

STAFF REPORT

#4

MAJOR MODIFICATION

**CASE NUMBER:** PD 99-330                      **L.U.C.B. MEETING:** 01/08/15  
**DEVELOPMENT NAME:** Morning Woods Planned Development, Parcel 1  
**LOCATION:** Southeast corner of US Highway 64 and Davies Plantation Road  
**APPLICANT:** Lightman 64 Co. L.P.  
**REPRESENTATIVE:** The Reaves Firm  
**REQUESTS:** (1) Revised Conceptual Site Plan for Parcel 1 that incorporates a site plan for Outparcel 1 and 2 where previously not included with the Original Conceptual Site Plan; (2) Permit a parapet height of 56 feet including a cinema sign at the front (north elevation) of s proposed movie theater including a cinema sign; (3) Modify/delete various Outline Plan Conditions pertaining to Access, Parking, and Circulation  
**AREA:** 18.74 acres

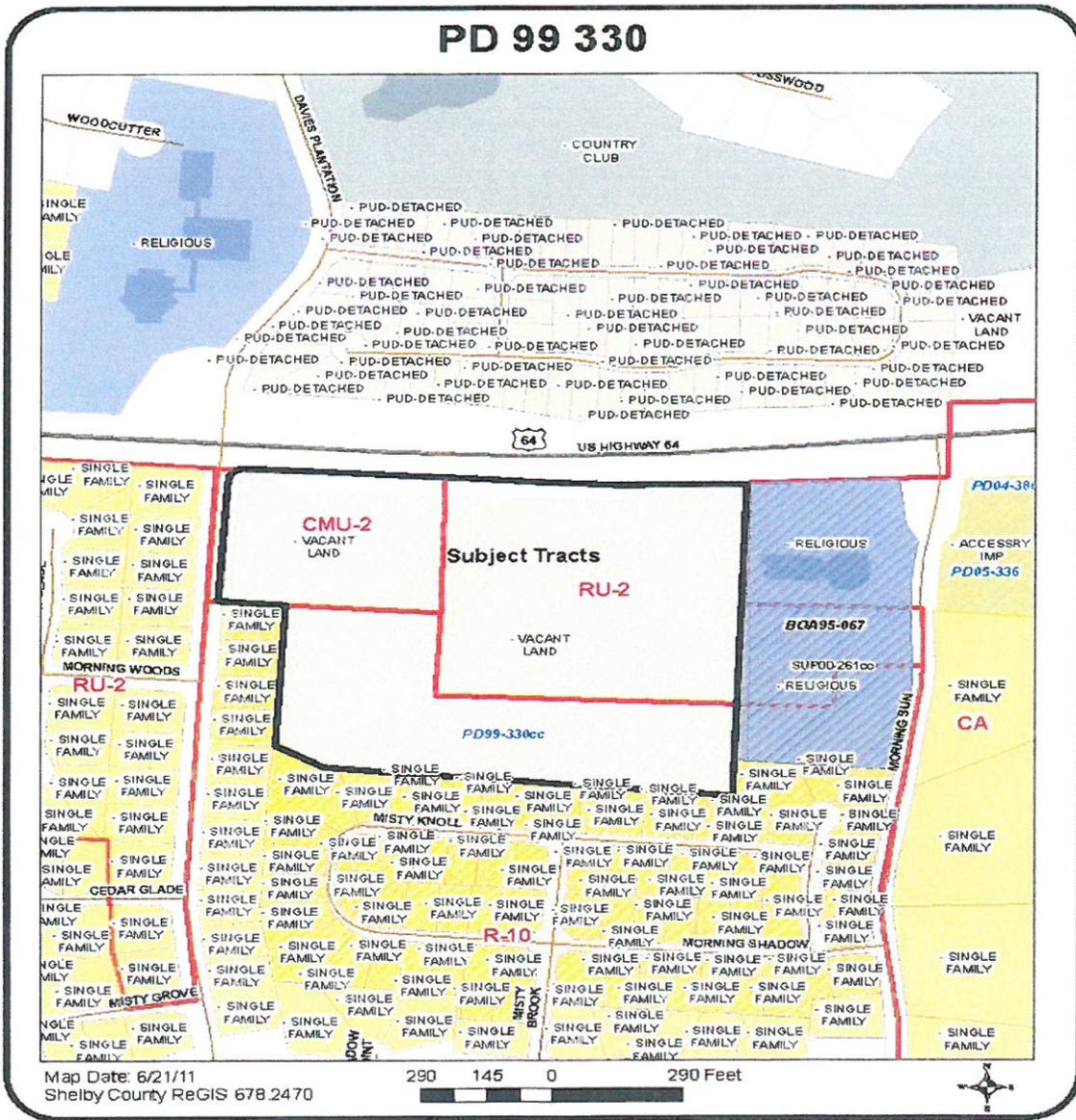
**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATIONS:**

