



MEMPHIS CITY COUNCIL

Planning and Zoning Documents

Table of Contents

PLANNING AND ZONING COMMITTEE AND REGULAR MEETING **1-445**

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

- | | | |
|--------------|--|---------|
| 1. PD 20-17 | BHW Estates Planned Development – 3681 Hawkins Mill Road | 1-96 |
| 2. ZTA 20-01 | Amendments for Unified Development Code | 97-231 |
| 3. Z 20-10 | Summer between Holmes & Sevier & Novarese and Stratford | 232-445 |

PLANNING AND DEVELOPMENT ITEMS **446-492**

This case will be heard as Item 7 on Regular Agenda

- | | | |
|------------|---------------------------|---------|
| 7. Z 20-11 | North side of East Holmes | 446-492 |
|------------|---------------------------|---------|

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

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

Planning & Zoning COMMITTEE: 02/02/2021

DATE

PUBLIC SESSION: 02/02/2021

DATE

ITEM (CHECK ONE)

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

ITEM DESCRIPTION: A resolution approving a multi-use veteran's facility providing multifamily dwelling units with supportive programs and services including an on-site private community center planned development

CASE NUMBER: PD 20-17

DEVELOPMENT: BHW Estates Planned Development

LOCATION: 3681 Hawkins Mill Road

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

OWNER/APPLICANT: Paul O. Brantley Sr. / Debra Hogue Brantley

REPRESENTATIVE: Delinor Smith, Smith Building Design & Associates, Inc.

EXISTING ZONING: Residential Single-Family – 6 (R-6)

REQUEST: Multi-use veteran's facility providing multifamily dwelling units with supportive programs and services including an on-site private community center planned development

AREA: +/-12.95 acres

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 Required**
Set public hearing date for – February 2, 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

PD 20-17 – BHW Estates Planned Development

Resolution requesting a multi-use veteran's facility providing a maximum of 76 multifamily dwelling units with supportive programs and services including an on-site private community center planned development at 3681 Hawkins Mill Road:

- This item is a resolution with conditions for a planned development to allow the above; and
- The Division of Planning & Development at the request of the Owner: Paul O. Brantley Sr.; Applicant: Debra Hogue Brantley; and Representative: Delinor Smith, Smith Building Design & Associates, Inc.; and
- This resolution, if approved with conditions, will supersede the existing zoning for this property; and
- The item may require future public improvement contracts.

RESOLUTION APPROVING THE BHW ESTATES PLANNED DEVELOPMENT AT THE SUBJECT PROPERTY LOCATED AT 3681 HAWKINS MILL ROAD, KNOWN AS CASE NUMBER PD 20-17.

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 planned development for certain stated purposes in the various zoning districts; and

WHEREAS, Debra Hogue Brantley filed an application with the Memphis and Shelby County Office of Planning and Development to allow a multi-use veteran's facility providing multifamily dwelling units with supportive programs and services including an on-site private community center planned development; and

WHEREAS, the Office of Planning and Development has received and reviewed the application in accordance with procedures, objectives and standards for planned developments 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 subject to outline plan conditions concerning the above considerations to the Memphis and Shelby County 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 January 14, 2021, and said Board has submitted its findings and recommendation subject to outline plan conditions 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 planned development is hereby granted in accordance with the attached outline plan conditions.

BE IT FURTHER RESOLVED, that the requirements of said aforementioned section of the Unified Development Code shall be deemed to have been complied with; that the outline plan shall bind the applicant, owner, mortgagee, if any, and the legislative body with respect to the contents of said plan; and the applicant and/or owner may file a final plan in accordance with said outline plan and the provisions of Section 9.6.11 of the Unified Development Code.

ATTEST:

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

OUTLINE PLAN CONDITIONS

I. PERMITTED USES

- A. Multi-use veteran's facility providing a maximum of 76 multifamily dwelling units with supportive programs and services including an on-site private community center.

II. BULK REGULATIONS

- A. The bulk regulations shall be in conformance with the Residential Urban District – 3 (RU-3) District.
- B. The building elevations, design, setback, placement, and orientation shall be illustrated on the final site plan, subject to administrative review and approval by Land Use and Development Services (LUDS).

