



MEMPHIS CITY COUNCIL

Planning and Zoning Documents

Table of Contents

PLANNING AND ZONING COMMITTEE AND REGULAR MEETING 1-196

These cases will be heard as Item 2 - 3 in Planning and Zoning Committee and Items 1-2 on Regular Agenda

- | | | |
|--------------|---------------------|-------|
| 1. SAC 20-21 | Autumn Ave | 1-30 |
| 2. SUP 20-14 | 2369 Covington Pike | 31-72 |

PLANNING AND DEVELOPMENT ITEMS 73-311

These cases will be heard as Items 7 – 9 on Regular Agenda

- | | | |
|-------------|--|---------|
| 7. Z 20-11 | North side of East Holmes | 73-119 |
| 8. ZTA 20-1 | Amend Unified Development Code | 120-254 |
| 9. Z 20-10 | Summer between Holmes and Novarese and Stratford | 255-311 |

**CITY OF MEMPHIS
COUNCIL AGENDA CHECK OFF SHEET**

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

Planning & Zoning COMMITTEE: 5 January 2021

DATE

PUBLIC SESSION: 5 January 2021

DATE

ITEM (CHECK ONE)

ORDINANCE CONDEMNATIONS GRANT ACCEPTANCE / AMENDMENT
 RESOLUTION GRANT APPLICATION REQUEST FOR PUBLIC HEARING
 OTHER: _____

ITEM DESCRIPTION: A resolution approving a physical street closure

CASE NUMBER: SAC 20-21

DEVELOPMENT: Sam Cooper and Tillman Planned Development

LOCATION: Part of Autumn Avenue east of Lipford Street and north of Sam Cooper Boulevard

COUNCIL DISTRICTS: District 5 and Super District 9

APPLICANT: MVS Real Estate Mid Town, LLC

REPRESENTATIVE: John Behnke of Spire Enterprises

EXISTING ZONING: Residential – 6

REQUEST: Physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard

AREA: 5042 square feet

RECOMMENDATION: The Division of Planning and Development recommended *Approval with conditions*
 The Land Use Control Board recommended *Approval with conditions*

RECOMMENDED COUNCIL ACTION: **Public Hearing Not Required**

PRIOR ACTION ON ITEM:

| | |
|----------------------------------|---|
| (1) _____ | APPROVAL - (1) APPROVED (2) DENIED |
| 10 December 2020 _____ | DATE |
| (1) Land Use Control Board _____ | ORGANIZATION - (1) BOARD / COMMISSION |
| | (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE |

FUNDING:

| | |
|-----------|--|
| (2) _____ | REQUIRES CITY EXPENDITURE - (1) YES (2) NO |
| \$ _____ | AMOUNT OF EXPENDITURE |
| \$ _____ | REVENUE TO BE RECEIVED |

SOURCE AND AMOUNT OF FUNDS

| | |
|----------|---------------------|
| \$ _____ | OPERATING BUDGET |
| \$ _____ | CIP PROJECT # _____ |
| \$ _____ | FEDERAL/STATE/OTHER |

ADMINISTRATIVE APPROVAL:

| | <u>DATE</u> | <u>POSITION</u> |
|-------|-------------|-------------------------------------|
| _____ | _____ | MUNICIPAL PLANNER |
| _____ | _____ | DEPUTY ADMINISTRATOR |
| _____ | _____ | ADMINISTRATOR |
| _____ | _____ | DIRECTOR (JOINT APPROVAL) |
| _____ | _____ | COMPTROLLER |
| _____ | _____ | FINANCE DIRECTOR |
| _____ | _____ | CITY ATTORNEY |
| _____ | _____ | CHIEF ADMINISTRATIVE OFFICER |
| _____ | _____ | COMMITTEE CHAIRMAN |



Memphis City Council Summary Sheet

SAC 20-21

A resolution requesting the physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard:

- This item is a resolution to allow the above with conditions and
- The Division of Planning & Development sponsors this resolution at the request of the Applicant: MVS Real Estate Mid Town, LLC; and Representative: John Behnke of Spire Enterprises.



RESOLUTION

A resolution approving the physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard, also known as SAC 20-21.

WHEREAS, the City of Memphis is the owner of real property known as part of Autumn Avenue east of Lipford Street and north of Sam Cooper Boulevard in Memphis, Tennessee, and being more particularly described as follows:

Beginning at a point (N 319994.9881, E 784026.4808) in the south line of Autumn Avenue (formerly Brown Avenue) (25-foot right-of-way), said point also being in the north line of Lot 78 of said Lincoln Park Subdivision (P.B. 5, Pg. 95) a distance of 0.54 feet east of the northwest corner of said Lot 78 as measured along said north line of Lot 78 and the said south line of Autumn Avenue; thence continuing along said south line of Autumn Avenue S 85°58'32" E a distance of 161.25 feet to a point in the north right-of-way of Sam Cooper Boulevard (right-of-way varies); thence along said north right-of-way N 76°41'40" E a distance of 84.65 feet to a point, said point being in the north line of said Autumn Avenue; thence along said north right-of-way of Autumn Avenue N 85°58'32" W a distance of 242.12 feet to a point; thence S 4°01'28" W a distance of 25.00 feet to the Point of Beginning and containing 5042 square feet of land, more or less.

WHEREAS, the City Council of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the Division of Planning and Development and desires to close the hereinabove described public right-of-way and it is deemed to be in the best interest of the City of Memphis that said public right-of-way be vacated and revert to the abutting property owners; and

WHEREAS, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on 10 December 2020, and said Board has submitted to the City Council of Memphis its findings and recommendation of approval, subject to the following conditions:

1. A consolidation plat, subject to the certification of the Zoning Administrator, shall be recorded in conjunction with the recording of quitclaim deeds. This plat shall consolidate all vacated right-of-way with adjacent parcels, as well as consolidate parcels 037039 00015, 037039 00016, and 037039 00079.
2. The existing curb cut on Sam Cooper shall be closed with the appropriate streetscape plate.
3. Any existing utilities within the vacated right-of-way shall be overlaid with an easement or relocated.

NOW THEREFORE BE IT RESOLVED, by the City Council of Memphis that the above-described public right-of-way be and is hereby closed for public use, subject to the aforementioned conditions.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute all quitclaim deeds to the owners of the properties abutting on the above described public right-of-way, said deeds not to be delivered until the conditions herein stated have been met by applicant.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the Lawyers Title Insurance Company, the Memphis Title Company, the Chicago Title Company, the Security Title Company, and the Shelby County Property Assessor's Office.

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday 10 December 2020**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

| | |
|-----------------------------|---|
| CASE NUMBER: | SAC 20-21 |
| LOCATION: | Part of Autumn Avenue east of Lipford Street and north of Sam Cooper Boulevard |
| COUNCIL DISTRICT(S): | District 5 and Super District 9 |
| APPLICANT: | MVS Real Estate Mid Town, LLC |
| REPRESENTATIVE: | John Behnke of Spire Enterprises |
| REQUEST: | Physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard |
| EXISTING ZONING: | Residential – 6 |
| AREA: | 5042 square feet |

The following spoke in support of the application: None

The following spoke in opposition to the application: None

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval of the application, subject to the following conditions:

1. A consolidation plat, subject to the certification of the Zoning Administrator, shall be recorded in conjunction with the recording of quitclaim deeds. This plat shall consolidate all vacated right-of-way with adjacent parcels, as well as consolidate parcels 037039 00015, 037039 00016, and 037039 00079.
2. The existing curb cut on Sam Cooper shall be closed with the appropriate streetscape plate.
3. Any existing utilities within the vacated right-of-way shall be overlaid with an easement or relocated.

The motion *passed* by a unanimous vote on the consent agenda.

AGENDA ITEM: 1

CASE NUMBER: SAC 20-21 **L.U.C.B. MEETING:** 10 December 2020

LOCATION: Part of Autumn Avenue east of Lipford Street and north of Sam Cooper Boulevard

COUNCIL DISTRICT: District 5 and Super District 9

APPLICANT: MVS Real Estate Mid Town, LLC

REPRESENTATIVE: John Behnke of Spire Enterprises

REQUEST: Physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard

AREA: 5042 square feet

EXISTING ZONING: Residential – 6

CONCLUSIONS (p. 15)

1. MVS Real Estate Mid Town, LLC, and two neighboring property owners, have requested the physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard.
2. Said company seeks to construct a convenience store with gas sales at 2977 Broad Avenue, directly to the northeast of the subject right-of-way. They intend to construct a driveway on Sam Cooper through the subject right-of-way to provide access to the proposed convenience store, hence the request for the right-of-way vacation.
3. This segment of Autumn was severed from the city street network when right-of-way was obtained for the extension of Interstate 40 in the 1960s and later when Sam Cooper Boulevard was extended to East Parkway in the early 2000s.
4. The subject right-of-way serves no public purpose. The City would benefit by making this land available for development and taxation.

CONSISTENCY WITH MEMPHIS 3.0

Per the Department of Comprehensive Planning, the Memphis 3.0 General Plan is inapplicable to this request.

RECOMMENDATION (p. 15)

Approval with conditions

GENERAL INFORMATION

Zoning Atlas Page: 2035

Existing Zoning: Residential – 6

PUBLIC NOTICE

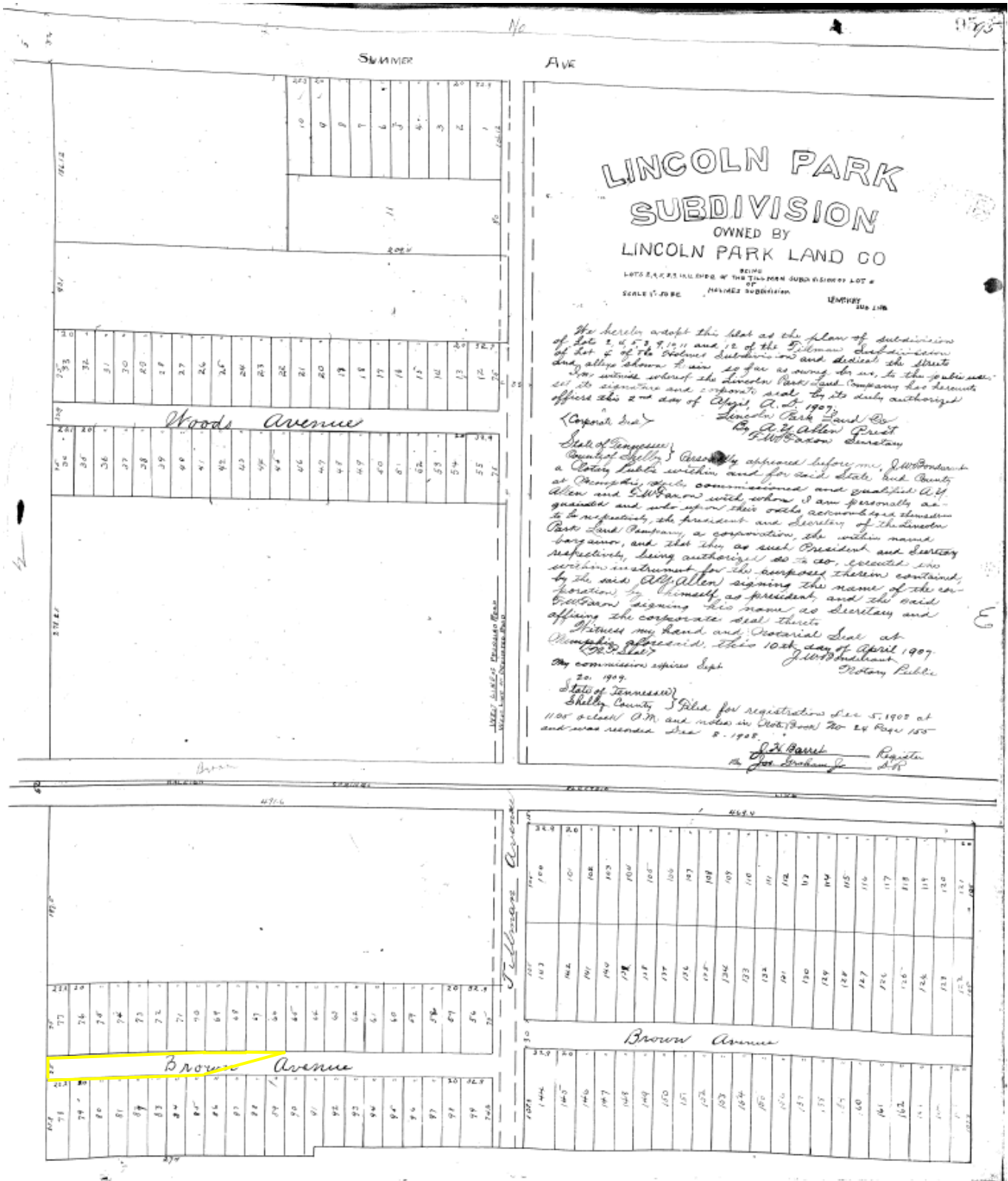
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 51 notices were mailed on 22 October 2020, and a total of two signs posted. The sign affidavit has been added to this report.

LOCATION MAP



Subject right-of-way (ROW) located in Binghamton

LINCOLN PARK SUBDIVISION (1908)



According to the City Engineer's Office, this segment of Autumn was renamed from Brown Avenue sometime between 1929 and 1934. Staff is not sure exactly how or when the street was renamed.

AERIAL PHOTOGRAPH WITH ZONING DISTRICTS



Existing Zoning: Residential – 6

Surrounding Zoning

North: Residential – 6

East: Residential – 6

South: Residential – 6

West: Residential – 6

LAND USE MAP



SITE PHOTOS



View of part of subject right-of-way, to left, as well as the neighboring parcel which would absorb part of the vacated right-of-way. The applicant seeks to construct a driveway on Sam Cooper, to right, through the subject land.



Alternate view of subject right-of-way from Sam Cooper.

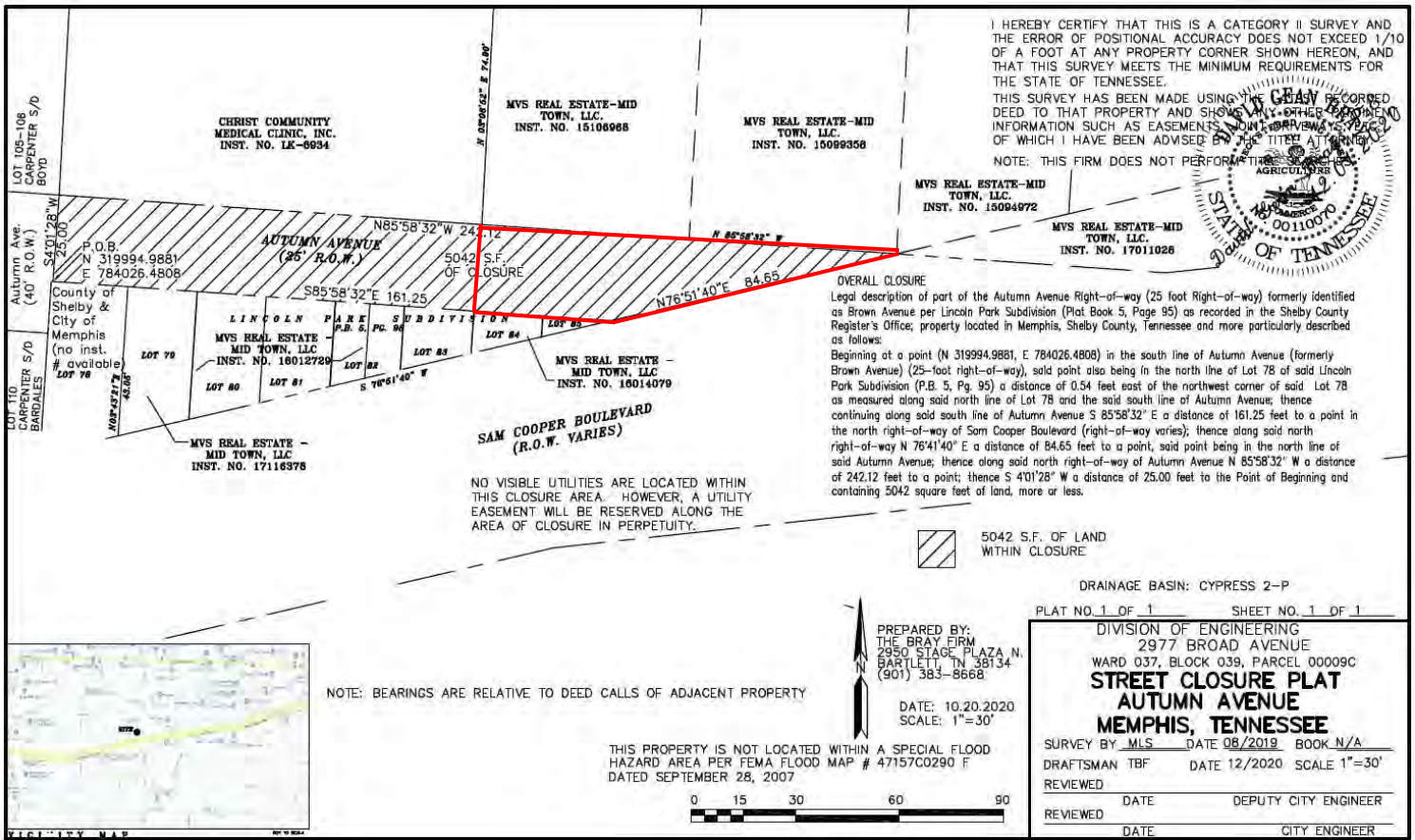


View of existing ingress/egress between Sam Cooper and subject right-of-way.



Looking west down subject right-of-way, toward Lipford.

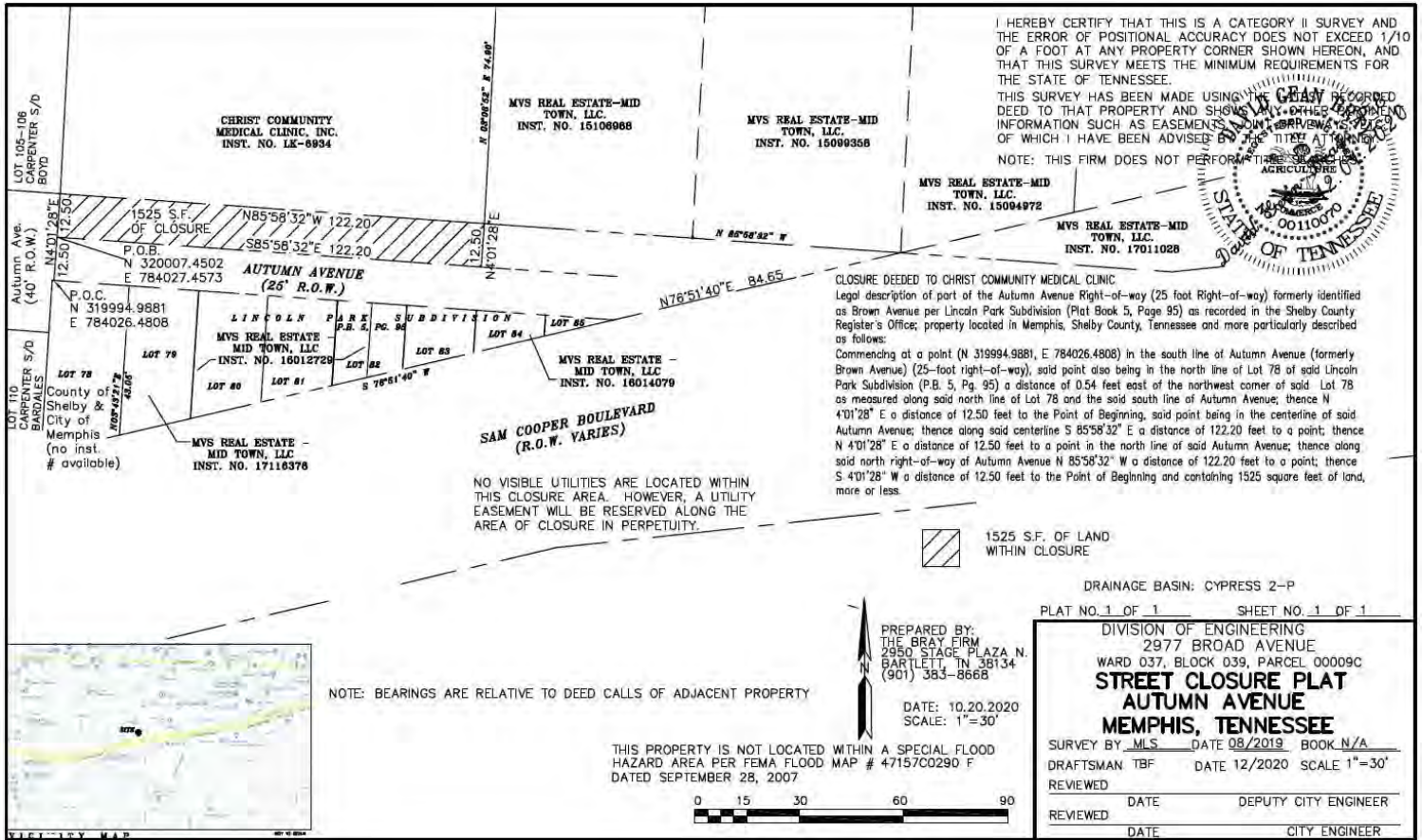
PROPOSED RIGHT-OF-WAY VACATION PLAT



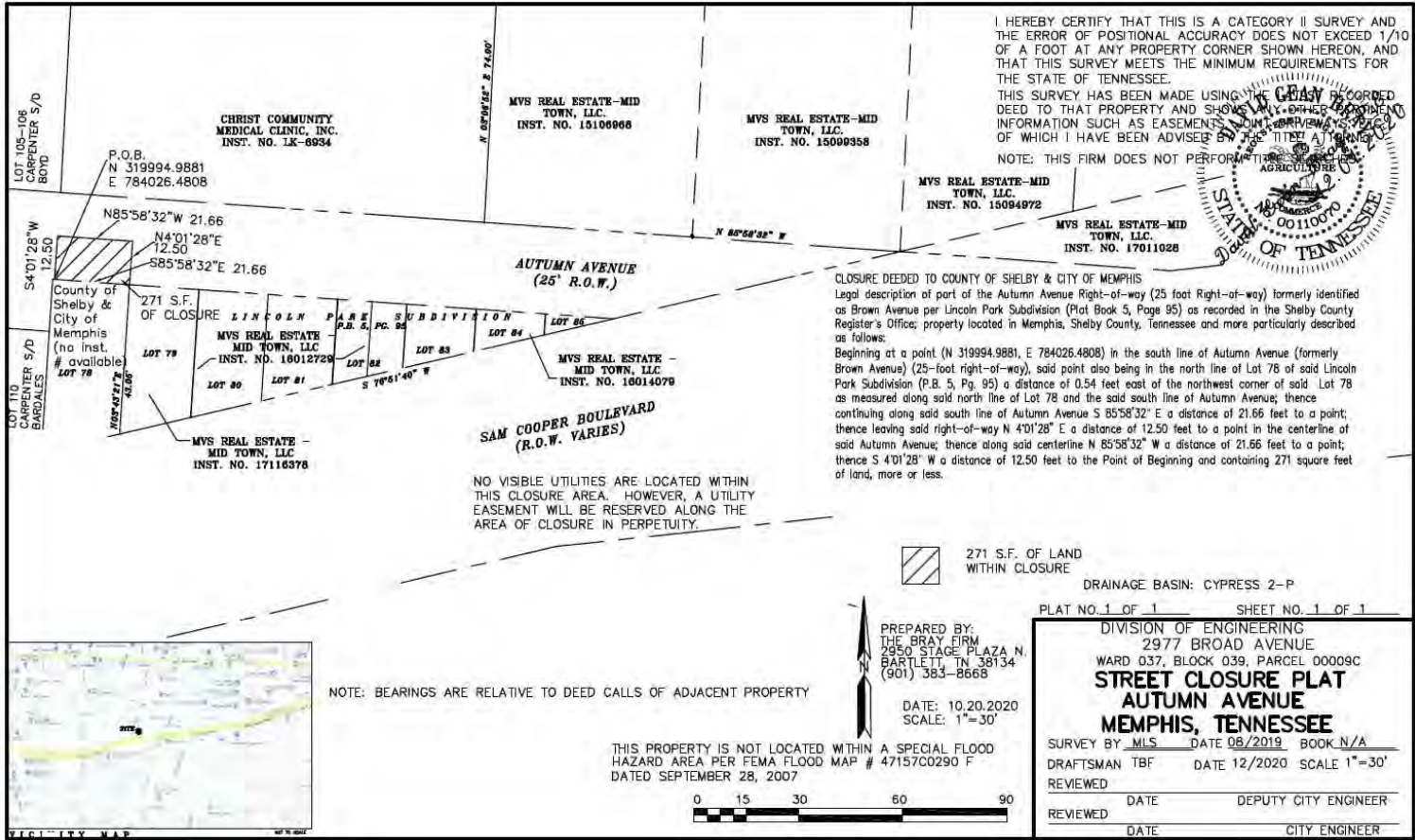
This sheet shows the total right-of-way to be closed (5042 square feet).

At staff's encouragement, the applicant reached out to neighboring property owners in order to close the remainder of the dead-end Autumn right-of-way within the Lincoln Park Subdivision. Originally, only that land adjacent on both sides to parcels owned by the applicant was included in the closure request.

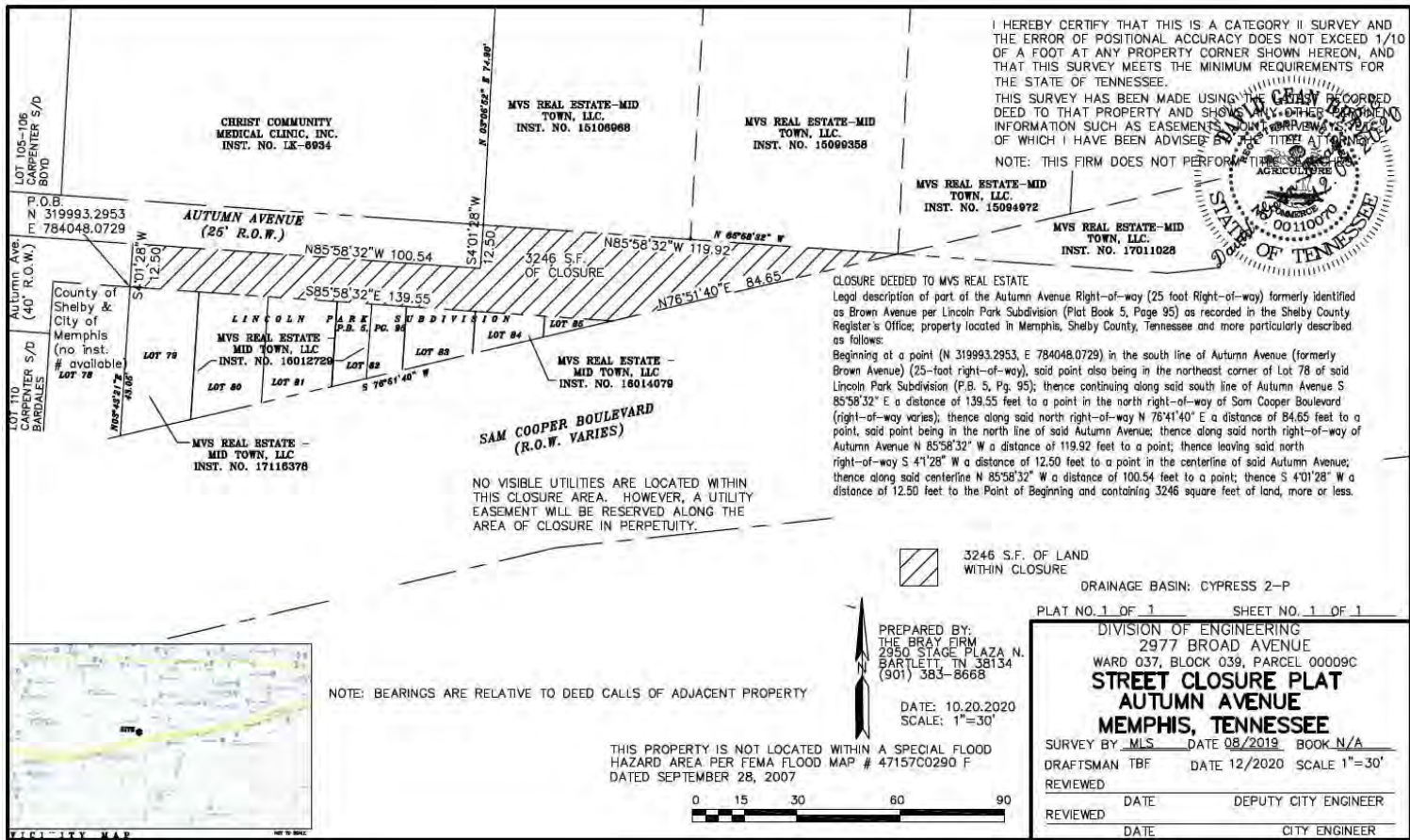
For reference, the area subject to the original request (1988 square feet), has been outlined in red.



This sheet shows that land to be deeded to the Christ Community Medical Clinic, Inc. (1525 square feet).



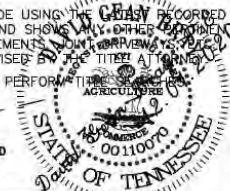
This sheet shows that land to be deeded to the City of Memphis and Shelby County (271 square feet).



I HEREBY CERTIFY THAT THIS IS A CATEGORY II SURVEY AND THE ERROR OF POSITIONAL ACCURACY DOES NOT EXCEED 1/10 OF A FOOT AT ANY PROPERTY CORNER SHOWN HEREON, AND THAT THIS SURVEY MEETS THE MINIMUM REQUIREMENTS FOR THE STATE OF TENNESSEE.

THIS SURVEY HAS BEEN MADE USING THE BRAY RECORDED DEED TO THAT PROPERTY AND SHOWS ANY OTHER EASEMENT INFORMATION SUCH AS EASEMENTS, JOINT R/W'S, ETC. OF WHICH I HAVE BEEN ADVISED BY THE TITLE ATTORNEY.

NOTE: THIS FIRM DOES NOT PERFORM TITLE SEARCHES.




CLOSURE DEEDED TO MVS REAL ESTATE

Legal description of part of the Autumn Avenue Right-of-way (25 foot Right-of-way) formerly identified as Brown Avenue per Lincoln Park Subdivision (Plat Book 5, Page 95) as recorded in the Shelby County Register's Office, property located in Memphis, Shelby County, Tennessee and more particularly described as follows:

Beginning at a point (N 319993.2953, E 784048.0729) in the south line of Autumn Avenue (formerly Brown Avenue) (25-foot right-of-way), said point also being in the northeast corner of Lot 78 of said Lincoln Park Subdivision (P.B. 5, Pg. 95); thence continuing along said south line of Autumn Avenue S 85°58'32" E a distance of 139.55 feet to a point in the north right-of-way of Sam Cooper Boulevard (right-of-way varies); thence along said north right-of-way N 76°41'40" E a distance of 84.65 feet to a point, said point being in the north line of said Autumn Avenue; thence along said north right-of-way of Autumn Avenue N 85°58'32" W a distance of 119.92 feet to a point; thence leaving said north right-of-way S 41°28' W a distance of 12.50 feet to a point in the centerline of said Autumn Avenue; thence along said centerline N 85°58'32" W a distance of 100.54 feet to a point; thence S 41°28' W a distance of 12.50 feet to the Point of Beginning and containing 3246 square feet of land, more or less.

NO VISIBLE UTILITIES ARE LOCATED WITHIN THIS CLOSURE AREA. HOWEVER, A UTILITY EASEMENT WILL BE RESERVED ALONG THE AREA OF CLOSURE IN PERPETUITY.

 3246 S.F. OF LAND WITHIN CLOSURE

DRAINAGE BASIN: CYPRESS 2-P

PLAT NO. 1 OF 1 SHEET NO. 1 OF 1

PREPARED BY:
THE BRAY FIRM
2950 STAGE PLAZA N.
BARTLETT, TN 38134
(901) 383-8668

DATE: 10.20.2020
SCALE: 1"=30'

THIS PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA PER FEMA FLOOD MAP # 47157C0290 F DATED SEPTEMBER 28, 2007



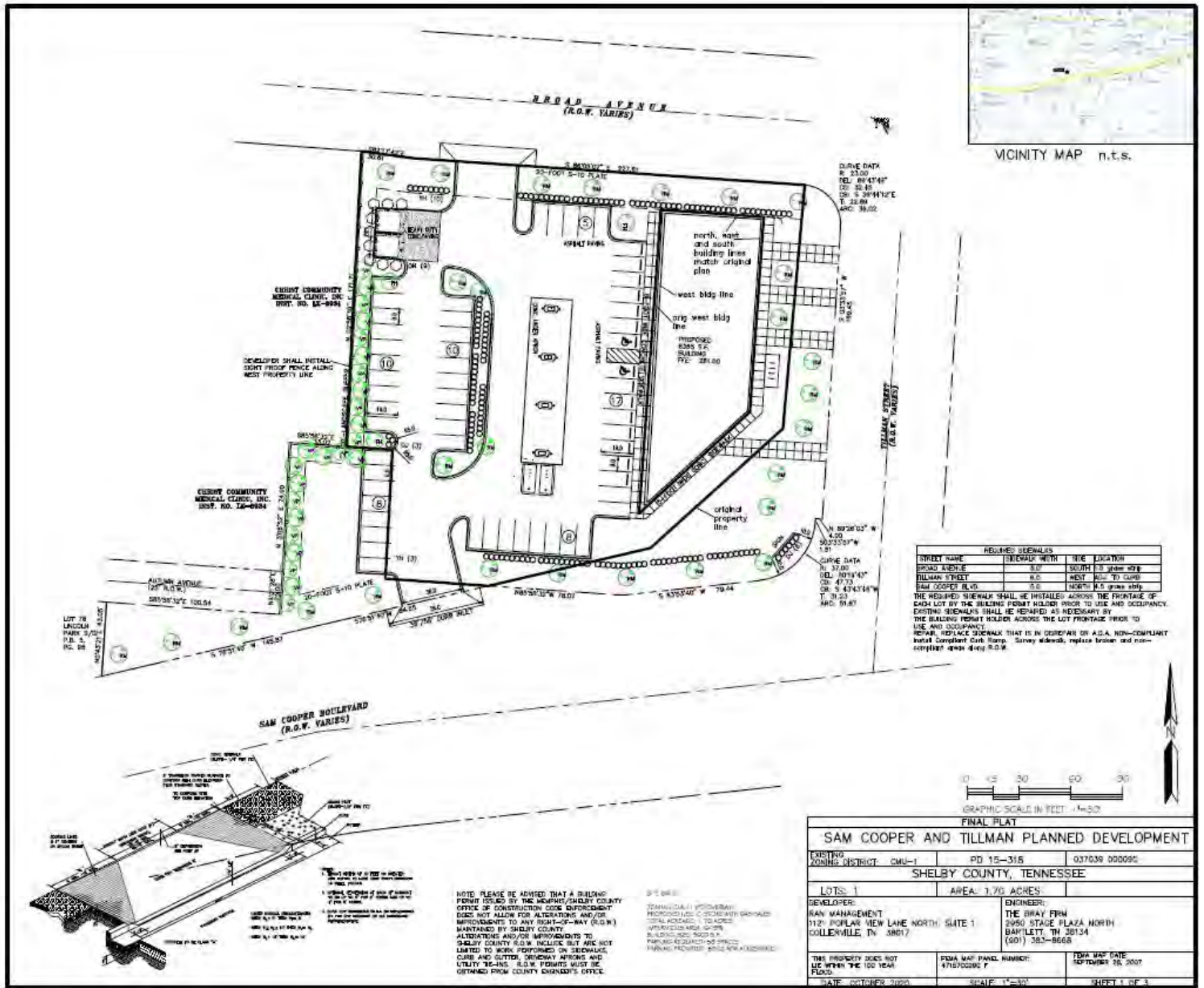
NOTE: BEARINGS ARE RELATIVE TO DEED CALLS OF ADJACENT PROPERTY

| | |
|--|---|
| DIVISION OF ENGINEERING 2977 BROAD AVENUE WARD 037, BLOCK 039, PARCEL 00009C | |
| STREET CLOSURE PLAT AUTUMN AVENUE MEMPHIS, TENNESSEE | |
| SURVEY BY <u>MLS</u> | DATE <u>08/2019</u> BOOK <u>N/A</u> |
| DRAFTSMAN <u>TBF</u> | DATE <u>12/2020</u> SCALE <u>1"=30'</u> |
| REVIEWED | DATE _____ DEPUTY CITY ENGINEER |
| REVIEWED | DATE _____ CITY ENGINEER |



This sheet shows that land to be deeded to MVS Real Estate Mid Town, LLC (3246 square feet).

PROPOSED SITE PLAN OF CONVENIENCE STORE WITH GAS SALES



A full review of this proposed site plan has not yet been conducted and would be considered separately from the street closure application.

PD 15-318, APPROVED CONCEPTUAL SITE PLAN



The proposed convenience store will be reviewed in accordance with the approved but unrecorded planned development known as PD 15-318, in conformance with Sub-Section 9.6.11D.

STAFF ANALYSIS

Request

MVS Real Estate Mid Town, LLC, and two neighboring property owners, have requested the physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard.

The application and letter of intent have been added to this report.

Site Description

The 5042-square foot subject right-of-way is that portion of the dead-end street within the Lincoln Park Subdivision, located east of Lipford and north of Sam Cooper. The 25-foot asphalt right-of-way narrows to a point at its eastern end.

Conclusions

MVS Real Estate Mid Town, LLC, and two neighboring property owners, have requested the physical closure of part of the Autumn Avenue right-of-way east of Lipford Street and north of Sam Cooper Boulevard.

Said company seeks to construct a convenience store with gas sales at 2977 Broad Avenue, directly to the northeast of the subject right-of-way. They intend to construct a driveway on Sam Cooper through the subject right-of-way to provide access to the proposed convenience store, hence the request for the right-of-way vacation.

This segment of Autumn was severed from the city street network when right-of-way was obtained for the extension of Interstate 40 in the 1960s and later when Sam Cooper Boulevard was extended to East Parkway in the early 2000s.

The subject right-of-way serves no public purpose. The City would benefit by making this land available for development and taxation.

RECOMMENDATION

Staff recommends ***approval*** with the following conditions:

1. A consolidation plat, subject to the certification of the Zoning Administrator, shall be recorded in conjunction with the recording of quitclaim deeds. This plat shall consolidate all vacated right-of-way with adjacent parcels, as well as consolidate parcels 037039 00015, 037039 00016, and 037039 00079.
2. The existing curb cut on Sam Cooper shall be closed with the appropriate streetscape plate.
3. Any existing utilities within the vacated right-of-way shall be overlaid with an easement or relocated.

DEPARTMENTAL COMMENTS

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

City Engineer:

1. Standard Subdivision Contract or Street Cut Permit as required in Section 5.5.5 of the Unified Development Code.

Street Closures:

2. Provide easements for existing sanitary sewers, drainage facilities and other utilities or relocate at developer's expense. At a minimum, a 15ft sanitary sewer easement will be required for the sewer located in Autumn.
3. City sanitary sewers/drainage facilities are located within the proposed closure area.
4. The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.
5. The applicant shall comply with all conditions of the closure within 3 years of the conditional approval of the closure by the City Council.
6. Provide documentation that TDOT has removed the existing access control on Sam Cooper along this frontage. Closure of Autumn Avenue does not grant access to Sam Cooper in light of access control restrictions.
7. The City Engineer shall approve the design, number and location of curb cuts. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.

| | |
|---------------------------------------|-----------------------|
| City Fire Division: | No comments received. |
| City Real Estate: | No comments received. |
| County Health Department: | No comments received. |
| Shelby County Schools: | No comments received. |
| Construction Code Enforcement: | No comments received. |
| Memphis Light, Gas and Water: | No comments received. |
| Sustainability and Resilience: | No comments received. |

APPLICATION



Memphis and Shelby County Office of Planning and Development

CITY HALL 125 NORTH MAIN STREET, SUITE 476, MEMPHIS, TENNESSEE 38103-2084 (901) 363-6619

APPLICATION FOR RIGHT-OF-WAY VACATION/ STREET/ALLEY/CLOSURE APPROVAL

Date: 09/25/2020

Case #: _____

PLEASE TYPE OR PRINT

Name of/Street/Alley/ROW: Autumn Avenue

Property Owner of Record: MVS Real Estate Mid Town LLC Phone #: _____

Mailing Address: 555 Trinity Creek Cove City/State: Cordova/TN Zip 38018

Property Owner E-Mail Address: _____

Applicant: Spire Enterprises Phone # 901-494-1559

Mailing Address: P.O. Box 770065 City/State: Memphis/TN Zip 38177

Applicant E-Mail Address: realestate@johnbehnke.us

Representative: John Behnke Phone #: 901-494-1559

Mailing Address: P.O. Box 770065 City/State: Memphis/TN Zip 38177

Representative E-Mail Address: realestate@johnbehnke.us

Engineer/Surveyor: David Bray, P.E. - The Bray Firm Phone # 901-383-8668

Mailing Address: 2950 Stage Plaza North City/State: Bartlett/TN Zip 38134

Engineer/Surveyor E-Mail Address: dgbray@comcast.net

Closure Street Address Location: extreme East end of Autumn deadending at Sam Cooper Blvd.

Inside of Memphis City Limits [X] Yes [] No

Unincorporated Shelby County [] Yes [X] No

City of n/a Reserve Area [] Yes [X] No

Distance to nearest intersecting street: approx 250' Eastward to Tillman Street or approx 300' Westward to Lipford Street

Area of ROW: 1988+/- sq.ft. Square-Foot/Acres Length x Width of ROW: 119'/39' x 25'/0' Feet

Closure starts at: the West P/L of APN 037039 00009C aka 2977 Broad Avenue and

Proceeds to an existing dead end at Sam Cooper Boulevard

Reason for Closure: Per Ken Johnson, P.E. of Memphis & Shelby County Traffic Engineering a closure at this point on Autumn is required in order to permit an access drive on to the land/parcel (APN 037039 00009C) to the the North. The area requested for SAC closure is already effectively and physically closed.

SAC 20-21

| Landowner | APN |
|--|---|
| <p>MVS Real Estate – Mid Town LLC Todd Tobias 1508 Goodbar Memphis, TN. 38104 901-491-8141</p> <p>Toddtobias99@gmail.com</p> | <p>037039 00021 037039 00022 037039 00019C 037039 00018</p> |
| <p>City of Memphis/Shelby County Doug McGowen Chief Operating Officer City of Memphis 125 N. Main St. Suite 308 Memphis, TN 38103 (901) 636-7228</p> <p>doug.mcgowen@memphistn.gov</p> | <p>037039 00017</p> |
| <p>Christ Community Medical Clinic, Inc. Claude Bynum, Facilities Manager 2595 Central Avenue Memphis, TN 38104 901-701-2500</p> <p>claudе.bynum@christchs.org</p> | <p>037039 00015 037039 00016</p> |
| | |

PRE-APPLICATION CONFERENCE - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.

Pre-Application Conference held on: 09/18/2020 with Chip Saliba

I (we) hereby make application for approval of the street/alley closure described above and on the accompanying materials and closure plat. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.

| | | | |
|--|------------|-----------|------|
|  | 9/24/2020 | | |
| Property Owner of Record* MVS APN 037039 00009C | Date | Applicant | Date |
|  | 9/24/2020 | | |
| Property Owner of Record* MVS APN 037039 00022 | Date | Applicant | Date |
|  | 11/23/2020 | | |
| Property Owner of Record* MVS APN 037039 00021 | Date | Applicant | Date |
|  | 11/23/2020 | | |
| Property Owner of Record* MVS APN 037039 00018 | Date | Applicant | Date |
| Property Owner of Record* | Date | Applicant | Date |



Every property owner that both abuts the right-of-way to be closed and will be deeded a respective portion shall sign this application unless the signee above is a duly elected representative of a homeowners or property owners association that will be taking ownership of the vacated right of way. See Item H at the bottom of this application for further instructions and exceptions.

Types of Vacation (from Chapter 9.8 of the Unified Development Code)

1. **Conversions** (public-to-private street conversions, pursuant to Section 5.2.18 of the UDC)
Note: street conversions entirely within approved subdivisions or planned developments shall be processed as revisions to the subdivision plat or planned development plat. Please refer to those appropriate applications.
2. **Physical closures** (street and alley closures that involve the physical closure of an existing street or alley)
3. **Abandonment** (divesture of abandoned or excess right-of-way, paper streets, paper alleys and easements)

SIGN POSTING – A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

PRE-APPLICATION CONFERENCE - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.

Pre-Application Conference held on: 11/23/20 with Gregory Lunn and Claude Bynum

I (we) hereby make application for approval of the street/alley closure described above and on the accompanying materials and closure plat. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.

DocuSigned by:
Shantelle Leatherwood 11/24/2020
 Property Owner of Record* Date Applicant Date
 APN 037039 00016 Christ Community

DocuSigned by:
Shantelle Leatherwood 11/24/2020
 Property Owner of Record* Date Applicant Date
 APN 037039 00015 Christ Community

 Property Owner of Record* Date Applicant Date

 Property Owner of Record* Date Applicant Date

 Property Owner of Record* Date Applicant Date

Every property owner that both abuts the right-of-way to be closed and will be deeded a respective portion shall sign this application unless the signee above is a duly elected representative of a homeowners or property owners association that will be taking ownership of the vacated right of way. See Item H at the bottom of this application for further instructions and exceptions.

Types of Vacation (from Chapter 9.8 of the Unified Development Code)

1. **Conversions** (public-to-private street conversions, pursuant to Section 5.2.18 of the UDC)
Note: street conversions entirely within approved subdivisions or planned developments shall be processed as revisions to the subdivision plat or planned development plat. Please refer to those appropriate applications.
2. **Physical closures** (street and alley closures that involve the physical closure of an existing street or alley)
3. **Abandonment** (divesture of abandoned or excess right-of-way, paper streets, paper alleys and easements)

SIGN POSTING – A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

----- Original Message -----

Subject: Re: scan: SAC 20-21: Autumn Avenue

From: "McGowen, Doug" <Doug.McGowen@memphistn.gov>

Date: Wed, December 02, 2020 8:01 pm

To: "RealEstate@JohnBehnke.us" <RealEstate@JohnBehnke.us>

I have signed will ensure LUCB understands this.

Get [Outlook for Android](#)

LETTER OF INTENT



September 30, 2020

Chip Saliba
Land Use & Development Services
Memphis & Shelby County Office of Planning & Development
City Hall, 125 N. Main Street, Suite 477
Memphis, Tennessee 38103

Re: Street/Alley Closure – Example 4
Autumn Avenue near Sam Cooper Blvd.

Dear Mr. Saliba,

We are pleased to submit an Application for Street and Alley Closure at the subject location. The purpose of this application is to request approval for a closure at Autumn Avenue at its extreme Eastern ending so that access can be lawfully made across Autumn, from Sam Cooper, to the land abutting to the North (APN 037039 00009C).

The request comes on the advice and direction from Memphis & Shelby County Traffic Engineering as prerequisite to a planned right-in/right-out access at Sam Cooper Blvd.

The area requested for closure is already effectively and physically closed having been terminated when Sam Cooper Blvd. was widened and improved.

All application items are attached, however, since the request most closely aligns with Example 4 a Closure Plat and Dedication Instrument are not included. As in Example 4, there is already a gate installed across Autumn at the West side of the proposed beginning point of the closure.

Thank you,

SPIRE ENTERPRISES

John Behnke
Consultant

SIGN AFFIDAVIT

AFFIDAVIT

Shelby County
State of Tennessee

I, John Behnke, being duly sworn, depose and say that at 11:22 am/pm on the 2nd day of November, 2020, I posted Public Notice Sign(s) pertaining to Case No. SAC 20-21 at Lipford/Autumn & Lipford/Sam Cooper Blvd, providing notice of a Public Hearing before the XXX Land Use Control Board, Memphis City Council, Shelby County Board of Commissioners for consideration of a proposed Land Use Action (Planned Development, Special Use Permit, Zoning District Map Amendment, XXX Street and/or Alley Closure), a photograph of said sign(s) being attached hereon and a copy of the sign purchase receipt or rental contract attached hereto.

John Behnke
Owner, Applicant or Representative

11-03-2020
Date

Subscribed and sworn to before me this 3rd day of NOVEMBER, 2020.

Stephanie Bishop
Notary Public

My commission expires: 1.2.21



LETTERS RECEIVED

No letters received at the time of completion of this report.

**CITY OF MEMPHIS
COUNCIL AGENDA CHECK OFF SHEET**

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

**Planning & Zoning COMMITTEE: 01/26/2021
DATE
PUBLIC SESSION: 01/26/2021
DATE**

ITEM (**CHECK ONE**)
 ORDINANCE CONDEMNATIONS GRANT ACCEPTANCE / AMENDMENT
 RESOLUTION GRANT APPLICATION REQUEST FOR PUBLIC HEARING
 OTHER: _____

ITEM DESCRIPTION: A resolution approving used vehicle sales
CASE NUMBER: SUP 20-14
DEVELOPMENT: Used vehicle sales
LOCATION: 2369 Covington Pike
COUNCIL DISTRICTS: District 6 and Super District 9 – Positions 1, 2, and 3
OWNER/APPLICANT: Auggie TXTN, LLC. / Robert Taylor
REPRESENTATIVE: Angela Taylor
EXISTING ZONING: Commercial Mixed Use – 3 (CMU-3)
REQUEST: To allow used motor vehicle sales
AREA: +/-2.66 acres
RECOMMENDATION: The Office of Planning and Development recommended *Approval with conditions*
The Land Use Control Board recommended *Approval with conditions*

RECOMMENDED COUNCIL ACTION: **Public Hearing Not Required**

PRIOR ACTION ON ITEM:

| | |
|----------------------------------|---|
| (1) _____ | APPROVAL - (1) APPROVED (2) DENIED |
| 12/10/2020 _____ | DATE |
| (1) Land Use Control Board _____ | ORGANIZATION - (1) BOARD / COMMISSION |
| | (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE |


FUNDING:

| | |
|-----------|--|
| (2) _____ | REQUIRES CITY EXPENDITURE - (1) YES (2) NO |
| \$ _____ | AMOUNT OF EXPENDITURE |
| \$ _____ | REVENUE TO BE RECEIVED |

SOURCE AND AMOUNT OF FUNDS

| | |
|----------|---------------------|
| \$ _____ | OPERATING BUDGET |
| \$ _____ | CIP PROJECT # _____ |
| \$ _____ | FEDERAL/STATE/OTHER |

ADMINISTRATIVE APPROVAL:

| | <u>DATE</u> | <u>POSITION</u> |
|---|----------------|-------------------------------------|
| Lucas Skinner _____ | 01/08/21 _____ | MUNICIPAL PLANNER |
|  _____ | 1/11/21 _____ | DEPUTY ADMINISTRATOR |
| _____ | _____ | ADMINISTRATOR |
| _____ | _____ | DIRECTOR (JOINT APPROVAL) |
| _____ | _____ | COMPTROLLER |
| _____ | _____ | FINANCE DIRECTOR |
| _____ | _____ | CITY ATTORNEY |
| _____ | _____ | CHIEF ADMINISTRATIVE OFFICER |
| _____ | _____ | COMMITTEE CHAIRMAN |



Memphis City Council Summary Sheet

SUP 20-14

Resolution requesting used vehicle sales:

- This item is a resolution with conditions for a special use permit to allow the above; and
- The Division of Planning & Development at the request of the Owner(s)/Applicant(s): Auggie TXTN, LLC. / Robert Taylor and Representative(s): Angela Taylor; and
- Approval of this special use permit will be reflected on the Memphis and Shelby County Zoning Atlas; and
- The item may require future public improvement contracts.

**RESOLUTION APPROVING A SPECIAL USE PERMIT AT THE SUBJECT PROPERTY
LOCATED AT 2369 COVINGTON PIKE, KNOWN AS CASE NUMBER SUP 20-14.**

WHEREAS, Chapter 9.6 of the Memphis and Shelby County Unified Development Code, being a section of the Joint Ordinance Resolution No. 5367, dated August 10, 2010, authorizes the Council of the City of Memphis to grant a special use permit for certain stated purposes in the various zoning districts; and

WHEREAS, the Auggie TXTN, LLC. filed an application with the Memphis and Shelby County Office of Planning and Development to allow used vehicle sales; and

WHEREAS, the Office of Planning and Development has received and reviewed the application in accordance with procedures, objectives, and standards for special use permits as set forth in Chapter 9.6 with regard to the proposed development's impacts upon surrounding properties, availability of public facilities, both external and internal circulation, land use compatibility, and that the design and amenities are consistent with the public interest; and has submitted its findings and recommendation concerning the above considerations to the Land Use Control Board; and

WHEREAS, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on December 10, 2020, and said Board has submitted its findings and recommendation concerning the above considerations to the Council of the City of Memphis; and

WHEREAS, the Council of the City of Memphis has reviewed the aforementioned application pursuant to Tennessee Code Annotated Section 13-4-202(B)(2)(B)(iii) and has determined that said development is consistent with the Memphis 3.0 General Plan; and

WHEREAS, the Council of the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the Office of Planning and Development and has determined that said development meets the objectives, standards and criteria for a special use permit, and said development is consistent with the public interests.

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF MEMPHIS, that, pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code, a special use permit is hereby granted for the request use in accordance with the attached conditions.

BE IT FURTHER RESOLVED, that this permit merely authorizes the filing of applications to acquire a Certificate of Use and Occupancy, or a Building Permit, and other required permits and approvals, provided that no such Certificate of Use and Occupancy shall be granted until all conditions imposed by the Council of the City of Memphis have been met.

BE IT FURTHER RESOLVED, that this Resolution take effect from and after the date it shall have been passed by this Council of the City of Memphis, and become effective as otherwise provided by law, and thereafter shall be treated as in full force and effect by virtue of passage thereof by the Council of the City of Memphis, the public welfare requiring same.

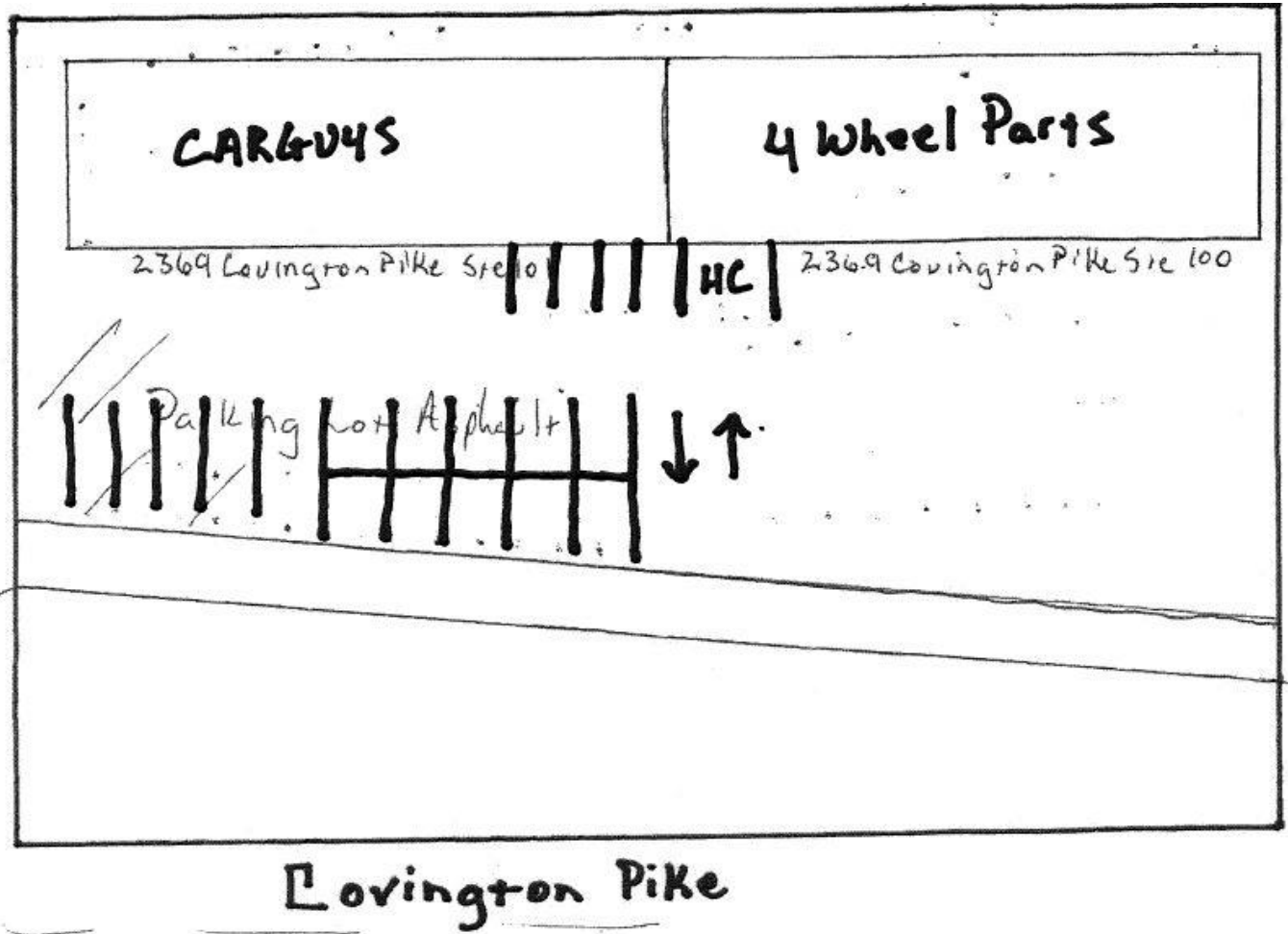
ATTEST:

CC: Division of Planning and Development
– Land Use and Development Services
– Office of Construction Code Enforcement

CONDITIONS

- 1. Parking shall be provided at ratio of 1.0 space per 500 square feet of floor area, plus 1.0 space per 10,000 square feet of outdoor lot area.**
- 2. All vehicle parking shall be accomplished on the site, and a parked vehicle shall not encroach into the right-of-way.**
- 3. All other provisions shall be in accordance with Paragraph 2.6.3P(1) of the UDC.**
- 4. Future modifications to the site plan will not require re-recording of the site plan unless additional uses/activities are being added that beyond the scope of all prior approvals for the site or this approval.**

SITE PLAN



LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday, December 10, 2020**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: SUP 20-14

LOCATION: 2369 Covington Pike

COUNCIL DISTRICT(S): District 6 and Super District 9 – Positions 1, 2, and 3

OWNER/APPLICANT: Auggie TXTN, LLC. / Robert Taylor

REPRESENTATIVE: Angela Taylor

REQUEST: To allow used vehicle sales

EXISTING ZONING: Commercial Mixed Use – 3 (CMU-3), BOA 1983-162

AREA: +/-2.66 acres

The following spoke in support of the application: None

The following spoke in opposition the application: None

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval with conditions.

The motion passed by a vote of 10-0 on the consent agenda.

Respectfully,



Lucas Skinner
Municipal Planner
Land Use and Development Services
Division of Planning and Development

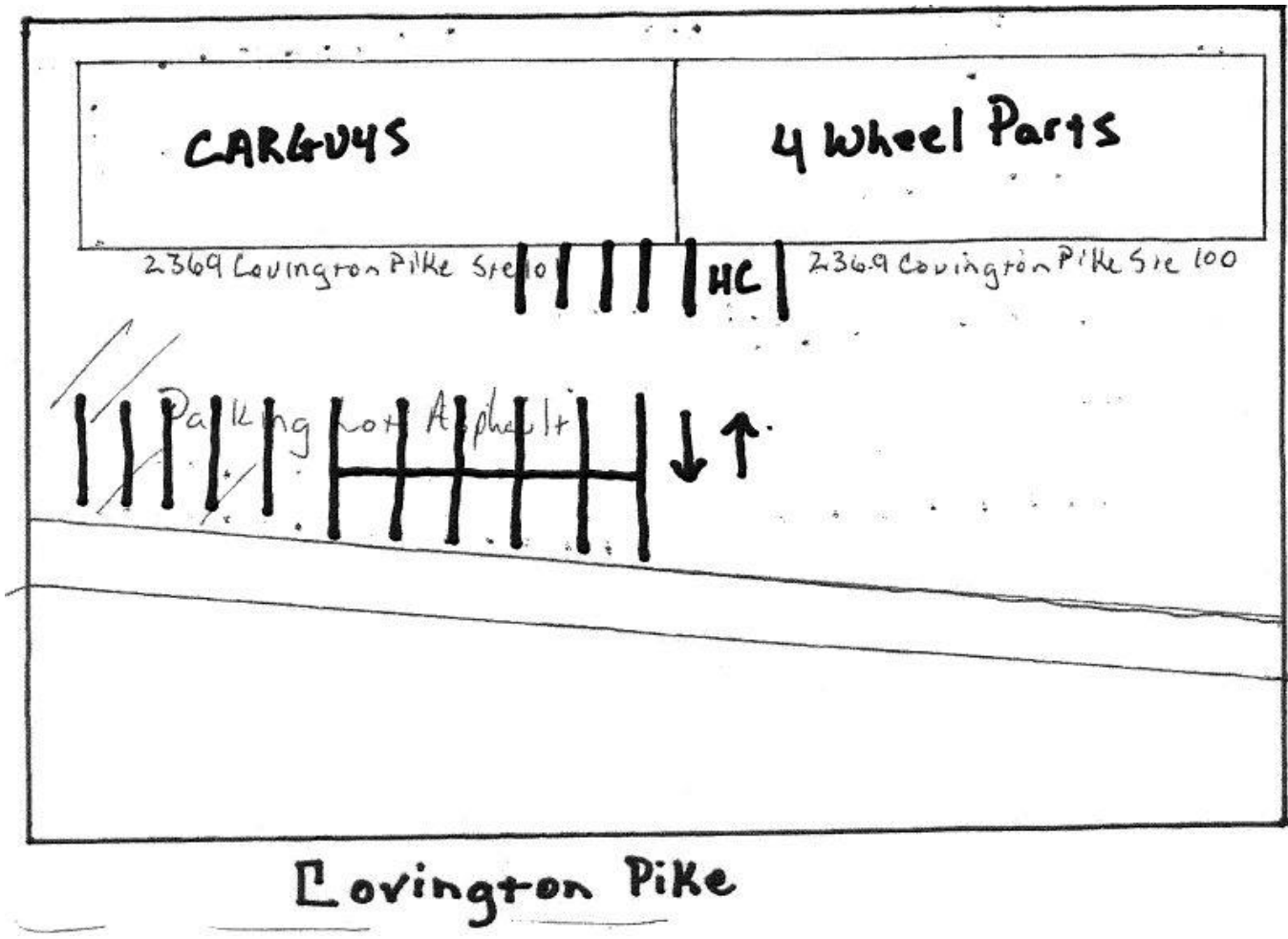
Cc: Committee Members
File

SUP 20-14
CONDITIONS

Conditions

1. Parking shall be provided at ratio of 1.0 space per 500 square feet of floor area, plus 1.0 space per 10,000 square feet of outdoor lot area.
2. All vehicle parking shall be accomplished on the site, and a parked vehicle shall not encroach into the right-of-way.
3. All other provisions shall be in accordance with Paragraph 2.6.3P(1) of the UDC.
4. Future modifications to the site plan will not require re-recording of the site plan unless additional uses/activities are being added that beyond the scope of all prior approvals for the site or this approval.

SITE PLAN



AGENDA ITEM: 11

CASE NUMBER: SUP 20-14

L.U.C.B. MEETING: December 10, 2020

LOCATION: 2369 Covington Pike

COUNCIL DISTRICT: District 6 and Super District 9 – Positions 1, 2, and 3

OWNER/APPLICANT: Auggie TXTN LLC./ Robert Taylor

REPRESENTATIVE: Angela Taylor

REQUEST: Used motor vehicle sales

AREA: +/-2.66 acres

EXISTING ZONING: Commercial Mixed Use -3 (CMU-3), BOA 1983-162

CONCLUSIONS

1. The applicant is seeking to add used motor vehicle sales to an existing structure which currently holds a vehicle parts business.
2. Staff agrees with the Comprehensive Planning findings that this request is consistent with the surrounding area, and will help to fill an otherwise vacant space.
3. This project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.

CONSISTENCY WITH MEMPHIS 3.0

This proposal is consistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on pages 13-14 of this report.

RECOMMENDATION

Approval with conditions

GENERAL INFORMATION

Street Frontage: Covington Pike +/-399 linear feet
Zoning Atlas Page: 1845
Parcel ID: 088032 A00003C
Existing Zoning: Commercial Mixed Use -3 (CMU-3), BOA 1983-162

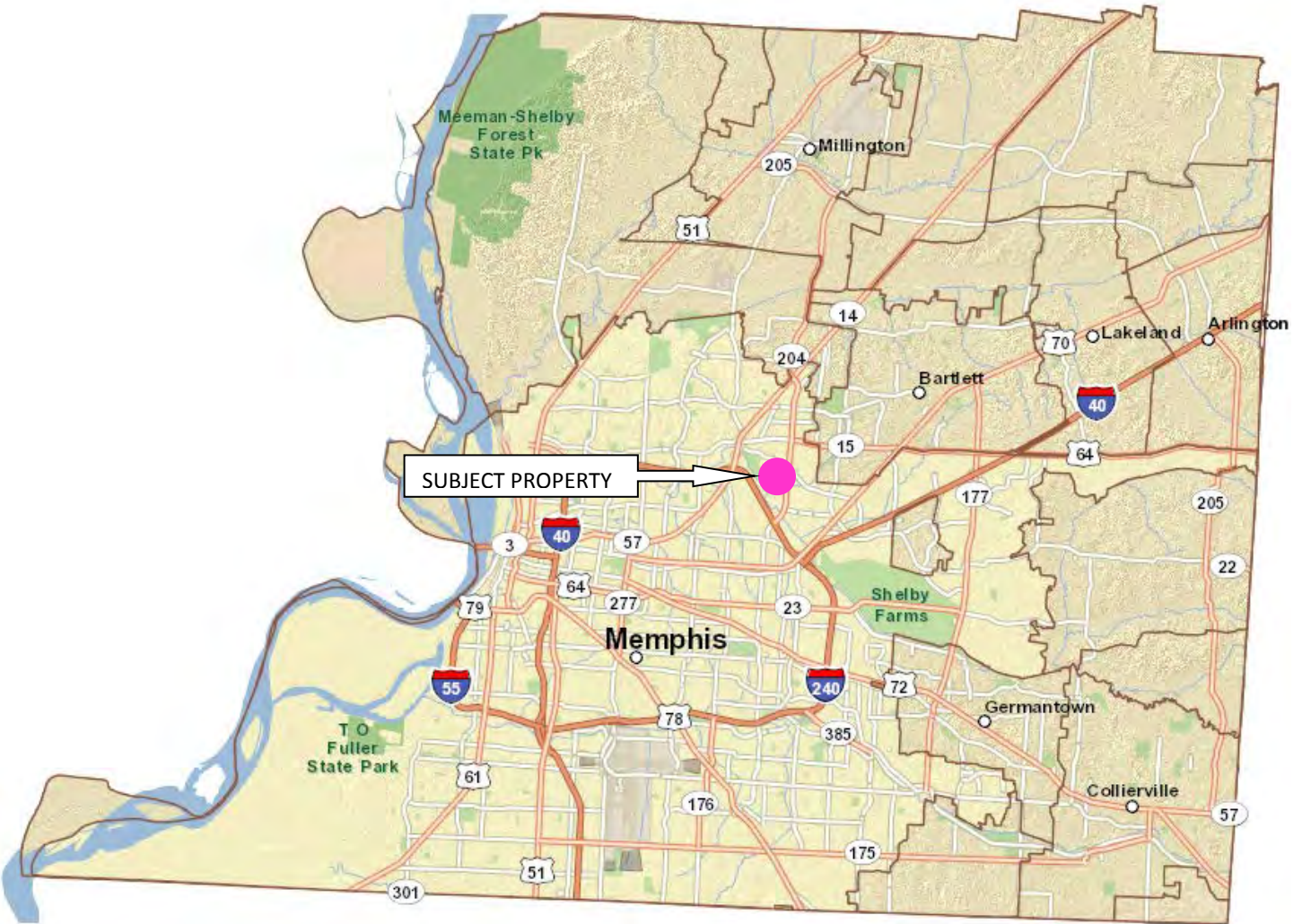
NEIGHBORHOOD MEETING

The meeting was held at 12:30 PM on Monday, November 30, 2020, telephonically over Zoom meetings.

PUBLIC NOTICE

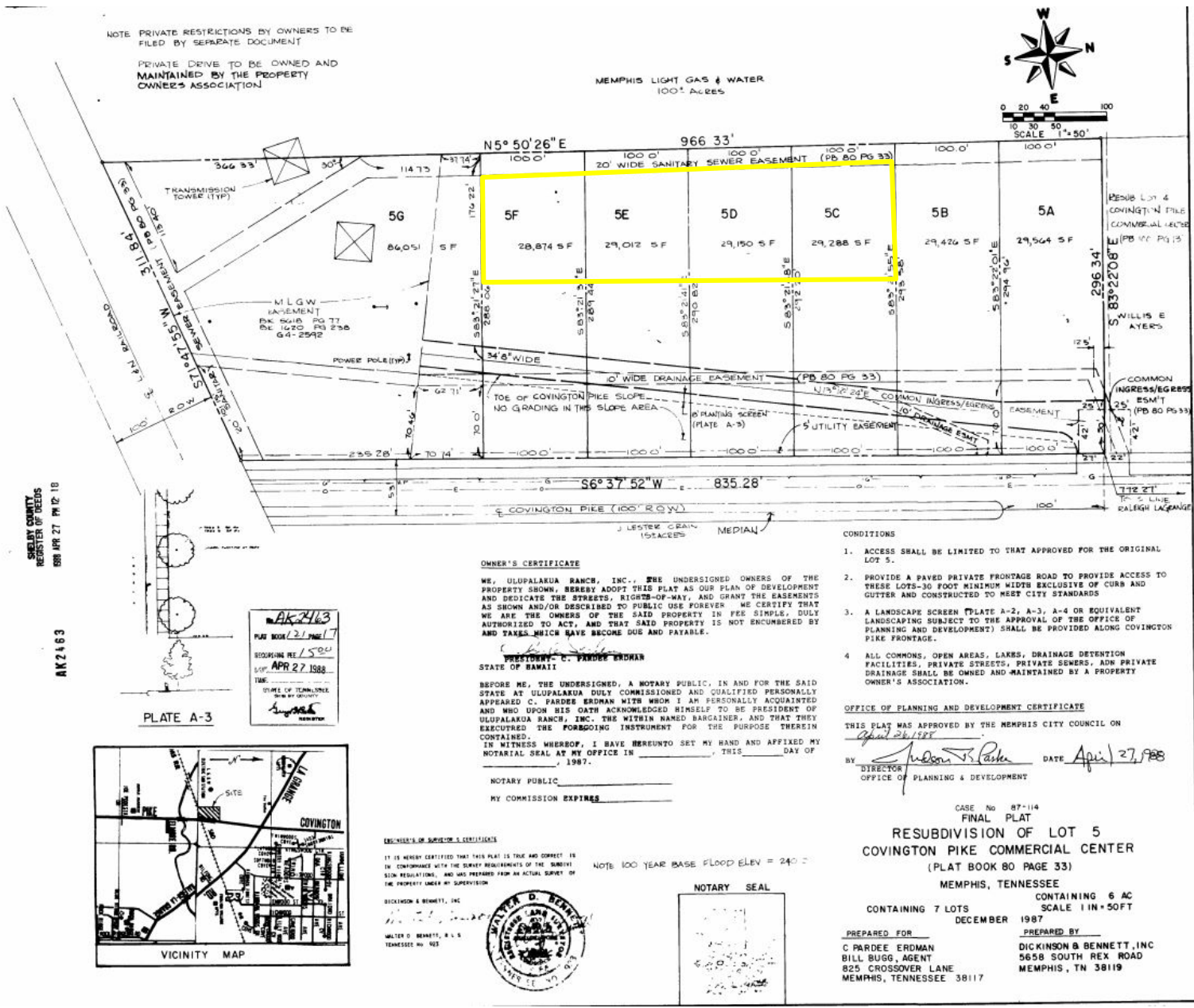
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 26 notices were mailed on November 25, 2020, and a total of 1 sign posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



Subject property located within the pink circle, Northeast Memphis neighborhood

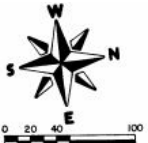
COVINGTON PIKE COMMERCIAL CENTER (1987)



NOTE PRIVATE RESTRICTIONS BY OWNERS TO BE FILED BY SEPARATE DOCUMENT

PRIVATE DRIVE TO BE OWNED AND MAINTAINED BY THE PROPERTY OWNERS ASSOCIATION

MEMPHIS LIGHT GAS & WATER
100' ACRES

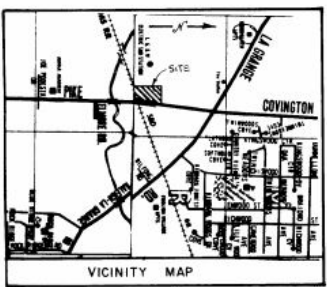


SHELBY COUNTY REGISTER OF DEEDS
688 APR 27 PM 12:18

AK 24 83

AK 24 83
PLAT BOOK 80 PAGE 33
RECORDING FEE \$150
APR 27 1987
STATE OF TENNESSEE
WALTER D. BENNETT, R.L.S.
MEMPHIS

PLATE A-3



OWNER'S CERTIFICATE

WE, ULUPALAKUA RANCH, INC., THE UNDERSIGNED OWNERS OF THE PROPERTY SHOWN, HEREBY ADOPT THIS PLAT AS OUR PLAN OF DEVELOPMENT AND DEDICATE THE STREETS, RIGHTS-OF-WAY, AND GRANT THE EASEMENTS AS SHOWN AND/OR DESCRIBED TO PUBLIC USE FOREVER. WE CERTIFY THAT WE ARE THE OWNERS OF THE SAID PROPERTY IN FEE SIMPLE, DULY AUTHORIZED TO ACT, AND THAT SAID PROPERTY IS NOT ENCUMBERED BY AND TAXES WHICH HAVE BECOME DUE AND PAYABLE.

WALTER D. PARDEE ERDMAN
STATE OF HAWAII

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, IN AND FOR THE SAID STATE AT ULUPALAKUA DULY COMMISSIONED AND QUALIFIED PERSONALLY APPEARED C. PARDEE ERDMAN WITH WHOM I AM PERSONALLY ACQUAINTED AND WHO UPON HIS OATH ACKNOWLEDGED HIMSELF TO BE PRESIDENT OF ULUPALAKUA RANCH, INC. THE WITHIN NAMED BARGAINEER, AND THAT THEY 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 _____, THIS _____ DAY OF _____, 1987.

