

**PLANNING COMMISSION MEETING
MUNICIPAL CENTER COUNCIL CHAMBERS
Tuesday, March 7, 2017**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of City Hall on March 7, 2017. 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 6:00 p.m. requesting the roll call.
2. Pam Rush called the roll of the Commission and established a quorum.

Commissioners Present: Mike Harless, Dike Bacon, George Hernandez, Alderman Forrest Owens, Rick Bennett, David Clark, Keith Saunders, and Mayor Mike Palazzolo

Commissioners Absent: Hale Barclay

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

Chairman Harless stated for those people who just arrived, tonight's agenda is on the front table.

3. Approval of Minutes for January 3, 2017:

Chairman Harless stated that the next order of business is the approval of the minutes for the January 3, 2017 meeting. If there are no additions, corrections or deletions to the minutes of the January 3, 2017, meeting of the Planning Commission, he would entertain a motion for approval.

Mr. Clark moved to approve the Planning Commission minutes of January 3, 2017, seconded by Mayor Palazzolo.

Chairman Harless asked for a roll call.

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

4. Consent Agenda: Chairman Harless noted that is a change on the agenda tonight.

Chairman Harless announced that Item 4.C., Lot 4 of Wellesley Place Subdivision has been placed on the Consent Agenda.

At the Executive Session this evening, the following item was placed on the Consent Agenda by the Planning Commission: Item 4.C., Lot 4 of Wellesley Place Subdivision. As part of the Consent Agenda, this item will **not** be presented, discussed or voted upon individually. If you would like to discuss this item before the Planning Commission this evening, please come forward at this time.

Again, Item 4.C., Lot 4 of Wellesley Place Subdivision has been placed on the Consent Agenda and will be voted upon as one motion and will not be discussed individually unless someone on the Commission or in the audience comes forward to remove that item from the Consent Agenda. Does anyone interested in any of these matters wish to be heard?

Seeing no one come forward, I would like to note that on all matters concerning the Consent Agenda, the vote of each member of the Planning Commission will constitute an acknowledgement that the member

has read the application or proposal, the staff reports and the subcommittee report. I am prepared for a motion for approval of the Consent Agenda.

Mr. Bacon made a motion for approval of the Consent Agenda, seconded by Mr. Hernandez.

Chairman Harless asked for a roll call.

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

INTRODUCTION:

Development Case Number	17-708
Case Name:	2032 Wellesley Pine Cove
Location:	Lot 4, Wellesley Place SD
Owner Name:	Tayloe-Duke Builders GP
Applicant Name:	Steve Hooper w/ ETI
Zoning District:	R-1 – Single-Family Residential
Request:	Request to allow relocation of Portion of “Area Reserved for Storm Water Detention”

*Refer to the Disclosure Form attached for more information



BACKGROUND:

On June 13, 2005, the Board of Mayor and Alderman (BMA) approved development contract 464 to create a five lot subdivision, Wellesley Place Subdivision. Lot 5 (2032 Wellesley Place) is vacant. The other four lots in this subdivision have been improved with houses.

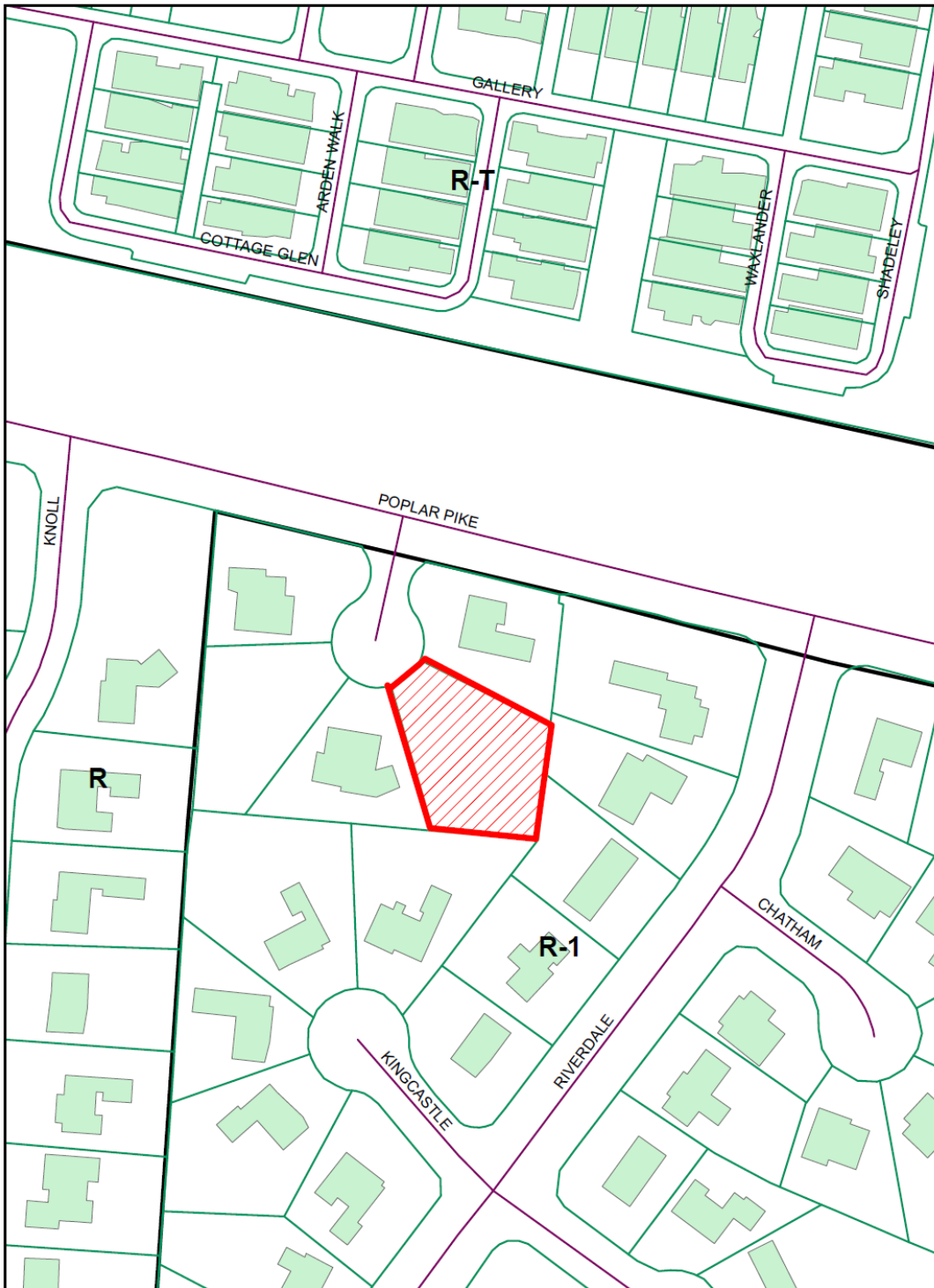
DISCUSSION:

On February 1, 2017, the owner of 2032 Wellesley Pine Cove submitted a foundation survey, and applied for an administrative variance for a portion of the one-story garage to encroach 0.24 s.f. into the storm water detention area and 2.28 s.f. into the rear building setback. After a review of the final plat for the Wellesley Place SD, Planning Division staff confirmed the following storm water detention note: "The area denoted by "Area Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the Planning Commission..."

During the Planning Commission Sub-Committee meeting on February 22, 2017, the Commissioners recommended that the applicant work with the City of Germantown Engineering Division to revise his application to relocate a portion of the "Area Reserved for Storm Water Detention," rather than request a building encroachment into this area. On February 24, 2017, the applicant met with City Engineering staff at the site, and both agreed on the following revision to the original request: Approximately 26.3 s.f. of the "Area Reserved for Storm Water Detention" would be removed where the original building foundation encroachment occurs. To compensate for this, an additional 125 s.f. would be added on the northeast side of the "Area Reserved for Storm Water Detention." These revisions will produce a net gain of 98.7 s.f. to the "Area Reserved for Storm Water Detention."

STAFF COMMENTS:

1. The Engineering Division reviewed the relocation of a portion of the storm water detention basin area and determined that there would be no detrimental effect.
2. The Engineering Division would like to emphasize that NO future volume storage impacts in the "Area Reserved for Storm Water Detention" may occur during and/or after construction including, but not limited to: no fill material, no landscaping, no landscaping beds, no paving, no fences, no decks, no patios, no porches, no pools, and /or no accessory structures. This note shall be included on the revised plat.
3. If approved, the applicant shall re-record the final plat prior to resubmittal of a revised foundation survey, both showing the revised "Area Reserved for Storm Water Detention," for administrative approval. With the revised foundation survey, the applicant shall include a copy of the house elevation drawing, to show that the garage which encroaches 2.28 s.f. into the rear building setback is one-story.