III. CIRCULATION, ACCESS AND PARKING

- A. Shared Parking shall be approved for all permitted uses.
- B. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.
- C. The Developer shall dedicate and improve 34 feet from the centerline of Hawkins Mill Road with curb, gutter, and sidewalk.
- D. The Developer shall be responsible for the installation, repair and/or replacement of all existing curb and gutter along the frontages of this site as necessary.
- E. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk as identified during the plan review process.
- F. The City Engineer or County Engineer shall approve the design, number, and location of curb cuts.
- G. Adequate queuing spaces in accordance with the current ordinance shall be provided between the street right-of-way line and any proposed gate/guardhouse/card reader.
- H. Dedicate and improve a cul-de-sac at the end of Russelwood Drive or design and construct an equivalent connection suitable to the Fire Department.

IV. LANDSCAPING

- A. Streetscape shall be in accordance with the Memphis-Shelby County Unified Development Code or an equivalent alternative as approved by LUDS.
- B. Parking lot landscaping shall be in accordance with the Memphis-Shelby County Unified

Development Code or an equivalent streetscape as approved by LUDS.

- C. All landscaping shall be located on the property such that it shall not interfere with any utility easements.

V. DRAINAGE AND SEWERS

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

VI. SIGNS

- A. Signage shall be in conformance with regulations established for Residential Urban Districts as defined in Section 4.9.
- B. Location and design of signs shall be shown on the Final Plat.

VII. The Land Use Control Board may modify the bulk, access, parking, landscaping and sign requirements if equivalent alternatives are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder, may within ten days of such action, file a written appeal to the Zoning Administrator of the Land Use Development Services, to have such action reviewed by the appropriate Governing Body.

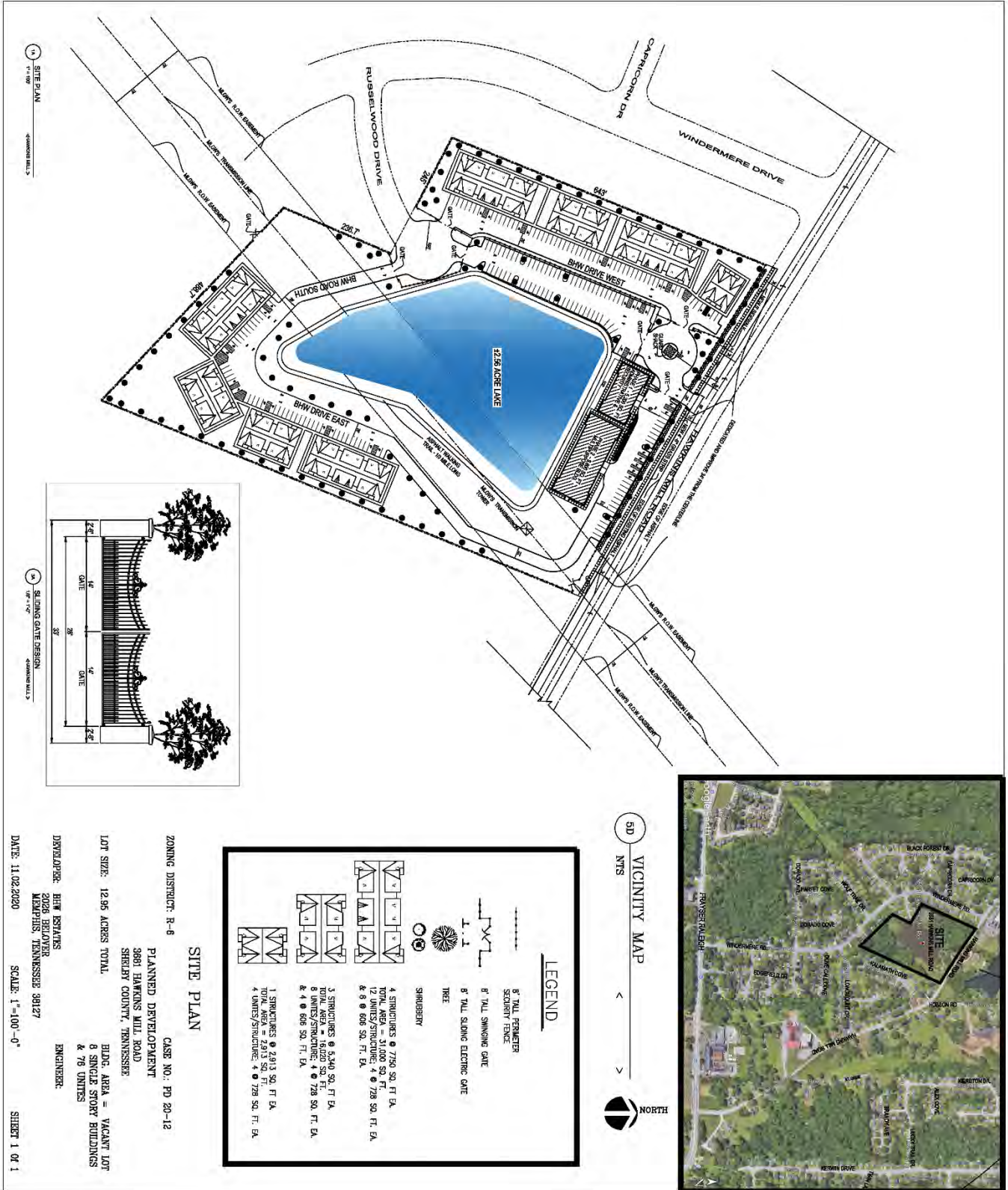
VIII. A final plan shall be filed within five (5) years of the date of approval of the outline plan by the Governing Body. The Land Use Control Board may grant extensions at the request of the applicant.