NOTARY PUBLIC _____
MY COMMISSION EXPIRES _____

CONDITIONS

- ACCESS SHALL BE LIMITED TO THAT APPROVED FOR THE ORIGINAL LOT 5.
- PROVIDE A PAVED PRIVATE FRONTAGE ROAD TO PROVIDE ACCESS TO THESE LOTS-30 FOOT MINIMUM WIDTH EXCLUSIVE OF CURB AND GUTTER AND CONSTRUCTED TO MEET CITY STANDARDS
- A LANDSCAPE SCREEN (PLATE A-2, A-3, A-4 OR EQUIVALENT LANDSCAPING SUBJECT TO THE APPROVAL OF THE OFFICE OF PLANNING AND DEVELOPMENT) SHALL BE PROVIDED ALONG COVINGTON PIKE FRONTAGE.
- ALL COMMONS, OPEN AREAS, LAKES, DRAINAGE DETENTION FACILITIES, PRIVATE STREETS, PRIVATE SEWERS, AND PRIVATE DRAINAGE SHALL BE OWNED AND MAINTAINED BY A PROPERTY OWNER'S ASSOCIATION.

OFFICE OF PLANNING AND DEVELOPMENT CERTIFICATE

THIS PLAT WAS APPROVED BY THE MEMPHIS CITY COUNCIL ON April 26, 1987

BY Anderson J. Parker DATE April 27, 1987
DIRECTOR
OFFICE OF PLANNING & DEVELOPMENT

CASE No 87-114
FINAL PLAT
RESUBDIVISION OF LOT 5
COVINGTON PIKE COMMERCIAL CENTER
(PLAT BOOK 80 PAGE 33)

MEMPHIS, TENNESSEE

CONTAINING 7 LOTS
DECEMBER 1987

PREPARED FOR
C PARDEE ERDMAN
BILL BUGG, AGENT
825 CROSSOVER LANE
MEMPHIS, TENNESSEE 38117

CONTAINING 6 AC
SCALE 1"=50 FT

PREPARED BY
DICKINSON & BENNETT, INC
5658 SOUTH REX ROAD
MEMPHIS, TN 38119

ENGINEER'S OR SURVEYOR'S CERTIFICATE

IT IS HEREBY CERTIFIED THAT THIS PLAT IS TRUE AND CORRECT IN CONFORMANCE WITH THE SURVEY REQUIREMENTS OF THE SURVEYING REGULATIONS, AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY UNDER MY SUPERVISION

DICKINSON & BENNETT, INC.
WALTER D. BENNETT, R.L.S.
TENNESSEE No. 903



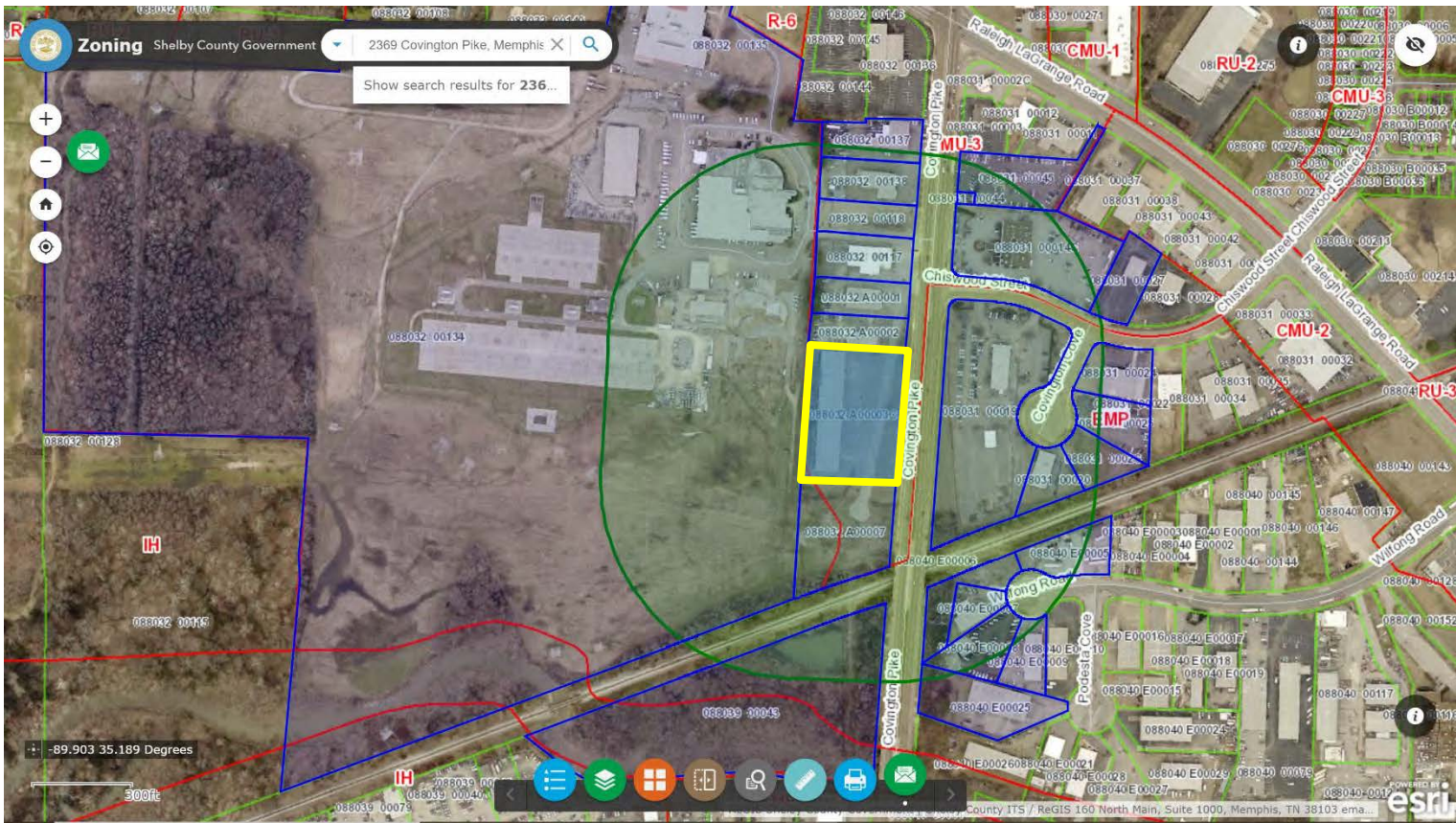
NOTARY SEAL



NOTE 100 YEAR BASE FLOOD ELEV = 240'

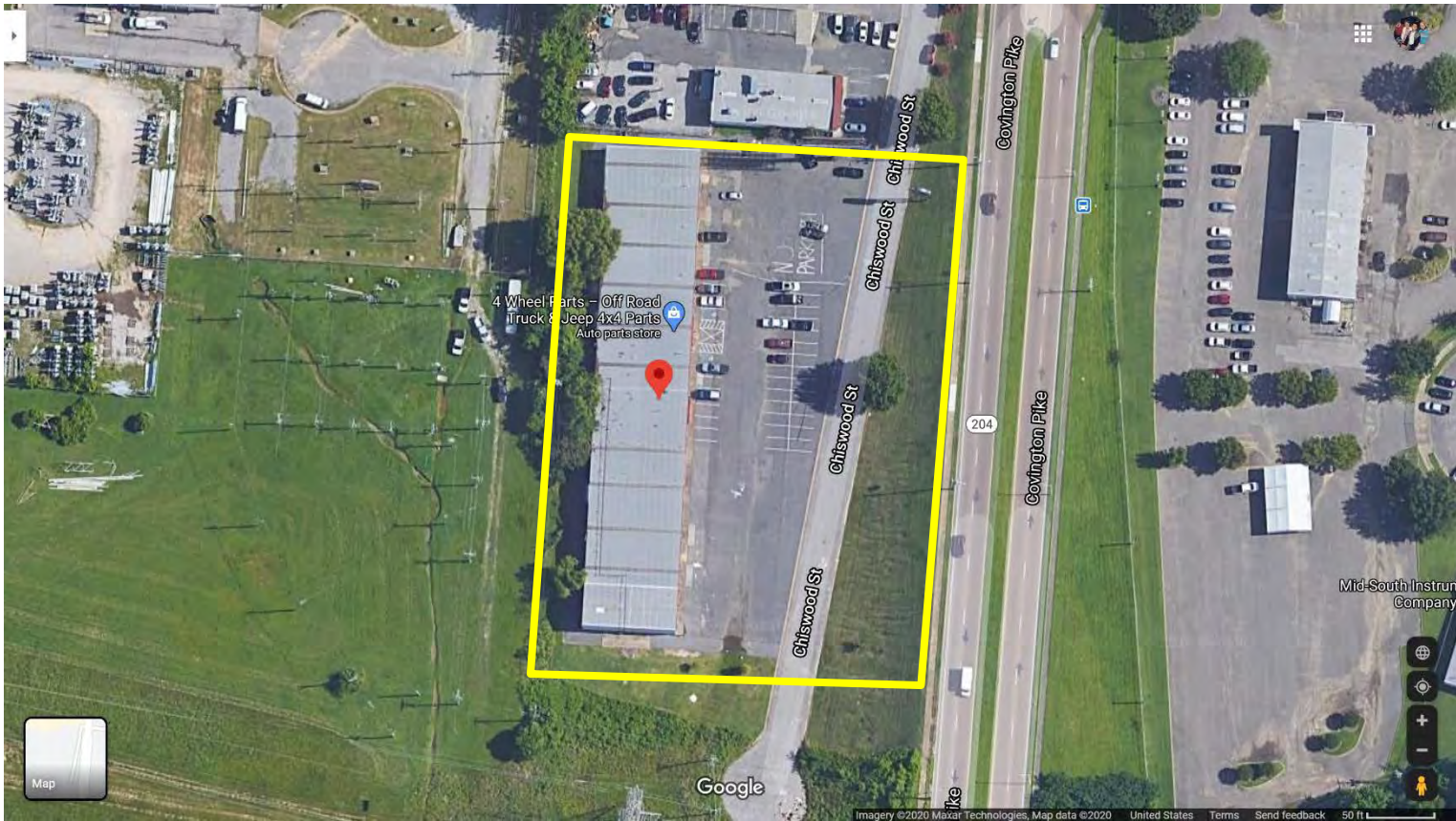
Subject property highlighted in yellow

VICINITY MAP



Site highlighted in yellow

AERIAL



Subject property outlined in yellow, imagery from 2020

ZONING MAP



Subject property indicated by a pink star

Existing Zoning: Commercial Mixed Use - 3 (CMU-3), BOA 1983-162

Surrounding Zoning

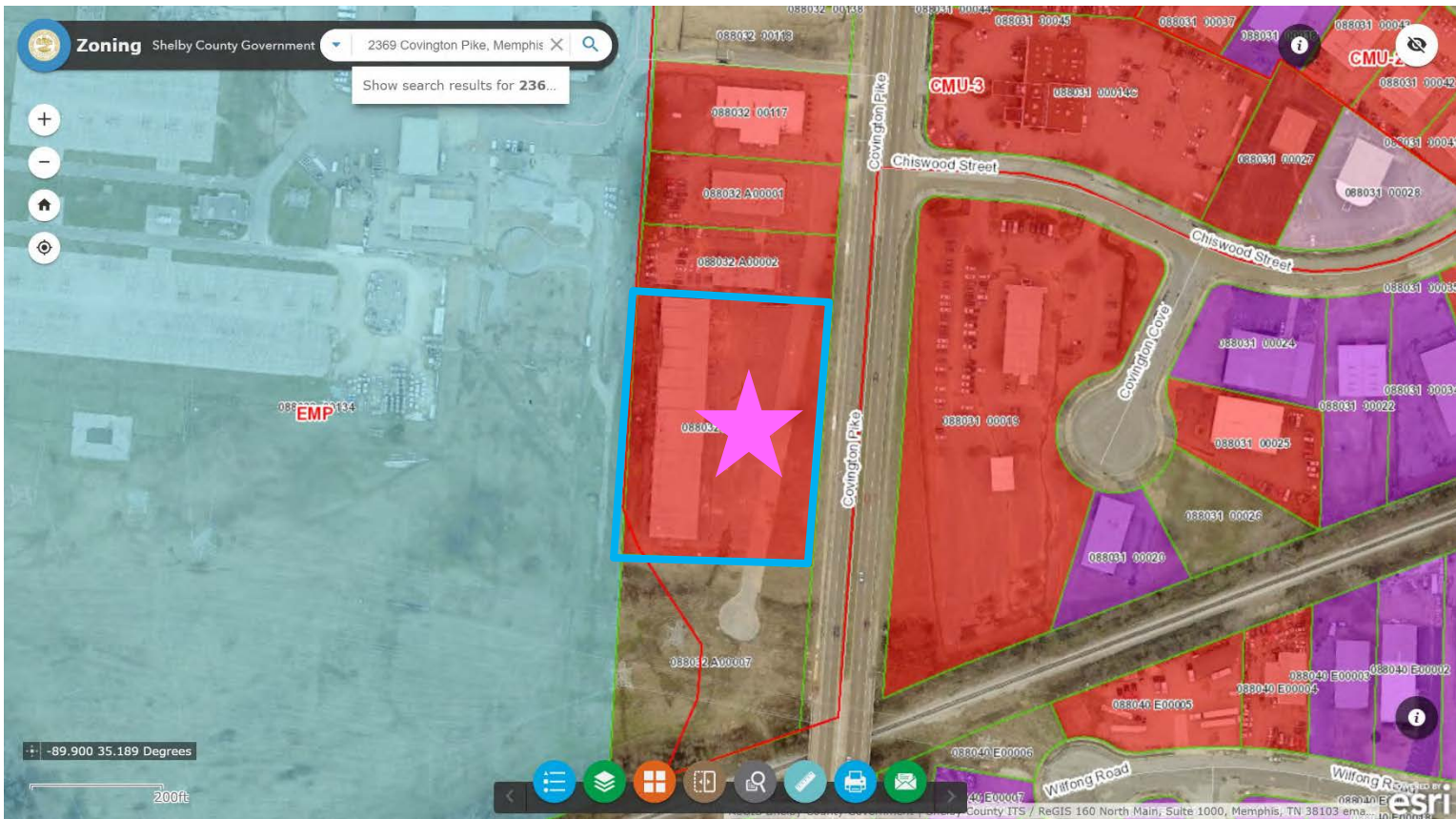
North: CMU-3, BOA 1983-162

East: PD 89-375

South: CMU-3

West: EMP, BOA 1957-040 CO, SUP 1990-209

LAND USE MAP



Subject property indicated by an electric blue box and a pink star

SITE PHOTOS (Imagery from Summer 2019)



View of subject property from Chiswood Street looking due west



View of subject property from Chiswood Street looking due west (left portion of building to be vehicle sales)

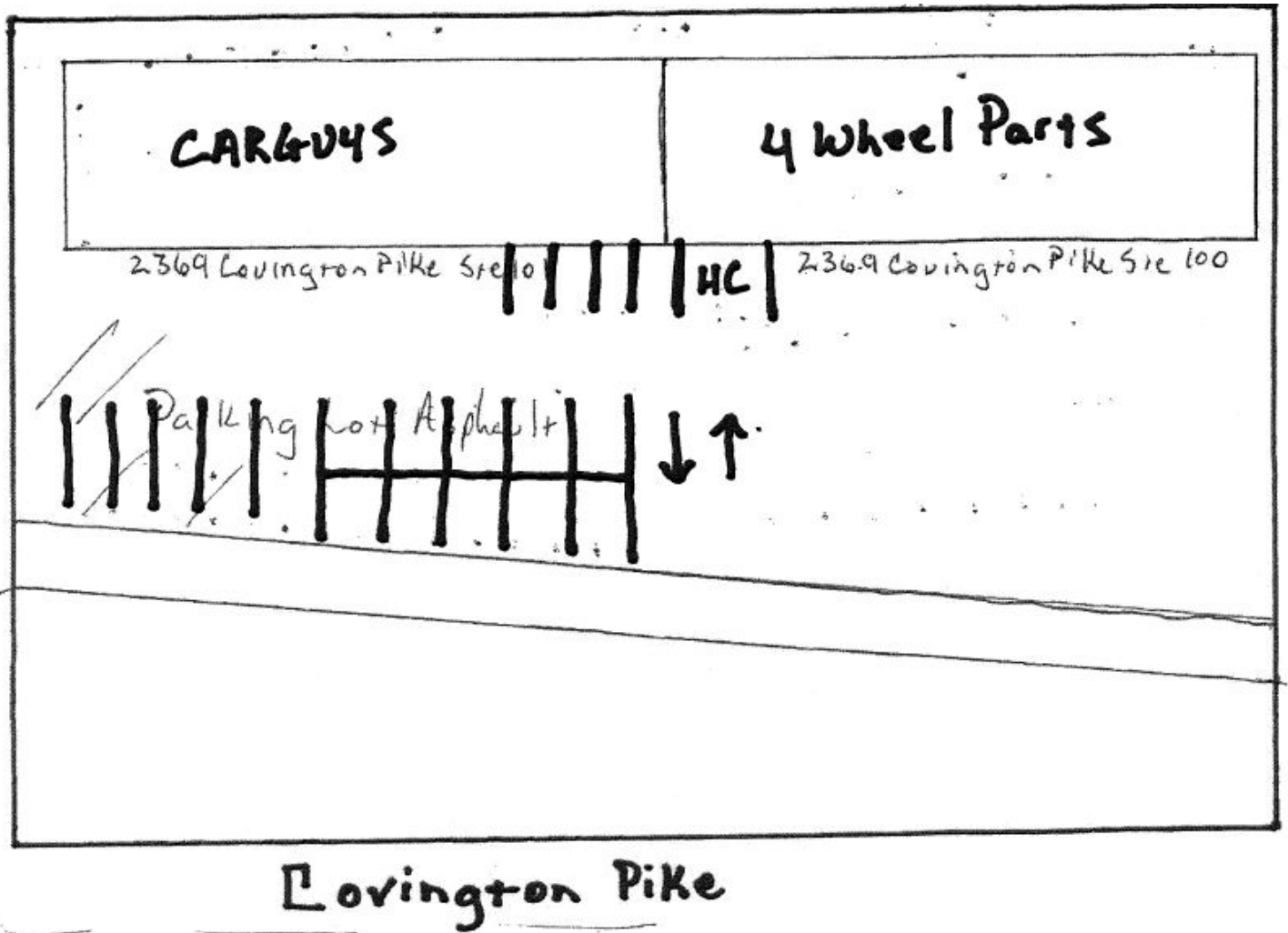


View of subject property from Chiswood Street looking northwest (closest portion of building to be vehicle sales)



View of subject property from Covington Pike looking due west

SITE PLAN



STAFF ANALYSIS

Request

The application and letter of intent have been added to this report.

The request is for used vehicle sales in a portion of a building being used for vehicle parts.

Approval Criteria

Staff agrees the approval criteria in regard special use permits as set out in Section 9.6.9 of the Unified Development Code are met.

9.6.9 Approval Criteria

No special use permit or planned development shall be approved unless the following findings are made concerning the application:

- 9.6.9A The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.*
- 9.6.9B The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations.*
- 9.6.9C The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services.*
- 9.6.9D The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic or historic importance.*
- 9.6.9E The project complies with all additional standards imposed on it by any particular provisions authorizing such use.*
- 9.6.9F The request will not adversely affect any plans to be considered (see Chapter 1.9), or violate the character of existing standards for development of the adjacent properties.*
- 9.6.9G The governing bodies may impose conditions to minimize adverse effects on the neighborhood or on public facilities, and to insure compatibility of the proposed development with surrounding properties, uses, and the purpose and intent of this development code.*
- 9.6.9H Any decision to deny a special use permit request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record, per the Telecommunications Act of 1996, 47 USC 332(c)(7)(B)(iii). The review body may not take into account any environmental or health concerns.*

Site Description

The subject property is +/- 2.66 acres located at 2369 Covington Pike and zoned Commercial Mixed Use – 3 (CMU-3). There is an underlying BOA case explained below. Per the Assessor’s Office, the principal structure on the site was built in 1997 with square footage of about 27,000 sq. ft. Surrounding land uses revolve around vehicle sales and services, and then an MLGW electric operations abutting the rear of the property.

Site Zoning History

The Board of Adjustment case from 1983 references an approval “to allow more than one main building on a lot for the construction of a mini-storage warehouse facility; with a further variation to allow a reduction in the

required front yard setback.”

Consistency with Memphis 3.0

This summary is being produced in response to the following application to support the Office of Planning & Development in their recommendation: SUP 20-14

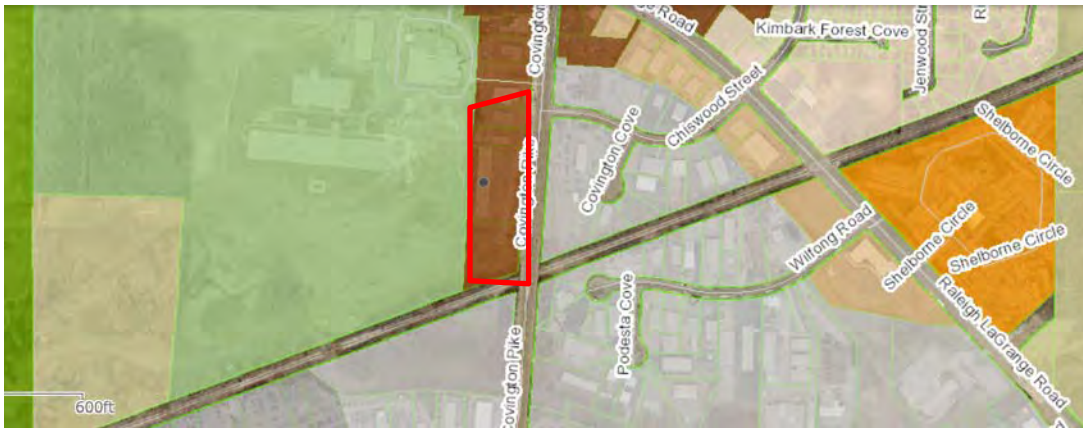
Site Address/location: 2369 Covington Pike

Land Use Designation (see page 104 for details): High Intensity Commercial Services & Services (CSH)

Based on the Future Land Use Planning Map, the proposal IS CONSISTENT with the Memphis 3.0 Comprehensive Plan.

The following information about the land use designation can be found on pages 104:

1. FUTURE LAND USE PLANNING MAP



The red box indicates the application sites on the Future Land Use Map.

2. Land use description & applicability:

High Intensity Commercial and Service areas are similar to low intensity areas in that they also attract residents from near and far for various commercial businesses and can service greater than a 3-mile radius. These areas are auto-oriented and located outside of anchors. Building sizes can vary in height, but have a much greater floor footprint with often more leasable space than low intensity areas, and often will not be suitable for future intensification of the area. See graphic portrayal to the right.



“CSH” Goals/Objectives:

Maintenance of larger-scale commercial centers where viable.

“CSH” Form & Location Characteristics:

Commercial and service uses, mixed use encouraged along avenues, boulevards and parkways as identified in the Street Types Map, 1-7 stories.

The application is for the redevelopment of a facility for automobile sales and reconditioning services. The request meets the criteria because it is commercial use.

3. Existing, Adjacent Land Use and Zoning

The existing land use is commercial and the site is surrounded by commercial and institutional uses. The existing zoning is CMU-3, surrounding zoning is EMP and CMU-3. This request meets this land use because existing zoning is similar in nature to the requested use.

4. Degree of Change map



There is no degree of change as referred to the red polygon above.

5. Degree of Change Description- NA

Based on the information provided, the proposal **IS CONSISTENT** with the Memphis 3.0 Comprehensive Plan.

Summary Compiled by: Elizabeth Carey, Comprehensive Planning

Conclusions

The applicant is seeking to add a used motor vehicle sales use to an existing structure which currently holds a vehicle parts business.

The current zoning is Commercial Mixed Use – 3 (CMU-3) and the site is surrounded by a myriad of other vehicle-related uses, including sales and service. Therefore, staff agrees with the Comprehensive Planning findings that this request is consistent with the area, and will help to fill an otherwise vacant space.

This project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.

RECOMMENDATION

Staff recommends approval with conditions.

Conditions

1. Parking shall be provided at ratio of 1.0 space per 500 square feet of floor area, plus 1.0 space per 10,000 square feet of outdoor lot area.
2. All vehicle parking shall be accomplished on the site, and a parked vehicle shall not encroach into the right-of-way.
3. All other provisions shall be in accordance with Paragraph 2.6.3P(1) of the UDC.
4. Future modifications to the site plan will not require re-recording of the site plan unless additional uses/activities are being added that beyond the scope of all prior approvals for the site or this approval.

DEPARTMENTAL COMMENTS

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

City/County Engineer:

CITY ENGINEERING COMMENTS DATE: 11/18/2020

CASE: SUP-20-014 NAME: Used Auto Sales

Sewers:

1. City sanitary sewers are available to serve this development.

City/County Fire Division:

Date Reviewed: 12/3/20

Reviewed by: J. Stinson

Address or Site Reference: 2369 Covington Pike

- All design and construction shall comply with the 2015 edition of the International Fire Code (as locally amended) and referenced standards.
- Fire apparatus access shall comply with section 503. Where security gates are installed that affect required fire apparatus access roads, they shall comply with section 503.6 (as amended).
- Fire protection water supplies (including fire hydrants) shall comply with section 507.
- Where fire apparatus access roads or a water supply for fire protection are required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when approved alternate methods of protection are provided.
- A detailed plans review will be conducted by the Memphis Fire Prevention Bureau upon receipt of complete construction documents. Plans shall be submitted to the Shelby County Office of Code Enforcement.

City Real Estate: No comments received.

City/County Health Department:

Water Quality Branch & Septic Tank Program:

- No comments.

Shelby County Schools: No comments received.

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water:

MLGW has reviewed the referenced application, and has no objection, subject to the following conditions:

Land and Mapping-Address Assignment:

Office of Sustainability and Resilience:

- No comments at this time.

APPLICATION



Memphis and Shelby County
Office of Planning and Development
 CITY HALL, 125 NORTH MAIN STREET-SUITE 477 MEMPHIS, TENNESSEE 38103-2084 (901) 636-6619

APPLICATION FOR SPECIAL USE PERMIT
 APPROVAL/AMENDMENT

Date: 10/30/20

Case #: SUP 20-14

PLEASE TYPE OR PRINT

Property Owner of Record: Auggie TXTN LLC Phone #: 310-977-3634

Mailing Address: 1821 kona dr. City/State: compton, Ca Zip 90220

Property Owner E-Mail Address: _____

Applicant: Robert Taylor Phone # 901-315-2155

Mailing Address: 327 N Avalon City/State: MEmphis, TN Zip 38112

Applicant E- Mail Address: carguysautorecon@gmail.com

Representative: Angela Taylor Phone #: 901-848-6686

Mailing Address: 327 N Avalon City/State: Memphis, TN Zip 38112

Representative E-Mail Address: carguysautorecon@gmail.com

Engineer/Surveyor: NA Phone # _____

Mailing Address: _____ City/State: _____ Zip _____

Engineer/Surveyor E-Mail Address: _____

Street Address Location: 2369 Covington Pike Memphis, TN 38128

Distance to nearest intersecting street: 100ft

| | Parcel 1 | Parcel 2 | Parcel 3 |
|---------------------------|----------------------------|----------|----------|
| Area in Acres: | <u>2.66</u> | _____ | _____ |
| Existing Zoning: | <u>CMU-3</u> | _____ | _____ |
| Existing Use of Property | <u>Auto Recon</u> | _____ | _____ |
| Requested Use of Property | <u>Motor Vehicle Sales</u> | _____ | _____ |

Amendment(s): Any revision to an approved Special Use Permit that does not meet the provisions for Major or Minor Modifications shall be proposed as an amendment. Time extensions (see Subsection 9.6.14B of the UDC) to and requests to exceed 24-month limitation on discontinuance (see Subsection 9.6.14C) of approved special use permits shall be processed as major modifications, subject to the provisions of Chapter 9.16.
 Yes ___ No xxx

Unincorporated Areas: For residential projects in unincorporated Shelby County, please provide the following information:

Number of Residential Units: NA Bedrooms: NA

Expected Appraised Value per Unit: NA or Total Project: NA

9.6.9 Special Use Permit Approval Criteria

No special use permit or planned development shall be approved unless the following findings are made concerning the application:

Please address each sub-section below (Provide additional information on a separate sheet of paper if needed).

- The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare (UDC sub-section 9.6.9A).

NO

- The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations (UDC sub-section 9.6.9B).

NA

- The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services (UDC sub-section 9.6.9C).

Yes

- The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic or historic importance (UDC sub-section 9.6.9D).

NO

- The project complies with all additional standards imposed on it by any particular provisions authorizing such use (UDC sub-section 9.6.9E).

Yes

- The request will not adversely affect any plans to be considered (see UDC Chapter 1.9) or violate the character of existing standards for development of the adjacent properties (UDC sub-section 9.6.9F).

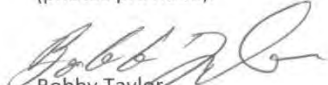
Yes

SIGN AFFIDAVIT


Affidavit of Public Notice Sign

County of Shelby
State of Tennessee

I, Bobby Taylor do hereby affirm that on November 25, 2020 I placed the public notice sign concerning Special Use Permit Application in front of the property located at 2369 Covington Pike Road Memphis, TN 38128. Notice Sign was placed in visible area on Covington Pike. (photos provided).


Bobby Taylor

Sworn to and subscribed before me this 30th day of November 2020.


Notary

My Commission expires: 5/8/23



LETTERS RECEIVED

No letters received at the time of completion of this report.



Memphis and Shelby County
Office of Planning and Development
 CITY HALL 125 NORTH MAIN STREET-SUITE 477 MEMPHIS, TENNESSEE 38103-2084 (901) 636-6619

**APPLICATION FOR SPECIAL USE PERMIT
 APPROVAL/AMENDMENT**

Date: 10/30/20

Case #: SUP 20-14

PLEASE TYPE OR PRINT

Property Owner of Record: Auggie TXTN LLC Phone #: 310-977-3634

Mailing Address: 1821 kona dr. City/State: compton, Ca Zip 90220

Property Owner E-Mail Address: _____

Applicant: Robert Taylor Phone # 901-315-2155

Mailing Address: 327 N Avalon City/State: MEmphis, TN Zip 38112

Applicant E- Mail Address: carguysautorecon@gmail.com

Representative: Angela Taylor Phone #: 901-848-6686

Mailing Address: 327 N Avalon City/State: Memphis, TN Zip 38112

Representative E-Mail Address: carguysautorecon@gmail.com

Engineer/Surveyor: NA Phone # _____

Mailing Address: _____ City/State: _____ Zip _____

Engineer/Surveyor E-Mail Address: _____

Street Address Location: 2369 Covington Pike Memphis, TN 38128

Distance to nearest intersecting street: 100Ff

| | Parcel 1 | Parcel 2 | Parcel 3 |
|---------------------------|----------------------------|----------|----------|
| Area in Acres: | <u>2.66</u> | _____ | _____ |
| Existing Zoning: | <u>CMU-3</u> | _____ | _____ |
| Existing Use of Property | <u>Auto Recon</u> | _____ | _____ |
| Requested Use of Property | <u>Motor Vehicle Sales</u> | _____ | _____ |

Amendment(s): Any revision to an approved Special Use Permit that does not meet the provisions for Major or Minor Modifications shall be proposed as an amendment. Time extensions (see Subsection 9.6.14B of the UDC) to and requests to exceed 24-month limitation on discontinuance (see Subsection 9.6.14C) of approved special use permits shall be processed as major modifications, subject to the provisions of Chapter 9.16.

Yes _____ No xxx

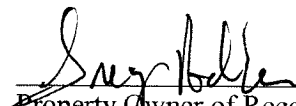
Unincorporated Areas: For residential projects in unincorporated Shelby County, please provide the following information:

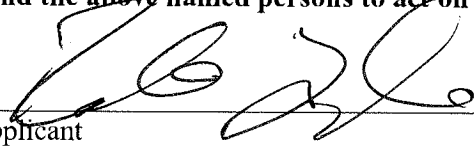
Number of Residential Units: NA Bedrooms: NA

Expected Appraised Value per Unit: NA or Total Project: NA

Variations: If the Office of Planning and Development (OPD) determines your submitted site plan requires Board of Adjustment (BOA) action on a particular standard of the Unified Development Code, this application will not be heard by the Land Use Control Board (LUCB) until an application is submitted to the BOA. Once a BOA application is received by OPD, OPD will proceed to send any public notices, including neighborhood meeting notification, for the next available LUCB meeting. Notices will not be sent out prior to a BOA application being received. All neighborhood notification and public notices shall meet the timing provided in Sections 9.3.2 and 9.3.4 of the UDC. In lieu of a BOA application being filed, this application for a Special Use Permit may be replaced with an application for a Planned Development within 14 days of the filing deadline for this application, unless the site is located within the Medical Overlay District (see Sec. 8.2.2D of the UDC). If neither a Board of Adjustment nor a Planned Development application is received within 90 days of the filing deadline for this application, then this application shall be considered defective and withdrawn from any future consideration by the Land Use Control Board.

I (we) hereby make application for the Special Use Permit described above and on the accompanying materials. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.


10/27/2020


10/30/2020
 Property Owner of Record Date Applicant Date

REQUIREMENTS PRIOR TO APPLICATION SUBMISSION

PRE-APPLICATION CONFERENCE - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.

Pre-Application Conference held on: 10/26/20 with Clarke Shup-Diggs

NEIGHBORHOOD MEETING – At least ten (10) days, but not more than 120 days, prior to a hearing before the Land Use Control Board, the applicant shall provide an opportunity to discuss the proposal with representatives from neighborhoods adjacent to the development site (Section 9.3.2). The following documentation shall be provided to OPD to verify compliance with this requirement: A copy of the letter sent to neighborhood associations and abutting property owners and a copy of the mailing list used to send notice.

Neighborhood Meeting Requirement Met: Yes Not yet
 (If yes, documentation must be included with application materials)

SIGN POSTING – A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

9.6.9 Special Use Permit Approval Criteria

No special use permit or planned development shall be approved unless the following findings are made concerning the application:

Please address each sub-section below (Provide additional information on a separate sheet of paper if needed).

- The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare (UDC sub-section 9.6.9A).

NO

- The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations (UDC sub-section 9.6.9B).

NA

- The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services (UDC sub-section 9.6.9C).

Yes

- The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic or historic importance (UDC sub-section 9.6.9D).

NO

- The project complies with all additional standards imposed on it by any particular provisions authorizing such use (UDC sub-section 9.6.9E).

Yes

- The request will not adversely affect any plans to be considered (see UDC Chapter 1.9) or violate the character of existing standards for development of the adjacent properties (UDC sub-section 9.6.9F).

Yes

CarGuys Auto Recon, LLC
2369 Covington Pike
Memphis, TN 38128
901-244-6938

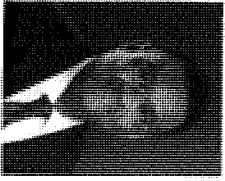
CarGuys Auto Recon, LLC wishes to become a Used Automobile dealer at our location 2369 Covington Pike Road, we will perform reconditioning services as well as used vehicle sales. There will be no construction necessary for this and our lot is already laid out for this use.

The facility has been vacant for over 7 years and sits in the middle of the busy Covington Pike car lot area. Most of our neighbors are Used auto Dealers. We do not foresee this impacting the neighborhood in any way but a positive one as the building is no longer vacant.

Our intent is to develop an attractive spot that adds to the character of the area.

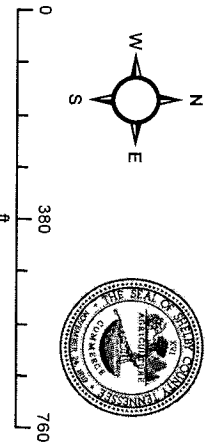
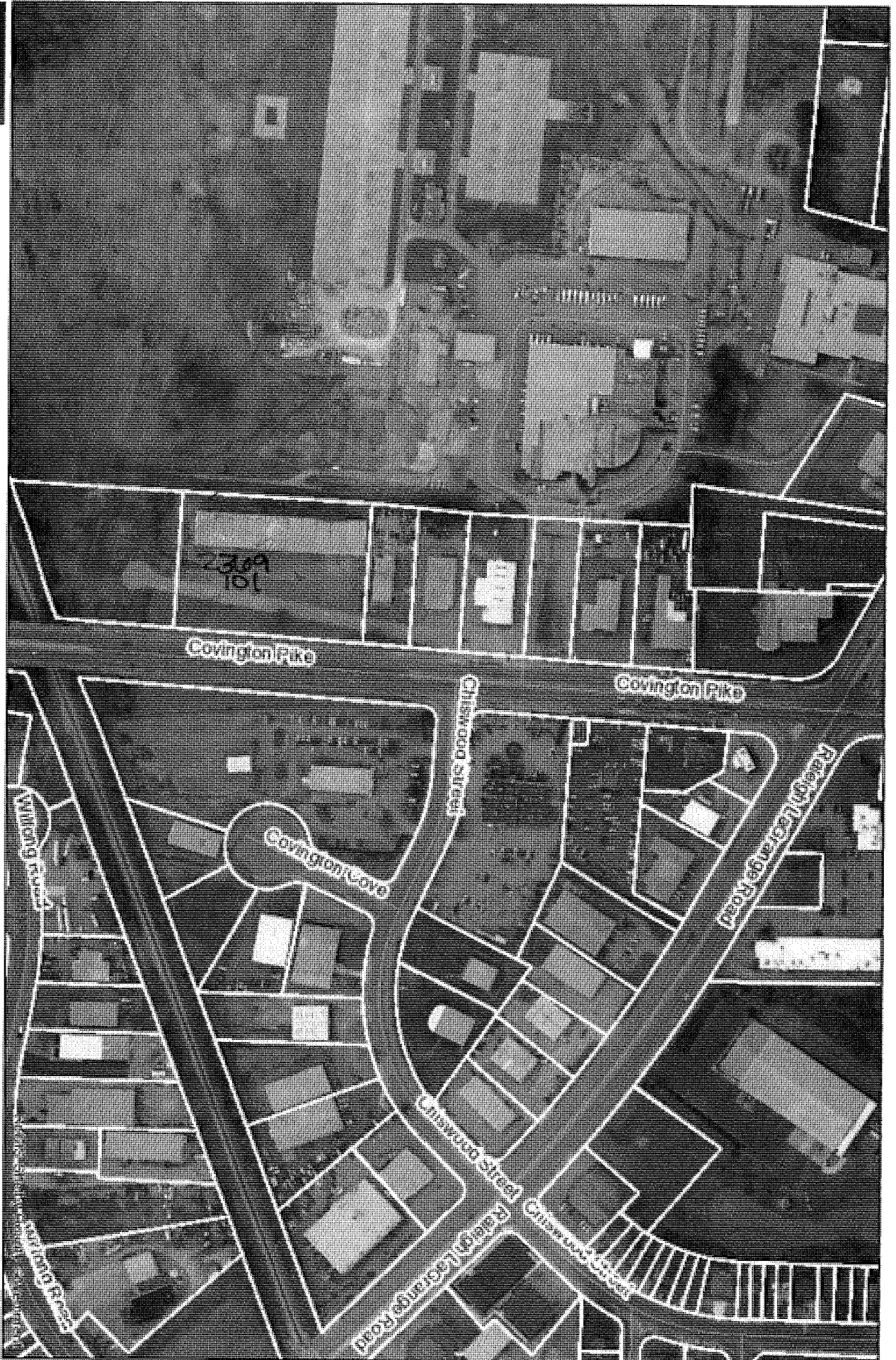
Sincerely,

Bobby Taylor
CarGuys Auto Recon.

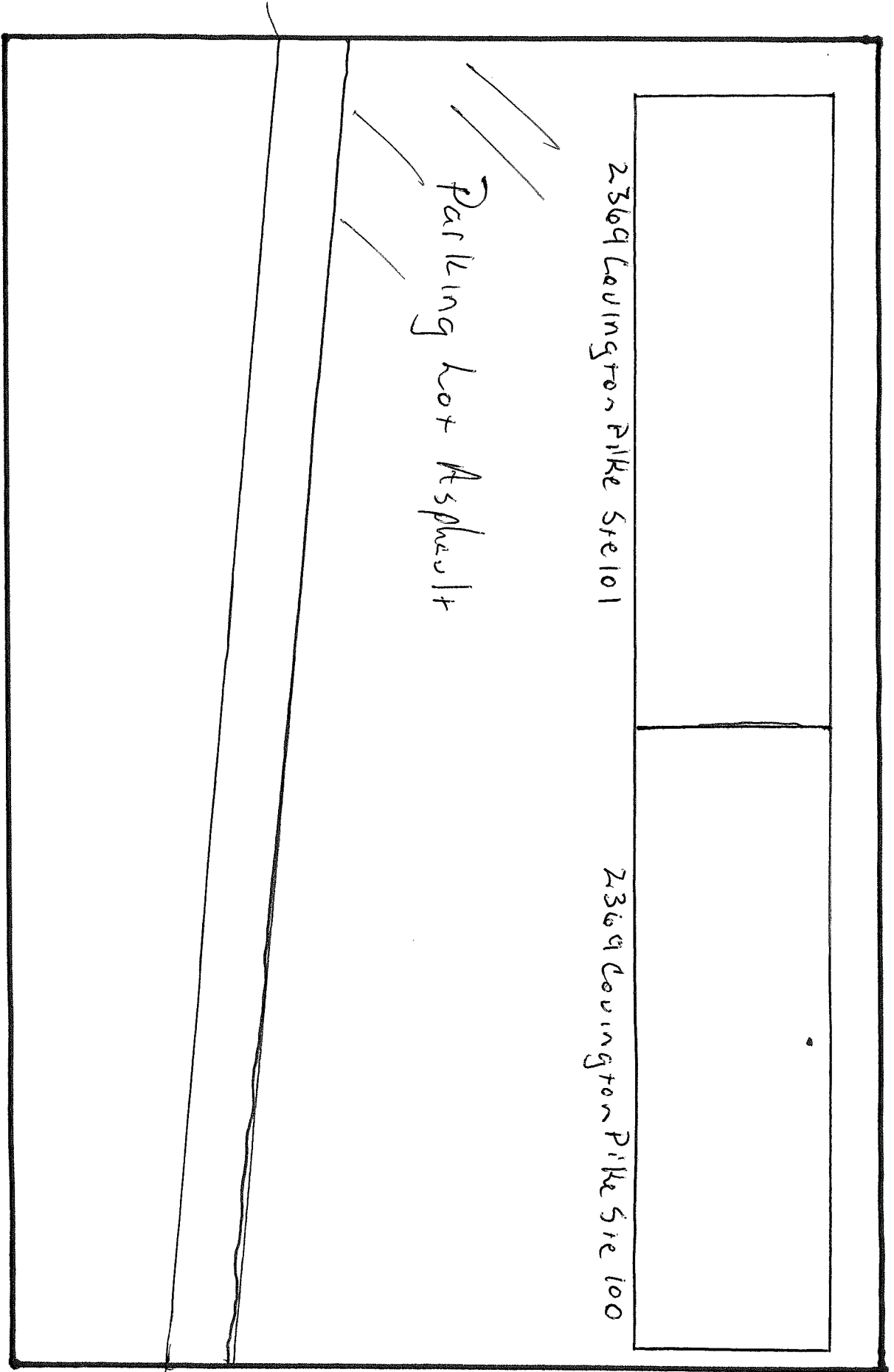


**MELVIN BURGESS, ASSESSOR
SHELBY COUNTY, TENNESSEE**

DISCLAIMER: THIS MAP IS FOR PROPERTY ASSESSMENT PURPOSES ONLY. IT IS NOT CONCLUSIVE AS TO LOCATION OF PROPERTY OR LEGAL OWNERSHIP AND THEREFORE, SHOULD NOT BE RELIED UPON AS A REPRESENTATION OF ANY PROPERTY FOR ANY PURPOSE.
MAP DATE: October 30, 2020



Lovington Pike



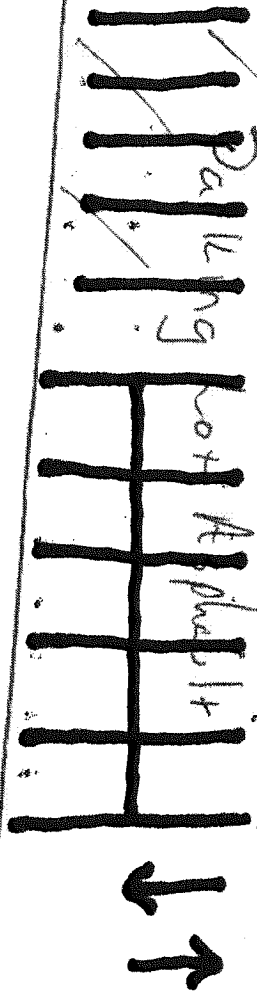
CAR&VVS

4 Wheel Parts

2369 Lovington Pike Ste 100

||||| INC

2369 Lovington Pike Ste 100



Lovington Pike

Mieke Revocable Living Trust
31208 Aquaduct Road
Bonsall Ca. 92003-6523

Mieke Revocable Living Trust
31208 Aquaduct Road
Bonsall Ca. 92003-6523

Cash America Central Inc
1600 W 7th St Ste 200
Fort Worth Tx. 76102-2510

Lawrence Richard L And Alvin and
Joyce Stone Irrevocable Trust
3161 Flint Dr
Memphis, TN 38115-2336

Madison Auto Care LLC
2457 Covington Pike
Memphis, TN 38128 6935

Santa Teresa Capital LLC
1720 Magoffin Ave
El Paso Tx. 79901-1824

Santa Teresa Capital LLC
1720 Magoffin Ave
El Paso Tx. 79901-1824

City of Memphis LG&W
125 N Main St.
Memphis TN 38103-2026

City of Memphis LG&W
125 N Main St.
Memphis TN 38103-2026

Rendall John B III and Nanelle M
Rendall
2610 Halle Pkwy
Collierville TN 38017-8888

Bio Blood Components INC
5700 Pleasant View Road
Memphis TN 38134-5028

Cooper & Cooper Moving INC and
J Cooper Moving Inc
5161 Wilfong Road
Memphis TN 38134-5611

Storey Daniel J
1203 Pine Lake Dr
Corinth MS 38834

Harold L and Syble E Gwatney LLLP
20 Creekwood Cove
Little Rock Ar 72116-6394

James R Rotenberry
2360 Covington Cove
Bartlett TN 38134

James R Rotenberry
2360 Covington Cove
Bartlett TN 38134

PE Realty LLC
2370 Covington Cove
Memphis TN 38134-5233

Tickle Harry and Dianne Tickle Living
Trust
6213 Greens Mill Rdg.
Loganville GA 30052-5258

Harold L and Syble E Gwatney LLLP
20 Creekwood Cove
Little Rock Ar 72116-6394

Int. Association of Heat and Frost
Insulators and Allied Workers
5093 Raleigh Lagrange Rd
Memphis TN 38134-5235

Dolgencorp Inc
100 Mission Rdg
Goodlettsville TN 37072-2171

Team Auto Investment Group LLC
2444 Covington Pike
Memphis, TN 38128-6908

RL Partnership
1945 Union Ave
Memphis TN 38104-4030

Luhm Htto and Susan luhm Living Trust
3449 Valley Chase Lane
Memphis, TN 38133-2899

Linder James S.
6310 Massey Woods Cove
Memphis TN 38120

Team Auto Investment Group LLC
2444 Covington Pike
Memphis, TN 38128-6908

Mieke Revocable Living Trust
31208 Aquaduct Road
Bonsall Ca. 92003-6523

Mieke Revocable Living Trust
31208 Aquaduct Road
Bonsall Ca. 92003-6523

Cash America Central Inc
1600 W 7th St Ste 200
Fort Worth Tx. 76102-2510

Lawrence Richard L And Alvin and
Joyce Stone Irrevocable Trust
3161 Flint Dr
Memphis, TN 38115-2336

Madison Auto Care LLC
2457 Covington Pike
Memphis, TN 38128 6935

Santa Teresa Capital LLC
1720 Magoffin Ave
El Paso Tx. 79901-1824

Santa Teresa Capital LLC
1720 Magoffin Ave
El Paso Tx. 79901-1824

City of Memphis LG&W
125 N Main St.
Memphis TN 38103-2026

City of Memphis LG&W
125 N Main St.
Memphis TN 38103-2026

Rendall John B III and Nanelle M
Rendall
2610 Halle Pkwy
Collierville TN 38017-8888

Bio Blood Components INC
5700 Pleasant View Road
Memphis TN 38134-5028

Cooper & Cooper Moving INC and
J Cooper Moving Inc
5161 Wilfong Road
Memphis TN 38134-5611

Storey Daniel J
1203 Pine Lake Dr
Corinth MS 38834

Harold L and Syble E Gwatney LLLP
20 Creekwood Cove
Little Rock Ar 72116-6394

James R Rotenberry
2360 Covington Cove
Bartlett TN 38134

James R Rotenberry
2360 Covington Cove
Bartlett TN 38134

PE Realty LLC
2370 Covington Cove
Memphis TN 38134-5233

Tickle Harry and Dianne Tickle Living
Trust
6213 Greens Mill Rdg.
Loganville GA 30052-5258

Harold L and Syble E Gwatney LLLP
20 Creekwood Cove
Little Rock Ar 72116-6394

Int. Association of Heat and Frost
Insulators and Allied Workers
5093 Raleigh Lagrange Rd
Memphis TN 38134-5235

Dolgencorp Inc
100 Mission Rdg
Goodlettsville TN 37072-2171

Team Auto Investment Group LLC
2444 Covington Pike
Memphis, TN 38128-6908

RL Partnership
1945 Union Ave
Memphis TN 38104-4030

Luhm Htto and Susan luhm Living Trust
3449 Valley Chase Lane
Memphis, TN 38133-2899

Linder James S.
6310 Massey Woods Cove
Memphis TN 38120

Team Auto Investment Group LLC
2444 Covington Pike
Memphis, TN 38128-6908



**MEMPHIS AND
SHELBY COUNTY** **DIVISION OF PLANNING
AND DEVELOPMENT**

City Hall – 125 N. Main Street, Suite 468 – Memphis, Tennessee 38103 – (901) 636-6619

December 10, 2020

Robert Taylor
327 N. Avalon
Memphis, TN 38112

Sent via electronic mail to: carguysautorecon@gmail.com

Case Number: SUP 20-14

LUCB Recommendation: Approval with conditions

Dear applicant,

On Thursday, December 10, 2020, the Memphis and Shelby County Land Use Control Board recommended **approval** of your special use permit application to allow car sales located at 2369 Covington Pike, subject to the following conditions:

1. Parking shall be provided at ratio of 1.0 space per 500 square feet of floor area, plus 1.0 space per 10,000 square feet of outdoor lot area.
2. All vehicle parking shall be accomplished on the site, and a parked vehicle shall not encroach into the right-of-way.
3. All other provisions shall be in accordance with Paragraph 2.6.3P(1) of the UDC.
4. Future modifications to the site plan will not require re-recording of the site plan unless additional uses/activities are being added that beyond the scope of all prior approvals for the site or this approval.

This application will be forwarded, for final action, to the Council of the City of Memphis. The Council will review your application in a committee meeting prior to voting on it in a public hearing. The applicant or the applicant's representative(s) shall be in attendance at all meetings and hearings.

It is the applicant's responsibility to contact the City Council Records Office to determine when the application is scheduled to be heard at committee and in public session. The City Council Records Office may be reached at (901) 636-6792.

If for some reason you choose to withdraw your application, a letter should be mailed to the Land Use and Development Services Department of the Division of Planning and Development at the address provided above or emailed to the address provided below.

If you have questions regarding this matter, please feel free contact me at (901) 636-6619 or via email at lucas.skinner@memphistn.gov.

Respectfully,

A handwritten signature in cursive script that reads "Lucas Skinner".

Lucas Skinner
Municipal Planner
Land Use and Development Services
Division of Planning and Development

File

**CITY OF MEMPHIS
COUNCIL AGENDA CHECK OFF SHEET**

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

Planning & Zoning COMMITTEE: 02/16/2021

DATE

PUBLIC SESSION: 02/16/2021

DATE

ITEM (CHECK ONE)

ORDINANCE _____ CONDEMNATIONS _____ GRANT ACCEPTANCE / AMENDMENT
 _____ RESOLUTION _____ GRANT APPLICATION REQUEST FOR PUBLIC HEARING
 _____ OTHER: _____

ITEM DESCRIPTION: An ordinance approving a zoning change
CASE NUMBER: Z 20-11
DEVELOPMENT: Heavy Industrial
LOCATION: North side of East Holmes Street approximately 923 feet east of the centerline of Lamar Avenue
COUNCIL DISTRICTS: District 3 and Super District 8 – Positions 1, 2, and 3
OWNER/APPLICANT: David Couch
REPRESENTATIVES: Cindy Reaves, SR Consulting, LLC
EXISTING ZONING: Conservation Agriculture (CA)
REQUEST: Heavy Industrial (IH) District
AREA: +/-4.89 acres
RECOMMENDATION: The Division of Planning and Development recommended *Approval*
 The Land Use Control Board recommended *Approval*
RECOMMENDED COUNCIL ACTION: **Public Hearing Required**
 Set date for first reading – January 26, 2021
 Adopt on third Reading – February 16, 2021

PRIOR ACTION ON ITEM:

(1) _____ APPROVAL - (1) APPROVED (2) DENIED
 01/14/2021 _____ DATE
 (1) Land Use Control Board _____ ORGANIZATION - (1) BOARD / COMMISSION
 _____ (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE

FUNDING:

(2) _____ REQUIRES CITY EXPENDITURE - (1) YES (2) NO
 \$ _____ AMOUNT OF EXPENDITURE
 \$ _____ REVENUE TO BE RECEIVED
SOURCE AND AMOUNT OF FUNDS
 \$ _____ OPERATING BUDGET
 \$ _____ CIP PROJECT # _____
 \$ _____ FEDERAL/STATE/OTHER

ADMINISTRATIVE APPROVAL:

| | <u>DATE</u> | <u>POSITION</u> |
|-------|-------------|-------------------------------------|
| _____ | _____ | PRINCIPAL PLANNER |
| _____ | _____ | DEPUTY ADMINISTRATOR |
| _____ | _____ | ADMINISTRATOR |
| _____ | _____ | DIRECTOR (JOINT APPROVAL) |
| _____ | _____ | COMPTROLLER |
| _____ | _____ | FINANCE DIRECTOR |
| _____ | _____ | CITY ATTORNEY |
| _____ | _____ | CHIEF ADMINISTRATIVE OFFICER |
| _____ | _____ | COMMITTEE CHAIRMAN |



Memphis City Council Summary Sheet

Z 20-11

Zoning Ordinance approving a zoning district reclassification for the subject property located on the north side of East Holmes Street approximately 923 feet east of the centerline of Lamar Avenue:

- This item is an ordinance for reclassification from Conservation Agriculture (CA) to Heavy Industrial (IH) at the aforementioned location; and
- Approval of this zoning district reclassification will be reflected on the Memphis and Shelby Counting Zoning Atlas; and
- No contracts are affected by this item; and
- No expenditure of funds/budget amendments are required by this item.

ORDINANCE NO: _____

ZONING ORDINANCE AMENDING ORDINANCE NO. 5367 OF THE CODE OF ORDINANCES, CITY OF MEMPHIS, TENNESSEE, ADOPTED ON AUGUST 10, 2010, AS AMENDED, KNOWN AS THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE, SO AS TO MAKE CERTAIN CHANGES IN THE USE DISTRICTS PROVIDED IN SAID ORDINANCE

WHEREAS, a proposed amendment to the Memphis and Shelby County Unified Development Code, being Ordinance No. 5367 of the Code of Ordinances, City of Memphis, Tennessee, as amended, has been submitted to the Memphis and Shelby County Land Use Control Board for its recommendation, designated as **Case Number: Z 20-11**; and

WHEREAS, the Memphis and Shelby County Land Use Control Board has filed its recommendation and the Division of Planning and Development has filed its report and recommendation with the Council of the City of Memphis; and

WHEREAS, the Council of the City of Memphis has reviewed the aforementioned amendment pursuant to Tennessee Code Annotated Section 13-4-202(B)(2)(B)(iii) and has determined that said amendment is consistent with the Memphis 3.0 General Plan; and

WHEREAS, the provisions of the Code of Ordinances, City of Memphis, Tennessee, as amended, relating to the proposed amendment, have been complied with.

NOW THEREFORE, BE IT ORDAINED, BY THE COUNCIL OF THE CITY OF MEMPHIS:

SECTION 1:

THAT, the Memphis and Shelby County Unified Development Code, Ordinance No. 5367 of the Code of Ordinances, City of Memphis, as amended, be and the same hereby is amended with respect to Use Districts, as follows:

BY TAKING THE FOLLOWING PROPERTY OUT OF THE CONSERVATION AGRICULTURE (CA) USE DISTRICT AND INCLUDING IT IN THE HEAVY INDUSTRIAL (IH) USE DISTRICT.

The following property located in the City of Memphis, Tennessee being more particularly described as follows:

AREA 1

Being the David Couch property as recorded in Instrument Number I4089680 and I5087483 in Memphis, Tennessee and being more particularly described as follows:

Beginning at a point in the north line of E. Holmes Road (ROW Varies), approximately 923 feet east of the centerline of Lamar Avenue (ROW Varies); thence N0°00'00"E a distance of 290.00 feet to a point; thence N90°00'00"E a distance of 750.00 feet to a point; thence S0°00'00"E a distance of 280.00 feet to a point in the said north line of E. Holmes Road; thence N90°00'00"W a distance of 450.00 feet to a point; thence S0°00'00"E a distance of 10.00 feet to a point; thence N90°00'00"W a distance of 300.00 feet to

the point of beginning and containing 4.89 acres of land more or less.

SECTION 2:

THAT, the Zoning Administrator of the Division of Planning and Development be, and is hereby directed to make the necessary changes in the Official Use District Maps to conform to the changes herein made; that all official maps and records of the Memphis and Shelby County Land Use Control Board and the City of Memphis be, and they hereby are, amended and changed so as to show the aforementioned amendment of the said Zoning Ordinance.

SECTION 3:

THAT, this ordinance take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the comptroller, and become effective as otherwise provided by law.

ATTEST:

**CC: Division of Planning and Development
– Land Use and Development Services
– Office of Construction Enforcement
Shelby County Assessor**

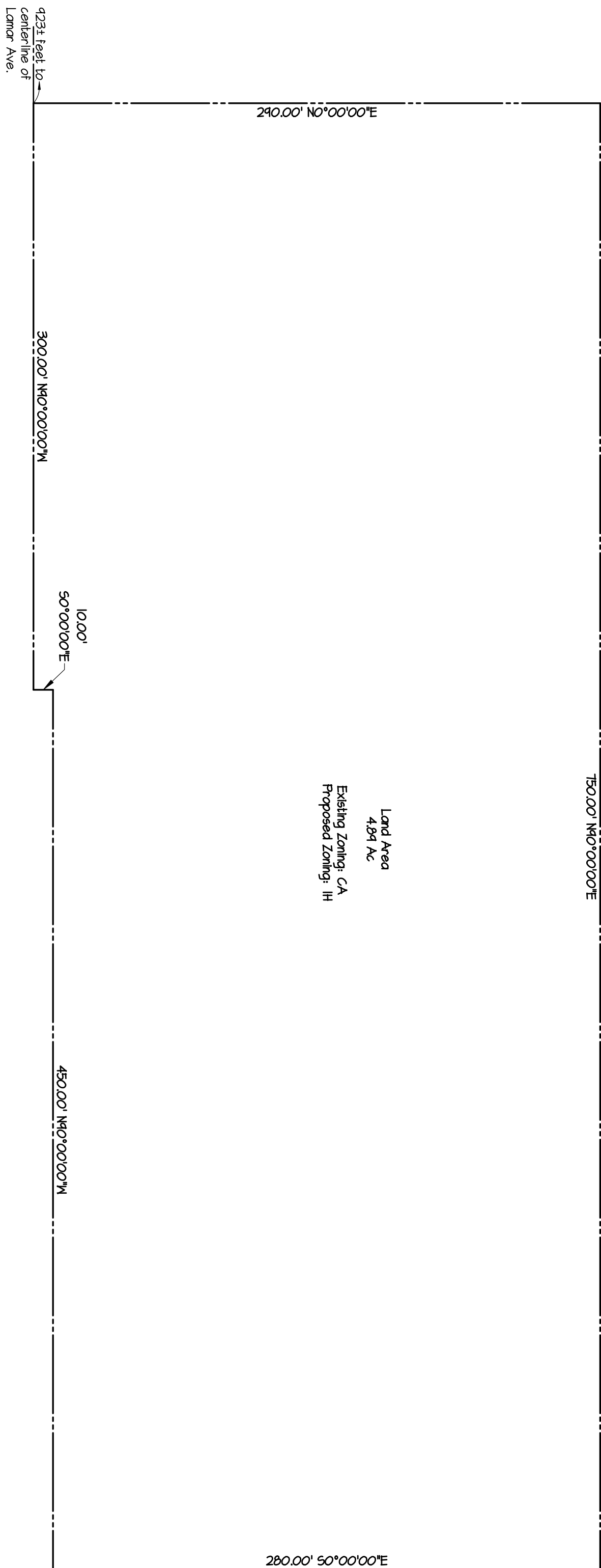
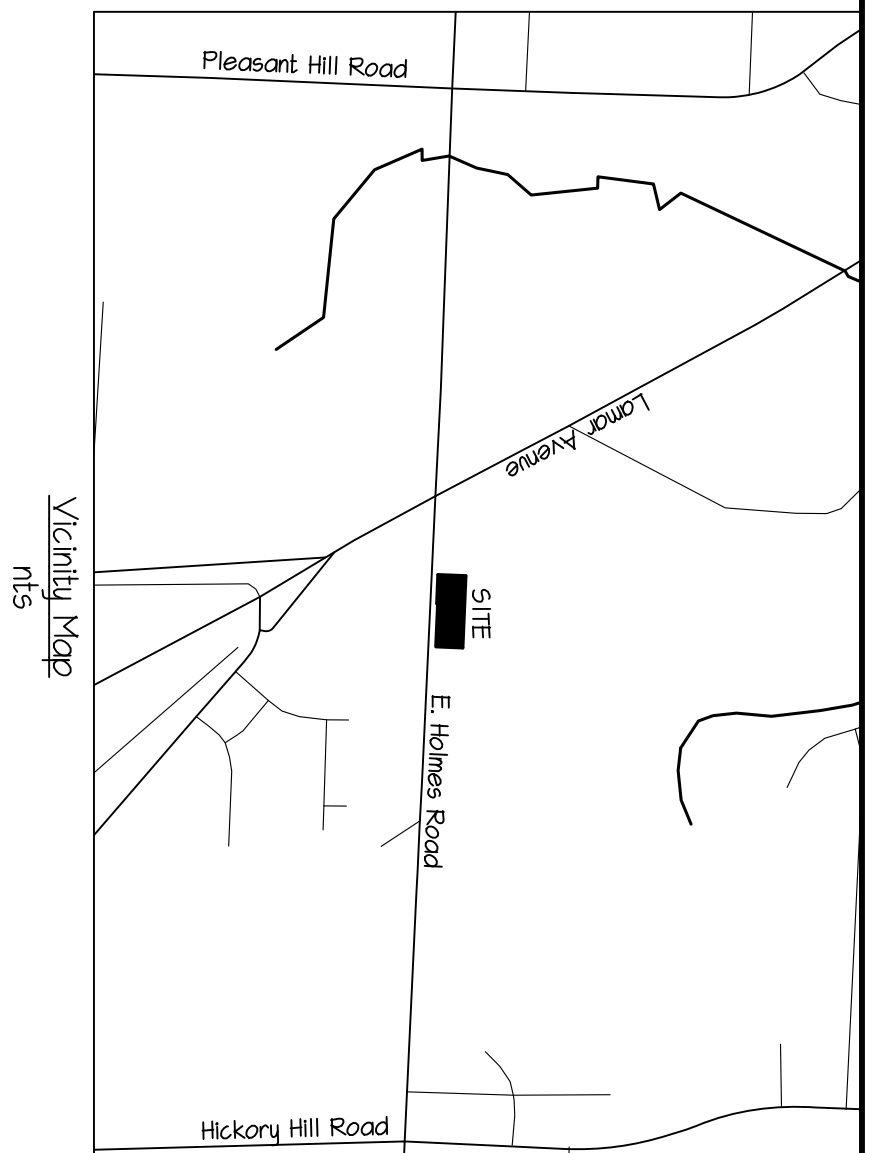
//: ATTACHMENTS

Bethlehem Cemetery
Book 3658, Page 335
Existing Zoning: CA & IH

AP Holmes Road LLC
Inst. # 16081664
25.73 Ac
Existing Zoning: IH

Land Area
4.89 Ac
Existing Zoning: CA
Proposed Zoning: IH

Part of Lot 3
Holmes-Fornell subdivision
Plat Book 32, Page 24
Existing Zoning: CA



David Couch
Inst. # 04141947
6.385 Ac
Existing Zoning: EHP

David Couch
Inst. # 04141944
1.744 Ac
Existing Zoning: IH

David Couch
Inst. # 14054795
1.824 Ac
Existing Zoning: IH

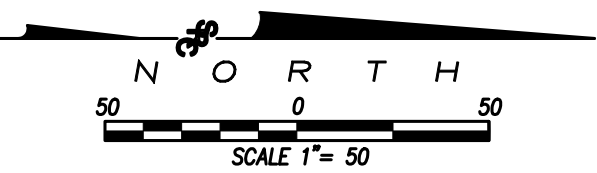
David Couch
Inst. # 04025407
1.882 Ac
Existing Zoning: IH

Arthur H. Hahnkay
Inst. # 08013215
3.114 Ac
Existing Zoning: CA

Arthur H. Hahnkay
Inst. # 03183557
1.64 Ac
Existing Zoning: CA

Couch Realty Investments LLC
Inst. # 08075473
1.652 Ac
Existing Zoning: EHP

Being the David Couch property as recorded in Instrument Number 14081660 and 15087483 in Memphis, Tennessee and being more particularly described as follows:
 Beginning at a point in the north line of E. Holmes Road (ROM Varies), approximately 423 feet east of the centerline of Larmor Avenue (ROM Varies); thence N0°00'00"E a distance of 290.00 feet to a point; thence N40°00'00"E a distance of 750.00 feet to a point; thence S0°00'00"E a distance of 280.00 feet to a point in the said north line of E. Holmes Road; thence N40°00'00"W a distance of 450.00 feet to a point; thence S0°00'00"E a distance of 10.00 feet to a point; thence N40°00'00"W a distance of 300.00 feet to the point of beginning and containing 4.89 acres of land more or less.



SITE PLAN
HOLMES ROAD REZONING

OWNER:

DAVID V. COUCH

WARD 94, BLOCK 200, PARCEL 211

4.89 ACRES

EX. ZONING: CA

PROP. ZONING: IH

MEMPHIS, TENNESSEE

NOVEMBER 2020

SHEET 1 of 1

SR CONSULTING, LLC
 ENGINEERING - PLANNING
 5909 Shelby Oaks Drive
 Suite 200
 Memphis TN 38134
 www.SRCE-memphis.com

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday, January 14, 2021**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: Z 20-11

LOCATION: North side of East Holmes Street approximately 923 feet east of the centerline of Lamar Avenue

COUNCIL DISTRICT(S): District 3, Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: David Couch

REPRESENTATIVE: Cindy Reaves, SR Consulting, LLC

REQUEST: Heavy Industrial (IH) District

EXISTING ZONING: Conservation Agriculture (CA)

AREA: +/-4.89 acres

The following spoke in support of the application: None

The following spoke in opposition of the application: None

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval of the application.

The motion passed by a unanimous vote of 10-0 on the consent agenda.

Respectfully,



Jeffrey Penzes
Principal Planner
Land Use and Development Services
Division of Planning and Development

Cc: Committee Members
File

AGENDA ITEM: 16

CASE NUMBER: Z 20-11 **L.U.C.B. MEETING:** January 14, 2021

LOCATION: North side of East Holmes Street approximately 923 feet east of the centerline of Lamar Avenue

COUNCIL DISTRICT: District 3 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: David Couch

REPRESENTATIVE: SR Consulting, LLC – Cindy Reaves

REQUEST: To rezone 4.89 acres from the Conservation Agriculture (CA) District to the Heavy Industrial (IH) District

AREA: +/-4.89 acres

EXISTING ZONING: Conservation Agriculture (CA)

CONCLUSIONS

1. The request is to rezone 4.89 acres from the Conservation Agriculture (CA) District to the Heavy Industrial (IH) District.
2. The site is adjacent to the Heavy Industrial (IH) District to the north; the Conservation Agriculture (CA) District to the east, the Employment (EMP), Heavy Industrial (IH), and Conservation Agriculture (CA) Districts to the south; and the Conservation Agriculture (CA) District to the west.
3. The site is surrounded by industrial, commercial, and institutional uses. The uses are primarily warehouse and distribution facilities, a cemetery, vehicle wrecker service business, a day care, and a sweeping service hub.
4. Staff finds the request is an appropriate zoning district for the area that is compatible with the surrounding zoning districts, land uses, Memphis 3.0 General Plan, and the general industrial charter of the neighborhood.

CONSISTENCY WITH MEMPHIS 3.0

This proposal is consistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on pages 11-13 of this report.

RECOMMENDATION

Approval

GENERAL INFORMATION

Street Frontage: East Holmes Road +/-750.00 linear feet
Zoning Atlas Page: 2545
Parcel ID: 094200 00211, 094200 00210, 094200 00209, and 094200 00207
Existing Zoning: Conservation Agriculture (CA)

NEIGHBORHOOD MEETING

Not required, zoning change is in compliance with the Memphis 3.0 General Plan.

