ideal, and I think it would be a good friendship with the Trader Joes.

Mr. Clark voted yes; I echo the sentiment of the other commissioners, because they spoke well.

Mr. Hernandez voted yes; I would encourage the developer to dress up the north windows on the north elevation a little bit.

Alderman Owens voted yes; as stated by my fellow commissioner's previously, I think all their reasons were sound. This is what I believe will be a quality and responsive economic development for our City.

Chairman Harless voted yes; I think this is a positive move, not only for Germantown, for the developers, and the architects that are coming into town, as well for the neighbors, because it going to be a reduction of the truck activity in the back.



**FRANK AND BRENDA BLUESTEIN**  
2147 Sonning Drive • Germantown, TN 38138  
901-754-3780 (Home) • 901-490-5767 (Cell)  
efbluestein@gmail.com

August 1, 2016

Dear Chairman Harless and Germantown Planning Commission Members:

We are writing in regard to the proposed changes to existing buildings in the Germantown Collection Shopping Center. Our house backs up directly to the shopping center, as do other homes on our block on Sonning Drive.

When the shopping center was initially proposed, we were surprised to learn it was to be built on what was then a city street with existing homes. When we bought our home it backed up to other homes and other back yards. To our knowledge, no other large commercial development in Germantown at the time or since has been built that backs directly up to residential property. During the shopping center proposal phase, my wife and I, our neighbors and others met with the shopping center management team, city officials, planning and DRC members and aldermen to work out acceptable terms for the planning and design of the center to have the least impact on our homes.

What was proposed, drafted and accepted was a permanent covenant between the city and the shopping center that helped to minimize the effects of the shopping center on the neighbors. Among its nine points, the covenant, which is still in effect, limited large trucks from using the east driveway behind the shopping center (#2) and also limited storage units (#6) from being placed behind the building. Additionally, the Kroger building was purposely designed with the loading dock on the north side of the building so the noise, trash, vermin and rats and other negative effects of having a loading dock almost in our backyards would be minimized. I have attached a copy of the covenant to this email.

We are absolutely opposed to building the loading dock directly behind our property. For all of these years, we have had to live with the trash/litter and vermin on the buffer and listen to trucks come and go through the drive at all hours of the day and night, despite the covenant restrictions. We have also had house rats in our attic that we had to exterminate. When we would complain, the city would assist and things would improve for a while. If this new loading dock is added, we will have to hear and see huge trucks from our back yard using the proposed loading dock and have our quality of life disrupted on a permanent basis. This is not how Germantown prides itself to be. We cannot imagine any other developments in this city where loading docks have been allowed to be built in such close proximity to the backyards of residential property. I could imagine this somewhere in an urban setting, but certainly not in Germantown.

Please honor the commitments made in the covenant and in the design of the buildings that was created when this shopping center was established. We all worked together originally with the shopping center owners in a positive manner to ensure a design that was palatable for all sides involved. We want the new stores to be successful and would hope that the loading dock will remain on the north side of the building, completely screened, so it will not be as impactful to the neighbors and so that the large trucks will not be using the back shopping center driveway.

Unfortunately, we are out of town; otherwise, we would have attended the Planning Commission meeting as well as any other meetings that had been scheduled. We have spoken to neighbors who also feel the same way we do.

Thank you for considering our request. We are available to discuss this matter as necessary either by phone or in person if need be.

Frank and Brenda Bluestein

## RESTRICTIVE COVENANTS

The owner of the real property shown on this plat (the "Property"), for good and valuable considerations, with respect to the Property and its use, agrees as follows:

1. To maintain all landscaped areas and common areas.
2. To use all reasonable efforts (including graphics, etc.) to severely limit large delivery vehicles (i.e. semi-tractor-trailers) providing goods and services to the occupants of the Property in their use of the driveway along the east property line of the Property; and, if such efforts are not successful in severely limiting the use of said driveway by such vehicles, the City of Germantown may impose such requirements with respect to the Property that will totally prevent the use of such driveway by said vehicles.
3. To limit sanitation vehicles in their normal operation between the hours of 9:00 a.m. to 3:30 p.m.
4. To maintain all trash and garbage compactors or dumpsters and the areas in near proximity thereto in a clean and sanitary condition with special emphasis to prevent objectionable odors.
5. To restrict normal contract sweeping of the parking lot so that same will not occur before 5:30 a.m. or after 12:00 midnight.
6. To restrict all tenants from utilizing any areas at the rear of any building for outside storage.
7. To not impose any requirement on any tenant or the employees thereof to park vehicles in the rear of any building.
8. These covenants shall run with the land and be binding upon the present and any future owners of the Property. Such covenants may not be amended without the consent of the City of Germantown acting through its Board of Mayor and Aldermen. The City of Germantown, acting through its Board of Mayor and Aldermen, may enforce these covenants in any court of competent jurisdiction.
9. The proposed stormwater detention Facilities shall be constructed by the developer and operational, and the improvements accepted by the City prior to occupancy permits for the development being issued. Further, the applicant shall furnish to the City an owner's maintenance agreement/document which, among other considerations, shall provide for the continued maintenance/upkeep of all common areas associated with this project. Such agreement/document shall include the property owner's responsibility for maintenance of the storm water detention facility.