IX. Any final plan is subject to the administrative approval of Land Use and Development Services and shall include the following:

- A. The outline plan conditions.
- B. The location and dimensions, including height of all buildings or buildable areas, pedestrian and utility easements, service drives, parking areas, trash receptacles, loading facilities, and required landscaping and screening areas.

- D. The location and ownership, whether public or private of any easement.
- E. The location and dimensions of all buildings, buildable areas, signs, parking areas, and dumpster location.
- F. Specific plans for internal and perimeter landscaping and screening including landscaping of all open space features.
- G. Illustrations/elevations of the design and materials of any proposed buildings and signs.
- H. A statement conveying all common facilities and areas to a property owner's association or other entity, for ownership and maintenance purposes.
- I. The following note shall be placed on the final plat of any development requiring on-site water detention facilities: The areas denote by "Reserved for Storm Water Detention" shall not be used as a building site or filed without first obtaining written permission from the City or County Engineer. The storm water detention systems located at these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or a homeowners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approval plan on file in the City/County Engineer's Office. Such maintenance shall include, but not be limited to: removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.

CONCEPT PLAN



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: PD 20-17

DEVELOPMENT: BHW Estates Planned Development

LOCATION: 3681 Hawkins Mill Road

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

OWNER/APPLICANT: Paul O. Brantley Sr. / Debra Hogue Brantley

REPRESENTATIVE: Delinor Smith, Smith Building Design & Associates, Inc.

REQUEST: Multi-use veteran’s facility providing a maximum of 76 multifamily dwelling units with supportive programs and services including an on-site private community center

EXISTING ZONING: Residential Single-Family – 6 (R-6)

AREA: +/-12.95 acres

The following spoke in support of the application: Delinor Smith, Debra Hogue, Evelyn Young, Derrick Joyce, and Sharon Gartrell

The following spoke in opposition the application: Helen Mottley

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 unanimous vote of 10-0 on the regular agenda.

Respectfully,



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

Cc: Committee Members
File

PD 20-17

Outline Plan Conditions

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AGENDA ITEM: 3

CASE NUMBER: PD 20-17 **L.U.C.B. MEETING:** January 14, 2021

DEVELOPMENT: BHW Estates Planned Development

LOCATION: 3681 Hawkins Mill Road

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

OWNER/APPLICANT: Paul O. Brantley Sr. / Debra Hogue Brantley

REPRESENTATIVE: Smith Building Design & Associates, Inc. – Delinor Smith

REQUEST: Multi-use veteran’s facility providing a maximum of 76 multifamily dwelling units with supportive programs and services including an on-site private community center

AREA: +/-12.95 acres

EXISTING ZONING: Residential Single-Family – 6 (R-6)

CONCLUSIONS

1. The applicant is requesting a multi-use veteran’s facility providing a maximum of 76 multifamily dwelling units with supportive programs and services including an on-site private community center.
2. The applicant proposes to develop a gated community for independent veterans. As designed, the development includes 7 apartment buildings and 1 quadplex providing a total of 76 dwelling units, an administrative/security building, and an on-site private community center.
3. The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.
4. The location and arrangement of the structures, parking areas, walks, lighting and other service facilities are compatible with the surrounding land uses.