ZONING MAP



CITY OF GERMANTOWN TENNESSEE

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

DATE RECEIVED: _____
 RECEIVED BY: _____

PLANNING COMMISSION OFFICIAL APPLICATION FORM

(Check <input checked="" type="checkbox"/> all that apply):		TYPE OF APPLICATION
<input type="checkbox"/> Sketch Plan;	<input type="checkbox"/> Preliminary Site Plan;	<input 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 checked="" type="checkbox"/> Other: <u>Amendment to original request: Instead of encroachment of the Lot 4 building foundation into the "Area Reserved for Storm Water Detention", we are requesting a modification to the "Area Reserved for Storm Water Detention"</u>		
***** IS THIS SITE WITHIN A SMART CODE AREA: (Circle One) YES <input type="radio"/> NO <input checked="" type="radio"/> (Please note - if yes, than follow Smart Code Application Instructions to complete this form for submittal)		
PLANNED USE DEVELOPMENT'S (PUD) ONLY:		
<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>Wellesley Place Subdivision - Lot 4</u>		
Address/Location: <u>2032 Wellesley Pine Cove, Germantown, TN 38138</u>		
Project Description: <u>Request to remove 26.3 s.f. of the "Area Reserved for Storm Water Detention" where the building foundation is encroaching and add 125 s.f. to the "Area Reserved for Storm Water Detention" on the northeast side for an "Area Reserved for Storm Water Detention" net gain of approx. 98.7 s.f.</u>		
No. of Acres: <u>0.42 Acres(Lot 4)</u> Parcel Identification Number(s): <u>G0219B I00004</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>Tayloe-Duke Builders GP</u> Address: <u>985 Reddoch Cove, Memphis, TN 38119</u>		
Phone No.: <u>(901) 767-1679</u> Email Address: <u>chip@tayloe.net</u>		
Signature of Owner: <u>Steve R. Hooper FOR CHIP TAYLOE</u>		
Lessee Name (Print): _____ Address: _____		
Phone No.: _____ Email Address: _____		
Signature of Lessee: _____		
Developer Name (Print): <u>Wellesley Place, LLC</u> Address: <u>985 Reddoch Cove, Memphis, TN 38119</u>		
Phone No.: <u>(901) 767-1679</u> Email Address: <u>chip@tayloe.net</u>		
Signature of Developer: <u>Steve R. Hooper FOR CHIP TAYLOE</u>		
PLEASE ATTACH A COPY OF THE DEED REFLECTING OWNERSHIP OF THE SUBJECT REAL PROPERTY		

Planning Commission – Official Application Form
Page 2

AGENT/REPRESENTATIVE INFORMATION	
Name: <u>Steve R. Hooper, PE</u>	Title: <u>Principal</u>
Company Name: <u>ETI Corporation</u>	Address: <u>1755 Lynnfield Road, Suite 100, Memphis, TN 38119</u>
Phone No.: <u>(901) 758-0400</u>	Email Address: <u>shooper@eticorp.com</u>
Who will represent this proposal at the Planning Commission meeting? <u>Steve R. Hooper</u>	
ENGINEER/SURVEYOR INFORMATION	
Engineer Name: _____	Address: _____
Phone No. _____	Email Address: _____
Surveyor Name: <u>Campbell Surveying Company</u>	Address: <u>1023 S. Yates Road, Memphis, TN 38119</u>
Phone No.: <u>(901) 683-9114</u>	Email Address: <u>Charles@campbellsurveying.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 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, RE.LT., 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: Tayloe-Duke Builders, GP
Address: 985 Reddoch Cove, Memphis, TN 38119

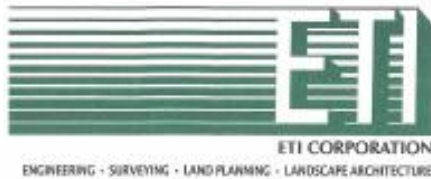
Owner: Tayloe-Duke Builders, GP
Address: 985 Reddoch Cove, Memphis, TN 38119

Lessee: _____
Address: _____

Developer: Wellesley Place, LLC
Address: 985 Reddoch Cove, Memphis, TN 38119

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

Name	Business <u>or</u> Home Address
Howard K. Tayloe, Jr	985 Reddoch Cove, Memphis, TN 38119
John Duke	985 Reddoch Cove, Memphis, TN 38119
_____	_____
_____	_____



PRINCIPALS

Matthew D. Wolfe
Mark E. Lindstrom
Stacy D. Morris
Vincent J. Thilen
Christopher E. Perry
Douglas M. Baker
Steve R. Hooper
Jameelah Hudson
David M. Docauer

February 27, 2017

Mr. Cameron Ross, Director
Germantown Economic and Community Development
1930 S. Germantown Road
Germantown, TN 38138

**RE: Lot 4, Wellesley Place S/D (2032 Wellesley Pine Cove)
Amendment to the PC Application
ETI Job No. 17015-20**

Dear Mr. Ross:

During the Planning Commission sub-committee meeting, held on February 23, 2017, the commissioners recommended that the "Area Reserved for Storm Water Detention" be revised to remove the building foundation encroachment and an additional area be added to make up for the removed portion. We agree that this is a better solution than our initial request for an approval of the slight encroachment.

On February 24, 2017, we met with Tim Gwaltney, Tim Bierdz, and Bob Joralemon on site to determine the approximate areas to remove and add to the "Area Reserved for Storm Water Detention." We determined that approximately 26.3 square feet would be removed where the building foundation encroachment occurs. Also, an additional 125 square feet would be added on the northeast side of the "Area Reserved for Storm Water Detention." These revisions will produce a net gain of 98.7 square feet.

If the Planning Commission approves our request, the plat will be revised and re-recorded to reflect the revisions as required.

All additional and amended information has been provided as required in the application form and planning commission checklist. In addition, twenty (20) full size (11x17) copies of the plans, ten (10) 11x17 copies of the plans, and a CD with the appropriate JPEG and PDF files are also being submitted.

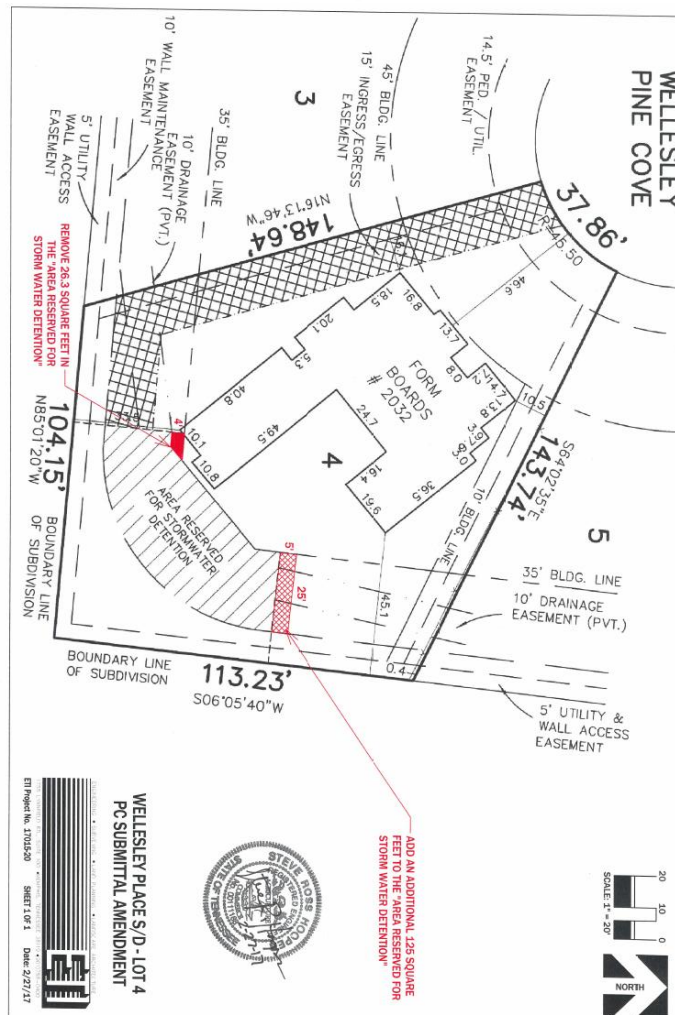
We respectfully request your recommendation of approval. If you have any questions, or need additional information, please do not hesitate to contact me at (901) 758-0400.

Sincerely,

ETI Corporation,

Steve R. Hooper, PE
Principal

Enclosures



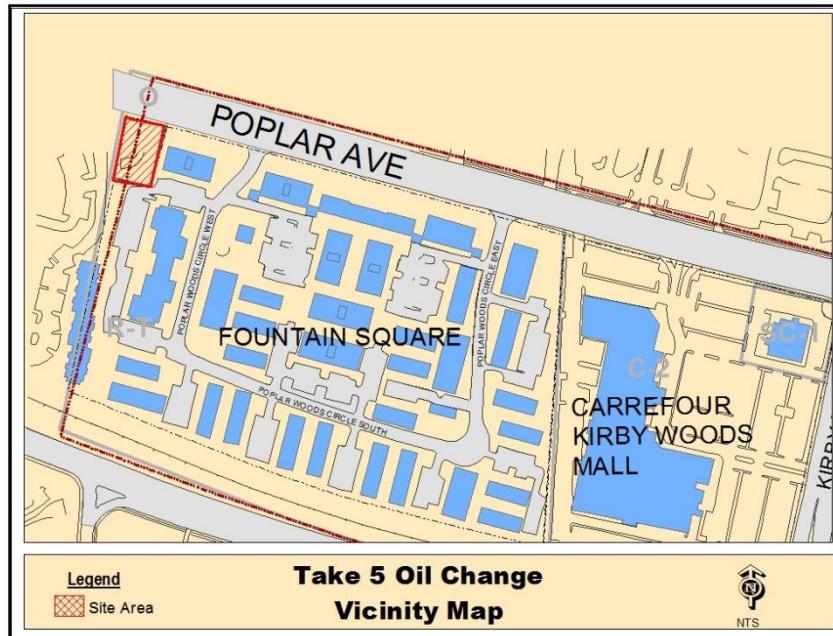
5. Take 5 Oil Change, 6525 Poplar Avenue – Request Preliminary and Final Site Plan Approval