Dear Chairman & Germantown Planning Commission Members :

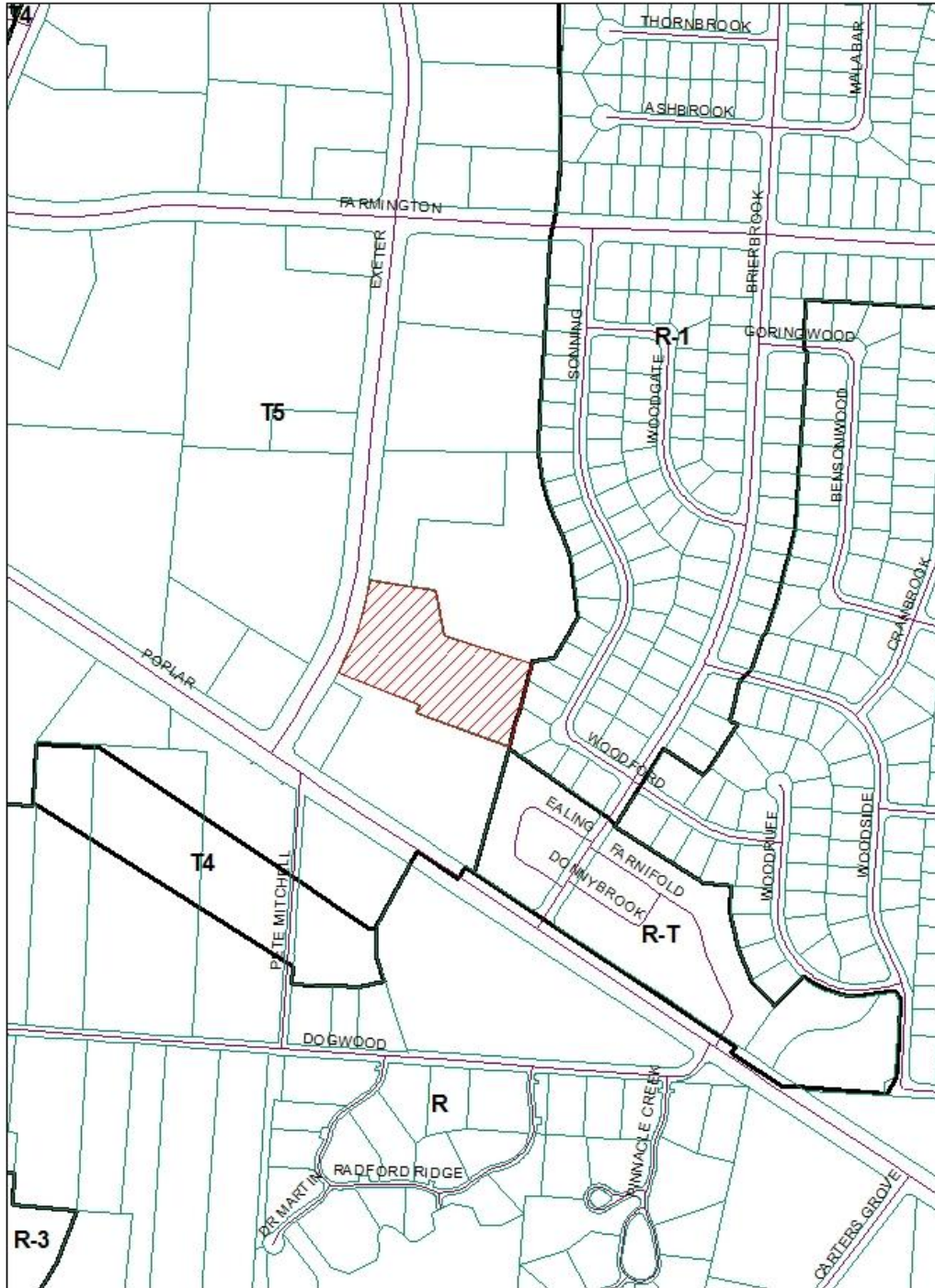
My wife and I cannot be at the meeting this evening due to prior business commitments, so I am writing in regards to the proposed changes for the shopping center located directly behind our neighborhood @ Sonning and Woodford Lane. On behalf of myself and my wife, and several of our neighbors, we would like to express our concern about the direct impact of relocating the existing loading dock on the property.

We have been at 7891 Woodford Ln. for almost 4 years now, and have just been made aware of the covenants relating to the plans for the shopping center that were drawn up back when the development was initially being considered. I can assure you, that when Kroger was utilizing the space, we have heard semi-trucks, sweepers, and dumpster collection vehicles at all times of the day and night, totally ignoring any covenants put in place. If the plan for the loading dock is to move it from the north end of the property, to directly behind the building, that will create even more traffic and noise directly behind the homes that backup to the shopping center.

I actually spoke to Cameron this morning as I was pulling out of my driveway headed to work, as he pulled up in front of Frank Bluestein's house. I guess to get a visual from our perspective? Cameron stated that the current proposal of the new tenants in the space and moving the dock, would be less traffic than when Kroger occupied the space. That is great for us in the initial planning period and on paper, but yet to be seen until the space is actually occupied and the businesses are up and running. Over time I'm sure all respect for the initial covenants will be in disregard, and these businesses will carry on much like Kroger did with their deliveries and such. We too oppose any changes to the existing dock modifications, and hope that it remains on the North end as first designed, as to alleviate any more traffic and or noise related to the deliveries to the property.

Kind Regards

Cory & April Hoffman



**VICINITY MAP**



**SITE PLAN WORKSHEET**

August 2, 2016 Original Sheet Size: 3,501 x 1,500

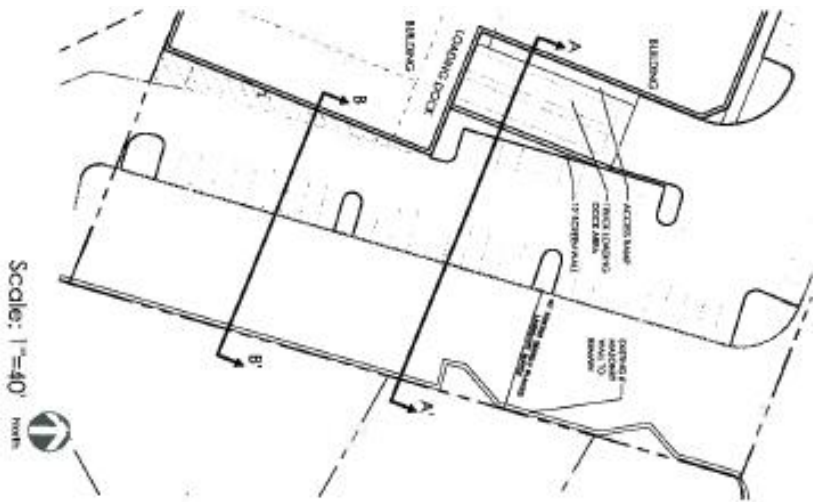
**BPD**  
**BLAIR PARKER DESIGN**  
Landscape Architecture (LLD) for the State of Michigan  
www.blairparkerdesign.com  
301.267.6125