PUBLIC NOTICE

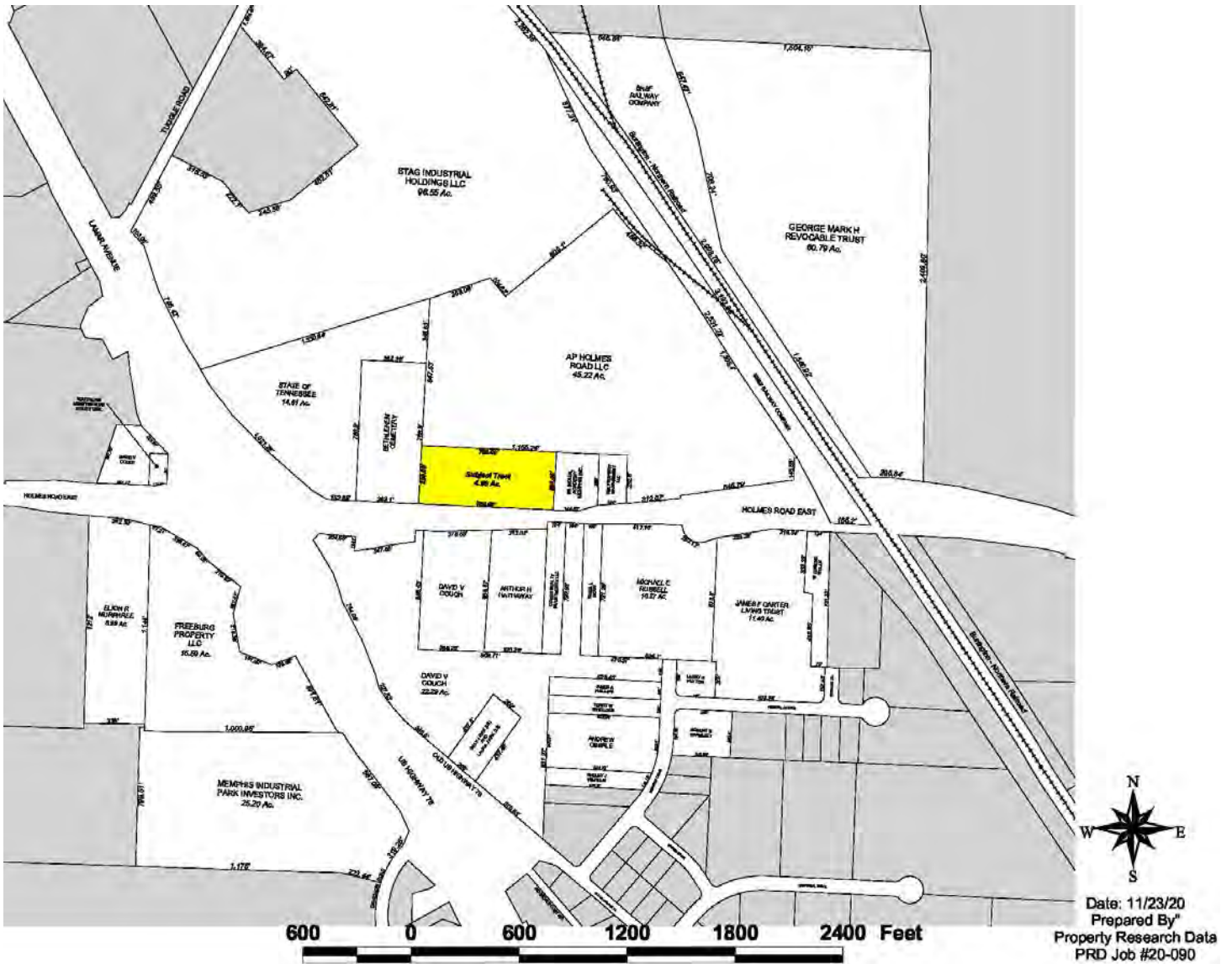
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 28 notices were mailed on December 31, 2020, and a total of 2 signs posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



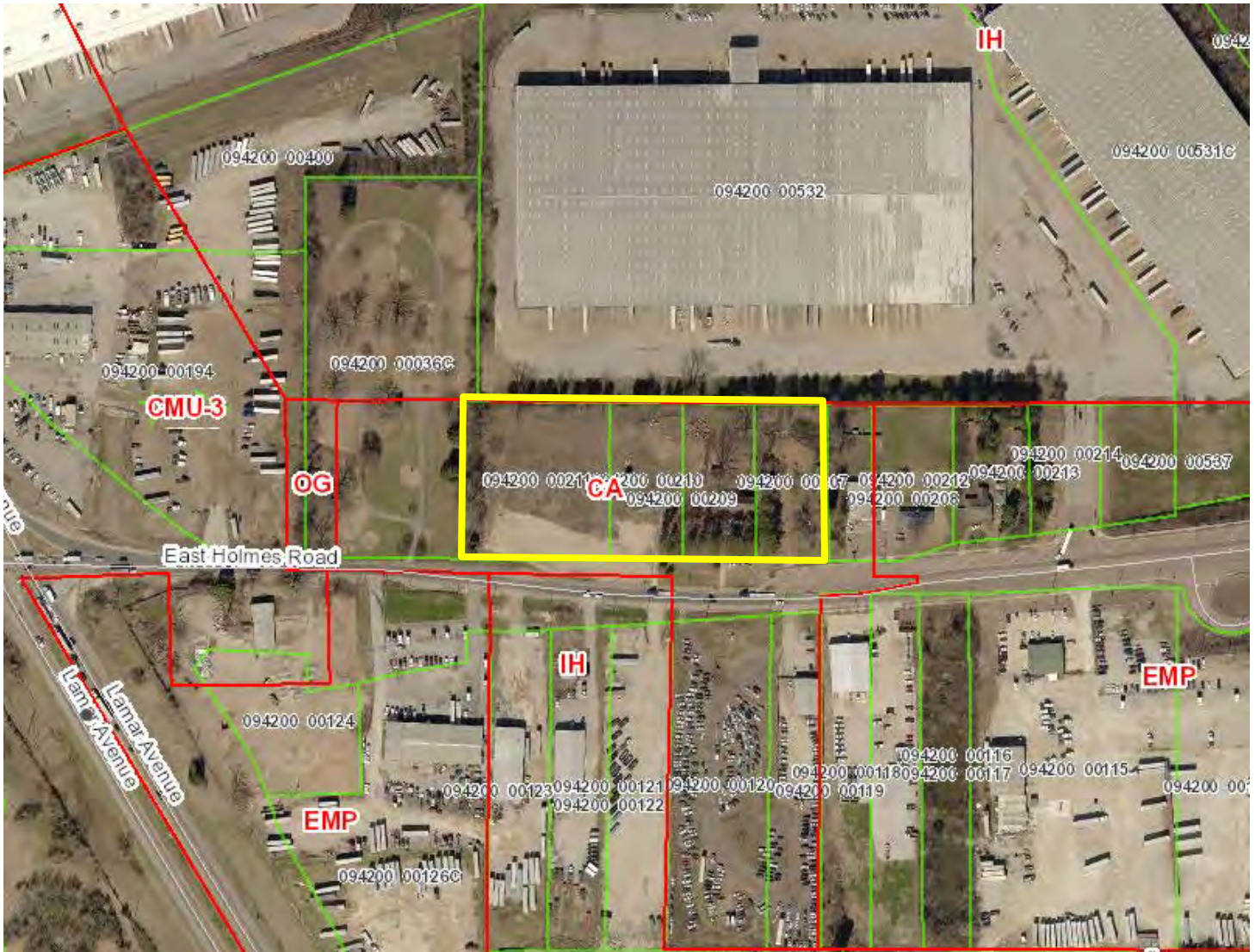
Subject property located within the pink circle, Capleville neighborhood

VICINITY MAP



Subject property highlighted in yellow

ZONING MAP



Subject property outlined in yellow

Existing Zoning: Conservation Agriculture (CA)

Surrounding Zoning

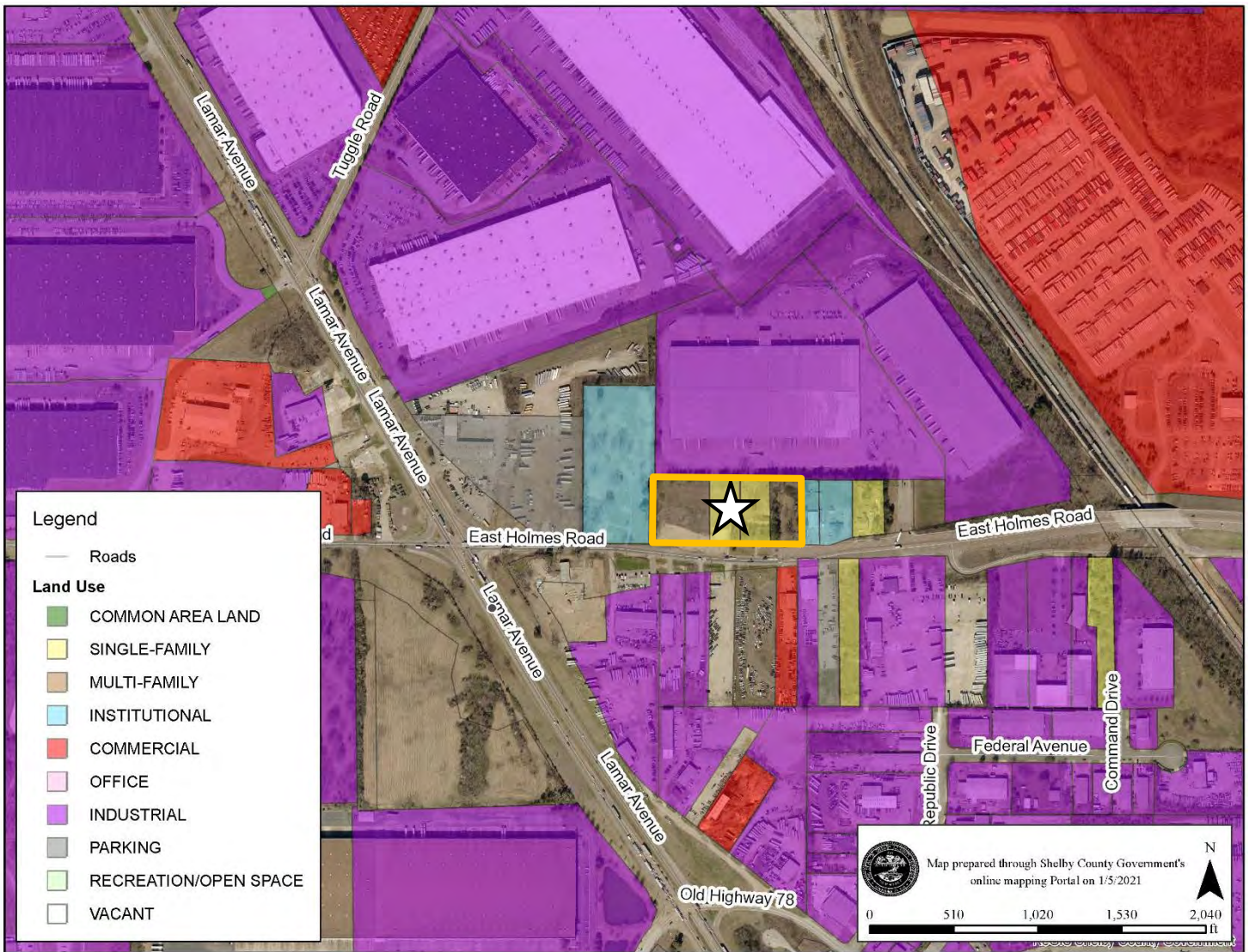
North: Heavy Industrial (IH)

East: Conservation Agriculture (CA)

South: Employment (EMP), Heavy Industrial (IH), and Conservation Agriculture (CA)

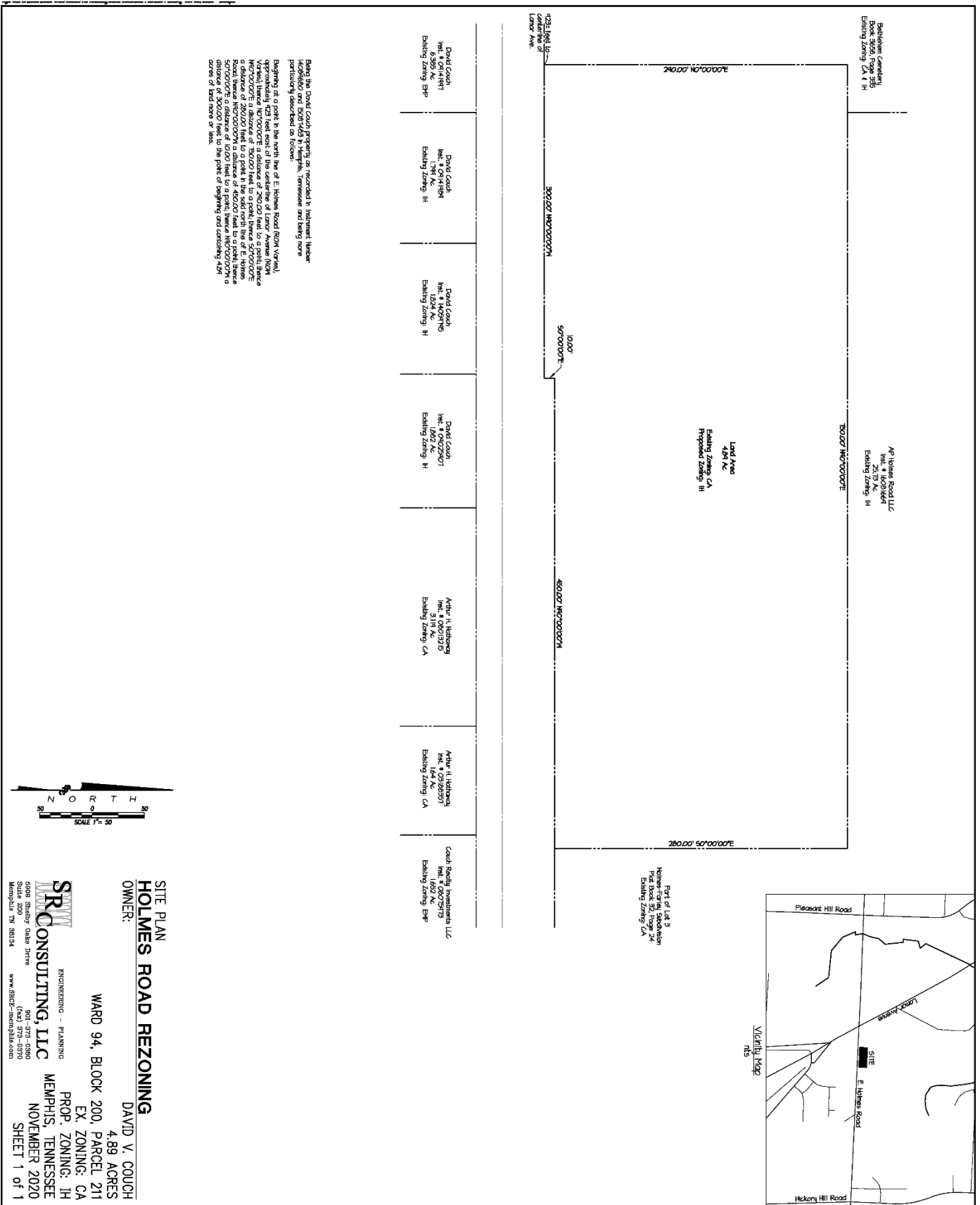
West: Conservation Agriculture (CA)

LAND USE MAP



Subject property outlined in orange and indicated by a white star

PLOT PLAN



SITE PHOTOS



View of subject property from East Holmes Road looking northeast



View of subject property from East Holmes Road looking northwest



View across East Holmes Road from subject property looking south



View down East Holmes Road from subject property looking west



View down East Holmes Road from subject property looking east

STAFF ANALYSIS

Request

The application and letter of intent have been added to this report.

The request is to rezone 4.89 acres from the Conservation Agriculture (CA) District to the Heavy Industrial (IH) District

Review Criteria

Staff agrees the review criteria as set out in Sub-Section 9.5.7B of the Unified Development Code are met.

9.5.7B Review Criteria

In making recommendations, the Land Use Control Board shall consider the following matters:

9.5.7B(1) Consistency with any plans to be considered (see Chapter 1.9);

9.5.7B(2) Compatibility with the present zoning (including any residential corridor overlay district) and conforming uses of nearby property and with the character of the neighborhood;

9.5.7B(3) Suitability of the subject property for uses permitted by the current versus the proposed district;

9.5.7B(4) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the City or County; and

9.5.7B(5) The availability of adequate police services, fire services, school, road, park, wastewater treatment, water supply and stormwater drainage facilities for the proposed zoning.

Site Description

The subject property is +/-4.89 acres and comprised of four parcels (094200 00211, 094200 00210, 094200 00209, and 094200 00207) located on the north side of East Holmes Street approximately 923 feet east of the centerline of Lamar Avenue.

Conclusions

The request is to rezone 4.89 acres from the Conservation Agriculture (CA) District to the Heavy Industrial (IH) District.

The site is adjacent to the Heavy Industrial (IH) District to the north; the Conservation Agriculture (CA) District to the east, the Employment (EMP), Heavy Industrial (IH), and Conservation Agriculture (CA) Districts to the south; and the Conservation Agriculture (CA) District to the west.

The site is surrounding by industrial, commercial, and institutional uses. The uses are primarily warehouse and distribution facilities, a cemetery, vehicle wrecker service business, a day care, and a sweeping service hub.

Staff finds the request is an appropriate zoning district for the area that is compatible with the surrounding zoning districts, land uses, Memphis 3.0 General Plan, and the general industrial charter of the neighborhood.

RECOMMENDATION

Staff recommends approval.

DEPARTMENTAL COMMENTS

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

City/County Engineer:

1. A sewer extension of approximately 900 feet will be required to serve this development.

City/County Fire Division: No comments received.

City Real Estate: No comments received.

City/County Health Department: No comments received.

Shelby County Schools: No comments received.

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water: No comments received.

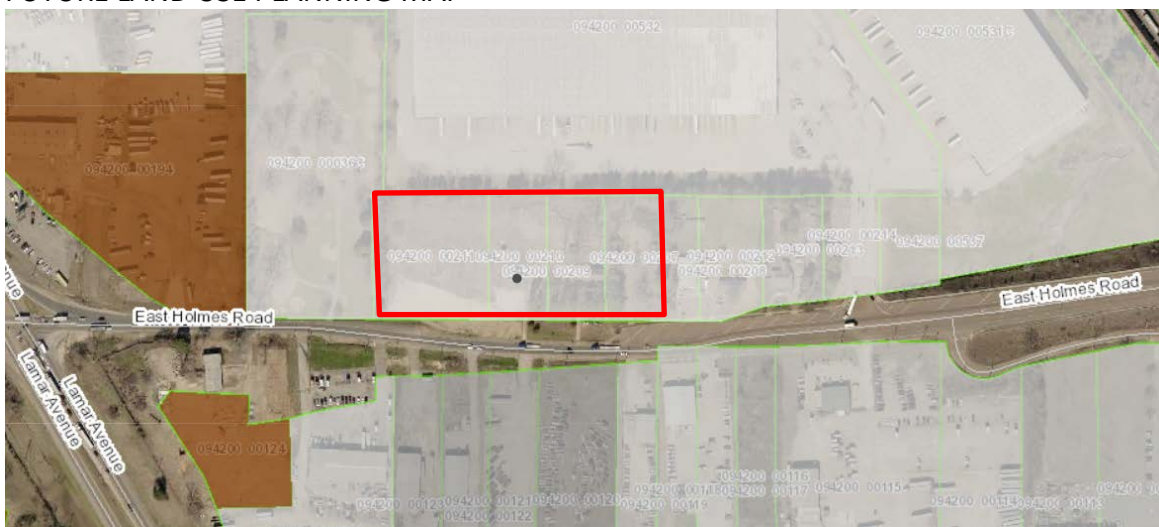
Office of Sustainability and Resilience: No comments received.

Office of Comprehensive Planning:

Land Use Designation: Transportation & Logistics Facilities (TL)

Based on the future land use and the existing adjacent land uses the proposal IS CONSISTENT with the Memphis 3.0 Comprehensive Plan.

1. FUTURE LAND USE PLANNING MAP



Red polygon indicates the application sites on the Future Land Use Map.

2. Land use description & applicability:

These land areas are known for their transportation and logistics employment services, such as airports, ports, railyards, and other freight uses. These facilities usually require large areas of land and are mainly accessible by highways. Transportation and Logistics Facilities generate a large amount of regional employment due to the needs of varying skill levels and involve dispersal of goods regularly



“TL” Goals/Objectives:

Continued preservation, maintenance, and intensification where appropriate job centers related to transportation and logistics.

“TL” Form & Location Characteristics:

Characteristics Transportation and logistics.

The applicant is requesting for a rezoning for the properties at 5414, 5434, 5456, & 0 E. Holmes Road, located east of Lamar Avenue. The application seeks to rezone approximately 4.89 acres of land to Heavy Industrial (IH) from Conservation Agriculture (CA), which is bounded by East Holmes road on the south.

The request meets the criteria of TL as the application proposes an industrial use, which could be accessible by highways. Proposed development will help continue preserving, maintaining, and intensifying surrounding job centers.

3. Existing, Adjacent Land Use and Zoning

The subject sites are surrounded by the following land use: Single-family, Institution, Industrial, Commercial, and Vacant. The subject site is surrounded by the following zoning districts: Heavy Industrial (IH), Conservation Agriculture (CA), and Employment (EMP). This requested rezoning is compatible with the adjacent zoning districts and land uses because *existing zoning districts surrounding the parcels are similar in nature to the requested one.*

4. Degree of Change map



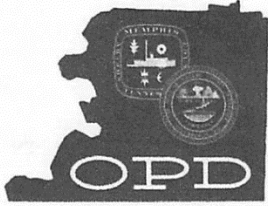
Red polygon denotes the proposed site in Degree of Change area.

5. Degree of Change Descriptions

N/A

Based on the information provided, the proposal IS CONSISTENT with the Memphis 3.0 Comprehensive Plan.

APPLICATION



Memphis and Shelby County
Office of Planning and Development
 CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

APPLICATION FOR REZONING APPROVAL

Date: November 16, 2020

Case #: _____

PLEASE TYPE OR PRINT

Property Owner of Record: David Couch Phone #: _____

Mailing Address: 9950 Center Hill Road City/State: Collierville, TN Zip 38017

Property Owner E-Mail Address: _____

Applicant: Same as Owner Phone # _____

Mailing Address: _____ City/State: _____ Zip _____

Applicant E- Mail Address: _____

Representative: SR Consulting, LLC (Cindy Reaves) Phone #: 901-373-0380

Mailing Address: 5909 Shelby Oaks Drive, Suite 200 City/State: Memphis, TN Zip 38134

Representative E-Mail Address: cindy@srce-memphis.com

Engineer/Surveyor: SR Consulting, LLC Phone # 901-373-0380

Mailing Address: 5909 Shelby Oaks Drive, Suite 200 City/State: Memphis, TN Zip 38134

Engineer/Surveyor E-Mail Address: cindy@srce-memphis.com

Street Address Location: 0, 5414, 5434, 5456 E. Holmes Rd.

Distance to nearest intersecting street: Approximately 923 feet east of the centerline of Lamar Avenue

| | Parcel 1 | Parcel 2 | Parcel 3 |
|---------------------------|-------------------|----------|----------|
| Area in Acres: | <u>4.89</u> | _____ | _____ |
| Existing Zoning: | <u>CA</u> | _____ | _____ |
| Existing Use of Property | <u>Vacant</u> | _____ | _____ |
| Requested Use of Property | <u>Industrial</u> | _____ | _____ |
| Requested Zoning | <u>IH</u> | _____ | _____ |

Pre-Application Conference held on: _____ with _____

Neighborhood Meeting Requirement Met: Yes or Not Yet or Not Required (see below)
 (If yes, documentation must be included with application materials)

I (we) hereby make application for the rezoning classification described above and on the accompanying materials. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.

David V. Couch 11/19/2020 David V. Couch 11/19/2020
 Property Owner of Record Date Applicant Date

LETTER OF INTENT



Date: November 19, 2020

To: Office of Planning & Development

From: Cindy Reaves

Re: E. Holmes Rd. Rezoning

LETTER OF INTENT

We are submitting a Rezoning application for property at 5414, 5434, 5456, & 0 E. Holmes Road, located east of Lamar Avenue. The property is within the CA zoning district and is approximately 4.89 acres in area. We are requesting a rezoning to the IH district which is compatible with the adjacent properties.

We appreciate your support with this request. Please contact me if you have any questions.

SIGN AFFIDAVIT

AFFIDAVIT

Shelby County
State of Tennessee

I, Raphael Shivers, being duly sworn, depose and say that at 1:05 pm on the 29th day of December, 2020. I posted two Public Notice Signs pertaining to Case No. Z 20-11 in front of the property located on Holmes Road providing notice of a Public Hearing before the January 14, 2021 Land Use Control Board for consideration of a proposed Land Use Action (Rezoning), a photograph of said sign(s) being attached hereon and a copy of the sign purchase receipt or rental contract attached hereto.

Raphael Shivers

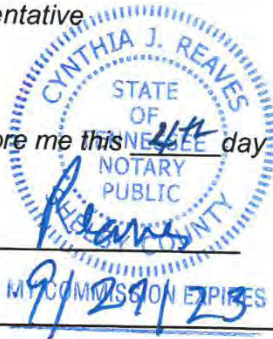
01/04/2021

Owner, Applicant or Representative

Date

Subscribed and sworn to before me this 4th day of January, 2021.

Cynthia J. Reaves



Notary Public

My commission expires: 9/29/23

LETTERS RECEIVED

No letters received at the time of completion of this report.

**MEMPHIS AND
SHELBY COUNTY**  **DIVISION OF PLANNING
AND DEVELOPMENT**

City Hall – 125 N. Main Street, Suite 468 – Memphis, Tennessee 38103 – (901) 636-6619

January 14, 2021

David Couch
9950 Center Hill Road
Collierville, TN 38107

Sent via electronic mail to (applicant's representative): cindy@srce-memphis.com

Case Number: Z 20-11
LUCB Recommendation: Approval

Dear applicant,

On Thursday, January 14, 2021, the Memphis and Shelby County Land Use Control Board recommended **approval** of your rezoning application located on the north side of East Holmes Street approximately 923 feet east of the centerline of Lamar Avenue to be included in the Heavy Industrial (IH) Zoning District.

This application will be forwarded, for final action, to the Council of the City of Memphis. Ordinances appear on three consecutive Council Agendas with the third one being the Public Hearing. The Council will review your application in a committee meeting prior to voting on it in a public hearing. The applicant or the applicant's representative(s) shall be in attendance at all meetings and hearings.

It is the applicant's responsibility to contact the City Council Records Office to determine when the application is scheduled to be heard at committee and in public session. The City Council Records Office may be reached at (901) 636-6792.

If for some reason you choose to withdraw your application, a letter should be mailed to the Land Use and Development Services Department of the Division of Planning and Development at the address provided above or emailed to the address provided below.

If you have questions regarding this matter, please feel free contact me at (901) 636-6619 or via email at jeffrey.penzes@memphistn.gov.

Respectfully,



Jeffrey Penzes
Principal Planner
Land Use and Development Services
Division of Planning and Development

Cc: Cindy Reaves, SR Consulting, LLC
File



Memphis and Shelby County
Office of Planning and Development
 CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

APPLICATION FOR REZONING APPROVAL

Date: November 16, 2020

Case #: _____

PLEASE TYPE OR PRINT

Property Owner of Record: David Couch Phone #: _____

Mailing Address: 9950 Center Hill Road City/State: Collierville, TN Zip 38017

Property Owner E-Mail Address: _____

Applicant: Same as Owner Phone # _____

Mailing Address: _____ City/State: _____ Zip _____

Applicant E- Mail Address: _____

Representative: SR Consulting, LLC (Cindy Reaves) Phone #: 901-373-0380

Mailing Address: 5909 Shelby Oaks Drive, Suite 200 City/State: Memphis, TN Zip 38134

Representative E-Mail Address: cindy@srce-memphis.com

Engineer/Surveyor: SR Consulting, LLC Phone # 901-373-0380

Mailing Address: 5909 Shelby Oaks Drive, Suite 200 City/State: Memphis, TN Zip 38134

Engineer/Surveyor E-Mail Address: cindy@srce-memphis.com

Street Address Location: 0, 5414, 5434, 5456 E. Holmes Rd.

Distance to nearest intersecting street: Approximately 923 feet east of the centerline of Lamar Avenue

| | Parcel 1 | Parcel 2 | Parcel 3 |
|---------------------------|-------------------|----------|----------|
| Area in Acres: | <u>4.89</u> | _____ | _____ |
| Existing Zoning: | <u>CA</u> | _____ | _____ |
| Existing Use of Property | <u>Vacant</u> | _____ | _____ |
| Requested Use of Property | <u>Industrial</u> | _____ | _____ |
| Requested Zoning | <u>IH</u> | _____ | _____ |

Pre-Application Conference held on: _____ with _____

Neighborhood Meeting Requirement Met: Yes or Not Yet or Not Required (see below)
 (If yes, documentation must be included with application materials)

I (we) hereby make application for the rezoning classification described above and on the accompanying materials. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.

David V. Couch 11/19/2020 David V. Couch 11/19/2020
 Property Owner of Record Date Applicant Date

Date: November 19, 2020

To: Office of Planning & Development

From: Cindy Reaves

Re: E. Holmes Rd. Rezoning

LETTER OF INTENT

We are submitting a Rezoning application for property at 5414, 5434, 5456, & 0 E. Holmes Road, located east of Lamar Avenue. The property is within the CA zoning district and is approximately 4.89 acres in area. We are requesting a rezoning to the IH district which is compatible with the adjacent properties.

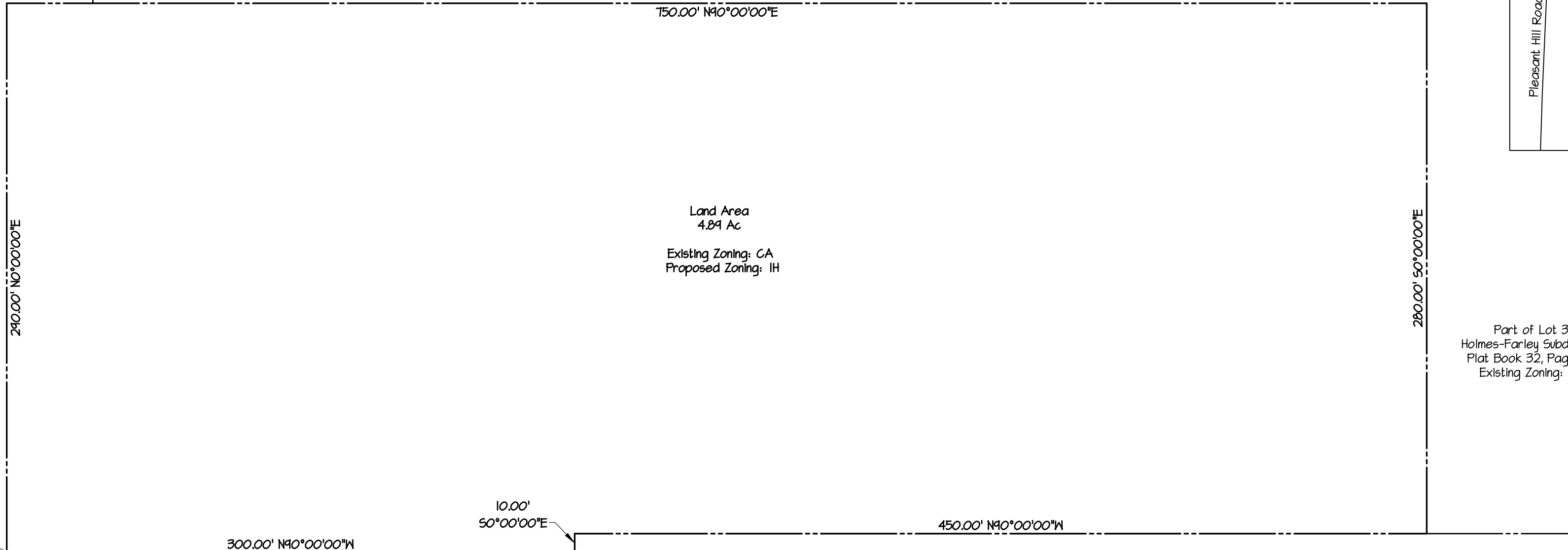
We appreciate your support with this request. Please contact me if you have any questions.

Bethlehem Cemetery
Book 3658, Page 335
Existing Zoning: CA & IH

AP Holmes Road LLC
Inst. # 16081664
25.73 Ac
Existing Zoning: IH



Vicinity Map
nts



Land Area
4.89 Ac
Existing Zoning: CA
Proposed Zoning: IH

Part of Lot 3
Holmes-Farley Subdivision
Plat Book 32, Page 24
Existing Zoning: CA

923± feet to
centerline of
Lamar Ave.

300.00' N90°00'00"W

10.00'
S0°00'00"E

450.00' N90°00'00"W

280.00' S0°00'00"E

290.00' N0°00'00"E

David Couch
Inst. # 09141997
6.385 Ac
Existing Zoning: EMP

David Couch
Inst. # 09141989
1.799 Ac
Existing Zoning: IH

David Couch
Inst. # 14059795
1.824 Ac
Existing Zoning: IH

David Couch
Inst. # 09025907
1.882 Ac
Existing Zoning: IH

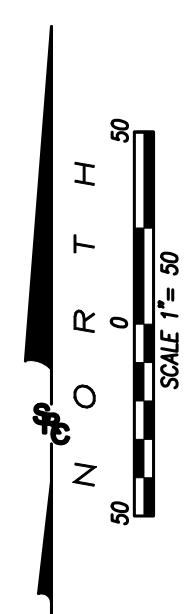
Arthur H. Hathaway
Inst. # 08013215
3.119 Ac
Existing Zoning: CA

Arthur H. Hathaway
Inst. # 03188351
1.64 Ac
Existing Zoning: CA

Couch Realty Investments LLC
Inst. # 08075973
1.652 Ac
Existing Zoning: EMP

Being the David Couch property as recorded in Instrument Number 14089680 and 15087483 in Memphis, Tennessee and being more particularly described as follows:

Beginning at a point in the north line of E. Holmes Road (ROW Varies), approximately 923 feet east of the centerline of Lamar Avenue (ROW Varies); thence N0°00'00"E a distance of 290.00 feet to a point; thence N90°00'00"E a distance of 750.00 feet to a point; thence S0°00'00"E a distance of 280.00 feet to a point in the said north line of E. Holmes Road; thence N90°00'00"W a distance of 450.00 feet to a point; thence S0°00'00"E a distance of 10.00 feet to a point; thence N90°00'00"W a distance of 300.00 feet to the point of beginning and containing 4.89 acres of land more or less.



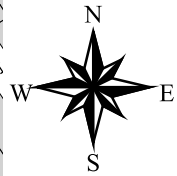
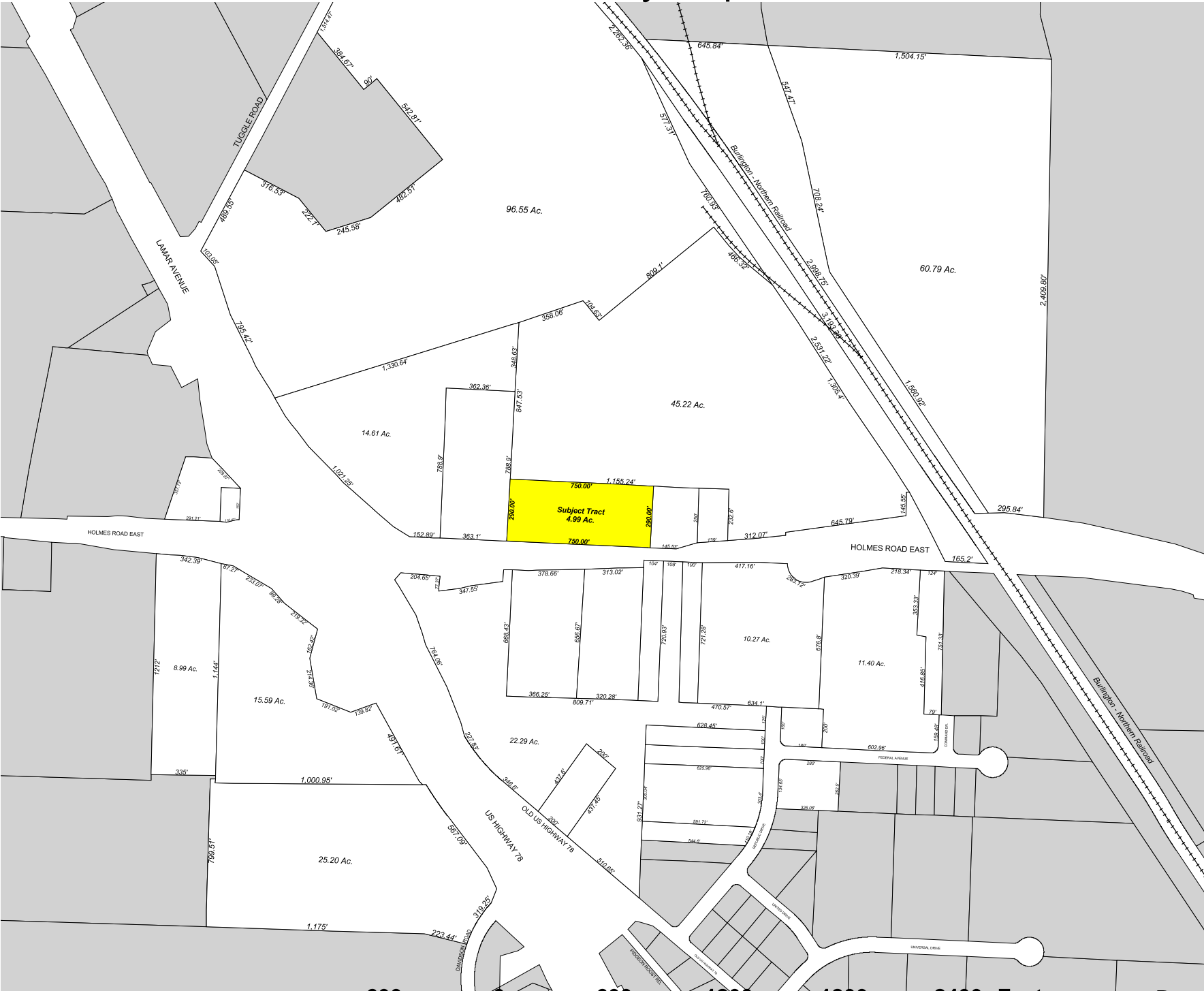
SITE PLAN
HOLMES ROAD REZONING

OWNER: DAVID V. COUCH
4.89 ACRES
WARD 94, BLOCK 200, PARCEL 211
EX. ZONING: CA
PROP. ZONING: IH
MEMPHIS, TENNESSEE
NOVEMBER 2020
SHEET 1 of 1

SR CONSULTING, LLC
ENGINEERING - PLANNING
5909 Shelby Oaks Drive Suite 200 Memphis TN 38134
901-373-0380 (fax) 373-0370
www.SRCE-memphis.com

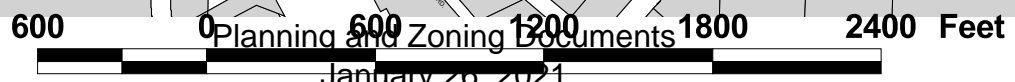
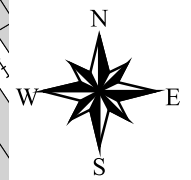
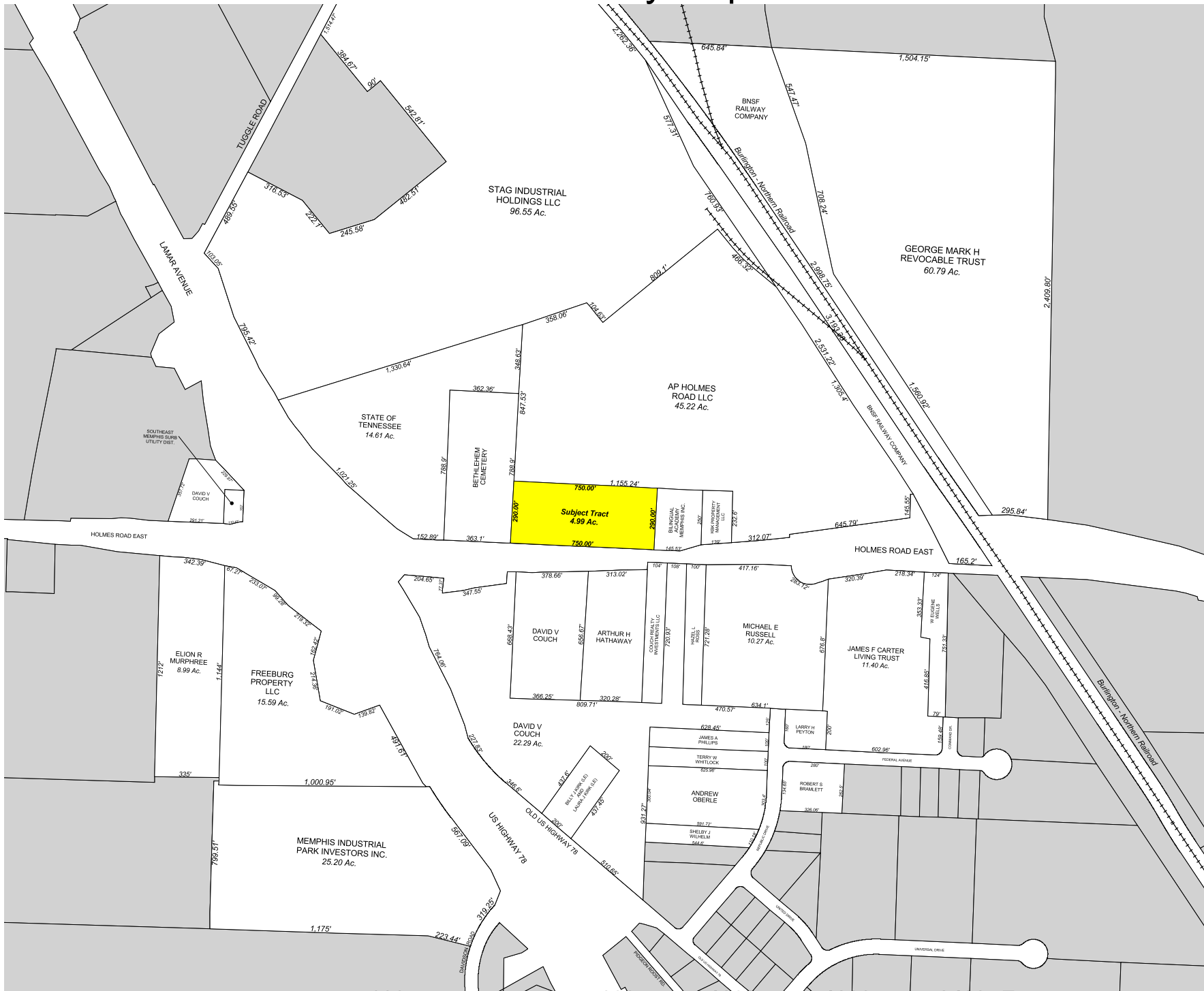
File No. 912020000-0188 Holmes Rd Rezoning David Couch/Realty Investments Planning Rev 8/20/2020 - 2:09pm

Vicinity Map



Date: 11/23/20
Prepared By:
Research Data
PRD Job #20-090

Vicinity Map



AP Holmes Road LLC
88 N. Avondale Road, PMB 330
Avondale Estates, GA 30002-1323

Bethlehem Cemetery
General Delivery
Memphis, TN 38101

Bilingual Academy Memphis Incorporated
5462 E. Holmes Road
Memphis, TN 38118-7906

BNSF Railway Company
P O Box 961089
Fort Worth, TX 76161-0089

Bramlett Robert S
4445 Windslet Cove
Southaven, MS 38672-7106

Couch David V
9950 Center Hill Road
Collierville, TN 38017-9202

Couch Realty Investments LLC
9950 Center Hill Road
Collierville, TN 38017-9202

Freeburg Property LLC
4646 Poplar Avenue, Ste. 401
Memphis, TN 38117

George Mark H Revocable Trust
3150 Lenox Park Boulevard, Ste. 312
Memphis, TN 38115-4261

Hathaway Arthur H
5455 E. Holmes Road
Memphis, TN 38118-7906

James F Carter Living Trust
5599 E. Holmes Road
Memphis, TN 38118-7933

KBK Property Management LLC
9070 Crumpler Boulevard
Olive Branch, MS 38654-8667

Kirk Billy J (LE) And Laura J Kirk (LE)
5410 Old US Highway 78
Memphis, TN 38118-7907

Memphis Industrial Park Investors Inc.
P O Box 771020
Memphis, TN 38177-1020

Murphree Elion R & Carolyn S
5217 E. Holmes Road
Memphis, TN 38118-7804

Oberle Andrew & Janice
5311 Republic Drive
Memphis, TN 38118-7912

Peyton Larry H & Deborah A
5304 Republic Drive
Memphis, TN 38118-7911

Phillips James A & Cheryl L
915 Hickory Oaks Circle
Collierville, TN 38017-3205

Ross Hazel L
P O Box 754201
Memphis, TN 38175-4201

Russell Michael E And Richard A Russell
5300 Highway 78
Memphis, TN 38118

Southeast Memphis Sub Utility Dist.
General Delivery
Memphis, TN 38101

Stag Industrial Holdings LLC
1 Federal Street 23rd Floor
Boston, MA 02110-2031

State Of Tennessee
300 Benchmark Place
Jackson, TN 38301-9712

Wells W Eugene
3900 W. 118th Place
Hawthorne, CA 90250-3216

Whitlock Terry W & Debra L
P O Box 610
Senath, MO 63876-0610

Wilhelm Shelby J
5330 N. Cedar Ridge
Memphis, TN 38118

SR Consulting Engineering
5909 Shelby Oaks Drive, Suite 200
Memphis TN 38134

SR Consulting Engineering
5909 Shelby Oaks Drive, Suite 200
Memphis TN 38134

SR Consulting Engineering
5909 Shelby Oaks Drive, Suite 200
Memphis TN 38134

SR Consulting Engineering
5909 Shelby Oaks Drive, Suite 200
Memphis TN 38134

SR Consulting Engineering
5909 Shelby Oaks Drive, Suite 200
Memphis TN 38134

Couch David V
9950 Center Hill Road
Collierville, TN 38017-9202

Couch David V
9950 Center Hill Road
Collierville, TN 38017-9202

Couch David V
9950 Center Hill Road
Collierville, TN 38017-9202


Couch David V
9950 Center Hill Road
Collierville, TN 38017-9202

Couch David V
9950 Center Hill Road
Collierville, TN 38017-9202



Tom Leatherwood
Shelby County Register / Archives

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.

| | |
|---|------------------|
|  | |
| 14089680 | |
| 09/03/2014 - 08:53 AM | |
| 5 PGS | |
| TAXID | 1246615-14089680 |
| VALUE | 200000.00 |
| MORTGAGE TAX | 0.00 |
| TRANSFER TAX | 740.00 |
| RECORDING FEE | 25.00 |
| DP FEE | 2.00 |
| REGISTER'S FEE | 1.00 |
| WALK THRU FEE | 0.00 |
| TOTAL AMOUNT | 768.00 |
| TOM LEATHERWOOD | |
| REGISTER OF DEEDS SHELBY COUNTY TENNESSEE | |

COUNTERPART

WARRANTY DEED

THIS INSTRUMENT WAS PREPARED BY
The Waddell Law Firm
9056 Stone Walk Place
Germantown, TN 38138

THIS INDENTURE, made and entered into as of the 8th day of August, 2014 by and between

Marion A. Goodman and Joy E. Anderson, Co-Successor Trustees of The Ella A DuBose Revocable Living Trust dated December 21, 1998 and Joy Elaine Anderson, Trustee of The Marion A DuBose Jr. Residuary Trust , hereinafter referred to as Grantor,

and

David V. Couch , hereinafter referred to as Grantee.

WITNESSETH: That for and in consideration of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable considerations, the receipt of all of which is hereby acknowledged, the said Grantor has bargained and sold and does hereby bargain, sell, convey and confirm unto the said Grantee the following described real estate, situated and being in the County of Shelby, State of Tennessee:

PARCEL 1: 0 HOLMES ROAD, MEMPHIS, TN 38118

Lot 1 SHERMAN-FARLEY SUBDIVISION, as shown on plat of record in Plat Book 30, Page 31, in the Register's Office of Shelby County, Tennessee, to which plat reference is hereby made for a more particular description of said property.

Tax Parcel No. 94-200-211

Being the same property conveyed by deed of record to Ella A. Dubose, Trustee of the Ella A. DuBose Revocable Trust Under Agreement dated December 21, 1998 (1/2), in the Register's Office of Shelby County, Tennessee in Instrument Number JA 7508; and by deed of record to Marion A. DuBose, Jr. Residuary Trust (1/2), in the Register's Office of Shelby County, Tennessee in Instrument No. EG9385.

PARCEL 2: 5414 HOLMES ROAD, MEMPHIS, TN 38118 5434 HOLMES ROAD, MEMPHIS, TN 38118

Lots 1 AND 2 of the HOLMES-FARLEY SUBDIVISION, of the re-subdivision of LOT TWO of SHERMAN FARLEY SUBDIVISION, , as shown on plat of record in Plat Book 32, Page 24, in the Register's Office of Shelby County, Tennessee, to which plat reference is hereby made for a more particular description of said property.

Tax Parcel No. 94-200-210 AS TO 5414 HOLMES RD 94-200-209 AS TO 5434 HOLMES RD

Being the same property conveyed by deed of record to Ella A. Dubose, Trustee of the Ella A. DuBose Revocable Trust Under Agreement dated December 21, 1998 (1/2), in the Register's Office of Shelby County, Tennessee in Instrument Number JA 7509; and by deed of record to Marion A. DuBose, Jr. Residuary Trust (1/2), in the Register's Office of Shelby County, Tennessee in Instrument No. EG9386.

TO HAVE AND TO HOLD The aforesaid real estate, together with all the appurtenances and hereditaments thereunto belonging or in any wise appertaining unto the said Grantee, his/her heirs, successors and assigns in fee simple forever.

The said Grantor does hereby covenant with the Grantee that the Grantor is lawfully seized in fee of the

aforescribed real estate; that the Grantor has a good right to sell and convey the same; that the same is unencumbered except,

2015 Memphis City Taxes and 2014 Shelby County Taxes, not yet due and payable; Subdivision Restrictions, Building Lines and Easements of record at Plat Book 30 Page 31 , in the Register's Office of Shelby County, Tennessee.

and that the title and quiet possession thereto Grantor will warrant and forever defend against the lawful claims of all persons.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

WITNESS the signature of the Grantor (or caused its corporate name to be signed hereto by and through its proper officers duly authorized so to do) the day and year first above written.

The Marion A Dubose, Jr. Residuary Trust

Joy Elaine Anderson
Joy Elaine Anderson, Trustee

Ella A DuBose Revocable Living Trust dated December 21, 1998

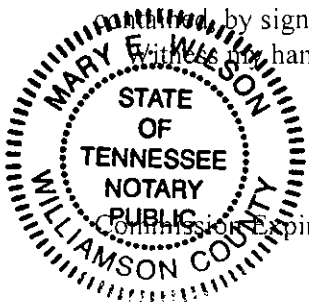
Marion A Goodman Co-successor Trustee

Joy E Anderson
Joy E Anderson Co-Successor Trustee

STATE OF
COUNTY OF

Before me, the undersigned Notary Public of the aforesaid County and State, personally appeared Marion A Goodman with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be a Co-Successor Trustee of The Ella A DuBose Revocable Living Trust dated December 21, 1998 the within named bargainor, a Trust, and that he/she as such Co-Successor Trustee, executed the foregoing instrument for the purpose therein contained, by signing the name of the Trust by himself (or herself) as Co-Successor Trustee.

Witness my hand and seal this 21st day of August, 2014.



Mary E. Wilson
Notary Public

Commission Expiration: 01-14-2018

MY COMMISSION EXPIRES JANUARY 14, 2018

STATE OF
COUNTY OF

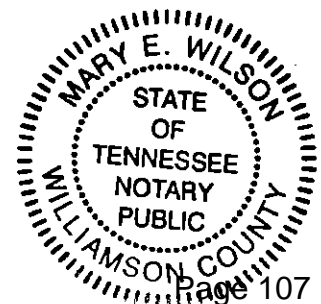
Before me, the undersigned Notary Public of the aforesaid County and State, personally appeared Joy E Anderson with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be a Co-Successor Trustee of The Ella A DuBose Revocable Living Trust dated December 21, 1998 the within named bargainor, a Trust, and that he/she as such Co-Successor Trustee, executed the foregoing instrument for the purpose therein contained, by signing the name of the Trust by himself (or herself) as Co-Successor Trustee.

Witness my hand and seal this 21st day of August, 2014.

Mary E. Wilson
Notary Public

Commission Expiration: 01-14-18

MY COMMISSION EXPIRES JANUARY 14, 2018



aforescribed real estate; that the Grantor has a good right to sell and convey the same; that the same is unencumbered except,

2015 Memphis City Taxes and 2014 Shelby County Taxes, not yet due and payable; Subdivision Restrictions, Building Lines and Easements of record at Plat Book 30 Page 31 , in the Register's Office of Shelby County, Tennessee.

and that the title and quiet possession thereto Grantor will warrant and forever defend against the lawful claims of all persons.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

WITNESS the signature of the Grantor (or caused its corporate name to be signed hereto by and through its proper officers duly authorized so to do) the day and year first above written.

The Marion A Dubose, Jr. Residuary Trust

Ella A DuBose Revocable Living Trust dated December 21, 1998

Joy Elaine Anderson, Trustee

Marion A Goodman

Marion A Goodman Co-successor Trustee

Joy E Anderson Co-Successor Trustee

STATE OF
COUNTY OF

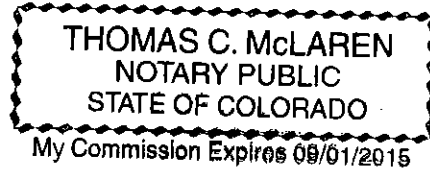
Before me, the undersigned Notary Public of the aforesaid County and State, personally appeared Marion A Goodman with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be a Co-Successor Trustee of The Ella A DuBose Revocable Living Trust dated December 21, 1998 the within named bargainor, a Trust, and that he/she as such Co-Successor Trustee, executed the foregoing instrument for the purpose therein contained, by signing the name of the Trust by himself (or herself) as Co-Successor Trustee.

Witness my hand and seal this 5 day of August, 2014.

[Signature]

Notary Public

Commission Expiration: 07/01/2015



STATE OF
COUNTY OF

Before me, the undersigned Notary Public of the aforesaid County and State, personally appeared Joy E Anderson with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be a Co-Successor Trustee of The Ella A DuBose Revocable Living Trust dated December 21, 1998 the within named bargainor, a Trust, and that he/she as such Co-Successor Trustee, executed the foregoing instrument for the purpose therein contained, by signing the name of the Trust by himself (or herself) as Co-Successor Trustee.

Witness my hand and seal this _____ day of August, 2014.

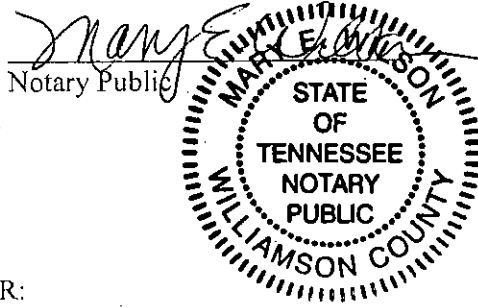
Notary Public

Commission Expiration: _____

STATE OF
COUNTY OF

Before me, the undersigned Notary Public of the aforesaid County and State, personally appeared Joy Elaine Anderson with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be a Trustee of The Marion A Dubose, Jr. Residuary Trust the within named bargainor, a Trust, and that he/she as such Trustee, executed the foregoing instrument for the purpose therein contained, by signing the name of the Trust by himself (or herself) as Trustee.

Witness my hand and seal this 5th day of August, 2014.



Commission Expiration: 01-14-2018

MY COMMISSION EXPIRES JANUARY 14, 2018
NAME AND ADDRESS OF PROPERTY OWNER:
David V. Couch ; 5414, 5434 & 0 E. Holmes Rd., Memphis, TN 38118

STATE OF TENNESSEE
COUNTY OF SHELBY

VALUATION AFFIDAVIT

I, or we, hereby swear or affirm that, to the best of affiant's knowledge, information, and belief, the actual consideration for this transfer or value of the property transferred, whichever is greater is \$200,000.00, which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

Affiant

Subscribed and sworn to before me this 8th day of August, 2014.

Notary Public

Commission Expiration: _____

RETURN TO:

SEND TAX BILLS TO:

PROPERTY ADDRESS:
5414, 5434 & 0 E. Holmes Rd., Memphis, TN 38118

File No. 14-00236; Title Co. T.G. No.

STATE OF
COUNTY OF

Before me, the undersigned Notary Public of the aforesaid County and State, personally appeared Joy Elaine Anderson with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be a Trustee of The Marion A Dubose, Jr. Residuary Trust the within named bargainor, a Trust, and that he/she as such Trustee, executed the foregoing instrument for the purpose therein contained, by signing the name of the Trust by himself (or herself) as Trustee.

Witness my hand and seal this 8 day of August, 2014.

Notary Public

Commission Expiration: _____

NAME AND ADDRESS OF PROPERTY OWNER:
David V. Couch ; 5414, 5434 & 0 E. Holmes Rd., Memphis, TN 38118

STATE OF TENNESSEE
COUNTY OF SHELBY

VALUATION AFFIDAVIT

I, or we, hereby swear or affirm that, to the best of affiant's knowledge, information, and belief, the actual consideration for this transfer or value of the property transferred, whichever is greater is \$200,000.00, which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

[Signature]
Affiant

Subscribed and sworn to before me this 8th day of August, 2014.

[Signature]
Notary Public

Commission Expiration: _____

RETURN TO:



SEND TAX BILLS TO: owner
David V. Couch
9950 Carter Hill Road
Collierville, TN 38017

PROPERTY ADDRESS:
5414, 5434 & 0 E. Holmes Rd., Memphis, TN 38118


File No. 14-00236; Title Co. T.G. No.

Prepared by/Return to:
Hugh H. Armistead, Attorney, MSB 1615
6879 Crumpler Blvd., Suite 10D
Olive Branch, MS 38654
662-895-4844



Tom Leatherwood
 Shelby County Register / Archives

As evidenced by the instrument number shown below, this document
 has been recorded as a permanent record in the archives of the
 Office of the Shelby County Register.

| | |
|---|---------------|
|  | |
| 15087483 | |
| 08/31/2015 - 01:13 PM | |
| 3 PGS | |
| TOYWAA 1367186-15087483 | |
| VALUE | 30000.00 |
| MORTGAGE TAX | 0.00 |
| TRANSFER TAX | 111.00 |
| RECORDING FEE | 15.00 |
| DP FEE | 2.00 |
| REGISTER'S FEE | 1.00 |
| WALK THRU FEE | 0.00 |
| TOTAL AMOUNT | 129.00 |
| TOM LEATHERWOOD | |
| REGISTER OF DEEDS SHELBY COUNTY TENNESSEE | |

Prepared by and Return to:

**Hugh H. Armistead, Attorney
6879 Crumpler Boulevard, Suite 100
Olive Branch, MS 38654
662-895-4844**

New Property Owner/Send Tax Bills to:

**David V. Couch
9950 Center Hill Road
Collierville, TN 38017**

Property Address:

**5456 East Holmes Road
Memphis, Tennessee**

Tax Parcel Number:

094-2000-0-00207-0

WARRANTY DEED

THIS INSTRUMENT, made and entered into this the 26th day of August, 2015, by and between

JO ANN CROWDER, of the first part,

and

DAVID V. COUCH, of the second part,

WITNESSETH: That for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00), cash in hand paid, and other good and valuable considerations, the receipt of all of which is hereby acknowledged, the said party of the first part has bargained and sold and does hereby bargain, sell, convey and confirm unto the said party of the second part the following described real estate, situated and being in the City of Memphis, County of Shelby, State of Tennessee, to-wit:

The West 150 feet of Lot 3 of the Holmes-Farley Subdivision, as recorded in Plat Book 32, Page 24, in the Register's Office of Shelby County, Tennessee, and being more particularly described as follows:

BEGINNING at a point, said point being 300 feet South 87 degrees 18 minutes 25 seconds East of the Southwest corner of said Holmes-Farley Subdivision as measured along the North line of Holmes Road (50 feet from the center line); thence North 2 degrees 41 minutes 35 seconds East, along the East line of Lot 2 of said subdivision, 290.79 feet (call-280 feet) to a point; thence South 88 degrees 08 minutes 05 seconds East, 150.33 feet to a point; thence South 2 degrees 41 minutes 35 seconds West, 292.96 feet (Call-280 feet) to a point, said point being in the North line of Holmes Road; thence North 87 degrees 18 minutes 25 seconds West, along the North line of Holmes Road, 150.31 feet to the Point of Beginning and containing 1.01 acres.

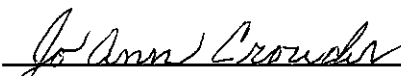
Being the same property conveyed to Grantor in Warranty Deed dated March 25, 1999, and recorded as Instrument No. JF 6967 in the Register's Office of Shelby County, Tennessee.

TO HAVE AND TO HOLD the aforesaid real estate together with all the appurtenances and hereditaments thereunto belonging or in any wise appertaining unto the said party of the second part it heirs, successors and assigns in fee simple forever.

The said party of the first part does hereby covenant with the said party of the second part that it is lawfully seized in fee of the afore-described real estate; that it has a good right to sell and convey the same; that the same is unencumbered except for any and all subdivision restrictions, building lines and easements of record; **2016 City of Memphis and 2015 Shelby County Real Property Taxes** and all subsequent years, not yet due and payable which taxes shall be prorated; and that the title and quiet possession thereto it will warrant and forever defend against the lawful claims of all persons.

The word "party" as used herein shall mean "parties" if it refers to more than one person or entity, and pronouns shall be construed according to their proper gender and number according to the context hereof.

IN TESTIMONY WHEREOF, the Grantor has executed this instrument, this the 26th day of August, 2015.




JO ANN CROWDER

STATE OF TENNESSEE
COUNTY OF SHELBY

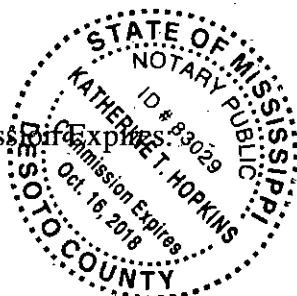
Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared **Jo Ann Crowder**, with whom I am personally acquainted, and who, upon oath, acknowledged that she executed the above and foregoing instrument for the purposes therein contained.

WITNESS my hand, at office, this 26th day of August, 2015.



NOTARY PUBLIC

My Commission Expires



STATE OF TENNESSEE
COUNTY OF SHELBY

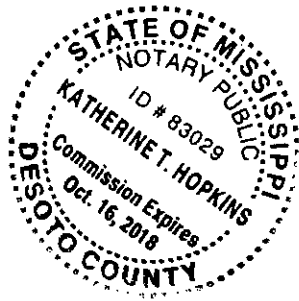
I hereby swear or affirm that to the best of affiant's knowledge, information and belief, the actual consideration for this transfer is **THIRTY THOUSAND AND 00/100 Dollars (\$30,000.00)**.

W. Von Couch
AFFIANT

Sworn to and subscribed before me this the 26th day of August, 2015.

Katherine Hopkins
NOTARY PUBLIC

My Commission Expires:



923± feet to centerline of Larmor Ave.

300.00' N40°00'00"W

10.00' 50°00'00"E

450.00' N40°00'00"W

290.00' N0°00'00"E

Land Area
4.89 Ac
Existing Zoning: CA
Proposed Zoning: IH

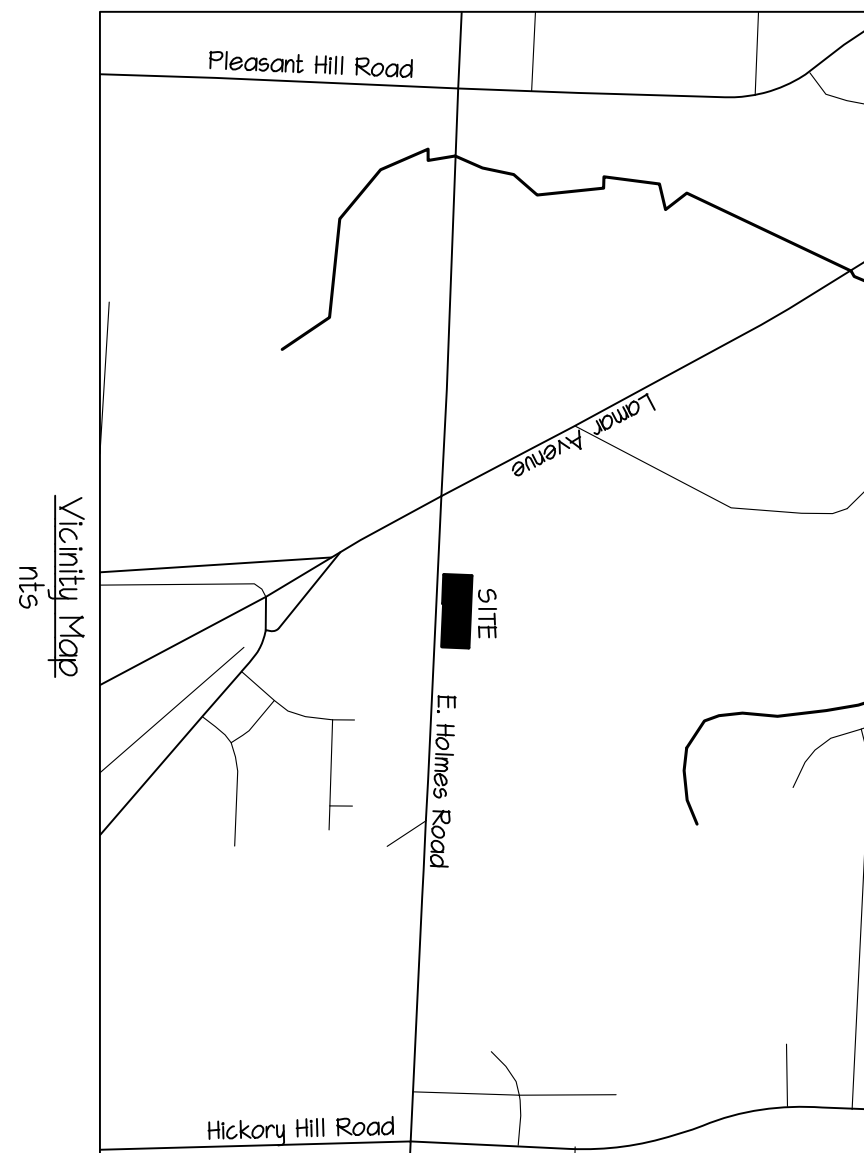
150.00' N40°00'00"E

Bethlehem Cemetery
Book 3658, Page 335
Existing Zoning: CA & IH

AP Holmes Road LLC
Inst. # 16081664
25.73 Ac
Existing Zoning: IH

280.00' 50°00'00"E

Part of Lot 3
Holmes-Fornell subdivision
Plat Book 32, Page 24
Existing Zoning: CA



David Couch
Inst. # 04141947
6.385 Ac
Existing Zoning: EHP

David Couch
Inst. # 04141944
1.744 Ac
Existing Zoning: IH

David Couch
Inst. # 14054795
1.824 Ac
Existing Zoning: IH

David Couch
Inst. # 04025407
1.882 Ac
Existing Zoning: IH

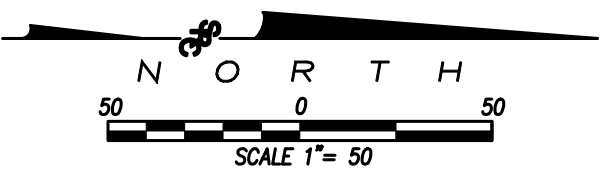
Arthur H. Hahnkay
Inst. # 08013215
3.114 Ac
Existing Zoning: CA

Arthur H. Hahnkay
Inst. # 03183557
1.64 Ac
Existing Zoning: CA

Couch Realty Investments LLC
Inst. # 08075473
1.652 Ac
Existing Zoning: EHP

Being the David Couch property as recorded in Instrument Number 14081600 and 15087483 in Memphis, Tennessee and being more particularly described as follows:

Beginning at a point in the north line of E. Holmes Road (RON Varies), approximately 423 feet east of the centerline of Larmor Avenue (RON Varies); thence N0°00'00"E a distance of 290.00 feet to a point; thence N40°00'00"E a distance of 150.00 feet to a point; thence 50°00'00"E a distance of 280.00 feet to a point in the said north line of E. Holmes Road; thence N40°00'00"W a distance of 450.00 feet to a point; thence 50°00'00"E a distance of 10.00 feet to a point; thence N40°00'00"W a distance of 300.00 feet to the point of beginning and containing 4.89 acres of land more or less.



**SITE PLAN
HOLMES ROAD REZONING**

OWNER:

DAVID V. COUCH

WARD 94, BLOCK 200, PARCEL 211

4.89 ACRES

EX. ZONING: CA

PROP. ZONING: IH

MEMPHIS, TENNESSEE

NOVEMBER 2020

SHEET 1 of 1

SR CONSULTING, LLC
ENGINEERING - PLANNING
5909 Shelby Oaks Drive
Suite 200
Memphis TN 38134

901-373-0380
(fax) 373-0370
www.srce-memphis.com

**NOTICE OF ELECTRONIC PUBLIC HEARING ON PROPOSED AMENDMENT
TO THE ZONING MAP OF THE CITY OF MEMPHIS**

Notice is hereby given that, pursuant to Section 8-44-108 of the Tennessee Code Annotated, a Telephonic/Electronic Public Hearing will be held by the City Council of the City of Memphis on Tuesday, _____ at 3:30 P.M., in the matter of amending the Zoning Map of the City of Memphis, being Chapter 28, Article IV of the Code of Ordinances, City of Memphis, Tennessee, as amended, as follows:

CASE NUMBER: Z 20-11

LOCATION: North side of East Holmes Street approximately 923 feet east of the centerline of Lamar Avenue

COUNCIL DISTRICTS: District 3 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: David Couch

REPRESENTATIVE: Cindy Reaves, SR Consulting, LLC

EXISTING ZONING: Conservation Agriculture (CA)

REQUEST: Heavy Industrial (IH) District

AREA: +/-4.89 acres

RECOMMENDATIONS:

Memphis and Shelby County Office of Planning and Development: *Approval*

Memphis and Shelby County Land Use Control Board: *Approval*

NOW, THEREFORE, you will take notice that on Tuesday, _____, at 3:30 P.M. the City Council of the City of Memphis, Tennessee will be in session to hear opposition against the making of such changes; such opposition must be by personal appearances, or by attorneys, or by petition, and must registered to speak by Monday, _____, at 8 A.M.

You may register to speak by contacting Ashleigh Hayes at ashleigh.hayes@memphistn.gov no later than Monday, _____, at 8 A.M. with your (i) name, (ii) address, and (iii) phone number. Please note that, due to time limitations under the Council's Rules of Procedure, each side may speak no longer than fifteen (15) minutes. Thus, it is strongly encouraged that one, or two, spokespersons speak per side.

Please note video of this meeting will be streamed live on the City of Memphis' website. You may view this video by going to memphistn.gov, then going to the "Government" tab at the bottom and then select "Watch Public Meetings." The direct link is: <https://www.memphistn.gov/cms/One.aspx?portalId=11150816&pageId=15334953>

This case will also be heard at the Planning and Zoning Committee on the same day with the specific time to be determined prior to the meeting date and posted on the City of Memphis' website.

THIS THE _____, _____

FRANK COLVETT JR.
CHAIRMAN OF COUNCIL

ATTEST:

DYWUANA MORRIS
CITY COMPTROLLER

TO BE PUBLISHED:

AP Holmes Road LLC
88 N. Avondale Road, PMB 330
Avondale Estates, GA 30002-1323

Bethlehem Cemetery
General Delivery
Memphis, TN 38101

Bilingual Academy Memphis Incorporated
5462 E. Holmes Road
Memphis, TN 38118-7906

BNSF Railway Company
P O Box 961089
Fort Worth, TX 76161-0089

Bramlett Robert S
4445 Windslet Cove
Southaven, MS 38672-7106

Couch David V
9950 Center Hill Road
Collierville, TN 38017-9202

Couch Realty Investments LLC
9950 Center Hill Road
Collierville, TN 38017-9202

Freeburg Property LLC
4646 Poplar Avenue, Ste. 401
Memphis, TN 38117

George Mark H Revocable Trust
3150 Lenox Park Boulevard, Ste. 312
Memphis, TN 38115-4261

Hathaway Arthur H
5455 E. Holmes Road
Memphis, TN 38118-7906

James F Carter Living Trust
5599 E. Holmes Road
Memphis, TN 38118-7933

KBK Property Management LLC
9070 Crumpler Boulevard
Olive Branch, MS 38654-8667

Kirk Billy J (LE) And Laura J Kirk (LE)
5410 Old US Highway 78
Memphis, TN 38118-7907

Memphis Industrial Park Investors Inc.
P O Box 771020
Memphis, TN 38177-1020

Murphree Elion R & Carolyn S
5217 E. Holmes Road
Memphis, TN 38118-7804

Oberle Andrew & Janice
5311 Republic Drive
Memphis, TN 38118-7912

Peyton Larry H & Deborah A
5304 Republic Drive
Memphis, TN 38118-7911

Phillips James A & Cheryl L
915 Hickory Oaks Circle
Collierville, TN 38017-3205

Ross Hazel L
P O Box 754201
Memphis, TN 38175-4201

Russell Michael E And Richard A Russell
5300 Highway 78
Memphis, TN 38118

Southeast Memphis Sub Utility Dist.
General Delivery
Memphis, TN 38101

Stag Industrial Holdings LLC
1 Federal Street 23rd Floor
Boston, MA 02110-2031

State Of Tennessee
300 Benchmark Place
Jackson, TN 38301-9712

Wells W Eugene
3900 W. 118th Place
Hawthorne, CA 90250-3216

Whitlock Terry W & Debra L
P O Box 610
Senath, MO 63876-0610

Wilhelm Shelby J
5330 N. Cedar Ridge
Memphis, TN 38118

SR Consulting Engineering
5909 Shelby Oaks Drive, Suite 200
Memphis TN 38134

SR Consulting Engineering
5909 Shelby Oaks Drive, Suite 200
Memphis TN 38134

SR Consulting Engineering
5909 Shelby Oaks Drive, Suite 200
Memphis TN 38134

SR Consulting Engineering
5909 Shelby Oaks Drive, Suite 200
Memphis TN 38134

SR Consulting Engineering
5909 Shelby Oaks Drive, Suite 200
Memphis TN 38134

Couch David V
9950 Center Hill Road
Collierville, TN 38017-9202

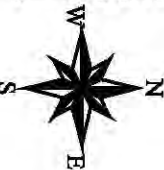
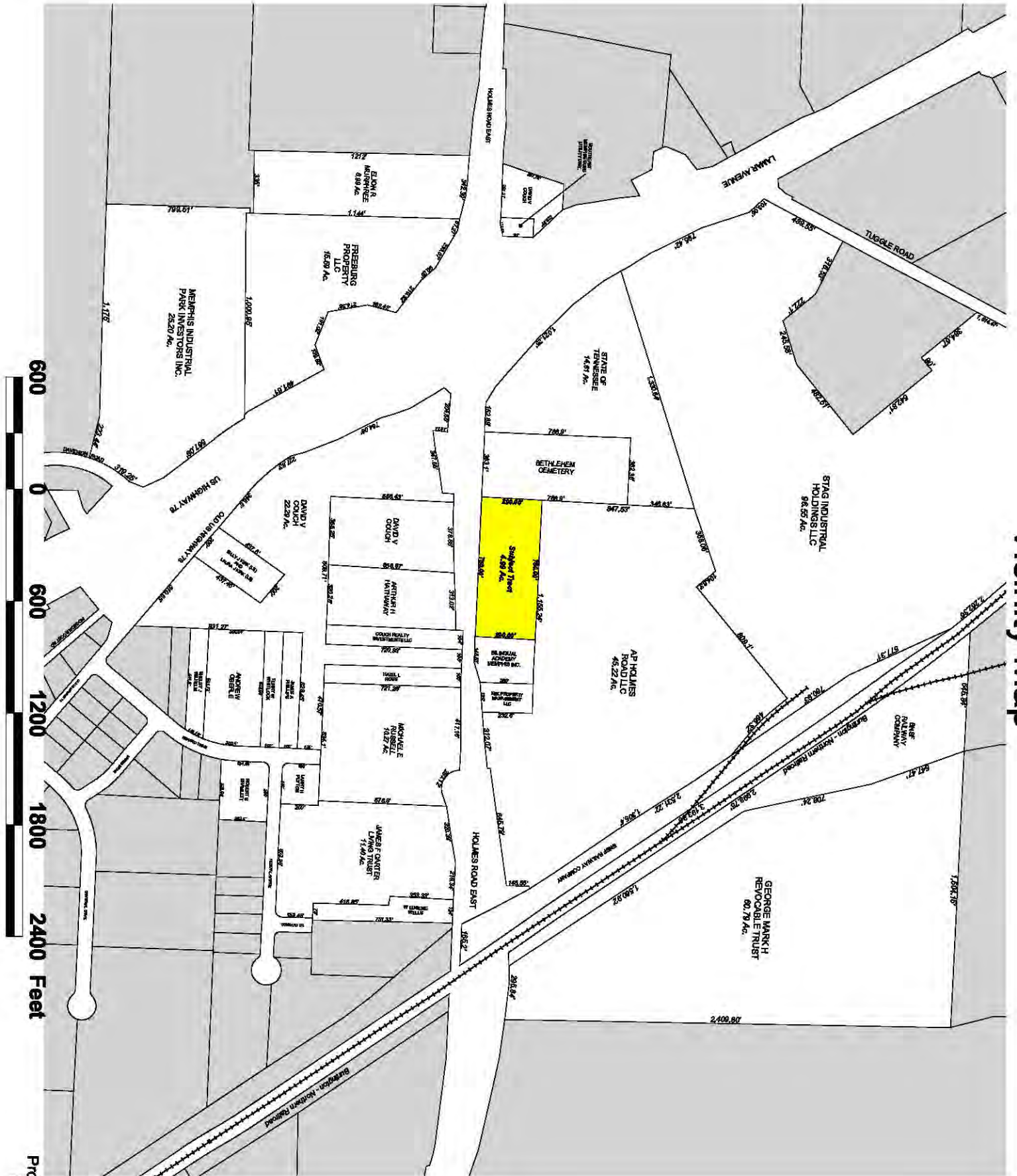
Couch David V
9950 Center Hill Road
Collierville, TN 38017-9202

Couch David V
9950 Center Hill Road
Collierville, TN 38017-9202

Couch David V
9950 Center Hill Road
Collierville, TN 38017-9202

Couch David V
9950 Center Hill Road
Collierville, TN 38017-9202

Vicinity Map



Date: 11/23/20
 Prepared By: Property Research Data
 PRD Job #20-090

**CITY OF MEMPHIS
COUNCIL AGENDA CHECK OFF SHEET**

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

Planning & Zoning COMMITTEE: 02/02/2020

DATE

PUBLIC SESSION: 02/02/2020

DATE

FIRST READING: 01/05/20

DATE

ITEM (CHECK ONE)

ORDINANCE _____ CONDEMNATIONS _____ GRANT ACCEPTANCE / AMENDMENT
 _____ RESOLUTION _____ GRANT APPLICATION REQUEST FOR PUBLIC HEARING
 _____ OTHER: _____

ITEM DESCRIPTION: An amendment to the Memphis and Shelby County Unified Development Code. The following item was heard by the Land Use Control Board and a recommendation made. (LUCB DATE: **Dec. 10, 2020.**)

CASE NUMBER: ZTA 20-1

LOCATION: City of Memphis and unincorporated Shelby County

APPLICANT: Memphis and Shelby County Division of Planning and Development

REPRESENTATIVE: Josh Whitehead, Zoning Administrator

REQUEST: Adopt amendments to the Memphis and Shelby County Unified Development Code.

AREA: This text amendment affects all property within the City of Memphis and unincorporated Shelby County.

