



**METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON COUNTY**

Planning Department
Metro Office Building
800 Second Avenue South
Nashville, Tennessee 37201

March 19, 2015

To: Mark Macy, Public Works

Re: Fountains at Germantown Overhead Encroachment
Planning Commission Mandatory Referral #2015M-002EN-001
Council District #19 – Erica S. Gilmore, Council Member

On behalf of the Metropolitan Planning Commission, the following item, referred to the Commission as required by the Metro Charter, has been recommended for *approval with conditions* to the Metropolitan Council:

A request to allow structural and aerial encroachments for "Fountains at Germantown" comprised of a skybridge encroaching above Alley #201, a stoop and upper balconies encroaching above Taylor Street and awning/canopies and upper level balconies and signage encroaching along Third Avenue North on properties located at 1401 and 1403 Third Avenue North, 1408 and 1410 Fourth Avenue North and at 302 Taylor Street, zoned Specific Plan and located within the Phillips-Jackson Street Redevelopment District and the Germantown Historic Preservation District, requested by Civil Site Design Group, applicant; Fountains Germantown Holdings LLC., owner.

The relevant Metro agencies (Metro Parks, Metro Public Works, Metro Water Services, Metro Emergency Communications, the Nashville Electric Service, Metro Finance – Public Property and the Metro Historical Commission) have reviewed the proposal and concur in the recommendation for approval. This request must be approved by the Metro Council to become effective. A sketch showing the location of the request is attached to this letter.

Conditions that apply to this approval:

Historic Zoning: Per Robin Zeigler, Historic Zoning Administrator: The project is located within the Germantown Historic Preservation Zoning Overlay District. The facades and all appurtenances shall be approved by the MHZC.

This recommendation for approval is given as set forth in the Metropolitan Planning Commission Rules and Procedures. If you have any questions about this matter, please contact Peggy Deaner at peggy.deaner@nashville.gov or 862-7148.