0' 100' 200' 300' 400' 500' 600' 700' 800' 900' 1000'

Scale: 1" = 30'



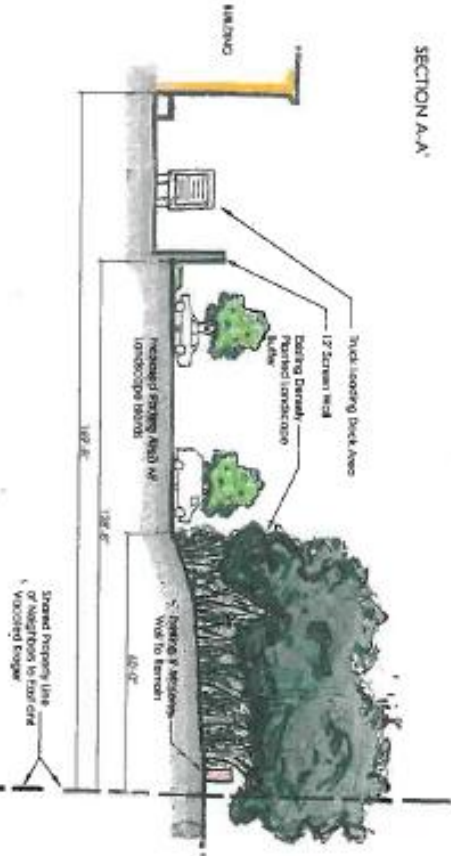
East Property Line Sections  
 Planning Commission - August 2, 2016  
 Design Plan 17-11P



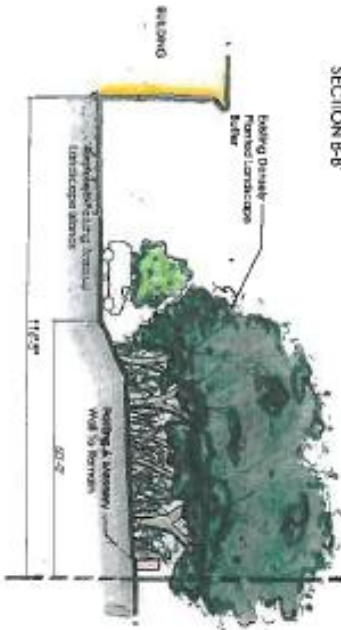
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SECTION A-A'



SECTION B-B'



Scale: 1"=20'

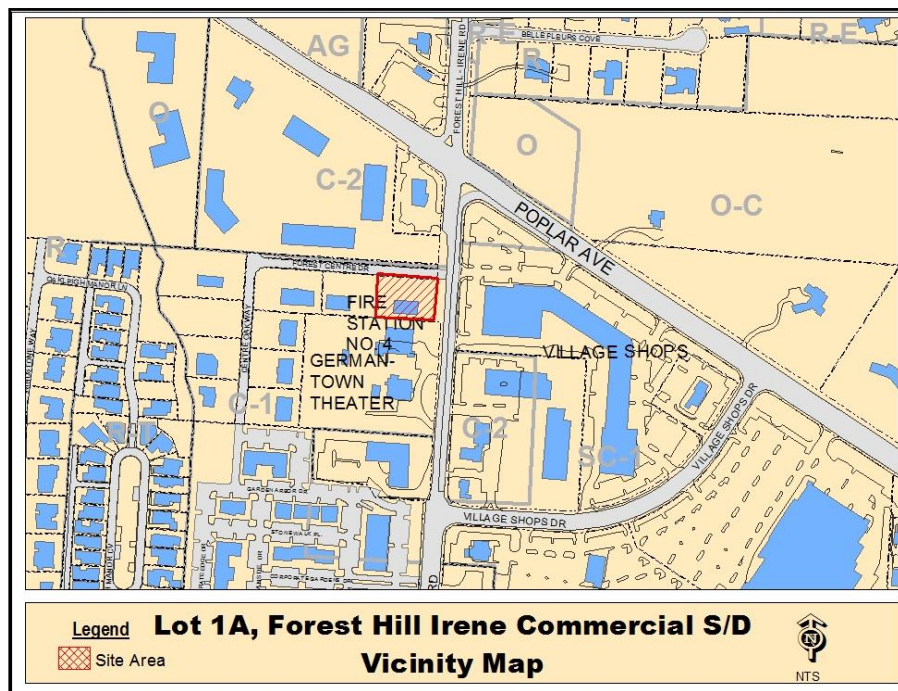
**4. b. Lot 1A, Forest Hill-Irene Commercial Subdivision; ReSubdivision of Lot 1, 9075 Forest Centre Drive, Request Preliminary and Final Site Plan Approval**

Ms. Pounder made a presentation of the application to the Planning Commission.

**INTRODUCTION:**

Development Case Number	16-637
Location:	9075 Forest Centre Drive
Owner Name:	TriCord Tennessee Holding, LLC
Applicant/Developer Name:	Milton C. Grant w/Grant Properties - Representative
Zoning District:	C-1" Neighborhood Commercial District
Area:	.68 Acres
Request:	Preliminary and Final Subdivision Site Plan Approval of an Office Building

\*Refer to the Disclosure Form attached for more information



**BACKGROUND:** On September 7, 2004, the PC granted Final Plat approval for Forest Hill-Irene Commercial Subdivision. On September 28, 2004, the Design Review Commission (DRC) granted the Landscape and Lighting Plan approval to the full Forest Hill-Irene Commercial Subdivision. On October 11, 2004, the Board of Mayor and Aldermen approved Subdivision Development Contract No. 458 for the subdivision. On July 1, 2008, the Planning Commission granted Preliminary and Final Plat Approval to Resubdivide Lot 1 of the Forest Hill-Irene Commercial Subdivision. The subject property is Lot 1A, Forest Hill-Irene Commercial Subdivision, and Resubdivision of Lot 1.