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 21-23 of this report.

RECOMMENDATION

Approval with conditions

GENERAL INFORMATION

Street Frontage: North Second Street +/-711.10 linear feet
Zoning Atlas Page: 1740
Parcel ID: 090071 00002
Existing Zoning: Residential Single-Family – 6 (R-6)

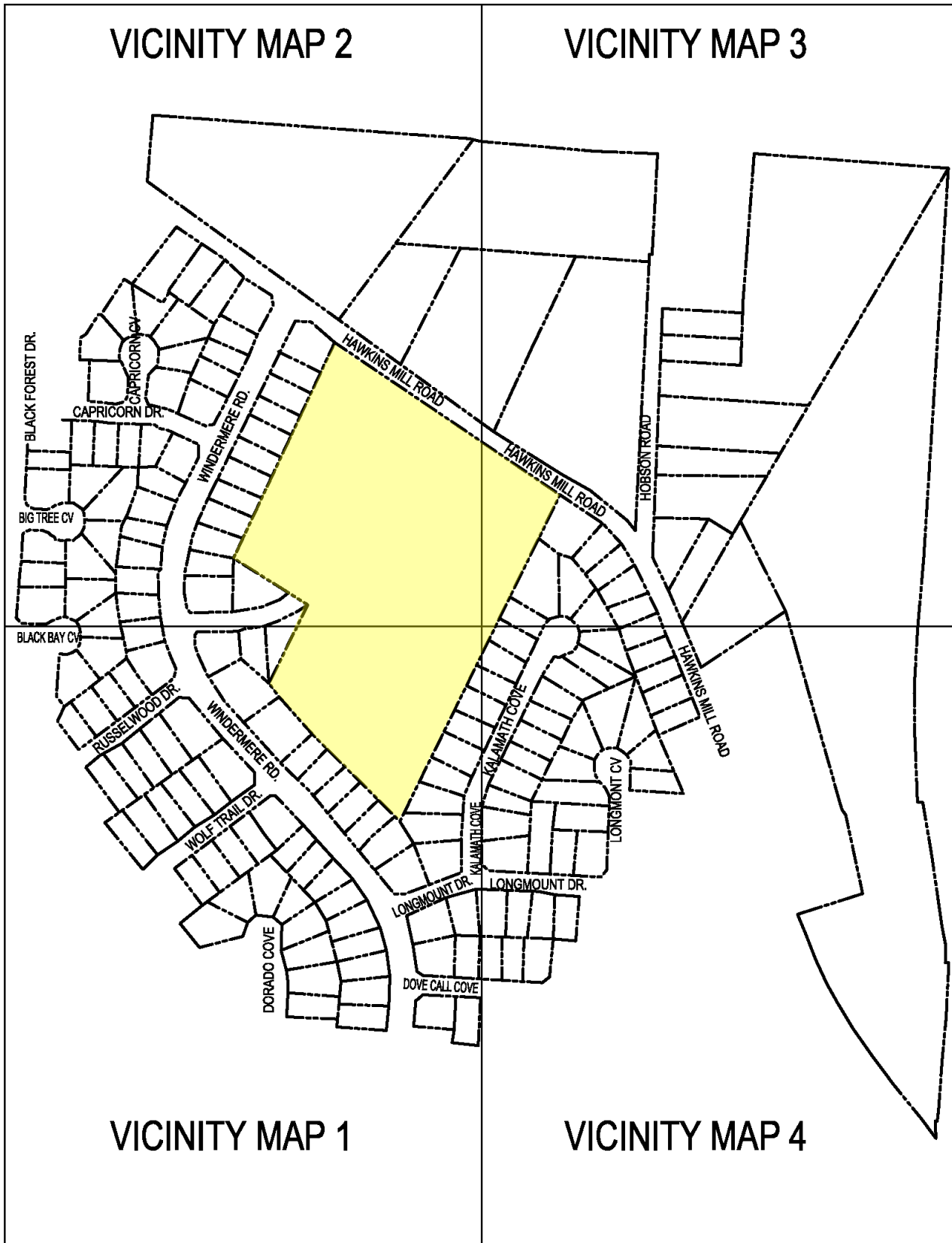
NEIGHBORHOOD MEETING

The meeting was held at 5:00 PM on Monday, December 21, 2020, at Zoom.com.