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

INTRODUCTION:

Development Case Number	17-707
Case Name:	Take 5 Oil Change
Location:	6525 Poplar Avenue
Applicant:	Brian Salek – Endry, Inc.
Owner Name:	John B. Walker
Representative Name:	Greg Marcom w/The Reaves Firm, Inc. - Agent/Representative
Zoning District:	“T6” Urban Core Zoning District
Area:	0.376 Acres
Request:	Preliminary and Final Site Plan Approval

*Refer to the Disclosure Form attached for more information



BACKGROUND: The site is a former City of Germantown water pumping station. The pumping station was constructed approximately 40 years ago to augment the water supply in the western portion of Germantown with water from the City of Memphis. The pumping station was last active in the 1990's, but was almost immediately deactivated when the top floors of the high-rise buildings around Poplar Avenue and Kirby Road lost water pressure. Since that time, a tap has been made to the City of Memphis water system at Johnson Road Park, rendering the Poplar Avenue pumping station obsolete. In August 2006, Eric A. Trotz, MAI of Trotz Real Estate Services Inc, appraised the property. The Board of Mayor and Aldermen approved a contract to sell the property on January 8, 2007. On April 3, 2007, the Planning Commission approved the request to rezone the property from "R-T" Multifamily Residential to "O" Office. On June 25, 2007, the Board of Mayor and Aldermen approved the request to rezone the property from "R-T" Multifamily Residential to "O" Office by passing Ordinance No. 2007-11 on the third and final reading. On January 28, 2008, the Board of Mayor and Aldermen approved a new agreement to sell the property. On April 8, 2008, the Board of Zoning Appeals granted three variances for the property: 1) a variance to allow the principle structure to encroach into the required rear yard setback a maximum distance of five feet (5'-0"), 2) a variance to allow the required landscape easement along the west side yard to be reduced from fifteen feet (15'-0") to two feet, six inches (2'-6") and to allow the required landscape easement along the east side yard to be reduced from fifteen feet (15'-0") to four feet, six inches (4'-6"), and 3) a variance to allow the reduction of the required landscape easement along the north property line from twenty feet (20') to nine feet, six inches (9'-6") to allow parking in the area. On April 22, 2008, the Design Review Commission granted a variance from the required 35% pervious area as required in the City of Germantown Design Review Manual. In July, 2016, the Smart Code Review Committee considered the approval of a Preliminary and Final Site Plan for a 2,800 square foot retail/office building on the subject property. No action was taken on the proposal by the Committee and the application was withdrawn by the applicant after the Committee meeting.

DISCUSSION: The current site plan proposes a new commercial building (oil change facility) on property that is within the Western Gateway Smart Growth Area located at the city limit line between the City of Germantown and the City of Memphis. The property is vacant land and within the T6 "Urban Core" Zone. Details concerning the proposed site plan are as follows:

TOTAL SITE AREA	0.376 ac.
BUILDING SQUARE FOOTAGE	2,373 sq. ft.
BUILDING HEIGHT	28' 1"
NUMBER OF PARKING SPACES	
Parking Provided	7
Parking Minimum Required	7

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

In addition to the design requirements of the Smart Code Regulation, staff also used the DRC checklist as a guide in the review of this project. The results are shown below:

DESIGN REVIEW COMMISSION CHECKLIST:

1. *Site Layout:* The building is situated on Lot 1 of Poplar Woods Subdivision. The building is placed in the middle of the property with parking located behind it.
2. *Building Elevations:* See the attached plans. The building is two stories in height and similar in appearance to the two new outbuildings at the southwest and northeast corners of Poplar Avenue and Farmington Blvd/West Street (Saddle Creek Shopping Center). The building exterior is to be a combination of “Moonlight” stucco (38%), “Limestone Rough” Arriscraft masonry (10%), “Moonlight” metal roof cap (2%), “GAF Weathered Wood” roof (26%), aluminum storefront “Anodized Bronze” doors/window units (24%), and “Tinted Bronze” glazing (1%+/-). A color rendering and material samples have been provided.
3. *Street Improvements and Curb Cuts:* Access to Poplar Avenue will be via a right-in, right-out curb cut to the single driveway entrance to the site.
4. *Parking Lots:* A total of 7 surface parking spaces are provided as required. Also, a single inverted U bike rack is provided east of the handicapped parking space at the rear of the building.
5. *Exterior Lighting:* The site will be illuminated in the following manner: 14-foot tall pole-mounted fixtures with LED lights within the vehicle circulation areas, near the building office and work bays; 4 LED wall mounted lights along the building wall. Information and cut-sheets on the light fixture’s finish have been provided and are attached to the plans. A photometric analysis has been provided that includes average illumination levels at various areas of the site.
6. *Garbage Collection Area:* A 6’4” tall trash dumpster enclosure is to be located in the southeast corner of the site. The enclosure will be constructed using the same materials as the principal building, “Limestone Rough” Arriscraft masonry with a painted 6” horizontal wood slat gate.
7. *Vents:* Not noted on the plan. Information should be provided on construction plans.
8. *Gas, Electric and Water:* Not noted on the plan. Information should be provided on construction plans.
9. *Mechanical Units:* Not noted on the plan. Information should be provided on construction plans.
10. *Emergency Generators:* Not noted on the plan. Information should be provided on construction plans.
11. *Landscaping:* A detailed landscape plan has been provided.
12. *Mailboxes:* Not noted on the plan. Information should be provided on construction plans.
13. *Signs:* Signs will require a separate application and approval.

PLAN REVISION(S): *The plans have been revised in the following manner to address comments from TAC and the Smart Code Review Committee: (1) the applicant has added an additional warrant (#6) request pertaining to the requirement for cross access between this site and adjacent properties; (2) to reflect that the primary pedestrian entrance is recessed 20" in compliance with Section 23-793(c)(2); (3) to reflect that relief on the entry façade window trim is 4" in compliance with Section 23-787(e)(2); (4) to provide for the replacement of an existing fence at the south and east of the property lines; (5) to provide a breakdown by percentages of exterior building materials; and (6) to address various engineering comments pertaining to dumpster siting, compliance with ADA guidelines, sidewalk location, and energy dissipation.*

WARRANTS: The following warrants from the standard development regulations are required for this project (See **Warrant Application with applicant's justification for each request on pages 17-26 of this report.**):

WARRANT 1: Sec. 23-763 - Permitted uses. The T-6 district allows Automotive Service- Drive-Through Facility as a permitted use by warrant. The warrant request is to allow a drive-thru oil change facility on the subject property.

WARRANT 2: Sec. 23-792.B.2 - General parking standards. T5 and T6 only: The vehicular entrance of a parking lot or garage on a lot frontage shall be no wider than 30 feet and Section 23-793.A.3 states "Vehicular entrances to parking lots, garages, and parking structures shall be no wider than 24 feet at the frontage". The warrant request is to allow driveway entrance that is 37.93 feet face of curb to face of curb.

WARRANT 3: Sec. 23-771.C - Frontage Build out. Urban Core Zone (T6): 80% min. The warrant request is to allow a frontage build out of 62%.

WARRANT 4: Sec. 23-787.E.1 - Windows and doors. All Districts - Mixed use and commercial buildings design standards: Doors and windows that operate as sliders are prohibited along frontages. The warrant request is to allow the building to have roll up doors on the front of the building.

WARRANT 5: Sec. 23-787.D.2 - Façade treatment and building walls. Required transparency zone: In T4, T5, and T6 districts, no less than 60 percent of the principal frontage of the sidewalk-level story shall be made up of clear glass, including windows and doors.

a. **"Transparent" shall mean clear glass such that there are direct views to the building's interior extending a minimum of six feet behind the window during daylight hours. Reflective, highly tinted glass, faux windows or casement display windows are prohibited in meeting this requirement.**

The warrant request is to allow 37% of the sidewalk level story on the principal frontage to have clear glass and 45% to have glass (clear and spandrel).

WARRANT 6: Section 23-793.B - Cross-access connections: Cross-access easements and connections to adjoining properties shall be required to connect driveways and parking lots. The warrant request is to allow the site to develop without cross access and connections to adjacent property due to the property owners on all sides of the site unwillingness to allow connections to their properties and due to the limited amount of area on the site to provide required parking spaces, dumpster enclosures, and on-site vehicle circulation around the building for exit to Poplar Ave.

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

The Technical Advisory Committee (T.A.C.) met on February 15th and made the following comments:

STAFF COMMENTS:

A. PRIOR TO PRELIMINARY AND FINAL SITE PLAN APPROVAL

1. Provide the following information in the site data table:
 - a) Percentage of building transparency
 - b) Building height (# of storey) – (2 story min. required in T6 zone)
 - c) Percentage of Lot Coverage
 - d) Percentage of Blank Wall
2. Provide economic impact information, including estimated building value, sales tax generation and employment estimates.

B. PRIOR TO CONSTRUCTION PLAN APPROVAL

1. Sewer to lot/roadway ROW line 6" with cleanout.
2. The location of the dumpster borders residential. A restriction on the collection times should be placed on the site plan, for example: no collection prior to 7:00 am or after 7:00 pm.
3. Verify with ADA guidelines as to which side of the handicap parking space should the access aisle be located.
4. Coordinate with the City to relocate or remove the "Welcome to Germantown" sign presently on site.
5. The developer shall ensure that trees/landscaping on the western property line are preserved with the construction of the retaining wall.