**DISCUSSION:** The current request is to approve a preliminary and final site plan for a new office building with associated parking on Lot 1A. There is a landscape easement that was built with the initial subdivision. The interior street is a private street (31' R.O.W.) with stubbed access to the north (Stonecreek Center), and shared access with Corporate Gardens to the south. The main access to the site is from Forest Hill-Irene Road with secondary access through Corporate Gardens and Stone Creek. The landscape area along Forest Hill-Irene Road is thirty-five feet wide and twenty feet wide along the internal street.

TOTAL SITE AREA	0.68 ac.
BUILDING SQUARE FOOTAGE	4,959 sq. ft.
BUILDING HEIGHT	26' ft.
NUMBER OF PARKING SPACES	
Parking Provided	25
Parking Minimum Required	25

\*See Data Table on Site Plan

The Technical Advisory Committee (T.A.C.) met on July 14<sup>th</sup> and made the following comments:

**STAFF COMMENTS:**

**A. PRIOR TO CONSTRUCTION DRAWING APPROVAL**

1. The existing 35' landscape area along FHI should be left as is. The east side of the lot cannot be graded and save the existing landscaping. The applicant has agreed to replant the same type and size of plant materials that is removed or harmed in the 35 foot wide landscape area along the east line of the project. A note to this effect must be placed on the final site plan and construction plans.
2. If drainage capacity is verified then easements from the adjacent property owner would be required prior to planning commission approval.
3. Obtain an encroachment agreement from the either the adjacent property owner or property owners association, whichever is appropriate, that would allow the encroachment of the parking lot pavement within the private sanitary sewer easement. Documentation of this agreement must be shown on the final site plan and construction plans.
4. Verify on construction plans that proposed footings for building are completely out of existing sewer easement.
5. Need drain easement and temporary construction easement to connect drainage to structure on Lot 1B.

**B. GENERAL COMMENTS**

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. 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.



3. The applicant is required to include the following formal written statement by a certified and licensed professional engineer to be placed on the grading and drainage plans, signed, dated and sealed:

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

4. 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.
5. 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.
6. An improved driving surface shall be provided prior to the commencement of construction, so as to provide a hard surface parking area for emergency vehicle access.
7. All survey data shall be tied to Tennessee State Plane Coordinates and the City of Germantown monumented survey control. The final plat, construction drawings and "as built" plans shall be submitted on electronic media in DXF format. Concrete monuments shall be placed at all corners of the subdivided property.

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

**SUBDIVISION AND SITE PLAN SUBCOMMITTEE REVISIONS & RECOMMENDATION:**

The subcommittee met on July 20, 2016, and requested that the staff verify the Fire Marshal's requirement for 26' wide access drives, make a determination on allowing parking pavement and building footings within a sanitary sewer easement with the recording of a Hold Harmless agreement between the developer and the City, and require that landscape easement area either remain as is and undisturbed or have the applicant agree to replant the same type and size of plant materials that is removed or harmed by this project.

**The subcommittee withheld a recommendation on this item.**

**Applicant Response to Subcommittee:** The applicant has submitted a revised site plan that reflects changes recommended by staff and the Planning Commission subcommittee. The Fire Marshall has agreed that only driveway opening must be widened to 26 feet. The revised plan reflects this compromise with the Fire Marshall. The existing sanitary sewer easement located along the south line of the property is a private easement and; therefore, a Hold Harmless agreement with City is not required. However, the applicant is working on obtaining an encroachment agreement from the either the adjacent property owner or property owners association, whichever is appropriate, that would allow the encroachment of the parking lot pavement within the private sanitary sewer easement. The documentation of this agreement will be shown on the final site plan and construction plans. The applicant has agreed to replant the same type and size of plant materials that is removed or harmed in the 35 foot wide landscape area along the east line of the project. A note to this effect will be placed on the final site plan and construction plans.

*Note: The applicant recently submitted a letter along with a new site plan and grading and drainage plan that reflect his agreement with the recommendation of the subcommittee. (See attachments)*

**Board Discussion:**

Mr. Bennett asked if the staff comments that are listed here have been addressed satisfactorily by the developer.

Ms. Pounder answered that's correct.

Milton Grant with Grant Properties LLC, 1655 International Drive, Suite 101, Memphis, TN 38120 made a presentation. I believe we have addressed all your concerns with this project. I would be glad to answer any of your questions, along with my engineer Robert Estes.

Mr. Bennett said he understood that there may be some issues of grading on the eastern side of that lot but you are hoping to design everything where you can minimize or eliminate grading on the eastern portion of the lot. Is that correct?

Mr. Grant answered yes; the main issue that we have to deal with is 7 to 8 feet fall across this lot. We didn't want it coming in the parking lot on the opposite corner, to have to drive up hill to get to the building. So along the edge of the landscape screen, which was a concern that is existing we will be doing minimum grading in there. We have to do something to get the water away from the building into the drain. It's really the best way to do it without having the parking lot not meet the handicap standards.

Mr. Bennett asked I understand from the staff you have to remove some of landscaping and will replace with the same type of landscaping.

Mr. Grant answered yes; we do not plan on removing any landscape except the one crepe-myrtle by the sidewalk, we will put another new one at a location that chosen. This will balance the landscape screening.

Chairman Harless asked if there is a sidewalk going down through there.

Mr. Grant answered yes; we will be connecting to the existing one on the office next door to the City sidewalk on the Forest Hill.

Chairman Harless stated that he understands that you and the Fire Department have reached an agreement on the width of the driveway after you enter.

Mr. Grant answered yes.

Chairman Harless commented that he appreciated the Fire Department being flexible and working with the developer. This is great!

Mr. Bacon asked if the grading plan was changed as noted to minimize the cutting in the existing landscape area. There was a lot of work and it was noted. It appears to be relatively minimum impact of the existing landscaping.

Mr. Grant said that the drainage plan was reworked, also.

Alderman Owens asked Mr. Grant if he got a Hold Harmless Agreement from the adjacent neighbor.