RECOMMENDATION: Division of Planning and Development: Approval
 Land Use Control Board: Approval

RECOMMENDED COUNCIL ACTION: Publication in a Newspaper of General Circulation *Required*

PRIOR ACTION ON ITEM:

(2) _____ APPROVAL - (1) APPROVED (2) DENIED
 12/10/2020 _____ DATE
 (1) Land Use Control Board _____ ORGANIZATION - (1) BOARD / COMMISSION
 _____ (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE

FUNDING:

(2) _____ REQUIRES CITY EXPENDITURE - (1) YES (2) NO
 \$ _____ AMOUNT OF EXPENDITURE
 \$ _____ REVENUE TO BE RECEIVED

SOURCE AND AMOUNT OF FUNDS

\$ _____ OPERATING BUDGET
 \$ _____ CIP PROJECT # _____
 \$ _____ FEDERAL/STATE/OTHER

ADMINISTRATIVE APPROVAL:

| | <u>DATE</u> | <u>POSITION</u> |
|-------|-------------|---------------------------|
| _____ | _____ | PRINCIPAL PLANNER |
| _____ | _____ | DEPUTY DIRECTOR |
| _____ | _____ | DIRECTOR |
| _____ | _____ | DIRECTOR (JOINT APPROVAL) |
| _____ | _____ | COMPTROLLER |
| _____ | _____ | FINANCE DIRECTOR |
| _____ | _____ | CITY ATTORNEY |

_____ **CHIEF ADMINISTRATIVE OFFICER**

_____ **COMMITTEE CHAIRMAN**

**NOTICE OF TELEPHONIC PUBLIC HEARING ON PROPOSED AMENDMENTS
TO THE ZONING CODE OF THE CITY OF MEMPHIS**

Notice is hereby given that, pursuant to Section 8-44-108 of the Tennessee Code Annotated, a Telephonic Public Hearing will be held by the Council of the City of Memphis on Tuesday, February 2, 2021, at 3:30 p.m., in the matter of amending the Zoning Code of the City of Memphis, being Chapter 28, Article IV, of the Code of Ordinances of the City of Memphis, Tennessee, as amended, as follows:

CASE NUMBER: ZTA 20-1
APPLICANT: Division of Planning and Development
REPRESENTATIVE: Josh Whitehead, Zoning Administrator
REQUEST: Adopt annual set of amendments to the Memphis and Shelby County Unified Development Code (the zoning code of the City of Memphis and County of Shelby)

RECOMMENDATIONS:

Memphis and Shelby County Division of Planning and Development: *Approval*

Memphis and Shelby County Land Use Control Board: *Approval*

NOW, THEREFORE, you will take notice that on Tuesday, February 2, 2021, at 3:30 p.m., the Council of the City of Memphis, Tennessee, will be in session to hear opposition against the making of such changes; such opposition must register to speak by Monday, February 1, 2020, at 8 a.m.

You may register to speak by contacting Bryson Whitney at bryson.whitney@memphistn.gov no later than Monday 1 February at 8 a.m. with your (i) name, (ii) address, and (iii) the phone number from which you will be calling. Please note that due to time limitations under the Council's Rules of Procedure, each side may speak no longer than 15 minutes.

Please note video of this meeting will be streamed live on the City of Memphis' YouTube channel. The direct link is: <https://www.youtube.com/MemphisCityCouncil>

This case will also be heard at the Planning and Zoning Committee on the same day with the specific time to be determined prior to the meeting date and posted on the City of Memphis' website.

THIS THE _____, _____

PATRICE ROBINSON
CHAIR OF COUNCIL

ATTEST:

CANDI BURTON
CITY COMPTROLLER

TO BE PUBLISHED:



Memphis City Council Summary Sheet

Ordinance approving a Zoning Text Amendment to amend the Unified Development Code.

1. Ordinance to approve a Zoning Text Amendment initiated by the Division of Planning and Development.
2. Zoning Text Amendments amend the Memphis and Shelby County Unified Development Code.
3. This is the annual set of amendments to the Unified Development Code presented each year by the Division of Planning and Development.
4. After a 90-day public review period, the Memphis and Shelby County Land Use Control Board held a public hearing on **December 10, 2020**, and amended and approved the Text Amendment unanimously by a vote of 10 to 0.
5. The amendment approved by the Land Use Control Board was to address the concerns of one of two individuals who spoke in opposition to this item.
6. No contracts are affected by this item.
7. No expenditure of funds/budget amendments are required by this item.

Joint Ordinance No.: _____

A JOINT ORDINANCE AMENDING THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE AS ADOPTED BY THE CITY OF MEMPHIS AUGUST 10, 2010, AND BY SHELBY COUNTY AUGUST 9, 2010, AS AMENDED, TO REVISE AND ENHANCE THE JOINT ZONING AND SUBDIVISION REGULATIONS AS RECOMMENDED BY THE MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING & DEVELOPMENT AND THE LAND USE CONTROL BOARD.

WHEREAS, By the provisions of chapter 165 of the Private Acts of the General Assembly of the State of Tennessee for the year 1921, authority was conferred upon the legislative body of the City of Memphis, Tennessee, to establish districts or zones within the corporate territory of the City of Memphis and to establish zoning regulations pertaining thereto, and to amend said zones or districts and zoning regulations pertaining thereto from time to time; and

WHEREAS, By the provisions of chapter 613 of the Private Acts of the General Assembly of the State of Tennessee for the year 1931, the legislative bodies of the City of Memphis and the County of Shelby were given authority to establish districts or zones within the territory in Shelby County, Tennessee, outside of, but within five miles of the corporate limits of the City of Memphis, Tennessee, and to establish zoning regulations pertaining thereto, and to amend said zones or districts and zoning regulations pertaining thereto from time to time; and

WHEREAS, By the provisions of chapter 625 of the Private Acts of the General Assembly of the State of Tennessee for the year 1935, authority was conferred upon the legislative body of the County of Shelby, to establish districts or zones within the unincorporated territory of Shelby County and outside the five-mile zone of the corporate limits of the City of Memphis, Tennessee, and to amend said zones or districts and zoning regulations pertaining thereto from time to time; and

WHEREAS, by the provisions of chapter 470 of the Private Acts of 1967, the General Assembly of the State of Tennessee conferred upon the legislative body of Shelby County the authority to regulate the subdivision or resubdivision of land into two or more parts; and

WHEREAS, by the provisions of section 2 of chapter 470 of the Private Acts of 1967, the General Assembly of the State of Tennessee conferred upon the legislative bodies of the City of Memphis and the County of Shelby the authority to regulate the subdivision and resubdivision of land within three miles of the corporate limits of the City of Memphis into two or more parts; and

WHEREAS, by provisions of T.C.A. title 54, ch. 10 [§ 54-10-101 et seq.], the General Assembly of the State of Tennessee conferred on the legislative body of Shelby County the authority to open, close or change public roads within the areas subject to its jurisdiction; and

WHEREAS, the Unified Development Code was adopted by the city of Memphis on August 10, 2010, and by Shelby County on August 9, 2010, as the new regulations for zoning and subdivisions in the city of Memphis and unincorporated Shelby County; and

WHEREAS, a comprehensive review of the Unified Development Code was initiated by the Memphis and Shelby County Division of Planning and Development; and

WHEREAS, The Unified Development Code should reflect the adoption of several amendments presented by the Memphis and Shelby County Division of Planning and Development; and

WHEREAS, The Memphis and Shelby County Land Use Control Board approved these amendments at its December 10, 2020, session;

NOW, THEREFORE, BE IT ORDAINED, By the City Council of the City of Memphis and by the Board of Commissioners of Shelby County, Tennessee that Joint Ordinance Nos. 5367 and 397, is hereby amended as follows:

SECTION 1, CASE NO. ZTA 20-1. That various sections of the Unified Development Code be hereby amended as reflected on Exhibit A, attached hereto.

SECTION 2. That the various sections, words, and clauses of this Joint Ordinance are severable, and any part declared or found unlawful may be elided without affecting the lawfulness or the remaining portions.

SECTION 3. That only those portions of this Joint Ordinance that are approved by both the City Council of the City of Memphis and the Board of Commissioners of Shelby County, Tennessee, shall be effective; any portions approved by one and not the other are not part of this Joint Ordinance.

SECTION 4. That this Joint Ordinance shall take effect from and after the date it shall have been enacted according to due process of law, and thereafter shall be treated as in full force and effect in the jurisdictions subject to the above-mentioned Ordinance by virtue of the concurring and separate passage thereof by the Shelby County Board of Commissioners and the Council of the City of Memphis.

BE IT FURTHER ORDAINED, That the various sections of this Ordinance are severable, and that any portion declared unlawful shall not affect the remaining portions.

BE IT FURTHER ORDAINED, That this Ordinance shall become effective _____, 2021.

Chairman
Frank Colvett, Jr.

APPENDIX A

(ordered as found in the staff report for this case; additions indicated in bold, underline; deletions indicated in strikethrough)

Amend the Front Cover to add approval dates by the Land Use Control Board for each of the amendments, as the ordinance numbers for the two additional text amendments not already included (ZTA 10-1 and ZTA 10-2).

Amend the Table of Contents:

10.10: Exception for Historic Multi-Family Properties (capitalize first letter)

Amend various sections throughout the Code:

~~Planning Director~~ Zoning Administrator

Office **Division** of Planning and Development

Amend Sections 4.9, 9.3.3 and 9.17 by changing the references of the "Building Official" with regard to submittals of Sign Permits to the "Zoning Administrator."

Amend the flow chart in Section 9.20 by changing the reference of the "Building Official" to the "Zoning Administrator."

Amend Section 12.3.1:

PLANNING DIRECTOR: See definition of "Zoning Administrator."

ZONING ADMINISTRATOR (formerly known as the Planning Director) ~~PLANNING DIRECTOR~~: The Administrator of the **land use and development services department of the** Memphis and Shelby County **Division** ~~Office~~ of Planning and Development, or his or her designee. In the absence or vacancy of the office of the Administrator of the **land use and development services department of the** Memphis and Shelby County **Division** ~~Office~~ of Planning and Development, the Director of the Memphis and Shelby County Division of Planning and Development or his or her designee shall be deemed as the **Zoning Administrator** ~~Planning Director~~ insofar as the administration of this Code is concerned (see also Section 9.1.6).

Amend Section 1.9:

1.9 CONSISTENCY WITH MEMPHIS 3.0 AND OTHER PLANS TO BE CONSIDERED

A. All land use decisions pursuant to TCA 13-4-202(b)(2)(B)(iii) shall be consistent with the Memphis 3.0 General Plan.

B. Determination of Consistency.

When making land use decisions, the boards and bodies responsible for making such decisions shall consider the decision criteria described in the Memphis 3.0 General Plan in its determination of consistency. The boards and bodies are responsible for making their own determination of consistency but shall consider

the determination of consistency made by the Division of Planning and Development and any comments made by affected citizens and neighbors when doing so.

C. Memphis 3.0 and this Code

The Memphis 3.0 General Plan shall be used to guide land use decisions but not in any way supplant the regulations of this Code, including but not limited to its Zoning Map or Overlay Districts. A determination of consistency with Memphis 3.0 shall not supersede the approval criteria and findings of fact required for individual land use decisions, as provided in this Code.

D. The following plans shall be considered in any decisions under this development code...

Amend the Table of Contents:

1.9 CONSISTENCY WITH MEMPHIS 3.0 AND OTHER PLANS TO BE CONSIDERED

Amend various sections throughout the Code to reflect the spacing between the capital letter of the Sub-Section identification and the Arabic number of the Paragraph identification in references to the Code.

Amend Sections 2.2.3C(2), 2.2.3C(3), 2.9.2A and 12.3.1:

upper-story residential

Amend Sections 8.2.9F and 8.3.12F:

8.2.9F Upper-Story Residential. **See definition in Section 12.3.1.** ~~A residential unit on the upper floors of a permitted nonresidential use.~~

8.3.12F: Upper-Story Residential – **See definition in Section 12.3.1.** ~~A residential unit on the upper floors of a permitted nonresidential use.~~

Amend Section 2.4.1:

2.4.1:...The Floodway (FW) and Floodplain Overlay (-FP) districts on the Zoning Map are generated, maintained and modified by FEMA; see Sub-Section 8.8.3B.

Amend Section 9.3.3, footnote “*”:

~~*Only the body(s) may initiate a request for a comprehensive rezoning (see Sub-Section 9.5.12A), with the exception of comprehensive rezonings related to Federal Emergency Management Agency floodway and floodplain maps.~~

Amend Sections 9.2.2 and 9.3.4A by removing the row entitled “FEMA Floodway and Floodplain Maps”).

Amend Section 9.5.12A:

Only the legislative bodies may initiate a comprehensive rezoning, ~~with the exception of comprehensive rezonings related to Federal Emergency Management Agency floodway and floodplain maps...~~

Amend Section 9.5.12B:

~~...In addition, this procedure may be used to comprehensively zone properties in accordance with Federal Emergency Management Agency floodway and floodplain maps.~~

Amend Section 2.5.2 by changing the symbol for “gas stations” and “convenience stores with gas pumps” from a solid box (“■”) in the CMU-1 zoning district to a hollow box (“□”)

Insert a new Section 2.6.3J(1)(f):

Any convenience store with gas pumps or gas stations constructed in the CMU-1 district after January 1, 2021, or reactivated after one year of discontinuance, shall require the issuance of a Special Use Permit. Convenience stores with gas pumps and gas stations construction in the CMU-1 district prior to January 1, 2021, may be expanded and modified under the provisions of this Code. In addition to the approval criteria articulated in Section 9.6.9, the Land Use Control Board and governing body shall also consider the proximity of the proposed convenience store with gas pumps or gas station to both 1) other convenience stores with gas pumps and gas stations and 2) single-family residential zoning districts when reviewing an application for a Special Use Permit pursuant to this Item.

Amend Section 2.5.2 by moving “vehicle wash establishment” from the “Retail Sales and Service” use category to the “Vehicle Sales Service and Repair” use category

Amend Section 2.5.2 by creating splitting an existing use into three categories, “funeral homes, funeral directing,” which would require a Special Use Permit in the CMU-1 district; “sales of funeral merchandise,” would be allowed in the CMU-1 district by right; and “all other funeral establishments, including crematorium and pet crematorium,” which would be excluded from the CMU-1 district. All three will continue to be permitted by right in the CMU-2, CMU-3, CBD, EMP and IH districts.

Delete Section 2.6.3R(2).

Amend Section 2.6.2I(2):

~~CMCS Towers Special Use Review—All Tower Types~~

Amend Section 2.6.2I(2)(a):

**Towers reviewed under the Special Use Permit process
This Item shall apply to any tower that requires a Special Use Permit.**

Amend Section 2.6.2I(2)(a)(1):

~~The application for a special use permit approval (see also Chapter 9.6) shall include the following...~~

Amend Section 2.6.2I(2)(c):

Co-Location —~~CMCS Towers Only~~

Amend Section 2.6.2I(2)(d):

Setbacks **and Spacing**

Amend Section 2.6.2I(2)(d)(1):

...Exceptions to the minimum setback requirements of the zoning district may be permitted through **the** Special Use **Permit process Review**, but not to the minimum 150-foot separation between a CMCS tower and an adjacent single-family residential dwelling.

Amend Section 2.6.2I(2)(d)(2):

All CMCS towers **located outside of the industrial zoning districts** must be spaced a minimum distance of one-quarter mile as measured from property line to property line. **This provision may be waived through the Special Use Permit process.**

Move Section 2.6.2I(3)(l) to a new Section 2.6.2I(2)(j).

Move Section 2.6.2I(3)(i) to a new Section 2.6.2I(2)(k).

Move Section 2.6.2I(2)(a)(1)(b) to a new Section 2.6.2I(2)(l) and amend thusly:

Prior to the issuance of a building permit, a study from a professional engineer **shall be submitted** which specifies the tower height and design including a cross-section of the structure, demonstrates the tower's compliance with applicable structural standards, including a certification that the tower will withstand at a minimum sustained winds in accordance with the appropriate building code, and a description of the tower's capacity, including the number and type of antennas which it can accommodate.

Delete Section 2.6.2I(3), with the exception of those sub-sections mentioned above that are being moved.

Amend Section 2.6.4H:

A container building is any principal or accessory structure used for a purpose other **than** a dwelling unit that is wholly or partially located within a shipping container.

Amend Section 2.7.1A:

Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal **use** ~~uses~~...

Amend Section 2.7.2A(4)

2.7.2A(4): In single-family, open and residential zoning districts, no accessory structure shall **be located within the front yard** ~~extend forward of the front building...~~

Amend Section 12.3.1:

YARD, FRONT: A yard extending across the entire front of the lot measured between the front lot line of the lot and a line drawn parallel to the front façade of the principal building on the lot, or any projection thereof.

YARD, FRONT (**REQUIRED**): A yard extending across the entire front of the lot measured between the front lot line of the lot and a line drawn parallel to the front lot line at the required building line on the lot, or any projection thereof.

Amend Section 2.7.6:

Swimming Pools: A swimming pool or the entire property on which it is located shall be walled or fenced to prevent uncontrolled access to such swimming pool from the street or from adjacent properties. Such swimming pool shall not be located in any required front yard and shall not be closer than five feet to any property line. Swimming pool equipment ~~on residential lots~~ may **encroach into** ~~be located within the side yard setback,~~ **subject to** ~~so long as it is at least five feet from the property line and is screened from any public right-of-way. See Item 3.2.9E(5)(a), Encroachments.~~

Amend Section 2.9.4J:

Principal Uses

Vehicle service including...**new** tire sales and mounting

Vehicle repair including...**used tire sales and mounting**

Amend Section 2.9.4J:

~~automobile service station~~

Amend Section 2.9.5D:

... Impound lot, wrecker service includes city wreckers, auto storage, excluding those impound lots permitted under Sub-Section 2.9.5B **and those towing services permitted under 2.9.4J**

Amend Section 3.1.3B:

...developments with multiple single-family detached and single-family attached housing types on a single tract, ~~or lot,~~ **or** site are subject to the site plan review process.

Amend the graphic under "Flat Roof" in Section 3.2.6A(1) :

Measured to **Highest** Point of Roof Deck

Amend Section 3.2.6A(6):

Additional height above that permitted in the district or shown on an officially adopted height map may be permitted through the special exception process (see Chapter 9.14), except for all single-family detached and single-family **attached** ~~detached~~ housing types.

Amend Section 3.3.1B:

Unless otherwise approved, each lot must have frontage on a public street or an approved private drive. An alley may not constitute frontage. ~~In no instance shall the minimum required frontage be less than 16 feet. No single family detached or single family attached unit with a frontage of less than 100 feet may have direct access to any street classified as an arterial or larger. Single family detached or attached units with a frontage of less than 100 feet may be located along a public street or approved private drive classified as an arterial or larger provided that access to the units is in the form of either a frontage road or rear alley access (see [Sub-Section 5.2.7F](#)).~~

Amend Section 3.3.1G(1):

Where a flag lot is required to provide access to a landlocked area, no more than ~~one~~ **two** flag lots may be created **without necessitating the filing of a subdivision, notwithstanding the subdivision review exemptions of Sub-Section 9.7.3. This Paragraph shall not apply to any flag lot created before the adoption of this Code** (a series of flag lots accessing the same roadway is not allowed).

Amend Section 3.7.2B by deleting the bottom row in the tables for the RU-3, RU-4 and RU-5 zoning districts.

Amend Section 3.9.1A(1):

The garage and carport placement requirements of this Section and Sub-Section 3.9.2H shall apply to all housing types within any site subject to Section 3.9.2. **Garages and carports constructed prior to January 1, 2020, are not subject to this Section and shall not be considered nonconforming.**

Amend Section 3.9.2A:

The following standards are intended to accommodate the majority of infill development in existing residential neighborhoods. They have been crafted to allow an applicant (and staff) to look to the surrounding "context" for guidance in construction. These standards are intended to encourage reinvestment in existing neighborhoods and reinforce the traditional character of established residential neighborhoods. **Dwellings constructed prior to January 1, 2020, are not subject to this Section and shall not be considered nonconforming.**

Amend Section 3.9.2B(4):

The **lot width provisions of this Section may be waived through either the major or minor subdivision approval process; all other** provisions of this Section may be waived through the **major** subdivision approval process, provided a determination is made that no

substantial harm will be imposed upon the health, safety and welfare of the surrounding neighborhood. **The provisions of this Section may also be waived through the approval of a Certificate of Appropriateness by the Memphis Landmarks Commission.**

Amend Section 3.9.2H:

Garages and Carports. Street-facing garages and carports may be allowed if an alley is not present and **at least half of the structures on the same block face feature** street-facing garages or carports ~~are part of the dominant character of all properties fronting on the same block face.~~ **In these instances, the garage or carport placement must meet the standards of Section 3.9.1. In all other instances, street-facing garages and carports are only permitted if they are located at least 100 feet from the right-of-way and at least 50 feet behind the front façade of the structure.**

Amend Section 3.9.2I:

...A minimum porch depth of six feet may be approved by the **Zoning Administrator** ~~Planning Director~~ (see Item above for this change) if any property on the same block face has a front porch ~~less six feet~~ **or less** in depth.

Amend Section 3.10.2B(1):

The minimum front and side street setbacks of 20 feet as specified in **this** Sub-Section 3.10.1A above may be reduced to zero feet provided the following provisions are met...

Amend Section 3.10.2B:

Side/rear abutting single-family

Amend Section 3.10.2C by replacing the “-” symbol in the columns headed “Conventional” and “Side Yard” homes in the row entitled “Front (with street access)” with “20.”

Delete Section 3.10.3G(3)(c).

Amend Section 4.3.3:

The following streetscape plates must be installed along public ~~and private~~ streets abutting the subject property.

Amend Section 4.3.5B(2):

For S-6, S-7, S-2 9, S-12 and S-13 plates, trees shall be planted no more than 4' behind the back of curb.

Amend Section 4.4.7D:

No obstruction to cross visibility shall be deemed to be **excepted** ~~accepted~~ from the application of this section because of its being in existence at the time of the adoption hereof, unless expressly exempted by the terms of this section.

Amend Section 4.4.8D(2):

A subdivision plan or plat or planned development outline or final plan must be **modified** ~~amended~~ to indicate the location of gates, guardhouses and any realignment of common areas or infrastructure associated with the gates and guardhouses. The installation of a gates and guardhouses in subdivisions...

Amend Section 4.4.8D(3):

For the purposes of the appeals processes outlined in Chapters 9.6 and 9.7, only the applicant, homeowners **association** or property owners association may appeal the determination of the **Zoning Administrator** ~~Planning Director~~ (this amendment is covered above) to the Land Use Control Board.

Insert a new Section 4.5.2E:

Parking on grass
Except as provided in Paragraph 4.5.5C(2), parking on grass in the residential zoning districts is prohibited.

Amend Section 4.5.2C(2)(e)(1):

...Section **4.5.4 F**...

Amend Section 4.5.3A(1):

...Section **4.5.4 F**...

Amend Section 4.5.3B:

...Section **4.5.4 F**...

Amend Section 4.5.3B:

...SBC**B**ID...

Amend Section 4.5.5D(2)(b):

If seeking preservation credits ~~under~~ for an existing tree located in an interior island, terminal island, or perimeter island then such island must provide a nonpaved area...

Amend graphic in Section 4.5.5D(2)(b):

Terminal ~~Terminal~~

Amend Section 4.6.4F(2)(g):

Where other uses, including **All** pedestrian, bike or other trails within **landscaping and screening areas** these uses must be maintained to provide for their safe use.

Amend Section 4.6.5J(3)(b):

Sight proof fences must be constructed of materials, such as treated wood and wrought iron...

Amend Section 4.6.5L:

Buffers ~~shall~~ **may** remain under the same ownership as the property providing the buffer; they may be subjected to deed restrictions and subsequently be freely conveyed; or they may be transferred to any consenting grantees, such as the City or County, an approved land conservancy or land trust, or a property owners association...

Amend Section 4.6.5M(2):

Financial hardship due to meeting the requirements of this ~~is~~ section shall not be sufficient justification for alternative compliance.

Amend Section 4.6.7E(1):

Permissible Materials. Fences and walls must be constructed of high quality materials, such as decorative blocks, brick, stone, masonry panels, **stucco**, treated wood and wrought iron; and, where permitted, ~~vinyl-coated~~ chain link. Electrified fences, barbed wire or concertina wire fences are not permitted in a residential district.

Amend Section 4.6.7E(4):

Chain-Link Fences. Uncoated chain-link fences are not permitted except in the EMP, WD, and IH districts. Chain-link fencing **in all other districts** must be galvanized, polyvinyl chloride (PVC) color coated in either black, dark green or dark brown color coatings and part of an evergreen landscape screening system. At the intersection of a driveway and a street and on all corner sites (the intersection of two streets), a clear sight triangle shall be established as set forth in Section 4.4.7.

Insert a new Section 4.6.7E(6):

Fencing Facing Public Streets. Any side of fencing with exposed posts and rails shall not face public streets in the residential and open zoning districts.

Amend Section 4.6.7F:

Administrative Deviation. The **Zoning Administrator** ~~Planning Director~~ may permit additional fence material, **alternate fence design**, additional fence height, or reduced setback through the administrative deviation if it is determined that such allowance is not contrary to the public interest and will not be injurious to the surrounding neighborhood. Factors to be considered by the **Zoning Administrator** ~~Planning Director~~ when making

such an administrative deviation shall include the material, height or setback of fencing in the immediate vicinity of the subject site, the classification of the roadway abutting the subject site and the proposed use of the subject site (see Chapter 9.21).

Delete Section 4.6.8A(2).

Amend Section 4.6.8B(2):

...Compatibly **Compatibility** of material is subject to...

Amend Section 4.6.9C:

(Tree E): Yaupon ~~Holy~~ **Holly**

Amend Section 4.8.4(B)(3)(b):

1. General outdoor storage shall be screened along the public street and any public access easement by a Class III buffer as set forth in Section 4.6.5. In situations where general outdoor storage is located abutting or across the street from a residential district, such screening shall be high enough to completely conceal all outdoor storage from view. General outdoor storage on sites in the EMP, WD and IH Districts that are not within 500 feet of single-family residential zoning districts, as measured along the public right-of-way, are exempt from this **Sub-Item** requirement.
2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.
3. ~~No general outdoor storage shall be permitted in a front setback area.~~

Amend Sections 4.9.1C, 4.9.6L and 8.3.13G(7) by changing “way finding” and “way-finding” to “**wayfinding**.”

Amend Section 4.9.2B(4):

Signs located in the Central Business Improvement District (CBID), **other than those classified as off-premise advertising signs established before January 23, 1973**, shall be subject only to the provisions of Memphis City Code §§12-32-1 and 12-36-1, the portion of the City Code commonly referred to as the CBID Sign Code (see Map 1 above). **Off-premise advertising signs in the CBID established before January 23, 1973, shall be governed by Section 4.9.8 of this Code.**

Amend Section 4.9.2B(5):

Signs located in the South Central Business Improvement District (SCBID), **other than those classified as off-premise advertising signs established before January 7, 1997**, shall be subject only to the provisions of Memphis City Code §§12-32-1 and 12-36-1, the portion of the City Code commonly referred to as the CBID Sign Code (see Map 1 above). **Off-premise advertising signs in the SCBID established before January 7, 1997, shall be governed by Section 4.9.8 of this Code.**

Amend Section 4.9.2B(6):

Signs located in the Uptown District (U), **other than those classified as off-premise advertising signs established before January 7, 1997,** shall be subject only to the provisions of Memphis City Code §§12-32-1 and 12-36-1, the portion of the City Code commonly referred to as the CBID Sign Code (see Map 1 above). **Off-premise advertising signs in the Uptown District established before January 7, 1997, shall be governed by Section 4.9.8 of this Code.**

Amend Section 4.9.8G(1):

No portion of a detached sign, if it is legible from the interstate freeway, shall be closer than twenty (20) feet from the interstate freeway right-of-way and/or one hundred (100) feet from any emergency stopping shoulder lane, **whichever is less.**

Amend Section 4.9.8G(3):

4.9.8G(3): No portion of a detached sign, pole or other supporting structure shall be located within one hundred (100) feet of any property zoned residential or the residential portion of a planned development. **This Paragraph shall not apply to interstate highway right-of-way zoned residential.**

Amend Section 4.9.8G(4):

The maximum gross surface area of a sign is as follows:

Along all U.S. Interstate Highways in Memphis and Shelby County: six hundred seventy-two (672) square feet. **Sign faces may be played in a “V” formation at a maximum of 45 degrees for the purposes of adhering to the computation of gross surface area under Paragraph 4.9.6A(3). Sign faces may not be played in an “X” formation.**

Amend Section 4.9.15F(2)(c):

Any period of such discontinuance caused by government actions, strikes or acts of God, without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for the purposes of this **paragraph** subdivision.

Move Section 6.1.2B(3)(c)(3) to a new Section 6.1.2B(3)(a)(3) and amend thusly:

In cases where **an** the equivalent alternative is **approved** used pursuant to paragraph a above, the **Zoning Administrator** Planning Director (details on this amendment are described above) may also waive the side and rear yard screening requirements set forth in the landscape enhancement plates upon a finding that the implementation of such plates is impractical or unnecessary, based on the existing use of the adjacent property.

Amend Section 6.1.3B(2):

...shall consult with the Shelby County Environmental Improvement Committee and/or the Memphis City Beautiful Commission, whichever is appropriate, prior to approval of any distribution of tree bank funds.

Amend Section 7.1F(1)(c):

All other development that meets the provisions of **Sub-Section 7.2.9A** in the SCBID Special Purpose District.

Amend Section 7.2.3D:

Uses **permitted by right** in accordance with the Commercial Mixed Use-1 (CMU-1) District shall be permitted throughout the remainder of the R-SD District subject to approval of a Special Exception (see Section 7.2.10) by the Land Use Control Board (LUCB) and the following criteria...

Amend Section 7.3.11:

| | | | | | |
|------------------------------------|--|---------|---------|----|---|
| Restaurant or Carry-Out Restaurant | | | X 15 | P4 | X |
| Marina-Recreational Craft | | X 15 | X 15 | | |

X = Use permitted by right; S = Use requiring legislative site plan review and approval subject to the issuance of a special use permit; P4 = Such use shall be part of hospital and designed and intended primarily to serve patients or employees; 15 = Use permitted by right in the Uptown Waterfront Overlay District; C=Use permitted by issuance of conditional use permit.

Amend Section 8.2.7C:

The following minimum streetscape standards apply along a Commercial Frontage as designated in Sub-Section 8.2.5B (see Sub-Section 8.2.5C for related building envelope standards). Developments with no on-site parking between the building **and the** street may follow the requirements for Urban Frontage (see B).

Amend Section 8.2.8E(1):

8.2.8E(1): Due to the high availability of public transportation in the Medical Overlay District area, any building, structure, or use may reduce the total number of required parking spaces specified in Chapter 4.5, Parking and Loading by up to 25 percent. Where off-street parking is provided, it shall comply with the geometric requirements of Chapter 4.5. ~~Where parking spaces beyond the required parking spaces set forth in Chapter 4.5 are provided in surface parking lots, such additional spaces shall be established using pervious materials such as turf block, grasscrete or similar surfaces as approved by the City Engineer.~~

Amend Section 8.2.10E(3):

Where off street parking is provided, it shall comply with the geometric requirements of Chapter 4.5. ~~Where parking spaces beyond the required parking spaces set forth in Chapter 4.5 are provided in surface parking lots, such additional spaces shall be established using pervious materials such as turf block, grasscrete or similar surfaces as approved by the City Engineer.~~

Amend the table in Section 8.3.6D by deleting “55” in the row headed “Shopfront” in the column entitled “Building Height” and replacing “11” in both columns in the row entitled “Upper floor height (floor to floor)” to “9.”

Amend the “Shopfront Frontage” and “Urban Frontage” pages in Section 8.3.6D by changing the reference in Section 2 under “Required Building Frontage” from “70%” to “50%” and by deleting the section entitled “Floor Height.”

Amend the “Shopfront Frontage” page in Section 8.3.6D by changing the references in Sections 1 and 2 under “Required Building Frontage” from “100” ft. to “125” ft.

Amend Section 8.3.9:

Streetscapes S-1, & S-2, S-3 & S-4 apply along Shopfront Frontages.

Amend Section 8.3.10E(2):

...Where fractional spaces result, the parking spaces required shall be construed to be the next ~~next~~ highest whole number.

Insert a new Section 9.24.11:

9.24.11 (new section): **Conditional Use Permits and Variances**
If a Conditional Use Permit also requires the issuance of a variance, the approval of a variance (see Chapter 9.22) or Planned Development (see Chapter 4.10) will forgo the need for the separate filing or approval of a Conditional Use Permit, provided the required findings for those application types are met.

Amend Section 8.4.8K(3):

Active ground floor use shall be required along public street frontages of parking garages. A ~~Permitted~~ Special Exception to this requirement may be filed ~~found~~ in accordance with Section 8.4.6.

Amend Section 8.4.8C(1)(b):

Any development or portion of a development, adjacent to a designated frontage on the Zoning Map shall comply with the standards established for the designated frontage type.

Amend Section 8.4.8D and 8.4.8J by removing references to “General frontage.”

Delete Section 8.5.2A.

Amend Section 8.5.2B:

All land fronting the designated Residential Corridor, for a depth of 200 feet, shall not be eligible for rezoning to a mixed use or nonresidential district nor or shall such land be eligible for a change in use from a residential use to a nonresidential use. Certain civic and institutional uses may be permitted through the special use process (see 9.6).

Amend Section 9.2.2 by changing the symbol for review by the TRC in the row entitled "Right-of-Way Vacation" from "R" to "A."

Amend Section 9.3.2D:

...Neighborhood or business associations who intend to file a CIS must submit said statement to the Land Use Control Board or governing bodies ~~no later than 5 days~~ prior to the scheduled hearing date. **If provided prior to the publishing of the Land Use Control Board staff report, the CIS shall be included within the staff report in a prominent position alongside the Land Use Control Board and Division Office of Planning and Development recommendations. If provided after the publishing of the Land Use Control Board staff report, the CIS will be referenced during the Land Use Control Board public hearing and contained in the materials that are forwarded to the legislative body, where applicable.**

Insert a new Section 9.3.2E:

Exigent circumstances. A neighborhood meeting may be conducted through electronic or telephonic means if holding an in-person meeting is impractical due to an ongoing public health crisis or other similar situation that is out of the control of the applicant, provided all notice requirements of this section are met. In addition, a neighborhood meeting may be held after the Land Use Control Board votes on the matter but before the governing body does so in the event the Division of Planning and Development makes a determination that a zoning change is not in compliance with a Chapter 1.9 plan with the publishing of its Land Use Control Board staff report (see Paragraph 9.3.2A(1)). In such an event, all notice and timing requirements of this Section shall still apply, but will be timed in conjunction with date the governing body is expected to vote on the matter.

Amend Section 9.3.4A by changing the symbol in the row entitled "Minor Preliminary [Subdivision] Plans" from "M-AO" to "M" under the column headed "Mailed."

Insert a new Footnote 7 in Section 9.3.4A:

7. A 150-foot radius is utilized for Certificates of Appropriateness.

Amend Section 9.3.4A by deleting "GB-RO" under the column headed "Newspaper Publication" in the rows entitled "Special Uses and Special Use Amendments" and "P.D. Outline Plan and Amendments."

Amend Section 9.3.4A by inserting the word "Major" at the beginning of the row entitled "Certificate of Appropriateness."

Amend Section 9.3.4A by deleted "LM" under the column headed "Newspaper Publication" in the row entitled "Major Certificate of Appropriateness."

Amend Section 9.6.11E(1):

All outline ~~and final~~ plan amendments shall meet the standards set forth in Chapter 4.10, Planned Development. **Outline plan amendments shall be given a new case number and apply only to the site subject to the amendment. Areas of the original planned development not subject to the amendment shall retain the original case number.** The following modifications to approved outline and final plans shall be deemed amendments:...

Amend Section 9.6.11D(3)(c):

100 feet for final plans of eight acres but **less** than 20 acres; and

Amend Section 9.6.15B:

Revocation may occur after an evidentiary hearing is conducted by the governing bodies. **The governing body may refer the matter to the Land Use Control Board for a recommendation on the revocation prior to its evidentiary hearing. All hearings associated with a revocation shall be open to the public with certified notice mailed to the owner of the property that is the subject of the special use permit or planned development. Mailed notice shall be in accordance with Paragraph 9.3.4D(1).**

Amend Section 9.6.13A:

If the governing body votes to deny an application, there may be no subsequent similar application submitted by any party for any part of the subject property until **5 years** ~~48 months~~ have elapsed from the date of denial, or from the date any appeal thereof becomes final, whichever is later. **This 5-year period shall also apply to: 1) those cases on which the Land Use Control Board conducts a vote but are withdrawn before the governing body may act and 2) those cases involving modifications (see Sub-Section 9.6.11E and Section 9.6.12) and appeals (see Sub-Section 9.23.1C) on which the Land Use Control Board conducts a vote and no further action by the governing body is taken.** The governing bodies may waive the time-lapse requirements of this section where it is in the public interest to do so. For the purpose of this Sub-Section, "similar application" shall be interpreted to include, but is not limited to, the following:

Amend Section 9.8.6B:

Not less than 35 or more than 75 days after an application has been determined complete, the Land Use Control Board shall hold a public hearing and give notice in accordance with Section 9.3.4, Public Hearings and Notification, **based on the closure type (conversion, physical closure or abandonment).** ~~For conversions and physical closures, mailed notice shall also be delivered to all property owners within a three hundred (300) foot radius of the street or alley closing.~~

Amend Section 9.11.2C:

If streets have been improved, or partially improved, an application for right-of-way vacation in accordance with Chapter 9.8 shall also be **filed** filled.

Amend Section 9.19.1:

Certificates of occupancy are required to **ensure** insure...

Amend 9.22.1B:

The Board of Adjustment shall have authority to vary the standards of this development code, except for those associated with **the creation of** subdivisions (see Sub-Section 9.7.7F3 for subdivision waivers).

Amend Section 9.23.1A:

An appeal by any person authorized by Section 9.2.2 to file an appeal and aggrieved by a final order, interpretation or decision of the **Zoning Administrator** Planning Director (see Item 1 above with regards to this amendment), Building Official or other administrator in regard to the provisions of this development code may be taken to the Board of Adjustment. However, an appeal of a minor preliminary plan, **as well as those other items articulated in Section 9.2.2**, may only be taken to the Land Use Control Board.

Amend Section 9.23.1C(1):

An appeal of an administrative decision shall be filed with the Secretary of the Board of Adjustment or, if **directed by Section 9.2.2** a special exception or minor preliminary plan, with the Secretary of the Land Use Control Board and with the aggrieved entity, within five days of receipt of the decision unless a different time frame is provided in one of the Chapters of this Article. **For non-applicants and other property owners who would not receive notice of an administrative decision under the provisions of this Code, an appeal shall be filed within five days of their receipt of the decision but under no circumstance more than 14 days after the date of the decision.**

Amend Section 9.23.2A:

Right to Appeal. **Applicants and any other** individual appearing and providing vocal objection to, or submitting written comments on, a particular application at a meeting of the Land Use Control Board may appeal a decision of the Land Use Control Board, on said application, to the governing bodies, **provided the application type is outlined as appealable to the governing bodies in Section 9.2.2**, ~~except where the Land Use Control Board hears an appeal of the Planning Director. Applicants may also appeal decisions made by Land Use Control Board to the governing bodies.~~

Amend Section 9.23.2E(1):

The appeal shall be scheduled for legislative consideration. Notice shall be sent to the applicant, the appellant **and all parties who received mailed notice for the Land Use Control Board meeting under Sub-Section 9.3.4A**, ~~any individual appearing or who~~

~~submitted written comments at the Land Use Control Board meeting, and members of the Technical Review Committee, not less than ten days or more than 35 days in advance of the scheduled hearing.~~

Amend "footnote A**" in Section 9.2.2:

Only **the subject property owner and** those property owners within 1000 feet of the subject property, as measured from property line to property line, may appeal decisions of the Zoning Administrator ~~Planning Director~~ (this amendment is covered above), Building Official or City or County Engineer.

Amend Section 11.1A:

Any person, firm or corporation violating any of the provisions of this development code shall, upon conviction thereof, be fined not more than \$50.00. Each day's continuance of a violation shall be considered a separate offense. In addition to the party violating this development code, any other person who may have knowingly assisted in the commission of any such violation shall be guilty of a separate offense. **The City and/or County may also seek an injunction or other order of restraint or abatement that requires the correction of the violation.**

Amend Section 12.3.1:

BOARDING HOUSE: A building where lodging, with or without meals, is provided for compensation for five or more persons, who are not transients, by prearrangement for definite periods, provided that no convalescent or chronic care is provided. **Evidence that a property is being utilized as a rooming house may include, but is not limited to, the following: keyed locks on interior doors, number of mailboxes or mail receptacles, excessive parking and signs indicating individual rooms for rent.**

ROOMING HOUSE: A dwelling where lodging is provided for compensation for at least one, but not more than four, transients at one time, by prearrangement for a period of less than 30 days. **Evidence that a property is being utilized as a rooming house may include, but is not limited to, the following: keyed locks on interior doors, number of mailboxes or mail receptacles, excessive parking and signs indicating individual rooms for rent.**

COMMERCIAL PARKING: Any surface or structured parking that serves an off-site nonresidential use(s), **except for those nonresidential use(s) permitted in residential districts such as places of worship and schools.**

~~DROP-IN CHILD CARE CENTER: DROP-IN CHILD CARE CENTER:...~~

FRONTAGE:...Access via private access easements across adjacent properties to a public street shall not constitute frontage except for subdivisions and planned developments with private drives as approved by the Land Use Control Board **or governing body.**

GROUP SHELTER: A residence, operated by a public or private agency, which may provide a program of services in addition to room and board to persons on a voluntary basis under continuous protective supervision. This definition does not include supportive living facilities

or personal care homes for the elderly licensed by any duly authorized governmental agencies, ~~or in other instances, approved by the Planning Director (who shall provide any such applicant with written notice of his determination),~~ and thereby allowed by right within all residential zones in accordance with the definition of “family” hereunder.

NURSING HOME: An establishment which provides full time convalescent or chronic care, or both, for five or more individuals who are not related by blood or marriage to the operator or who, by reason of advanced age, chronic illness or infirmity, and unable to care for themselves and required skilled medical staff. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized governmental agencies, ~~or in other instances, approved by the Planning Director (who shall provide any such applicant with written notice of his determination),~~ and thereby allowed by right within all residential zones in accordance with the definition of “family” hereunder.

RESIDENTIAL HOME FOR THE ELDERLY: A building where at least two ambulatory persons, of at least 55 years of age, reside and are provided with food and custodial care for compensation, but not including nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized governmental agencies, ~~or in other instances, approved by the Planning Director (who shall provide any such applicant with written notice of his determination),~~ and thereby allowed by right within all residential zones in accordance with the definition of “family” hereunder.

TRANSITIONAL HOME: A residence used for the purposes of rehabilitating persons from correctional facilities, mental institutions, and alcoholic and drug treatment centers and operated by a public or private agency duly authorized and licensed by the state, which agency houses individuals being cared for by the agency and deemed by the agency to be capable of living and functioning in a community and which provides continuous professional guidance. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized governmental agency ~~or in other instances, approved by the director of the Memphis and Shelby County Office of Planning and Development (who shall provide any such applicant with written notice of his or her determination),~~ and thereby allowed by right within all residential zones in accordance with the definition of “family” hereunder.

Amend Section 2.6.2G(3):

...This Paragraph shall not apply to off-site parking that meets the provisions of ~~Sub-Item 4.5.2C(2)(e)(2).~~

LAND USE CONTROL BOARD RECOMMENDATION

CASE #: ZTA 20-1

At its regular meeting on **December 10, 2020**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application requesting amendments to the Memphis and Shelby County Unified Development Code described as follows:

APPLICANT: Memphis and Shelby County Division of Planning and Development

REPRESENTATIVE: Josh Whitehead, Zoning Administrator

The following spoke in support of the application:

Josh Whitehead, Zoning Administrator
Lew Wardlaw
Cassandra Dixon

The following spoke in opposition to the application:

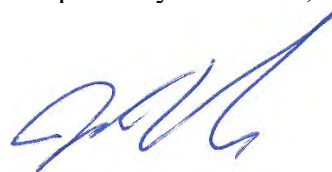
Don Jones
Britton White

The Land Use Control Board reviewed the application of Memphis and Shelby County Division of Planning and Development requesting amendments to the Memphis and Shelby County Unified Development Code and the report of the staff. A motion was made and seconded to recommend approval of the application, with an amendment to address Mr. Jones' concerns.

The motion passed by a unanimous voice vote (10-0).

The Board approved the conclusions of the staff as contained in the staff report.

Respectfully submitted,



Josh Whitehead
Zoning Administrator

CASE NUMBER: ZTA 20-1 **L.U.C.B. MEETING:** Dec. 10, 2020
APPLICANT: Memphis and Shelby County Division of Planning and Development
REPRESENTATIVE: Josh Whitehead, Zoning Administrator
REQUEST: Adopt Amendments to the Unified Development Code

This version of the staff report reflects the amendments as approved by the Land Use Control Board during its December 10, 2020, meeting.

1. Listed below are the more significant amendments associated with this zoning text amendment, or “ZTA.” All other items are explained in greater detail in the staff report. Proposed new language is indicated in **bold, underline** while proposed deletions are indicated in ~~strike through~~. All changes are reflected in **yellow highlights** to show context in a copy of the complete Memphis and Shelby County Unified Development Code (the “UDC”) linked [here](#).
2. **Item 3**, as numbered in this staff report, primarily proposes to change two terms found throughout the Code: “Planning Director” and the “Office of Planning and Development.” The former will be changed to “Zoning Administrator” and the latter will be changed to the “*Division of Planning and Development*.”
3. **Item 4** will include the Memphis 3.0 General Plan in the list of plans to be consulted when an application is filed pursuant to the Code, as well as a reference to the consistency section of the Tennessee Code Annotated.
4. **Item 8** will require the issuance of a Special Use Permit from the Memphis City Council or Shelby County Board of Commissioners for new gas stations in the least intensive commercial zoning district, CMU-1.
5. **Item 17** will differentiate between establishments selling new and used tires; since the latter are often associated with vehicle repair shops, they will be grouped with them in the use chart. This will require the issuance of a Special Use Permit for used tire sales in the CMU-1 and CMU-2 districts.
6. **Item 59** will allow Planned Developments and variances to substitute for a Conditional Use Permit for those projects that need both Conditional Use Permit approval and a variance(s).
7. **Item 67** clarifies the process by which Special Use Permits and Planned Developments may be revoked by the Memphis City Council or Shelby County Board of Commissioners and how long a similar application is prohibited from being re-filed after rejection by the legislative bodies and/or the Land Use Control Board.
8. Since the original publication of this staff report on September 1, the following changes have been made: **Item 24** has been amended to allow contextual infill waivers for lot widths through the minor subdivision approval process and allows street-facing garages so long as they are located towards the rear of their lots; **Item 42** has been amended to require the “nice” side of wood fences to face the street; **Item 47** has been amended to remove the proposed language regarding billboard direction (90-degree sectors) and the numbering of interstate routes that govern billboard placement; **Item 64** has been amended to remove the proposed change regarding the notification of neighborhood leaders and to allow post-LUCB neighborhood meetings under exigent circumstances; **Item 67** has been amended to bar similar applications within 5 years of rejection and **Items 4, 59, 64 and 68** have been amended based on comments received; see comments and DPD responses (in **yellow**) at the end of this staff report. **Items 12** (dealing with reclamation plans for gravel mining operations), **53** (allowing Planned Developments in the Uptown Special Purpose District and the University and Medical Districts) and **73** (dealing with narrow, dormant lots) have been removed entirely.

RECOMMENDATION: *Approval*

Staff Writer: *Josh Whitehead*

E-mail: josh.whitehead@memphistn.gov

Proposed language is indicated in **bold, underline**; deleted language is indicated in ~~strikethrough~~.

1. Front Cover: approval dates

Approval dates of the Land Use Control Board are being added to the cover page of the Code, as well as ordinance numbers of two additional text amendments not already included.

2. Table of Contents

10.10: Exception for Historic Multi-Family Properties (capitalize first letter)

3. Throughout the Code, and particularly 12.3.1: “Planning Director” and “Office of Planning and Development”

The UDC re-introduced the term “planning director” to the local planning lexicon when it was adopted in 2010. Historically, the head of the Office of Planning and Development (“OPD”) has interchangeably been called a “Director,” an “Administrator” and/or a “Planning Director.” OPD’s predecessor organization, the Memphis and Shelby County Planning Commission, was headed by a “director” from 1956 to 1976. Before that, from 1922 to 1956, the local planning department was primarily staffed by one individual, who went by the title “Engineer-Secretary.” Organizationally, the Office of Planning and Development is confusingly a department of the similarly-named *Division* of Planning and Development (“DPD”), which, as is the case with other divisions within the City and County governments, is headed by a Director. To add to the confusion, when the Division was created in 1986 as an umbrella organization that contained the newly created Office of Construction Code Enforcement and the then-ten-year old Office of Planning and Development, the latter was not given a distinct name.

The Division is currently undergoing a re-organization that will, in part, place more zoning activities under the department formerly known as the Office of Planning and Development, namely zoning enforcement and sign permitting. To help eliminate the confusion between OPD and DPD, the former will be known as the Division of Planning and Development – Land Use and Development Services. Since a department solely focused on long range planning has been created, the Office of Comprehensive Planning, the term “Planning Director” has become outmoded for the administrator of this department. As is the case in many jurisdictions, the person who is empowered to interpret and administer the zoning code is known as the Zoning Administrator. This proposal will change all references found throughout the Code of “Planning Director” to “Zoning Administrator,” including the procedural flow charts found in Article 9.

This proposal will also change references made to the “Office of Planning and Development” to the “*Division* of Planning and Development.” The reorganization of the Division will place sign permits under the downtown offices of the Division. This will involve changing references in 9.3.3 (issuance of sign permits), 9.17 and, Chapter 4.9 made of the “Building Official” to the “Zoning Administrator.” Finally, the flow chart in Chapter 9.20 is being changed to reflect the duty of writing Written Interpretations of the Code falling on the Zoning Administrator (a change made to the balance of that Chapter with ZTA 18-1).

4. 1.9 (and Table of Contents for this Chapter): Consistency with Memphis 3.0 and references to the Major Road Plan

On February 14, 2019, the Land Use Control Board approved Memphis 3.0 as the first General Plan for the physical development of the City, the first citywide long-range plan in nearly 40 years. On December 3, 2019, the Memphis City Council Adopted the plan. As such, the Unified Development Code needs to reflect a key aspect of Memphis 3.0: consistency with its Future Land Use Planning Map. In 2010, the Tennessee General Assembly passed Public Acts Chapter 648 (SB2576/HB2709), which required the state's municipal subunits to adhere to General Plans that they have adopted when they review land use decisions. This is codified into the Tennessee Code as TCA 13-4-202(b)(2)(B)(iii):

Prior to the adoption of the general plan, a legislative body shall hold a public hearing thereon, the time and place of which shall be published in a newspaper of general circulation in the municipality at least thirty (30) days prior to the legislative body's meeting in which the adoption or amendment is to be first considered. ***After the adoption of the general plan by a legislative body, any land use decisions thereafter made by that legislative body, the respective planning commission or board of zoning appeals when the board of zoning appeals is exercising its powers on matters other than variances, must be consistent with the plan.*** The general plan may be adopted as an element of the jurisdiction's growth plan through the process established in title 6, chapter 58, but if the general plan is not adopted as part of the growth plan, it nevertheless cannot be inconsistent with the growth plan or the intent of title 6, chapter 58 (emphasis added).

With the adoption of this legislation, Tennessee joined many other states that require consistency between planning and zoning; that is, changes to the latter must respect the former. However, Tennessee law does not mandate adoption of a general plan, so it remains known as a unitary state where its comprehensive zoning map can act as a comprehensive plan. Memphis 3.0 was the first general, or comprehensive, plan for the city since the relatively new Land Use Control Board and subsequently Memphis City Council and Shelby County Board of Commissioners adopted the Memphis 2000 Policy Plan in 1981. Since its adoption more than a year ago, Memphis 3.0 has been used, in part, as a guide for OPD's review of individual land use applications. Decisions within the City of Memphis.

The language below will reference TCA 13-4-202(b)(2)(B)(iii) in a new Sub-Section 1.9A, reference the Memphis 3.0 General Plan to guide consistency in a new Sub-Section 1.9B, explicitly state that Memphis 3.0 does not replace the required findings of fact for individual land use decisions found elsewhere in the Code in a new Sub-Section 1.9C and include all of the current list of neighborhood plans approved by the Memphis City Council and Shelby County Board of Commissioners found in this section as a new Sub-Section 1.9D:

1.9 CONSISTENCY WITH MEMPHIS 3.0 AND OTHER PLANS TO BE CONSIDERED

A. All land use decisions pursuant to TCA 13-4-202(b)(2)(B)(iii) shall be consistent with the Memphis 3.0 General Plan.

B. Determination of Consistency.

When making land use decisions, the boards and bodies responsible for making such decisions shall consider the decision criteria described in the Memphis 3.0 General Plan in its determination of consistency. The boards and bodies are responsible for making their own determination of consistency but shall consider the determination of consistency made by the Division of Planning and Development and any comments made by affected citizens and neighbors when doing so.

C. Memphis 3.0 and this Code

The Memphis 3.0 General Plan shall be used to guide land use decisions but not in any way supplant the regulations of this Code, including but not limited to its Zoning Map or Overlay Districts. A determination of consistency with Memphis 3.0 shall not supersede the approval criteria and findings of fact required for individual land use decisions, as provided in this Code.

D. The following plans shall be considered in any decisions under this development code...

5. 1.12: Remove spaces

Throughout the Code, there is no space between the capital letter of a Sub-Section and the Arabic number of a Paragraph; this lack of a space should be reflected in Chapter 1.12 of the Code that covers its numbering:

Paragraph 3.1.1A(1) [Example Text]

Item 3.1.1A(1)(a) [Example Text]

Sub-Item 3.1.1A(1)(a)(1) [Example Text]

6. 2.2.3C(2), 2.2.3C(3), 2.9.2A, 8.2.9F, 8.3.12F and 12.3.1: Upper-story residential

The Code uses both the term “upper story residential” and “upper-story residential” (note the hyphen in the latter). This proposal will alter Paragraph 2.2.3C(2), Paragraph 2.2.3C(3), Sub-Section 2.9.2A and Section 12.3.1 to contain a hyphen. On a separate matter, the definition of this term in Section 12.3.1 does not match the definitions in Sub-Sections 8.2.9F and 8.3.12F, which were written at a previous time before the UDC was completed. As such, the following two amendments are proposed to universalize the term “upper-story residential” throughout the Code:

8.2.9F Upper-Story Residential. **See definition in Section 12.3.1.** ~~A residential unit on the upper floors of a permitted nonresidential use.~~

8.3.12F: Upper-Story Residential – **See definition in Section 12.3.1.** ~~A residential unit on the upper floors of a permitted nonresidential use.~~

7. 2.4.1, 9.2.2, 9.3.3, 9.3.4A and 9.5.12: Floodway and floodplain overlay

The Floodway zoning district and the Floodplain Overlay is determined by the Federal Emergency Management Agency (“FEMA”) through their Flood Insurance Rate Maps (“FIRMS”). The Floodway zoning district (“FW”) typically follows the major waterways in the community and prohibits all construction and the Floodplain Overlay district (“-FP”) limits construction. FEMA typically updates the FIRMS every seven or eight years, at which time the City Council and the County Commission will memorialize them into zoning map through the adoption of a comprehensive rezoning. However, the rezoning process is unnecessary in the future given the language of Section 8.8.3B of the Code, which incorporates FEMA’s FIRMS by reference. Also, the FIRMS are subject to change immediately after they are adopted through individual Letters of Map Revision (LOMRs), which remove properties from the 100-year floodplain upon individual property owner’s requests. By removing the requirement that the City Council and County Commission actually rezone properties into the Floodplain Overlay, there will no longer be a question as to whether a LOMR by itself removes a particular property from the floodplain or if a separate rezoning is also necessary. It also reduces the mapping errors presented by the fact that the Floodplain Overlay is shown as a separate zoning district on the zoning map and not as a standalone overlay layer, thus increasing the likelihood of mapping errors. This proposal will involve changes to the following individual sections of the Code:

2.4.1:…The Floodway (FW) and Floodplain Overlay (-FP) districts on the Zoning Map are generated, maintained and modified by FEMA; see Sub-Section 8.8.3B.

9.3.3 (footnote*): *Only the body(s) may initiate a request for a comprehensive rezoning (see Sub-Section 9.5.12A), ~~with the exception of comprehensive rezonings related to Federal Emergency Management Agency floodway and floodplain maps.~~

9.2.2 and 9.3.4A: (remove the row entitled “FEMA Floodway and Floodplain Maps”).

9.5.12A:…Only the legislative bodies may initiate a comprehensive rezoning, ~~with the exception of comprehensive rezonings related to Federal Emergency Management Agency floodway and floodplain maps…~~

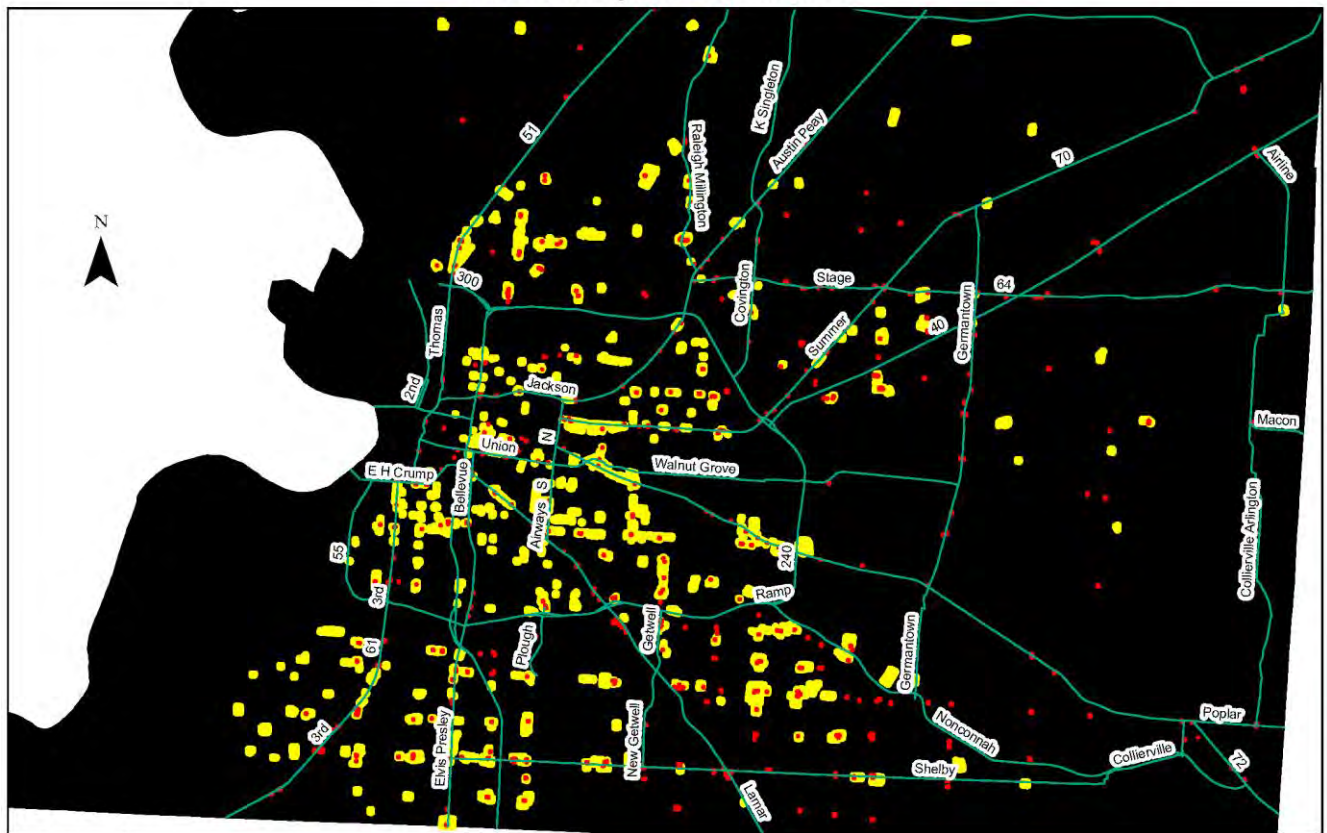
9.5.12B:…~~In addition, this procedure may be used to comprehensively zone properties in accordance with Federal Emergency Management Agency floodway and floodplain maps.~~

8. 2.5.2 and 2.6.3J(1)(g) (new section): Gas stations and convenience stores with gas pumps

There are three primary commercial zoning districts articulated in the Code, based on level of intensity: CMU-1, CMU-2 and CMU-3, with CMU-1 typically being in the closest proximity of residential zoning districts. This is reflected in the Use Table in Section 2.5.2, which generally only permits low-intensive uses in the CMU-1 district. However, convenience stores with gas pumps and gas stations are permitted in the CMU-1 district. This proposal would allow those gas stations that already exist in the CMU-1 district to expand and rebuild, but would require any *new* gas station in these districts to be reviewed by the Memphis City Council or Shelby County Board of Commissioners through the Special Use Permit process. This will involve changing the solid box (“■”) in Section 2.5.2 for this use in the CMU-1 zoning district to a hollow box (“□”), as well as the following amendment to Item 2.6.3J(1)(f).

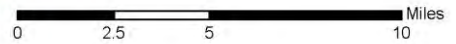
2.6.3J(1)(g): (new section) **Any convenience store with gas pumps or gas stations constructed in the CMU-1 district after January 1, 2021, or reactivated after one year of discontinuance, shall require the issuance of a Special Use Permit. Convenience stores with gas pumps and gas stations construction in the CMU-1 district prior to January 1, 2021, may be expanded and modified under the provisions of this Code. In addition to the approval criteria articulated in Section 9.6.9, the Land Use Control Board and governing body shall also consider the proximity of the proposed convenience store with gas pumps or gas station to both 1) other convenience stores with gas pumps and gas stations and 2) single-family residential zoning districts when reviewing an application for a Special Use Permit pursuant to this Item.**

CMU-1 Zoning and Gas Stations



Legend

- Major Highways and Roads
- Gas Stations
- CMU-1 Zoning Districts



Division: DPD
Date: 08/25/2020

This map above reflects the locations of the CMU-1 zoning district throughout the City of Memphis and unincorporated Shelby County in yellow and the location of gas stations in red; please note that Lamar Avenue from Bellevue on the west to I-240 on the east/south has

largely been rezoned to CMU-1 as a result of the City Council's passage of OPD Case No. Z 20-04.

9. 2.5.2: Standalone car washes

This use needs to be moved from its current use category in the Use Table (Retail Sales and Service) to a new use category (Vehicle Sales Service and Repair) since the latter is more appropriate for this use and can be found more readily by the reader.

10. 2.5.2 and 2.6.3R(2): Crematoria and sales of funeral merchandise

The use chart in Section 2.5.2 allows all funeral establishments, including crematoria and pet crematoria in the CMU-1 commercial zoning district by issuance of a Special Use Permit. This is misleading given that Paragraph 2.6.3R(2) only allows funeral directing and sales of funeral merchandise by Special Use Permit in the CMU-1 district. Also, since the sales of funeral merchandise where no funeral services are held are essentially commercial uses, they should be permitted in the CMU-1 district by right. This proposal will split what is now one use type in Section 2.5.2 into three to address this apparent conflict; the first one ("funeral homes, funeral directing") would require a Special Use Permit in the CMU-1 district, the second one ("sales of funeral merchandise") would be allowed in the CMU-1 district by right and the third ("all other funeral establishments, including crematorium and pet crematorium") would be excluded from the CMU-1 district. As is the case today, all three would be permitted by right by in the CMU-2, CMU-3, CBD, EMP and IH districts.

Funeral homes, funeral directing
Sales of funeral merchandise
All other funeral establishments, including crematorium and pet crematorium

Now that Section 2.5.2 is clear on which funeral uses are permitted in which district, the following section may be deleted:

~~2.6.3R(2): Establishments engaged solely in the practices of funeral directing or selling funeral merchandise, as defined in Section 12.3.1 of this Code, may be permitted in CMU-1 districts by Special Use. No other funeral establishments, as defined herein, shall be permitted within CMU-1 districts.~~

11. 2.6.2I(2): Cell towers

The cell tower section of the Code is overcomplicated in that it repeats the same regulations for various types of cell towers (those that require a Special Use Permit, those that are permitted by right in the non-industrial zoning districts and those that are permitted by right in the industrial zoning districts). This proposal simplifies this section of the Code. The first section of this portion of the Code affected by this change is the heading of Paragraph 2.6.2I(2) since it will cover all cell tower types and not just those process through Special Use Permits:

~~2.6.2I(2): CMCS Towers Special Use Review—All Tower Types~~

Also, the heading of the first section of that Paragraph, Item 2.6.2l(2)(a), and the first section of that Item, Sub-Item 2.6.2l(2)(a)(1) need to change:

**2.6.2l(2)(a): Towers reviewed under the Special Use Permit process
This Item shall apply to any tower that requires a Special Use Permit.**

1. Application

The application for a special use permit approval (see also Chapter 9.6) shall include the following...

Also, the requirement that a licensed engineer certify that a tower can withstand winds, etc., should be moved from the section regarding the Special Use Permit application to a new section requiring this prior to the issuance of a building permit for *all* cell tower types, which is the practice today:

2.6.2l(2)(l) (new section): (moved from existing Sub-Sub-Item 2.6.2l(2)(a)(1)(b)) **Prior to the issuance of a building permit, a study from a professional engineer shall be submitted** which specifies the tower height and design including a cross-section of the structure, demonstrates the tower's compliance with applicable structural standards, including a certification that the tower will withstand at a minimum sustained winds in accordance with the appropriate building code, and a description of the tower's capacity, including the number and type of antennas which it can accommodate.

This will also involve amending the language allowing setback waivers in the industrial districts, since they will now be located in the same section as those outside of the industrial zoning districts, as well as moving what is now Sub-Item 2.6.2l(3)(b)(3) into sec. 2 below:

2.6.2l(2)(d): Setbacks **and Spacing**

1. CMCS facilities shall adhere to the setback requirements of the zoning district in which they lie. In addition, the CMCS tower shall be set back a minimum of 150 feet from any adjacent, habitable single-family residential dwelling existing at the time of the application of the CMCS facility, as measured from the centerline of the proposed CMCS tower to the outer wall of the closest point of the adjacent dwelling. Exceptions to the minimum setback requirements of the zoning district may be permitted through **the Special Use Permit process** Review, but not to the minimum 150-foot separation between a CMCS tower and an adjacent single-family residential dwelling.

2. All CMCS towers **located outside of the industrial zoning districts** must be spaced a minimum distance of one-quarter mile as measured from property line to property line. **This provision may be waived through the Special Use Permit process.**

This proposal will also repeat a requirement that all towers, structures and other ancillary structures be removed within 180 days of a cell tower going out of service. This language is currently found in Sub-Item 2.6.2l(2)(c), which only applies to towers approved through the Special Use Permit process on public land, and Item 2.6.2l(3)(l), which only applies to towers approved by right in the non-industrial zoning districts. The former section also contains a requirement that a bond or other surety be posted to guarantee the removal from public property. By adding language to a new Paragraph 2.6.2l(2)(d), *all* cell towers are to be removed within 180 days:

2.6.2I(2)(j) (new section): **Any facility which has ceased operations for a period of 180 continuous days shall be dismantled and removed from the site at the owner's expense.**

12. 6.5.1: Land reclamation at gravel mining operations

This proposed amendment has been removed from consideration.

13. 2.6.4H: Grammatic error

2.6.4H: A container building is any principal or accessory structure used for a purpose other **than** a dwelling unit that is wholly or partially located within a shipping container.

14. 2.7.1A: Grammatic error

Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal **use** uses...

15. 2.7.2A(4) and 12.3.1: Accessory structures in residential front yards

The Code currently prohibits accessory structures that are “forward” of residential structures, but this could arguably permit an accessory structure, such as a detached garage, within a lot’s front yard but to the side of the structure. The language below clarifies that no accessory structure shall be located in residential front yards. This will also involve revising the definition of “front yard” and “required front yard,” to define the former as any area between the street and the existing home on a lot, regardless of whether that home is set back beyond the required set back.

2.7.2A(4): In single-family, open and residential zoning districts, no accessory structure shall **be located within the front yard** ~~extend forward of the front building...~~

12.3.1:

YARD, FRONT: A yard extending across the entire front of the lot measured between the front lot line of the lot and a line drawn parallel to the front façade of the principal building on the lot, or any projection thereof.

YARD, FRONT **(REQUIRED)**: A yard extending across the entire front of the lot measured between the front lot line of the lot and a line drawn parallel to the front lot line at the required building line on the lot, or any projection thereof.

16. 2.7.6: Swimming pool equipment in the side yard

Section 2.7.6 addresses pool equipment in the side yards of lots. This language slightly differs from Item 3.2.9E(5)(a), which allows such placement provided the equipment is screened from the street. The following changes will insert a cross-reference from Section 2.7.6 to Item 3.2.9E(5)(a):

2.7.6: Swimming Pools: A swimming pool or the entire property on which it is located shall be walled or fenced to prevent uncontrolled access to such swimming pool from the street

or from adjacent properties. Such swimming pool shall not be located in any required front yard and shall not be closer than five feet to any property line. Swimming pool equipment ~~on residential lots may~~ **encroach into** ~~be located within the side yard setback,~~ **subject to** ~~so long as it is at least five feet from the property line and is screened from any public right of way. See Item 3.2.9E(5)(a), Encroachments.~~

17. 2.9.4J: Tire sales

A comprehensive rezoning of properties along Lamar Ave. (OPD Case No. Z 20-04) reclassified many of these parcels that are currently in the CMU-3 zoning district to the CMU-1 zoning district. The primary purpose of this comprehensive rezoning initiated by the Memphis City Council, as well as the building permit moratorium also approved by Council that promulgated it, was to disallow the further proliferation of uses allowed in the CMU-3 district but not the CMU-1 district. These uses include many vehicular-oriented establishments, particularly vehicle repair and used tire sales. However, both the CMU-1 and CMU-3 zoning districts allow tire sales establishments since both new and used tire sales establishments are classified as “vehicle service,” the lowest intensity vehicular-oriented type of establishments. Rather than change the zoning code to prohibit all tire sales establishments in the CMU-1 zoning district, this proposal would differentiate between new and used car sales establishments since the latter are of similar intensity as vehicle repair, which is not permitted in the CMU-1 district. In fact, a few new tire sales establishments around town are located in the CMU-1 district and are appropriately sited (see list below, particularly the properties in *italics*); it would not serve the public interest to convert those sites into nonconforming uses.

1. Goodyear, Union and Bellevue: CMU-3
2. Firestone, Madison and Camilla: CMU-3
3. Pep Boys on Poplar at Merton: CMU-3
4. *Gateway on Poplar across from East: CMU-1*
5. *Firestone, Poplar and Highland: CMU-1*
6. *Goodyear, Winchester and Kirby: PD: CMU-1*
7. Gateway, Macon just E of Germantown Pkwy: PD: CMU-2
8. Raleigh Tire, Germantown and Club Center: PD: CMU-2
9. Firestone, Mt. Moriah and Park: CMU-3
10. Firestone, Summer just W of White Station: CMU-3
11. Firestone, Winchester across from Hickory Ridge Mall: PD: CMU-2
12. Jackson Tire and Alignment, Jackson and Bayliss: CMU-3
13. Firestone, Austin Peay at Singleton Pkwy: PD: CMU-2
14. Gateway Tire, Covington Pike N of Yale: PD: CMU-2

This proposal will differentiate new and used car sales establishment by amending the list of uses included under both “vehicle service” and “vehicle repair” that is included in Sub-Section 2.9.4J.

Principal Uses

| |
|--|
| Vehicle service including... <u>new</u> tire sales and mounting Vehicle repair including... <u>used tire sales and mounting</u> |
|--|

18. 2.9.4J: Automobile service stations

This section lists “automobile service stations,” which is not a defined term in Sec. 12.3.1 of the Code, as a type of auto repair use. Presumably, a service station is a gas station that provides some automotive service. However, gas stations are required to be at major intersections while auto service is *not*. This conflict, which could be interpreted as allowing a service station at a site that prohibited a gas station, can be corrected by striking “automobile service station” from Sub-Section 2.9.4J (vehicle sales, leasing, repair and service) since this use is already listed in Sub-Section 2.9.4H (retails sales and service).

19. 2.9.5D: Towing services

A wrecker service with an impound lot is considered by the Code as an industrial use while a towing service without an impound lot is considered a commercial use. The former is listed under Sub-Section 2.9.5D and the latter is listed under Sub-Section 2.9.4J; this proposal will add a cross-reference to Sub-Section 2.9.5D to assist in the administration of this distinction:

... Impound lot, wrecker service includes city wreckers, auto storage, excluding those impound lots permitted under Sub-Section 2.9.5B **and those towing services permitted under 2.9.4J**

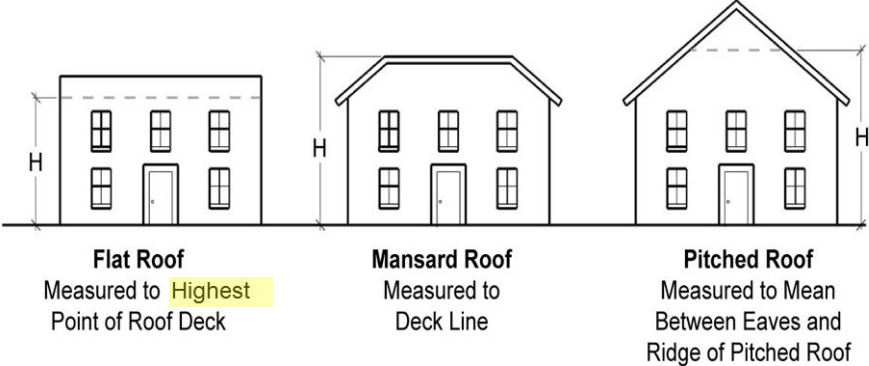
20. 3.1.3B: Grammatic error:

...developments with multiple single-family detached and single-family attached housing types on a single tract, ~~or~~ lot, **or** site are subject to the site plan review process.

21. 3.2.6A(1) and (6): Building height

In the building height section, the narrative of Paragraph 3.2.6A(1) conflicts with its graphic, as the former says building height is measured from the highest point of a flat roof and the graphic says it is measured from the lowest point of a flat roof. This proposal would correct the graphic to match with the language of the narrative:

3.2.6A(1):



In Paragraph 3.2.6A(1), the term single-family detached is repeated; the second reference should be single-family *attached*.

3.2.6A(6): Additional height above that permitted in the district or shown on an officially adopted height map may be permitted through the special exception process (see Chapter 9.14), except for all single-family detached and single-family **attached** detached housing types.