C. GENERAL COMMENTS

1. After approval from the Planning Commission, the warrants shall proceed to the Board of Mayor and Aldermen for approval.
2. 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 BMA.

3. 0.5% of the development's threshold value shall be committed to public art, not to exceed \$200,000. (Section 23-797.A. of the Smart Code). A provision to this effect shall be included in the Development Contract.
4. If approved, all materials shall be specified on the construction plans for the proposed project. The applicant must receive Final Construction Plan approval from the Department of Community Development before the Memphis/Shelby County Office of Construction Code Enforcement may issue a building permit for the project.
5. 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.
6. 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.
7. The applicant is required to include the following formal written statement by a certified and licensed professional engineer to be placed on the grading and drainage plans, signed, dated and sealed:

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 shall provide the Department of Community Development with the name, address and phone number of person(s) to be contacted and responsible for correcting any of the above should the occasion arise to do so.

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

SMART CODE REVIEW COMMITTEE: (MIKE HARLESS, CHAIRMAN) The Smart Code Review Committee met on February 22, 2017 and recommended moving this item to be heard at the March 7, 2017 Planning Commission meeting, subject to the Committee's discussion, comments of staff and revisions presented by the applicant. Letters of recommendation from the DRC and ECD representatives are included in this report.

Planning Commission Minutes

March 7, 2017

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On Thursday, February 23, 2017 7:01 PM, Jerry Klein <jerry@kossmankleinco.com> wrote:

Planning Commission:

In the matter of the Take 5 Oil Change project, the Economic Development Commission is in favor of the project with the changes as proposed.

Jerry Klein

Economic Development Commission



CITY OF GERMANTOWN TENNESSEE

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

March 2, 2017

Mike Harless, Chairman
Germantown Planning Commission
City of Germantown
1930 South Germantown Road
Germantown, TN 38138-2815

RE: Case # 17-707
Take 5 Oil Change, 6525 W. Poplar Avenue
Request for Preliminary and Final Site Plan Approval

During our meeting on February 22, 2017 with the Planning Commission and the representatives for the Take 5 Oil Change project, the DRC Smart Growth Subcommittee concluded that the aforementioned project meets the requirements necessary to proceed in the approval process. The difficulty of this site presented some unique circumstances for the development of this project and we feel the representative team did a thorough job investigating the best use of the land. The fence to the east and south side of the property will provide a needed screen to the adjacent properties. The proposed plantings will also assist in the screening of the new building. The façade of the building is designed well within its intended use and will provide a nice addition to the poplar corridor.

Regards,

A handwritten signature in blue ink, appearing to read "Paul Bruns".

Paul Bruns, BLA MLA
Design Review Commission

Cc: Cameron Ross – Director of Economic and Community Development
Sheila Pounder - Planning Division Manager

Board Discussion:

Chairman Harless asked if there were any questions of staff.

Mr. Bacon asked is the western drive at Fogelman property in the City of Memphis?

Mr. Ross answered yes; the subject property doesn't have an existing drive, just an existing curb cut in the City of Germantown. Poplar Pines Lane is in the City of Memphis, and the western property line of the subject parcel is in the City of Memphis.

Mr. Bennett stated, I understand the drive (Poplar Pines Lane) next to this property is a private drive, so you would have to get approval from that property owner to allow access to that private drive. Serving on the Commission for many years, there have been several proposals for that site and they all have had the same issue, that the property owner to the west has not granted any other applicants, not just this one, access to the private drive. And that is the case here again, correct.

Mr. Ross answered yes, that is correct.

Mr. Bennett stated his second issue is in the staff comments on this, it talks about the time restriction on picking up the trash from the dumpster on the site 7:00 a.m. to 7:00 p.m. He would like to see that timeframe moved to 9:00 a.m. at the earliest. Is that possible? He would like to change the time due the dumpster's proximity to the condo. Does staff have any objection to that?

Mr. Ross answered that staff has no objection but will defer to the applicant to comment on how that works with their work flow model.

Chairman Harless noted whatever time they are picking up at the condos, it would make sense that they would pick up at this site also. Would whoever pickup at the condos be the same as whom pickup for commercial?

Mr. Ross answered that condos and commercial properties have to secure their own service. Correction, the condos are serviced by WastePro who is the City's contractor and the commercial would be serviced by whomever they contract with.

Mr. Hernandez asked if WastePro collects for the condos, what is the earliest they are permitted to collect. It might then make sense to coordinate the earliest time for this with that of the residential folks right next door.

Mr. Ross stated to Mr. Hernandez's point that the 7:00 a.m. to 7:00 p.m. staff comment was because those are the operating times for WastePro within the City of Germantown, per their contract guidelines.

Brian Salek at 414 Electra Drive, Houston, TX 77024, with Take 5 Oil Change stated he wants to work with the neighbors on the time of waste pick up, and doesn't see any problem with the time of 9:00 a.m.

Mr. Bacon asked is there a way the sliding doors could stay down?

Mr. Salek stated seasonally they do stay down; a lot of times in the colder weather the front doors are down, and they leave the back open. During the busier times, it would be difficult for the employees to open and close the doors that frequently.

Mr. Clark asked what are your working hours? What are the services that you offer?

Mr. Salek answered our working hours are Monday through Saturday 7:00 a.m. to 7:00 p.m., and on Sunday 9:00 a.m. to 5:00 p.m. We offer oil changes, topping off fluids, and small things like replacing windshield wipers, and air filters. The cars do not stay there overnight; the cars are not there any longer than 30 minutes. We are a very quiet operation; our loudest noise levels would be opening and closing of the doors and car hoods.

Alderman Owens stated you talked in the Planning Subcommittee meeting regarding your environmental impact, and I believe you said you were not going to have catch basins or anything that would divert the fluid into the sewer.

Mr. Salek stated they use a vacuum system, so you drive over a metal vent where the mechanic is in a three foot deep tub. He sits in that tub which does not have a drain; it is just a vacuum, which sucks the oil up. We do not have drains, so the water can't get in the sanitary system or your storm system.

Mr. Bennett asked is there going to be a new fence on the south and west side?

Mr. Salek answered we are proposing to replace the wooden fence on the eastern and southern lines at the property line. We will have a buffer line too of trees and bushes that grow fast and thick. They get 15 feet high.

Chairman Harless stated they have been trying to develop this property for some time. Can you talk a little bit about the difficulty of this property? I also understand that you volunteered to replace the Welcome to Germantown sign.

John Walker at 1774 Plantation Road, Germantown, TN 38138, stated the difficulty has been the access; we were planning on coming through recently to build a retail building and we wanted full access to the property, and TDOT would not allow that. Take 5 Oil Change said they could do right in and right out access, which is what TDOT requires. We tried multiple times to meet with the neighbors on the west side and they would not meet with us about getting access. The site is so small; it's a difficult site to develop. I didn't volunteer to replace the Welcome to Germantown sign, but Mr. Salek did.

Alderman Owens asked Mr. Ross to put up the landscape plan. Is there a sign to the west of it where the landscaping goes, is there room for the sign there? I also, appreciate you putting the sign back up.

Support:

None

Opposition:

Linda Bloom Kaplan at 7297 Neshoba Road, Germantown, TN 38138, stated she is the owner of one of the Fountain Square Condos at 1859 Poplar Woods Circle West. She read a letter against this project that's attached.

Chairman Harless stated the Commission has been very concerned about the traffic issue there, and that's why TDOT got involved, to see if they would accept access to the site. The owner of the property tried to go to Mr. Fogelman's property just to the west of Aaron Brenner Drive, so they could access out to the light. We all agree with you; the traffic is an issue, so the subject property will be developed with a right in, right out.

Joe Keohane at 8735 Cumbernauld Circle, Germantown, TN 38138, stated he owns property at Fountain Square Condos, but he is also the President of the Homeowners Association. I have a couple of questions for the developer, if I could. You talked about replacing the fence, are you replacing the fence with a similar fence? The second question is what type of lighting are you going to have there? How bright?

What are you doing to insure that the lighting does not impose on the residents at the condos? We have two and three stories building it would affect. The traffic is an issue for us too.

Mr. Salek answered yes; the fence will be replaced in the exact location.

Greg Marcom with The Reaves Firm, Inc. 6800 Poplar Avenue, Suite 101, Germantown, TN 38138, stated as required by the City, the spillover from the lights actually stops at the 40 foot setback line along Poplar Avenue. Basically, the condo building and the oil change building line up at the 40 foot setback line. There will be LED fixtures that point downward only that have 0 to 0.2 of light bleed at the property line.

Mr. Ross stated prior to the consideration of the warrants for a particular land use in Smart Code zoning, he wanted to clarify the purpose of warrants. In those instances where reasons are shown that would justify a deviation from the strict requirements of the provisions of the Smart Code, 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 Smart Code section of the zoning regulations: "In determining justifiable reasons for granting a warrant, the Planning Commission 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 accordance with the intent of the Smart Code, principles of good land use planning as 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 Planning Commission 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 Smart Code provisions."