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 177 notices were mailed on November 24, 2020, and a total of 2 signs were posted at the subject property. The sign affidavit has been added to this report.

VICINITY MAP



Subject property highlighted in yellow

ZONING MAP



Subject property outlined in yellow

Existing Zoning: Residential Single-Family – 6 (R-6)

Surrounding Zoning

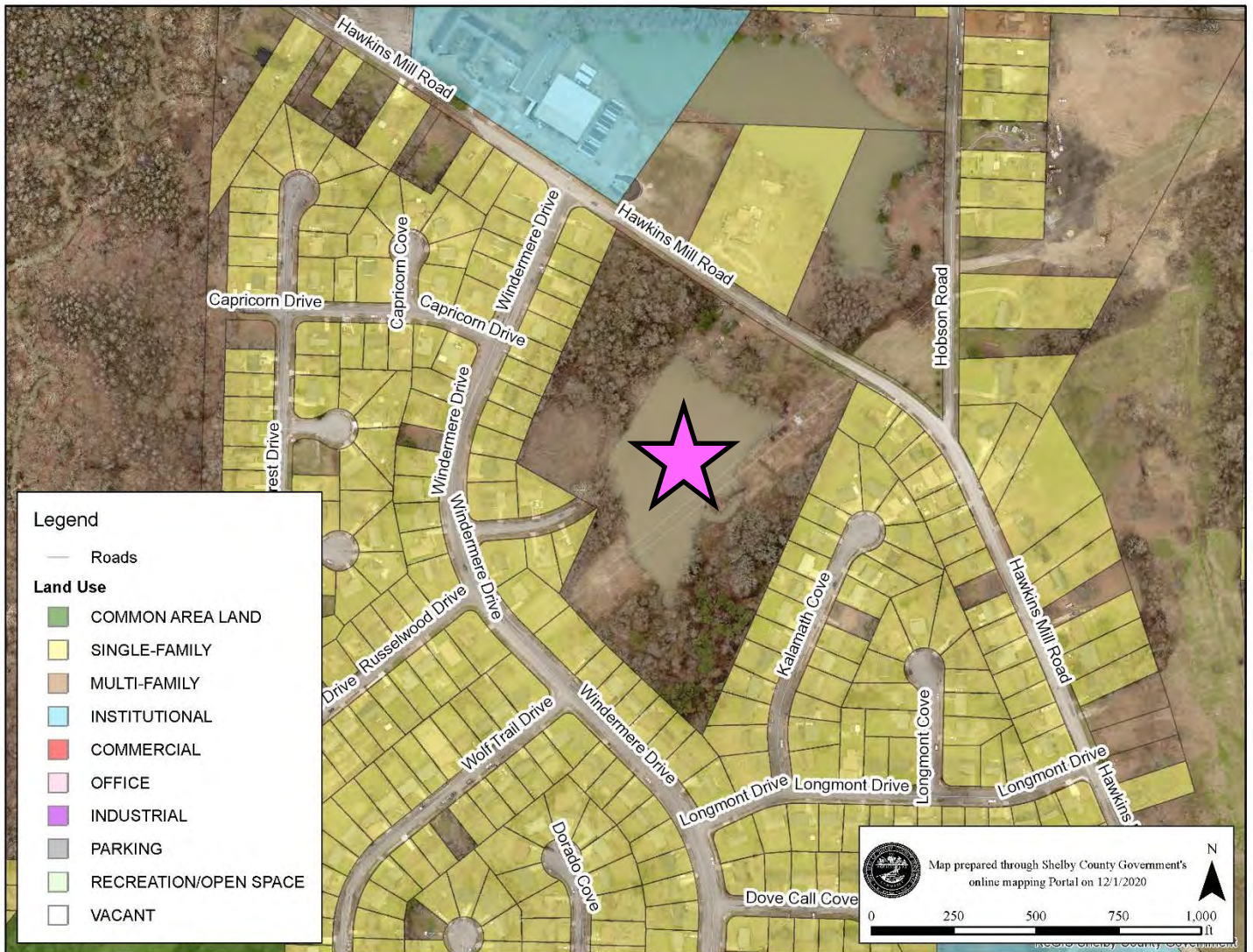
North: Residential Single-Family – 6 (R-6)