22. 3.3.1B and 3.3.1G(1): Lots

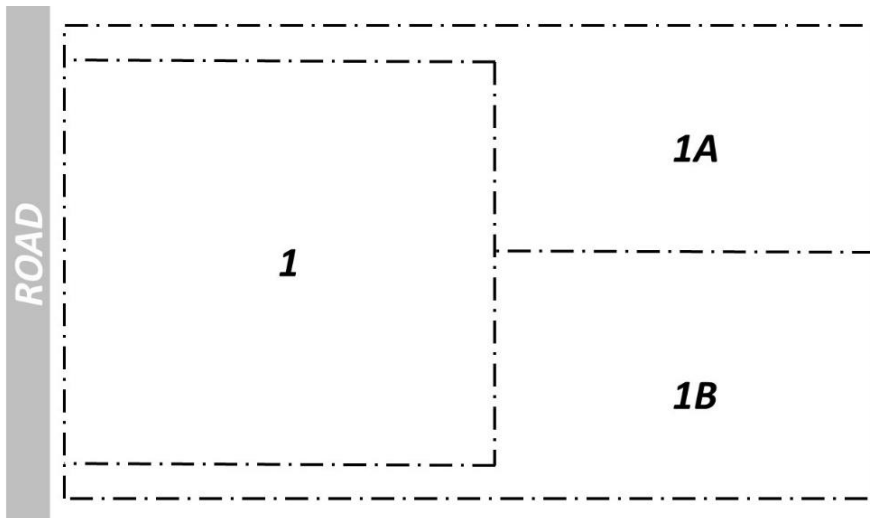
The beginning of Sub-Section 3.3.1B covers two important matters involving lots: the fact that all lots must have frontage on a public roadway and that an alley may not constitute a roadway for frontage purposes. After that, this section states that lots along arterials must be at least 100 feet wide. This provision did not exist prior to the adoption of the Unified Development Code in 2010 and, under an interpretation that has attempted to be made by citizens opposed to at least one particular subdivision, would result in tens of thousands of nonconforming lots around the city. These existing lots that contain less than 100 feet in width front such roadways as Poplar, Walnut Grove, Park Ave., Southern, Central, Madison, Peabody, McLemore, South Parkway, North Parkway, East Parkway, Person, Kimball, Rhodes, Barron, Quince, Mitchell, Raines, Shelby, Holmes, Neely, Milbranch, St. Elmo, Frayser, Overton Crossing, Whitney, Raleigh-LaGrange, Tillman, Holmes, Highland, Waring, Perkins, Mendenhall, White Station, Trinity, Houston Levee, Collierville-Arlington, Navy, Raleigh-Millington, Hickory Hill, Kirby, Riverdale, Hacks Cross and Forest Hill-Irene, all of which are arterials, thus creating tens of thousands of nonconforming lots. This results in the inability of any building permit being issued for homes on these lots until variance action could be taken by the Board of Adjustment. While it was admirable for the drafters of the UDC to prevent a proliferation of curb cuts along these roadways, the resulting chaos in the marketplace is unwarranted. Lot frontage should be governed solely by the lot width requirements of the zoning district. In addition, the following amendment would delete the minimum lot width of 16 feet for flag lots, a provision that is already contained in the flag lot regulations of the Code (specifically, Paragraph 3.3.1G(2)).

3.3.1B: Unless otherwise approved, each lot must have frontage on a public street or an approved private drive. An alley may not constitute frontage. ~~In no instance shall the minimum required frontage be less than 16 feet. No single-family detached or single-family attached unit with a frontage of less than 100 feet may have direct access to any street classified as an arterial or larger. Single-family detached or attached units with a frontage of less than 100 feet may be located along a public street or approved private drive classified as an arterial or larger provided that access to the units is in the form of either a frontage road or rear alley access (see [Sub-Section 5.2.7F](#)).~~

Paragraph 3.3.1G(1) prohibits multiple flag lots from abutting one another. This language was new with the adoption of the Unified Development Code in 2010 and at least partly in response to two developments in Eastern Shelby County that avoided the subdivision review process by consisting of exempt, four-acre tracts organized as flag lots. Here is an aerial of one of those developments, demonstrating the multiple flag lots that all technically have the prerequisite amount of road access:

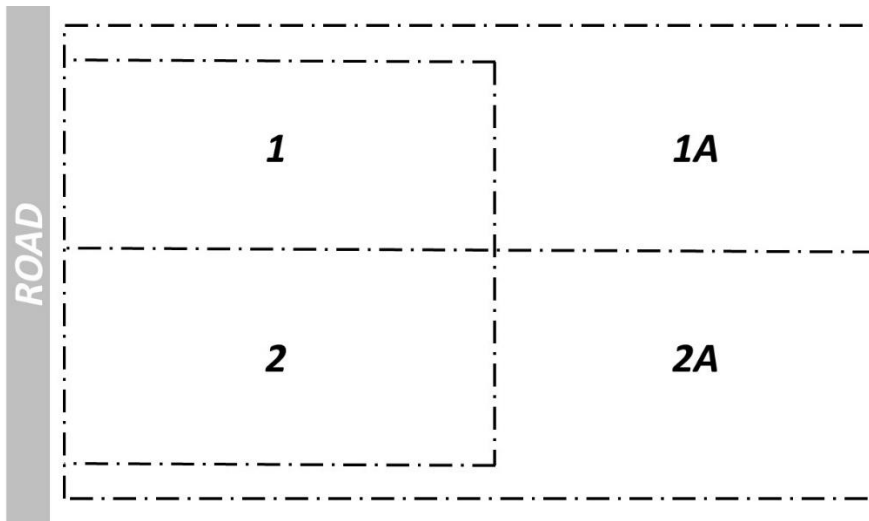


The outright prohibition of multiple abutting flag lots found in the Code today is inappropriate due to two reasons: 1) it prevents the filing of a subdivision application to achieve the layout of multiple flag lots such as the one pictured above, its purported purpose, and 2) it prevents small flag lot developments that accommodate the division of property among family members. The language proposed for this section of the Code corrects both of these issues. See image below, where the owner of Lot 1 would like to create two flag lots, Lots 1A and 1B. This two-lot flag lot creation would be permitted under the proposed language, either as exempt tracts (if large enough) or as a subdivision.



See image below, where the owner of Lot 2 would like to create a flag lot, 2A, but after the property owner of Lot 1 has already created Lot 1A, also a flag lot. The proposed language

below would not preclude the owner of Lot 1 from doing this because it deletes the carte blanche prohibition on a “series” of flag lots being located along the same roadway.



3.3.1G(1): Where a flag lot is required to provide access to a landlocked area, no more than two ~~one~~ flag lots may be created without necessitating the filing of a subdivision, notwithstanding the subdivision review exemptions of Sub-Section 9.7.3. This Paragraph shall not apply to any flag lot created before the adoption of this Code (a series of flag lots accessing the same roadway is not allowed).

23. 3.7.2B: Percent of housing types

This section of the Code addresses setbacks and other bulk provisions for the multi-family zoning districts, the RU-3, RU-4 and RU-5 districts. In addition, it sets a maximum percentage of building types for sites over 10 acres and for sites 1-10 acres. The intent behind these regulations is to encourage a mixture of different types of residences and prevent monolithic developments. This intent is better manifested on large lots of over 10 acres than those less than 10 acres, so this proposal would eliminate the 1-10 category in the tables for the RU-3, RU-4 and RU-5 districts. The tables for the RU-3 and RU-4 districts allow a 100% apartment community but does not allow a 100% conventional single-family community, which would appear to be counterintuitive. Also, the table RU-5 allows 100% for *all* housing types, so its deletion would have no effect on current regulation.

24. 3.9.1A, 3.9.2A, 3.9.2B(4), 3.9.2H and 3.9.2I: Contextual infill standards

Contextual infill standards for new subdivision and homes, which includes regulations regarding garage placement, lot width, front yards, etc. took effect with the adoption of the Unified Development Code in 2010. Most of the homes in Memphis and Shelby County built prior to that date do not meet these regulations, so the following language is required to make it clear that modifications to these homes may occur without a variance:

3.9.1A(1): The garage and carport placement requirements of this Section and Sub-Section 3.9.2H shall apply to all housing types within any site subject to Section 3.9.2.

Garages and carports constructed prior to January 1, 2020, are not subject to this Section and shall not be considered nonconforming.

3.9.2A: The following standards are intended to accommodate the majority of infill development in existing residential neighborhoods. They have been crafted to allow an applicant (and staff) to look to the surrounding “context” for guidance in construction. These standards are intended to encourage reinvestment in existing neighborhoods and reinforce the traditional character of established residential neighborhoods. **Dwellings constructed prior to January 1, 2020, are not subject to this Section and shall not be considered nonconforming.**

The Code allows for the waiver of the regulations that make up contextual infill standards for new subdivisions. The section of the Code below, which is located within Article 3, allows such waivers to be approved through the subdivision process; however, Paragraph 9.7.6G(1) requires that minor subdivisions (those that may be approved administratively by staff) meet all of the provisions of Article 3 be met. The proposed language below would clarify that any waivers of the contextual infill standards would need to be approved by the Land Use Control Board in a duly noticed public hearing as a *major* subdivision and not by staff as a minor subdivision, with the exception of waivers regarding lot width. This exception is necessary because many neighborhoods prefer two narrower lots that meet the width requirements of the zoning code but not necessarily the contextual infill standards over the alternative, which are flag lots. Removing the ability for minor subdivisions to receive width waivers would incentivize flag lots since their widths are measured at their building line and would not require a width waiver.

This proposal would also allow the Landmarks Commission to waive certain aspects of the contextual infill standards, such as size or porch, through its interpretation and administration of the historic overlay design review guidelines in its approval of Certificates of Appropriateness, also made during a duly noticed public hearing.

3.9.2B(4): The **lot width provisions of this Section may be waived through either the major or minor subdivision approval process; all other** provisions of this Section may be waived through the **major** subdivision approval process, provided a determination is made that no substantial harm will be imposed upon the health, safety and welfare of the surrounding neighborhood. **The provisions of this Section may also be waived through the approval of a Certificate of Appropriateness by the Memphis Landmarks Commission.**

3.9.2H is the section of the Contextual Infill Standards that covers garage placement. Two changes are proposed below; the first will provide clarity to what the Code currently refers to as “the dominant character” by defined that this means at least half of the homes on the block. The second change references the Code section that contains the graphic where garage placement is covered (Section 3.9.1) and further allows street-facing garages and carports so long as they are located in the rear of the lot.

3.9.2H: Garages and Carports. Street-facing garages and carports may be allowed if an alley is not present and **at least half of the structures on the same block face feature** street-facing garages or carports ~~are part of the dominant character of all properties fronting on the same block face.~~ **In these instances, the garage or carport placement**

must meet the standards of Section 3.9.1. In all other instances, street-facing garages and carports are only permitted if they are located at least 100 feet from the right-of-way and at least 50 feet behind the front façade of the structure.

Finally, this section has a grammatical error:

3.9.2I:..A minimum porch depth of six feet may be approved by the **Zoning Administrator** ~~Planning Director~~ (see Item above for this change) if any property on the same block face has a front porch ~~less~~-six feet **or less** in depth.

25. 3.10.2B(1): Incorrect reference

The minimum front and side street setbacks of 20 feet as specified in **this** Sub-Section ~~3.10.1A~~ above may be reduced to zero feet provided the following provisions are met...

26. 3.10.2B: Missing slash (“/”)

Side/~~rear~~ abutting single-family

27. 3.10.2C: Housing in non-residential districts

This table highlights the setbacks, lot width and other lot dimensions for certain housing types permitted in the non-residential zoning districts. However, it omits two important setbacks: the front setbacks for conventional and side yard homes. This proposal will replace the “-” symbol for these two housing types with “20” to align with not only the other types of housing in these zoning districts but similar tables in Section 3.7.2.

28. 3.10.3G(3)(b) and 3.10.3G(3)(c): Redundancy

These two sequential sections read the same; the latter should be deleted.

29. 4.3.3: Streetscape plates along private drives

Sub-Section 4.3.1C reads “Private streets and drives are exempt from the streetscape standards provided in this Chapter unless conditioned otherwise by the Land Use Control Board, Board of Adjustment or legislative bodies,” but Section 4.3.3 states that private streets are required to contain streetscapes. The following language will correct this conflict, as many private drives amount to nothing more than parking lot aisles:

4.3.3: The following streetscape plates must be installed along public ~~and private~~ streets abutting the subject property.

30. 4.3.5B(2): Incorrect numbering

For S-6, S-7, S-2 9, S-12 and S-13 plates, trees shall be planted no more than 4’ behind the back of curb.

31. 4.4.7D: Misspelling

No obstruction to cross visibility shall be deemed to be **excepted** ~~accepted~~ from the application of this section because of its being in existence at the time of the adoption hereof, unless expressly exempted by the terms of this section.

32. 4.4.8D(2): Correct terminology and a typo

This section of the Code requires an amendment to change the verb “amended” to “modified” since the type of change involved (reflecting the installation of a gate or guardhouse on a plat) would involve a minor or major modification to a subdivision plat or plan and not an amendment, which involves a separate process. Also, there is an “a” that needs to be removed from this section:

A subdivision plan or plat or planned development outline or final plan must be **modified** ~~amended~~ to indicate the location of gates, guardhouses and any realignment of common areas or infrastructure associated with the gates and guardhouses. The installation of a gates and guardhouses in subdivisions...

33. 4.4.8D(3): Typo

For the purposes of the appeals processes outlined in Chapters 9.6 and 9.7, only the applicant, homeowners **association** or property owners association may appeal the determination of the **Zoning Administrator** ~~Planning Director~~ (this amendment is covered above) to the Land Use Control Board.

34. 4.5.2: Parking on grass

Section 14-4-92C of the Memphis Code of Ordinances (part of the City’s residential maintenance code) reads: “All vehicles parked or stored in single-family residential, duplex or multifamily zoning districts shall be parked or stored on asphalt, concrete or other hard surface dustless materials as approved by the city or completely enclosed within a building.” To allow zoning inspectors to make citations for parking in the grass (in addition to code inspectors that administer the city’s residential maintenance code), the following language is proposed:

4.5.2E (new section): **Parking on grass**
Except as provided in Paragraph 4.5.5C(2), parking on grass in the residential zoning districts is prohibited.

35. 4.5.2C(2)(e)(1), 4.5.3A(1) and 4.5.3B: Incorrect cross-reference to Alternative Parking Plan section

... Section **4.5.4** F)...

36. 4.5.3B: Misspelling

...SBC**B**ID...

37. 4.5.5D(2)(b): Grammar and misspelling

If seeking preservation credits ~~under~~ for an existing tree located in an interior island, terminal island, or perimeter island then such island must provide a nonpaved area...

(in graphic): **Terminal** ~~Terminal~~

38. 4.6.4F(2)(g): Incomplete sentence

~~Where other uses, including~~ **All** pedestrian, bike or other trails within **landscaping and screening areas** ~~these uses~~ must be maintained to provide for their safe use.

39. 4.6.5J(3)(b): Unnecessary comma

Sight proof fences must be constructed of materials, such as treated wood and wrought iron...

40. 4.6.5L: Ownership of buffers

This section of the Code allows a buffer to be owned by the property owner of the land providing the buffer or allow him or her to transfer it to a conservancy or related organization. The following change from “shall” to “may” will make the first part of this section match its second part:

Buffers ~~shall~~ **may** remain under the same ownership as the property providing the buffer; they may be subjected to deed restrictions and subsequently be freely conveyed; or they may be transferred to any consenting grantees, such as the City or County, an approved land conservancy or land trust, or a property owners association...

41. 4.6.5M(2): Grammatical error

Financial hardship due to meeting the requirements of this ~~is~~ section shall not be sufficient justification for alternative compliance.

42. 4.6.7: Fencing

There is a contradiction between Paragraph 4.6.7E(4), which allows uncoated chain link fencing in the industrial zoning districts, and Paragraph 4.6.7E(1) which sets out permissible materials for all fencing but does not include uncoated chain link fencing. This contradiction can be addressed with the following proposed strikethrough. Also, stucco is added as an acceptable type of masonry for walls.

4.6.7E(1): Permissible Materials. Fences and walls must be constructed of high quality materials, such as decorative blocks, brick, stone, masonry panels, **stucco**, treated wood and wrought iron; and, where permitted, ~~vinyl-coated~~ chain link. Electrified fences, barbed wire or concertina wire fences are not permitted in a residential district.

This section will also need to be amended to make it clear where coated chain link fencing is required:

4.6.7E(4): Chain-Link Fences. Uncoated chain-link fences are not permitted except in the EMP, WD, and IH districts. Chain-link fencing **in all other districts** must be galvanized, polyvinyl chloride (PVC) color coated in either black, dark green or dark brown color coatings and part of an evergreen landscape screening system. At the intersection of a driveway and a street and on all corner sites (the intersection of two streets), a clear sight triangle shall be established as set forth in Section 4.4.7.

Currently, the Code does not explicitly state that the “nice” side of the fence (the side without the exposed posts and rails) shall face the street. A new Paragraph 4.6.7E(6) will address this by stipulating that all wood fences shall have the nice side facing the street:

4.6.7E(6): (new section) Fencing Facing Public Streets. Any side of fencing with exposed posts and rails shall not face public streets in the residential and open zoning districts.

Sub-Section 4.6.7F allows the Planning Director (to be known as the Zoning Administrator under this ZTA), to approve additional fence height, reduced setback, etc. for certain fences. The proposed language allows alternate fence design, which would cover instances in which the request involves, as an example, brick piers at a frequency differing from that outlined in the Code.

4.6.7F: Administrative Deviation. The **Zoning Administrator** ~~Planning Director~~ may permit additional fence material, **alternate fence design**, additional fence height, or reduced setback through the administrative deviation if it is determined that such allowance is not contrary to the public interest and will not be injurious to the surrounding neighborhood. Factors to be considered by the **Zoning Administrator** ~~Planning Director~~ when making such an administrative deviation shall include the material, height or setback of fencing in the immediate vicinity of the subject site, the classification of the roadway abutting the subject site and the proposed use of the subject site (see Chapter 9.21).

43. 4.6.8A(2): Redundancy

This section of the Code may be deleted as it is redundant with the section that follows it:

~~4.6.8A(2): Where allowed, drive thru windows and lanes placed between the right-of-way of primary street and the associated building require landscape plantings and/or berms installed and maintained along the entire length of the drive thru lane, located between the drive thru lane and the adjacent right-of-way (not including an alley).~~

4.6.8A(3): Drive-thru windows and lanes placed between the right-of-way and the associated building require landscape plantings installed and maintained along the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way (not including an alley). Such screening must be a compact evergreen hedge or other type of dense foliage as permitted in Section 4.6.9. At the time of installation, such

screening must be at least 36 inches in height and reach a height of 48 inches within two years of planting.

44. 4.6.8B(2) and 4.6.9C: Misspellings in the landscaping ordinance:

4.6.8B(2): ~~...Compatibility~~ **Compatibility** of material is subject to...

4.6.9C (Tree E): Yaupon ~~Holy~~ **Holly**

45. 4.8.4B(3)(b): Outdoor storage

The following two sections of the Code concern outdoor storage requirements. Sub-Item 1 requires a clarification in that the only regulation waived for properties not within 500 feet of single-family residential districts is the language in that Sub-Item and not the rest of the outdoor storage section. Sub-Item 3 is no longer necessary since Sub-Item 2 before it addresses the same issue: that outdoor storage is prohibited within close proximity of the public right-of-way.

4.8.4(B)(3)(b)

1. General outdoor storage shall be screened along the public street and any public access easement by a Class III buffer as set forth in Section 4.6.5. In situations where general outdoor storage is located abutting or across the street from a residential district, such screening shall be high enough to completely conceal all outdoor storage from view. General outdoor storage on sites in the EMP, WD and IH Districts that are not within 500 feet of single-family residential zoning districts, as measured along the public right-of-way, are exempt from this **Sub-Item** requirement.
2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.
3. ~~No general outdoor storage shall be permitted in a front setback area.~~

46. 4.9.1C, 4.9.6L and 8.3.13G(7): Wayfinding

The Code uses the terms “way finding,” “way-finding” and “wayfinding.” This proposal will change language in the sections cited above to “wayfinding.”

47. 4.9.2, 4.9.8: Billboards

The following proposal involves the section of the Code dealing with billboards; these proposed amendments reflect current interpretations and would not result in a change in how the current regulations are administered.

4.9.2B(4), (5) and (6): Billboards downtown

These three sections of the Code redirect the reader to the Downtown Memphis Commission’s sign code that is codified elsewhere in the Memphis Code of Ordinances. However, that code does not address standalone, or detached, off-premise advertising (billboards). The language below will make this clear:

4.9.2B(4): Signs located in the Central Business Improvement District (CBID), **other than those classified as off-premise advertising signs established before January 23, 1973,** shall be subject only to the provisions of Memphis City Code §§12-32-1 and 12-36-1, the portion of the City Code commonly referred to as the CBID Sign Code (see Map 1 above). **Off-premise advertising signs in the CBID established before January 23, 1973, shall be governed by Section 4.9.8 of this Code.**

4.9.2B(5): Signs located in the South Central Business Improvement District (SCBID), **other than those classified as off-premise advertising signs established before January 7, 1997,** shall be subject only to the provisions of Memphis City Code §§12-32-1 and 12-36-1, the portion of the City Code commonly referred to as the CBID Sign Code (see Map 1 above). **Off-premise advertising signs in the SCBID established before January 7, 1997, shall be governed by Section 4.9.8 of this Code.**

4.9.2B(6): Signs located in the Uptown District (U), **other than those classified as off-premise advertising signs established before January 7, 1997,** shall be subject only to the provisions of Memphis City Code §§12-32-1 and 12-36-1, the portion of the City Code commonly referred to as the CBID Sign Code (see Map 1 above). **Off-premise advertising signs in the Uptown District established before January 7, 1997, shall be governed by Section 4.9.8 of this Code.**

4.9.8G(1) and 4.9.8G(3): Contradictory separations from the interstate

Paragraph 4.9.8G(1) of the Code contains the minimum setback from the interstate highway. However, it contains a confusing “and/or” between two measurements: a minimum 20-foot setback from the right-of-way and a 100-foot setback from the emergency lane. This “and/or” should be clarified in such a way to allow a billboard to be closer to the interstate highway, which will effectively move it further from whatever commercial, residential and other uses may lie on its other side.

4.9.8G(1): No portion of a detached sign, if it is legible from the interstate freeway, shall be closer than twenty (20) feet from the interstate freeway right-of-way ~~and/or~~ one hundred (100) feet from any emergency stopping shoulder lane, **whichever is less.**

In addition, Paragraph 4.9.8G(3) states that billboards are not to be located within 100 feet of residentially-zoned property. This section should be clarified to read this does not include interstate highways, which are zoned residential, since the section above allows billboards within 20 feet of interstates:

4.9.8G(3): No portion of a detached sign, pole or other supporting structure shall be located within one hundred (100) feet of any property zoned residential or the residential portion of a planned development. **This Paragraph shall not apply to interstate highway right-of-way zoned residential.**

4.9.8G(4): Computation of billboard area

This paragraph contains the maximum size of billboards. However, a cross reference is needed to Paragraph 4.9.6A(3), which states that the size of signs is regulated based on the number of square feet seen from one point within the public right-of-way. However, since many billboards are splayed in a “V” formation so they are angled towards the highways, the following caveat is proposed:

4.9.8G(4): The maximum gross surface area of a sign is as follows:
Along all U.S. Interstate Highways in Memphis and Shelby County: six hundred seventy-two (672) square feet. **Sign faces may be splayed in a “V” formation at a maximum of 45 degrees for the purposes of adhering to the computation of gross surface area under Paragraph 4.9.6A(3). Sign faces may not be splayed in an “X” formation.**



Example of a sign at Sam Cooper and Highland with a splay of 90 degrees, which allows both signs to be read at the same time.

4.9.15F(2)(c): Section change

This section of the Code uses the term “subdivision,” which is not a term used in section nomenclature under Chapter 1.12. Since it refers to other Items within its paragraph, the following change is recommended:

4.9.15F(2)(c): Any period of such discontinuance caused by government actions, strikes or acts of God, without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for the purposes of this **paragraph** subdivision.

48. 6.1.2B(3)(c)(3): Tree ordinance

This section of the Code states that side and rear screening requirements may be waived if an equivalent or alternative tree placement is approved through the tree permit process. The problem is that this section is placed in the tree survey waiver section of the tree ordinance and not the section entitled “approval of equivalent alternative.” This proposal would move what is currently Sub-Item 6.1.2B(3)(c)(3) to a new Sub-Item 6.1.2B(3)(a)(3):

In cases where ~~an~~ the equivalent alternative is **approved** ~~used pursuant to paragraph a above,~~ the **Zoning Administrator** ~~Planning Director~~ (details on this amendment are described above) may also waive the side and rear yard screening requirements set forth in the landscape enhancement plates upon a finding that the implementation of such plates is impractical or unnecessary, based on the existing use of the adjacent property.

49. 6.1.3B(2): Missing commas

...shall consult with the Shelby County Environmental Improvement Committee and/or the Memphis City Beautiful Commission, whichever is appropriate, prior to approval of any distribution of tree bank funds.

50. 7.1F(1)(c): More specific cross-reference

All other development that meets the provisions of **Sub-Section 7.2.9A** in the SCBID Special Purpose District.

51. 7.2.3D: Uses permitted in the R-SD district

This section of the Code lays out additional uses that are permitted in the R-SD (South Downtown Residential) zoning district in the South Main area by linking to the CMU-1 commercial mixed use district. The proposed language will clarify that only those uses permitted by right in the CMU-1 zoning district would be permitted by Special Exception in the R-SD zoning district; this will avoid the interpretation that a use that would require a Special Use Permit (which requires two public hearings, one before the Land Use Control Board and one before the Memphis City Council) in the CMU-1 district would only require a Special Exception (which only requires a hearing before the Land Use Control Board) in the R-SD district:

Uses **permitted by right** ~~in accordance with~~ the Commercial Mixed Use-1 (CMU-1) District shall be permitted throughout the remainder of the R-SD District subject to approval of a Special Exception (see Section 7.2.10) by the Land Use Control Board (LUCB) and the following criteria...

52. 7.3.11: Incorrect reference in Uptown use table

The Uptown Special Purpose District originally anticipated a zoning district that was never implemented either in the text of the amendment (OPD Case No. ZTA 01-004) or on the map (Case No. Z 01-125), the Uptown Waterfront zoning district. While most references to this

zoning district were removed from the text prior to final adoption by the Memphis City Council: one remains as a footnote and associated with two land uses in Section 7.3.11. This proposal will eliminate these references:

| | | | | | |
|------------------------------------|--|---------|---------|----|---|
| Restaurant or Carry-Out Restaurant | | | X 15 | P4 | X |
| Marina-Recreational Craft | | X 15 | X 15 | | |

X = Use permitted by right; S = Use requiring legislative site plan review and approval subject to the issuance of a special use permit; P4 = Such use shall be part of hospital and designed and intended primarily to serve patients or employees; 15 = Use permitted by right in the Uptown Waterfront Overlay District; C=Use permitted by issuance of conditional use permit.

53. 7.3.11, 8.2.2D and 8.3.11: Planned developments in Uptown and the Medical and University Districts

This proposed amendment has been removed from consideration.

54. 8.2.7C: Missing words

The following minimum streetscape standards apply along a Commercial Frontage as designated in Sub-Section 8.2.5B (see Sub-Section 8.2.5C for related building envelope standards). Developments with no on-site parking between the building **and the** street may follow the requirements for Urban Frontage (see B).

55. 8.2.8E(1) and 8.3.10E(3): Pervious parking in the Medical and University Overlays

These two sections contain similar language in the Medical and University Overlays: that any parking over the minimum required spaces provided for a particular use be paved with a pervious material such as grasscrete or gravel, as opposed to the typical asphalt or concrete impervious surface. The purpose of this provision is presumably to discourage superfluous parking in parts of town where density is encouraged. According to a local engineer Michael Rogers, PE, Director of Land Development with Fisher Arnold, during his review of this matter associated with the construction of the Memphis Fire Department’s new station at Washington and High in the Medical District Overlay, the typical sub-surface soil in that and the University Overlays are silt, clays and silty clays with low permeability and are therefore not conducive for achieving the implied benefits of pervious pavement. In addition, much of the Medical Overlay is near the old Gayoso Bayou culvert, which overflows during wet periods, especially when the Mississippi River is at high elevations. This makes the slow-percolation process inherent with pervious surfacing impractical since the ground in the area is soaked with groundwater due to the high water table. Finally, a portion of the Medical Overlay is also within the CBD zoning district, which contains no parking minimums. Taken together with Paragraph 8.2.8E(1) requiring all parking spaces over the minimum to be pervious, has been interpreted to mean that every parking space in the CBD zoning district within the Medical Overlay be pervious, an issue that would have had significant construction costs with the new fire station at Washington and High. The language below addresses this:

8.2.8E(1): Due to the high availability of public transportation in the Medical Overlay District area, any building, structure, or use may reduce the total number of required parking spaces specified in Chapter 4.5, Parking and Loading by up to 25 percent. Where off-street parking is provided, it shall comply with the geometric requirements of Chapter 4.5. ~~Where parking spaces beyond the required parking spaces set forth in Chapter 4.5 are provided in surface parking lots, such additional spaces shall be established using pervious materials such as turf block, grasscrete or similar surfaces as approved by the City Engineer.~~

8.3.10E(3): Where off street parking is provided, it shall comply with the geometric requirements of Chapter 4.5. ~~Where parking spaces beyond the required parking spaces set forth in Chapter 4.5 are provided in surface parking lots, such additional spaces shall be established using pervious materials such as turf block, grasscrete or similar surfaces as approved by the City Engineer.~~

56. 8.3.6D: Building height in the University District Overlay

The table in this section says that buildings along shopfront-designated streets may be 55 feet in height; however, it also contains a footnote to cross-reference the height map in Sec. 8.3.7, which contains a wide variety of allowable heights throughout the Overlay, ranging from 35 to 80 feet. Since the other frontage, urban-designated streets, contain no specified height limit and instead references the height map in Sec. 8.3.7, the same is proposed for shopfront-designated streets:

***55

Also, there are contradictions between this table and the graphics that follow, such as upper floor height and lot of widths. This proposal will also square the table and graphics of this Sub-Section.

57. 8.3.9: Streetscape standards in the University Overlay

This section contradicts Section 4.3.3, which allows two additional streetscape types along Shopfront frontages. This amendment will address this contradiction:

Streetscapes S-1, & S-2, **S-3 & S-4** apply along Shopfront Frontages.

58. 8.3.10E(2): Misspelling

...Where fractional spaces result, the parking spaces required shall be construed to be the **next** ~~next~~ highest whole number.

59. 8.4.8K(3) and 9.24.11 (new section): Variances and similar applications

The Code generally discourages the need for a property owner to file two separate applications to sometimes two separate bodies for relief on a single project. The Planned Development is an example, which has the ability to grant bulk variances, use variances and

even create lots of record. However, the language of the sections cited below can and have been interpreted to require such separate applications. Specifically, a project may need a Conditional Use Permit from the Board of Adjustment to allow a home built out of a shipping container (known as a “Container Home”) but a separate variance from the same board to allow that home to encroach into its required side yard setback. This proposal will address that scenario by allowing the Container Home to be approved as a variance or Planned Development, forgoing the need to file for a Conditional Use Permit (included below as a new Section 9.24.11).

9.24.11 (new section): **Conditional Use Permits and Variances**

If a Conditional Use Permit also requires the issuance of a variance, the approval of a variance (see Chapter 9.22) or Planned Development (see Chapter 4.10) will forgo the need for the separate filing or approval of a Conditional Use Permit, provided the required findings for those application types are met.

The proposal has been revised during its 90-day public review period to remove not only remove proposed language with regard to all Special Exceptions (proposed for Sub-Section 9.22.10B), but also those Special Exceptions in the Midtown Overlay (proposed for Sub-Sections 8.4.5D and 8.4.6B). Nevertheless, Paragraph 8.4.8K(3) within the Midtown Overlay requires a revision:

8.4.8K(3): Active ground floor use shall be required along public street frontages of parking garages. ~~A Permitted~~ Special Exception to this requirement may be ~~filed~~ found in accordance with Section 8.4.6.

60. 8.4.8C(1)(b): Comma splice

Any development or portion of a development, adjacent to a designated frontage on the Zoning Map shall comply with the standards established for the designated frontage type.

61. 8.4.8D and J: General frontage in the Midtown District Overlay

“General” frontage is not applied within the Midtown District Overlay; its name and inclusion in the overlay provisions created confusion as some interpret it to mean undesignated frontage. This proposal calls on the deletion of references of the General frontage in Sub-Sections 8.4.8D and J; if any future frontages in Midtown are designated to the equivalent of General frontage, that could be done through Section 3.10.3.

62. 8.5.2A and 8.5.2B: Repetitive sections:

~~A. All land fronting a designated Residential Corridor, for a depth of 200 feet, shall not be eligible for rezoning to a nonresidential district nor shall such land be eligible for a change in use from a residential use to a nonresidential use. Certain civic and institutional uses may be permitted through the special use process (see 9.6).~~

- B. All land fronting the designated Residential Corridor, for a depth of 200 feet, shall not be eligible for rezoning to a mixed use or nonresidential district **nor** ~~or~~ shall such land be eligible for a change in use from a residential use to a nonresidential use. Certain civic and institutional uses may be permitted through the special use process (see 9.6).

63. 9.2.2: TRC review of ROW vacations

With ZTA 17-01, 9.1.8B was amended to allow the Planning Director (to be renamed the Zoning Administrator in 2020) discretion on which right-of-way vacations should be heard by the Technical Review Committee (the "TRC") since many are not technical in nature and involve paper streets. However, this change was not reflected in the Review Table of Sec. 9.2.2. This proposal will change the symbol for mandated review by the TRC, "R," in this table to the symbol for review at the discretion of the Planning Director, "Δ."

64. 9.3.2D and 9.3.2E: Neighborhood meetings

Sub-Section 9.3.2D mandates that any Community Impact Statement written by a neighborhood association shall be submitted to staff within five days of the Land Use Control Board meeting. Since the Board meets on Thursdays, this would allow a Community Impact Statement to be submitted on Saturday, which is after the staff reports are completed. It is recommended that a Community Impact Statement be submitted to the Board at any time before the meeting, included immediately before the meeting, which gives the neighborhood association more time to complete the report but also will prevent it from being incorporated into the staff report (which does not contain a Land Use Control Board recommendation since it is the report presented to the Board):

9.3.2D:...Neighborhood or business associations who intend to file a CIS must submit said statement to the Land Use Control Board or governing bodies ~~no later than 5 days prior to the scheduled hearing date.~~ **If provided prior to the publishing of the Land Use Control Board staff report, the CIS shall be included within the staff report in a prominent position alongside the Land Use Control Board and Division Office of Planning and Development recommendations. If provided after the publishing of the Land Use Control Board staff report, the CIS will be referenced during the Land Use Control Board public hearing and contained in the materials that are forwarded to the legislative body, where applicable.**

Finally, a new section is proposed that will recognize two exigent circumstances that may apply to neighborhood meetings: pandemics that make in-person meetings impractical and situations in which consistency with a plan is unknown until the Division of Planning and Development publishes its staff report. For the former, language is added that will allow for telephonic or electronic means. The latter may become an issue because neighborhood meetings are only required for rezonings that are not in compliance with an approved neighborhood plan or Memphis 3.0 and such compliance is unknown until the staff report is published. By the time the staff report is published, the applicant cannot meet the notice requirements to hold the neighborhood meeting before the Land Use Control Board conducts its hearing on the matter. This issue is addressed by allowing a neighborhood meeting to occur after the Land Use Control Board meeting but before the Memphis City Council or

Shelby County Board of Commissioners votes on the matter.

9.3.2E: (new section) Exigent circumstances. A neighborhood meeting may be conducted through electronic or telephonic means if holding an in-person meeting is impractical due to an ongoing public health crisis or other similar situation that is out of the control of the applicant, provided all notice requirements of this section are met. In addition, a neighborhood meeting may be held after the Land Use Control Board votes on the matter but before the governing body does so in the event the Division of Planning and Development makes a determination that a zoning change is not in compliance with a Chapter 1.9 plan with the publishing of its Land Use Control Board staff report (see Paragraph 9.3.2A(1)). In such an event, all notice and timing requirements of this Section shall still apply, but will be timed in conjunction with date the governing body is expected to vote on the matter.

65. 9.3.4A: Public notice

In practice, notice is mailed to adjacent property owners for minor subdivisions to alert them of the hearing before the Technical Review Committee; however, the Public Hearing and Notification Table in Sub-Section 9.3.4A only requires mailed notice when a minor subdivision is appealed to the Land Use Control Board. This proposal would change this table to require mailed notice for Technical Review Committee meetings as is currently done. This involves changing the “M-AO” for “Minor Preliminary Plans” under the “Mailed” column to “M.”

Also, the Landmarks Commission Bylaws (Section III(C)) state that a 150-foot radius is used for Major Certificates of Appropriateness; this proposal will also amend this table to reflect that practice with the insertion of a new Footnote 7. Sub-Section 9.3.4A will also be amended to read **Major** Certificates of Appropriateness require notification.

Finally, the Notification Table currently requires newspaper notice for all Landmarks Commission Certificates of Appropriateness and Planned Developments and Special Use Permits where notice is requested on the latter two. This proposal would delete required newspaper notice for these items, which will result in newspaper notice purely for ordinance changes (text and map amendments). This will be in line with the Tennessee Code Annotated sections (TCA Secs. 13-7-401, et. seq.) that govern the Landmarks Commission’s noticing requirements.

66. 9.6.11D(3)(c) and 9.6.11E(1): Amendments to approved Planned Development outline plans

The following language will address an internal issue for personnel at Planning and Development and closing attorneys alike: whether an entire Planned Development is amended if just one section is being amended. Some Planned Developments, such as Southwind, have dozens of phases and thousands of owners. To amend an entire Planned Development and give it a new case number when only one site is being amended proves cumbersome. The language below clearly outlines the process whereby a section of a Planned Development is amended.

9.6.11E(1): All outline and final plan amendments shall meet the standards set forth in Chapter 4.10, Planned Development. **Outline plan amendments shall be given a new case number and apply only to the site subject to the amendment. Areas of the**

original planned development not subject to the amendment shall retain the original case number. The following modifications to approved outline and final plans shall be deemed amendments:

Also, Item 9.6.11D(3)(c) is missing a word:

9.6.11D(3)(c): 100 feet for final plans of eight acres but **less** than 20 acres; and

67. 9.6.15 and 9.6.13: Special Use Permit and Planned Development revocation process and bar to re-submit

Section 9.6.15 of the Code allows the Memphis City Council or Shelby County Board of Commissioners to initiate the process to revoke a Special Use Permit or Planned Development that had been approved by each respective body. Based on recent revocation actions and attempted actions, the following language should aid in this process:

9.6.15

- A. If any conditions of a special use permit, planned development or other requirements of this development code are violated, the governing bodies may revoke all or a portion of a special use permit or planned development.
- B. Revocation may occur after an evidentiary hearing is conducted by the governing bodies. **The governing body may refer the matter to the Land Use Control Board for a recommendation on the revocation prior to its evidentiary hearing. All hearings associated with a revocation shall be open to the public with certified notice mailed to the owner of the property that is the subject of the special use permit or planned development. Mailed notice shall be in accordance with Paragraph 9.3.4D(1).**
- C. A special use permit or planned development may be revoked upon a majority vote of the governing body approving the development.
- D. Violation of a condition of approval shall be considered a violation of this development code and thereby subject to the provisions of Article 11, Enforcement, as well as this section.

Similarly, Section 9.6.13 of the Code speaks to the amount of time that an applicant is barred from filing a similar Special Use Permit or Planned Development application on the same piece of property. Currently, this time limit is 18 months and does not include circumstances where the applicant files and application and receives a negative recommendation by the Land Use Control Board or those modifications and appeals where no action is required by the Code of the City Council or County Commission. The following proposal addresses all scenarios and extends the prohibition of filing a similar application from 18 months to five years. This is in response to at least two high-profile cases, one within the City of Memphis (a gas station) and one in unincorporated Shelby County (a gravel pit) where the same applicant made numerous requests for the same use within a relatively short time span.

Two specific exceptions and a general exception will apply to this provision: specifically, this section will continue to allow that the governing body waive this period. This would be procedurally handled in the following manner: prior to filing with the Division of Planning and

Development, the applicant would request that the governing body pass a resolution exempting him or her from this section in order to allow him or her to file the application. Also, this section of the Code spells out what is a “substantially similar” application, allowing the applicant to make changes without the 5-year period applying. If the Zoning Administrator finds that a particular application is substantially similar, the general exception to this provision may be invoked: appealing that finding to the Board of Adjustment. This would be procedurally handled in the following manner: prior to filing the Special Use Permit or Planned Development application with the Division of Planning and Development to be heard by the Land Use Control Board, the applicant would first file an appeal with the Division to be heard by the Board of Adjustment. Its focus would be solely on whether the Zoning Administrator erred in his or her determination that the new proposal was substantially similar to the old proposal. If the Board of Adjustment approved the appeal, the applicant would then file the Special Use Permit or Planned Development application.

9.6.13

- A. If the governing body votes to deny an application, there may be no subsequent similar application submitted by any party for any part of the subject property until **5 years** ~~18 months~~ have elapsed from the date of denial, or from the date any appeal thereof becomes final, whichever is later. **This 5-year period shall also apply to: 1) those cases on which the Land Use Control Board conducts a vote but are withdrawn before the governing body may act and 2) those cases involving modifications (see Sub-Section 9.6.11E and Section 9.6.12) and appeals (see Sub-Section 9.23.1C) on which the Land Use Control Board conducts a vote and no further action by the governing body is taken.** The governing bodies may waive the time-lapse requirements of this section where it is in the public interest to do so. For the purpose of this Sub-Section, “similar application” shall be interpreted to include, but is not limited to, the following:
1. For those applications requesting a use not permitted in the underlying zoning district or permitted by issuance of a special use permit, a same or similar use, pursuant to the use categories provided in this Code.
 2. For those applications requesting bulk and/or lot size variations to this Code, a street layout that is substantially similar, or where the requested number of lots is substantially similar.

68. 9.8.6B: Sign posting for street and alley closure extensions

This section of the Code, which addresses extensions to street and alley closure petitions that have already been approved by the Memphis City Council or Shelby County Board of Commissioners, mentions a 300-foot mailing requirement, which conflicts with Section 9.3.4 requiring a 500-foot mailed notice. This proposal deletes the 300-foot language and stipulates that time extensions for street closures shall follow the same notice requirements as their original approval, based on Section 9.3.4.

Not less than 35 or more than 75 days after an application has been determined complete, the Land Use Control Board shall hold a public hearing and give notice in accordance with Section 9.3.4, Public Hearings and Notification, **based on the closure type (conversion, physical closure or abandonment)**. ~~For conversions and physical closures, mailed notice shall also be delivered to all property owners within a three hundred (300) foot radius of the street or alley closing.~~

69. 9.11.2C: Misspelling

If streets have been improved, or partially improved, an application for right-of-way vacation in accordance with Chapter 9.8 shall also be **filed** ~~filled~~.

70. 9.19.1: Misspelling

Certificates of occupancy are required to **ensure** ~~insure~~...

71. 9.22.1B: Reference to subdivision waivers

This section of the Code stipulates that the Board of Adjustment may not grant variances related to subdivisions. The primary purpose is to prevent an applicant filing a variance with the Board of Adjustment from the subdivision regulations to create a subdivision without filing a plat with the Land Use Control Board. It is also meant to prevent a variance from being filed on matters such as road width, offset, etc. that are covered through the subdivision review process. However, this section is worded to imply that the Board cannot grant variances from those sections of the Code referenced in Sub-Section 9.7.7F (which is currently mistakenly listed as Sub-Section 9.7.73; a mistaken cross-reference that appears to have occurred with the Word document that holds the UDC during the adoption of ZTA 14-1). These include the Code's streetscape plates, which are often applied during site plan review and not through subdivision review. In other words, if a property owner is seeking alternate placement of street trees on a single property he or she may file a variance; going through the subdivision process would be inappropriate since the lot in question is already likely platted. The following amendment will clarify this:

9.22.1B: The Board of Adjustment shall have authority to vary the standards of this development code, except for those associated with **the creation of** subdivisions (see Sub-Section 9.7.7F~~3~~ for subdivision waivers).

72. 9.23.1A, 9.23.1C(1), 9.23.2A, 9.23.2E(1) and 9.2.2: Appeals

Any decision made by OPD and other departments interpreting provisions of the UDC are appealable to the Board of Adjustment, pursuant to the enabling acts passed by the Tennessee General Assembly that allows zoning in Memphis and Shelby County. However, for certain items, such as minor subdivisions and special use permit and planned development minor modifications, those appeals go to the Land Use Control Board pursuant to Section 9.2.2. The following language adds a reference to that section in Sub-Section 9.23.1A:

9.23.1A: An appeal by any person authorized by Section 9.2.2 to file an appeal and aggrieved by a final order, interpretation or decision of the **Zoning Administrator**

Planning Director (see Item 1 above with regards to this amendment), Building Official or other administrator in regard to the provisions of this development code may be taken to the Board of Adjustment. However, an appeal of a minor preliminary plan, **as well as those other items articulated in Section 9.2.2,** may only be taken to the Land Use Control Board.

Paragraph 9.23.1C(1) of the Code provides parties five days to file said appeal, with the clock starting once the receiving party receives notification of the decision in question. This appears to be worded specifically for the applicant or property owner requesting to appeal an adverse action by OPD, but not other aggrieved parties such as neighboring property owners. For instance, if an administrative site plan is approved by OPD, only the owner and his or her agents are notified. Most often, neighboring property owners learn of the approval more than five days after the site plan has been approved. This following language provides a balance between the rights of the subject site property owner, who needs closure as soon as possible, and those of abutting property owners who seek to protest an item that presumably meets all of the provisions of the Code. The following language provides a maximum 14-day window to appeal. It also eliminates any list of the types of cases that may be appealed to the Land Use Control Board since it excludes at least two (for instance, minor modifications to Special Use Permits and Planned Developments); the proposal below will replace this list with a reference to Section 9.2.2, which outlines all of the types of cases that are appealed to the Board of Adjustment and which ones are appealed to the Land Use Control Board.

9.23.1C(1): An appeal of an administrative decision shall be filed with the Secretary of the Board of Adjustment or, if **directed by Section 9.2.2** ~~a special exception or minor preliminary plan,~~ with the Secretary of the Land Use Control Board and with the aggrieved entity, within five days of receipt of the decision unless a different time frame is provided in one of the Chapters of this Article. **For non-applicants and other property owners who would not receive notice of an administrative decision under the provisions of this Code, an appeal shall be filed within five days of their receipt of the decision but under no circumstance more than 14 days after the date of the decision.**

Sub-Section 9.23.2A outlines who has the right to appeal a decision by the Land Use Control Board to the governing bodies. It currently excludes appeals of the Planning Director from the kinds of cases that may be appealed further to the City Council but does not include other exclusions provided for in Section 9.2.2, the appeal table. Similar to the proposal above, the list of items covered by this section will be replaced with a reference to Section 9.2.2:

9.23.2A: Right to Appeal. **Applicants and any other** individual appearing and providing vocal objection to, or submitting written comments on, a particular application at a meeting of the Land Use Control Board may appeal a decision of the Land Use Control Board, on said application, to the governing bodies, **provided the application type is outlined as appealable to the governing bodies in Section 9.2.2.** ~~except where the Land Use Control Board hears an appeal of the Planning Director. Applicants may also appeal decisions made by Land Use Control Board to the governing bodies.~~

9.23.2E(1): Any matter that is heard by the Land Use Control Board that would not otherwise be forwarded to the Memphis City Council or Shelby County Board of Commissioners for final

consideration is appealable to these legislative bodies. Paragraph 9.23.2E(1) contains the mailed notice for the public hearing of such an appeal; it requires mailed notice to the applicant, appellant, all parties who spoke at the meeting and members of the Technical Review Committee. This proposal would eliminate members of the Technical Review Committee since these individuals are staff members of various City and County agencies who are not notified of any hearing of the City Council and County Commission but rather attend as a function of their job duties. It will also replace members who spoke on the matter with all parties who received public notice for the initial public hearing before the Land Use Control Board; this will result in many more people receiving mailed notice.

9.23.2E(1): The appeal shall be scheduled for legislative consideration. Notice shall be sent to the applicant, the appellant **and all parties who received mailed notice for the Land Use Control Board meeting under Sub-Section 9.3.4A**, ~~any individual appearing or who submitted written comments at the Land Use Control Board meeting, and members of the Technical Review Committee~~, not less than ten days or more than 35 days in advance of the scheduled hearing.

Finally, Section 9.2.2 contains the parties that may appeal decisions of the Planning Director (as well as the Building Official and City and County Engineers): those property owners within 1000 feet of the subject property. This needs to also include the subject property owner, as a decision may be adverse to his or her interests:

9.2.2 (footnote A**): Only **the subject property owner and** those property owners within 1000 feet of the subject property, as measured from property line to property line, may appeal decisions of the Zoning Administrator ~~Planning Director~~ (this amendment is covered above), Building Official or City or County Engineer.

73. 10.5.1: Nonconforming lots and tracts

This proposed amendment has been removed from consideration.

74. 11.1: Injunctive relief

Article 11 provides for remedies to violating the provisions of the Code, including the ability of the Environmental Court to impose a \$50 fee for each day a violation exists. Chapters 11.3 and 11.4, which provide remedies specifically to violations to the tree and sign ordinances of the Code, also provide injunctive relief. In other words, a person found in violation of the tree and sign code may be ordered to stop work and cease some or all utilization of the subject property by the Environmental Court. Curiously, injunctive relief is not provided for violations for other sections of the Code. The language below addresses this:

11.1A: Any person, firm or corporation violating any of the provisions of this development code shall, upon conviction thereof, be fined not more than \$50.00. Each day's continuance of a violation shall be considered a separate offense. In addition to the party violating this development code, any other person who may have knowingly assisted in the commission of any such violation shall be guilty of a separate offense. **The City and/or County may also seek an injunction or other order of restraint or abatement that requires the correction of the violation.**

75. 12.3.1: Definitions of “Boarding House” and “Rooming House”

Boarding houses are defined as those dwellings that have more than four unrelated individuals residing together; rooming houses are defined as those dwellings with four or fewer individuals residing together for periods of less than 30 days. To aid in the citation of these uses in Environmental Court, the following language is proposed for both definitions, which provide quantifiable evidence of the existence of these uses:

BOARDING HOUSE: A building where lodging, with or without meals, is provided for compensation for five or more persons, who are not transients, by prearrangement for definite periods, provided that no convalescent or chronic care is provided. **Evidence that a property is being utilized as a rooming house may include, but is not limited to, the following: keyed locks on interior doors, number of mailboxes or mail receptacles, excessive parking and signs indicating individual rooms for rent.**

ROOMING HOUSE: A dwelling where lodging is provided for compensation for at least one, but not more than four, transients at one time, by prearrangement for a period of less than 30 days. **Evidence that a property is being utilized as a rooming house may include, but is not limited to, the following: keyed locks on interior doors, number of mailboxes or mail receptacles, excessive parking and signs indicating individual rooms for rent.**

76. 12.3.1 and 2.6.2G(3): Other definitions

Commercial parking is currently defined as any parking that serves as nonresidential use. However, there are some parking lots, such as church parking lots, that may be approved through the Conditional Use Permit process, conflicting with the regulation requiring commercial parking through the Special Use Permit process. This clarification to the definition of “commercial parking” below will correct this inconsistency:

COMMERCIAL PARKING: Any surface or structured parking that serves an off-site nonresidential use(s), **except for those nonresidential use(s) permitted in residential districts such as places of worship and schools.**

The change above will also necessitate a clarification to the cross-reference included in Paragraph 2.6.2G(3) with regards to off-site parking for places of worship if the parking is within 300 feet of the place of worship: this needs to be to Item 4.5.2C(2)(e) and not specifically to one of its sub-items, 4.5.2C(2)(e)(2).

Repetition:

DROP-IN CHILD CARE CENTER: ~~DROP-IN CHILD CARE CENTER:~~

The very end of the definition of “Frontage” says that private drives may provide required frontage for lots if they are approved in subdivisions or planned developments by the Land Use Control Board. Since the City Council or County Board of Commissioners actually approve planned developments, the following language is proposed:

FRONTAGE:...Access via private access easements across adjacent properties to a public street shall not constitute frontage except for subdivisions and planned developments with private drives as approved by the Land Use Control Board **or governing body**.

Also, the definitions of “Group Shelter,” “Nursing Home,” “Residential Home for the Elderly” and “Transitional Home” state that the Planning Director (hereafter known as the Zoning Administrator) may approve supportive living facilities or personal care homes that are not licensed. The practice of the Office of Planning and Development (hereafter known as the Office of Zoning Administration) is to discourage any “by right” homes of this kind that are not license, much less approve them. The following amendments will codify this practice:

GROUP SHELTER: A residence, operated by a public or private agency, which may provide a program of services in addition to room and board to persons on a voluntary basis under continuous protective supervision. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized governmental agencies, ~~or in other instances, approved by the Planning Director (who shall provide any such applicant with written notice of his determination),~~ and thereby allowed by right within all residential zones in accordance with the definition of “family” hereunder.

NURSING HOME: An establishment which provides full time convalescent or chronic care, or both, for five or more individuals who are not related by blood or marriage to the operator or who, by reason of advanced age, chronic illness or infirmity, and unable to care for themselves and required skilled medical staff. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized governmental agencies, ~~or in other instances, approved by the Planning Director (who shall provide any such applicant with written notice of his determination),~~ and thereby allowed by right within all residential zones in accordance with the definition of “family” hereunder.

RESIDENTIAL HOME FOR THE ELDERLY: A building where at least two ambulatory persons, of at least 55 years of age, reside and are provided with food and custodial care for compensation, but not including nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized governmental agencies, ~~or in other instances, approved by the Planning Director (who shall provide any such applicant with written notice of his determination),~~ and thereby allowed by right within all residential zones in accordance with the definition of “family” hereunder.

TRANSITIONAL HOME: A residence used for the purposes of rehabilitating persons from correctional facilities, mental institutions, and alcoholic and drug treatment centers and operated by a public or private agency duly authorized and licensed by the state, which agency houses individuals being cared for by the agency and deemed by the agency to be capable of living and functioning in a community and which provides continuous professional guidance. This definition does not include supportive living facilities or personal care homes for the elderly licensed by any duly authorized

governmental agency or in other instances, approved by the director of the Memphis and Shelby County Office of Planning and Development (who shall provide any such applicant with written notice of his or her determination), and thereby allowed by right within all residential zones in accordance with the definition of "family" hereunder.

PUBLIC COMMENTS, ORDERED CHRONOLOGICALLY AS THEY WERE REC'D
(responses from the Division of Planning and Development provided in yellow)



Thursday October 1, 2020

An Open Letter to City Council Officials, Board of Appeals Members, and Office of Planning and Development Staff.

We are writing to express concerns about the proposed amendments to the Unified Development Code (UDC) listed in the staff report for ZTA 20-1 and to request revisions in the proposed amendments. Our concerns are in reference to:

1. Section 1.9 Consistency with Memphis 3.0.
2. Section 8.4.5D and 9.22.10B to send deviations from the UDC to the Board of Adjustment rather than to the Land Use Control Board.
3. Section 10.5.1 Amendment to change the meaning of the nonconforming lots regulations.
4. Section 9.8.6B Amendment to the requirements for notice regarding the closure of alleys.
5. Sections 2.6.4D and 6.5.1 deferring to TDEC regulations.

We believe it is very important to preserve the rights of citizens and neighborhoods affected by land use applications to participate effectively in the determination of consistency with the Memphis 3.0 general plan. In the recent case of the Connections Center Special Use Permit 20-01 proposed for Jackson Ave, Office of Planning and Development staff determined that the Center application was consistent with 3.0. However, a coalition of neighborhood groups and citizens did not agree the use was consistent and felt strongly that it would be harmful to the continued improvement in their neighborhoods. We request to add the following language to UDC section 1.9B to make it clear that citizens and neighborhoods who disagree may effectively challenge the interpretation of consistency as the item is considered by boards and bodies responsible for making land use decisions.

Boards and bodies responsible for determination of consistency shall also consider comments from affected citizens and neighborhoods.

We are opposed to the changes to UDC Sections 8.4.5D, 8.4.6 and 9.22.10 that allow deviations to the regulations in the UDC to be sent to the Board of Adjustment (BOA) instead of the Land use Control Board (LUCB). We request the removal of these amendments to the UDC regulations. There are substantial differences in public notice and the length of time available for citizen participation in the BOA process as compared to the LUCB process which we believe significantly diminish the rights of citizens and neighborhoods to participate in the land use approval process. A very important difference is that the LUCB is a longer, two-step process which allows an appeal to the Memphis City Council. The BOA process is a significantly shorter, one step process which allows no appeal except to go to court which is out of reach for most citizens and neighborhoods.

The OPD staff report proposes to make this change in process to reduce the situations in which a property owner must go to the LUCB (Special Exception) and the BOA (Variance) for relief from the regulations. However, evidence in the annual reports to LUCB show that there are very few applications for Special Exceptions; 2020 - 1 (maybe 2), 2019 - 1, 2018 - 0 and 2017 - 1. With so few Special Exception cases, there is no reason for this change which makes it hard for citizens to have a voice in the land use approval process. No appeal to the City Council means that all developers will choose the BOA process if the process is written as a choice as proposed in this ZTA staff report.



We are opposed to the proposed amendments to UDC Section 10.5.1, which change the meaning of the nonconforming lots regulations. According to the OPD staff report, the reason for this change to regulation of nonconforming lots is that this has always been the intent of the regulations. We believe the intent of the regulation is exactly as it is written to affect nonconforming lots created by deed or by recorded plan.

At first glance this change may appear to support infill development and density that will improve the city by making housing more affordable. However, its actual effect has been to promote demolition of affordable existing homes which have been replaced by very expensive "tall skinny" homes on 25-foot lots. These homes have contributed to changing the Cooper Young neighborhood from a mixed income neighborhood to one that is too expensive for citizens with low and moderate income. We ask that this proposed change to the nonconforming lots regulations be removed from the list of proposed changes to the UDC in ZTA 20-1. This proposed change in the nonconforming lots regulations will legalize the practice of purchasing a 50-foot lot, demolishing the original home and building "tall skinny" homes on 25-foot-wide lots.

We are opposed to the changes to UDC Section 9.8.6B, amending the requirements for notice regarding the closure of alleys. The current requirements of posting a sign in addition to maintaining the requirement of mailed notice to allow extension of an alley closure permit by three years should be maintained. Simply posting a sign three years after a permit was issued to allow an extension is not sufficient notice for the affected property owners, regardless if the same owners agreed to the previous closure permit.

We believe that the closure of landfills should be reviewed by local government. While TDEC approved reclamation plans may be sufficient, there may be cases in which local requirements may be more demanding. There is no reason for local government to give up this authority regarding landfills. We oppose the changes proposed under Sections 2.6.4D and 6.5.1 and request that the language remain as is.

We are joined in sending this letter with our partners in working for a better Memphis who also hope that our suggestions are included in the final adopted version of the amendments to the Unified Development Code. The full list of partners is included in the signature line of this letter. Our specific areas of concern, additions, and suggestions are listed on the next page.

Sincerely,

Quincy N. Jones, Director of Programs, Neighborhood Preservation, Inc.



Neighborhood
Preservation,
Inc.

Respectfully Submitted,

Andy Kitsinger, AIA-AICP

Board President



Sections of ZTA 20-01 with our suggested changes

The numbering scheme below reflects the numbered items in the OPD staff report

4. 1.9 Consistency with Memphis 3.0 and references to the Major Road Plan, **Add bolded and underlined text**

1.9 CONSISTENCY WITH MEMPHIS 3.0 AND OTHER PLANS TO BE CONSIDERED

A. All land use decisions pursuant to TCA 13-4-202(b)(2)(B)(iii) shall be consistent with the Memphis 3.0 General Plan.

B. Determination of Consistency. When making land use decisions, the boards and bodies responsible for making such decisions shall consider the decision criteria described in the Memphis 3.0 General Plan in its determination of consistency. **Boards and bodies responsible for determination of consistency shall also consider comments from affected citizens and neighborhoods.**

C. Memphis 3.0 and this Code the Memphis 3.0 General Plan shall be used to guide land use decisions but not in any way supplant the regulations of this Code, including but not limited to its Zoning Map or Overlay Districts. A determination of consistency with Memphis 3.0 shall not supersede the approval criteria and findings of fact required for individual land use decisions, as provided in this Code.

D. The following plans shall be considered in any decisions under this development code...

DPD Response: Agreed; see revised language in the staff report above.

12. 2.6.4D and 6.5.1: TDEC's involvement with landfills and gravel mining, **Keep current version**

6.5.1D: All excavations shall be filled and the land restored, re-graded and re-sloped as nearly as practicable to its original condition, and grade within 90 days after the date sand, gravel or other extraction operations cease...

6.5.1E: Land shall be restored, re-graded and re-sloped as nearly as practicable to its original condition and grade provided, however, that after such reclamation activities, no slope on such land shall be steeper than three feet horizontal to one foot vertical and no greater quantities of drainage water shall flow onto adjoining properties or shall flow at a faster rate onto adjoining properties than such drainage water flowed prior to the commencement of sand, gravel or other extraction or processing activities on the land reclaimed

DPD Response: Agreed, but the revised proposal above does include the allowance for a TDEC reclamation plan to satisfy the UDC requirement for a final reclamation plan. In many instances, TDEC will allow a former gravel pit to be filled with water to become a lake.

59. 8.4.5D, 9.22.10B and 9.22.10C (new section): Variances and similar applications; **Keep current version**

8.4.5D: Unlisted and Listed Standards: Any request for a deviation from a standard of the Unified Development Code not included in the Midtown District Overlay shall be reviewed by the Board of Adjustment in accordance with Chapter 9.22, Variances. Any request for a deviation from a standard included in the Midtown Overlay District not listed as an Administrative Deviation shall be reviewed by the Land Use Control Board as a Special Exception, in accordance with Section 8.4.6, below

9.22.10 (section heading) Pending Applications

9.22.10B: If a variance application also requires the approval of a special exception (see Chapter 9.14), the Board of Adjustment may consider the special exception as a variance request. Under such a circumstance where the request involves additional height, the Board of Adjustment may only grant the request for additional height if it makes a finding that the subject site exhibits extraordinary topographic conditions.

9.22.10C **Do not add**

DPD Response: Agreed, in part. The revised language would eliminate the proposal to allow any matter that is approval by Special Exception to also be approved by variance (this amendment was proposed for Sub-Section 9.22.10B). However, it retains the proposal to allow a matter approvable by Conditional Use Permit to be approved as a variance since both matters are heard by the same body, the Board of Adjustment, and would eliminate the need to apply for two separate applications before the same body at the same meeting. This amendment is found within a new Section 9.24.11, which also allows the Conditional Use Permit and variance to be merged as a Planned Development.

As for the proposed amendment to the Midtown Overlay (listed above as a change to Sub-Section 8.4.5D), it has been altered to match the Special Exception language of the Medical and University District Overlays (specifically, Paragraphs 8.2.3C(2) and 8.3.4C(2), respectively). Currently, the Code allows exceptions to any listed standard within the Midtown Overlay as a Special Exception but to any unlisted standard as a variance. The issue is not the infrequency of the number of Special Exceptions in Midtown in the past, but the likelihood that some waivers that should have been processed as Special Exceptions under the current language of UDC Sec. 8.4.5D were in fact processed as variances since so many regulations of the Midtown Overlay are repetitive of regulations found in other parts of the Code. This is largely due to the fact that the Midtown Overlay predated the UDC by a few months and purposely included language proposed for the UDC, but not the predecessor zoning code, as a “bridge” between the

Overlay's and the UDC's separate adoptions. The revised proposal will maintain the allowance for Special Exceptions in the Midtown Overlay, but focus them on the **specific, articulated** issues, the same issues that are processed as Special Exceptions in the Medical and University District Overlays (building height and parking), as well as one additional issue that is currently found in the Midtown Overlay as a Special Exception (active ground floor space in parking garages).

68. 9.8.6B: Sign posting for street and alley closure extensions, **Keep current version**
Not less than 35 or more than 75 days after an application has been determined complete, the Land Use Control Board shall hold a public hearing and give notice in accordance with Section 9.3.4, Public Hearings and Notification. For conversions and physical closures, mailed notice shall also be delivered to all property owners within a five three hundred (500) (300) foot radius of the street or alley closing

DPD Response: Agreed. The primary purpose of this proposal was to eliminate the conflict between this section, which requires a 300-foot notice, and the Notice Table (Section 9.3.4), which requires a 500-foot notice, in favor of the greater notice. The original proposal of this item would have both corrected this and only required those street closures that have expired to go through the original notice requirements. The revised language will now require all street closure extensions – be they expired or not – to provide the same notice as the original approval.

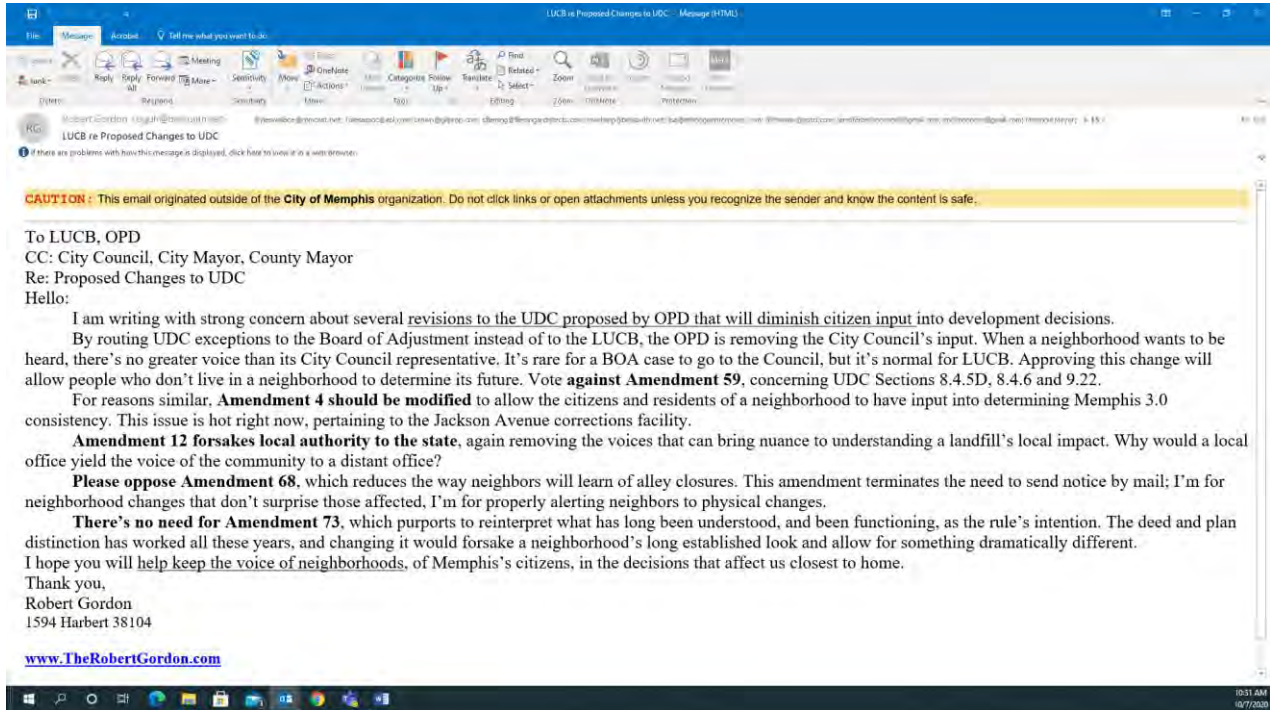
73. 10.5.1 Nonconforming lots and tracts; **Keep current version**

10.5.1: In any district in which single-family detached dwellings are a permitted use, notwithstanding the regulations imposed by any other provisions of this development code, a single-family detached dwelling which complies with the restrictions of Section 10.5.2 below may be erected on a nonconforming lot that is not less than 25 feet in width, and which:

- A. Has less than the prescribed minimum tract or lot area, width and depth, or any of them; and
- B. Is shown by a recorded plan or deed to have been a lot of record or tract owned separately and individually from adjoining tracts of land at a time when the creation of a lot or tract of such size, depth and width at such location would not have been prohibited by any zoning or other ordinance; and
- C. Has remained in separate and individual ownership from adjoining tracts of land continuously since March 1, 1989.

DPD Response: Agreed; clarity has been provided above. See revised discussion and proposed language for this Item above in the body of the staff report.

.....





PO BOX 9695 MEMPHIS, TN 38190-0695 (901) 300-0250

November 3, 2020

Mr. Josh Whitehead
Zoning Administrator
Division of Planning and Development
125 N Main Street, Suite 468
Memphis, TN 38103-2030

RE: Zoning Text Amendment (ZTA) 20-1

Name: Dr. Yvonne D. Nelson
Home Address: 3519 McCorkle Road, Memphis, TN 38116-3923
Organization: McCorkle Road Neighborhood Development Association, Inc. of Memphis dba
Whitehaven Community Development Corporation
Subject: Objections to portions of the Amendments to the M&SC Unified Development Code

Dear Mr. Whitehead

As spokesperson for the MRNDA dba the Whitehaven CDC, I am speaking to you from the perspective of the areas concerned citizens, who collectively wishes to address the Division of Planning and Development regarding several changes to the existing Unified Development Code. First and foremost, we applaud your decision to make many of these changes, including Item #s 8, 17, and 34. At this time, we will reserve our opinions for and/or against the Memphis 3.0 Plan.

Section 64. 9.3.2B and D, "Neighborhood Meetings" are of grave concern.

Neighborhood meetings must remain mandatory for all zoning requests. Furthermore, a better effort should be required to ensure that all active neighborhood associations are listed and on file at the Memphis Office of Community Affairs as well as on file with the Division of Planning and Development.

While many organizations may actually be registered, they are not always receiving zoning change requests. For example, the McCorkle Road Neighborhood Development Association, Inc. of Memphis was founded in 1994 and has been a very active association in ZIP Code 38116, the Whitehaven community, since its inception. The members long ago decided to direct all of the organization's mail to a post office box. A postal facility a mere 2.0 miles away was selected; however, post office box ZIP Codes do not match residential area ZIP Codes and thereby creates a problem if you are looking for a match when one does not and will never exist.

Therefore, the suggested language for 9.3.2B(1) and 9.3.2D should not rely on an associations "official mailing address," in determining whether a zoning issue is or is not in the same ZIP Code(s) as the property subject to the rezoning action.

Section 65. 9.3.4A "Public Notice" is again of grave concern.

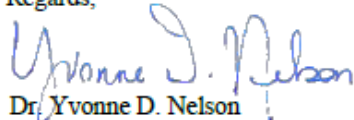
Residents of all districts have the right to be notified, far in advance, when zoning or other changes are being made or contemplating to be made in their communities. The size of the subdivision should not play a role in who is notified, when, and/or why. Furthermore, the boundaries should be defined by each association and in cases where the association does not provide boundaries, then, at a minimum, properties within a 1.5-2.0 mile radius should be automatically notified since no organized association may already exist.

The current notification system is faulty. Notifications should include area leaders on (or off) file and both property owners and current renters, within a 1.5-2.0 mile radius of the zoning issue. All of these individuals should be notified in advance of all changes being proposed. The current "500' diameter radius or 25 homes, whichever comes first," resulted in less than one-third of the homes directly affected being notified in a recently won case. The burden of notifying the entire community affected should lie with the developer, not the community's organized (or unorganized) neighbors themselves.

Furthermore, (1) all street/corner hustling should be ceased. Vendors should be regularly checked for valid licenses to sell products from street corners, especially during holiday seasons and (2) all signs illegally placed on empty lots, light poles, and/or corners to advertise any company should be immediately removed and the business owner should be fined a reasonable amount, per sign, until they stop littering our streets with unsightly "We Buy Houses" and related propaganda. They should be referred to the section on "Billboards" and be required to abide by those laws.

Thank you in advance for considering these additional items in your zoning text amendments. We shall look forward to receiving a favorable outcome from each of these requests.

Regards,



Dr. Yvonne D. Nelson
President

McCorkle Road Neighborhood Development Association, Inc. of Memphis dba
Whitehaven Community Development Corporation
Post Office Box 9695
Memphis, TN 38190-0695

DPD Response: On Item 64, agreed. This proposal has been removed from this set of amendments. On Item 65, the proposed amendment will provide **more** mailed notice than what is currently provided, not less. Furthermore, it does not propose any changes to the notification radii provided in the Code. Many of the concerns raised in this letter are addressed by the

extraordinary notice that the Division engages in with all applications filed. For the past several years, the Division will email all neighborhood leaders of all applications within 24-48 hours of the application deadline. In the past few months, this has been reduced to about 12 hours, giving these neighborhood leaders about a month to review the case – the same time that is allotted to the staff planner assigned to the case. At the same time this notice is made, the Division will post the same notice on Nextdoor.com. As of the writing of this staff report, more than 130,000 households follow DPD on Nextdoor, meaning **nearly 40% of all households affected by Board of Adjustment and Land Use Control Board decisions are notified of those decisions about a month in advance.** The author of this report knows of no other jurisdiction that provides this level of advanced notice for land use cases that reaches such a substantial percentage of its citizenry.



Hello Friends,

As you might know, the Office of Planning and Development is proposing several changes to the Unified Development Code. We feel that many of these proposed changes are not in the best interest of our historic neighborhoods (and all of our neighborhoods). Please see the links below my signature for more information.

The Land Use Control Board will hear the proposed changes at their meeting on November 12 at 9:30am. Comments are due to Josh Whitehead at josh.whitehead@memphistn.gov this Friday at 8am.

Quincy Jones with Neighborhood Preservation, Inc. is leading a Zoom call tomorrow, Wednesday 11/4, at 11am to discuss the amendments. I apologize for the late notice. Here is the link to the meeting:

Join Zoom Meeting

<https://us02web.zoom.us/j/88551193968?pwd=VEZBREpZbUk5cTd1bGZVd1I5MHp7Zz09>

Meeting ID: 885 5119 3968

Passcode: 768119

We will send out an update after the call. We hope that you will consider writing a letter to voice your concerns. Please be in touch with any questions.

At my best

Holly

Holly Jansen Eulertson
Executive Director
Memphis Heritage, Inc.

Whitehead, Josh

From: Emily Graves <emilytgraves@gmail.com>
Sent: Thursday, November 5, 2020 11:21 AM
To: Whitehead, Josh
Subject: Staff Report ZTA 20-1: Concerns re: UDC amendments, request for revisions

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Whitehead,

I am writing to express concerns about the proposed amendments to the Unified Development Code (UDC) listed in the staff report for ZTA 20-1 and to request revisions in the proposed amendments, specifically in reference to:

1. Section 1.9 Consistency with Memphis 3.0,
2. Section 8.4.5D and 9.22.10B to send deviations from the UDC to the Board of Adjustment rather than to the Land Use Control Board,
3. Section 10.5.1 Amendment to change the meaning of the nonconforming lots regulations,
4. Section 9.8.6B Amendment to the requirements for notice regarding the closure of alleys,
5. Sections 2.6.4D and 6.5.1 deferring to TDEC regulations.

I will not re-write the correspondence you received from Neighborhood Preservation, Inc., dated October 1, 2020 -- I support all of their revisions and their associated reasoning. I am happy to re-send their letter if needed.

Let's make Memphis better for everyone and protect the fabric and character of our neighborhoods.

Regards,

Emily Graves, MD, FACS
Founder, Physicians for Urban Parks, Inc.
1412 Carr Ave
Memphis, TN 38104
(901) 258-4613

.....

Whitehead, Josh

From: Patrick McCabe <plmccabe@live.com>
Sent: Thursday, November 5, 2020 12:54 PM
To: Whitehead, Josh
Subject: Proposed Changes to the UDC

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Whitehead:

I am writing to support the effort against the currently proposals to change the UDC.

In short,

I believe it is very important to preserve the rights of citizens and neighborhoods affected by land use applications to participate effectively in the determination of consistency with the Memphis 3.0 general plan.