Ms. Pounder stated he has provided that Hold Harmless Agreement to staff.

**PROPOSED MOTION:** To approve the preliminary and final site plan for Lot 1A, Forest Hill-Irene Commercial Subdivision; ReSubdivision of Lot 1, subject to the Board's discussion, staff comments in the staff report, and the plans filed with the application.

Mr. Bacon moved to approve the preliminary and final site plan for Lot 1A, Forest Hill-Irene Commercial Subdivision; ReSubdivision of Lot 1, subject to the Board's discussion, staff comments in the staff report, and the plans filed with the application and the staff comments, seconded by Ms. Burrow.

Chairman Harless asked for a roll call.

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

**GRANT PROPERTIES LLC**  
**1655 International Dr., Suite 101**  
**Memphis, TN 38120**  
**(901) 683-4422**

July 28, 2016

Sheila Pounders  
City of Germantown Planning  
1920 S. Germantown Road  
Germantown, TN 38138-2815

RE: Lot 1A Forest Hill-Irene Commercial Subdivision, 9075 Forest Centre Drive

Sheila,

Per our conversation today I wish to state that:

In the event that any existing landscaping located in the landscape easement along Forest Hill-Irene Road is damaged by my Company or subcontractors during the construction of the proposed Commercial Building on Lot 1A that I will have it replaced with a like size item of the same existing size or larger.

I will also remove the flower planter from the Landscape easement reducing its size.

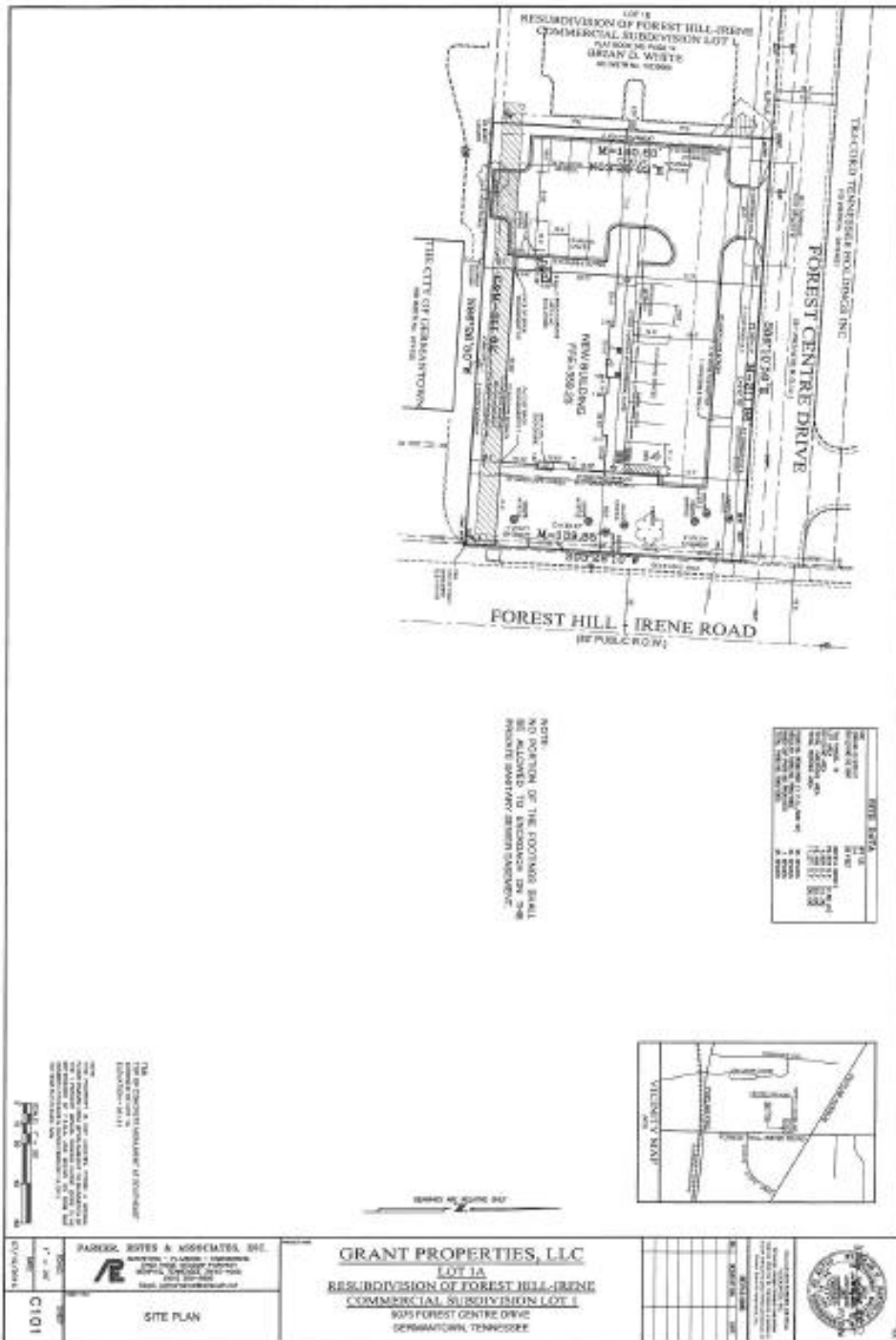
The existing Crepe-myrtle closest to Forest Centre Drive will be relocated away from this drive.