*Approval of all three requests*

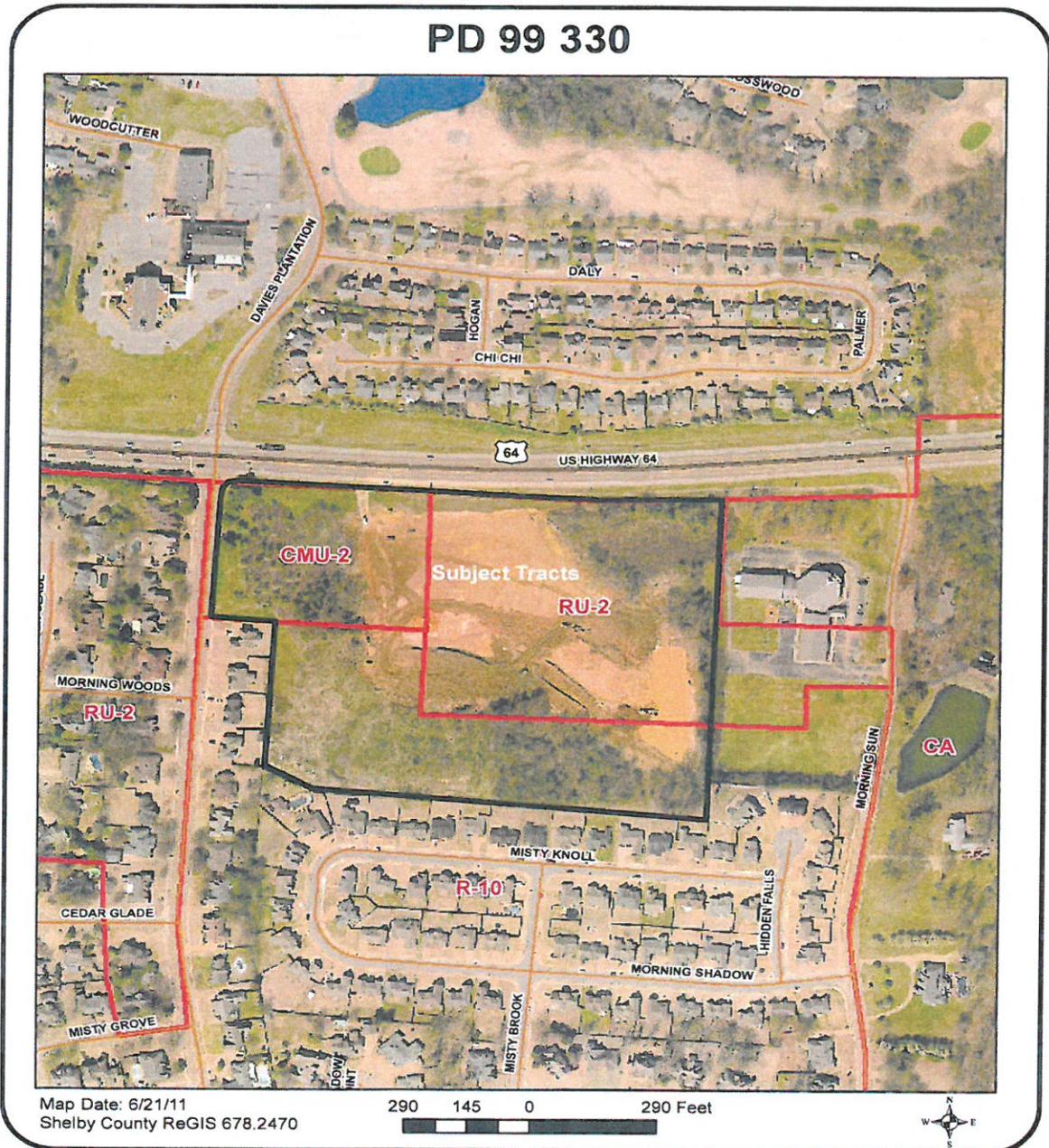
**CONCLUSIONS**

1. The revised Conceptual Site Plan is actually smaller in total floor area compared to the currently-approved Conceptual Site Plan (109,485 square feet vs. 139,300 square feet). The landscaping buffer 25 feet wide is being maintained to the single-family homes to the south. While Outparcel 1 of the current Conceptual Site Plan is now illustrating a restaurant and retail space, the applicant will be required to return to the Land Use Control Board to have more specific details approved including building elevations.
2. The increase in building height only applies to the parapet that stretches across the front of the proposed movie theater. This area is approximately 235 feet north of the rear lot lines of the single-family homes that abut the movie theater site to the south.
3. The modification/deletion of the various Outline Plan Conditions pertaining to Access, Parking, and Circulation are supported by the City Engineering Office.

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Zoning and Land Use Map



Aerial Photo with Existing Zoning

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**OWNERS CERTIFICATE**

We, Michael Lightman (unassigned owners) of the property shown, hereby accept this plan as a final plan of development and dedicate the streets, easements, and grant the easements as shown and/or described to public use forever. We certify that I am one of the owners of the said property in fee simple, duly authorized to act, and that said property is not encumbered by any taxes which have become due and payable.

Michael Lightman  
 Signature

**NOTARY'S CERTIFICATE**

State of Tennessee  
 County of Shelby

Before me, the undersigned, a Notary Public in and for the said State and County of Memphis, duly commissioned and qualified, personally appeared Michael Lightman with whom I am personally acquainted, and who upon his (their) oath acknowledged (themselves) to be owner of the Morning Woods PD of the within named burglar, and that he (she) executed the foregoing instrument for the purpose therein contained. In witness whereof, I have hereunto set my hand and affixed my notarial seal at my office in Memphis, this 05 day of April, 2015.