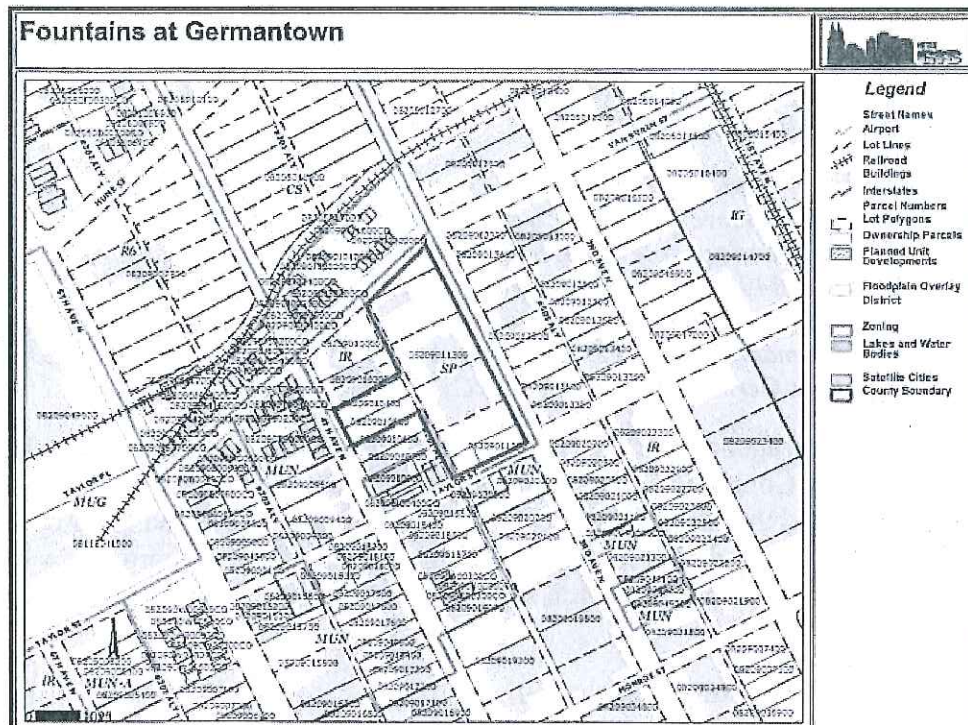
Sincerely,

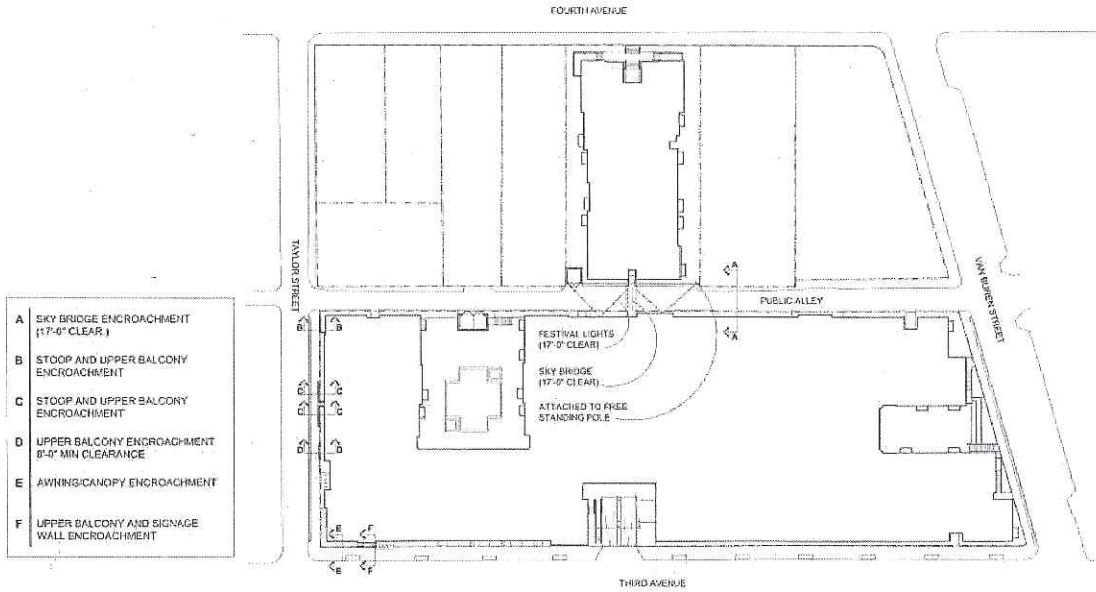

Doug Sloan
Deputy Director
Metro Planning Department

cc: Metro Clerk, Shannon Hall

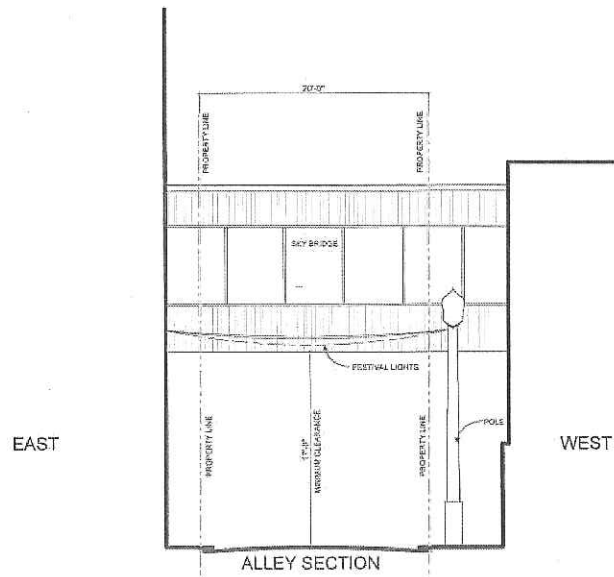
Re: Fountains at Germantown Overhead Encroachment
Planning Commission Mandatory Referral #2015M-002EN-001
Council District #19 – Erica S. Gilmore, Council Member