Mr. Ross stated, I would also like to remind the Commission that the applicant did apply for a variance to the Tennessee Department of Transportation for full movement access at this drive curb cut, and they were denied that variance by TDOT. Tennessee Department of Transportation did insist on this right in, right out movement at this curb cut intersection.

Chairman Harless stated, we met as a subcommittee as Smart Growth two weeks ago, and include in the commission were representatives from the Economic Development Commission and the Design Review Commission. Both of these parties have submitted letters indicating they were supporting this project.

WARRANTS

PROPOSED WARRANT MOTION 1: To approve a warrant from Section 23-763, to allow a drive-thru oil change facility on the subject property.

Mr. Bacon moved to approve a warrant from Section 23-763, to allow a drive-thru oil change facility on the subject property, seconded by Mr. Saunders.

Chairman Harless asked for a roll call.

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

Mr. Bennett voted yes; this participant warrant is justified with the primary business environment around it and it's consistent with our Smart Code.

Mr. Clark voted yes; I am totally in favor of the warrant one, it is a unique property that we got there. I appreciate Ms. Kaplan coming forward and voicing her concerns. It was also my question to the developer, what type of changing place this was, tire or oil changing. With the limited access, I will be voting yes.

Alderman Owens voted yes; I think we have a bit of dilemma in that the property is zone for Smart Growth and we have an issue with the only available access to this property being Poplar Avenue. The developer has attempted to negotiate in good faith on multiple occasions with the owner of the property to the west to gain access to that light. We been told on numerous occasions that that was not available and nor will that happen. So the only access is onto Poplar Avenue. We also so know that the only access that will be allow through the Department of Transportation is a right in, right access; no full turning movement will be allowed. And so based on the fact that we have those restrictions, also based on the fact that we have a very small piece of property that is located on the far western edge of town, I think all these coupled together do present some peculiar hardships upon the owner; I think it is a practical difficulty and so with regards to the warrant, I would vote yes.

Mr. Hernandez voted yes; there are challenges on the site, and in large part it's due to limitations determined by TDOT and the use is consistent with the zoning and the Smart Code.

Mr. Bacon voted yes; this has been a very challenging piece of property for a number of years. The access has been a challenge. The whole issue with the highway department; getting in and out of the property without access to the west has been a challenge. It's interesting that all the warrants asked for post warrant 1, but 2, 3, 4, 5, and 6, are kind of waterfall warrants that are necessitated by the first warrant approving this use and this use is permitted so the City with Smart Growth did consider this as an acceptable use. It will be a great addition to the City. I think with the right in, right out it is interesting that the applicant is willing to accept that traffic issue.

Mr. Saunders voted yes; I echo all the comments from the members of the Planning Commission. I do understand the complexity of trying to design a project of this nature. I think the applicant has done admirable job of bringing this in to where it minimize all of the pit falls that might be with a project of this size. It also brings in the intend of what the smart growth was for and I would also like to echo that the design of the building is one that does not make it look like the usual oil change facility; it does bring it back into what we are looking for as far as the growth in Germantown.

Chairman Harless voted yes; I echo the other commissioners' comments. I would like to say that the use of this property and what it's going to be used for is a benefit to Germantown considering the alternatives they could have gone in there. This is probably the best use for this piece of property, especially since there are limitations on driveways. The applicant has made a very strong effort to meet our guidelines with Smart Growth and with what we are trying to do for the beautification of Germantown I would applaud them for that.

Chairman Harless announced that warrant number 1 is approved.

PROPOSED WARRANT MOTION 2: To approve a warrant from Section 23-792.B.2 & 23-793.A.3, to allow a driveway entrance that is 37.93 feet, face of curb to face of curb, to be located, as shown on the site plan.

Mr. Bacon moved to approve a warrant from Section 23-792.B.2 & 23-793.A.3, to allow a driveway entrance that is 37.93 feet, face of curb to face of curb, to be located, as shown on the site plan, seconded by Mr. Saunders.

Chairman Harless asked for a roll call.

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

Mr. Clark voted yes; for the reasons I stated before and with the requirements placed on this by TDOT, it kind of has to be done this way.

Mr. Bennett voted yes; for the reasons stated before and to requirements of TDOT to comply with the state request in this regard. I applaud the developer.

Aldermen Owens votes yes; as echoed by my fellow Planning Commissioners and base requirements TDOT has for right in, right out access out of this property, we are force to allow a wider entrance into this property.

Mr. Hernandez voted yes; for reasons previously stated.

Mr. Saunders voted yes; based on the previous comments made about the requirements by TDOT.

Mr. Bacon voted yes; predicated on TDOT requirements.

Chairman Harless voted yes; for the reasons stated.

Chairman Harless announced that warrant number 2 is approved.

PROPOSED WARRANT MOTION 3: To approve a warrant from Section 23-771.C, to allow a frontage build out of 70.65%, as shown on the site plan.

Mr. Bacon moved to approve a warrant from Section 23-771.C, to allow a frontage build out of 70.65%, as shown on the site plan, seconded by Mr. Hernandez.

Chairman Harless asked for a roll call.

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

Mr. Bennett voted yes; for all the prior reasons I previously stated before, they have done an excellent job with trying to get the minimum frontage build out that we asked for in light of the site conditions that have here with easements on both sides and the drive access, this is clearly a viable warrant.

Mr. Clark voted yes: to steal Commissioner Bacon term “water fall warrant” this kind of falls along with all of the others approved prior to this

Alderman Owens voted yes; based on the reasons previously stated with location, size of property, and access. I applaud the developer for actually increasing the frontage from 62% to 70% making this warrant almost negligible.

Chairman Harless voted yes; and for reasons stated.

Chairman Harless announced that motion 3 passed.

PROPOSED WARRANT MOTION 4: To approve a warrant from Section 23-787.E.1, to allow the building to have roll up doors on the front of the building, as shown on the site plan.

Mr. Bacon moved to approve a warrant from Section 23-787.E.1, to allow the building to have roll up doors on the front of the building, as shown on the site plan, seconded by Mr. Saunders.

Chairman Harless asked for a roll call.

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

Alderman Owens voted yes; by virtue of warrant number 1, I don't believe we can get around having these types rising and shutting doors; I do believe they have migrated this to the best of their ability. They have made this a very attractive building. This is certainly the most attractive oil change facility I have ever seen.

Mr. Bennett voted yes; for reasons already stated. Roll up doors on the front of the building are appropriate for an oil change facility and can also be appropriate for restaurants in a Smart Growth area.

Mr. Bacon voted yes; for reasons I previously stated.

Mr. Saunders voted yes; based on various statements that have already been made. Also, I agree with Mr. Bennett in regards to uses that may come before us for other types of services that may require some form of door other than what we have for normal retail operations.

Chairman Harless announced that motion 4 passed.

PROPOSED WARRANT MOTION 5: To approve a warrant from Section 23-787.D.2, to allow 37% of the sidewalk level story on the principal frontage to have clear glass and 45% to have glass (clear and spandrel), as shown on the site plan.

Mr. Bacon moved to approve a warrant from Section 23-787.D.2, to allow 37% of the sidewalk level story on the principal frontage to have clear glass and 45% to have glass (clear and spandrel), as shown on the site plan, seconded by Mr. Hernandez.

Chairman Harless asked for a roll call.

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

Mr. Clark voted yes; for the same reasons as stated before.

Mr. Bennett voted yes; for the same reasons that we previously mention. I think this particular use of an oil change facility would warrant this modification to use less glass.

Alderman Owens voted yes; for the reasons previously stated.

Mr. Hernandez voted yes; for the reasons stated earlier.

Mr. Saunders voted yes; for the reasons previously stated.

Mr. Bacon voted yes; for the reasons previously stated.

Chairman Harless announced that warrant 5 is approved.

PROPOSED WARRANT MOTION 6: To approve a warrant from Section number 23-793.B, to allow the proposed site plan without cross-access easements and connections to adjoining properties to connect driveways and parking lots.

Mr. Bacon moved to approve a warrant from Section number 23-793.B, to allow the proposed site plan without cross-access easements and connections to adjoining properties to connect driveways and parking lots, seconded by Mr. Clark.

Chairman Harless asked for a roll call.

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

Mr. Bacon voted yes; for reasons previously stated.

Mr. Saunders voted yes; based on the indication that cross-access is not desired or needed, therefore even though I think it is in line to have it.

Mr. Hernandez voted yes; given the fact that the adjoining property owner was unwilling to grant that access as a reasonable accommodation.

Mr. Clark voted yes; for same reason Mr. Hernandez just mention.

Mr. Bennett voted yes; for reasons previously discussed.

Alderman Owens voted yes; based on reasons previously stated by my fellow Commissioners.

Chairman Harless voted yes; for previously reasons commented on by the Commission.

Chairman Harless announced that warrant 6 is approved.

MAIN MOTION: To approve the preliminary and final site plan for Take 5 Oil Change located at 6525 Poplar Avenue, subject to the Commission’s discussion, staff comments as contained in the staff report, and documents and plans submit with the application.

Mr. Bacon moved to approve the preliminary and final site plan for Take 5 Oil Change located at 6525 Poplar Avenue, subject to the Commission’s discussion, staff comments as contained in the staff report, and documents and plans submit with the application, seconded by Mr. Hernandez.

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

Chairman Harless stated to Mr. Salek, welcome to Germantown. I think you and your team have done an excellent job of meeting the goals of the City of Germantown, and we are looking forward to seeing Take 5.