Notary Public: Michelle Colleen Mel  
 My Commission Expires NOVEMBER 17 2016

**ENGINEERS CERTIFICATE**

It is hereby certified that this plan is true and correct, is in accordance with the design requirements of the Zoning Ordinance, the Subdivision Regulations and the specific conditions imposed on this plan, and that the undersigned will support all applicable federal, state and local building laws and codes.

By: [Signature] Date: 4/23/15  
 Tennessee State Engineer 993756

**P.D. 99-330**  
**LUZC Site Plan Conditions:**

- All landscape, lighting, signs and building elevation plans shall be incorporated into the final plan of development subject to review and approval by the Office of Planning & Development.
- All lighting shall be directed so as not to glare into any residential property.
- A Site Plan shall be submitted and approved by the Land Use Control Board prior to final plan approval of any new development for each out parcel in Parcel One with public notice given to adjacent property owners, including neighborhood associations and subject to an appeal to the legislative body.

**And Modify Conditions**

II. A. 2. as follows:

- A maximum building height of forty(40) feet for any retail building and a maximum of twenty-five(25) feet for any office building.

**and Condition**

V. A. 1. to read as follows:

- A maximum of three(3) detached signs shall be permitted for the retail commercial to allow each outparcel one(1) detached monument style sign ten(10) feet in height in maximum of 100 square feet in area and one(1) integrated center sign thirty-five(35) feet in height in maximum of 400 square feet in area. No obnoxious copy signs shall be allowed for any permitted establishment.

**OFFICE OF PLANNING AND DEVELOPMENT CERTIFICATE**

This outline plan is being re-recorded in compliance with PD 99-330, voted on by the Land Use Control Board on July 14, 2011.