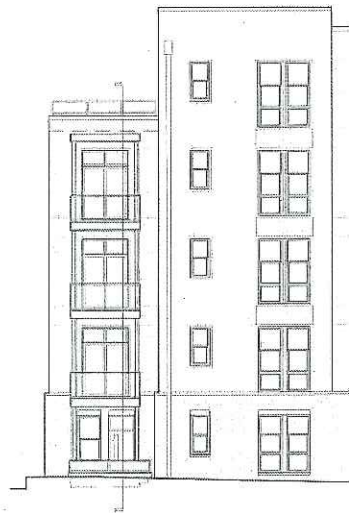
A request to allow structural and aerial encroachments for "Fountains at Germantown" comprised of a skybridge encroaching above Alley #201, a stoop and upper balconies encroaching above Taylor Street and awning/canopies and upper level balconies and signage encroaching along Third Avenue North on properties located at 1401 and 1403 Third Avenue North, 1408 and 1410 Fourth Avenue North and at 302 Taylor Street, zoned Specific Plan and located within the Phillips-Jackson Street Redevelopment District and the Germantown Historic Preservation District, requested by Civil Site Design Group, applicant; Fountains Germantown Holdings LLC., owner.



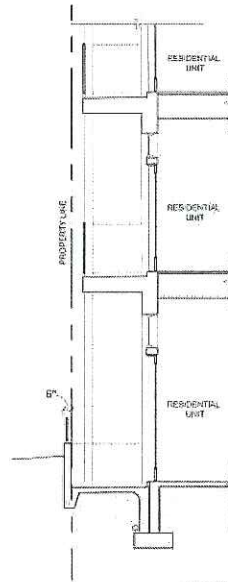


1"=60'-0"



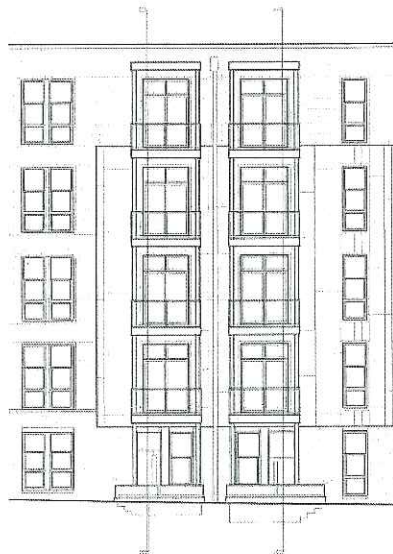


3/22'-1'0"

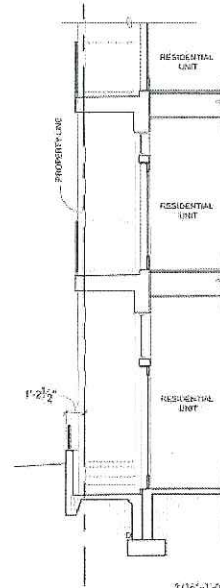


3/16'-1'0"

SECTION BB

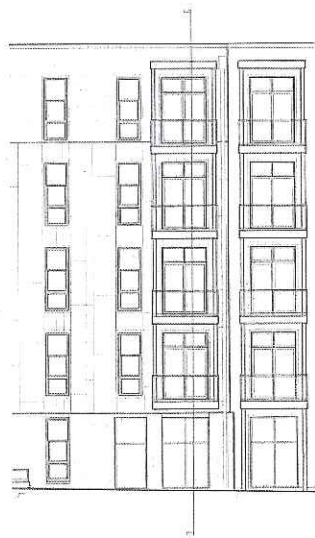


3/22'-1'0"

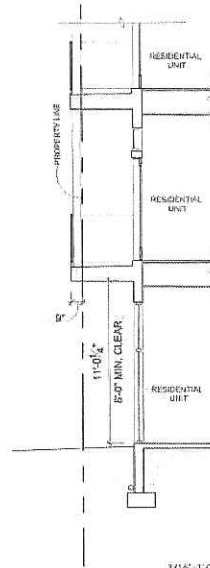


3/16'-1'0"

SECTION CC

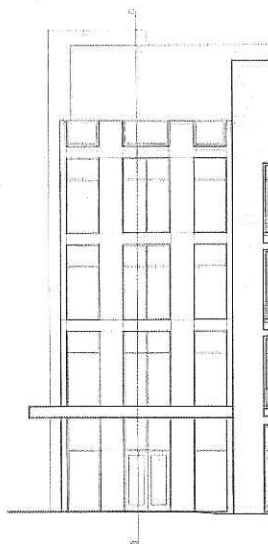


3/32'-1'-0"