Response to Take 5 Oil Change Application:

While the Take 5 Oil Change plan has many redeeming qualities (mostly in the landscaping and the exterior appeal), there are still concerns, that would need to be addressed and questions to be answered, were I to be speaking on behalf of an oil changing business in this location. But, I am not for it.

1. Just the idea of an oil changing business this close to and in the middle of two residential areas is not in anyone's best interest. I am speaking of the condos that are contiguous to this property to the east and the apartments contiguous to the south. If this were a business like a nice cafe, a shoe shop, a spices shop, a computer services store or others similar to those on the parcel across the street on the southwest corner of Poplar Pines Dr., that would be acceptable.

2. Also, with the traffic congestion that is already present at this location, having a business with plans coming directly out onto Poplar does not make sense. This plan for Take 5 Oil is going to complicate traffic several times over by having the entrance and exit directly off Poplar. Particularly at rush hour, but also many times during the day, the back up on Poplar's traffic from the west is difficult and will be exacerbated, with those in the farthest right lane, going east, having to stop to allow those entering or exiting this business after having only just taken off from the lights at Poplar and Aaron Brenner/Poplar Pines Dr. And then, there is only a few feet to the western entrance of the Fountain Square Condos. There were good reasons

There is already enough congestion at the light of Aaron Brenner/Poplar Pines Dr. and Poplar. It is presently difficult enough to manage coordinating entering from the east on Poplar, into Fountain Square Condos using Poplar Woods Circle West, timing the crossing of traffic coming from the West on Poplar, or crossing of traffic turning east from the light on Aaron Brenner/Poplar Pines Dr.

It is even much more difficult trying to get into the turn lanes coming from Poplar Woods Circle West to go west onto Poplar, while negotiating traffic coming from the west on Poplar and/or Aaron Brenner/Poplar Pines Dr. and making one's way into traffic going west on Poplar.

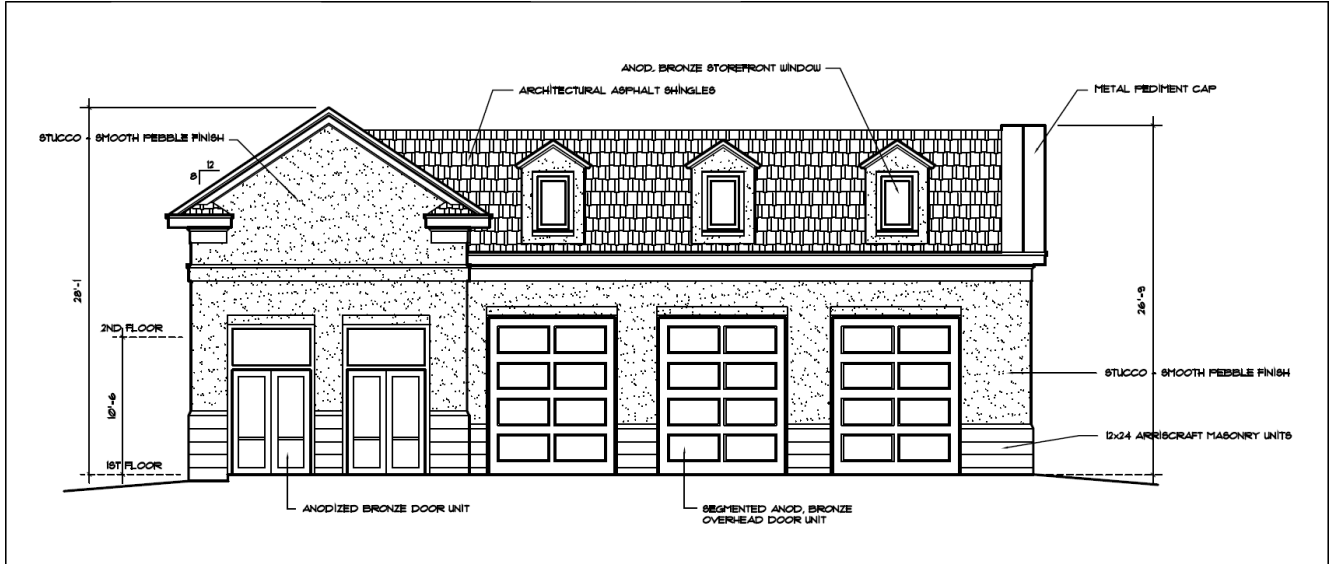
I am sure these must have been some of the same reasons that the shopping area across from this property and on the southwest side of Poplar and Poplar Pines Dr. has a drive out onto Poplar Pines Dr; and that the JCC across the street has closed their drive into and out of Poplar and opened the one on Aaron Brennan Dr.

Thank you for considering my objections to this application of Take 5 Oil Change.

Linda Bloom Kaplan
Owner, 1859 Poplar Woods Cl. West
901-482-6473



COPIES OF THE PLANS ARE ATTACHED TO THIS REPORT



1A NORTH (FRONT) ELEVATION

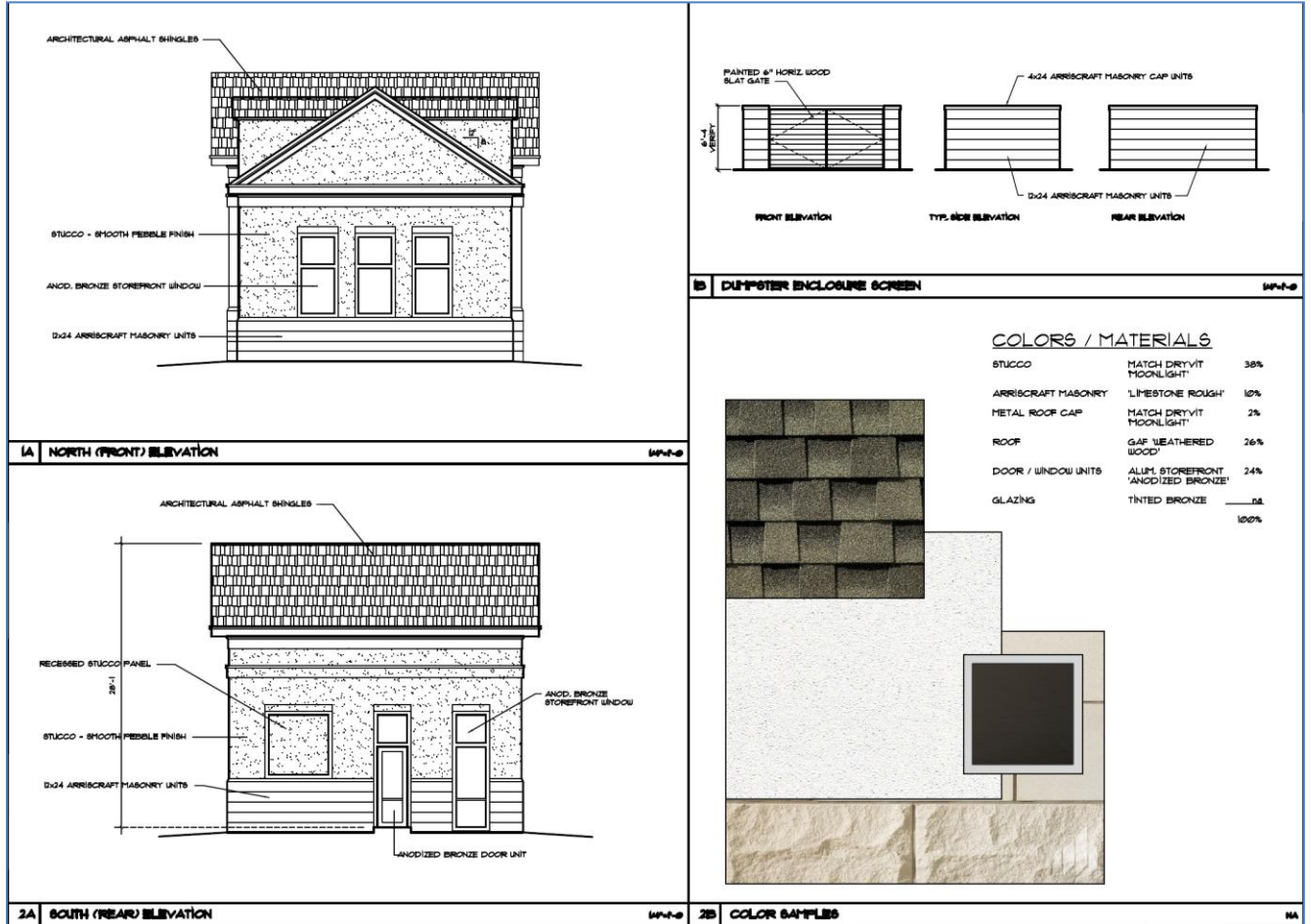
14P-1-8



2A SOUTH (REAR) ELEVATION

14P-1-8

COPIES OF THE PLANS ARE ATTACHED TO THIS REPORT





**CITY OF
 GERMANTOWN
 TENNESSEE**

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

DATE RECEIVED: _____
 RECEIVED BY: _____

**PLANNING COMMISSION
 OFFICIAL APPLICATION FORM**

TYPE OF APPLICATION	
(Check <input checked="" type="checkbox"/> all that apply): <input type="checkbox"/> Sketch Plan; <input checked="" 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 <input checked="" type="checkbox"/> NO (Please note - if yes, than follow Smart Code Application Instructions to complete this form for submittal)	
PLANNED USE DEVELOPMENT'S (PUD) ONLY: <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>Take 5 Oil Change</u> Address/Location: <u>6525 Poplar Avenue</u> Project Description: <u>Proposed 2 story Oil Change facility located at the S.E. corner of Poplar Ave. and Poplar Pines Dr.</u> No. of Acres: <u>0.376 acres</u> Parcel Identification Number(s): <u>G02219D-A00001</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>John Walker et al.</u> Address: <u>1774 Plantation Road - Germantown, TN 38138</u> Phone No.: <u>901-766-1855</u> Email Address: <u>JBW@walkercommercialproperties.com</u> Signature of Owner:	
Lessee Name (Print): <u>Take 5 Oil Change</u> Address: <u>2450 Severn Ave. Suite 308 - Metairie, LA 70001</u> Phone No.: <u>504-837-0670</u> Email Address: <u>graham@take5oilchange.com (Graham Brown)</u> Signature of Lessee:	
Developer Name (Print): <u>Brian Salek</u> Address: <u>414 Electra Drive - Houston, TX 77024</u> Phone No.: <u>713-806-2819</u> Email Address: <u>BrianSalek@yahoo.com</u> Signature of Developer:	
PLEASE ATTACH A COPY OF THE DEED REFLECTING OWNERSHIP OF THE SUBJECT REAL PROPERTY	