By: [Signature] Date: 7/13  
 Director of Planning and Development

**THE LEAVES FIRM**  
 1100 Ridge Road, Memphis, TN 38120  
 901.261.2024 Fax: 901.763.8847  
 www.LeavesFirm.com

**THE REAVES FIRM**  
 Planning  
 Engineering  
 Landscape Architecture  
 Land Surveying  
 1000 Ridge Road, Memphis, TN 38120  
 901.261.2024 Fax: 901.763.8847  
 www.ReavesFirm.com

**CONCEPTUAL SITE PLAN**

U.S. HIGHWAY 64

DAVIES PLANTATION

ANCHOR 139,300 SQ. FT. (200X)

100% RETAIL SPACE PROVIDED  
 139,300 SQ. FT. (200X)  
 100% OFFICE SPACE PROVIDED  
 139,300 SQ. FT. (200X)  
 748 TOTAL PARKING SPACES PROVIDED  
 (54 / 1000 SQ. FT. RATIO)

RESERVED FOR STORAGE DECK AND LOT

GRAPHIC SCALE IN FEET  
 SCALE: 1"=100'

SHSLEY COUNTY, TENNESSEE  
 100 YEAR FLOOD ELEVATION: 41A

**MORNING WOODS P.D.**  
 DISTRICT 2, BLOCK C3, PARCEL 1B

THIS PROPERTY IS NOT LOCATED IN THE 100-YEAR FLOOD PLAN FIRM COMBUNITY PANEL No. 410014 DSS-E, ZONE "X", EFFECTIVE DATE 12-2-94

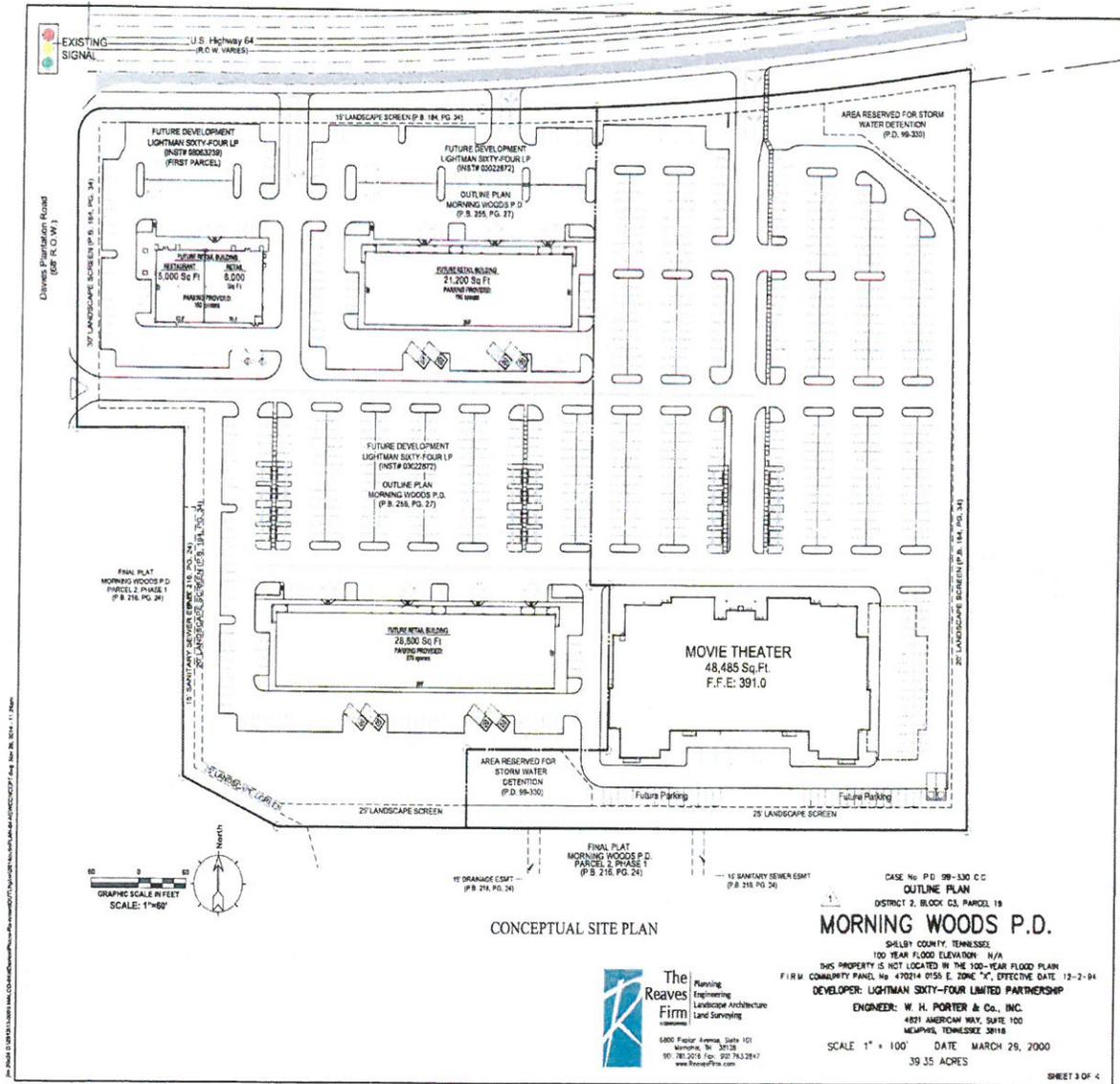
DEVELOPER: LIGHTMAN SIXTY-FOUR LIMITED PARTNERSHIP  
 ENGINEER: W. H. PORTER & CO., INC.  
 4825 AMERICAN HWY, SUITE 100  
 MEMPHIS, TENNESSEE 38116