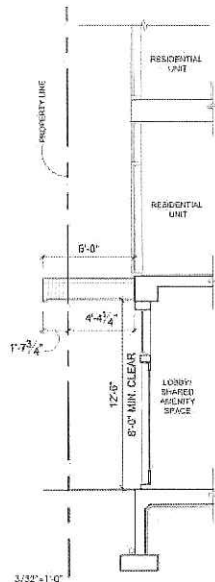


3/16'-1'-0"

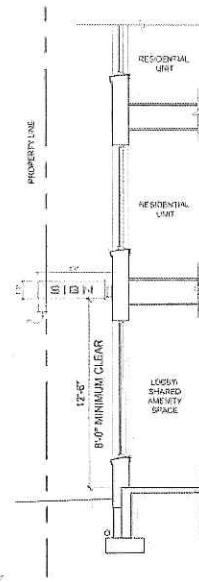
SECTION DD



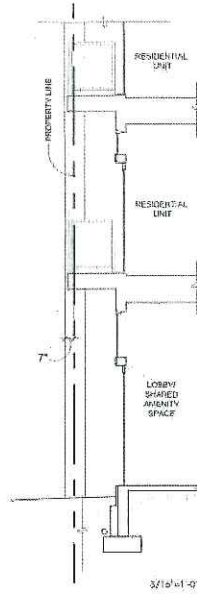
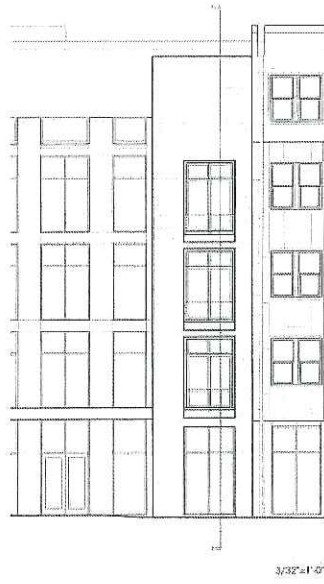
3/32'-1'-0"



3/16'-1'-0"



SECTION EE



SECTION FF

KARL F. DEAN
MAYOR



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

DEPARTMENT OF PUBLIC WORKS
DIVISION OF ENGINEERING
720 SO. FIFTH STREET
NASHVILLE, TENNESSEE 37206
615-862-8760

MEMORANDUM

FROM: Buddy Hall, Technical Services Coordinator

RE: Encroachment Approval Process in Public Right-of-Way

The following information is for aerial, underground and building encroachments. Aerial encroachments require a resolution approved by the Metropolitan Council. Underground and building encroachments require approval by ordinance (three readings before the Metropolitan Council). Attached are the following items concerning the encroachment approval process for your use.

1. License Agreement for private encroachment
2. Sample insurance form
3. Petition to encroach upon a public right-of-way

Your firm should submit the following information:

- A. A letter of request to Mark Macy, Director of Engineering of Public Works.
- B. Engineering details: showing exact location of encroachment, design, measurements of sign, and anchoring details.
- C. Signed License Agreement.
- D. Insurance forms: minimum requirements, at least \$50,000 in case of injury to one person, \$100,000 in case of injuries to more than one person, and property damage insurance of at least \$5,000 each accident, \$10,000 aggregate.
- E. Processing fee of \$250.

Public Works will review and submit the application to the Metropolitan Planning Commission, this process normally takes 60 to 90 days. Upon approval by the Metropolitan Planning Commission and the Metropolitan Council an application must be made with Metropolitan Codes Administration, if applicable. A permit will be required to be taken out with Public Works by the contractor to perform the installation of the approved encroachment.

If you need further information please feel free to contact me at 862-8782.