In the recent case of the Connections Center Special Use Permit 20-01 proposed for Jackson Ave, Office of Planning and Development staff determined that the Center application was consistent with 3.0. However, a coalition of neighborhood groups and citizens did not agree the use was consistent and felt strongly that it would be harmful to the continued improvement in their neighborhoods.

I request to add the following language to UDC section 1.9B to make it clear that citizens and neighborhoods who disagree may effectively challenge the interpretation of consistency as the item is considered by boards and bodies responsible for making land use decisions. Boards and bodies responsible for determination of consistency shall also consider comments from affected citizens and neighborhoods.

I am opposed to the changes to UDC Sections 8.4.5D, 8.4.6 and 9.22.10 that allow deviations to the regulations in the UDC to be sent to the Board of Adjustment (BOA) instead of the Land use Control Board (LUCB). We request the removal of these amendments to the UDC regulations. There are substantial differences in public notice and the length of time available for citizen participation in the BOA process as compared to the LUCB process which we believe significantly diminish the rights of citizens and neighborhoods to participate in the land use approval process. A very important difference is that the LUCB is a longer, two-step process which allows an appeal to the Memphis City Council. The BOA process is a significantly shorter, one step process which allows no appeal except to go to court which is out of reach for most citizens and neighborhoods.

The OPD staff report proposes to make this change in process to reduce the situations in which a property owner must go to the LUCB (Special Exception) and the BOA (Variance) for relief from the regulations. However, evidence in the annual reports to LUCB show that there are very few applications for Special Exceptions; 2020 - 1 (maybe 2), 2019 -1, 2018 - 0 and 2017 -1. With so

few Special Exception cases, there is no reason for this change which makes it hard for citizens to have a voice in the land use approval process. No appeal to the City Council means that all developers will choose the BOA process if the process is written as a choice as proposed in this ZTA staff report.

I am opposed to the proposed amendments to UDC Section 10.5.1, which change the meaning of the nonconforming lots regulations. According to the OPD staff report, the reason for this change to regulation of nonconforming lots is that this has always been the intent of the regulations. We believe the intent of the regulation is exactly as it is written to affect nonconforming lots created by deed or by recorded plan.

At first glance this change may appear to support infill development and density that will improve the city by making housing more affordable. However, its actual effect has been to promote demolition of affordable existing homes which have been replaced by very expensive "tall skinny" homes on 25-foot lots. These homes have contributed to changing the Cooper Young neighborhood from a mixed income neighborhood to one that is too expensive for citizens with low and moderate income. We ask that this proposed change to the nonconforming lots regulations be removed from the list of proposed changes to the UDC in ZTA 20-1. This proposed change in the nonconforming lots regulations will legalize the practice of purchasing a 50-foot lot, demolishing the original home and building "tall skinny" homes on 25-foot-wide lots.

I am opposed to the changes to UDC Section 9.8.6B, amending the requirements for notice regarding the closure of alleys. The current requirements of posting a sign in addition to maintaining the requirement of mailed notice to allow extension of an alley closure permit by three years should be maintained. Simply posting a sign three years after a permit was issued to allow an extension is not sufficient notice for the affected property owners, regardless if the same owners agreed to the previous closure permit.

I believe that the closure of landfills should be reviewed by local government. While TDEC approved reclamation plans may be sufficient, there may be cases in which local requirements may be more demanding. There is no reason for local government to give up this authority regarding landfills. We oppose the changes proposed under Sections 2.6.4D and 6.5.1.

Sincerely,

Patrick L. McCabe
915 S Mclean





1600 Century Center Pkwy. Suite 104 Memphis, TN 38134
Call 901.396.1900 // Fax 901.332.2905

Josh Whitehead, Planning Director
Memphis and Shelby County Office
of Planning and Development
City Hall, 125 Main Street
Memphis, TN 38103

November 5, 2020

Re: L.U.C.B. case number ZTA 20-01

Dear Mr. Whitehead,

On behalf of Lamar Advertising of Memphis (Lamar), I am writing in response to the proposed UDC amendments pending under Land Use Control Board case number ZTA 20-01. As you are aware, Lamar is the dominant off-premise sign company in the greater Memphis area. We are extremely concerned with certain proposed changes which will have an adverse effect on our business and the entire industry.

Specifically, changes referenced in the staff report Executive Summary at item #47 claim that proposed changes for off-premise signs (Billboards) is an effort that "codifies current interpretations of the Code..." We respectfully disagree with this summary statement; in fact two (2) of the proposed changes adversely affecting our industry are entirely new interpretations of the Code.

The following description of these two (2) proposed UDC changes is in summary for purposes of conveying the objectionable issue and their removal from the proposed text:

UDC 4.9.8A(2): Location of new billboards-

Staff proposed insert: Located within 300 feet of an U.S. Interstate Highways 40, 55 and 240; and

Objectionable issue:

the current Code was developed in 2010 when the only Interstates in Memphis were 40, 55 and 240. The Outdoor Advertising industry mutually agreed with Memphis to limit development of new billboards to the Interstate systems. And since billboards are a "permitted" use under UDC 2.5, this attempt to constrain business growth through elimination of Interstate 69 and future Interstate 22 is contrary to past mutual agreements. At a time when the entire Memphis business community is struggling to support itself and tens of thousands of employees who benefit from the advertising industry's support of the economic engine for buying and selling goods and services, there should not be an unwarranted special interest in curtailing our industry's growth.

UDC 4.9.8E(1): Direction of billboards-

Staff proposed insert: For purposes of this Sub-Section, sign faces positioned within the same 90-degree circular sector shall be considered to be facing the same direction.

Objectionable issue:

the current Code only requires the measurement for "spacing" of signs as being along the "same side of the same road...", therefore, the inclusion of the proposed phrase "**within the same 90-degree circular sector**" may give rise to interpreting a "radial" measurement which would encompass both sides of a road. This is contrary to all historical practice, not only within Memphis Codes but within the entire State of Tennessee as is regulated by the Outdoor Advertising Control Act. We believe a further review of this language for clarification is warranted to prevent potential controversy within the context of established regulatory schemes.

In closing, for the reasons cited above we respectfully request that the Office of Planning and Development along with the Land Use Control Board act to remove of the proposed amendments to sections 4.9.8A(2) and 4.9.8E(1) and defer these matters to a later date and providing for input from the affected parties within the outdoor advertising industry. Please contact me at your convenience for additional discussion or input.

Sincerely,

Michelle R. Millard
Vice-President/General Manager

DPD Response: Agreed; these have been removed from the proposal. Please see revised language above.

.....
.....
Whitehead, Josh

From: Brantley Ellzey <brantleyellzey@gmail.com>
Sent: Thursday, November 5, 2020 3:49 PM
To: Whitehead, Josh
Subject: ZTA 20-01 - annual set of amendments to the Unified Development Code

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Josh,

I am writing at the behest of Memphis Heritage to oppose any changes to the Uniform Building Code that take away citizens' ability to voice their concerns and protect their historic neighborhoods. This attempted end run around the Land Use Control Board process is despicable.

Thank you,

Brantley

.....

MARTIN, TATE, MORROW & MARSTON, P.C.

ATTORNEYS AND COUNSELORS

INTERNATIONAL PLACE, TOWER II
6410 POPLAR AVENUE
SUITE 1000
MEMPHIS, TENNESSEE 38119-4839

DAVID WADE
DWADE@MARTINTATE.COM

TELEPHONE (901) 522-9000
FAX (901) 527-3746

NASHVILLE OFFICE
315 DEADERICK STREET, SUITE 1550
NASHVILLE, TN 37238
TELEPHONE (615) 627-0668
FAX (615) 627-0669

November 5, 2020

Via Electronic Mail

Josh Whitehead
Zoning Administrator
Division of Planning and Development
125 N. Main, Ste. 468
Memphis, Tennessee 38103
Josh.whitehead@memphistn.gov

Re: ZTA 20-1 – Proposed Amendments to the Memphis and Shelby County Unified
Development Code

Dear Josh:

This office has been engaged by Neighborhood Preservation, Inc., and various neighborhood associations throughout the City of Memphis who wish to be heard regarding the referenced proposed amendments currently set for hearing at the November 12, 2020, Land Use Control Board Meeting. These groups comprise over a dozen associations with hundreds of members.

I have reviewed the proposed amendments, the Staff Report, and the Open Letter dated October 1, 2020, addressed to City Council Officials, Board of Appeals Members, and Office of Planning and Development Staff. Mr. Quincy N. Jones, Director of Programs, NPI, discussed with me that he has sought a meeting with you regarding the proposed amendments and would like to pursue doing so.

The Letter of October 1, 2020, describes in detail the concerns and objections of these neighborhood groups. I certainly hope that it will be a part of the packet presented to the LUCB. In addition, DPD should also be receiving individual letters and emails from concerned residents regarding the amendments and the restructuring proposals. Please confirm their inclusion as well.

My clients would very much like to be in a position to appear personally before the LUCB to express their concerns and have asked me to respectfully request that DPD join with

MARTIN, TATE, MORROW & MARSTON, P.C.

November 5, 2020

Page 2

them to request a postponement of the hearing until the public meeting shut-down due to COVID-19 has been lifted. They believe, and I agree, that important issues such as these should be handled with active and in-person citizen attendance.

I called your office earlier today and the receptionist was not able to connect me through to either your or your voice mail, which is the reason for this letter. She suggested I contact you through email.

Also, I will save you from my having to repeat what the various groups have already submitted knowing that their materials will be part of the record.

If you can, please give me a call to discuss these matters. I hope all is well with you in these trying times we are living through.

Best regards,



David Wade

cc. Quincy N. Jones
Quincey Morris
Imani Jasper
Andrew Kitsinger

Whitehead, Josh

From: Karen Stuart <klstuart49@yahoo.com>
Sent: Thursday, November 5, 2020 4:55 PM
To: Whitehead, Josh
Subject: UDC

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr Whitehead,

I have long thought that developers have way too much power in determining what kind of city Memphis will become, but the proposed changes to the UDC are truly a slap in the face to Memphis residents. I know developers have lots of money, but I had the naive belief that city officials might really care about the ideas and well being of those of us who actually live in the neighborhoods affected by their decisions. These changes must not be allowed, and should not even be considered until it is safe to have public input at meetings. I will be watching the outcome of this ill advised proposal.

Sincerely,
Karen Stuart

Whitehead, Josh

From: christina ross <cdross72@hotmail.com>
Sent: Thursday, November 5, 2020 5:15 PM
To: Whitehead, Josh
Cc: Memphis Heritage, Inc.; Memphis Heritage, Inc.
Subject: Amendments to the UDC

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Josh,

I am writing in response to the amendments to the UDC presented in the ZTA-20-1 report. I think this document needs further revision before moving ahead. I read the suggested changes written by Quincy N. Jones of Neighborhood Preservation, Inc. He makes valid statements as to areas needing changes or not to be changed to continue to protect the historic districts. One area he did not mention are the changes to the **Neighborhood Meetings (64.9.3.2B-D)** and **Public notice (65.9.3.4A)**. The changes to both may be helping the neighborhoods in their communication process, but I would like to see both explained better.

Thank you,
Christina Ross
Lea's Woods



P.O. BOX 41375 MEMPHIS, TN 38174-1375

November 5, 2020
Land Use Control Board
125 N Main
Memphis, TN 38103

Subject: ZTA 20-1

Evergreen Historic District Association's Board and Planning Committee have reviewed the proposed amendments to the Unified Development code listed in the staff report for ZTA 20-1. We have concerns about negative impact from these amendments to the rights of residents and neighborhoods to be able to participate effectively in the determination of consistency with Memphis 3.0.

In a letter from Neighborhood Preservation, Inc. dated October 1, 2020, there are laid out specific concerns with the proposed amendments. Evergreen strongly endorses and agrees with the concerns, comments and recommendations laid out in this letter.

Specifically, we completely agree with NPI regarding amendments proposed to UDC Sections 1.9, 8.4.5d, 8.4.6, and 9.22.10, and 10.5.1. Taken together, the effect of these proposed changes makes it more difficult for our neighborhood group and other citizens to have an effective voice regarding proposed development. They also dilute the protections now provided by Land Use Control Board and Memphis Landmarks Commission. Neither are desirable outcomes.

Thank you for your thoughtful consideration.

Jeremy Williams
1st Vice President, Evergreen Historic District Association



Whitehead, Josh

From: Cathy Winterburn <cAthywinter@yahoo.com>
Sent: Thursday, November 5, 2020 8:15 PM
To: Whitehead, Josh
Subject: UDC proposed changes

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

As a 45 year resident of a historic neighborhood (Annesdale Park) I am opposed to these changes. They will diminish the quality of life in our historic neighborhoods!

Sent from my iPhone

Whitehead, Josh

From: Jennifer Amido <jenniferamido@gmail.com>
Sent: Thursday, November 5, 2020 9:28 PM
To: Whitehead, Josh
Subject: Staff report on ZTA 20-01

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Regarding OPD Staff report on ZTA 20-01

Thank you for your time, and much attention to detail as the OPD staff has tackled some of the issues with the UDC.

However I believe the following sections should remain:

Section 9.8.6B Amendment to the requirements for notice regarding the closure of alleys.

The current requirements of posting a sign in addition to maintaining the requirement of mailed notice to allow extension of an alley closure permit by three years should be maintained. Furthermore, if alley ways are closed, adjustments to city/engineering maps to indicate the closers so new property owners do not try to access public alley ways.

Also I oppose changes to UDC Sections 8.4.5D, 8.4.6 and 9.22.10

We want to continue the participation of citizens and neighborhoods in the land use approval process. Allowing residents, communities, neighbors, and community organizations the option to voice their opposition or approval. Having citizen input is beneficial for the city and its development. Strong citizens produce strong communities, which produce strong cities! Land Use & Control Board has the benefit of hearing and making decisions with citizens input, which will lead to a greater city.

Thank you for your time and consideration!

-Jennifer Amido
Crosstown Resident and Community Organizer



November 5, 2020

To: Office of Planning and Development
From: Central Gardens Neighborhood Association
Re: ZTA 20-1

To City Council Officials, Board of Appeals Members, and Office of Planning and Development Staff, regarding proposed amendments to the Unified Development Code (UDC) in the staff report for Zoning Text Amendment (ZTA) 20-1,

We of the Central Gardens Neighborhood Association, Executive Committee and Landmarks Committee are joining the Neighborhood Preservation Inc. (NPI) open letter expressing concerns over the proposals in ZTA 20-1.

In particular, we join NPI in opposing the concerning changes to UDC Sections 8.4.5D, 8.4.6 and 9.22.10 "that allow deviations to the regulations in the UDC to be sent to the Board of Adjustment (BOA) instead of the Land use Control Board (LUCB)."

We understand that the BOA process is more streamlined at a time when the planning department is processing more and more applications. However, as compared to the longer, two-step LUCB process this attempt at streamlining allows for significantly diminished neighborhood participation in the land use approval process. In addition, the BOA process allows no appeal to the Memphis City Council. This more unimpeded approach would seem to encourage developers to apply to the BOA in all cases, and we believe that this change would tip development scales in favor of developers and away from nearby neighbors and neighborhoods protecting their investments and quality of living.

We support NPI's request of the removal of these amendments to the UDC regulations in ZTA 20-1. We also support an exploration of better ways to improve the application process, but most definitely not at the expense of neighborhood input as proposed in these amendments.

Sincerely,
The Central Gardens Executive and Landmarks Committee
Sharon Shipley, President
Shelly Rainwater, Vice President and Landmarks Chair
Mark Fleischer, Past President



Whitehead, Josh

From: Sunny Franklin <sunny.franklin@gmail.com>
Sent: Thursday, November 5, 2020 9:42 PM
To: Whitehead, Josh
Subject: Proposed Changes to the UDC

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Whitehead,

I'd like to add my support to the open letter submitted by Quincy Jones of Neighborhood Preservation, Inc. expressing concerns about the proposed changes to the UDC:

It is imperative that citizens and neighbors retain their ability to voice concerns about development in this city in a way that does not automatically favor or prioritize developers. Thank you for your careful consideration.
Sincerely,
Sunny Franklin

Whitehead, Josh

From: Britton White <bwhite@technologyprocesses.com>
Sent: Friday, November 6, 2020 12:17 AM
To: Whitehead, Josh
Cc: matthew.hollon@shelbycountyttn.gov; Shular, Steve; marlinee.iverson@shelbycountyttn.gov; robert.rolwing@shelbycountyttn.gov; Zeanah, John; lisa@etheridgeenterprises.com; morcross@lrk.com; tolesassoc@aol.com; dlyleswallace@comcast.net; sfleming@flemingarchitects.com; mwsharp@bellsouth.net; brannon.n@gmail.com; mbwilliams@earthlink.net; jenniferbethoconnell@gmail.com; wjones17157@aol.com; shefelal@aol.com
Subject: OPD Staff Report ZTA 20-1
Attachments: ZTA 20-1 Staff Report 1 VBW.pdf; MSG Performance Bond E-Mail Thread 2020.docx; Branah Fahy TRC Timelines.docx; TRC Rules of Procedure.pdf; Tech Review Committee ZTA 13-002 Complete UDC .pdf; 12.12.13 Staff Report TRC.pdf; ZTA 15-002 Staff Report - FINAL final.pdf; ZTA 16-001 Staff Report revised_201609011553566952.pdf

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Whitehead,

Reaching out to you and members of the LUCB and Memphis City/Shelby County Government to advise that I oppose the proposed amendments highlighted in the attached Staff Report (1st attachment).

It's interesting to see the proposed language in item 12 on page 9 when back in May of this year Mr. Rolwing stated, "The County Commission determined in these conditions that MSG could re-countour the land as described in the other conditions and the ordinances or, "in lieu of" that, that OPD could defer to the Tennessee Department of Environment and Conservation on the subject. TDEC is very strict, some might say notoriously strict, about compliance with environmental regulations and safety. Essentially, the County Commission determined that if the reclamation were approved by TDEC, then that plan is sure to be environmentally sound. It is in any event beyond the jurisdiction and expertise of OPD to challenge TDEC's approval of the reclamation plan. We may not agree with these conditions, but the County Commission at the time approved them, and they therefore govern the permits."

At that time, Mr. Rolwing stated the County Commission accepted the TDEC reclamation plan for MSG Rosenberg in this case, and that there was no need for a performance bond. If that was the case then, why is the language being adjusted here/now? During a Code Enforcement meeting back in March of this year, a member of Code Enforcement stated then there was no process to secure performance bonds. Mr. Rolwing stated the County was working on a system to address that issue, which obviously appears to not have been the case. The meeting at Code Enforcement included Chip Saliba, Robert Rolwing, Commissioner Amber Mills, myself, another Shelby County resident, and three members of Code Enforcement.

In the current proposed changes, the City of Memphis & Shelby County are looking to formalize that which Mr. Rolwing stated previously was already in place. Further, since the City of Memphis and Shelby County are unfamiliar with TDEC rules and regulations related to mining and land-fill reclamation, how can the LUCB, the City of Memphis, and Shelby County make informed decisions as to what is best for the county as a whole? TDEC is concerned with environmental laws and regulations of Tennessee, not oversight of the UDC. TDEC is also unable to proactively enforce its own rules and regulations due to a lack of staffing. TDEC does not care how large the holes are, how much water is left behind in those holes, or if trees are clear-cut and never replanted. TDEC is only concerned about the quality of water discharged

from mining sites. As an example, the Memphis Stone and Gravel Griffin pit is expected to hold 560 acre feet of water as drawn out in the last MSG TDEC application for the Griffin pit. That is the equivalent to 560 football fields, including the end zones, each with one (1) foot of water.

Item 74 on page 35 states the City and/or County may also seek an injunction or other order of restraint related to UDC code violations, however, both the City of Memphis and Shelby County have blocked my repeated attempts to submit to environmental court the multiple SUP and Shelby County Code violations committed by Memphis Stone and Gravel. Item 67 on page 31 adds language that the governing body may refer the matter to the Land Use Control Board for a recommendation on revocation. The LUCB is supposed to administer the UDC, but how can the LUCB administer the UDC or make a recommendation on revocation when the LUCB has proven it makes decisions that are outside of the UDC provisions?

As an example, in August of 2015 Memphis Stone and Gravel was granted a 10-year extension on SUP 04-213. The UDC doesn't contain a provision where any extension beyond two years is an option. This past July, the LUCB granted Memphis Stone and Gravel a modified four-year extension for their Rosenberg pit. Again, the UDC doesn't contain a provision where any extension beyond two years is an option. Keep in mind the Rosenberg permit was technically void due to no mining activity for over eight (8) years, yet the LUCB and Shelby County Commission approved the extension, which in and of itself violated Shelby County Code. None of the mining applications prior to the May 2020 Rosenberg application contained an Affidavit as required by the UDC. No tree removal permit was ever secured by Memphis Stone and Gravel for the Rosenberg pit, nor was a tree removal permit secured by Hobson Development for another nearby pit. Performance bonds have not been secured by the City of Memphis or Shelby County as stipulated in the conditions of each special use permit and Shelby County Code. So we have application issues, no oversight of special use permits, and multiple SUP and Shelby County code violations, none of which have been addressed by the City or County. To top it all off, there have been several, recent violations of TDEC rules and regulations at Memphis Stone and Gravel pits Rosenberg and Crenshaw.

Further, I find it very interesting to see where Memphis Stone and Gravel's attorney, Homer Branan, is listed as being on the UDC Review Committee. In the attached ZTA 16-001 Staff Report from September 2016, page 29 clearly shows Mr. Branan listed as "Scrappy Branan" in the CC field, but he's also named elsewhere. Additionally, Memphis Stone and Gravel's spokesperson at the February 2019 County Commission meeting is none other than Michael Fahy, who is also listed as a member of the UDC Review Committee and owns Prime Development. How is it possible for non-City/County employees to be members of the UDC Review Committee or Technical Review Committee when section 9.1.8 of the UDC clearly states, "The Technical Review Committee is comprised of City and County agencies".

So we've had representatives of organizations, who've submitted applications to the LUCB, the City of Memphis, and Shelby County for themselves or on behalf of others, also have their hands in reviewing/modifying Memphis City and Shelby County Code? Clearly this is in direct violation of Memphis City and Shelby County Code. Does anyone have any ethical concerns here?

In previous e-mails with Mr. Hollon, he stated he's shared my request for an official response with the appropriate staff from the County Mayor's Office, yet there's been no response. I understand the City of Memphis has spent \$85 million dollars with Memphis Stone and Gravel's parent company, Lehman-Roberts, over the last eleven years on paving. When I presented my MSG Rosenberg appeal to the Shelby County Commission back on September 28, 2020, it was interesting to see the Chairman of Lehman-Roberts, Pat Nelson, sitting in the back by himself.

All of this being said, I believe you now understand why I am opposed to Staff Report ZTA 20-1.

Sincerely,

W. Britton White

Whitehead, Josh

From: Charles Belenky <cbelenky@gmail.com>
Sent: Friday, November 6, 2020 6:31 AM
To: Whitehead, Josh
Subject: Proposed Amendments UDC

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Whitehead;

I have just learned of this proposal.

I don't think there has been adequate notice and public participation for this to move forward at this time.

If there are going to be forums to discuss this change, please let me know.

Very Truly Yours

Charles Belenky

Whitehead, Josh

From: Justin Gillis <jusgillis@gmail.com>
Sent: Friday, November 6, 2020 6:55 AM
To: Whitehead, Josh
Subject: UDC Changes - Opposed

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I oppose the proposed UDC changes. They reduce the ability of residents to participate in the development of Memphis, limit notifications to residents, and directly impact the City Council's ability to represent the residents of Memphis. This should wait until the people of Memphis can speak on the topic in meetings. The timing is inappropriate.

Justin Gillis
1276 Faxon Ave.
Memphis, TN 38104

.....
Whitehead, Josh

From: Holly Jansen Fulkerson <holly@memphisheritage.org>
Sent: Friday, November 6, 2020 7:15 AM
To: Whitehead, Josh
Subject: Opposition to ZTA 20-1

CAUTION: This email originated outside of the **City of Memphis** organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

On behalf of Memphis Heritage and the historic neighborhoods we work to support, we are voicing our opposition to several of the proposed amendments to the UDC.

We have signed on to the Neighborhood Preservation Inc.'s letter that addresses each concern in detail, but I wanted to emphasize that our overall concern is that several of the proposed changes will take away citizens' ability to voice their concerns about development in our neighborhoods. We feel that many of these changes will tip the scales in favor of developers and away from neighbors.

We request the Board hold this case for 30 days to allow for more discussion with the OPD, so that more citizens may understand the proposed changes to this highly technical document. Maybe the OPD could host a public meeting and explain the proposed changes and the intent behind them?

Thank you,

Holly

Holly Jansen Fulkerson
Executive Director
Memphis Heritage, Inc.
2282 Madison Avenue
Memphis, TN 38104
901-272-2727



Neighborhood
Preservation,
Inc.

Updated Thursday November 5th, 2020

An Open Letter to City Council Officials, Board of Appeals Members, and Office of Planning and Development Staff.

We are writing to express concerns about the proposed amendments to the Unified Development Code (UDC) listed in the staff report for ZTA 20-1 and to request revisions in the proposed amendments. Our concerns are in reference to:

1. Section 1.9 Consistency with Memphis 3.0.
2. Section 8.4.5D and 9.22.10B to send deviations from the UDC to the Board of Adjustment rather than to the Land Use Control Board.
3. Section 10.5.1 Amendment to change the meaning of the nonconforming lots regulations.
4. Section 9.8.6B Amendment to the requirements for notice regarding the closure of alleys.
5. Sections 2.6.4D and 6.5.1 deferring to TDEC regulations.

We believe it is very important to preserve the rights of citizens and neighborhoods affected by land use applications to participate effectively in the determination of consistency with the Memphis 3.0 general plan. In the recent case of the Connections Center Special Use Permit 20-01 proposed for Jackson Ave, Office of Planning and Development staff determined that the Center application was consistent with 3.0. However, a coalition of neighborhood groups and citizens did not agree the use was consistent and felt strongly that it would be harmful to the continued improvement in their neighborhoods. We request to add the following language to UDC section 1.9B to make it clear that citizens and neighborhoods who disagree may effectively challenge the interpretation of consistency as the item is considered by boards and bodies responsible for making land use decisions.

Boards and bodies responsible for determination of consistency shall also consider comments from affected citizens and neighborhoods.

We are opposed to the changes to UDC Sections 8.4.5D, 8.4.6 and 9.22.10 that allow deviations to the regulations in the UDC to be sent to the Board of Adjustment (BOA) instead of the Land use Control Board (LUCB). We request the removal of these amendments to the UDC regulations. There are substantial differences in public notice and the length of time available for citizen participation in the BOA process as compared to the LUCB process which we believe significantly diminish the rights of citizens and neighborhoods to participate in the land use approval process. A very important difference is that the LUCB is a longer, two-step process which allows an appeal to the Memphis City Council. The BOA process is a significantly shorter, one step process which allows no appeal except to go to court which is out of reach for most citizens and neighborhoods.

The OPD staff report proposes to make this change in process to reduce the situations in which a property owner must go to the LUCB (Special Exception) and the BOA (Variance) for relief from the regulations. However, evidence in the annual reports to LUCB show that there are very few applications for Special Exceptions; 2020 - 1 (maybe 2), 2019 - 1, 2018 - 0 and 2017 - 1. With so few Special Exception cases, there is no reason for this change which makes it hard for citizens to have a voice in the land use approval process. No appeal to the City Council means that all developers will choose the BOA process if the process is written as a choice as proposed in this ZTA staff report.



Neighborhood
Preservation,
Inc.

We are opposed to the proposed amendments to UDC Section 10.5.1, which change the meaning of the nonconforming lots regulations. According to the OPD staff report, the reason for this change to regulation of nonconforming lots is that this has always been the intent of the regulations. We believe the intent of the regulation is exactly as it is written to affect nonconforming lots created by deed or by recorded plan.

At first glance this change may appear to support infill development and density that will improve the city by making housing more affordable. However, its actual effect has been to promote demolition of affordable existing homes which have been replaced by very expensive "tall skinny" homes on 25-foot lots. These homes have contributed to changing the Cooper Young neighborhood from a mixed income neighborhood to one that is too expensive for citizens with low and moderate income. We ask that this proposed change to the nonconforming lots regulations be removed from the list of proposed changes to the UDC in ZTA 20-1. This proposed change in the nonconforming lots regulations will legalize the practice of purchasing a 50-foot lot, demolishing the original home and building "tall skinny" homes on 25-foot-wide lots.

We are opposed to the changes to UDC Section 9.8.6B, amending the requirements for notice regarding the closure of alleys. The current requirements of posting a sign in addition to maintaining the requirement of mailed notice to allow extension of an alley closure permit by three years should be maintained. Simply posting a sign three years after a permit was issued to allow an extension is not sufficient notice for the affected property owners, regardless if the same owners agreed to the previous closure permit.

We believe that the closure of landfills should be reviewed by local government. While TDEC approved reclamation plans may be sufficient, there may be cases in which local requirements may be more demanding. There is no reason for local government to give up this authority, regarding landfills. We oppose the changes proposed under Sections 2.6.4D and 6.5.1 and request that the language remain as is.

We are joined in sending this letter with our partners in working for a better Memphis who also hope that our suggestions are included in the final adopted version of the amendments to the Unified Development Code. The full list of partners is included in the signature line of this letter. Our specific areas of concern, additions, and suggestions are listed on the next page.

Respectfully Submitted,

Quincy N. Jones, Director of Programs, Neighborhood Preservation, Inc.



Neighborhood
Preservation,
Inc.

A. Kitsinger

Andy Kitsinger, AIA-AICP
Board President



Charia Jackson, Frayser CDC: Board President, BLDG Memphis



Quincy Morris

Ms. Quincy Morris, President, Klondike Smokey City, CDC



Seth Harkins

Seth Harkins, Executive Director Alcy Ball CDC





Neighborhood
Preservation,
Inc.

Felecia Hartsfield

Felecia Hartsfield, Vice President and Chief Operating Officer, Influence I Foundation

Jennifer Amido

Jennifer Amido, President Crosstown Neighborhood Association

Justin Gillis

Justin Gillis, Speedway Terrace Historic District

Anna Joy Tamayo

Anna Joy Tamayo, President, Crosstown CDC

Olivia Wall, chair

Olivia Wall, Chair, Cooper Young Community Association Development Committee



Neighborhood
Preservation,
Inc.

Calvin Lacey, President, Rozelle-Annesdale Area Association

Chris Studaway, President, North Crosstown Neighborhood Association

Jean Jordan, President, Glenview Edgewood Manor Area Association

Cassandra Dixon: Representative for Hernando Community Neighbors, Prospect Park Neighborhood Association, 60.1 Neighborhood Association and Longview Heights Neighborhood Association

Also supporting but unable to send in signatures:

The Central Gardens Executive and Landmarks Committee

Sharon Shipley, President
Shelly Rainwater, Vice President and Landmarks Chair
Mark Fleischer, Past President

David Payne, Sixty Point One Neighborhood Association

Christopher L. Church, President, Annesdale Snowden Neighborhood Association



Neighborhood
Preservation,
Inc.

Sections of ZTA 20-01 with our suggested changes

The numbering scheme below reflects the numbered items in the OPD staff report

4. 1.9 Consistency with Memphis 3.0 and references to the Major Road Plan, **Add bolded and underlined text**

1.9 CONSISTENCY WITH MEMPHIS 3.0 AND OTHER PLANS TO BE CONSIDERED

A. All land use decisions pursuant to TCA 13-4-202(b)(2)(B)(iii) shall be consistent with the Memphis 3.0 General Plan.

B. Determination of Consistency. When making land use decisions, the boards and bodies responsible for making such decisions shall consider the decision criteria described in the Memphis 3.0 General Plan in its determination of consistency. **Boards and bodies responsible for determination of consistency shall also consider comments from affected citizens and neighborhoods.**

C. Memphis 3.0 and this Code the Memphis 3.0 General Plan shall be used to guide land use decisions but not in any way supplant the regulations of this Code, including but not limited to its Zoning Map or Overlay Districts. A determination of consistency with Memphis 3.0 shall not supersede the approval criteria and findings of fact required for individual land use decisions, as provided in this Code.

D. The following plans shall be considered in any decisions under this development code...

12. 2.6.4D and 6.5.1: TDEC's involvement with landfills and gravel mining, **Keep current version**

6.5.1D: All excavations shall be filled and the land restored, re-graded and re-sloped as nearly as practicable to its original condition, and grade within 90 days after the date sand, gravel or other extraction operations cease...

6.5.1E: Land shall be restored, re-graded and re-sloped as nearly as practicable to its original condition and grade provided, however, that after such reclamation activities, no slope on such land shall be steeper than three feet horizontal to one foot vertical and no greater quantities of drainage water shall flow onto adjoining properties or shall flow at a faster rate onto adjoining properties than such drainage water flowed prior to the commencement of sand, gravel or other extraction or processing activities on the land reclaimed

59. 8.4.5D, 9.22.10B and 9.22.10C (new section): Variances and similar applications; **Keep current version**

8.4.5D: Unlisted and Listed Standards: Any request for a deviation from a standard of the Unified Development Code not included in the Midtown District Overlay shall be reviewed by the Board of Adjustment in accordance with Chapter 9.22, Variances. Any request for a deviation from a standard included in the Midtown Overlay District not listed as an Administrative Deviation shall be reviewed by the Land Use Control Board as a Special Exception, in accordance with Section 8.4.6, below

9.22.10 (section heading) Pending Applications

9.22.10B: If a variance application also requires the approval of a special exception (see Chapter 9.14).



Neighborhood
Preservation,
Inc.

the Board of Adjustment may consider the special exception as a variance request. Under such a circumstance where the request involves additional height, the Board of Adjustment may only grant the request for additional height if it makes a finding that the subject site exhibits extraordinary topographic conditions.

9.22.10C **Do not add**

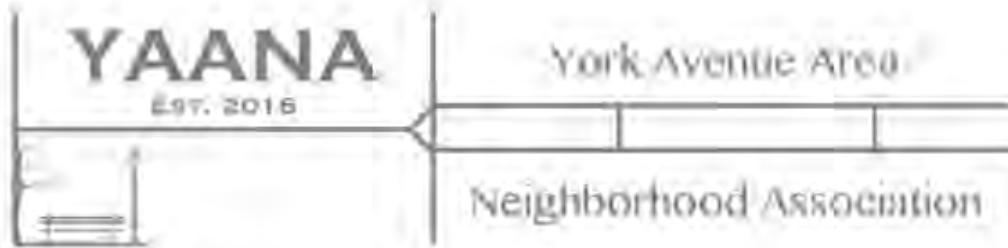
68. 9.8.6B: Sign posting for street and alley closure extensions, **Keep current version**

Not less than 35 or more than 75 days after an application has been determined complete, the Land Use Control Board shall hold a public hearing and give notice in accordance with Section 9.3.4, Public Hearings and Notification. For conversions and physical closures, mailed notice shall also be delivered to all property owners within a five three hundred (500) (300) foot radius of the street or alley closing

73. 10.5.1 Nonconforming lots and tracts; **Keep current version**

10.5.1: In any district in which single-family detached dwellings are a permitted use, notwithstanding the regulations imposed by any other provisions of this development code, a single-family detached dwelling which complies with the restrictions of Section 10.5.2 below may be erected on a nonconforming lot that is not less than 25 feet in width, and which:

- A. Has less than the prescribed minimum tract or lot area, width and depth, or any of them; and
- B. Is shown by a recorded plan or deed to have been a lot of record or tract owned separately and individually from adjoining tracts of land at a time when the creation of a lot or tract of such size, depth and width at such location would not have been prohibited by any zoning or other ordinance; and
- C. Has remained in separate and individual ownership from adjoining tracts of land continuously since March 1, 1989.



November 6, 2020

To: Office of Planning and Development
From: York Avenue Area Neighborhood Association (YAANA)
Re: ZTA 20-1

To City Council Officials, Board of Appeals Members, and Office of Planning and Development Staff, regarding proposed amendments to the Unified Development Code (UDC) in the staff report for Zoning Text Amendment (ZTA) 20-1,

We of the York Avenue Area Neighborhood Association are joining the Neighborhood Preservation Inc. (NPI) open letter expressing concerns over the proposals in ZTA 20-1.

In particular, we join NPI in opposing the concerning changes to UDC Sections 8.4.5D, 8.4.6 and 9.22.10 "that allow deviations to the regulations in the UDC to be sent to the Board of Adjustment (BOA) instead of the Land use Control Board (LUCB)."

We understand that the BOA process is more streamlined at a time when the planning department is processing more and more applications. However, as compared to the longer, two-step LUCB process this attempt at streamlining allows for significantly diminished neighborhood participation in the land use approval process. In addition, the BOA process allows no appeal to the Memphis City Council. This more unimpeded approach would seem to encourage developers to apply to the BOA in all cases, and we believe that this change would tip development scales in favor of developers and away from nearby neighbors and neighborhoods protecting their investments and quality of living.

We support NPI's request of the removal of these amendments to the UDC regulations in ZTA 20-1. We also support an exploration of better ways to improve the application process, but most definitely not at the expense of neighborhood input as proposed in these amendments.

Sincerely,

Eddie Hutchison, 1736 York Ave
Ira Hubert, 1736 York Ave
Erin & Julian Malone, 1771 York Ave
Cassie King, 1767 York Ave
Caitlin Bond, 1750 York Ave
Lara Reynolds, 1777 York Ave
Candy Justice, 1702 York Ave
Joyce McKibben, 1898 York Ave
Peggy Owen, 1827 York Ave
Karen Morrison, 1902 York Ave

Greare Sutherland, 1640 York Ave
Michael Herndon, 1640 York Ave
Tom Fabrizio, 1869 York Ave
Vicki Campbell, 1697 York Ave

Memorandum

To: Josh Whitehead, Zoning Administrator

From: Jean McInerney

Date: November 5, 2020

Re: Proposed Amendments to the Memphis and Shelby County Unified Development Code, Case ZTA 20-1

In connection with the Land Use Control Board's (LUCB) annual review of proposed amendments to the Memphis and Shelby County Unified Development Code (UDC), I offer some observations below as well in the attached PDF file about some (but not) all of the staff-recommended revisions. Please include these comments in the Staff Report for consideration at the November 12, 2020, LUCB public meeting.

As a resident leader who is involved in my neighborhood's internal review processes for zoning cases, I request and recommend that staff and the LUCB consider the below revisions.

Fully Engage the Impacted Neighborhood

1) Neighborhood Notification and Meeting - Although not proposed in the [ZTA 20-1 Staff Report](#), where a neighborhood meeting is required, I recommend that § 9.3.2A be amended to allow a minimum of fourteen days prior to the LUCB hearing (redlined text below).

At least ~~ten~~ **fourteen** days, but not more than 120 days, prior to a hearing before the Land Use Control Board, the applicant shall host and/or attend a neighborhood meeting...

- When the neighborhood meeting is held ten days prior to the LUCB hearing, it is very difficult for a neighborhood association and individual residents to synthesize information presented (or promised) at that meeting and to make an effective and timely submission to the Division of Planning and Development (DPD) for inclusion in the Staff Report.
- While it is true that neighborhood comments may be submitted after the Staff Report deadline, it is my observation that comments submitted after the Staff Report deadline might not receive the same level of attention for no other reason than distribution and time limitations.

2) Determination of Consistency with Memphis 3.0 - Comments from residents in the impacted neighborhood must also be considered (e.g., § 1.9B). Neighborhood engagement is a critical component throughout the UDC and should be specifically provided for in this section.

3) Special Use Permit Revocations - Please require notice to all neighborhood associations registered with the Memphis Office of Community Affairs, as well as those on file with the Division of Planning and Development. (Note: This suggestion is intended to result in providing the same notice required in Paragraph 9.3.4D(2) for a new application.)

Date: November 5, 2020

Re: Proposed Amendments to the Memphis and Shelby County Unified Development Code,
Case ZTA 20-1

Further Clarify Process

4) **Community Impact Statements** - As I understand current practices, neighborhood or business associations submit Community Impact Statements to the DPD planner assigned to the case. For consistency, I therefore suggest that § 9.3.2D clarify that neighborhood or business associations shall submit Community Impact Statements to the Zoning Administrator or DPD staff. Please see the below redlined text (an idea is in purple).

...Neighborhood or business associations who intend to file a CIS must submit said statement to the ~~Division~~ Land Use Control Board or governing bodies ~~no later than 5 days~~ prior to the scheduled hearing ~~date~~. If provided prior to the publishing of the Land Use Control Board staff report, the CIS shall be included within the staff report in a prominent position alongside the ~~Land Use Control Board and Division Office of Planning and Development~~ recommendations.

5) **Public Notice** - During DPD's recent review of a Minor Subdivision application in my neighborhood, it is my understanding that the notices mailed could be for a smaller radius geographic area than applications reviewed by the LUCB. If that is accurate, and since the Staff Report recommends the Public Hearing and Notification Table in Sub-Section 9.3.4A require a mailed notice for a Technical Review Committee meeting related to a minor subdivision for consistency with current practices, this seems to be a well-timed opportunity to also discuss the simplicity of having one radius of notifications for both the TRC and LUCB.

Closing

I commend the DPD for its professionalism and attentiveness to keeping the UDC current. Thank you for the opportunity to offer these comments, and to the LUCB members for considering them.

cc: Frank Colvett, Jr., Memphis City Council Vice-Chairman and Planning & Zoning Committee Chairman

| Current UDC § | Support? | Topic | Notes: Staff-Proposed Amendment | Comments |
|---|---|------------------------------------|---|--|
| 9.3.2B and D | Yes | Neighborhood Meetings | Include all neighborhood associations registered with the Memphis Office of Community Affairs, as well as those on file with the Division of Planning and Development as invitees to required neighborhood meetings. | Appropriate |
| 9.3.2B and D | Yes | Neighborhood Meetings | Identify neighborhood association meeting invitation recipients by the zip code of its official business address rather than 1500 feet from the subject property. | Appropriate |
| 9.3.2D | Yes | Community Impact Statement | Permit Community Impact Statement written by neighborhood or business associations to be submitted prior to the board or governing body meeting. | Appropriate |
| 9.3.2D | <i>Recommend this clarification or addition</i> | Community Impact Statement | In my experience, the customary practice for neighborhood or business associations is to submit Community Impact Statements to Staff. I believe that further amendment to the sentence ending with "must submit statement to the Land Use Control Board or governing bodies," would be helpful. | I suggest an amendment that neighborhood or business associations submit Community Impact Statements to the Zoning Administrator or DPD staff. |
| 12.3.1 and throughout | Yes | Terms | Change "Planning Director" to "Zoning Administrator" and the "Office of Planning and Development," or "OPD" to "Division of Planning and Development," or "DPD." | Appropriate for clarity due to DPD reorganization underway |
| 1.9A, 1.9C, 1.9D (and Table of Contents for this Chapter) | Yes | Consistency of 3.0 and Other Plans | Include the Memphis 3.0 General Plan in the list of plans to be consulted when an application is filed pursuant to the Code, as well as a reference to the consistency section of the Tennessee Code Annotated. | Appropriate |
| 1.9B (and Table of Contents for this Chapter) | <i>In part</i> | Determination of Consistency | List Memphis 3.0 decision criteria as an approving board or body's determination of consistency. | Agree that some decision criteria should be included. |
| | <i>Recommend this addition</i> | Determination of Consistency | | Please stipulate that comments from residents in the impacted neighborhood shall also be considered. |

2020-11-05 ZTA 20-1 Spreadsheet - McInerney Comments

| Current UDC § | Support? | Topic | Notes: Staff-Proposed Amendment | Comments |
|---|----------|--|--|--|
| 2.2.3C(2), 2.2.3C(3), 2.9.2A, 8.2.9 F, 8.3.12F and 12.3.1 | Yes | Upper-story residential | Select one term and one definition for "upper story residential" and "upper-story residential" terms | Appropriate for clarity |
| 2.5.2 | Yes | Standalone car washes | Move this use from the Retail Sales and Service category to a new use category of Vehicle Sales Service and Repair. | Appropriate |
| 2.7.2A(4) and 12.3.1 | Yes | Accessory structures in residential front yards | Clarify the prohibition of accessory structures in residential front yards and implement the recommended accompanying corresponding "front yard" and "required front yard" definitional changes. | Appropriate |
| 2.7.6 | Yes | Swimming pool equipment in the side yard | Wall or fence to prevent uncontrolled access to such swimming pool from the street or from adjacent properties. Prohibit such swimming pool from being located in any required front yard and from being closer than five feet to any property line. | Appropriate for clarity and safety |
| 2.9.4J: | Yes | Tire sales | Differentiate between establishments selling new and used tires and to require the issuance of a Special Use Permit for used tire sales in the CMU-1 and CMU-2 districts. | No objections |
| 2.9.4J | Yes | Automobile service stations | Strike "automobile service station" from Sub-Section 2.9.4J (vehicle sales, leasing, repair and service) since this use is already listed in Sub-Section 2.9.4H (retails sales and service). | Appropriate for clarity and to eliminate potential process inconsistencies |
| 3.2.6A(1) and (6) | Yes | Building height | Correct the graphic to match the language of the narrative. | Appropriate for clarity |
| 3.3.1B | Yes | Lot widths | Govern lot frontage solely by the zoning district's lot width requirements. | Appropriate to avoid tens of thousands of nonconforming lots |
| 3.9.1A, 3.9.2B(4) and 3.9.2I | Yes | Contextual infill standards | Exempt garages and carports constructed prior to January 1, 2020, from this section to make it clear that they shall not be considered nonconforming. | Appropriate for clarity |
| 3.9.2A, 3.9.2B(4) and 3.9.2I | Yes | Contextual infill standards | Exempt dwellings constructed prior to January 1, 2020, from this section to make it clear that they shall not be considered nonconforming. | Appropriate for clarity |

11/6/2020 7:46:03

2

| Current UDC § | Support? | Topic | Notes: Staff-Proposed Amendment | Comments |
|------------------------------|---|---|--|---|
| 4.5.2 | Yes | Parking on grass | Prohibit parking on grass in residential zoning districts | Appropriate for consistent administration throughout Shelby County |
| 4.6.7E(1) and 4.6.7(E)4 | Yes | Fencing | Eliminate a contradiction re: permissible fencing materials. Add stucco as an acceptable type of masonry for walls. | Appropriate |
| 4.9.2, 4.9.8 | Yes | Billboards | Codify current interpretations of the Code with regard to billboard placement and splaying. | Appropriate for notice |
| 4.9.2B(4), (5) and (6) | Yes | Billboards downtown | Other than standalone, or detached, off-premise advertising (billboards), redirect billboards downtown to the Downtown Memphis Commission's Code of Ordinances. | Appropriate for notice |
| 9.2.2 | Yes | TRC review of ROW vacations | To the Zoning Administrator, grant the discretion on which right-of-way vacations should be heard by the Technical Review Committee. | Appropriate |
| 9.3.4A | Yes | Public notice | Amend the Public Hearing and Notification Table in Sub-Section 9.3.4A to require mailed notice for a Technical Review Committee meeting related to a minor subdivision for consistency with current practices. | Appropriate |
| 9.3.4A | <i>Recommend this clarification or addition</i> | Public notice | | <i>I suggest that notices be sent to the same geographic area as regular zoning application</i> |
| 9.6.11D(3)(c) and 9.6.11E(1) | Yes | Amendments to approved Planned Development outline plans | For outline plan amendments, assign a new case number which applies only to the site subject to the amendment. | Appropriate for administrative efficiency |
| 9.6.15B | Yes | Special Use Permit revocation process | Add permissible referral to the LUCB for recommendation prior to a governing body's evidentiary hearing. | No objection |
| | Yes | Special Use Permit revocation process | Specify that all hearings associated with a revocation shall be open to the public | Appropriate |
| | Yes | Special Use Permit revocation process | Provide certified notice mailed to the owner of the property that is the subject of the special use permit or planned development. | Appropriate |
| | <i>In part</i> | Special Use Permit revocation process | Require mailed notice in accord with Paragraph 9.3.4D(1). | |

| Current UDC § | Support? | Topic | Notes: Staff-Proposed Amendment | Comments |
|---|--------------------------------|--|--|--|
| | <i>Recommend this addition</i> | Special Use Permit revocation process | Require notice in accord with Paragraph 9.3.4D(2). | Please add required notice to all neighborhood associations registered with the Memphis Office of Community Affairs, as well as those on file with the Division of Planning and Development. |
| 9.23.1A, 9.23.1C (1), 9.23.2A and 9.2.2 | Yes | Appeals | An appeal of a minor preliminary plan, as well as those other items articulated in Section 9.2.2, may only be taken to the LUCB. | No objection |
| 11.1 | Yes | Injunctive relief | Add injunctive relief for violations of UDC provisions other than tree and sign ordinances. | Appropriate concept. Is the \$50/day fee a statutory limit? |
| 12.3.1 | Yes | Boarding House and Rooming House | Provide examples of quantifiable evidence of the existence of these uses | I support the additional language to aid in the citation of these uses in Environmental Court |
| 12.3.1 | Yes | Group Shelter | Eliminate instances of Zoning Administrator approval from the definition | Appropriate to codify current practice |
| 12.3.1 | Yes | Nursing Home | Eliminate instances of Zoning Administrator approval from the definition | Appropriate to codify current practice |
| 12.3.1 | Yes | Residential Home for the Elderly | Eliminate instances of Zoning Administrator approval from the definition | Appropriate to codify current practice |
| 12.3.1 | Yes | Transitional Home | Eliminate instances of Zoning Administrator approval from the definition | Appropriate to codify current practice |

11/6/2020 7:46:03



December 3, 2020

Josh Whitehead
Zoning Administrator
Division of Planning and Development
125 N. Main, Ste 468
Memphis, TN 38103
Josh.Whitehead@memphistn.gov

Re: ZTA 20-1 – Proposed Amendments to the Memphis and Shelby County Unified Development Code.

Mr. Whitehead,

My opposition to ZTA 20-1 and the process by which DPD is working to push through these changes without those opposed being able to present in person in front of the LUCB has not changed since my original e-mail dated November 6, 2020. These matters should be addressed in person, not via internet conference calls due to technical issues/constraints imposed on those in opposition.

For continuity purposes, I have included in this letter the entire e-mail thread regarding Memphis Stone and Gravel's continued violations of Shelby County Code and Special Use Permit conditions, which include no performance bonds having ever been posted. This thread demonstrates Shelby County's lack of enforcement related to performance bonds, which is supported in the communication between January 10, 2020 and May 4, 2020.

It is abundantly clear that DPD and Shelby County are attempting to cover its collective tracks specifically related to the requirement that performance bonds be posted prior to the commencement of mining activity. These have been standard conditions set forth in all Special Use Permits and have been supported by Shelby County Code well before the UDC became effective. In Section 12 of the Staff Report, DPD states, ***"This proposal will eliminate the requirement that a performance bond with the Building Official, as it appears this has rarely if ever been done in the past, and allow land reclamation plans approved by TDEC to satisfy the requirements of the UDC that a property be returned to its predevelopment state."***

In the DPD ZTA 20-1 Staff Report, it's interesting to see this proposed language in item 12 on page 9 when back in May of this year Mr. Rolwing stated, "The County Commission determined in these conditions that MSG (Memphis Stone and Gravel) could re-countour the land as described in the other conditions and the ordinances or, "in lieu of" that, that OPD could defer to the Tennessee Department of Environment and Conservation on the subject. TDEC is very strict, some might say notoriously strict, about compliance with environmental regulations and safety. Essentially, the County Commission determined that if the reclamation were approved by TDEC, then that plan is sure to be environmentally sound. It is in any event beyond the jurisdiction and expertise of OPD to challenge TDEC's approval of the reclamation plan. We may not agree with these conditions, but the County Commission at the time approved them, and they therefore govern the permits."

At that time, Mr. Rolwing stated the County Commission accepted the TDEC reclamation plan for MSG Rosenberg in this case, and that there was no need for a performance bond. If that was the case then, why is the language being adjusted here/now? During a Code Enforcement meeting back in March of this year, a member of Code Enforcement stated then there was no process to secure performance bonds. Mr. Rolwing stated the County was working on a system to address that issue, which obviously appears to not have been the case. The meeting at Code Enforcement included Chip Saliba, Robert Rolwing, Commissioner Amber Mills, myself, another Shelby County resident, and three members of Code Enforcement.

In the current proposed changes, the City of Memphis & Shelby County are looking to formalize that which Mr. Rolwing stated previously was already in place. Further, since the City of Memphis and Shelby County are unfamiliar with TDEC rules and regulations related to mining and land-fill reclamation, how can the LUCB, the City of Memphis, and Shelby County make informed decisions as to what is best for the county as a whole? TDEC is concerned with environmental laws and regulations of Tennessee, not oversight of the UDC. TDEC is also unable to proactively enforce its own rules and regulations due to a lack of staffing. TDEC does not care how large the holes are, how much water is left behind in those holes, or if trees are clear-cut and never replanted. TDEC is only concerned about the quality of water discharged from mining sites. As an example, the MSG Griffin pit is expected to hold 560 acre feet of water as drawn out in the last MSG TDEC application for the Griffin pit. That is the equivalent to 560 football fields, including the end zones, each with one (1) foot of water.

Item 74 on page 35 states the City and/or County may also seek an injunction or other order of restraint related to UDC code violations, however, both the City of Memphis and Shelby County have blocked my repeated attempts to submit to environmental court the multiple SUP and Shelby County Code violations committed by Memphis Stone and Gravel. Item 67 on page 31 adds language that the governing body may refer the matter to the Land Use Control Board for a recommendation on revocation. The LUCB is supposed to administer the UDC, but how can the LUCB administer the UDC or make a recommendation on revocation when the LUCB has proven it makes decisions that are outside of the UDC provisions?

As an example, in August of 2015 Memphis Stone and Gravel was granted a 10-year extension on SUP 04-213. The UDC doesn't contain a provision where any extension beyond two years is an option. This past July, the LUCB granted Memphis Stone and Gravel a modified four-year extension for their Rosenberg pit. Again, the UDC doesn't contain a provision where any extension beyond two years is an option. Keep in mind the Rosenberg permit was technically void due to no mining activity for over eight (8) years, yet the LUCB and Shelby County Commission approved the extension, which in and of itself violated Shelby County Code. None of the mining applications prior to the May 2020 Rosenberg application contained an Affidavit as required by the UDC. No tree removal permit was ever secured by Memphis Stone and Gravel for the Rosenberg pit, nor was a tree removal permit secured by Hobson Development for another nearby pit. Performance bonds have not been secured by the City of Memphis or Shelby County as stipulated in the conditions of each special use permit and Shelby County Code. So we have application issues, no oversight of special use permits, and multiple SUP and Shelby County code violations, none of which have been addressed by the City or County. To top it all off, there have been several, recent violations of TDEC rules and regulations at Memphis Stone and Gravel pits Rosenberg and Crenshaw.

Further, I find it very interesting to see where Memphis Stone and Gravel's attorney, Homer Branan, is listed as being on the UDC Review Committee. In the attached ZTA 16-001 Staff Report from September

2016, page 29 clearly shows Mr. Branan listed as "Scrappy Branan" in the CC field, but he's also named elsewhere. Additionally, Memphis Stone and Gravel's spokesperson at the February 2019 County Commission meeting is none other than Michael Fahy, who is also listed as a member of the UDC Review Committee and owns Prime Development. How is it possible for non-City/County employees to be members of the UDC Review Committee or Technical Review Committee when section 9.1.8 of the UDC clearly states, "The Technical Review Committee is comprised of City and County agencies".

So we've had representatives of organizations, who've submitted applications to the LUCB, the City of Memphis, and Shelby County for themselves or on behalf of others, also have their hands in reviewing/modifying Memphis City and Shelby County Code? Clearly this is in direct violation of Memphis City and Shelby County Code. Does anyone have any ethical concerns here?

In previous e-mails with Mr. Hollon, he stated he's shared my request for an official response with the appropriate staff from the County Mayor's Office, yet there's been no response. I understand the City of Memphis has spent \$85 million dollars with Memphis Stone and Gravel's parent company, Lehman-Roberts, over the last eleven years on paving. When I presented my MSG Rosenberg appeal to the Shelby County Commission back on September 28, 2020, it was interesting to see the Chairman of Lehman-Roberts, Pat Nelson, sitting in the back by himself.

Pages four through twenty-three follow this letter, which contain the entire e-mail thread as previously mentioned.

Sincerely,



W. Britton White

cc. John Zeanah
Robert Rolwing
Marlinee Iverson
Steve Shular
Frankie Dakin
Matthew Hollon
Commissioner Amber Mills

Email thread as referenced in the above letter.

From: Rolwing, Robert [Robert.Rolwing@shelbycountyttn.gov]
Sent: Monday, May 04, 2020 7:33 AM
To: Britton White; Iverson, Marlinee
Cc: Mills, Amber; Zeanah, John; Josh.Whitehead; Office of the Mayor; wjones17157@aol.com; pmatthews@bhammlaw.com
Subject: RE: Memphis Stone and Gravel and OPD

Mr White:

Please excuse the delay in response. Recall that the county, city, and court, shut-down orders came just a day or two after our meeting in March. The County has continued working, however, and I have been extraordinarily occupied since then as you may imagine.

Mr Whitehead kindly responded to your e-mail when I could not get to it, and I understood his e-mail as Shelby County's response to you. Code Enforcement and the Office of Planning and Development (OPD) are part of the same local government division, and I am attorney for both offices. I can expand upon Mr Whitehead's response and Mr Saliba's analysis, but have nothing of real consequence to add to it.

The keys to the questions you raise are the conditions that were added to the special use permits by the County Commission.

Each of the relevant conditions discussed below appeared first in the OPD Staff Reports for each permit, which you have read. Staff Reports are recommendations only -- first to the Land Use Control Board and then to the County Commission. The conditions on land use permits are set by the Land Use Control Board and ultimately by the County Commission, which has the final word. When a party applies for a special use permit such as a gravel mine:

"The governing bodies [here, the County Commission since these gravel mines are in rural Shelby County] shall approve or disapprove the special use permit or planned development and shall set forth any conditions imposed."

--From the Memphis and Shelby County Unified Development Code (UDC), i.e., the current zoning code, sec 9.6.8(B), see excerpt attached. Again, at sec 9.6.10:

"In granting approval of a special use permit or planned development, the governing bodies [County Commission] may impose reasonable conditions which serve to assure that the required findings [of sec 9.6.9] are upheld. Such conditions may include, but are not limited to, right-of-way or easement dedication; recreation; open spaces; landscaping or buffer provision; limits on scale, intensity, or hours of operation; and other reasonable restrictions."

See also the pre-2011 Zoning Code which governs pre-2011 special use permits, excerpt attached, secs 8(E)(1)(Land Use Control Board recommends to the County Commission), (5)(OPD forwards the LUCB recommendation to the County Commission), (6) and (7)(County Commission approves, disapproves, or

approves with conditions, the application); also the 2011-current Unified Development Code which governs post-2011 special use permits, excerpt attached, secs. 9.6.5(C)(authorizing OPD to produce staff reports), 9.6.8(A)(OPD forwards LUCB recommendation to the County Commission), (B)(quoted above), 9.6.10(quoted above); 9.6.14(B)(quoted by Mr Saliba in Mr Whitehead's April 24 e-mail -- SUP void if unused after two years "unless conditioned otherwise"). Links to the full codes appear below.

The County Commission's conditions for the three Memphis Stone and Gravel (MSG) special use permits at issue are set out in the resolutions that approved the permits. A copy of each County Commission resolution is attached.

Specifically, the relevant conditions for the subjects you raised are as follows:

- Bradley Estate, SUP 06-212 CO, 8339 Deadfall Road:

-- Expiration: In Condition 22 of the resolution, attached to this e-mail, the County Commission directed that, "This special use permit shall be valid for ten years from the date when state approval is received." As Mr Saliba noted, the County Commission approved the permit on August 14, 2006; the State approved MSG for mining the location on April 13, 2007.

-- Reclamation: Condition 20 directed that: "A copy of the State approved Reclamation Plan shall be filed with the Office of Planning and Development for post-development evaluation purposes in lieu of preparing a locally reviewed mitigation and reclamation plan." As Mr Saliba noted, mining was completed here November 21, 2016 (less than ten years after State approval, as just noted); and the State-approved reclamation was completed August 29, 2018, in lieu of a locally-reviewed plan.

- Rosenburg site, SUP 09-217 CO, 10577 Millington-Arlington Road, see resolution attached:

-- Expiration: See Condition 18, identical to Bradley condition 22 above.
County Commission approval January 11, 2010.
State approval August 10, 2010.

-- Reclamation: See Condition 17, identical to the Bradley condition. This site is still in operation.

- Crenshaw site, SUP 13-206 CO, also having the 10577 Millington-Arlington Road address, see resolution attached:

-- Expiration: See Condition 17, identical to the previous cases.
County Commission approval: May 6, 2013.
State approval: January 31, 2014.

-- Reclamation: See Condition 16, identical to the previous cases. This site is also still in operation.

These conditions are the reasons that the permits did not expire, even though the land went un-mined for more than two years after County Commission approval. See UDC sec 9.6.14(B), and former Zoning

Code sec 8(D)(1)(a) (the two-year provision). These special use permits did not become void after two years of non-use because the County Commission had specified differently in the conditions placed on each permit – each permit was good for ten years, starting from the date of State approval. State approval for each site came about eight months after County approval, and eight months of course is well within the two-year period. These permits were not void after two years of non-use because, in the words of the UDC, they were "conditioned otherwise." UDC 9.6.14(B).

The conditions also explain why the State-approved reclamation plan for Rosenberg was acceptable. The County Commission determined in these conditions that MSG could re-countour the land as described in the other conditions and the ordinances or, "in lieu of" that, that OPD could defer to the Tennessee Department of Environment and Conservation on the subject. TDEC is very strict, some might say notoriously strict, about compliance with environmental regulations and safety. Essentially, the County Commission determined that if the reclamation were approved by TDEC, then that plan is sure to be environmentally sound. It is in any event beyond the jurisdiction and expertise of OPD to challenge TDEC's approval of the reclamation plan. We may not agree with these conditions, but the County Commission at the time approved them, and they therefore govern the permits.

You are correct that MSG did not file the State-approved Rosenberg reclamation plan with OPD, as called for in Rosenberg Condition 17. See attached resolution. Thank you for bringing that to our attention. OPD has directed MSG to produce that documentation as a result of your complaint.

You specified in our meeting last month that you were not complaining that MSG did not complete a 1500-foot fence as required in Rosenberg Condition 27, but that the fence does not cover the perimeter. As you saw in his April 24 e-mail, Mr Whitehead contacted MSG's president, who is looking into the matter and, I understand, is willing to complete perimeter fencing. OPD also contacted MSG about the tree cover of Condition 8 at the Rosenberg site, and MSG is willing to do what is necessary to comply.

Robert B. Rolwing
Assistant Shelby County Attorney
160 N. Main Street, Suite 950
Memphis, Tennessee 38103
Tele. (901) 222-2100

UNIFIED DEVELOPMENT CODE: <https://shelbycountyttn.gov/DocumentCenter/View/35104/ZTA-19-1-complete-document-6---for-printing>

FORMER ZONING CODE: <https://shelbycountyttn.gov/DocumentCenter/View/31048/1981-Zoning-Code-as-of-2007?bidId=>

MORE ON THE UDC: <https://shelbycountyttn.gov/924/Zoning-Subdivision>

HISTORICAL ZONING CODES: <https://shelbycountyttn.gov/3241/Historic-Zoning-Codes-and-Maps>

From: Britton White [bwhite@technologyprocesses.com]
Sent: Wednesday, April 29, 2020 11:29 AM
To: Rolwing, Robert; Iverson, Marlinee

Cc: Mills, Amber; Zeanah, John; Josh.Whitehead; Office of the Mayor; wjones17157@aol.com;
pmatthews@bhammlaw.com
Subject: FW: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]
Mr. Rolwing,

Per Commissioner Mills two weeks ago, I was supposed to have received an e-mail response from you this past Wednesday (April 22, 2020) regarding all the apparent MSG violations documented and discussed during our March 12th meeting. That has not happened. Per Josh Whitehead's e-mail from this past Friday, you were preparing a response, but again, there's been no response from you or Code Enforcement, only from Mr. Whitehead. Code Enforcement is responsible for enforcing Special Use Permits under the Unified Development Code. Mr. Whitehead is not responsible for enforcing Special Use Permits thus his below responses in lieu of yours are not applicable.

To be clear, below are the items to be addressed.

- 1) The Rosenberg and Crenshaw Special Use Permits are void based on Section 9.6.14C of the UDC, "Excluding planned developments, if a special use permit has not been in use for any consecutive 24-month period, the permit shall be void." Article 12 Definitions 12.1 D. states, The word "shall" is mandatory. The satellite images provided in my original package, and attached herein, confirm there was a period of more than 24 months of NO activity at the Rosenberg and Crenshaw sites.
- 2) For the Bradley property, which has been completed for almost two years now, no major modification was submitted by MSG to leave behind an impoundment, which is in violation of not only the Special Use Permit, but section 9.6.12B. (Major Modification) of the UDC as well. Chip Saliba stated during our March 12th meeting that MSG requesting impoundments be left behind would require a Major Modification.
- 3) MSG's intent to leave behind impoundments for both the Rosenberg and Crenshaw sites is clear based on documentation submitted by MSG to TDEC requesting major modifications to the NPDES permit. Nowhere in the Special Use Permit or the UDC does it state bodies of water or "impoundments" may be left behind. Per the UDC, MSG is required to submit Major Modification requests, which they have not.
- 4) All three Special Use Permits (SUP) in question state excavations shall be filled and land restored, regraded, and re-sloped; leaving bodies of water behind is not permitted. More importantly, the SUP requires "the applicant for the special permit shall submit to the Building Official a performance bond in the amount required by the Building Official per acre for each acre proposed to be used for sand, gravel, or other extraction operations to insure the land shall be restored, regraded, and re-sloped as provided above when such mining or extraction operations cease." Proof of these submissions has not been provided. Burke Renner and others in Code Enforcement have not located any documentation on their end related to this requirement being satisfied.
- 5) Sections 6.1.1 and 6.1.2 of the UDC address Tree Removal, applicability and Exemptions. For the Rosenberg and Crenshaw sites specifically, a letter dated June 28, 2013 from Alan Parks of MSG to Bruce Ragon at the Division of Water Pollution Control - Mining Section, Mr. Parks states the following, "Dear Bruce, As the landowner, Memphis Stone and Gravel Company requests no trees be replanted and

impoundment as part of the final reclamation plan of the subject property. Attached for your review are the survey descriptions of the three properties affected by Surface Mining Permit OM-79375-7." For reference, this letter is attached (MSG Rosenberg and Crenshaw Tree and Impoundment Waiver 6.28.13). Tree Removal was never addressed for the Bradley site either. This being the case, all three MSG sites (Rosenberg, Crenshaw, and Bradley) are in violation of Sections 6.1.1 and 6.1.2 of the UDC.

Per the Unified Development Code Article 11. Enforcement Section 11.1 IN GENERAL, third sentence, "In addition to the party violating this development code, any other person who may have knowingly assisted in the commission of any such violation shall be guilty of a separate offense."

Ms. Iverson,

I respectfully request your help with this matter, and ask for clarification related to the many discrepancies and enforcement of these Special Use Permits and the Shelby County Unified Development Code. I am happy to provide the original package delivered to Mr. Rolwing back on January 27, 2020, so please let me know if you would like me to FedEx it to your office. I am also happy to speak via phone at your convenience. Thank you in advance for your assistance with this.

Sincerely,

W. Britton White

From: Whitehead, Josh [Josh.Whitehead@memphistn.gov]
Sent: Monday, April 27, 2020 7:37 AM
To: Britton White
Cc: Saliba, Norman; Amber.Mills@shelbycountyttn.gov; Robert.Rolwing@shelbycountyttn.gov; Zeanah, John; marlinee.iverson@shelbycountyttn.gov; officeofthemayor@shelbycountytty.gov; mbwilliams@earthlink.net; Trip Jones; chris.simmons@shelbycountyttn.gov; alan.parks@msg gravel.com
Subject: Re: Memphis Stone and Gravel and OPD

Mr. White: this does not change our analysis.

Thank you

Josh Whitehead

On Apr 27, 2020, at 7:34 AM, Britton White <bwhite@technologyprocesses.com> wrote:

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Whitehead,

TDEC sent a letter to MSG, dated April 15, 2019, and stated that the Division of Water Resources terminated the NPDES permit for the Bradley property effective April 15, 2019. Why did OPD wait a year before it asked Memphis Stone and Gravel (MSG) for a reclamation plan?

All three Special Use Permits (SUP) in question state excavations shall be filled and land restored, regraded, and re-sloped; leaving bodies of water behind is not permitted. More importantly, the SUP requires "the applicant for the special permit shall submit to the Building Official a performance bond in the amount required by the Building Official per acre for each acre proposed to be used for sand, gravel, or other extraction operations to insure the land shall be restored, regraded, and re-sloped as provided above when such mining or extraction operations cease."

Apparently, no person in the Code Enforcement Office, including Burke Renner, knew if this condition had been fulfilled.

Although your comment on the Period of Validity, Section 9.6.14B referenced "unless conditioned otherwise", the very next section (9.6.14C) states "Excluding planned developments, if a special use permit has not been in use for any consecutive 24-month period, the permit shall be VOID".

Since there is no "unless conditioned otherwise" exclusion, the Rosenberg and Crenshaw SUPs are VOID, because the satellite images provided in my package, and attached herein, confirm there was a period of more than 24 months of NO activity at the Rosenberg and Crenshaw sites. Therefore, I respectfully encourage you to enforce the applicable law and regulations, on behalf of the citizens of Shelby County, and I look forward to your response.

W. Britton White

From: Whitehead, Josh [Josh.Whitehead@memphistn.gov]
Sent: Friday, April 24, 2020 10:57 AM
To: Britton White; Saliba, Norman
Cc: Amber.Mills@shelbycountytn.gov; rnbwilliams@earthlink.net; Trip Jones;
chris.simmons@shelbycountytn.gov; Robert.Rolwing@shelbycountytn.gov; Alan Parks; Zeanah, John
Subject: Re: Memphis Stone and Gravel and OPD

Mr. White:

I believe Mr. Rolwing is also preparing a response but I wanted to share with you the findings of my colleague, Chip Saliba, who has been in contact with Cliff Caudle with the Memphis Environmental Field Office of the Tennessee Department of Environment and Conservation. Below is his summary on each of the Special Use Permits you have cited.

beginning of Chip's findings with regard to alleged expirations

Bradley Estate - (OPD Case # SUP 06-212 CO) 8339 Deadfall Road

County Commission Approval: 08/14/06

State Approval: 04/13/07

Mining Activity Completed on 11/21/16

Reclamation: Completed on 08/29/18

Comments: Condition #22 of the approved County Commission Resolution states the special use permit shall be valid for ten years from the date when State approval is received. Mining activity was complete on 11/21/16. Condition #20 states that a copy of the State approved Reclamation Plan shall be filed with the Office of Planning and Development for post-development evaluation purposes in lieu of preparing a locally reviewed mitigation and reclamation plan. Mr. Caudle states that the reclamation is complete and he will send OPD the reclamation plan.

Rosenburg Addition - (OPD Case #SUP 09-217 CO) 10577 Millington-Arlington Road)

County Commission Approval: 01/11/10

State Approval: 08/10/10

Mining Activity: Still Continuing

Reclamation Plan: Not applicable - Still Mining

Comments: Condition #18 of the approved County Commission Resolution states that the special use permit shall be valid for ten years from the date when State approval is received. Based on this, the special permit will expire on 08/10/20 unless a time extension is applied for. Condition #17 states that a copy of the State approved Reclamation Plan shall be filed with the Office of Planning and Development for post-development evaluation purposes in lieu of preparing a locally reviewed mitigation and reclamation plan.

Crenshaw Addition abutting Rosenburg Addition- (OPD Case #SUP 13-206 CO) 10577 Millington-Arlington Road)

County Commission Approval: 05/06/13

State Approval: 01/31/14

Mining Activity: Still Continuing

Reclamation Plan: Not Applicable - Still Mining

Comments: Condition #17 of the approved County Commission Resolution states that the special use permit shall be valid for ten years from the date when State approval is received. Based on this, the special use permit will expire on 01/31/24 unless a time extension is applied for. Condition #16 states that a copy of the State approved Reclamation Plan shall be filed with the Office of Planning and Development for post-development evaluation purposes in lieu of preparing a locally reviewed mitigation and reclamation plan.

SUMMARY

Section 9.6.14B of the Memphis and Shelby County Unified Development Code states the following: "Excluding planned developments, special use permits shall be implemented within 24 months of final approval or such permits shall be void, unless conditioned otherwise." The above-referenced special use permits were all "conditioned otherwise" to allow for ten-year mining activity to begin effective with State approval. Further, each special use permit is conditioned to include that OPD may accept the State-approved reclamation plan to satisfy the reclamation requirement.

end of Chip's findings

As for alleged landscaping and fencing violations, I have contacted Alan Parks with Memphis Stone and Gravel (copied here) and he has stated they will ameliorate any violations of those conditions of approval. I will ask that Chris Simmons send an inspector to the site to ensure this work has been performed.

Therefore, if and once the improvements cited immediately above are completed, there will be no citations pursued in Environmental Court on these sites.

Thank you,

Josh Whitehead
Administrator
Memphis and Shelby County Office of Planning and Development

From: Britton White <bwhite@technologyprocesses.com>
Sent: Friday, March 27, 2020 11:40 AM
To: Saliba, Norman <Norman.Saliba@memphistn.gov>
Cc: Whitehead, Josh <Josh.Whitehead@memphistn.gov>; Amber.Mills@shelbycountytn.gov <Amber.Mills@shelbycountytn.gov>; rose.hill@shelbycountytn.gov <rose.hill@shelbycountytn.gov>; rnbwilliams@earthlink.net <rnbwilliams@earthlink.net>; Trip Jones <wjones17157@aol.com>; chris.simmons@shelbycountytn.gov <chris.simmons@shelbycountytn.gov>; Robert.Rolwing@shelbycountytn.gov <Robert.Rolwing@shelbycountytn.gov>
Subject: RE: Memphis Stone and Gravel and OPD

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Mr. Saliba and Mr. Rolwing,

Circling back on the below email since I never saw a reply. I understand that this is a challenging time for many, so please know that I'm aware response times may be delayed especially given OPD's office move.

Has there been any conversation on how these apparent violations by MSG will be presented to environmental court? Any discussion on how OPD, the LUCB, and The Shelby County Commission might address the overall lack of enforcement of these Special Use Permits (SUPs)/UDC/2007 Code of Ordinances, how SUP applications will be managed, how SUPs will be reviewed, enforced, performance bonds received, etc.?

I see that OPD business is continuing remotely, so I hope these issues are being worked through as well.

Happy to have a conference call to discuss if you'd like.

Sincerely,

Britton

Sent from my Verizon Motorola Smartphone

On Mar 18, 2020 13:39, Britton White <bwhite@technologyprocesses.com> wrote:

Thank you Mr. Saliba.

Based on Chapter 16-32 section 4 (application procedure) in the 2007 Code of Ordinances, and in section 9.6.12 of the Unified Development Code, it seems clear that time extensions are required.

Am I missing something?