SCALE 1" = 100' DATE MARCH 29, 2000  
 .3935 ACRES

SHEET 3 OF 3

This is the Conceptual Site Plan currently recorded on the Morning Woods Outline Plan that illustrates buildings comprising 139,300 square feet of floor area.

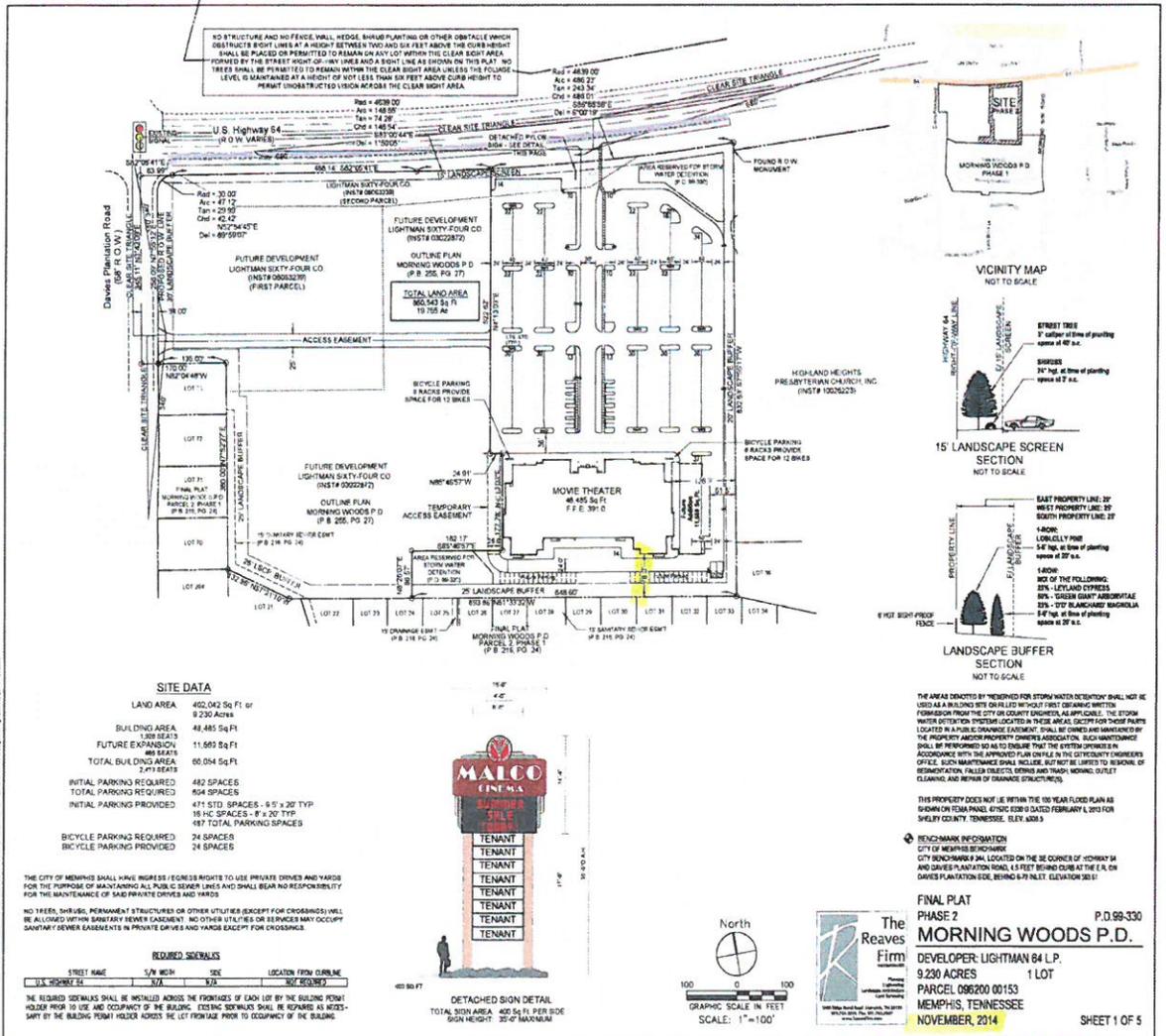
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**Proposed Conceptual Site Plan. The plan consists of a total of 109,485 square feet of floor area.**