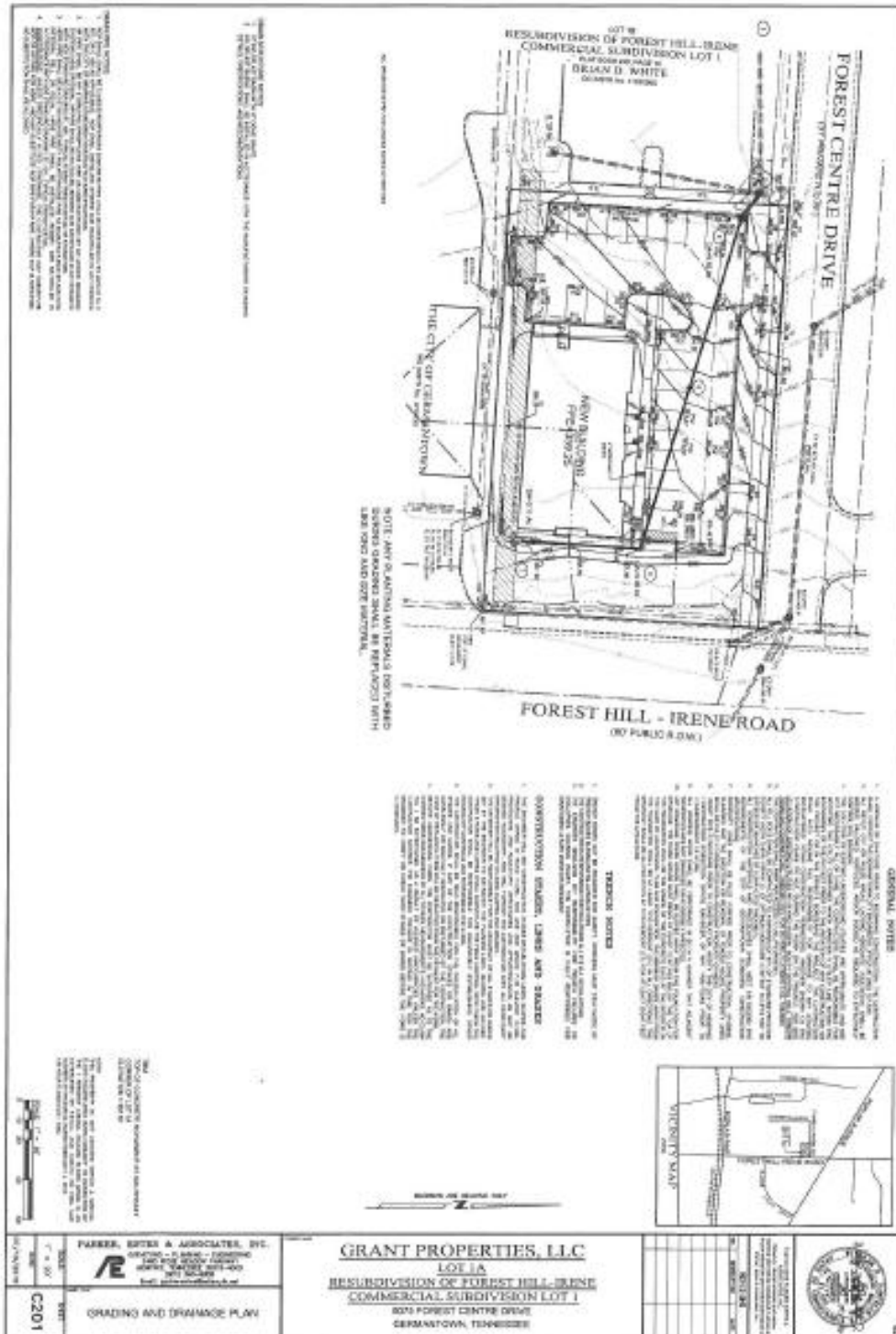
We will show a dimension on the site plan showing the distance of the North private sewer easement line from the south property line at the Southeast corner of the proposed building and the distance from the same property line to the footing of the building, with the footing of the building being a greater distance therefore reflecting that it is out of the easement.

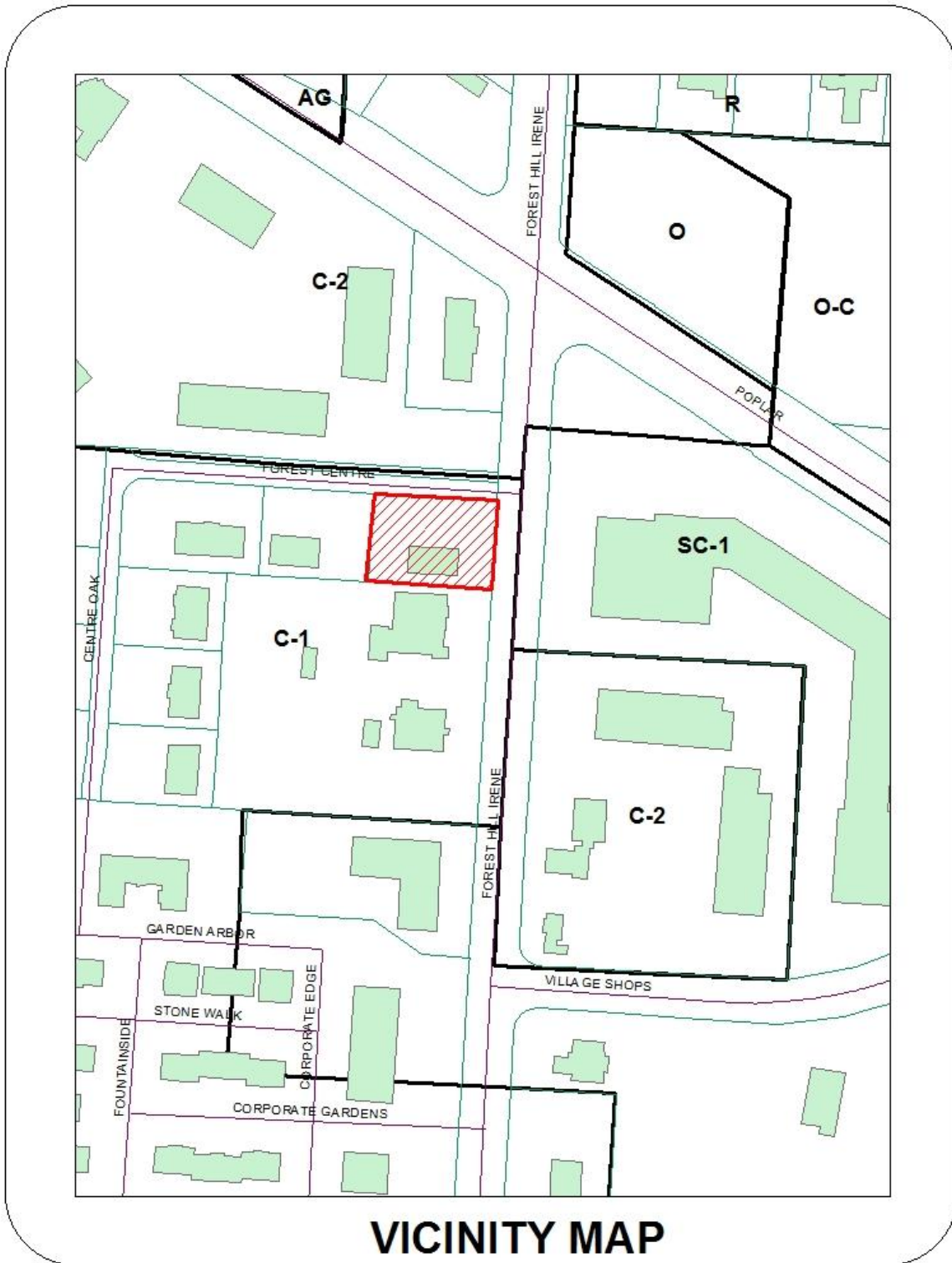
My engineer will list a hold harmless clause on the drainage easement that is to be signed by the neighbor on lot 1B indemnifying him from any loss should he need to repair the sewer under where our parking turnaround is to be located.