AGENT/REPRESENTATIVE INFORMATION	
Name: <u>Brian Salek</u>	Title: <u>Developer - Proposed Land Owner</u>
Company Name: <u>Edry, Inc.</u>	Address: <u>414 Electra Drive - Houston, TX 77024</u>
Phone No.: <u>713-806-2819</u>	Email Address: <u>BrianSalek@yahoo.com</u>
Who will represent this proposal at the Planning Commission meeting? <u>Brian Salek & Reaves Firm</u>	
ENGINEER/SURVEYOR INFORMATION	
Engineer Name: <u>The Reaves Firm, Inc.</u>	Address: <u>6800 Poplar Ave., Suite 101</u>
Phone No. <u>901-761-2016</u>	Email Address: <u>GBartlett@ReavesFirm.com</u>
Surveyor Name: <u>Same</u>	Address: _____
Phone No.: _____	Email Address: <u>GMarcom@ReavesFirm.com</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 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, RE.LT., 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: John B Walker
Address: 1774 Plantation Road, G'Town, TN 38138
Owner: John B Walker
Address: _____
Lessee: none
Address: _____
Developer: John B. Walker
Address: _____

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

Name	Business or Home Address
<u>John B Walker</u>	<u>1774 Plantation Road, G'Town, TN 38138</u>
<u>Danny Buring</u>	<u>5101 Wheelis Drive, # 106 Memphis, TN 38117</u>
<u>Frank Ullhorn</u>	<u>8559 Dayward Road, G'Town, TN 38139</u>
<u>Stan Graber</u>	<u>4646 Poplar Av Memphis, TN 38117</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 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, RE.LT., 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: _____
Address: _____

Owner: _____
Address: _____

Lessee: TAKE 5 OIL CHANGE
Address: 2450 SEVERN AVE., SUITE 303, METairie, LA 70001

BUYER + Developer: BRIAN SALEK
Address: 414 ELECTRA DR., HOUSTON, TX 77024

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

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



**CITY OF
 GERMANTOWN
 TENNESSEE**

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

DATE RECEIVED: _____
 RECEIVED BY: _____

**SMART CODE WARRANT APPLICATION
 (TO BE SUBMITTED WITH THE PLANNING COMMISSION APPLICATION)**

PROJECT INFORMATION	
Project Name:	<u>Take 5 Oil Change</u>
Address:	<u>6525 Poplar Avenue</u>
Project Description:	<u>0.376 acre parcel - S.E. corner of Poplar Ave. and Poplar Pines Drive</u>
No. of Acres:	<u>0.376 acres</u> Parcel Identification Number(s): <u>G02219D-A00001</u> Zoning District <u>T-6</u>
APPLICANT/OWNER/LESSEE/DEVELOPER INFORMATION	
Applicant Name (Print):	<u>Brian Salek</u> Address: <u>414 Electra Drive - Houston, TX 77024</u>
Phone No.:	<u>713-806-2819</u> Email Address: <u>BrianSalek@Yahoo.com</u>
Signature of Applicant:	<u>[Signature]</u>
Owner Name (Print):	<u>John Walker et al</u> Address: <u>1774 Plantation Road - Germantown, TN 38138</u>
Phone No.:	<u>901-766-1855</u> Email Address: <u>jbw@walkercommercialproperties.com</u>
Signature of Owner:	<u>[Signature]</u>
Lessee Name (Print):	<u>Take 5 Oil Change</u> Address: <u>2450 Severn Ave., Suite 308 - Metairie, LA 70001</u>
Phone No.:	<u>504-837-0670</u> Email Address: <u>graham@take5oilchange.com (Graham Brown)</u>
Signature of Lessee:	<u>[Signature]</u>
Developer Name (Print):	<u>Brian Salek</u> Address: <u>414 Electra Drive - Houston, TX 77024</u>
Phone No.:	<u>713-806-2819</u> Email Address: <u>BrianSalek@Yahoo.com</u>
Signature of Developer:	<u>[Signature]</u>
AGENT/REPRESENTATIVE INFORMATION	
Name:	<u>Greg Bartlett/Greg Marcom</u> Company Name: <u>The Reaves Firm, Inc.</u>
Address:	<u>6800 Poplar Avenue, Suite 101</u> Phone No.: <u>901-761-2016</u>
Fax No.:	<u>901-763-2847</u> Email Address: <u>GMarcom@ReavesFirm.com</u>
Who will represent this proposal at the Planning Commission meeting? <u>Brian Salek & Reaves Firm</u>	

WARRANT REQUEST(S)

WARRANT #1

Section 23-745, A warrant is an official decision that permits a practice that is not consistent with a specific provision(s) of the Code, but is justified by its intent (Sec. 23-741) and is consistent with the adopted small area plan applicable to that location.

Section of Smart Code from which the deviation is sought: 23-763 - Permitted Uses

Request Warrant to allow Automotive Service - Drive-thru oil change facility

Justification of Intent (provide additional information as necessary to make the case): _____

Provides quick automobile service on west side of town. Very small site which restricts uses.

Generates sales tax revenue as opposed to a small office use which was originally proposed

Access to site is very limited and controlled

TDOT to only allow right in/right out curb cut which is acceptable to this user.

Does not create impact on traffic at peak rush hour times.

WARRANT REQUEST

WARRANT #2

Section 23-745, A warrant is an official decision that permits a practice that is not consistent with a specific provision(s) of the Code, but is justified by its intent (Sec. 23-741) and is consistent with the adopted small area plan applicable to that location.

Section of Smart Code from which the deviation is sought: 23-792 B2 - The vehicular entrance of parking lot or garage on a lot frontage shall be no wider than 30 feet in the T-5 and T-6.

Section 23-793(a)(3) - Driveway widths: vehicular entrances to parking lots, garages, and parking structures shall be no wider than 24 feet at the frontage

Justification of Intent (provide additional information as necessary to make the case): _____

TDOT has denied a full service curb cut for this property and is mandating a right in right out driveway with a

raised concrete median. See attached letter from TDOT dated September 15, 2016. Also attached is the

Section 5 of the TDOT manual for Construction Driveway Entrances which indicates that all portions of a driveway,

including radii, shall lie within the frontage boundary lines. The curb radius of a commercial drive in an urban area

is 20 feet therefore the drive must be 20 feet from the property line.

At the property line the face of curb to face of curb distance of the curb cut is 37.93'

WARRANT REQUEST(S)
<p><u>WARRANT #1</u> WARRANT #3</p> <p>Section 23-745, A warrant is an official decision that permits a practice that is not consistent with a specific provision(s) of the Code, but is justified by its intent (Sec. 23-741) and is consistent with the adopted small area plan applicable to that location.</p> <p>Section of Smart Code from which the deviation is sought: <u>23-771 - Frontage Buildout (80% min)</u></p> <p style="text-align: right;"><u>Very small site which restricts uses.</u></p> <p>Justification of Intent (provide additional information as necessary to make the case): <u>The building is 64.33 feet wide.</u> <u>The site is 125.52 feet wide at the front or North property line and 116.85 feet wide at the 40' max. setback line.</u> <u>There is a 5 foot utility easement required on the east property line and an 8 foot utility easement required along the west property line for an overhead pole line. This narrows the buildable frontage at the setback to 103.66 feet, creating a buildout of 62%. There is a driveway along the east property line to serve the parking lot in the Third Lot Layer. Due to the site being very narrow in width and having only one point of access along Poplar Avenue, the 80% frontage buildout is not attainable. See attached sketch showing site dimensions.</u></p>
WARRANT REQUEST
<p><u>WARRANT #2</u> WARRANT #4</p> <p>Section 23-745, A warrant is an official decision that permits a practice that is not consistent with a specific provision(s) of the Code, but is justified by its intent (Sec. 23-741) and is consistent with the adopted small area plan applicable to that location.</p> <p>Section of Smart Code from which the deviation is sought: <u>23-787 E. - Windows and Doors</u> <u>Doors and Windows that operate as sliders are prohibited along Frontages</u></p> <p>Justification of Intent (provide additional information as necessary to make the case): _____ <u>This is a drive-thru oil change facility. Patrons of the business enter the building through roll up doors in the rear of the building, have their vehicle serviced and exit the building through the front. Typically there will be other vehicles queuing in the rear of the building preventing the vehicle in the service bay from backing out.</u> <u>This is typical of this type of oil change service facility.</u></p>

PLEASE NOTE: If more than 1 warrant is being requested, please complete this page and attach to the application. If more than 2 warrants are being requested, please make copies of this page, provide the information requested and attach the pages to the back of the application.