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The Final Plat would be revised to add a larger movie theater (48,485 square feet) with a building setback of 78 feet from the south line of Outline Plan Parcel 1.

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**The proposed front building elevation of the movie theater is 56 feet at its highest point and approximately 235 feet north of of the residents to the south.**

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November 26, 2014

Mr. Josh Whitehead, AICP  
Planning Director/Administrator  
Memphis & Shelby County  
Office of Planning & Development  
City Hall, 125 N. Main St., Ste. 468  
Memphis, TN 38103

**RE: Morning Woods P.D.  
Case No. P.D. 99-0330 CC**

Dear Josh:

On behalf of Lightman 64 Co. L.P., we respectfully request modifications to the existing Morning Woods P.D. Outline Plan.

The requested modifications include the following revisions to the existing Outline Plan conditions:

II. Bulk Regulations –

A. Parcel One: The bulk regulations of the Planned Commercial (C-P) District shall apply, however a maximum F.A.R. of .25 with the following exception:

1. ***A maximum building height of 56 feet will be allowed for the parapet and cinema sign on the north elevation of the theater building. The north elevation is the portion of the building closest to Highway 64. The rear building height will remain 40 feet or less per existing outline conditions. The rear building elevation is the portion of the building closest to the residential area. The maximum height for the retail buildings shall be 40 feet. The maximum height for an office building will be 25 feet.***

III. Access Parking and Circulation

- A. ***Improve U.S. Hwy 64 with one additional paved lane, shoulder and a side ditch consistent with the requirements of the Unified Development Code and the City Engineer.***
- C. ***Delete in its entirety – A detailed traffic signal warrant study shall be completed for the focal drive connection to U.S. Highway 64.***

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- D. Delete in its entirety** – *The four lane focal drive should be terminated at the south edge of the commercial development. All access to the commercial development should be via this drive.*
- G. Delete in its entirety** – *Convey control of access along Davies Plantation Road and Morning Sun Road to Shelby County.*
- H. Delete in its entirety** – *This development gains access from a rural county road that may contain existing safety conditions that will be exaggerated by this development. Any and all roadway construction including, but not limited to, realignment, additional paving or lowering of the roadway required to correct such problems as inadequate radii, sight distance, or width (minimum 12 feet from centerline) will be borne by the developer to the satisfaction of the County Engineer.*

In addition, the concept plan is being revised to modify the arrangement of buildings within the property to be consistent with the Owner's current concept of the development for the balance of the property.