Best Regards,

**Milton C. Grant**





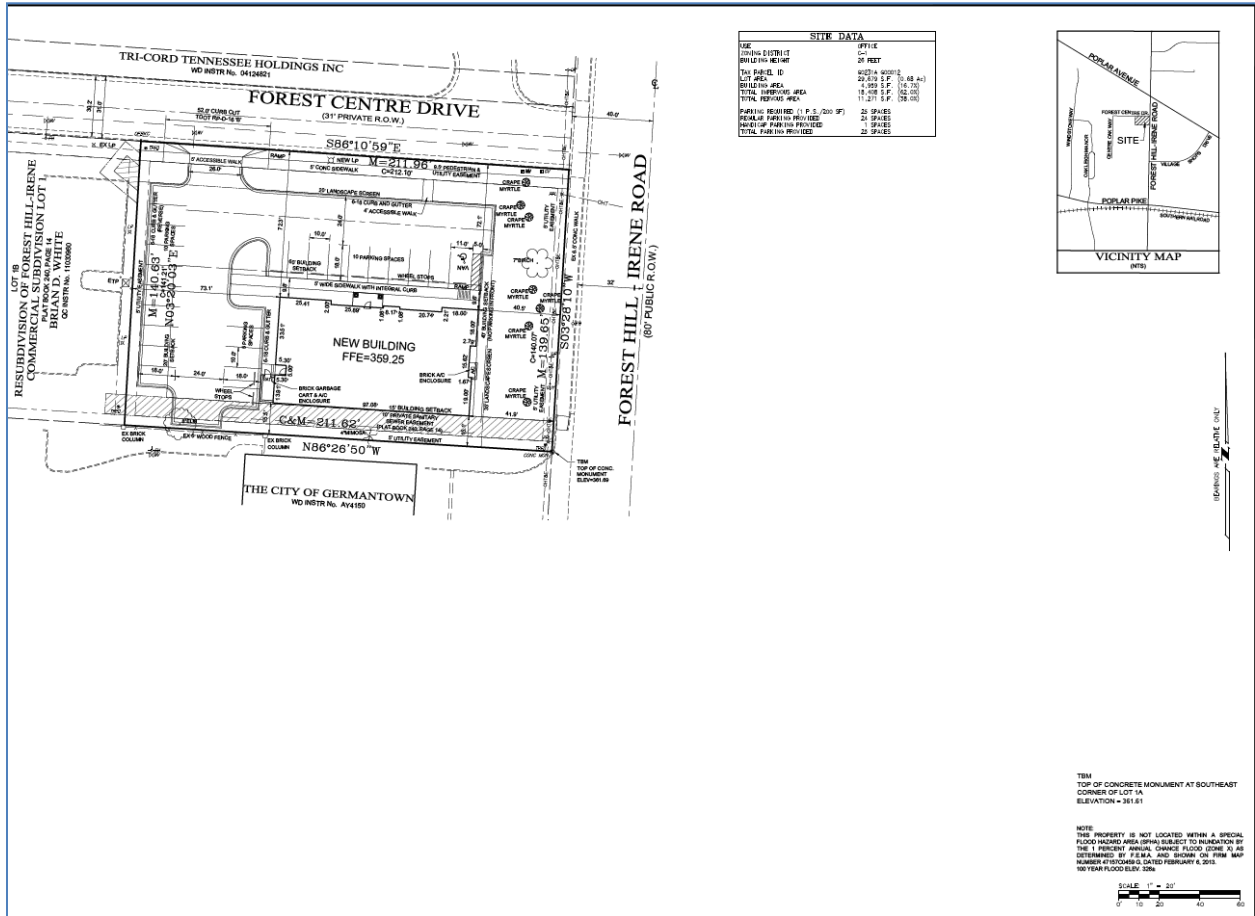


### AERIAL





**SITE PLAN**



*\*Larger set of plans attached to back of report*



**CITY OF  
 GERMANTOWN  
 TENNESSEE**

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

DATE RECEIVED: \_\_\_\_\_  
 RECEIVED BY: \_\_\_\_\_

Orig

**PLANNING COMMISSION  
 OFFICIAL APPLICATION FORM**

TYPE OF APPLICATION	
<b>(Check <input checked="" type="checkbox"/> all that apply):</b> <input type="checkbox"/> Sketch Plan; <input type="checkbox"/> Preliminary Site Plan; <input checked="" type="checkbox"/> Final Site Plan <input type="checkbox"/> Minor Subdivision; <input type="checkbox"/> Preliminary Plat; <input type="checkbox"/> Final Plat <input type="checkbox"/> Grading/Tree Removal; <input type="checkbox"/> WTF (Wireless Transmission Facility) <input type="checkbox"/> Rezoning From: _____ To: _____ <input type="checkbox"/> Other: _____	
IS THIS SITE WITHIN A SMART CODE AREA: (Circle One) YES NO (Please note - if yes, than follow Smart Code Application Instructions to complete this form for submittal)	
<b>PLANNED USE DEVELOPMENT'S (PUD) ONLY:</b> <input type="checkbox"/> PUD Outline Plan (Master Plan); <input type="checkbox"/> PUD Amendment to Outline Plan; <input type="checkbox"/> PUD Preliminary Plan (individual phases); <input type="checkbox"/> Final Plan (individual phases); Phase: _____ of _____ Date of PUD Outline Plan (Master Plan) Approval: _____ Other: _____	
PROJECT INFORMATION	
(Provide Additional Pages as Needed)	
Project Name: <u>Lot 1A - Resubdivision of Forest Hill-Irene Commercial Subdivision Lot 1</u> Address/Location: _____ Project Description: <u>New Commercial Building</u> No. of Acres: <u>0.68</u> Parcel Identification Number(s): <u>G0231A G00012</u>	
PLEASE ATTACH A LETTER EXPLAINING THE PROJECT, IN DETAIL, AND LISTING ALL VARIANCES REQUESTED FROM THE SUBDIVISION AND ZONING REGULATIONS.	
OWNER/LESSEE/DEVELOPER INFORMATION	
Owner Name (Print): <u>TriCord Tennessee Holding LLC</u> Address: <u>PO Box 895, Collierville TN 38027</u> Phone No.: <u>(901) 832-6147</u> Email Address: <u>jeanwood21@comcast.net</u> Signature of Owner: <u><i>John R. Grant</i></u> Lessee Name (Print): _____ Address: _____ Phone No.: _____ Email Address: _____ Signature of Lessee: _____ Developer Name (Print): <u>Grant Properties, LLC</u> Address: <u>1855 International Pl, Memphis TN 38120</u> Phone No.: <u>(901) 683-4422</u> Email Address: <u>mgrant@granthomes.com</u> Signature of Developer: <u><i>Matthew C. Grant</i></u>	
PLEASE ATTACH A COPY OF THE DEED REFLECTING OWNERSHIP OF THE SUBJECT REAL PROPERTY	

Planning Commission – Official Application Form  
Page 2

<b>AGENT/REPRESENTATIVE INFORMATION</b>	
Name: <u>Milton C. Grant</u>	Title: <u>Partner</u>
Company Name: <u>Grant Properties, LLC</u>	Address: <u>1655 International Dr, Ste 101 Memphis TN 38120</u>
Phone No.: <u>(901) 683-4422</u>	Email Address: <u>mgrant@granthomes.com</u>
Who will represent this proposal at the Planning Commission meeting? <u>Robert Estes</u>	
<b>ENGINEER/SURVEYOR INFORMATION</b>	