WARRANT REQUEST(S)
<p><u>WARRANT #1</u> WARRANT #5</p> <p>Section 23-745, A warrant is an official decision that permits a practice that is not consistent with a specific provision(s) of the Code, but is justified by its intent (Sec. 23-741) and is consistent with the adopted small area plan applicable to that location.</p> <p>Section of Smart Code from which the deviation is sought: <u>23-787 D2 - Required Transparency Zone</u></p> <p><u>In T6, no less than 60% of the Principal Frontage of the sidewalk level story shall be made of of clear glass,</u> <u>including windows and doors.</u></p> <p>Justification of Intent (provide additional information as necessary to make the case): _____</p> <p><u>37% of the sidewalk level on the principal frontage is clear glass.</u></p> <p><u>45% of the sidewalk level on the principal frontage is glass (clear and spandrel)</u></p> <p><u>The proposed use for the site is an Oil Change Facility. This is not a typical retail building where store front glass would be important, such as Apple or a clothing/retail store. How much clear glass is really desired looking into the service bay of an Oil Change Facility?</u></p>
WARRANT REQUEST
<p><u>WARRANT #2</u> WARRANT #6</p> <p>Section 23-745, A warrant is an official decision that permits a practice that is not consistent with a specific provision(s) of the Code, but is justified by its intent (Sec. 23-741) and is consistent with the adopted small area plan applicable to that location.</p> <p>Section of Smart Code from which the deviation is sought: <u>Section 23-793(b) - Cross Access Connections.</u></p> <p>Justification of Intent (provide additional information as necessary to make the case): _____</p> <p><u>West Property Line - this is the Memphis/Germantown City Limit line. Adjoiner on the west has repeatedly denied access to the drive serving the retail center and Poplar Pines Apartments.</u></p> <p><u>East Property Line - no driveways to tie into on the east property line. There is a building to the east making a possible connection impossible.</u></p> <p><u>South Property Line - Dumpster enclosure and required parking for the site leave no room for connection. Very narrow site (93.05' at rear property line). Not desirable to connect a commercial development to a residential area.</u></p> <p><u>Required screen fencing along south and east property lines make connection to condo's difficult.</u></p>

CITY OF GERMANTOWN

SMART CODE WARRANT APPLICATION CHECKLIST

Completed by applicant as of date of submittal		Completed by staff as of date of completeness review	
Completed	Required Items	Staff Verification	Staff Comments:
	<input checked="" type="checkbox"/>		A pre-development meeting with staff is required
<input checked="" type="checkbox"/>	A completed application for a warrant and required fees		
<input checked="" type="checkbox"/>	A site plan illustrating the Warrant request		
<input checked="" type="checkbox"/>	Documentation of authorization to represent the property owner, if applicant is not the owner		
<input checked="" type="checkbox"/>	CD of the application and all supporting documents, in .jpg and PDF format.		
<input checked="" type="checkbox"/>	Application Fee \$150 per warrant request		

Please Note: The signature of owner authorizes City of Germantown staff to visit and inspect the property for which this application is being submitted. The signature also indicates that the applicant or his agent has reviewed the requirements of this checklist and all items on this checklist have been addressed and complied with. The agent is the official contact person for this project and the single point of contact. All correspondence and communication will be conducted with the agent. If no agent is listed, the owner will be considered the agent.

(Check One):
 I, the owner, will represent this application with the City of Germantown.
 I, the owner, hereby authorize the person named below to act as my agent in processing this application with the City of Germantown.

I certify that the information in this application is complete and accurate. I understand that I or a representative should be present at all meetings concerning this application.

I am the property owner of record or developer ; or I am the agent authorized to represent the owner in this application (provide documentation of owner's authorization with this application)

Signature: *[Signature]* WESLEY BARTLETT, P.E. Date: _____

February 3, 2017

City of Germantown
Economic and Community Development
1920 South Germantown Road
Germantown, TN 38138

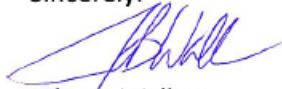
Re: Take 5 Oil Change Submittal – 6525 Poplar Avenue

To whom it may concern:

I, John Walker, managing partner of the ownership group for the property located at 6525 Poplar Avenue, do hereby authorize Brian Salek (future owner and developer of the site) and representatives of the Reaves Firm, Inc. to act as my agent in processing the Preliminary and Final Site Plan Application and Warrant requests for the Take 5 Oil Change development proposed on this site.

Thank you for your thoughtful consideration of this project. Please let me know if you have any questions.

Sincerely,



John B. Walker



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
TRAFFIC OPERATIONS DIVISION
SUITE 1200, JAMES K. POLK BUILDING
605 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 263-1122

JOHN C. SCHROER
COMMISSIONER

BILL HASLAM
GOVERNOR

September 15, 2016

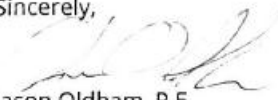
Scott Pate
Regional Traffic Engineer
300 Benchmark Pl.
Jackson, TN 38305

**RE: Walker Commercial Properties - Exception to Radius, Corner Clearance,
and Edge Clearance criteria (Not previously requested)
6525 Poplar Ave.
Germantown, TN
Region 4**

Dear Mr. Pate:

TDOT's Driveway Exceptions Panel voted to deny all requested exceptions and one unrequested exception (Edge Clearance) to Tennessee's new driveway regulations pertaining to the proposed full service driveway. According to state law reasonable access to property must be granted and therefore this panel has agreed to allow one right-in/right-out driveway with a raised concrete island whose design and construction satisfies TDOT Region 4 Traffic Engineer's professional judgement since the proposed full service drive fails to meet multiple driveway criteria established for the safe and efficient movement of vehicles on the state highway system. The raised concrete island must be maintained by the property owner.

Sincerely,


Jason Oldham, P.E.
State Traffic Engineer
Traffic Operations Division

C: File

5 – Access Design

5.1 Control Dimensions

Driveways shall be designed to adequately handle the anticipated volume and type of traffic generated. Design shall be governed by the largest vehicle expected to regularly use the entrance. See Figures A.2 through A.9 in Appendix A for example drawings illustrating the control dimensions listed below.

5.1.1 Edge Clearance (E):

All portions of a driveway, including radii, shall lie within the frontage boundary lines. At no time shall the edge clearance be less than the radius of curvature for the junction of the driveway and the edge of pavement. (see “Radius of Curvature” below)

Minimum Edge Clearances:

Rural:

Residential – 10 ft.

Commercial – 20 ft. (larger minimum edge clearance may be required if design vehicle is a single-unit truck or tractor trailer)

Urban:

Residential – 5 ft.

Commercial – 20 ft. (larger minimum edge clearance may be required if design vehicle is a single-unit truck or tractor trailer)

Note: when a single-unit truck or tractor trailer is used as the design vehicle, the minimum required edge clearance shall be equal to the required driveway radius (see “Radius of Curvature” below).

5.1.2 Driveway Angle (Y) (Rural and Urban):

Driveway angles shall be as follows:

Driveways for two-way operation

90° to the centerline of the roadway.

Driveways for one-way operation

1. Driveways used by vehicles turning from both directions on the highway shall be the same as for two-way operation: 90° to the centerline of the roadway.

2. Driveways used by vehicles traveling in one direction on the highway (right-in, right-out only): 60° to the centerline of roadway preferred; may be reduced to 45° (with the approval of the Department).



From the Desk of:
Greg Marcom
Direct Dial: 901.821.4973
E-Mail: GMarcom@ReavesFirm.com

Note Regarding Warrant #3

Upon further review and understanding of Section 23-778-B, it is our belief that Warrant #3 is no longer necessary as we have explained and calculated below and shown on the attached exhibit:

Frontage Buildout Definition:

Facades shall extend along a minimum percentage (80% in T-6) of the frontage width at the setback. The width of a driveway provided at the frontage shall be exempt from this requirement.

It is also our contention that the required utility easements along the side property lines also be excluded from this calculation since those are non-buildable areas.

Total site width at 40' Max. Building Setback:	116.91'
Driveway width at 40' Setback	25.86'
8 foot utility easement on west property line:	8.00'
5 foot utility easement on east property line:	<u>5.00'</u>
Area available for building:	78.05'

80% of 78.05' = 62.44 feet
Total building width = 64.33 feet (82% frontage buildout)

It is our contention that Warrant #3 is no longer necessary. Please provide us with your opinion on this matter.

Sincerely,



Greg Marcom
The Reaves Firm, Inc.

2/9/2017 12:56 PM
GAM C:\D-Drive\2016\16-0191 Take 5 Oil Change\PC Submittal 20170209\Note Regarding Warrant 3.docx
Page 1 of 1

6800 Poplar Avenue, Suite 101 • Memphis, TN 38138
901.761.2016 • Fax: 901.763.2847
www.ReavesFirm.com

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

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

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

ADJOURNMENT: The meeting adjourned at 7:05 p.m.