We appreciate the opportunity to submit this application and look forward to working with you and your staff on the approval of this Major Modification application.

Sincerely,



Harvey C. Marcom, P.E.  
President  
Enc

Cc: Michael Lightman  
David Tashie  
Brian Bacchus

## **STAFF ANALYSIS**

**Request 1 (Revised Conceptual Site Plan for Outline Plan Parcel 1)** – The currently-recorded Conceptual Site Plan is illustrated on Page 4 of this staff report. Consisting of a total of 139,300 square feet of floor area, this plan envisioned a grocery store as the anchor tenant. Two outparcels are shown on the Conceptual Site Plan devoid of a site plan.

Page 5 of this staff report contains an illustration of the revised Conceptual Site Plan proposed for approval. Gone is the anchor tenant in favor of a multi-screen movie theater. The total floor area of the development is 109,485 square feet or a 22% reduction of floor area. With a total of 18.74 acres, Parcel 1 is permitted a maximum floor area ratio of .25 which equates to 204,078 square feet.

While the buildings have shifted south toward the single-family homes in the residential portion of the Morning Woods Planned Development to within 78 feet of the south property line compared to approximately 125 feet with the current Conceptual Site Plan of Record, the a proposed landscaping and screening buffer of 25 feet remains. Further, gone is the truck loading dock for the grocery store in favor of the rear of the movie theater with no truck loading spaces.

The two aforementioned Out Parcels (1 and 2) on the currently recorded Conceptual Site Plan now illustrate development. Specifically, Out Parcel 1 illustrates restaurant and retail space in a single building containing 11,000 square feet while Out Parcel 2 becomes theater parking and a stormwater detention area. The applicant does not have immediate plans for the development of Out Parcel 1 and has an existing private agreement with Morning Woods residents concerning the development character of this Out Parcel. Further, the development of this out parcel requires approval by the Land Use Control Board with development details such as building elevations, landscaping, signage, etc. The development illustrated here on the revised Conceptual Site Plan is only meant to give a general context of how the site could be developed. Approval of the revised Conceptual Site Plan is recommended.

**Request 2 (Parapet Height A Maximum of 56 Feet Along Movie Theater Front)** – The Land Use Control Board approved a maximum building height of 40 feet for any retail building and 25 feet for any office building for this site on 07/14/11. At this time, a movie theater was not contemplated for development here. The proposed movie theater

does comply with the 40-foot height limit with the exception of the front of the theater which is architecturally embellished with a signature marquee and parapet containing a sign. The Unified Development Code permits a parapet wall limited to a height of 4 feet above the roof line. The proposed parapet obviously surpasses this maximum, but does not have a negative impact on any adjacent single-family homes which includes those 235 feet south of the front of the movie theater and some 720 feet north of the front of the movie theater. Approval of the revised height to a maximum of 56 feet for the front of the movie theater only is recommended for approval.

**Request 3 (Modify/Delete various Outline Plan Conditions pertaining to Access, Parking, and Circulation** - Reference Pages 9 and 10 of this staff report for these requests. Some are now not necessary, having been drafted 16 years ago and not changed/deleted to correspond with changes at the site and others are requested to correspond and not conflict with the proposed Conceptual Site Plan. These changes are supported by City Engineering and OPD Staff.

**DEPARTMENTAL COMMENTS**

The following comments were provided by agencies to which this application was referred:

**CITY ENGINEERING:**     DATE: 12/10/2014

CASE: PD 99-330

NAME: Morning Woods PD

1. The City Engineer has no objections to the requests as stated on the letter of intent.
2. A Standard Improvement Contract will be required for this project as required in Section 5.5.5 of the Unified Development Code.

Sewers:

3. City sanitary sewers are available at developer's expense.
4. The developer shall extend sanitary sewers through the site to serve upstream properties.
5. Construct an additional lane (12 feet minimum width) of rural section pavement with a 12 foot paved shoulder and roadside ditches on the frontage of US Hwy 64.