BH/dl

CERTIFICATE OF INSURANCE

This is to further certify to the Metropolitan Government of Nashville and Davidson County concerning the policies of insurance listed above and the coverage provided thereby that:

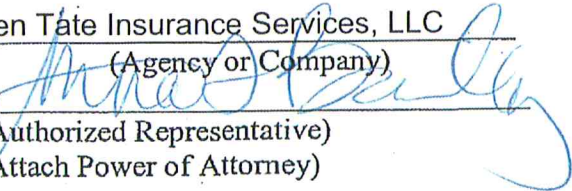
1. The Contractual Insurance coverage is on a Blanket Broad Form basis unless specifically indicated below,
2. The company or companies, upon request, agree to deliver within fifteen (15) days a certified copy of any and/or all of the policies of insurance to The Metropolitan Government of Nashville and Davidson County,
3. If one (1) or more Umbrella Excess policies are used, there is no gap between the limits of the primary policies and the deductible feature of the Umbrella Excess policies,
4. Coverage under the primary policies have no deductible features unless there is a check mark here (). If there are deductible features or the insured has adopted a funded self-insurance program, they are fully explained on an attached sheet which becomes a part of this Certificate, and
5. The coverage provided shall not be cancelled, reduced in coverage, or allowed to lapse unless and until The Metropolitan Government of Nashville and Davidson County receives at least thirty (30) days advance written notice of same. The written notice must be delivered to the Metropolitan Risk Manager at his office shown as the address of the Certificate Holder below or the secondary Certificate Holder, if one is so listed below.

Name and Address of Certificate Holder

The Metropolitan Government of
Nashville and Davidson County
Metro Legal & Claims
C/O Insurance and Safety Division
222 3rd Avenue North, Ste #501
Nashville, TN 37201

Date Issued: 3/19/2015

Allen Tate Insurance Services, LLC
(Agency or Company)

by 
(Authorized Representative)
(Attach Power of Attorney)

LICENSE AGREEMENT FOR PRIVATE ENCROACHMENTS
INTO THE PUBLIC RIGHT OF WAY

I/We, Fountains Germaine Holdings, LLC, in consideration of the Resolution No. _____, to construct, maintain, install and/or operate an encroachment into, onto, over, or under the public right of way located at in Nashville, Davidson County, Tennessee, do hereby, for myself, my agents, customers, and assigns, waive and release and hold harmless The Metropolitan Government of Nashville and Davidson County, its agents, employees, and assigns from any and all claims, rights, or demands for damages that may arise from my/our use, construction and/or maintenance of the encroachment, to wit: (SEE ATTACHED DESCRIPTION OF ENCROACHMENT). I/We hereby certify to the Metropolitan Government of Nashville and Davidson County that I/We have executed a bond or liability insurance policy in such amount as agreed upon by the Director of Public Works and the Metropolitan Attorney, and in the form approved by the Metropolitan Attorney (per Metropolitan Code Section 38-1-1), which operates to indemnify and save The Metropolitan Government of Nashville and Davidson County harmless from all claims or demands that may result to persons or property by reason of the construction, operations or maintenance of the encroachment. I/We further agree that my/our obligations hereunder may not be assigned except upon approval of the Director of Public Works and the Metropolitan Attorney. I/We further acknowledge that any action that results in a failure to maintain said bond or liability insurance for the protection of The Metropolitan Government of Nashville and Davidson County shall operate to the granting of a lien to The Metropolitan Government of Nashville and Davidson County in the amount of the last effective bond/insurance policy. Said insurance or bond may not be cancelable or expirable except on 30 days notice to the Director of Public Works.

I/We further recognize that the license granted hereby is revocable by The Metropolitan Government upon recommendation of the Director of Public Works and approval by resolution of the Metropolitan County Council if it is determined to be necessary to the public welfare and convenience. In the event the Metropolitan Government revokes this license as contemplated by this paragraph, licensee will not be entitled to any compensation of any kind. This license shall also be strictly subject to the right of way easement owned by The Metropolitan Government. I/We agree to maintain, construct and use the encroachment in such a way as will not interfere with the rights and duties of the Metropolitan Government

as owner of the right of way. Said interference shall be additional grounds for revocation of the license for encroachment. I/We agree to pay the cost of construction, maintenance, use, as well as relocations cost of said encroachment. Licensee's failure to complete construction of the contemplated encroachment within 36 months of the date of approval by the Metropolitan Council will cause this license to terminate automatically. In the event the encroachment contemplated by this license is substantially destroyed, this license shall terminate unless fully restored by licensee within 36 months from the date of such destruction. In the event this license is revoked or terminated for any reason, licensee shall restore all public property to the condition obtaining at the time the license became effective at licensee's sole cost and expense.