Engineer Name: <u>Parker, Estes &amp; Associates, Inc.</u>	Address: <u>3460 Ridge Meadow Pky, Memphis TN 38115</u>
Phone No. <u>(901) 360-9805</u>	Email Address: <u>sawtelle@bellsouth.net</u>
Surveyor Name: <u>Parker, Estes &amp; Associates, Inc.</u>	Address: <u>3460 Ridge Meadow Pky, Memphis TN 38115</u>
Phone No.: <u>(901) 360-9805</u>	Email Address: <u>parkerestes@bellsouth.net</u>

**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 interests, the following information is required to be furnished:

1. **For Profit Entities.** If the owner of the land which is the subject of this Application (including all owners, lessees and developers) is a for-profit entity, i.e. individual, sole proprietor, general partnership, limited partnership, corporation, limited liability company, R.E.I.T., a trust, or any other form of for-profit business entity, the authorized representative of the Owner 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. (If another business entity owns 10% or more of the ownership interests in the Owner, 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, 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: TRI-Cord TV Holdings, LLC., Florida  
 Address: 36468 Emerald Coast Parkway, Suite 2201

Lessee: \_\_\_\_\_  
 Address: \_\_\_\_\_

Developer: \_\_\_\_\_  
 Address: \_\_\_\_\_

Persons or Entities\* Owning 10% or More of the Ownership Interests of the Owner:

Name	Business or Home Address
<u>Davey "Buddy" Runnels</u>	<u>36468 Emerald Coast Pkwy # 2201</u>
<u>Bonnie Runnels</u>	<u>Destin, Florida 32541</u>
<u>Scott Runnels</u>	<u>" "</u>
<u>Trey Runnels</u>	<u>" "</u>
<u>Sharon Thomas</u>	<u>" "</u>
<u>John R. Edwards</u> <u>TV Partner, manager</u>	<u>10448 Kensington Cir</u> <u>Collierville TN, 38017</u> <u>901-832-6147</u>

\*See language in parenthesis above.

**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:

- For Profit Entities.** If the Applicant (including all owners, lessees and developers) submitting this Application ("Applicant") is a for-profit entity, i.e. sole proprietor, 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: Milton Grant  
Address: 1656 International Drive, Suite 101, Memphis TN 38120

Owner: \_\_\_\_\_  
Address: \_\_\_\_\_

Lessee: \_\_\_\_\_  
Address: \_\_\_\_\_

Developer: \_\_\_\_\_  
Address: \_\_\_\_\_

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

<b>Name</b>	<b>Business or Home Address</b>
<u>Milton C. Grant</u>	<u>2618 Fox Hill Circle E, Germantown TN 38139</u>
<u>Phyllis G. Taylor</u>	<u>6316 Maison Privee Cove, Memphis TN 38120</u>
_____	_____
_____	_____

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

Chairman Harless asked if there was any new business to come before the Commission. Alderman Owens welcomed Alderman John Barzizza and Brian White from the Germantown Chamber of Commerce and we appreciate their attendance.

Chairman Harless stated we are always glad to see City officials here.

Chairman Harless asked if there were any liaison reports. There were none.

**ADJOURNMENT:** The meeting adjourned at 6:45 p.m.