Curb Cuts/Access:

6. The City Engineer shall approve the design, number and location of curb cuts.

Drainage:

7. Drainage improvements, including possible on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis Drainage Design Manual.
8. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.
9. The developer should be aware of his obligation under 40 CFR 122.26(b)(14) and TCA 69-3-101 et. seq. to submit a Notice of Intent (NOI) to the Tennessee Division of Water Pollution Control to address the discharge of storm water associated with the clearing and grading activity on this site.

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Site Plan Notes:

10. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.

General Notes:

11. The width of all existing off-street sewer easements shall be widened to meet current city standards.

12. All commons, open areas, lakes, drainage detention facilities, private streets, private sewers and private drainage systems shall be owned and maintained by a Property Owner's Association. A statement to this effect shall appear on the final plat.

13. Required landscaping shall not be placed on sewer or drainage easements.

**Health Department:** No comments

**City Fire Dept.:** No comments received

**Memphis Light, Gas and Water:**

- **STREET NAMES:** It is the responsibility of the owner/applicant to contact MLGW—Address Assignment @ 729-8628 and submit proposed street names for review and approval. Please use the following link to the MLGW Land & Mapping website for **Street Naming Guidelines** and the **Online Street Name Search**: <http://www.mlgw.com/builders/landandmapping>
- **It is the responsibility of the owner/applicant** to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- **It is the responsibility of the owner/applicant** to contact **TN-1-CALL @ 1.800.351.1111**, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc.
- **It is the responsibility of the owner/applicant** to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- **It is the responsibility of the owner/applicant** to comply with the **National Electric Safety Code (NESC)** and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- **It is the responsibility of the owner/applicant** to comply with Memphis/Shelby County Zoning Ordinance - Landscape and Screening Regulations.
- **Street Trees are prohibited**, subject to the review and approval of the landscape plan by MLGW Engineering. It is the responsibility of the owner/applicant to submit a detailed landscape plan to MLGW Engineering.

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- **Landscaping is prohibited** within any MLGW utility easement without prior MLGW approval.
- **It is the responsibility of the owner/applicant** to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.
  - All residential developers must contact MLGW's Residential Engineer at Builder Services: (901) 729-8675 to initiate the utility application process.
  - All commercial developers must contact MLGW's Builder Services line at 729-8630 (select option 2) to initiate the utility application process.
- **It is the responsibility of the owner/applicant** to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

**Morning Woods Homeowners Association:** See attached letter at the heel of the staff report dated 12/18/14 in support of parapet height change.

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**Michael Lightman Realty Company**

**MICHAEL LIGHTMAN, *President***

December 18, 2014

Ms. Kay Loyd  
Morning Woods Homeowners Association  
2665 Misty Brook Lane  
Cordova, TN 38016

Dear Kay,

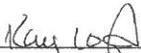
This letter is to summarize a mutual understanding between Morning Woods Homeowner's Association and Michael Lightman Realty Co. regarding a proposed planned development of approximately 20 acres at the southeast corner of Highway 64 and Davies Plantation Road.

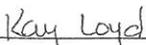
1- Michael Lightman plans to build a Malco Theater on a portion of the property. At this time, Michael Lightman is asking for approval to raise the height restriction from 40' to a maximum of 56' only on the front of the Malco building and only for the parapet and the Malco sign, as per the attached rendering.

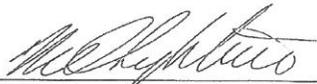
2- Michael Lightman has agreed to a 25' landscape buffer (instead of 20') along the south property line behind the commercial development along with an 6' solid fence.

3- Michael Lightman agrees to upgrade the front entrance features to Morning Woods at his expense and take over the maintenance of the front entry feature once the theater is completed.

Attest:

  
\_\_\_\_\_  
Morning Woods Homeowners Association

  
\_\_\_\_\_  
(Print Name)

  
\_\_\_\_\_  
Michael Lightman, Landowner and Developer

12/18/14

DATE: 12-18-14