DATE: 3/19/15

Fountains Germantown Holdings, LLC
By: Fountains Germantown, LLC, manager
[Signature]

[Signature]
(Owner of Property)

1401 Third Ave N
(Address of Property)

Nashville, TN
(City and State)

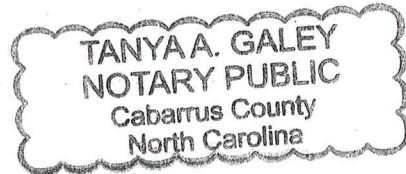
STATE OF ~~TENNESSEE~~ North Carolina

COUNTY OF ~~DAVIDSON~~ Mecklenburg

Sworn to and subscribed before

Me this 19th day of March, 2015

Tanya A. Galey
(NOTARY PUBLIC)



My Commission Expires: November 27, 2016

PETITION TO ENCROACH UPON A PUBLIC RIGHT-OF-WAY

PETITION NO. _____

We, the undersigned, do hereby petition the METROPOLITAN DEPARTMENT OF PUBLIC WORKS and the METROPOLITAN PLANNING COMMISSION to recommend to the METROPOLITAN COUNCIL and MAYOR that legislation be enacted to authorize the construction, installation and maintenance of an encroachment upon the public right-of-way as follows:

A skybridge with festival lights across alley # 201, stoop and upper balcony encroachments along Taylor street, and awning/canopy upper balcony and signage wall encroachments along 3rd Avenue North.


Addresses and Map and Parcel numbers of property or properties associated with the proposed encroachment:

| <u>ADDRESS</u> | <u>MAP AND PARCEL NUMBER</u> |
|-----------------------|------------------------------|
| <u>1403 3rd Ave N</u> | <u>08209011300</u> |
| <u>1401 3rd Ave N</u> | <u>08209011200</u> |
| <u>302 Taylor St</u> | <u>08209011100</u> |
| <u>1410 4th Ave N</u> | <u>08209010400</u> |
| <u>1408 4th Ave N</u> | <u>08209010500</u> |

Attach the following in support or explanation of this application:

- A check for the filing fee of \$250.00 made payable to the Metropolitan Government.
- A scaled drawing on 8 1/2 " x 14" paper of the proposed encroachment. (Additional exhibits may be required depending upon the nature of the request).
- A private encroachment license agreement signed by the person to whom the encroachment privilege is to be granted.
- A certificate of liability insurance in the amount to be determined necessary by the Department of Public Works.

Signature and mailing address of person or business to whom privilege of encroachment will be granted:

Signature:  Address: 1401 Third Ave N
Nashville, TN

Council District: 19

PERSON FILING THIS PETITION:

If other than owner or optionee of properties listed above, state relationship. All correspondence will be mailed to this person.

Name: Jeremy Westmoreland

Address: 630 Southgate Ave., Suite A

City, State, Zip: Nashville, TN 37203

Phone: Residence 615-347-5522

Business 615-248-9999

NOTE: THIS APPLICATION WILL NOT BE ACCEPTED UNLESS COMPLETED IN FULL.