Thanks,

Britton

Sent from my Verizon Motorola Smartphone

On Mar 18, 2020 13:14, "Saliba, Norman" <Norman.Saliba@memphistn.gov> wrote:

Mr. White:

I have looked at the files for both Rosenberg and Crenshaw and find no time extensions have been previously asked for, but do not take this response at this time as an official ruling that the time extensions were required. I am currently investigating why such extensions may have not been applied for and if any are needed. You will receive a response to this in the next seven to ten days once we have completed our investigation.

Chip Saliba
Deputy Administrator
Development Services
OPD

-----Original Message-----

From: Britton White [mailto:bwhite@technologyprocesses.com]

Sent: Wednesday, March 18, 2020 12:53 PM

To: Robert.Rolwing@shelbycountytn.gov; rose.hill@shelbycountytn.gov;

chris.simmons@shelbycountytn.gov; Saliba, Norman <Norman.Saliba@memphistn.gov>

Cc: Mills, Amber <Amber.Mills@shelbycountytn.gov>; rnbwilliams@earthlink.net;

wjones17157@aol.com

Subject: RE: Memphis Stone and Gravel and OPD

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Mr. Rolwing,

I was able to make it out to the Rosenberg site this past weekend, and would like to provide an update to the group here on aerial shots created from a drone video that was taken. Since the last satellite photos I'm able to gather are back from March 2018 (4th attached), I thought it would be beneficial to get updated pictures. This site (Rosenberg near Lubov Rd and Osborntown) is the one where the length of the fence is in question especially since it stops right where Lubov Rd dead-ends, which allows easy access to the site. The SUP for this site (09-217) also called for evergreens to be planted where the tree-line was either thin or non-existent. This was never done, and is in addition to the other apparent violations we've already reviewed.

From the picture labeled Rosenberg 4, you can see a black truck in the top-left corner, which is where Lubov Rd dead-ends. If you zoom in just a bit, you can clearly see the fence in question, and where it ends.

Mr. Saliba, have you had an opportunity to look into whether or not MSG requested three time extensions for the Rosenberg SUP, and two time extensions for the Crenshaw SUP?

Thanks,

Britton

From: Britton White
Sent: Friday, March 13, 2020 5:49 PM
To: Robert.Rolwing@shelbycountytn.gov
Cc: Mills, Amber; Saliba, Norman
Subject: RE: Memphis Stone and Gravel and OPD

Thank you Mr. Rolwing. I can meet them Tuesday as well.

Britton

Sent from my Verizon Motorola Smartphone On Mar 13, 2020 15:24, "Rolwing, Robert" <Robert.Rolwing@shelbycountytn.gov> wrote:

I will see if Rose is in today, and if so remind her to respond to your e-mail. I would not count on them being able to come out Monday, unless you hear otherwise from Rose, as that is her department's day in Environmental Court. Robert.

From: Britton White <bwhite@technologyprocesses.com>
Sent: Friday, March 13, 2020 3:11 PM
To: Rolwing, Robert <Robert.Rolwing@shelbycountytn.gov>
Cc: Saliba, Norman <norman.saliba@memphistn.gov>; Mills, Amber <Amber.Mills@shelbycountytn.gov>
Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

I am requesting a moratorium on mining at Rosenberg and Crenshaw, which was included in the original letter to Ms. Rose at Code Enforcement in late January.

This is due to the fact that both permits are void per the Code of Ordinances.

Please let me know about Code Enforcement being able to meet me at the Rosenberg site this Monday as I've not received a response to my offer from this morning.

Thank you Mr. Rolwing.

Britton

Sent from my Verizon Motorola Smartphone On Mar 13, 2020 15:04, "Rolwing, Robert" <Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov wrote: Mr White: Thank you again as well for gathering the material you did and presenting it to us.

For clarification, when you speak of moratorium, are you speaking of halting production:

- a) at the Rosenberg and Crenshaw properties only;
- b) at all Memphis Stone & Gravel locations in Shelby County; or
- c) all future gravel extraction in Shelby County.

I don't believe any of them changes the answer I gave yesterday, but I do want to make certain that we are speaking about the same thing. Thank you,

Robert B. Rolwing
Assistant Shelby County Attorney
Tele. (901) 222-2100

From: Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com
Sent: Friday, March 13, 2020 8:11 AM
To: Rolwing, Robert
<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov ; Hill, Rose
<Rose.Hill@shelbycountytn.gov<mailto:Rose.Hill@shelbycountytn.gov ; Simmons, Chris
<Chris.Simmons@shelbycountytn.gov<mailto:Chris.Simmons@shelbycountytn.gov
Cc: jdmarks1@comcast.net<mailto:jdmarks1@comcast.net ; Saliba, Norman
<norman.saliba@memphistn.gov<mailto:norman.saliba@memphistn.gov ; Mills, Amber

<Amber.Mills@shelbycountyttn.gov<mailto:Amber.Mills@shelbycountyttn.gov ; Trip Jones
<wjones17157@aol.com<mailto:wjones17157@aol.com
Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

First, I greatly appreciate you all taking the time to walk through all the details and documents yesterday.

Ms. Hill and Mr. Simmons, I would be happy to meet you this Monday at the Rosenberg property to review the site and take pictures. What time Monday is best for you?

Thanks,

Britton

Sent from my Verizon Motorola Smartphone On Mar 5, 2020 13:50, Britton White
<bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com wrote:
I appreciate your help in coordinating this meeting Mr. Rolwing, and thank you for your comments.

Given the number of apparent violations while operating under voided permits, I would say this falls outside of any normal procedures, so I would ask that this case be treated differently than other cases.

Section 9.6.14 of the UDC, and Chapter 16-32-4 (Application procedure) Section A of the 2007 Code of Ordinances clearly state permits shall be implemented within 24 months of final approval or such permits shall be void.

Maybe the challenge here is no one has ever brought a case like this before the County/Environmental Court, and there's concern over the potential fallout?

Have you had a chance to review the packet in its entirety?

Thanks,

Britton

Sent from my Verizon Motorola Smartphone On Mar 5, 2020 12:35, "Rolwing, Robert"
<Robert.Rolwing@shelbycountyttn.gov<mailto:Robert.Rolwing@shelbycountyttn.gov wrote:

Mr White: Rose Hill, Inspector Chris Simmons, and I, are available on Thursday, March 12, 9:30 - 10:15 a.m., for a meeting regarding Memphis Stone & Gravel, at the Code Enforcement Office, 6465 Mullins Station Road at Shelby Farms. Joining us for OPD will be Chip Saliba, Deputy Administrator of OPD for Land Use Controls, who will be sitting in lieu of Messrs. Zeanah and Whitehead who have schedule conflicts, and are therefore unable to attend.

Regarding a moratorium, Code Enforcement's normal procedure is to cite an offender to Environmental Court, where the District Attorney and judge both attempt to bring the offender into compliance. I can tell you now that I do not expect that the D.A. would request an injunction to stop an existing business from operating.

Robert B. Rolwing
Assistant Shelby County Attorney
Tele. (901) 222-2100

From: Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com>>
Sent: Thursday, March 5, 2020 11:00 AM
To: Hill, Rose <Rose.Hill@shelbycountyttn.gov<mailto:Rose.Hill@shelbycountyttn.gov>>; Rolwing, Robert <Robert.Rolwing@shelbycountyttn.gov<mailto:Robert.Rolwing@shelbycountyttn.gov>>
Cc: jdmarks1@comcast.net<mailto:jdmarks1@comcast.net>; Simmons, Chris <Chris.Simmons@shelbycountyttn.gov<mailto:Chris.Simmons@shelbycountyttn.gov>>; Trip Jones <wjones17157@aol.com<mailto:wjones17157@aol.com>>
Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Good morning to everyone. Checking to see if the below email was received yesterday.

Also, I have been in touch with Commissioner Mills, and asked if she was able to make our meeting next Thursday morning, which she said yes.

So that I can give her a firm time, does 9:30 a.m. work?

Thank you,

Britton

Sent from my Verizon Motorola Smartphone On Mar 4, 2020 07:01, Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com>> wrote:
Thanks Mr. Rolwing.

Ms. Hill, since it appears MSG is operating the Crenshaw and Rosenberg pits under voided permits, which is why I've asked for a moratorium on mining activity for those two properties, are you able to make that call on your own as Code Enforcement, or no?

Again, given all the documentation provided, there are serious permit, UDC, and 2007 Code of Ordinances violations that I believe warrant the moratorium.

If Code Enforcement is unable to make the call on the moratorium, I would suggest the case be moved up in Environmental Court since destruction of Shelby County land is apparent.

As for next Thursday's meeting, I would appreciate Code Enforcement's presence, Mr. Rolwing, and Josh Whitehead and John Zeanah from OPD.

Please advise if 0930 works. Likely need two hours set aside to talk through everything.

Thank you all for your help here.

Britton

Sent from my Verizon Motorola Smartphone On Mar 3, 2020 17:27, "Rolwing, Robert" <Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov> wrote:

Mr White,

Code Enf is looking at the problem and we will know more after they have checked it out fully.

FYI I have attached the most recent Code Enforcement docket in Environmental Court for context -- 33 cases yesterday. They will have at least that many cases next Monday, and again the Monday after that, etc. Addressing your complaint is simply a matter of getting to it.

Thursday morning the 12th is good with me. I have not yet heard back from the other county employees, although not sure my presence is needed anyway. We will contact you again tomorrow or one day this week, but I wanted to respond to your e-mail today.

Robert B. Rolwing

Assistant Shelby County Attorney

Tele. (901) 222-2100

From: Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com>
Sent: Monday, March 2, 2020 8:25 PM
To: Rolwing, Robert
<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov>
Cc: Hill, Rose <Rose.Hill@shelbycountytn.gov<mailto:Rose.Hill@shelbycountytn.gov> ; Simmons, Chris
<Chris.Simmons@shelbycountytn.gov<mailto:Chris.Simmons@shelbycountytn.gov> ; Trip Jones
<wjones17157@aol.com<mailto:wjones17157@aol.com>
Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Thank you Mr. Rolwing.

Code Enforcement mentioned they were waiting on you for guidance before moving forward with anything.

I have to be very frank here. I feel like I'm getting the run-around since there are still no answers regarding where this complaint stands.

Am I missing something? I believe I've provided plenty of details for some sort of initial response. Have you reviewed the packet? If so, do you have any comments?

s

And are you all able to meet next Thursday morning at 9:30?

Thanks,

Britton

Sent from my Verizon Motorola Smartphone

On Mar 2, 2020 16:18, "Rolwing, Robert"
<Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov> wrote:

Mr White:

If there are violations, MSG will most likely be cited to Environmental Court.

OPD tells me that they not been in communication with MSG.

Robert B. Rolwing

Assistant Shelby County Attorney

From: Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com>
Sent: Monday, March 2, 2020 3:18 PM
To: Hill, Rose <Rose.Hill@shelbycountytn.gov<mailto:Rose.Hill@shelbycountytn.gov>
Cc: Simmons, Chris <Chris.Simmons@shelbycountytn.gov<mailto:Chris.Simmons@shelbycountytn.gov>
& Rolwing, Robert <Robert.Rolwing@shelbycountytn.gov<mailto:Robert.Rolwing@shelbycountytn.gov>
& Trip Jones <wjones17157@aol.com<mailto:wjones17157@aol.com>
Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Thank you Ms. Hill.

I guess the one question I have for the group here is where things stand regarding my request for a 30 day moratorium on mining at the Roseburg and Crenshaw sites.

Based on all the evidence gathered, it appears MSG shouldn't be mining those two sites due to voided permits. And that's just the beginning.

Has OPD been in touch with Memphis Stone and Gravel?

Thanks,

Britton

Sent from my Verizon Motorola Smartphone

On Mar 2, 2020 14:48, "Hill, Rose"

<Rose.Hill@shelbycountyttn.gov<mailto:Rose.Hill@shelbycountyttn.gov wrote:

Forwarding to Chris Simmons as senior inspector, he will assign an inspector to check or he himself with check, thanks

Chris-Please respond, thanks

[cid:image001.png@01D5F0A1.94DE1180]

Rose Hill

Sign, Zone and Special Events Manager

Memphis and Shelby County

Office of Construction Code Enforcement

6465 Mullins Station Road

Memphis, Tennessee 38135

901-222-8374

From: Rolwing, Robert

Sent: Monday, March 02, 2020 2:19 PM

To: 'Britton White'

Cc: Hill, Rose; Trip Jones

Subject: RE: Memphis Stone and Gravel and OPD

I will speak with Rose Hill about next Thursday.

OPD and Code Enforcement are both aware of your complaint. No I have had no communication with Memphis Stone & Gravel since their last application.

RBR.

From: Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com

Sent: Monday, March 2, 2020 1:56 PM

To: Rolwing, Robert
<Robert.Rolwing@shelbycountyttn.gov<mailto:Robert.Rolwing@shelbycountyttn.gov
Cc: Hill, Rose <Rose.Hill@shelbycountyttn.gov<mailto:Rose.Hill@shelbycountyttn.gov ; Trip Jones
<wjones17157@aol.com<mailto:wjones17157@aol.com
Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Thanks Mr. Rolwing. How about 0930 next Thursday?

Also, have you spoken with OPD about this? Is MSG aware, or are you holding back all communication with OPD and/or MSG on the documentation?

Thanks,

Britton

Sent from my Verizon Motorola Smartphone

On Mar 2, 2020 13:45, "Rolwing, Robert"
<Robert.Rolwing@shelbycountyttn.gov<mailto:Robert.Rolwing@shelbycountyttn.gov wrote:

Mr White:

Thank you for your e-mail. I understand that Code Enforcement has recently been at the Arlington gravel pit, or will soon be there. Unfortunately I cannot meet this week as I am covered up. Late next week would be much better for me.

Robert B. Rolwing

Assistant Shelby County Attorney

Tele. (901) 222-2100

From: Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com
Sent: Monday, March 2, 2020 12:41 PM
To: Rolwing, Robert
<Robert.Rolwing@shelbycountyttn.gov<mailto:Robert.Rolwing@shelbycountyttn.gov
Cc: Hill, Rose <Rose.Hill@shelbycountyttn.gov<mailto:Rose.Hill@shelbycountyttn.gov ; Trip Jones
<wjones17157@aol.com<mailto:wjones17157@aol.com
Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Hi Mr. Rolwing,

To follow up on my voice message from this morning, I would appreciate a meeting this Thursday or Friday morning with you, Ms. Hill, and Mr. Simmons to discuss where things stand related to the documentation provided a month ago on Memphis Stone and Gravel where they appear to be operating without a valid permit at two current mining sites.

There are additional, potential violations, which are also clearly outlined and backed by the same documentation in the packet submitted to you and Ms. Hill back in late January.

I understand from Ms. Hill that you have asked if Code Enforcement has been on site looking for any current violations. Based on my research, it seems the main issues lie more so with a lack of compliance with the 2007 Code of Ordinances, the Shelby County UDC, and the Special Use Permit requirements. Any potential violations found at any site would be in addition to the documented findings already provided.

During my initial meeting with Code Enforcement on Friday January 24, 2020, additional concerns and questions were raised by Mr. Burk Renner regarding a requirement that MSG submit a performance bond in the amount of \$3,500 per acre to the building official prior to the commencement of sand, gravel, or other extraction operations. If I recall correctly, he was unsure if that ever took place due to a variety of reasons.

Given what Mr. Renner raised, it might be good to walk through the special use permit requirements for each permit currently in question to determine if all requirements were met.

Please let me know if/when we might be able to meet this week.

Sincerely,

Britton

Sent from my Verizon Motorola Smartphone

On Jan 27, 2020 09:27, "Rolwing, Robert"
<Robert.Rolwing@shelbycountyttn.gov<mailto:Robert.Rolwing@shelbycountyttn.gov wrote:

Good morning, this will confirm that Rose Hill and I received your packets Friday. We will review it and be in contact with you.

Robert B. Rolwing

Assistant Shelby County Attorney

From: Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com
Sent: Monday, January 13, 2020 1:38 PM
To: Rolwing, Robert
<Robert.Rolwing@shelbycountyttn.gov<mailto:Robert.Rolwing@shelbycountyttn.gov
Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

It's just an audio conference, no video. Thanks Mr. Rolwing.

Britton

Sent from my Verizon Motorola Smartphone

On Jan 13, 2020 13:12, "Rolwing, Robert"
<Robert.Rolwing@shelbycountyttn.gov<mailto:Robert.Rolwing@shelbycountyttn.gov wrote:

Mr White: We have not used webex before. Is this a video conference? Pls be advised that we have no video hook-up capabilities. RBR.

From: Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com
Sent: Saturday, January 11, 2020 9:51 AM
To: Rolwing, Robert
<Robert.Rolwing@shelbycountyttn.gov<mailto:Robert.Rolwing@shelbycountyttn.gov
Subject: RE: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Thank you Mr. Rolwing. Would Monday at 1400 work? My cell is 901-233-2536.

If we need to adjust for any reason, no worries.

Thanks,

Britton

Sent from my Verizon Motorola Smartphone

On Jan 10, 2020 16:50, "Rolwing, Robert"
<Robert.Rolwing@shelbycountyttn.gov<mailto:Robert.Rolwing@shelbycountyttn.gov wrote:

Mr White: Yes I will be happy to speak with you about Stone & Gravel. I should be available all day Monday; Tuesday after about 10; Wednesday; and Thursday afternoon. Or send me your number and let me know when a good time to speak with you would be.

Robert B. Rolwing

Assistant Shelby County Attorney

160 N. Main Street, Suite 950

Memphis, Tennessee 38103

Tele. (901) 222-2100 DIRECT: 222-2136

From: Britton White <bwhite@technologyprocesses.com<mailto:bwhite@technologyprocesses.com
Sent: Friday, January 10, 2020 8:30 AM
To: Rolwing, Robert
<Robert.Rolwing@shelbycountyttn.gov<mailto:Robert.Rolwing@shelbycountyttn.gov
Cc: Trip Jones <wjones17157@aol.com<mailto:wjones17157@aol.com
Subject: Memphis Stone and Gravel and OPD

[This EMAIL was not sent from a Shelby County Government email address. Please use caution.]

Mr. Rolwing,

My name is Britton White, and I live in the Rosemark community. If you have 15 minutes in the next week or so, I'd appreciate the opportunity to run a few questions by you via phone.

From there, Trip Jones and I would like to schedule a meeting with you, Josh Whitehead, and John Zeanah in the next few weeks, please.

Thank you in advance for your time.

Sincerely,

Britton




Fri 12/4/2020 3:27 AM

William 'Trip' Jones III <wjones17157@aol.com>

Input for OPD Staff Report ZTA 20-1

To: Writehead, Josh

cc: Penzes, Jeffrey; amber.mills@shelbycountyttn.gov; bwwhite@technologyprocesses.com; lsanfordattorney@outlook.com; pmatthews@bhammlaw.com; molhampton@aol.com

 If there are problems with how this message is displayed, click here to view it in a web browser.

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Josh Whitehead:

First, thank you for the additional time for input on these proposed UDC changes, per your email below. Unfortunately, with the holidays, I am still last minute meeting the Dec 4 –8 am deadline. Note that I have also copied in Jeffrey Penzes to ensure that my input was received by you or one of your staff prior to the above.

Item 4: 1.9 Consistency with Memphis 3.0, on pages 3,4

Not familiar with Memphis 3.0 as approved on February 14, 2019 and how that ties into the Shelby County General Plan and the Growth Plan. Where can these documents be found and how do they interact with each other? However, as I read it, 1.9C clearly states that the Memphis 3.0 General Plan shall be used to guide land use decisions but not in any way supplant the regulations of this Code (presume that means the UDC).

Item 12: 2.6.4D and 6.5.1 on page 9

I have read with interest the input from Britton White, Ron Williams and others on the proposed changes to the UDC. As you might expect, Item 12 regarding changes to 2.6.4D and 6.5.1 on page 9 regarding performance bonds and TDEC approved reclamation plans in lieu of SUP requirements caught my attention as well. I also note that Item 12 did not make your executive summary so it required a review of the entire 37 page document to find this proposal. I'll just summarize my thoughts on this by saying that several months ago when Memphis Stone and Gravel applied for an extension on the Rosenberg SUP (09-217 CO) I sent in comments to the effect that I was more concerned about "the process" and some provisions not being followed in SUP's and the UDC than I was in MSG being granted the extension in question. As noted then, they have mined in the Arlington area for 4-5 decades.

In my email I believe I mentioned that we should have the UDC match reality and if we are not going to collect performance bonds that should come out of the UDC/SUP requirements and if we aren't going to really enforce the provisions of a SUP for mining/reclamation and accept whatever TDEC says is good, then the UDC should reflect that. So, for that reason I applaud the changes which will make what is really happening match the UDC. I guess one question to consider is how many other areas/ordinances would we be willing to give up local control (when possible) and just go with whatever the state decides? I do note that in 6.5.1.E you propose that "a land reclamation plan approved by TDEC MAY satisfy the requirements of this sub-section" ...not that it absolutely will, leaving, I presume some local wiggle room if the TDEC plan appears to be weak.

Item 64: 9.3.2B and D Neighborhood Meetings

In general this describes how Neighborhood associations are notified of permits etc. being requested and the 1,500 foot rule goes away in place of any association with the same zip code as the subject property. While that would seem to open up the notification process quite a bit, it could still leave some room for overlook. As an example, The Rosemark Civic Club meets at Richland Presbyterian Church which has a Millington 38053 address. Just a mile north up Rosemark Rd. is the Moffatt property which is clearly in Shelby County and played a major part in some of MSG's SUP requests of the past and that property has an Atoka 38004 mailing address. Would suggest you let the Neighborhood associations tell OPD which zip codes they are interested in and would affect their community.

As it relates to D, new wording indicates Community Impact Statements from neighborhood organizations will get better treatment if submitted on time in the Staff report to the LUCB. If not, the option to go directly to the LUCB up until meeting time is still available.

Item 67: 9.6.15 Special Use Permit revocation process

This is a much needed provision and the added wording gives the citizen lead Land Use Control Board a greater role to play.

Item 72: 9.23.2E(1) page 33

It is clear even in this provision that members of the Technical Review Committee (TRC) are members of "various City and County agencies". So I too don't understand how is it that Homer Branon and Michael Fahy have been identified on emails as being part of the TRC ? While both are professionals in their own fields they are not members of any government agency that I am aware of. If they are going to have a hand in recommending and reviewing proposed UDC changes, then the various communities should have representatives on the TRC as well or they can review proposed changes along with the rest of us.

Item 74: 11.1 Injunctive Relief

Much needed allowing the Environmental Court to impose fines for violations of all UDC codenot just trees or signs.

Thanks again for the chance to input on these proposed changes.

Trip Jones, President
Rosemark Civic Club and
Vice President, Historic Archives of Rosemark



Greetings,

We would like to thank every one of the 19 non-profits, community groups, and neighborhood associations that joined us in signing our first letter of opposition to certain proposed amendments to the UDC. Your support has been incredibly impactful and we are proud to stand alongside you. Following the postponing of the first reading before the Land Use Control Board, we received the updated staff report. After reviewing it among our staff we feel that although some of our concerns have been adequately addressed, there are still amendments-existing and newly proposed- that are cause for concern.

Concerns regarding the following items in OPD Staff Report on ZTA 20-01

- Item 47: 4.9.2, 4.9.8: Billboards
- Item 53: 7.3.11, 8.2.2D and 8.3.11: Planned developments in Uptown and the Medical and University Districts
- Item 59: 8.4.5D, 8.4.6, 8.4.8K(3), 9.22.10 and 9.22.10C (new section): Variances and similar applications (CLARIFYING LANGUAGE)
- Item 67: 9.6.15 and 9.6.13: Special Use Permit and Planned Development revocation process and bar to re-submit
- Item 73: 10.5.1: Nonconforming lots and tracts

First and foremost is our concern over the necessity of making these changes at all given the global COVID-19 pandemic. Enacting such far-reaching changes to a vital document when there is a limited capacity to hear public input is hasty and the City of Memphis would be better served by waiting until a full public engagement is possible. We oppose amending the UDC during this pandemic as none of the changes proposed are time sensitive and can wait until citizens are able to gather in person and meet to discuss the changes.

In the proposed amendments under Item 47 regarding Sections 4.9.2 and 4.9.8, OPD staff had proposed to name the Interstate Highways on which billboards would be permitted. Our concern is that there are agreements in place that currently prohibit billboards on 385/I-269 a.k.a. Bill Morris Parkway and we wish to ensure that I-269 is not allowed to have billboards due to this change.

Response: The amendment originally proposed to this section of the Code has been dropped.

In Item 53 substantial changes are proposed to Sections 7.3.11, 8.2.2D and 8.3.11: Planned developments in Uptown and the Medical and University Districts that we oppose. When taking into consideration the amount of time, community input, and effort put into drafting the overlay districts, especially the Midtown Development Overlay (MDO); we find it inappropriate to amend the Overlay District to this extent during a pandemic without full, un-encumbered public engagement.

Response: This amendment is imperative to the effective administration of the Code; the comments above appear to contradict comments made by the same organization contained in its letters dated October 1, 2020, and November 5, 2020, above.

The current text gives LUCB authority to approve special exception for any deviation from a standard in MDO while the new amendment limits permitted special exceptions to 3 standards while all other deviations from the MDO would be heard by the Board of Adjustment. Among the other changes proposed are changing the public notice requirement radius from 300 feet to adjacent property owners. We believe it is more appropriate for those applications to remain with the Land Use Control Board as it is the planning commission for Memphis Shelby County and that the LUCB should be making decisions within the MDO.

Response: The proposed amendment with regard to Special Exceptions in the Midtown Overlay has been dropped.

Changes have also been proposed in Item 59 referencing Sections 8.4.5D, 8.4.6, 8.4.8K(3), 9.22.10 and 9.22.10C (new section): Variances and similar applications that take into account our earlier feedback. While we have no issues with the intent of this amendment, we would like to add text clarifying that requirements of a Variance & Conditional Use Permit must be met by the application.

Response: Agreed; see revised language in new Section 9.24.11 above.

In Item 67 referring to Sections 9.6.15 and 9.6.13; the changes proposed were meant to address community concerns and recurring problems with developers rescinding and re-applying for permits to avoid community opposition. We recognize and appreciate greatly the attempt to remedy the situation with these amendments. However, the amendments as written seem to apply only to projects where permit applications were denied, not in cases where the application was repeatedly withdrawn before being approved or denied, such as the gas station application at the intersection of Norris and Hernando Roads. We ask that further language be added to keep communities from experiencing this exhausting issue.

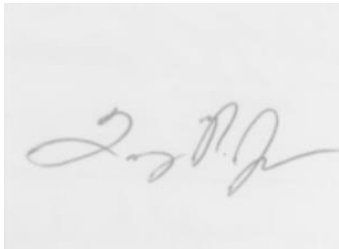
Response: Agreed; see revised language in Sub-Section 9.6.13A above.

We continue to oppose the changes proposed under Item 73: 10.5.1: Nonconforming lots and tracts. Our objections from the original draft of the UDC amendments remain the same. We believe the intent of the regulation is exactly as it is written to affect nonconforming lots created by deed or by recorded plan.

We do not support moving up the grandfather date for all lots created by subdivision plat. We understand and support grandfathering in lots where the home has been constructed with approval by DPD. However, we do not support the addition of the November 12, 2020 date to grandfather in lots created by plan. We believe this date is arbitrary and could have a substantial impact on development as the exact number of parcels this would grandfather in are unknown.

Response: This amendment has been dropped.

Respectfully Submitted,

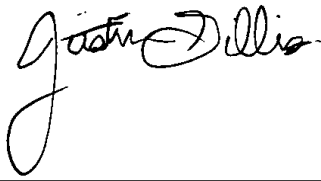
A handwritten signature in black ink, appearing to read "Quincy N. Jones", is centered on a light gray rectangular background.

Quincy N. Jones, Director of Programs, Neighborhood Preservation, Inc.

Charia Jackson, Frayser CDC; Board President, BLDG Memphis

A handwritten signature in black ink, appearing to read "Jennifer Amido", is centered on a white background.

Jennifer Amido, President Crosstown Neighborhood Association



Justin Gillis, Speedway Terrace Historic District



Anna Joy Tamayo, President, Crosstown CDC



Ms. Quincy Morris, President, Klondike Smokey City, CDC



Holly Jansen Fulkerson Executive Director
Memphis Heritage, Inc.



Cassandra Dixon; Representative for Hernando Community Neighbors, Prospect Park
Neighborhood Association, 60.1 Neighborhood Association and Longview Heights
Neighborhood Association

W. Britton White
Rosemark Civic Club

Britton White, Rosemark Civic Club





Fri 12/4/2020 10:37 AM

Paul Matthews <pmatthews@bhammlaw.com>

RE: Input for OPD Staff Report ZTA 20-1

To: Whitehead, Josh

Cc: Penzes, Jeffrey; amber.mills@shelbycountytn.gov; bWhite@technologyprocesses.com; Isanfordattorney@outlook.com; molhampton@aol.com; William 'Trip' Jones.III

You replied to this message on 12/4/2020 10:38 AM.

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Whitehead:

I read with interest Trip Jones' email to you as set forth below. I confess that I have not studied the proposed UDC changes as Trip has, but based on his statements, I concur with just about all of his recommendations and comments.

However, I am stronger in my disapproval of the notion that "a land reclamation plan approved by TDEC MAY satisfy the requirements of this sub-section," as it could operate to deny local citizens the opportunity to receive notice of and give input concerning the reclamation plan. I suggest that allowing a TDEC-approved reclamation plan to satisfy the requirements in question should only be permitted on a case-by-case basis AFTER notice to and an opportunity for comment by the community to staff and the LUCB (or County Commission), and with the decision to allow it or not being made not by staff but by the board (or County Commission) after hearing from the community. As Trip noted, some mining operations in Shelby County have lasted for several decades. Particularly in that circumstance, communities change, community expectations and standards change, and engineering feasibility changes. Moreover, residents at the time when the project commenced may well have died or moved away, so that there is little if any knowledge or awareness in the community of the initial application and any conditions or requirements imposed.

In addition, the provisions of Item 12 are important and deserve special attention. Accordingly, I request that you supplement your executive summary so that those provisions are more widely acknowledged and understood.

Thank you for your consideration.

Best wishes.



Paul A. Matthews

Member
5400 Poplar Avenue, Suite 100, Memphis, TN 38119-3660
Phone (901) 683-3526 • Fax (901) 763-1037
Email: pmatthews@bhammlaw.com • Website: www.bhammlaw.com

This message from Bourland Heflin Alvarez Minor & Matthews, PLLC, a full-service law firm, may be confidential or protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please reply to the sender or contact our firm at 901.683-3526, let us know

Response: The amendment proposed to this section has been dropped.



**MEMPHIS
MEDICAL
DISTRICT**

TO LIVE AND THRIVE

BOARDS OF DIRECTORS

CHAIR

DR. LEWIS REICH
President, Southwest
College of Pharmacy

VICE CHAIR

DR. REGINALD COOPER
President, SDC
Algeria Park History

SECRETARY

MR. MICHAEL USWYK
President, ACFE
Medical and Business Professionals

TREASURER

DR. BETTY SUE MCGARVEY
President, Baptist College of
Health Sciences

DIRECTORS

MR. SCOTT BLAKE
President, Veterans Village for
Community Development Corporation

MR. JIM BENT

Executive Director
Pyramic Park Foundation

DR. TRACY HALL

President, Southwest Tennessee
Community College

MR. PITT HOFF

Trustee, HACC
Hobby Foundation

MR. BOB McCOWEN

CEO, City of Memphis

MS. JENNIFER K. OSWALD

President, South Main
Memphis Commission

MR. SAMMIE RINK

President, HCC
Hobby Foundation, et al.

MR. RICHARD SHADYAC JR.

President, SDC, HACC

Wednesday, December 9, 2020

Josh Whitehead
Zoning Administrator
Division of Planning and Development
125 N. Main St., Ste. 468
Memphis, TN 38103

Re: Proposed Planned Developments ("PDs") Zoning Changes to Medical District Overlay in Unified Development Code, Section 8.2.2(D)

Dear Mr. Whitehead,

This letter is written to request that the proposed changes to the Unified Development Code to rescind the prohibition on Planned Developments ("PDs") in the Medical District Overlay, Section 8.2.2(D), be dropped from consideration at this time.

Please note that the present request is not reflective of a blanket opposition to the proposed change, nor precludes potential support for such changes in the future. Generally, we are supportive of a less restrictive zoning code that allows for the development of innovative projects that stimulates the investment potential and built environment of the Medical District.

However, our present request to maintain the code as currently stipulated within the UDC reflects a desire to better study and understand the potential ramifications from the removal of such restriction, especially given the short timeframe in which we have had to review the proposed changes.

Thank you for your attention and consideration regarding this matter, and please feel free to reach out with any further questions and/or concerns.

Sincerely,

Ben Schulman
Director of Real Estate

CC: Quincy Jones, Neighborhood Preservation, Inc.
Imani Jasper, Neighborhood Preservation, Inc.

Response: The amendment proposed to this section has been dropped.

JOHN D. JONES
1763 PEACH AVENUE
MEMPHIS, TN 38112

December 7, 2020

Josh Whitehead, Zoning Administrator
Land Use and Development Services
125 N. Main Street
Memphis, TN 38103

RE: Proposed Amendments to the Unified Development Code

Josh:

Hello again. I apologize at the outset for the lateness of this letter. I commend you for your thoroughness and your willingness to accept the sometimes strongly worded comments from neighborhood and civic associations and yet find a way to make modifications.

With that said I do find upon a second review of the text amendments, that I have some questions and/or concerns with two of the proposed amendments, particularly Items 24 and 64.

Item 24 proposes changes to the Contextual Infill Standards, 3.9.1 and 2. As a member of neighborhood association and a former public-sector planner, I have always felt that this was one of the better changes that was added to the zoning code. It codifies the approach that the OPD staff used when in evaluating infill development projects under the 1980 Ordinance and Regulations.

3.9.1A(1) and 3.9.2A – The justification discusses that garages and projects that were built prior to the adoption of the code, (adopted in the Summer of 2010, and the effective date January 1, 2011) are nonconforming and subject to that section of the code. It is completely reasonable to make it clear that they are exempt from this section of the UDC. But *why move the date forward some 9 years, to January 2020. Any project that was built between January 1, 2011 and January 1, 2020 should be regulated by the UDC unless a waiver is granted.*

3.9.2B(4) – I understand the justification for modifications to lot widths. Processed via the LUCB with notice seems like the way to go for Major and Minor subdivisions. *Do not understand the extension of this authority to Landmarks. Their (MLC) notification requirements are less than LUCB and BOA. Since all of the residential Landmarks Districts have involved a neighborhood association in the formation of their guidelines, I respectfully submit that, if this aspect of this amendment is approved, an additional statement should be added that requires notification to the appropriate neighborhood association.*

3.9.2H – I support the changes. This section is particularly helpful for neighborhoods that are not designated as a local landmarks district. I respectfully suggest, that language stating that *where applicable, the Landmarks Commission shall determine the appropriate location for garages.*

Item 34: **THANK YOU – THIS ONE IS SORELY NEEDED THROUGHOUT MEMPHIS!!!!**

Page 2

Item 64

9.3.2D. Whether it is a formal Community Impact Statement or its more common sister, comments from associations and individual neighbors, I respectfully request the addition of a statement that reads *“Any CIS or public comment received after the staff report has been published will be referenced at the public hearing and added to the materials that are forwarded to the legislative body(s) for their review”*. This is merely codifying what staff routinely does now.

9.3.2E. I am concerned at the use of the word “may” in this section rather than “shall”. In non-exeunt situations, notice of a public meeting would include the same mailing list as the required mailed public notice. It is at least impractical to hold a “zoom” style meeting with upwards of 500 individuals, (one property owner for each property on the notice map). So, I am suggesting that there be a requirement, *a “shall” instead of a “may” that any applicant coming before the LUCB and the BOA shall in lieu of a public meeting, make contact with the appropriate neighborhood association(s) that represent the subject property. The applicant shall maintain and submit to staff as evidence that such a meeting has been requested all e-mails and texts associated with the meeting. In the case of the BOA, where footnote 2 applies, said meeting can be waived.*

I would further propose for a future amendment to the text, that a *Public Notice Sign be posted for applications to the Board of Adjustment for Use Variances and Conditional Use Permits*. These are more akin to a rezoning and a Special Use Permit than bulk variances and should be treated differently.

Thank you for your attention to this letter and I look forward to a continuing dialog.

Best Regards

John D. Jones

Response: The proposed amendment to Sub-Section 9.3.2D was included in the Land Use Control Board's approval of this zoning text amendmnet.

.....

**CITY OF MEMPHIS
COUNCIL AGENDA CHECK-OFF SHEET**

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

Planning & Zoning COMMITTEE: 2 February 2021

DATE

PUBLIC SESSION: 2 February 2021

DATE

ITEM (CHECK ONE)

ORDINANCE _____ CONDEMNATIONS _____ GRANT ACCEPTANCE / AMENDMENT
 _____ RESOLUTION _____ GRANT APPLICATION REQUEST FOR PUBLIC HEARING
 _____ OTHER: _____

ITEM DESCRIPTION: An ordinance approving a comprehensive rezoning

CASE NUMBER: Z 20-10

LOCATION: Certain parcels adjacent to Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford

COUNCIL DISTRICTS: District 5 and Super District 9

APPLICANT: Department of Comprehensive Planning of the Division of Planning and Development

REPRESENTATIVES: Ashley Cash

EXISTING ZONING: Commercial Mixed Use – 3

REQUEST: Comprehensive Rezoning of Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford

RECOMMENDATION: The Division of Planning and Development recommended *Approval*
 The Land Use Control Board recommended *Approval*

RECOMMENDED COUNCIL ACTION: **Public Hearing Required**
 Set a date for public hearing at first reading – 5 January 2021
 Adopt on third reading – 2 February 2021

PRIOR ACTION ON ITEM:

(1) _____ APPROVAL - (1) APPROVED (2) DENIED
10 December 2020 DATE
 (1) Land Use Control Board ORGANIZATION - (1) BOARD / COMMISSION
 (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE

FUNDING:

(2) _____ REQUIRES CITY EXPENDITURE - (1) YES (2) NO
 \$ _____ AMOUNT OF EXPENDITURE
 \$ _____ REVENUE TO BE RECEIVED

SOURCE AND AMOUNT OF FUNDS

\$ _____ OPERATING BUDGET
 \$ _____ CIP PROJECT # _____
 \$ _____ FEDERAL/STATE/OTHER

ADMINISTRATIVE APPROVAL:

| | <u>DATE</u> | <u>POSITION</u> |
|-------|-------------|-------------------------------------|
| _____ | _____ | MUNICIPAL PLANNER |
| _____ | _____ | DEPUTY ADMINISTRATOR |
| _____ | _____ | ADMINISTRATOR |
| _____ | _____ | DIRECTOR (JOINT APPROVAL) |
| _____ | _____ | COMPTROLLER |
| _____ | _____ | FINANCE DIRECTOR |
| _____ | _____ | CITY ATTORNEY |
| _____ | _____ | CHIEF ADMINISTRATIVE OFFICER |
| _____ | _____ | COMMITTEE CHAIRMAN |



Memphis City Council Summary Sheet

Z 20-10

Zoning Ordinance approving a zoning district reclassification for certain parcels adjacent to Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford.

- Approval of this zoning district reclassification will be reflected on the Memphis and Shelby Counting Zoning Atlas;
- No contracts are affected by this item; and
- No expenditure of funds/budget amendments are required by this item.

ORDINANCE NO: _____

ZONING ORDINANCE AMENDING ORDINANCE NO. 5367 OF THE CODE OF ORDINANCES, CITY OF MEMPHIS, TENNESSEE, ADOPTED ON AUGUST 10, 2010, AS AMENDED, KNOWN AS THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE, SO AS TO MAKE CERTAIN CHANGES IN THE USE DISTRICTS PROVIDED IN SAID ORDINANCE.

WHEREAS, a proposed amendment to the Memphis and Shelby County Unified Development Code, being Ordinance No. 5367 of the Code of Ordinances, City of Memphis, Tennessee, as amended, has been submitted to the Memphis and Shelby County Land Use Control Board for its recommendation, designated as **Case Number: Z 20-10**; and

WHEREAS, the Memphis and Shelby County Land Use Control Board reviewed this proposal on 10 December 2020 and has filed its recommendation, and the Division of Planning and Development has filed its report and recommendation with the Council of the City of Memphis; and

WHEREAS, the Council of the City of Memphis has reviewed the aforementioned proposal pursuant to Tennessee Code Annotated Section 13-4-202(B)(2)(B)(iii) and has determined that said proposal is consistent with the Memphis 3.0 Comprehensive Plan; and

WHEREAS, the provisions of the Code of Ordinances of the City of Memphis, Tennessee, as amended, relating to the proposed amendment, have been complied with.

NOW THEREFORE, BE IT ORDAINED, BY THE COUNCIL OF THE CITY OF MEMPHIS:

SECTION 1:

THAT, the Memphis and Shelby County Unified Development Code, Ordinance No. 5367 of the Code of Ordinances of the City of Memphis, as amended, be and the same hereby is amended with respect to Use Districts, as articulated in the attached table.

SECTION 2:

THAT, the Zoning Administrator of the Division of Planning and Development be, and hereby is, directed to make the necessary changes in the Official Use District Maps to conform to the changes herein made; that all official maps and records of the Memphis and Shelby County Land Use Control Board and the City of Memphis be, and hereby are, amended and changed so as to show the aforementioned amendment of said Zoning Ordinance.

SECTION 3:

THAT, this ordinance take effect from and after the date it shall have been passed by the Council, signed by the Chair of the Council, certified and delivered to the Office of the Mayor in writing by the comptroller, and become effective as otherwise provided by law.

MAPS OF THE ZONING CHANGES

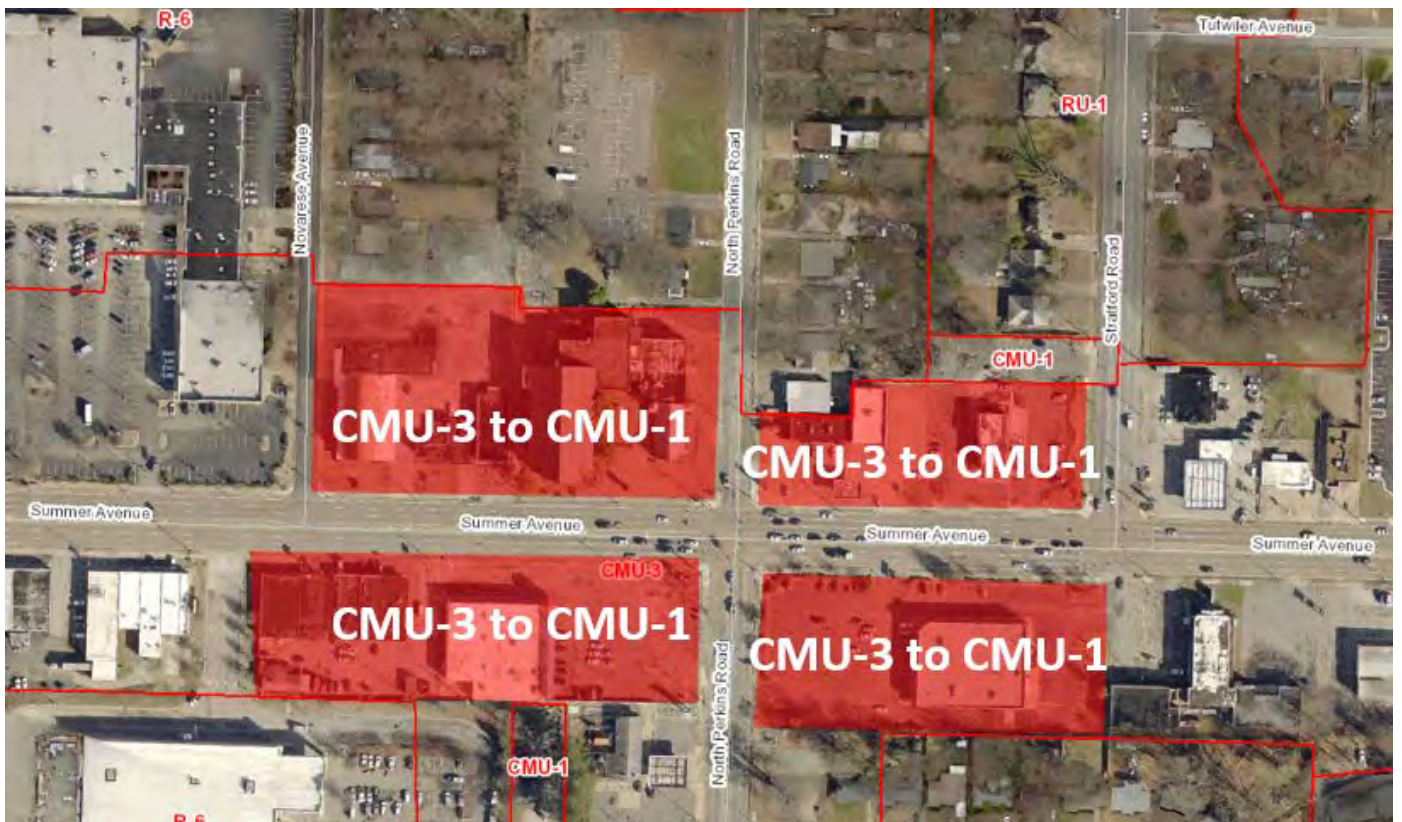
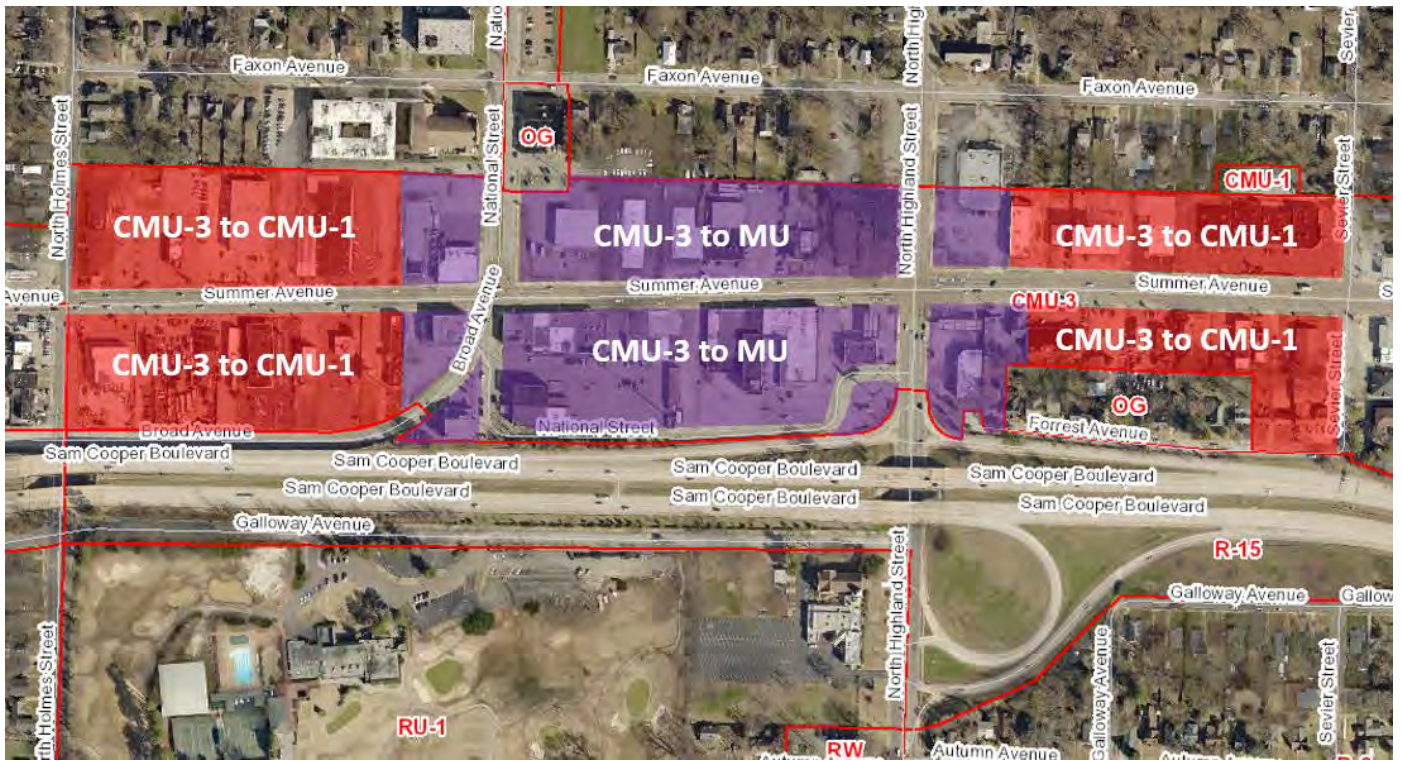


TABLE WITH DATA ON EACH AFFECTED PARCEL

| Summer Report Label | Parcel ID | Current Zoning | Proposed Zoning | Property Address | Owner Name | Owner Address | City State Zip | Future Land Use | Shape Area (sq ft) |
|---------------------|---------------|----------------|-----------------|-------------------|---|------------------------------|------------------------|---|--------------------|
| 1 | 038036 00030C | CMU-3 | CMU-1 | 3300 SUMMER AVE | NEW TYLER A M E CH | 3300 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 39865.29465 |
| 2 | 038036 00029 | CMU-3 | CMU-1 | 0 SUMMER AVE | NEW TYLER A M E CH | 3300 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 14394.26684 |
| 3 | 038036 00038 | CMU-3 | CMU-1 | 3320 SUMMER AVE | MID-STATE AUTOMOTIVE DISTRIBUTORAS INC | P O BOX 06116 | CHICAGO, IL 60606 | Anchor Neighborhood - Mix of Building Types | 51315.88083 |
| 4 | 038064 00029 | CMU-3 | CMU-1 | 3522 SUMMER AVE | DABIT STEVE AND DIANA DABIT AND RAJI J DABIT AND BARBARA A DABIT (RS) | 3276 WOODLAND TRCE E | SOUTHAVEN, MS 38672 | Anchor Neighborhood - Mix of Building Types | 19226.65074 |
| 5 | 044038 00006 | CMU-3 | CMU-1 | 3329 SUMMER AVE | MOORMAN FRANK E TESTAMENTARY TRUST | 5815 MICHAELSON DR | OLIVE BRANCH, MS 38654 | Anchor Neighborhood - Mix of Building Types | 14169.13544 |
| 6 | 044038 00008C | CMU-3 | CMU-1 | 3337 SUMMER AVE | HOPE WORKS INC | 1930 UNION AVE | MEMPHIS, TN 38104 | Anchor Neighborhood - Mix of Building Types | 47905.96637 |
| 7 | 044040 00009 | CMU-3 | MU | 3445 SUMMER AVE | WOFFORD GEORGE W II | 3333 POPLAR AVE | MEMPHIS, TN 38111 | Anchor - Urban Main Street | 43987.90404 |
| 8 | 044088 00001 | CMU-3 | MU | 0 N HIGHLAND ST | BERUK PROPERTIES INC | 4646 POPLAR AVE 302 STE | MEMPHIS, TN 38117 | Anchor - Urban Main Street | 7120.483042 |
| 9 | 044088 00003 | CMU-3 | MU | 3515 SUMMER AVE | TRANSITIONS HALFWAY MINISTRIES INC | 3629 HIGHLAND PARK PL | MEMPHIS, TN 38111 | Anchor - Urban Main Street | 6872.599908 |
| 10 | 044088 00005C | CMU-3 | CMU-1 | 3531 SUMMER AVE | MCGHEE JOSEPH E & GALE H | 2429 LACOSTA DR | BARTLETT, TN 38134 | Anchor Neighborhood - Mix of Building Types | 21287.85033 |
| 11 | 044088 00030C | CMU-3 | MU | 630 N HIGHLAND ST | LOVEJOY HIGHLAND LLC | 6000 WALDEN DR 101 STE | KNOXVILLE, TN 37919 | Anchor - Urban Main Street | 19079.95109 |
| 12 | 044040 00036 | CMU-3 | MU | 614 NATIONAL ST | CALPICK HOLDINGS LLC | 614 NATIONAL ST | MEMPHIS, TN 38122 | Anchor - Urban Main Street | 15714.02817 |
| 13 | 044040 00034C | CMU-3 | MU | 610 NATIONAL ST | GRIFFIN WILLIAM N JR (TR) | 6489 QUAIL HOLLOW RD 100 STE | MEMPHIS, TN 38120 | Anchor - Urban Main Street | 11177.27035 |
| 14 | 038064 00001C | CMU-3/RU-1 | MU/RU-1 | 3502 SUMMER AVE | WADLINGTON EMMIE L | PO BOX 1159 | DEERFIELD, IL 60015 | Anchor - Urban Main Street | 80831.81959 |
| 15 | 044038 00004C | CMU-3 | CMU-1 | 3315 SUMMER AVE | FRANKS WILLIAM C | 3321 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 41459.6967 |
| 16 | 038036 00033 | CMU-3 | CMU-1 | 0 N HOLMES ST | NEW TYLER A M E CH | 3300 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 5405.691727 |
| 17 | 038036 00037 | CMU-3 | CMU-1 | 3316 SUMMER AVE | HUA JUNWEI AND PEIU CHEN AND SIMON SU YUAN HUA (RS) | 5246 COSGROVE CV | MEMPHIS, TN 38117 | Anchor Neighborhood - Mix of Building Types | 27888.78621 |
| 18 | 038036 00022C | CMU-3 | CMU-1 | 3362 SUMMER AVE | MONTESI ERNEST J AND PATRICIA M VEGLIO AND MARIA M BARLOW | PO BOX 722 | ELLENDALE, TN 38029 | Anchor Neighborhood - Mix of Building Types | 83922.83815 |
| 19 | 038037 00025C | CMU-3 | MU | 3430 SUMMER AVE | THIRTY FOUR THIRTY SUMMER LLC | 3880 ROUNDTREE RD 4 UNIT | JEFFERSON, MD 21755 | Anchor - Urban Main Street | 37336.5078 |
| 20 | 038037 00023C | CMU-3 | MU | 3432 SUMMER AVE | KIMBROUGH FAMILY TRUST (CO-TRS) (1/3%) AND | 1445 DONLON ST 20 STE | VENTURA, CA 93003 | Anchor - Urban Main Street | 25068.28927 |
| 21 | 038036 00021 | CMU-3 | MU | 3376 SUMMER AVE | IRBY BOBBY JR | 3376 SUMMER AVE | MEMPHIS, TN 38122 | Anchor - Urban Main Street | 20951.25383 |
| 22 | 038037 00021C | CMU-3 | MU | 3440 SUMMER AVE | BURIED TREASURES LLC | PO BOX 22601 | MEMPHIS, TN 38122 | Anchor - Urban Main Street | 45804.45816 |
| 23 | 038064 00039C | CMU-1/MU-1 | CMU-1 | 3562 SUMMER AVE | GREGORY REALTY GP | PO BOX 382366 | GERMANTOWN, TN 38183 | Anchor Neighborhood - Mix of Building Types | 95503.95565 |
| 24 | 038037 00020 | CMU-3 | MU | 3464 E SUMMER AVE | HARBERT JOHN L | 1935 EVELYN AVE | MEMPHIS, TN 38104 | Anchor - Urban Main Street | 22588.77327 |
| 25 | 038037 00019 | CMU-3 | MU | 3476 SUMMER AVE | JACKSON AVE LLC | 2903 S PERKINS RD | MEMPHIS, TN 38118 | Anchor - Urban Main Street | 21901.59309 |
| 26 | 038037 00018 | CMU-3 | MU | 657 E N HIGHLAND | JACKSON AVE LLC | 2903 S PERKINS RD | MEMPHIS, TN 38118 | Anchor - Urban Main Street | 15715.46582 |
| 27 | 038064 00028 | CMU-3 | CMU-1 | 3530 SUMMER AVE | LINDER JAMES S | 6310 MASSEY WOODS CV | MEMPHIS, TN 38120 | Anchor Neighborhood - Mix of Building Types | 11032.22324 |
| 28 | 038036 00018C | CMU-3 | MU | 3380 SUMMER AVE | MIGLIARA LAWRENCE | 3254 WINBROOK DR | MEMPHIS, TN 38116 | Anchor - Urban Main Street | 16509.71961 |
| 29 | 038064 00027 | CMU-3 | CMU-1 | 3540 SUMMER AVE | GRABER BLAIR S | 3540 SUMMER AVE 103 STE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 28139.51453 |
| 30 | 038064 00026 | CMU-3 | CMU-1 | 3550 SUMMER AVE | CK DESIGNS LLC | 3550 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 20358.19453 |
| 31 | 044038 00002C | CMU-3 | CMU-1 | 3297 SUMMER AVE | GREENBERG BLATT CHILDREN LLC | 15563 MANCHESTER RD | BALLWIN MO 63011 | Anchor Neighborhood - Mix of Building Types | 36345.00666 |
| 32 | 044038 00003 | CMU-3 | CMU-1 | 3307 SUMMER AVE | HUYNH HIEN TIEN | 3307 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 13452.11371 |
| 33 | 044038 00009 | CMU-3 | CMU-1 | 3347 SUMMER AVE | BROCK MARGARET L | 10023 ROSEMARK RD | ATOKA TN 38004 | Anchor Neighborhood - Mix of Building Types | 7461.159257 |
| 34 | 044038 00010 | CMU-3 | CMU-1 | 3353 SUMMER AVE | TPB REAL ESTATE LLC | 5840 FAIRWOOD LN | MEMPHIS TN 38120 | Anchor Neighborhood - Mix of Building Types | 28441.90714 |
| 35 | 044038 00011 | CMU-3 | CMU-1 | 3365 SUMMER AVE | IGLESIA PENTECOSTAL RIOS DE AGUA VIVA | 3361 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 25492.67316 |
| 36 | 044038 00012 | CMU-3 | MU | 3375 SUMMER AVE | MOTHANNA INC | 4650 SUMMER AVE | MEMPHIS, TN 38122 | Anchor - Urban Main Street | 28872.11592 |
| 37 | 044040 00001C | CMU-3 | MU | 3393 SUMMER AVE | GRIFFIN WILLIAM N JR (TR) | 6489 QUAIL HOLLOW RD 100 STE | MEMPHIS, TN 38120 | Anchor - Urban Main Street | 85834.03397 |

| Summer Report Label | Parcel ID | Current Zoning | Proposed Zoning | Property Address | Owner Name | Owner Address | City State Zip | Future Land Use | Shape Area (sq ft) |
|---------------------|---------------|----------------|-----------------|-------------------|--|----------------------------|------------------------------|---|--------------------|
| 38 | 044040 00040 | CMU-3 | MU | 3437 SUMMER AVE | GATLIN L E JR | 4017 WASHINGTON RD 353 PMB | CANONSBURG, PA 15317 | Anchor - Urban Main Street | 3421.590227 |
| 39 | 044040 00037 | CMU-3 | MU | 3459 SUMMER AVE | KIM YOUNG HOON & IN JA | 3459 SUMMER AVE | MEMPHIS, TN 38122 | Anchor - Urban Main Street | 50870.83335 |
| 40 | 044040 00011 | CMU-3 | MU | 3487 SUMMER AVE | PIRANHA INC | 2400 AIRWAYS BLVD | MEMPHIS, TN 38114 | Anchor - Urban Main Street | 18953.04703 |
| 41 | 044088 00002 | CMU-3 | MU | 3509 SUMMER AVE | PIERCEY VIRGINIA A J AND EDITH L JONES | 180 PERSON RD | OAKLAND, TN 38060 | Anchor - Urban Main Street | 6896.88349 |
| 42 | 044088 00004 | CMU-3 | MU | 3519 SUMMER AVE | MCGHEE JOSEPH E & GALE H | 2429 LACOSTA DR | BARTLETT, TN 38134 | Anchor Neighborhood - Mix of Building Types | 7155.711769 |
| 43 | 044088 00008 | CMU-3/OG | CMU-1/OG | 3543 SUMMER AVE | ALLAD AUTO INC | 3543 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 21161.56521 |
| 44 | 044088 00009C | CMU-3/OG | CMU-1/OG | 3551 SUMMER AVE | FLORES EDGAR | 3551 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 22069.95236 |
| 45 | 044088 00011 | CMU-3 | CMU-1 | 3559 SUMMER AVE | PEAK PROPERTIES LLC | 1779 KIRBY PKWY 143 STE | GERMANTOWN TN 38138 | Anchor Neighborhood - Mix of Building Types | 14787.16099 |
| 46 | 044088 00012 | CMU-3 | CMU-1 | 3569 SUMMER AVE | RKA INVESTMENTS LLC null | 556 WILLIAMSBURG LN | MEMPHIS TN 38117 | Anchor Neighborhood - Mix of Building Types | 14468.08083 |
| 47 | 044088 00031 | CMU-3 | CMU-1 | 3579 SUMMER AVE | THOMAS JANETTE S A AND ERROL THOMAS | 3579 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 8513.460613 |
| 48 | 044088 00032 | CMU-3 | CMU-1 | 3589 SUMMER AVE | GUPTA MANJU AND HEMANT GUPTA AND RAGINI GUPTA (RS) | 6245 RIVER GROVE CV | MEMPHIS, TN 38120 | Anchor Neighborhood - Mix of Building Types | 20753.64946 |
| 49 | 044039 00018C | CMU-3 | MU | 0 NATIONAL ST | CITY OF MEMPHIS | 125 N MAIN ST | MEMPHIS, TN 38103 | Anchor - Urban Main Street | 16620.85014 |
| 50 | 044088 00029 | CMU-3 | MU | 3514 FORREST AVE | TRANSITIONS HALFWAY MINISTRIES | 3515 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 6998.052117 |
| 51 | 044040 00038 | CMU-3 | MU | 611 N HIGHLAND ST | BOYLE TRUST & INVESTMENT CO | PO BOX 17800 | MEMPHIS, TN 38187 | Anchor - Urban Main Street | 15337.45349 |
| 52 | 044088 00017 | CMU-3 | CMU-1 | 3580 FORREST AVE | NELSON MATT | 3580 FORREST AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 8220.059248 |
| 53 | 044088 00016 | CMU-3 | CMU-1 | 3584 FORREST ST | POLY LAKESHA W | 2487 WHITNEY AVE | MEMPHIS, TN 38127 | Anchor Neighborhood - Mix of Building Types | 8373.316189 |
| 54 | 038037 00034 | CMU-3 | MU | 3490 SUMMER AVE | MCGAIRY JOHN T LIVING TRUST | 1611 E 53RD ST | CHICAGO, IL 60615 | Anchor - Urban Main Street | 45307.93416 |
| 55 | 044040 00029 | CMU-3 | MU | 3427 SUMMER AVE | MIGUJARA LAWRENCE JR | 3254 WINBROOK | MEMPHIS, TN 38116 | Anchor - Urban Main Street | 17694.32529 |
| 56 | 038036 00009C | CMU-3/RU-1 | MU/RU-1 | 3353 FAXON AVE | COLLEGIATE SCHOOL OF MEMPHIS (THE) | 3353 FAXON AVE | MEMPHIS, TN 38122 | Anchor - Urban Main Street | 116465.9113 |
| 57 | 044088 00014C | CMU-3 | CMU-1 | 3590 FORREST AVE | GUS PROPERTIES INC | 2020 QUAIL CREEK CV | MEMPHIS, TN 38119 | Anchor Neighborhood - Mix of Building Types | 17144.03073 |
| 58 | 063010 00014 | CMU-3 | CMU-1 | 4566 SUMMER AVE | BERCLAIR BAPTIST CHURCH | 4584 SUMMER AVE | MEMPHIS, TN 38122-4134 | Low Intensity Commercial & Services | 67813.3 |
| 59 | 063024 00002 | CMU-3 | CMU-1 | 4625 SUMMER AVE | TERMINAL-PLAZA ASSOCIATES | 201 FILBERT ST STE 401 | SAN FRANCISCO CA 94133-3238 | Low Intensity Commercial & Services | 65060.5 |
| 60 | 063010 00018 | CMU-3 | CMU-1 | 0 NOVARESE ST | BERCLAIR CHURCH OF CHRIST | 666 NOVARESE ST | MEMPHIS, TN 38122 | Primarily Single-Unit Neighborhood | 16270.6 |
| 61 | 063010 00017 | CMU-3 | CMU-1 | 666 NOVARESE ST | BERCLAIR CHURCH OF CHRIST | 4536 SUMMER AVE | MEMPHIS, TN 38122 | Low Intensity Commercial & Services | 25845.7 |
| 62 | 063010 00016 | CMU-3 | CMU-1 | 4550 SUMMER AVE | MARTIN HILDA J LIVING TRUST | 475 N HIGHLAND ST APT 8G | MEMPHIS, TN 38122 | Low Intensity Commercial & Services | 17736.0 |
| 63 | 063010 00015 | CMU-3 | CMU-1 | 4556 SUMMER AVE | BAIXA LLC | 333 E 34TH ST # 15K | NEW YORK, NY 10016 | Low Intensity Commercial & Services | 9417.6 |
| 64 | 063022 00038 | CMU-3 | CMU-1 | 4600 SUMMER AVE | ABDELRAHMAN SAMEH FATTAH | 4600 SUMMER AVE | MEMPHIS, TN 38122-4130 | Low Intensity Commercial & Services | 13623.7 |
| 65 | 063022 00039C | CMU-3 | CMU-1 | 4628 SUMMER AVE | LANKFORD WILLIAM R | P O BOX 7971 | MADISON WI 53707 | Low Intensity Commercial & Services | 35856.7 |
| 66 | 063022 00037 | CMU-3 | CMU-1 | 4590 SUMMER AVE | ABELRAHMAN SAMEH FATTOH AND ABELRAHMAN F | 4590 SUMMER AVE | MEMPHIS, TN 38122 | Low Intensity Commercial & Services | 17837.2 |
| 67 | 063007 00011 | CMU-3 | CMU-1 | 4527 SUMMER AVE | SILLS JUDITH A | 3866 POPLAR AVE | MEMPHIS, TN 38111 | Low Intensity Commercial & Services | 9050.0 |
| 68 | 063007 00012 | CMU-3 | CMU-1 | 4531 SUMMER AVE | SILLS JUDITH A | 3866 POPLAR AVE | MEMPHIS, TN 38111 | Low Intensity Commercial & Services | 28225.4 |
| 69 | 063024 00001 | CMU-3 | CMU-1 | 4597 SUMMER AVE | TERMINAL-PLAZA ASSOCIATES | 201 FILBERT ST STE 401 | SAN FRANCISCO, CA 94133-3238 | Low Intensity Commercial & Services | 29568.4 |
| 70 | 063007 00013C | CMU-3 | CMU-1 | 4569 SUMMER AVE | FSC FMC-FD MEMPHIS TN LLC | 1901 MAIN ST | LAKE COMO, NJ 7719 | Low Intensity Commercial & Services | 66269.7 |

ATTEST:

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday 10 December 2020**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

- CASE NUMBER:** Z 20-10
- LOCATION:** Certain parcels adjacent to Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford
- COUNCIL DISTRICT:** District 5 and Super District 9
- APPLICANT:** Department of Comprehensive Planning of the Division of Planning and Development
- REPRESENTATIVE:** Ashley Cash
- REQUEST:** Comprehensive Rezoning of Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford
- EXISTING ZONING:** Commercial Mixed Use – 3
-

The following spoke in support of the application: Ashley Cash

The following spoke in opposition of the application: Khalid Mothanna

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval of the application.

The motion passed by a unanimous vote.

AGENDA ITEM: 12

CASE NUMBER: Z 20-10 **L.U.C.B. MEETING:** 10 December 2020
LOCATION: Certain parcels adjacent to Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford
COUNCIL DISTRICT: District 5 and Super District 9
APPLICANT: Department of Comprehensive Planning of the Division of Planning and Development
REPRESENTATIVE: Ashley Cash
REQUEST: Comprehensive Rezoning of Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford
EXISTING ZONING: Commercial Mixed Use – 3

CONCLUSIONS (p. 3)

1. The Department of Comprehensive Planning of the Division of Planning and Development has requested the comprehensive rezoning of Summer between 1) Holmes and Sevier and 2) Novarese and Stratford.
2. On 18 August 2020, City Council approved a resolution that 1) imposed a 180-day moratorium on the issuance of demolition permits of any structure built as a church at least 50 years ago on Summer and 2) requested a planning report on potential zoning changes to preserve such structures. Said report recommended a more holistic approach to zoning changes along Summer, spurring a second Council resolution that initiated this zoning change request.
3. The requested zoning change would affect 70 parcels (*see pages 23 and 25*). All affected parcels are currently zoned Commercial Mixed Use – 3 (CMU-3). 42 parcels would be rezoned to Commercial Mixed Use – 1 (CMU-1), and 28 to Mixed Use (MU).
4. CMU-3 is intended to be a high-intensity commercial district serving regional needs; CMU-1 a low-intensity commercial district serving neighborhood needs; and MU a physically integrated commercial district that permits commercial, townhouses, apartments, and institutions.
5. MU is a special purpose zoning district that before now has been applied only within the Uptown District. All new development in the MU district requires site plan approval by the Zoning Administrator. The ideal building within the MU district has retail / restaurant uses on the ground floor, and office / residential uses on the upper floors.
6. Any existing use that lost its by-right status would become a legacy use, thereby unable to expand without special zoning approval.
7. Staff finds that this request meets the approval criteria of Chapter 9.5 of the Unified Development Code.

CONSISTENCY WITH MEMPHIS 3.0 (pp. 31-40)

Per the Office of Comprehensive Planning, this proposal is **consistent** with the Memphis 3.0 General Plan.

RECOMMENDATION (p. 3)

Approval

GENERAL INFORMATION

Zoning Atlas Page: 2035 and 2040
Existing Zoning: Commercial Mixed Use – 3

PUBLIC NOTICE

In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed, signs posted, and newspaper notice published. A total of 64 notices were mailed on 20 November 2020, a total of four signs posted along Summer (see pages 41-44 for photographs), and a newspaper notice published in the Memphis Daily News on 24 November 2020.

STAFF ANALYSIS

Request

The request is the comprehensive rezoning of Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford. All affected parcels are currently zoned Commercial Mixed Use – 3. 42 parcels would be rezoned to Commercial Mixed Use – 1, and 28 to Mixed Use.

Five subject parcels – 038036 00009C, 038064 00001C, 038064 00039C, 044088 00008, and 044088 00009C – are split-zoned between Commercial Mixed Use – 3 and another district. Only the Commercial Mixed Use – 3 portion of each parcel would be affected by this request.

The full application has been incorporated into this report on pages 5-40. Enclosed are:

- A letter of intent (p. 5).
- A report on historic churches along Summer Avenue (pp. 6-27), including
 - o **Maps of the proposed zoning changes (pp. 23 and 25).**
- The City Council resolution that initiated this zoning change request (p. 28).
- Data on every subject parcel (pp. 29-30).
- Reviews of the proposed zoning changes' consistency with the Memphis 3.0 General Plan (pp. 31-40).

Review Criteria

Staff **agrees** the review criteria as set out in Sub-Section 9.5.7B of the Unified Development Code are met.

9.5.7B Review Criteria

In making recommendations, the Land Use Control Board shall consider the following matters:

- 9.5.7B(1) Consistency with any plans to be considered (see Chapter 1.9);*
- 9.5.7B(2) Compatibility with the present zoning (including any residential corridor overlay district) and conforming uses of nearby property and with the character of the neighborhood;*
- 9.5.7B(3) Suitability of the subject property for uses permitted by the current versus the proposed district;*
- 9.5.7B(4) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the City or County; and*
- 9.5.7B(5) The availability of adequate police services, fire services, school, road, park, wastewater treatment, water supply and stormwater drainage facilities for the proposed zoning.*

Conclusions

The Department of Comprehensive Planning of the Division of Planning and Development has requested the comprehensive rezoning of Summer between 1) Holmes and Sevier and 2) Novarese and Stratford.

On 18 August 2020, City Council approved a resolution that 1) imposed a 180-day moratorium on the issuance of demolition permits of any structure built as a church at least 50 years ago on Summer and 2) requested a planning report on potential zoning changes to preserve such structures. Said report recommended a more holistic approach to zoning changes along Summer, spurring a second Council resolution that initiated this zoning change request.

The requested zoning change would affect 70 parcels (*see pages 23 and 25*). All affected parcels are currently zoned Commercial Mixed Use – 3 (CMU-3). 42 parcels would be rezoned to Commercial Mixed Use – 1 (CMU-1), and 28 to Mixed Use (MU).

CMU-3 is intended to be a high-intensity commercial district serving regional needs; CMU-1 a low-intensity commercial district serving neighborhood needs; and MU a physically integrated commercial district that permits commercial, townhouses, apartments, and institutions.

MU is a special purpose zoning district that before now has been applied only within the Uptown District. All new development in the MU district requires site plan approval by the Zoning Administrator. The ideal building within the MU district has retail / restaurant uses on the ground floor, and office / residential uses on the upper floors.

Any existing use that lost its by-right status would become a legacy use, thereby unable to expand without special zoning approval.

Staff finds that this request meets the approval criteria of Chapter 9.5 of the Unified Development Code.

RECOMMENDATION

Staff recommends ***approval***.

DEPARTMENTAL COMMENTS

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

| | |
|---|-----------------------|
| City Engineer: | No comments received. |
| City Fire Division: | No comments received. |
| City Real Estate: | No comments received. |
| Health Department: | No comments received. |
| Shelby County Schools: | No comments received. |
| Construction Code Enforcement: | No comments received. |
| Memphis Light, Gas and Water: | No comments received. |
| Office of Sustainability and Resilience: | No comments received. |

**MEMPHIS AND
SHELBY COUNTY**  **DIVISION OF PLANNING
AND DEVELOPMENT**

Ashley Cash
Administrator
Office of Comprehensive Planning
125 N Main St, Ste 477
Memphis, TN 38103
Ashley.Cash@memphistn.gov

October 27, 2020

Mr. Josh Whitehead
Administrator
Memphis and Shelby County Office of Planning and Development
125 N Main St, Ste 468
Memphis, TN 38103

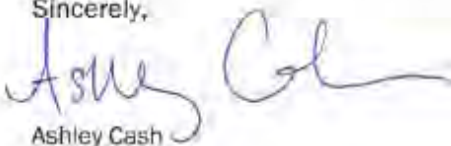
RE: Comprehensive Rezoning Affected Parcels along Summer Avenue between Holmes and Sevier and between Novarese and Stratford.

Mr. Whitehead,

Please accept this letter as a request to initiate a comprehensive rezoning for "Affected Parcels" along two areas of the Summer Avenue corridor, "Area 1" between Holmes and Sevier and "Area 2" between Novarese and Stratford. In response to a demolition permit moratorium passed by the Memphis City Council on August 18, 2020, the Division of Planning and Development (DPD) conducted a Report on Historic Churches Along Summer Avenue. The analysis recommends a comprehensive rezoning for two areas to protect historic sites on the corridor, support the uses along the corridor and adjacent neighborhoods. Following a presentation of the report to the Memphis City Council on October 6, 2020, DPD was authorized to move forward in initiating a comprehensive rezoning for the affected parcels.

Enclosed you will find a report detailing the conditions of the historic sites and surrounding area on Summer, the authorizing resolution, a list of parcels, the Memphis 3.0 Consistency Analysis, and mailing labels to support this application. Thank you for considering this request to be placed on the December 2, 2020 agenda of the Memphis City Council. Please advise if you require any additional information.

Sincerely,


Ashley Cash



**MEMPHIS AND
SHELBY COUNTY** **DIVISION OF PLANNING
AND DEVELOPMENT**

TO: Councilman Frank Colvett, Chair, Planning and Zoning Committee
FROM: Josh Whitehead, Zoning Administrator, Division of Planning and Development
DATE: October 6, 2020

A REPORT ON HISTORIC CHURCHES ALONG SUMMER AVE.

Mr. Chairman and Members:

Please find attached a report on historic churches on Summer Ave. This report is the result of a demolition permit moratorium passed by the Memphis City Council on August 18, 2020; it focuses on those structures that purpose-built as churches in 1970 or earlier and that are not in a residential zoning district. This report is organized accordingly:

- P. 2: Demolition permit moratorium resolution that requested this report
- P. 3: Vicinity map
- Pp. 4-12: Information, photographs, and maps of four historic church properties that fall under the demolition permit moratorium
- P. 13: Future Land Use Planning Map of the Jackson Planning District from the Memphis 3.0 General Plan
- P. 14: Table that compares each site's zoning district with its future land use as designated by Memphis 3.0
- P. 15: Descriptions and graphics of the sites' future land use designations
- P. 16: Table that compares permitted uses by select zoning district
- Pp. 17-20: Recommendations on rezoning
- P. 21: Next steps
- P. 22: An addendum regarding other churches on Summer Ave.

In summary, this report recommends that the City Council approve a resolution directing the Division of Planning and Development to submit an application to rezone certain properties in the Summer Avenue corridor to the Mixed Use, MU, and Commercial Mixed Use-1 (CMU-1) districts. These properties include and surround four historic church properties along Summer Ave. affected by the demolition permit moratorium passed by Council.

I would like to thank my colleague Brett Davis for his assistance on the preparation of this report.

C: Chase Carlisle, Council Member
John Zeanah, Director, Division of Planning and Development
Ashley Cash, Comprehensive Planning Administrator

APPROVED RESOLUTION (AUGUST 18, 2020)

A RESOLUTION REQUESTING A 180-DAY MORATORIUM ON THE ISSUANCE OF DEMOLITION PERMIT OF CHURCHES OVER 50 YEARS OLD AND REQUESTING THAT THE OFFICE OF PLANNING AND DEVELOPMENT PROVIDE A REPORT OUTLINING DIFFERENT USES UNDER LESS INTENSE ZONING DISTRICTS AND PROPOSED ZONING AMENDMENTS THAT AUTHORIZE SUCH USES

WHEREAS, Memphis is a community steeped in history and defined by the people and places that reflect our city's past and the vision held for the future; and

WHEREAS, the buildings and structures located within neighborhoods throughout our community often speak to the character of the neighborhood and often hold special significance, evoking emotions and memories among the people residing in those areas; and

WHEREAS, churches are specific edifices within communities that not only serve as places of worship for the congregants who are a part of the membership, but also gathering places and neighborhood meeting sites; throughout Memphis history many churches have also served as the backdrop for prominent historical events; and

WHEREAS, recognizing the place that past events hold in our history, the Council appreciates the balance that must be struck between progress and economic development to enhance our community and builds upon our future; and

WHEREAS, over the course of the last decade, the City of Memphis has welcomed significant development that has positively transformed neighborhoods and has contributed to the fabric and landscape of our city; and

WHEREAS, on some occasions, there is a balance to be struck between the vision conceived for development projects and being sympathetic to the sentiments and desires of those who have committed to the neighborhood and have financial and emotional investments tied to community anchors, including churches, in those neighborhoods; and

WHEREAS, construction progress has sometimes involved the sacrifice of historic churches in the name of new development and the City of Memphis is encouraged to take steps to document the history and significance of churches within certain neighborhoods to ensure that the zoning around these churches is thoughtful, appropriate and considers how a churches' destruction might erode the vitality of a neighborhood.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMPHIS CITY COUNCIL that a 180-day moratorium on the issuance of any demolition permits for churches over 50 years old on Summer Avenue pending a report outlining the different uses that would be available under less intense zoning districts and proposed zoning amendments to preserve historical church structures or to authorize other similar uses.

BE IT FURTHER RESOLVED that exceptions to this resolution will be handled on a case-by-case basis through the adoption of exception resolutions by the City Council.

Sponsor: Chase Carlisle

Patrice Robinson, Chairwoman

VICINITY MAP



Please note that the eastern extremity of Summer Avenue – approximately 0.45 miles between Ferrell Drive and Altruria Road – is a border between Memphis (to the south) and Bartlett (to the north).

Legend

— Summer Avenue

SUBJECT STRUCTURES



Each star (★) represents the location of one of the four structures on Summer Ave. that were purpose-built as churches at least fifty years prior to approval of the resolution *and* that are not located in a residential zoning district.

Incidentally, all are located on the north side of Summer.

The following section provides information, photographs, and maps of the four subject structures – from west to east:

1. New Tyler African Methodist Episcopal Church
2. Former Highland Heights United Methodist Church
3. Berclair Church of Christ
4. Berclair Baptist Church

1.

*3300 Summer Ave.
New Tyler African Methodist Episcopal Church
Built circa 1939*



Zoning Map



Land Use Map



| Land Use Legend | | |
|-----------------|---------------------------|--------|
| Commercial | Single-Family Residential | Office |
| Institutional | Multi-Family Residential | |

2.

3476 Summer Ave.

*Most recently Highland Heights United Methodist Church; presently unused
Built circa 1950*

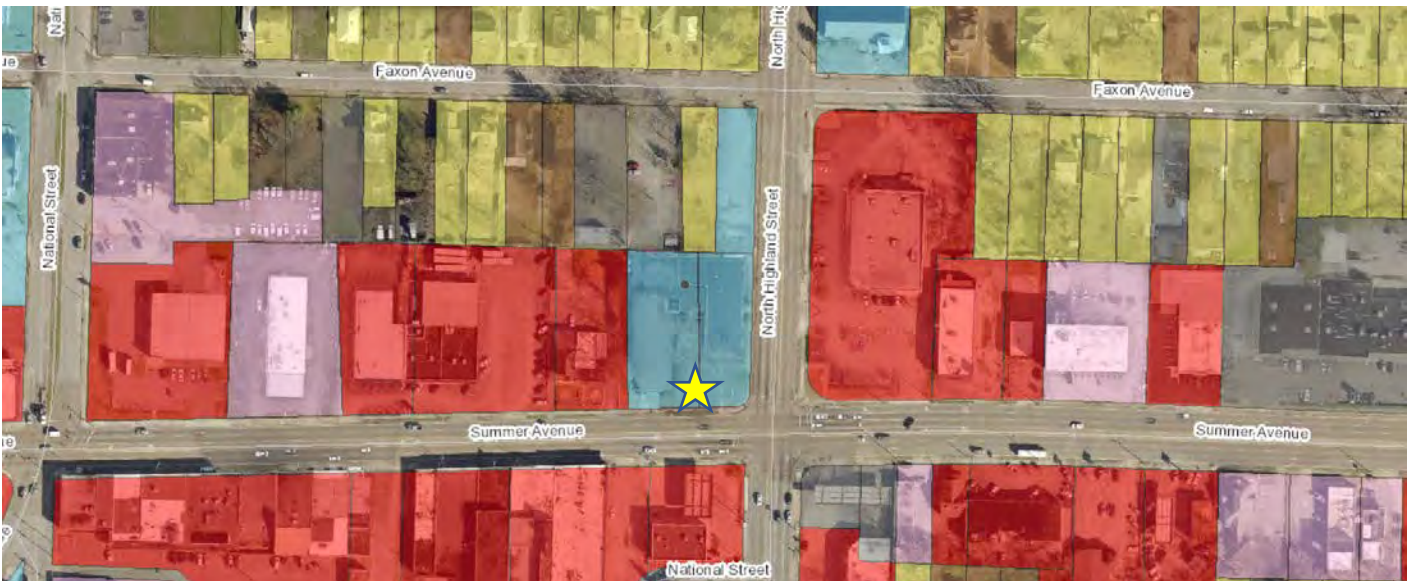


Former Highland Heights United Methodist Church, continued

Zoning Map



Land Use Map



Land Use Legend

| | | |
|---------------|---------------------------|--------|
| Commercial | Single-Family Residential | Office |
| Institutional | Multi-Family Residential | |

3.

*4536 Summer Ave.
Berclair Church of Christ
Built circa 1950s-1960s*

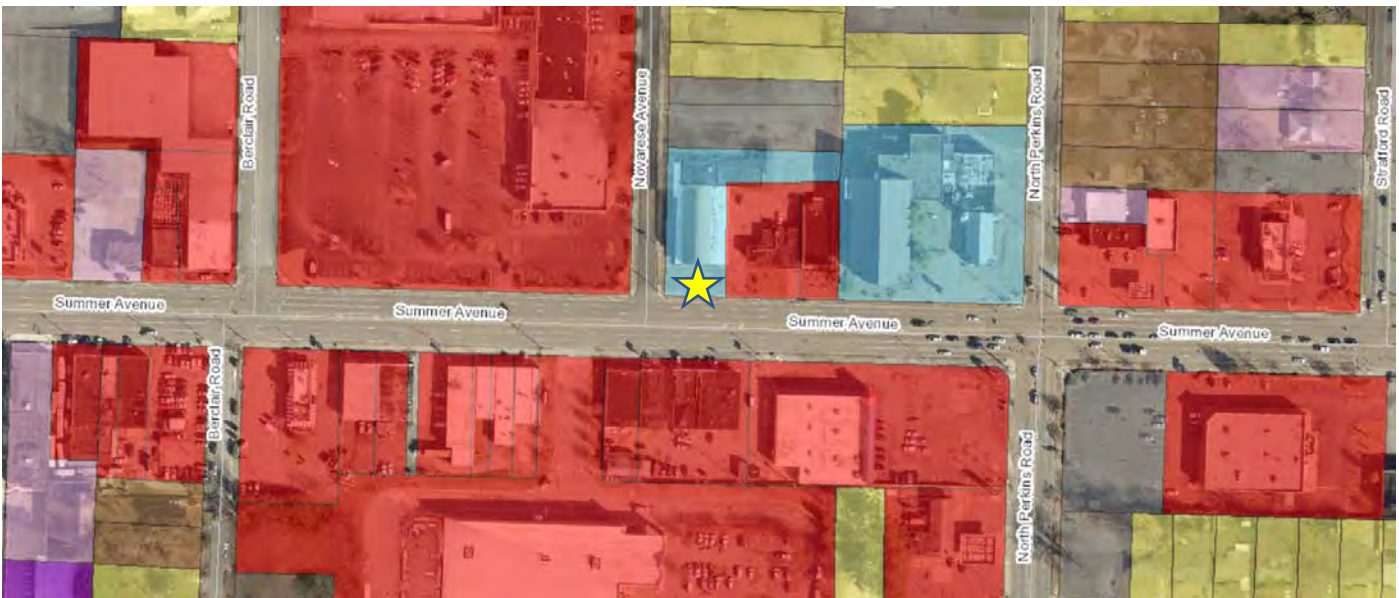


Berclair Church of Christ, continued

Zoning Map



Land Use Map



Land Use Legend

- | | | |
|---------------|---------------------------|--------|
| Commercial | Single-Family Residential | Office |
| Institutional | Multi-Family Residential | |

4.

*4584 Summer Ave.
Berclair Baptist Church
Built circa 1961*



Zoning Map



Land Use Map



Land Use Legend

| | | |
|---------------|---------------------------|--------|
| Commercial | Single-Family Residential | Office |
| Institutional | Multi-Family Residential | |

MEMPHIS 3.0 FUTURE LAND USE MAP – JACKSON PLANNING DISTRICT

All four churches are within the Jackson planning district. The Memphis 3.0 future land use map of that district is included, and each church is identified with a star (★).

The New Tyler African American United Methodist Church and the former Highland Heights United Methodist Church are within the *Summer and Highland* anchor neighborhood and anchor, respectively. The two Berclair churches are not within an anchor or anchor neighborhood.

JACKSON

Land Use

- Anchor Neighborhood - Primarily Single Unit
- Anchor Neighborhood - Mix of Building Types
- Anchor Neighborhood - Urban
- Primarily Single Unit Neighborhood
- Primarily Multifamily Neighborhood
- Neighborhood Crossing
- Neighborhood Main Street
- Urban Main Street
- Urban Center
- Urban Core / Downtown
- Medical and Institutional Campus
- Low Intensity Commercial & Services
- High Intensity Commercial & Services
- Open Space & Natural Features
- Public & Quasi Public Buildings & Uses
- Parks & Recreation Facilities
- Industrial
- Industrial Flex
- Transportation and Logistics Facilities
- Transitional Neighborhood
- Transitional Commercial
- Transitional Industrial

Future land use focuses on encouraging a mix of uses around anchors. Most anchors are designated Neighborhood Crossing, which features small, walkable, mixed-use centers comprised of house-scale buildings within otherwise residential neighborhoods. Urban Centers, which are considered destinations, is applied in the Summer/National area due to increased investment and incentives in the anchor area. Until population density increases around other anchor neighborhoods in the Jackson District, surrounding parcels may be more suited for conversion to open space.



MEMPHIS 3.0 FUTURE LAND USE TABLE

| Church | Address | Zoning District | Memphis 3.0 Future Land Use Designation | Memphis 3.0 Compatible Zoning Districts |
|---|------------------|------------------------|--|--|
| 1. New Tyler African American United Methodist Church | 3300 Summer Ave. | CMU – 3 | Anchor Neighborhood – Mix of Building Types | RU – 2 RU – 3 RU – 4 |
| 2. Former Highland Heights United Methodist Church | 3476 Summer Ave. | CMU – 3 | Urban Main Street | CMU – 2 CMP – 2 MU |
| 3. Berclair Church of Christ | 4536 Summer Ave. | CMU – 3 | Low Intensity Commercial and Services | CMU – 1 OG |
| 4. Berclair Baptist Church | 4584 Summer Ave. | CMU – 3 | Low Intensity Commercial and Services | CMU – 1 OG |

DESCRIPTION AND GRAPHIC OF FUTURE LAND USE DESIGNATIONS

Anchor Neighborhood – Mix of Building Types

Generally Compatible Zoning Districts: RU – 1, RU – 2, RU – 3



Mix of Building Types Anchor Neighborhoods are a combination of one to three-story house-scale buildings and large homes and apartments of up to four stories close to anchors and along corridors. In these neighborhoods is a mix of attached, semi-detached, and detached residential, all located within a 10-minute walk from the anchor destination. Any mixed-use is along corridors, allowing shopping destinations to connect between mixed-use and residential neighborhoods

Anchor – Urban Main Street

Generally Compatible Zoning Districts: CMU – 2, CMP – 2, MU



Urban Main Street Anchors are characterized by attached mixed-use buildings that span multiple blocks along a street. An Urban Main Street provides retail and services to surrounding neighborhoods in a pedestrian-friendly environment, making it possible to accomplish several errands in a single trip. An Urban Main Street is a center of activity and supports a shared sense of community.

Low Intensity Commercial and Services

Generally Compatible Zoning Districts: CMU – 1, OG



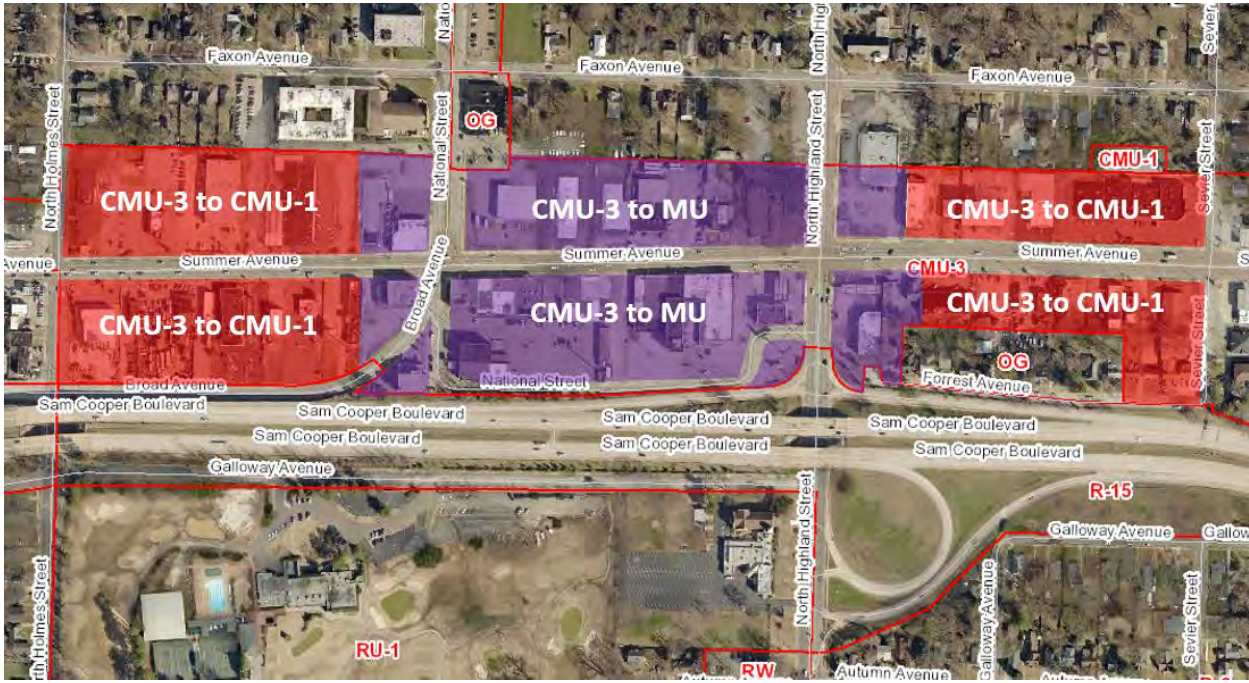
Low Intensity Commercial and Service areas consist of low-rise buildings accessible mainly by car and can encompass up to 5 acres of land for one building. These service areas are outside of the anchor boundary and are usually located along a corridor or within its own area of multiple commercial and service amenities.

TABLE COMPARING PERMITTED USES BY SELECT ZONING DISTRICT

The following table outlines permitted uses and select bulk regulations in four of the nine compatible zoning districts, according to the Memphis 3.0 General Plan as listed above. The CMU-2, CMP-2, RU-1, RU-2 and OG districts were not included in this analysis as they were deemed inappropriate for the sections of Summer Avenue that were part of this study due to adjacent zoning districts. The table below compares the regulations of existing zoning for the four sites included in this study, CMU-3, and the four most appropriate zoning districts, CMU-1, MU, RU-3 and RU-4.

| | CMU-3 High Intensity Commercial | CMU-1 Low Intensity Commercial | MU Mixed Use | RU-3 Low Intensity Multi-Family | RU-4 High Intensity Multi-Family |
|--|--|---|------------------------------|--|---|
| Permitted Commercial Uses | Gas stations Tire shops Auto repair Auto service Self-storage Restaurants Bars Retail | Auto service Restaurants Retail | Restaurants Retail | None | None |
| Permitted Residential Uses | Single Family only | Single Family only | Townhouse or Multi-Family | Single-Family or Multi-Family | Single-Family or Multi-Family |
| Bldg. Height | 75 feet | 48 feet | 45 feet | 45 feet | 75 feet |
| Build-to Line | None | None | 10 feet | None | None |
| Parking Setback (from street) | 8 feet | 8 feet | Behind the bldgs. | 20 feet | 20 feet |

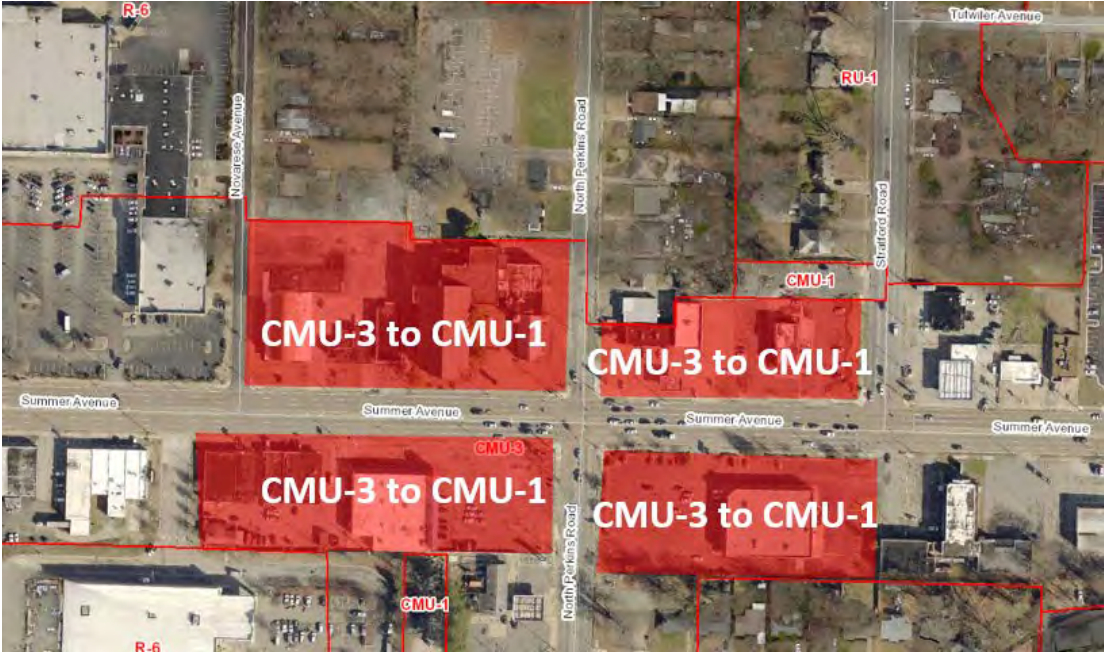
For those parcels identified by the Memphis 3.0 General Plan as an Anchor Neighborhood (and colored in orange in the map above), DPD recommends a reclassification to the CMU-1, Commercial Mixed Use-1, zoning district. Like the MU district, this district would limit more intense auto-related uses cited above. It would not, however, require all new buildings to be built in close proximity to the sidewalk to allow more flexibility in redevelopment for these blocks outside of “downtown” Highland Heights.



This map shows the extent of the rezoning in Area 1.

Area 2: Novarese to Stratford Roads (including Churches 3 and 4, Berclair Church of Christ and Berclair Baptist).

This area encompasses the eastern portion of the historic Berclair community. The Memphis 3.0 Plan classifies the stretch of Summer Avenue in this area as Low Intensity Commercial and Services. See map below; parcels classified as Low Intensity Commercial and Services are indicated in light brown.



This map shows the extent of the rezoning in Area 2.

NEXT STEPS

DPD recommends that the City Council approve a rezoning initiation resolution that would effectuate the rezoning process. If that resolution is approved, DPD would then file a rezoning application pursuant to the recommendations above with the Land Use Control Board by November 2, 2020, in order to be placed on that body's December 10 agenda. Once the Land Use Control Board votes on the matter, it will be forwarded to the Memphis City Council for final consideration as a zoning ordinance. Under the anticipated 2021 schedule of the regular meetings of the Memphis City Council, this zoning ordinance will likely go through its three readings by Council before the demolition permit moratorium that was passed on August 18, 2020, expires on February 18, 2021.

In addition, the Division of Planning and Development will investigate any other potential zoning changes along Summer Avenue as it conducts a broader planning study of the corridor in early 2021.

ADDENDUM – OTHER CHURCHES ON SUMMER AVE.

Several churches on Summer Ave. have not been addressed in this report. Examples include:

Churches that are in residential zoning districts, such as

- St. Michael Catholic Church at 3863 Summer Ave.
- Trafalgar Village Baptist Church at 6161 Summer Ave.

Congregations that occupy 50+ year-old structures that were not purpose-built as churches, such as

- Iglesia de Dios Pentecostal Ríos de Agua Viva at 3365 Summer Ave.
- Believing Church at 4798 Summer Ave.

Churches that have been demolished, such as

- Grimes Memorial United Methodist Church at 4649 Summer Ave.

Resolution authorizing the Memphis and Shelby County Division of Planning and Development to proceed with the submittal of an application for rezoning certain properties along Summer Avenue between Holmes and Sevier Streets and between Berclair and Stratford Roads.

WHEREAS, on August 18, 2020, the Memphis City Council approved a moratorium (“the Moratorium”) on the issuance of demolition permits for places of worship along Summer Avenue of more than 50 years in age;

WHEREAS, since this approval, the Memphis and Shelby County Division of Planning and Development (“DPD”) has undertaken a study of four sites along Summer Avenue that fall under this moratorium, as well as properties adjacent to these sites;

WHEREAS, Section 9.5.12 of the Unified Development Code states that only the legislative body may initiate a comprehensive rezoning; and

WHEREAS, on October 6, 2020, DPD filed a report with the Memphis City Council based on its study of four sites along Summer Avenue that fall under the moratorium, as well as properties adjacent to these sites;

WHEREAS, the report recommends the rezoning of certain properties along Summer Avenue based, in part, on the recommendations of the Memphis 3.0 General Plan and in part on the objectives of the moratorium;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMPHIS CITY COUNCIL does hereby authorize the Memphis and Shelby County Division of Planning and Development to proceed with the submittal of an application to the Memphis and Shelby County Land Use Control Board for rezoning certain properties along Summer Avenue between Holmes and Sevier Streets and between Berclair and Stratford Roads.

BE IT FURTHER RESOLVED BY THE MEMPHIS CITY COUNCIL that the Memphis and Shelby County Division of Planning and Development shall conduct a small area plan in the area of Summer Avenue to determine if any other zoning changes may be necessary in the future.

Sponsor: Chase Carlisle

Patrice Robinson, Chairwoman

| Summer Report Label | Parcel ID | Current Zoning | Proposed Zoning | Property Address | Owner Name | Owner Address | City State Zip | Future Land Use | Shape Area (sq ft) |
|---------------------|---------------|----------------|-----------------|-------------------|--|------------------------------|------------------------|---|--------------------|
| 1 | 038036 00030C | CMU-3 | CMU-1 | 3300 SUMMER AVE | NEW TYLER A M E CH | 3300 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 39865.29465 |
| 2 | 038036 00029 | CMU-3 | CMU-1 | 0 SUMMER AVE | NEW TYLER A M E CH | 3300 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 14394.26684 |
| 3 | 038036 00038 | CMU-3 | CMU-1 | 3320 SUMMER AVE | MID-STATE AUTOMOTIVE DISTRIBUTORS INC | P O BOX 06116 | CHICAGO, IL 60606 | Anchor Neighborhood - Mix of Building Types | 51315.88083 |
| 4 | 038064 00029 | CMU-3 | CMU-1 | 3522 SUMMER AVE | DABIT STEVE AND DIANA DABIT AND RAI J DABIT AND BARBARA A DABIT (RS) | 3276 WOODLAND TRCE E | SOUTHAVEN, MS 38672 | Anchor Neighborhood - Mix of Building Types | 19226.65074 |
| 5 | 044038 00006 | CMU-3 | CMU-1 | 3329 SUMMER AVE | MOORMAN FRANK E TESTAMENTARY TRUST | 5815 MICHAELSON DR | OLIVE BRANCH, MS 38654 | Anchor Neighborhood - Mix of Building Types | 14169.13544 |
| 6 | 044038 00008C | CMU-3 | CMU-1 | 3337 SUMMER AVE | HOPE WORKS INC | 1930 UNION AVE | MEMPHIS, TN 38104 | Anchor Neighborhood - Mix of Building Types | 47905.96637 |
| 7 | 044040 00009 | CMU-3 | MU | 3445 SUMMER AVE | WOFFORD GEORGE W II | 3333 POPLAR AVE | MEMPHIS, TN 38111 | Anchor - Urban Main Street | 43987.90404 |
| 8 | 044088 00001 | CMU-3 | MU | 0 N HIGHLAND ST | BERUK PROPERTIES INC | 4646 POPLAR AVE 302 STE | MEMPHIS, TN 38117 | Anchor - Urban Main Street | 7120.483042 |
| 9 | 044088 00003 | CMU-3 | MU | 3515 SUMMER AVE | TRANSITIONS HALFWAY MINISTRIES INC | 3629 HIGHLAND PARK PL | MEMPHIS, TN 38111 | Anchor - Urban Main Street | 6872.599908 |
| 10 | 044088 00005C | CMU-3 | CMU-1 | 3531 SUMMER AVE | MCGHEE JOSEPH E & GALE H | 2429 LACOSTA DR | BARTLETT, TN 38134 | Anchor Neighborhood - Mix of Building Types | 21287.85033 |
| 11 | 044088 00030C | CMU-3 | MU | 630 N HIGHLAND ST | LOVEJOY HIGHLAND LLC | 6000 WALDEN DR 101 STE | KNOXVILLE, TN 37919 | Anchor - Urban Main Street | 19079.95109 |
| 12 | 044040 00036 | CMU-3 | MU | 614 NATIONAL ST | CALPICK HOLDINGS LLC | 614 NATIONAL ST | MEMPHIS, TN 38122 | Anchor - Urban Main Street | 15714.02817 |
| 13 | 044040 00034C | CMU-3 | MU | 610 NATIONAL ST | GRIFFIN WILLIAM N JR (TR) | 6489 QUAIL HOLLOW RD 100 STE | MEMPHIS, TN 38120 | Anchor - Urban Main Street | 11177.27035 |
| 14 | 038064 00001C | CMU-3/RU-1 | MU/RU-1 | 3502 SUMMER AVE | WADLINGTON EMMIE L | PO BOX 1159 | DEERFIELD, IL 60015 | Anchor - Urban Main Street | 80831.81959 |
| 15 | 044038 00004C | CMU-3 | CMU-1 | 3315 SUMMER AVE | FRANKS WILLIAM C | 3321 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 41459.6967 |
| 16 | 038036 00033 | CMU-3 | CMU-1 | 0 N HOLMES ST | NEW TYLER A M E CH | 3300 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 5405.691727 |
| 17 | 038036 00037 | CMU-3 | CMU-1 | 3316 SUMMER AVE | HUA JUNWEI AND PEI LI CHEN AND SIMON SU YUAN HUA (RS) | 5246 COSGROVE CV | MEMPHIS, TN 38117 | Anchor Neighborhood - Mix of Building Types | 27888.78621 |
| 18 | 038036 00022C | CMU-3 | CMU-1 | 3362 SUMMER AVE | MONTESE ERNEST J AND PATRICIA M VEGLIO AND MARIA M BARLOW | PO BOX 722 | ELLENDALE, TN 38029 | Anchor Neighborhood - Mix of Building Types | 83922.83815 |
| 19 | 038037 00025C | CMU-3 | MU | 3430 SUMMER AVE | THIRTY FOUR THIRTY SUMMER LLC | 3880 ROUNDTREE RD 4 UNIT | JEFFERSON, MD 21755 | Anchor - Urban Main Street | 37336.5078 |
| 20 | 038037 00023C | CMU-3 | MU | 3432 SUMMER AVE | KIMBROUGH FAMILY TRUST (CO-TR5) (1/3%) AND | 1445 DONLON ST 20 STE | VENTURA, CA 93003 | Anchor - Urban Main Street | 25068.28927 |
| 21 | 038036 00021 | CMU-3 | MU | 3376 SUMMER AVE | IRBY BOBBY JR | 3376 SUMMER AVE | MEMPHIS, TN 38122 | Anchor - Urban Main Street | 20951.25383 |
| 22 | 038037 00021C | CMU-3 | MU | 3440 SUMMER AVE | BURIED TREASURES LLC | PO BOX 22601 | MEMPHIS, TN 38122 | Anchor - Urban Main Street | 45804.45816 |
| 23 | 038064 00039C | CMU-3/CMU-1 | CMU-1 | 3562 SUMMER AVE | GREGORY REALTY GP | PO BOX 382366 | GERMANTOWN, TN 38183 | Anchor Neighborhood - Mix of Building Types | 95503.95565 |
| 24 | 038037 00020 | CMU-3 | MU | 3464 E SUMMER AVE | HARBERT JOHN L | 1935 EVELYN AVE | MEMPHIS, TN 38104 | Anchor - Urban Main Street | 22588.77327 |
| 25 | 038037 00019 | CMU-3 | MU | 3476 SUMMER AVE | JACKSON AVE LLC | 2903 S PERKINS RD | MEMPHIS, TN 38118 | Anchor - Urban Main Street | 21901.59309 |
| 26 | 038037 00018 | CMU-3 | MU | 657 E N HIGHLAND | JACKSON AVE LLC | 2903 S PERKINS RD | MEMPHIS, TN 38118 | Anchor - Urban Main Street | 15715.46582 |
| 27 | 038064 00028 | CMU-3 | CMU-1 | 3530 SUMMER AVE | LINDER JAMES S | 6310 MASSEY WOODS CV | MEMPHIS, TN 38120 | Anchor Neighborhood - Mix of Building Types | 11032.22324 |
| 28 | 038036 00018C | CMU-3 | MU | 3380 SUMMER AVE | MIGLIARA LAWRENCE | 3254 WINBROOK DR | MEMPHIS, TN 38116 | Anchor - Urban Main Street | 16509.71961 |
| 29 | 038064 00027 | CMU-3 | CMU-1 | 3540 SUMMER AVE | GRABER BLAIR S | 3540 SUMMER AVE 103 STE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 28139.51453 |
| 30 | 038064 00026 | CMU-3 | CMU-1 | 3550 SUMMER AVE | CK DESIGNS LLC | 3550 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 20358.19453 |
| 31 | 044038 00002C | CMU-3 | CMU-1 | 3297 SUMMER AVE | GREENBERG BLATT CHILDREN LLC | 15563 MANCHESTER RD | BALLWIN MO 63011 | Anchor Neighborhood - Mix of Building Types | 36345.00666 |
| 32 | 044038 00003 | CMU-3 | CMU-1 | 3307 SUMMER AVE | HUYNH HIEN TIEN | 3307 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 13452.11371 |
| 33 | 044038 00009 | CMU-3 | CMU-1 | 3347 SUMMER AVE | BROCK MARGARET L | 10023 ROSEMARK RD | ATOKA TN 38004 | Anchor Neighborhood - Mix of Building Types | 7461.159257 |
| 34 | 044038 00010 | CMU-3 | CMU-1 | 3353 SUMMER AVE | TPB REAL ESTATE LLC | 5840 FAIRWOOD LN | MEMPHIS TN 38120 | Anchor Neighborhood - Mix of Building Types | 28441.90714 |
| 35 | 044038 00011 | CMU-3 | CMU-1 | 3365 SUMMER AVE | IGLESIA PENTECOSTAL RIOS DE AGUA VIVA | 3361 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 25492.67316 |
| 36 | 044038 00012 | CMU-3 | MU | 3375 SUMMER AVE | MOTHANNA INC | 4650 SUMMER AVE | MEMPHIS, TN 38122 | Anchor - Urban Main Street | 28872.11592 |
| 37 | 044040 00001C | CMU-3 | MU | 3393 SUMMER AVE | GRIFFIN WILLIAM N JR (TR) | 6489 QUAIL HOLLOW RD 100 STE | MEMPHIS, TN 38120 | Anchor - Urban Main Street | 85834.03397 |

| Summer Report Label | Parcel ID | Current Zoning | Proposed Zoning | Property Address | Owner Name | Owner Address | City State Zip | Future Land Use | Shape Area (sq ft) |
|---------------------|---------------|----------------|-----------------|-------------------|--|----------------------------|-------------------------------|---|--------------------|
| 38 | 044040 00040 | CMU-3 | MU | 3437 SUMMER AVE | GATLIN L E JR | 4017 WASHINGTON RD 353 PMB | CANONSBURG, PA 15317 | Anchor - Urban Main Street | 3421.590222 |
| 39 | 044040 00037 | CMU-3 | MU | 3459 SUMMER AVE | KIM YOUNG HOON & IN JA | 3459 SUMMER AVE | MEMPHIS, TN 38122 | Anchor - Urban Main Street | 50870.83335 |
| 40 | 044040 00011 | CMU-3 | MU | 3487 SUMMER AVE | PIRANHA INC | 2400 AIRWAYS BLVD | MEMPHIS, TN 38114 | Anchor - Urban Main Street | 18953.04703 |
| 41 | 044088 00002 | CMU-3 | MU | 3509 SUMMER AVE | PIERCEY VIRGINIA A J AND EDITH L J JONES | 180 PERSON RD | OAKLAND, TN 38060 | Anchor - Urban Main Street | 6896.88349 |
| 42 | 044088 00004 | CMU-3 | MU | 3519 SUMMER AVE | MCGHEE JOSEPH E & GALE H | 2429 LACOSTA DR | BARTLETT, TN 38134 | Anchor Neighborhood - Mix of Building Types | 7155.711769 |
| 43 | 044088 00008 | CMU-3/OG | CMU-1/OG | 3543 SUMMER AVE | ALLAD AUTO INC | 3543 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 21161.56521 |
| 44 | 044088 00009C | CMU-3/OG | CMU-1/OG | 3551 SUMMER AVE | FLORES EDGAR | 3551 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 22060.95236 |
| 45 | 044088 00011 | CMU-3 | CMU-1 | 3559 SUMMER AVE | PEAK PROPERTIES LLC | 1779 KIRBY PKWY 143 STE | GERMANTOWN TN 38138 | Anchor Neighborhood - Mix of Building Types | 14787.16099 |
| 46 | 044088 00012 | CMU-3 | CMU-1 | 3569 SUMMER AVE | RKA INVESTMENTS LLC null | 556 WILLIAMSBURG LN | MEMPHIS TN 38117 | Anchor Neighborhood - Mix of Building Types | 14468.08083 |
| 47 | 044088 00031 | CMU-3 | CMU-1 | 3579 SUMMER AVE | THOMAS JANETTE S A AND ERROL THOMAS | 3579 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 8513.460613 |
| 48 | 044088 00032 | CMU-3 | CMU-1 | 3589 SUMMER AVE | GUPTA MANJU AND HEMANT GUPTA AND RAGINI GUPTA (RS) | 6245 RIVER GROVE CV | MEMPHIS, TN 38120 | Anchor Neighborhood - Mix of Building Types | 20753.64946 |
| 49 | 044039 00018C | CMU-3 | MU | 0 NATIONAL ST | CITY OF MEMPHIS | 125 N MAIN ST | MEMPHIS, TN 38103 | Anchor - Urban Main Street | 16620.85014 |
| 50 | 044088 00029 | CMU-3 | MU | 3514 FORREST AVE | TRANSITIONS HALFWAY MINISTRIES | 3515 SUMMER AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 6998.052117 |
| 51 | 044040 00038 | CMU-3 | MU | 611 N HIGHLAND ST | BOYLE TRUST & INVESTMENT CO | PO BOX 17800 | MEMPHIS, TN 38187 | Anchor - Urban Main Street | 15337.45349 |
| 52 | 044088 00017 | CMU-3 | CMU-1 | 3580 FORREST AVE | NELSON MATT | 3580 FORREST AVE | MEMPHIS, TN 38122 | Anchor Neighborhood - Mix of Building Types | 8220.059248 |
| 53 | 044088 00016 | CMU-3 | CMU-1 | 3584 FORREST ST | POLK LAKESHA W | 2487 WHITNEY AVE | MEMPHIS, TN 38127 | Anchor Neighborhood - Mix of Building Types | 8373.316189 |
| 54 | 038037 00034 | CMU-3 | MU | 3400 SUMMER AVE | MCGARRY JOHN T LIVING TRUST | 1611 E 53RD ST | CHICAGO, IL 60615 | Anchor - Urban Main Street | 45307.93416 |
| 55 | 044040 00039 | CMU-3 | MU | 3437 SUMMER AVE | MIGLIARA LAWRENCE JR | 3254 WINBROOK | MEMPHIS, TN 38116 | Anchor - Urban Main Street | 17694.32523 |
| 56 | 038036 00009C | CMU-3/RU-1 | MU/RU-1 | 3353 FAXON AVE | COLLEGIATE SCHOOL OF MEMPHIS (THE) | 3353 FAXON AVE | MEMPHIS, TN 38122 | Anchor - Urban Main Street | 116465.9113 |
| 57 | 044088 00014C | CMU-3 | CMU-1 | 3590 FORREST AVE | GUS PROPERTIES INC | 2020 QUAIL CREEK CV | MEMPHIS, TN 38119 | Anchor Neighborhood - Mix of Building Types | 17144.03073 |
| 58 | 063010 00014 | CMU-3 | CMU-1 | 4566 SUMMER AVE | BERCLAIR BAPTIST CHURCH | 4584 SUMMER AVE | MEMPHIS, TN 38122- 4134 | Low Intensity Commercial & Services | 67813.3 |
| 59 | 063024 00002 | CMU-3 | CMU-1 | 4625 SUMMER AVE | TERMINAL-PLAZA ASSOCIATES | 201 FILBERT ST STE 401 | SAN FRANCISCO CA 94133- 3238 | Low Intensity Commercial & Services | 65060.5 |
| 60 | 063010 00018 | CMU-3 | CMU-1 | 0 NOVARESE ST | BERCLAIR CHURCH OF CHRIST | 666 NOVARESE ST | MEMPHIS, TN 38122 | Primarily Single-Unit Neighborhood | 16270.6 |
| 61 | 063010 00017 | CMU-3 | CMU-1 | 666 NOVARESE ST | BERCLAIR CHURCH OF CHRIST | 4536 SUMMER AVE | MEMPHIS, TN 38122 | Low Intensity Commercial & Services | 25845.7 |
| 62 | 063010 00016 | CMU-3 | CMU-1 | 4550 SUMMER AVE | MARTIN HILDA J LIVING TRUST | 475 N HIGHLAND ST APT 8G | MEMPHIS, TN 38122 | Low Intensity Commercial & Services | 17736.0 |
| 63 | 063010 00015 | CMU-3 | CMU-1 | 4556 SUMMER AVE | BAIXA LLC | 333 E 34TH ST # 15K | NEW YORK, NY 10016 | Low Intensity Commercial & Services | 9417.6 |
| 64 | 063022 00038 | CMU-3 | CMU-1 | 4600 SUMMER AVE | ABDELRAHMAN SAMEH FATTAH | 4800 SUMMER AVE | MEMPHIS, TN 38122- 4130 | Low Intensity Commercial & Services | 13623.7 |
| 65 | 063022 00039C | CMU-3 | CMU-1 | 4628 SUMMER AVE | LANKFORD WILLIAM R | P O BOX 7971 | MADISON WI 53707 | Low Intensity Commercial & Services | 35856.7 |
| 66 | 063022 00037 | CMU-3 | CMU-1 | 4590 SUMMER AVE | ABELRAHMAN SAMEH FATTOH AND ABELRAHMAN F | 4590 SUMMER AVE | MEMPHIS, TN 38122 | Low Intensity Commercial & Services | 17837.2 |
| 67 | 063007 00011 | CMU-3 | CMU-1 | 4527 SUMMER AVE | SILLS JUDITH A | 3866 POPLAR AVE | MEMPHIS, TN 38111 | Low Intensity Commercial & Services | 9050.0 |
| 68 | 063007 00012 | CMU-3 | CMU-1 | 4531 SUMMER AVE | SILLS JUDITH A | 3866 POPLAR AVE | MEMPHIS, TN 38111 | Low Intensity Commercial & Services | 28225.4 |
| 69 | 063024 00001 | CMU-3 | CMU-1 | 4597 SUMMER AVE | TERMINAL-PLAZA ASSOCIATES | 201 FILBERT ST STE 401 | SAN FRANCISCO, CA 94133- 3238 | Low Intensity Commercial & Services | 29568.4 |
| 70 | 063007 00013C | CMU-3 | CMU-1 | 4569 SUMMER AVE | FSC FMC-FD MEMPHIS TN LLC | 1901 MAIN ST | LAKE COMO, NJ 7719 | Low Intensity Commercial & Services | 66269.7 |

Office of Comprehensive Planning Review

This summary is being produced in response to the following application to support the Office of Planning & Development in their recommendation: Z 20-10

Site Address/location: Summer Avenue between Holmes and Sevier

Land Use Designation (see page 82 & 94 for details): Anchor – Urban Main Street (A-UMS) & Anchor Neighborhood – Mix of Building Types (AN-M) This review consists of the parcels listed below:

| Number | Property Address | Future Land Use | Abbreviation |
|--------|-------------------|---|--------------------|
| 7 | 3445 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 8 | 0 N HIGHLAND ST | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 9 | 3515 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 11 | 630 N HIGHLAND ST | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 12 | 614 NATIONAL ST | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 13 | 610 NATIONAL ST | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 14 | 3502 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 19 | 3430 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 20 | 3432 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 21 | 3376 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 22 | 3440 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 24 | 3464 E SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 25 | 3476 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 26 | 657 E N HIGHLAND | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 28 | 3380 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 36 | 3375 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 37 | 3393 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 38 | 3437 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 39 | 3459 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 40 | 3487 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 41 | 3509 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 42 | 3519 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 49 | 0 NATIONAL ST | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 50 | 3514 FORREST AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 51 | 611 N HIGHLAND ST | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 54 | 3400 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 55 | 3437 SUMMER AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |
| 56 | 3353 FAXON AVE | Anchor - Urban Main Street | A-UMS (Accelerate) |

Based on the Future Land Use Planning Map, the proposal is CONSISTENT with the Memphis 3.0 Comprehensive Plan.

“A-UMS” Form & Location Characteristics:

Buildings are primarily attached and block-scale. There are a mix of uses, 1-7 stories in height and several blocks of extent.

“AN-M” Form & Location Characteristics:

ACCELERATE: Primarily detached, single-family house-scale residences of 1-3 stories in height. Attached, house-scale single-family, duplexes, triplexes and quadplexes of 1-3 stories in height permitted on parcels within 200 feet of an anchor and at intersections where the presence of such housing type currently exists. Building-scale large homes and apartments of 2-4 stories in height permitted on parcels within 100 feet of an anchor; at intersections where the presence of such housing type currently exists at the intersection. Other housing and commercial types along avenues, boulevards and parkways as identified in the Street Types Map where same types exist on one or more adjacent parcels.

The applicant is seeking a rezoning of 70 parcels along the Summer Avenue Corridor. This review focuses on 28 parcels from Holmes Street to Sevier Street. The parcels are to be rezoned from CMU-3 to MU.

The request meets the criteria because mix of uses is compatible and encouraged in Anchors. Mixed Use districts (MU) maximum building heights of 45 feet are well within the 1-7 stories that are compatible with A-UMS anchors.

3. Existing, Adjacent Land Use and Zoning

The subject site is surrounded by the following land uses: Residential, Commercial, Office, Institutional, and Vacant land. The subject site is surrounded by the following zoning districts: RU-1 and OG. This requested land use is compatible with these adjacent land uses and zoning districts because existing land use surrounding the parcel is similar in nature to the requested use.

4. Degree of Change map



The red box indicates the application site. The Degree of Change is Accelerate.

5. Degree of Change Descriptions

Accelerate areas rely on a mix of primarily private and philanthropic resources along with some public resources to intensify the existing pattern of a place.

Actions for Accelerate anchors and anchor neighborhoods are meant to:

- Improve public realm and infrastructure
- Improve multi-modal transportation options
- Speed up development activity
- Increase density
- Increase mix of uses
- Promote and protect affordable housing

Ways to Accelerate:

- Increase building height
- Allow greater mix of uses
- Attract retail and service uses that cater to larger-scale markets
- Reduce building setbacks or establish build-to lines
- Construct new streets or pathways to increase connectivity within large sites
- Consolidate smaller lots into larger parcels that are more attractive for development
- Consider tax increment financing (TIF) districts
- Improve or create parks and civic assets
- Promote pedestrian-oriented infill development
- Reduce surface parking in favor of structured parking and parking demand management options

Based on the information provided, the proposal is CONSISTENT with the Memphis 3.0 Comprehensive Plan.

Summary Compiled by: Bradyn Carson, Office of Comprehensive Planning

Office of Comprehensive Planning Review

This summary is being produced in response to the following application to support the Office of Planning & Development in their recommendation: Z 20-10

Site Address/location: Summer Avenue between Holmes and Sevier

Land Use Designation (see page 82 for details): Anchor Neighborhood – Mix of Building Types (AN-M)

This review consists of the parcels listed below:

| Number | Property Address | Future Land Use | Abbreviation |
|--------|------------------|---|-------------------|
| 1 | 3300 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 2 | 0 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 3 | 3320 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 4 | 3522 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 5 | 3329 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 6 | 3337 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 10 | 3531 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 15 | 3315 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 16 | 0 N HOLMES ST | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 17 | 3316 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 18 | 3362 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 23 | 3562 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 27 | 3530 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 29 | 3540 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 30 | 3550 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 31 | 3297 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 32 | 3307 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 33 | 3347 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 34 | 3353 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 35 | 3365 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 43 | 3543 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 44 | 3551 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 45 | 3559 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 46 | 3569 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 47 | 3579 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 48 | 3589 SUMMER AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 52 | 3580 FORREST AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 53 | 3584 FORREST ST | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |
| 57 | 3590 FORREST AVE | Anchor Neighborhood - Mix of Building Types | AN-M (Accelerate) |

Based on the Future Land Use Planning Map, the proposal is CONSISTENT with the Memphis 3.0 Comprehensive Plan.

The following information about the land use designation can be found on pages 76 – 122:

1. FUTURE LAND USE PLANNING MAP



The red boxes indicate the application sites on the Future Land Use Map.

2. Land use description & applicability:

The site is designated as Anchor Neighborhood – Mix of Building Types (AN-M). AN-M areas are a combination of one to three-story house-scale buildings with building scale large home and apartments of up to four stories close to anchors and along corridors. In these neighborhoods is a mix of attached, semi-detached, and detached residential, all located within a 10-minute walk from the anchor destination. Any mixed-use is along corridors, allowing shopping destinations to connect between mixed-use and residential neighborhoods. See graphic portrayal to the right.



“AN-M” Goals/Objectives:

Preservation, stabilization, and/or intensification of neighborhoods, focusing investment toward areas that support plan goals and objectives, locating housing near services, jobs, transit, building up not out.

“AN-M” Form & Location Characteristics:

ACCELERATE: Primarily detached, single-family house-scale residences of 1-3 stories in height. Attached, house-scale single-family, duplexes, triplexes and quadplexes of 1-3 stories in height permitted on parcels within 200 feet of an anchor and at intersections where the presence of such housing type currently exists. Building-scale large homes and apartments of 2-4 stories in height permitted on parcels within 100 feet of an anchor; at intersections where the presence of such housing type currently exists at the intersection. Other housing and commercial types along avenues, boulevards and parkways as identified in the Street Types Map where same types exist on one or more adjacent parcels.

The applicant is seeking a rezoning of 70 parcels along the Summer Avenue Corridor. This review focuses on 29 parcels from Holmes Street to Sevier Street. The parcels are to be rezoned from CMU-3 to CMU-1.

The request meets the criteria because commercial land uses are compatible with AN-M areas when located along a parkway. Summer Avenue is designated a Parkway by the Streets Type Map.

3. Existing, Adjacent Land Use and Zoning

The subject site is surrounded by the following land uses: Residential, Commercial, Office, Institutional, and Vacant land. The subject site is surrounded by the following zoning districts: RU-1, CMU-1, and OG. This requested land use is compatible with these adjacent land uses and zoning districts because existing land use surrounding the parcel is similar in nature to the requested use.

4. Degree of Change map



The red box indicates the application site. The Degree of Change is Accelerate, ¼ mile.

5. Degree of Change Descriptions

Accelerate areas rely on a mix of primarily private and philanthropic resources along with some public resources to intensify the existing pattern of a place.

Actions for Accelerate anchors and anchor neighborhoods are meant to:

- Improve public realm and infrastructure
- Improve multi-modal transportation options
- Speed up development activity
- Increase density
- Increase mix of uses
- Promote and protect affordable housing

Ways to Accelerate:

- Increase building height
- Allow greater mix of uses
- Attract retail and service uses that cater to larger-scale markets
- Reduce building setbacks or establish build-to-lines
- Construct new streets or pathways to increase connectivity within large sites
- Consolidate smaller lots into larger parcels that are more attractive for development
- Consider tax-increment financing (TIF) districts
- Improve or create parks and civic assets
- Promote pedestrian-oriented infill development
- Reduce surface parking in favor of structured parking and parking demand management options

Based on the information provided, the proposal is CONSISTENT with the Memphis 3.0 Comprehensive Plan.

Summary Compiled by: Bradyn Carson, Office of Comprehensive Planning

Office of Comprehensive Planning Review

This summary is being produced in response to the following application to support the Office of Planning & Development in their recommendation: Z 20-10

Site Address/location: Summer Avenue between Novarese and Stratford
 Land Use Designation (see page 82 for details): Low Intensity Commercial & Services and Primarily Single Units.

This review consists of the parcels listed below:

| Number | Property Address | Future Land Use | Abbreviation |
|--------|------------------|-------------------------------------|--------------|
| 58 | 4566 SUMMER AVE | Low Intensity Commercial & Services | CSL |
| 59 | 4625 SUMMER AVE | Low Intensity Commercial & Services | CSL |
| 60 | 0 NOVARESE ST | Primarily Single-Unit Neighborhood | NS |
| 61 | 666 NOVARESE ST | Low Intensity Commercial & Services | CSL |
| 62 | 4550 SUMMER AVE | Low Intensity Commercial & Services | CSL |
| 63 | 4556 SUMMER AVE | Low Intensity Commercial & Services | CSL |
| 64 | 4600 SUMMER AVE | Low Intensity Commercial & Services | CSL |
| 65 | 4628 SUMMER AVE | Low Intensity Commercial & Services | CSL |
| 66 | 4590 SUMMER AVE | Low Intensity Commercial & Services | CSL |
| 67 | 4527 SUMMER AVE | Low Intensity Commercial & Services | CSL |
| 68 | 4531 SUMMER AVE | Low Intensity Commercial & Services | CSL |
| 69 | 4597 SUMMER AVE | Low Intensity Commercial & Services | CSL |
| 70 | 4569 SUMMER AVE | Low Intensity Commercial & Services | CSL |

Based on the Future Land Use Planning Map, the proposal is CONSISTENT with the Memphis 3.0 Comprehensive Plan.

The following information about the land use designation can be found on pages 76 – 122:

1. FUTURE LAND USE PLANNING MAP



The red boxes indicate the application sites on the Future Land Use Map.

2. Land use description & applicability:

Most of the subject area is Low Intensity Commercial and Service (CSL). CSL areas consist of low-rise buildings accessible mainly by a car and can encompass up to 5 acres of land for one building. These service areas are outside of the anchor boundary and are usually located along a corridor or within its own area of multiple commercial and service amenities. See graphic portrayal to the right.



One parcel of the subject area is Primarily Single-Unit Neighborhood (NS). NS areas are located greater than a half-mile outside of any anchor destination. These neighborhoods contain mostly detached, house scale residences, serving mostly single-family style living. This is considered the typical suburban community that is not as walkable or accessible from an anchor. See graphic portrayal to the right.



“CSL” Goals/Objectives:

Improved development patterns along auto-oriented commercial corridors, revitalization.

“NS” Goals/Objectives:

The future land use designation is appropriate for primarily detached, single-family residences and attached single-family residences permitted on parcels within 100 feet of an anchor. The height should be 1-2 stories. The structures should be house scale.

“CSL” Form & Location Characteristics:

Commercial and services uses 1-3 stories height.

“NS” Form and Location Characteristics:

Primarily detached House-scale buildings Primarily residential 1-3 stories Beyond 1/2 mile from a Community Anchor

The applicant is seeking a rezoning of 70 parcels along the Summer Avenue Corridor. This review focuses on 13 parcels from Novarese and Stratford. The parcels are to be rezoned from CMU-3 to CMU-1.

The request meets the criteria because commercial land uses are compatible with CSL areas and CMU-1 and districts are generally compatible. Parcel #60 is Primarily Single-Unit Neighborhood and is consistent because it is a vacant lot adjacent to the property and development will not disrupt the neighborhood character.

3. Existing, Adjacent Land Use and Zoning

The subject site is surrounded by the following land uses: Residential, Commercial, Office, Institutional, and Vacant land. The subject site is surrounded by the following zoning districts: RU-1, CMU-3, CMU-1.

This requested land use is compatible with these adjacent land uses and zoning districts because existing land use surrounding the parcel is similar in nature to the requested use.

3. Degree of Change map



There is no degree of change for these sites.

4. Degree of Change Descriptions

N/A

Based on the information provided, the proposal is CONSISTENT with the Memphis 3.0 Comprehensive Plan.

Summary Compiled by: Elizabeth Carey, Office of Comprehensive Planning

SIGN PHOTOGRAPHS



Nov 23, 2020 at 10:04:42 AM
3586 Summer Ave
Memphis TN 38122
United States





**MEMPHIS AND
SHELBY COUNTY**  **DIVISION OF PLANNING
AND DEVELOPMENT**
CITY HALL, 105 N. MAIN STREET, SUITE 400, MEMPHIS, TN 38102-2094, (901) 520-6619

PUBLIC NOTICE

AN APPLICATION HAS
BEEN FILED FOR A
**COMPREHENSIVE
REZONING**

Of specific parcels along Summer
from Holmes to Stratford.

A PUBLIC HEARING
WILL BE HELD.

CASE NO.
INFORMATION.

Z 20-10
636-6619

BEARING THE RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN AND THE RESULTS OF ANY ACTION TAKEN THEREON. THE DIVISION OF PLANNING AND DEVELOPMENT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.



LETTERS RECEIVED

One letter of support was received by 4 December at 8 a.m. and has been attached.



September 17th, 2020

Memphis and Shelby County Office of Planning and Development
Attn: Josh Whitehead

Re: Downzoning Highland Heights

Dear Mr. Whitehead,

The Summer Avenue Merchants' Association is in favor of rezoning "downtown" Highland Heights from CMU-3 to a Mixed Use district. A MU district will allow a blend of commercial and housing and aligns with the parcels that Memphis 3.0 identified as an "Urban Main Street." A Mixed Use zoning at this area is significant because it requires buildings to be built in close proximity to the side walk and that is the predominate building form in this area. A Mixed Use zoning designation would prohibit, at least by right, the demolition of historic, streetcar commercial properties from being replaced by buildings behind parking spaces and some auto-related uses. This will allow for excellent walkability in order to build a vibrant "downtown core."

The Summer Avenue Merchants' Association is also in favor of rezoning the areas east and west of the Highland Height's Urban Main Street, as well as immediately east and west of Perkins on Summer Avenue from CMU-3 to CMU-1. This will allow a conventional commercial zoning district, but prohibit auto-related commercial uses such as gas stations, tire shops, repair shops, etc., which are of abundance in the area.

The Summer Avenue Merchants' Association has concerns about pedestrian-oriented buildings being town down and replaced by auto-oriented buildings. The Association also has concerns about traffic and noise with these auto-related businesses disturbing the surrounding neighborhoods. By downzoning the areas mentioned above, our concerns would be addressed and vibrant, walkable areas could be built to revitalize the community.

Sincerely,

A handwritten signature in blue ink, appearing to read "Meghan Medford".

Meghan Medford
President
Summer Avenue Merchants' Association

**NOTICE OF TELEPHONIC PUBLIC HEARING ON PROPOSED AMENDMENT
TO THE ZONING MAP OF THE CITY OF MEMPHIS**

Notice is hereby given that, pursuant to Section 8-44-108 of the Tennessee Code Annotated, a Telephonic Public Hearing will be held by the Council of the City of Memphis on Tuesday 2 February 2021 at 3:30 p.m., in the matter of amending the Zoning Map of the City of Memphis, being Chapter 28, Article IV, of the Code of Ordinances of the City of Memphis, Tennessee, as amended, as follows:

CASE NUMBER: Z 20-10

LOCATION: Certain parcels adjacent to Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford

COUNCIL DISTRICT: District 5 and Super District 9

APPLICANT: Department of Comprehensive Planning of the Division of Planning and Development

REPRESENTATIVE: Ashley Cash

EXISTING ZONING: Commercial Mixed Use – 3

REQUEST: Comprehensive Rezoning of Summer between: 1) Holmes and Sevier and 2) Novarese and Stratford

RECOMMENDATIONS:

Memphis and Shelby County Division of Planning and Development: *Approval*

Memphis and Shelby County Land Use Control Board: *Approval*

NOW, THEREFORE, you will take notice that on Tuesday 2 February 2021 at 3:30 p.m., the Council of the City of Memphis, Tennessee, will be in session to hear opposition against the making of such changes; such opposition must register to speak by Monday 1 February at 8 a.m.

You may register to speak by contacting Bryson Whitney at bryson.whitney@memphistn.gov no later than Monday 1 February at 8 a.m. with your (i) name, (ii) address, and (iii) the phone number from which you will be calling. Please note that due to time limitations under the Council's Rules of Procedure, each side may speak no longer than 15 minutes.

Please note video of this meeting will be streamed live on the City of Memphis' YouTube channel. The direct link is: <https://www.youtube.com/MemphisCityCouncil>

This case will also be heard at the Planning and Zoning Committee on the same day with the specific time to be determined prior to the meeting date and posted on the City of Memphis' website.

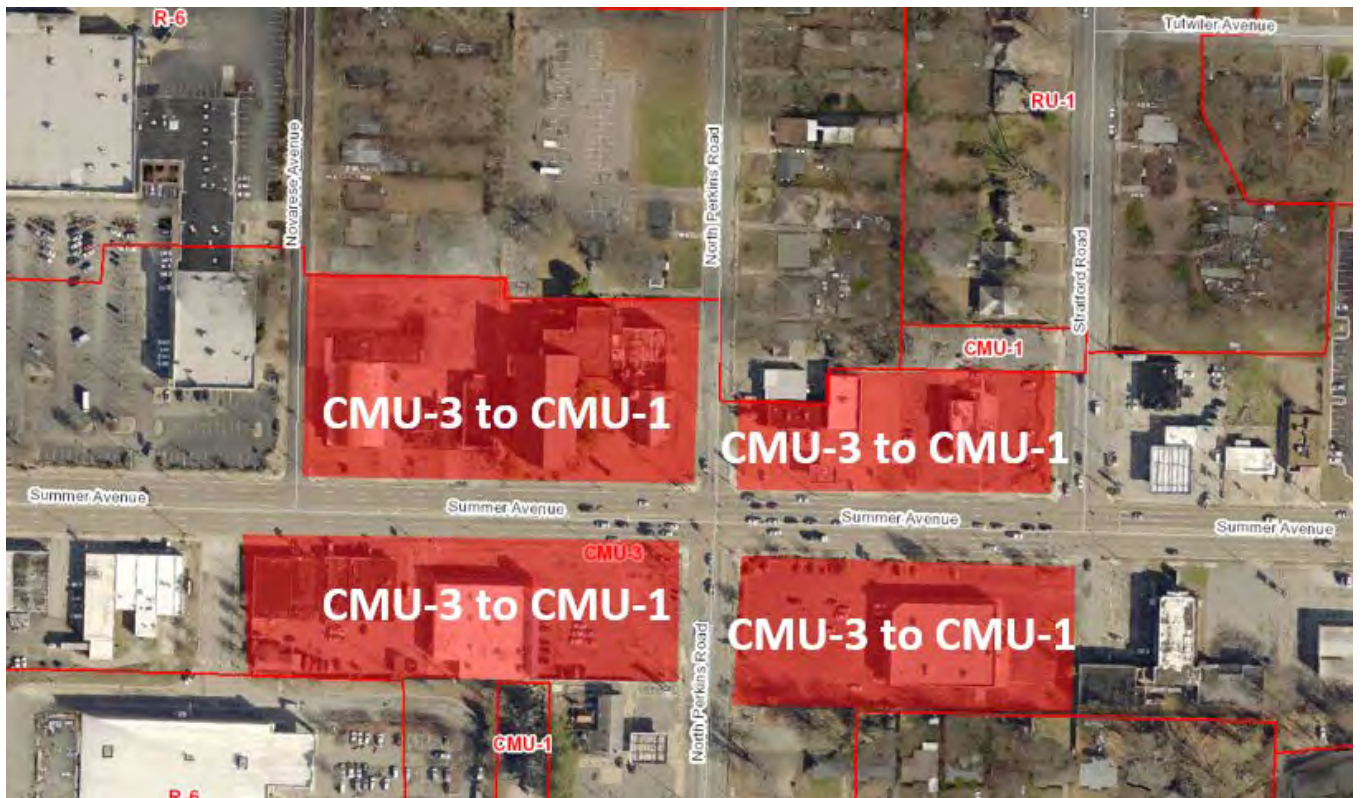
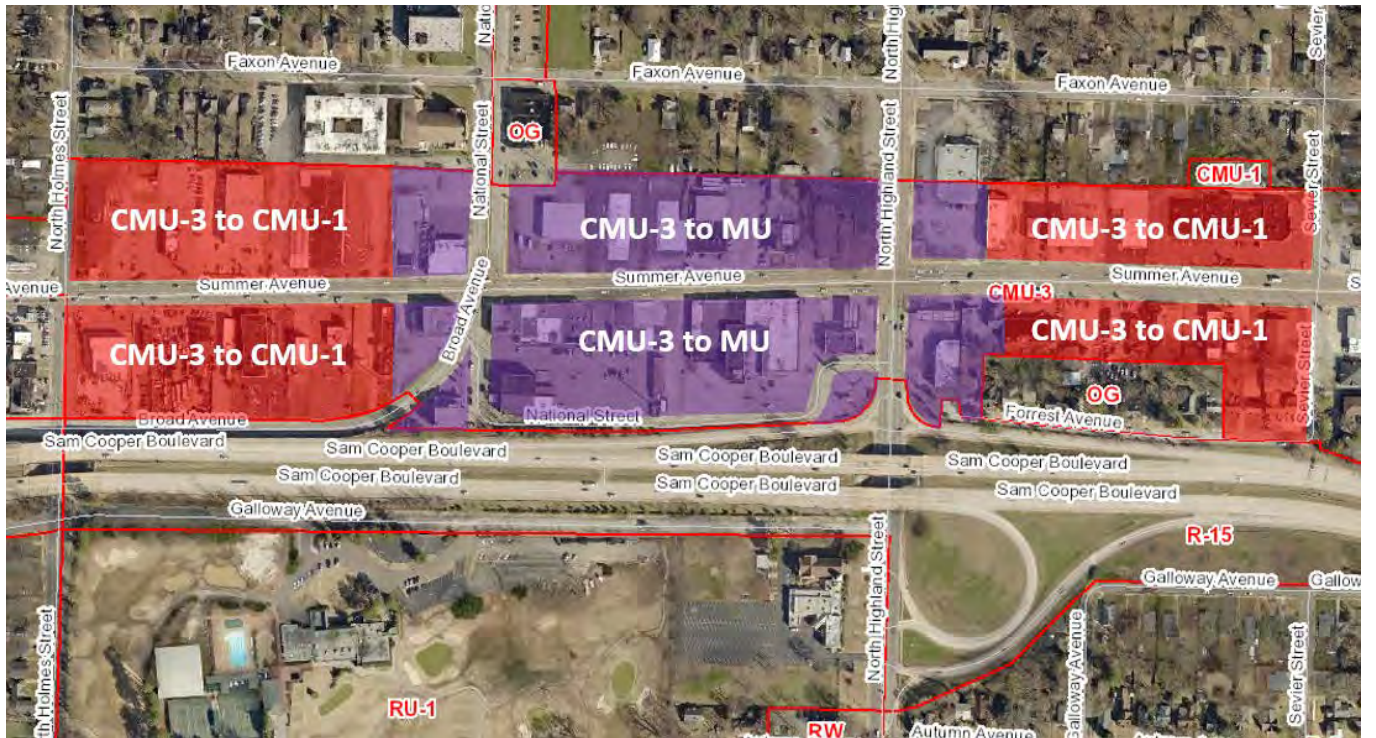
THIS THE _____, _____

PATRICE ROBINSON
CHAIR OF COUNCIL

ATTEST:

CANDI BURTON
CITY COMPTROLLER

TO BE PUBLISHED:



| | | |
|---|---|---|
| BERCLAIR BAPTIST CHURCH 4584 SUMMER AVE MEMPHIS TN 38122- 4134 | TERMINAL-PLAZA ASSOCIATES 201 FILBERT ST STE 401 SAN FRANCISCO CA 94133- 3238 | BERCLAIR CHURCH OF CHRIST 666 NOVARESE ST MEMPHIS, TN 38122 |
| BERCLAIR CHURCH OF CHRIST 4536 SUMMER AVE MEMPHIS, TN 38122 | MARTIN HILDA J LIVING TRUST 475 N HIGHLAND ST APT 8G MEMPHIS, TN 38122 | BAIXA LLC 333 E 34TH ST # 15K NEW YORK, NY 10016 |
| ABDELRAHMAN SAMEH FATTAH 4600 SUMMER AVE MEMPHIS TN 38122- 4136 | LANKFORD WILLIAM R P O BOX 7971 MADISON WI 53707 | ABELRAHMAN SAMEH FATTOH AND ABELRAHMAN F 4590 SUMMER AVE MEMPHIS, TN 38122 |
| SILLS JUDITH A 3866 POPLAR AVE MEMPHIS, TN 38111 | SILLS JUDITH A 3866 POPLAR AVE MEMPHIS, TN 38111 | TERMINAL-PLAZA ASSOCIATES 201 FILBERT ST STE 401 SAN FRANCISCO, CA 94133- 3238 |
| FSC FMC-FD MEMPHIS TN LLC 1901 MAIN ST LAKE COMO, NJ 7719 | NEW TYLER A M E CH 3300 SUMMER AVE MEMPHIS, TN 38122 | NEW TYLER A M E CH 3300 SUMMER AVE MEMPHIS, TN 38122 |
| MID-STATE AUTOMOTIVE DISTRIBUTORAS INC P O BOX 06116 CHICAGO, IL 60606 | DABIT STEVE AND DIANA DABIT AND RAJI J DABIT AND BARBARA A DABIT (RS) 3276 WOODLAND TRCE E | MOORMAN FRANK E TESTAMENTARY TRUST 5815 MICHAELSON DR OLIVE BRANCH, MS 38654 |
| HOPE WORKS INC 1930 UNION AVE MEMPHIS, TN 38104 | MCGHEE JOSEPH E & GALE H 2429 LACOSTA DR BARTLETT, TN 38134 | FRANKS WILLIAM C 3321 SUMMER AVE MEMPHIS, TN 38122 |
| NEW TYLER A M E CH 3300 SUMMER AVE MEMPHIS, TN 38122 | HUA JUNWEI AND PEILI CHEN AND SIMON SU YUAN HUA (RS) 5246 COSGROVE CV MEMPHIS, TN 38117 | MONTESI ERNEST J AND PATRICIA M VEGLIO AND MARIA M BARLOW PO BOX 722 ELLENDALE, TN 38029 |
| GREGORY REALTY GP PO BOX 382366 GERMANTOWN, TN 38183 | LINDER JAMES S 6310 MASSEY WOODS CV MEMPHIS, TN 38120 | GRABER BLAIR S 3540 SUMMER AVE 103 STE MEMPHIS, TN 38122 |
| CK DESIGNS LLC 3550 SUMMER AVE MEMPHIS, TN 38122 | GREENBERG BLATT CHILDREN LLC 15563 MANCHESTER RD BALLWIN MO 63011 | HUYNH HIEN TIEN 3307 SUMMER AVE MEMPHIS, TN 38122 |

BROCK MARGARET L
10023 ROSEMARK RD
ATOKA TN 38004

ALLAD AUTO INC
3543 SUMMER AVE
MEMPHIS, TN 38122

RKA INVESTMENTS LLC null
556 WILLIAMSBURG LN
MEMPHIS TN 38117

NELSON MATT
3580 FORREST AVE
MEMPHIS, TN 38122

TPB REAL ESTATE LLC
5840 FAIRWOOD LN
MEMPHIS TN 38120

FLORES EDGAR
3551 SUMMER AVE
MEMPHIS, TN 38122

THOMAS JANETTE S A AND ERROL
THOMAS
3579 SUMMER AVE
MEMPHIS, TN 38122

POLK LAKESHA W
2487 WHITNEY AVE
MEMPHIS, TN 38127

IGLESIA PENTECOSTAL RIOS DE AGUA
VIVA
3361 SUMMER AVE
MEMPHIS, TN 38122

PEAK PROPERTIES LLC
1779 KIRBY PKWY 143 STE
GERMANTOWN TN 38138

GUPTA MANJU AND HEMANT GUPTA
AND RAGINI GUPTA (RS)
6245 RIVER GROVE CV
MEMPHIS, TN 38120

GUS PROPERTIES INC
2020 QUAIL CREEK CV
MEMPHIS, TN 38119

| | | |
|--|---|--|
| WOFFORD GEORGE W II 3333 POPLAR AVE MEMPHIS, TN 38111 | BERUK PROPERTIES INC 4646 POPLAR AVE 302 STE MEMPHIS, TN 38117 | TRANSITIONS HALFWAY MINISTRIES INC 3629 HIGHLAND PARK PL MEMPHIS, TN 38111 |
| LOVEJOY HIGHLAND LLC 6000 WALDEN DR 101 STE KNOXVILLE, TN 37919 | CALPICK HOLDINGS LLC 614 NATIONAL ST MEMPHIS, TN 38122 | GRIFFIN WILLIAM N JR (TR) 6489 QUAIL HOLLOW RD 100 STE MEMPHIS, TN 38120 |
| WADLINGTON EMMIE L PO BOX 1159 DEERFIELD, IL 60015 | THIRTY FOUR THIRTY SUMMER LLC 3880 ROUNDTREE RD 4 UNIT JEFFERSON,MD 21755 | KIMBROUGH FAMILY TRUST (CO-TRS) (1/3%) AND 1445 DONLON ST 20 STE VENTURA,CA 93003 |
| IRBY BOBBY JR 3376 SUMMER AVE MEMPHIS, TN 38122 | BURIED TREASURES LLC PO BOX 22601 MEMPHIS, TN 38122 | HARBERT JOHN L 1935 EVELYN AVE MEMPHIS, TN 38104 |
| JACKSON AVE LLC 2903 S PERKINS RD MEMPHIS ,TN 38118 | JACKSON AVE LLC 2903 S PERKINS RD MEMPHIS, TN 38118 | MIGLIARA LAWRENCE 3254 WINBROOK DR MEMPHIS, TN 38116 |
| MOTHANNA INC 4650 SUMMER AVE MEMPHIS, TN 38122 | GRIFFIN WILLIAM N JR (TR) 6489 QUAIL HOLLOW RD 100 STE MEMPHIS, TN 38120 | GATLIN L E JR 4017 WASHINGTON RD 353 PMB CANONSBURG, PA 15317 |
| KIM YOUNG HOON & IN JA 3459 SUMMER AVE MEMPHIS, TN 38122 | PIRANHA INC 2400 AIRWAYS BLVD MEMPHIS, TN 38114 | PIERCEY VIRGINIA A J AND EDITH L J JONES 180 PERSON RD OAKLAND, TN 38060 |
| MCGHEE JOSEPH E & GALE H 2429 LACOSTA DR BARTLETT, TN 38134 | CITY OF MEMPHIS 125 N MAIN ST MEMPHIS, TN 38103 | TRANSITIONS HALFWAY MINISTRIES 3515 SUMMER AVE MEMPHIS, TN 38122 |
| BOYLE TRUST & INVESTMENT CO PO BOX 17800 MEMPHIS, TN 38187 | MCGARRY JOHN T LIVING TRUST 1611 E 53RD ST CHICAGO, IL 60615 | MIGLIARA LAWRENCE JR 3254 WINBROOK MEMPHIS, TN 38116 |
| COLLEGIATE SCHOOL OF MEMPHIS (THE) 3353 FAXON AVE MEMPHIS, TN 38122 | | |