Metropolitan Government Department of Public Works

750 South 5th Street ♦ Nashville, TN 37206 ♦ (615) 862-8750 ♦ www.nashville.gov/pw

Mandatory Referral Application:

Encroachment: Sign / Awning / Fiber Optic Cable / Other

*** Before filing this application, please review checklist on the back of this application. ***

Encroachment Type:

- Awning
- Fiber Optic Cable (▲ ground)
- Fiber Optic Cable (▼ ground)
- Sign
- Other _____

Date Submitted: _____

Mandatory Referral Project No. _____

(MPW staff assigns project #)

Map & Parcel(s): Map 82-09, Parcels 104, 105, 111, 112, & 113

Street Address(es): 1401 & 1403 3rd Ave N, 302 Taylor St, &

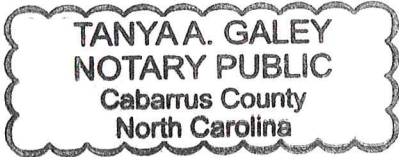
1410 & 1408 4th Ave N

Notarized Signature of Property Owner(s):

You must obtain the *notarized* signature of all property owners on whose property the sign or awning will occur. Failure to provide this information will deem your application *incomplete* and postpone your application's consideration by the Metropolitan Planning Commission. Copy form below for additional signatures.

As the owner(s) of property, I/we agree to the submission of this mandatory referral application to the Metropolitan Government Department of Public Works for a sign, awning or fiber optic cable encroachment.

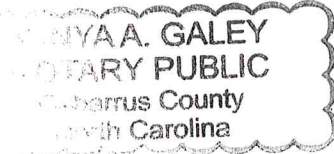
Date: _____
(Company Name)



STATE OF TENNESSEE
COUNTY OF Mecklenburg
Sworn to and subscribed before
Me this 15th day of March, 2015
Tanya A. Galey
(Notary Public)

My Commission Expires: November 27, 2016

Fountains Germantown Holdings, LLC
By: Fountains Germantown, LLC manager
[Signature]
(Signature of Property Owner)
Stuart Proffitt
(Name of Property Owner)
manager
(Title of Property Owner)
1401 Third Ave N
Nashville, TN
(Address of Property (including city & state))



Applicant: All correspondence will be mailed to the applicant.

- Architect
- Engineer
- Property Owner
- Other: _____

Name: Jeremy Westmoreland

Business: Civil Site Design Group, PLLC

Address: 630 Southgate Ave, Suite A

City: Nashville State: TN Zip: 37203

Phone: 615-248-9999 615-347-5522

Fax: 615-251-9575
business home business mobile
business home business mobile

E-mail: jeremyw@civil-site.com

Applicant's Signature: [Signature]

Filing Fee (All application fees are non-refundable)

Encroachment: Sign / Awning / Fiber Optic Cable \$250.00
Other _____

Amount paid: \$ _____

Accepted by: _____ Date: _____

Mandatory Referral ✓ Checklist

- Mandatory Referral Application**

If any electrical vaults are located below proposed sign, awning or fiber optic cable, special design standards may be required. Contact Larry Cantrell at NES 615-747-3964 for more information on electrical vault locations.

DO NOT INSTALL anything that would encroach over Metro right-of-way until your application is approved by Metro Council. If you do, you could have to wait six months before your application is considered by Metro Council. For more information, see Council Bill BL2000-444 available at http://www.nashville.org/mc/ordinances/bl2000_444 or call the Metro Clerk for a copy of the bill at 862-6770.
- Filing Fee \$250 (All application fees are non-refundable)**

Cash or check. If check, make payable to "Metropolitan Government". Credit cards not accepted.
- Property Map**

Show location of property and surrounding streets (use "Maps" on the MPC web to create property map)
- Notarized Signature of Property Owner(s)**

You must obtain the *notarized* signature of all property owners whose property the sign or awning will occur. Failure to provide this information will deem your application *incomplete* and postpone your application's consideration by the Metropolitan Planning Commission.
- License Agreement for Private Encroachment into Public Right-of-Way**

Obtain copy from MPW web site, MPW front desk or Buddy Hall at Metro Public Works (615-862-8782)
- Franchise License**

If fiber optic cable company, prior to submitting a fiber optic cable encroachment, you must contact John Kennedy of Metro Legal at 615-862-6341 for determination of whether franchise license is required.
- Certificate of Liability Insurance**

Certificate must identify Metro Government of Nashville & Davidson County as Certificate Holder.
- Right-of-Way Notice**

While not a requirement of your application, please be aware that no construction work may be undertaken in any street, road, alley or right-of-way or of any utility or temporary construction easement of the metropolitan government or other government entity by any department of the metropolitan government or any other entity unless adequate notice has been given to the abutting fee owner of a street, road, alley, or right-of-way or fee owner of the easement, and to the district member of council representing the area of such construction work. For more information, see Metro Code 13.20 available at: <http://ordlink.com/codes/nashville/ DATA/TITLE13/Chapter 13 20 EXCAVATIONS AND OBST/index.html>, or call the Metro Clerk for a copy of the bill at 862-6770, or call Buddy Hall in the Public Works Department at 615-862-8782.
- Drawings** should identify the following:
 - Signs / Awnings**
 - Width and length of sign/awning
 - Vertical height of awning
 - Horizontal distance sign/awning projects over public right-of-way
 - Vertical distance sign/awning will be installed above public right-of-way
 - Horizontal distance between door awning and street curb (Note: Door awnings must be setback 18" from street curb)
 - Location of every sign, window awning or door awning to be installed on building (photograph is helpful)
 - Method of attachment / anchoring to building or sidewalk
 - Fiber Optic Cable**
 - Map identifying cable path
 - Cable length in feet or miles
 - Thickness of cable
 - Number of cables
 - If ▲ ground, what cable will be attached to and method of attachment
 - If ▲ ground, height of cable above public right-of-way
 - If ▼ ground, average depth below public right-of-way (e.g. "36 – 42")
 - If ▼ ground, size of trench / boring



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
3/18/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | | | |
|---|---|--|-----------------------------------|
| PRODUCER Allen Tate Insurance Services 6207 Park South Drive Suite 201 Charlotte NC 28210 | CONTACT NAME: Anna Bailey PHONE (A/C No. Ext): (704)909-2357 E-MAIL ADDRESS: anna.bailey@allentate.com | | FAX (A/C No): 980-233-3958 |
| | INSURER(S) AFFORDING COVERAGE INSURER A: Liberty Mutual Insurance Co | | NAIC # |
| INSURED Fountains Germantown, LLC Fountains Germantown Holdings, LLC 1355 Greenwood Clf Ste 150 Charlotte NC 28204 | INSURER B : | | |
| | INSURER C : | | |
| | INSURER D : | | |
| | INSURER E : | | |
| | INSURER F : | | |

COVERAGES **CERTIFICATE NUMBER:** CL1512702424 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|----------|---|-----------|----------|---------------|-------------------------|-------------------------|---|--------------|
| A | GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC | | | 56498675-MLN | 01/30/2015 | 01/30/2016 | EACH OCCURRENCE | \$ 1,000,000 |
| | | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | \$ 300,000 |
| | | | | | | | MED EXP (Any one person) | \$ 10,000 |
| | | | | | | | PERSONAL & ADV INJURY | \$ 1,000,000 |
| | | | | | | | GENERAL AGGREGATE | \$ 3,000,000 |
| | | | | | | | PRODUCTS - COMP/OP AGG | \$ 3,000,000 |
| | | | | | | | | \$ |
| | AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS | | | | | | COMBINED SINGLE LIMIT (Ea accident) | \$ |
| | | | | | | | BODILY INJURY (Per person) | \$ |
| | | | | | | | BODILY INJURY (Per accident) | \$ |
| | | | | | | | PROPERTY DAMAGE (Per accident) | \$ |
| | | | | | | | | \$ |
| A | <input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> RETENTION \$ 10,000 | | | 56498675-MLN | 01/30/2015 | 01/30/2016 | EACH OCCURRENCE | \$ 5,000,000 |
| | | | | | | | AGGREGATE | \$ 5,000,000 |
| | | | | | | | | \$ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | | | N/A | | | WC STATUTORY LIMITS | OTHER |
| | | | | | | | E.L. EACH ACCIDENT | \$ |
| | | | | | | | E.L. DISEASE - EA EMPLOYEE | \$ |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | \$ |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Metropolitan Government of Nashville is named as an additional insured for general liability purposes.

CERTIFICATE HOLDER

stuart@proffittdixon.com

Metro Government of Nashville
and Davidson County
60 Fairfield Ave
Nashville, TN 37210

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Anna Bailey/ABAILE