East: Residential Single-Family – 6 (R-6)

South: Residential Single-Family – 6 (R-6)

West: Residential Single-Family – 6 (R-6)

LAND USE MAP



Subject property indicated by a pink star

SITE PHOTOS

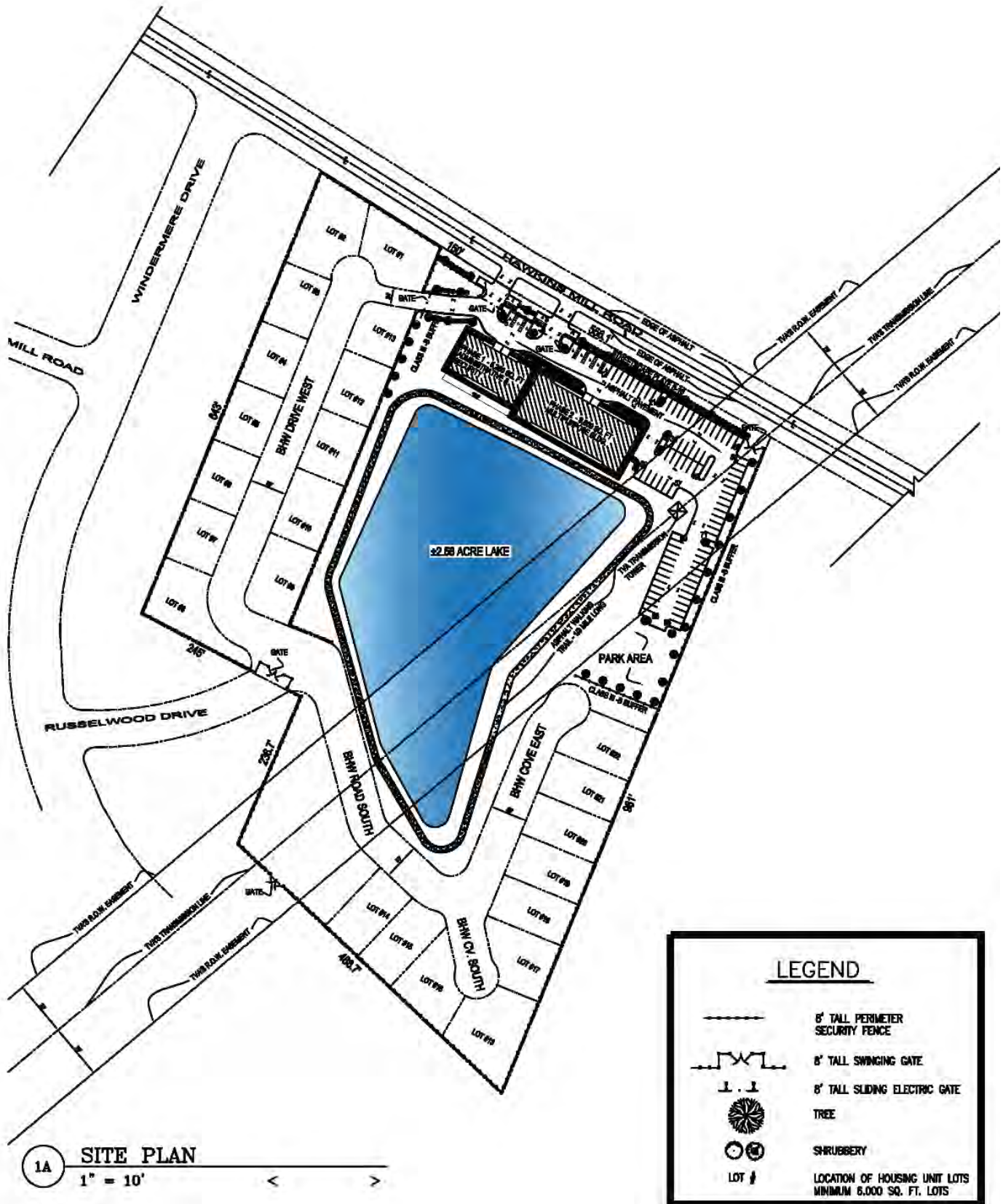


View of subject property from Hawkins Mill Road looking southeast



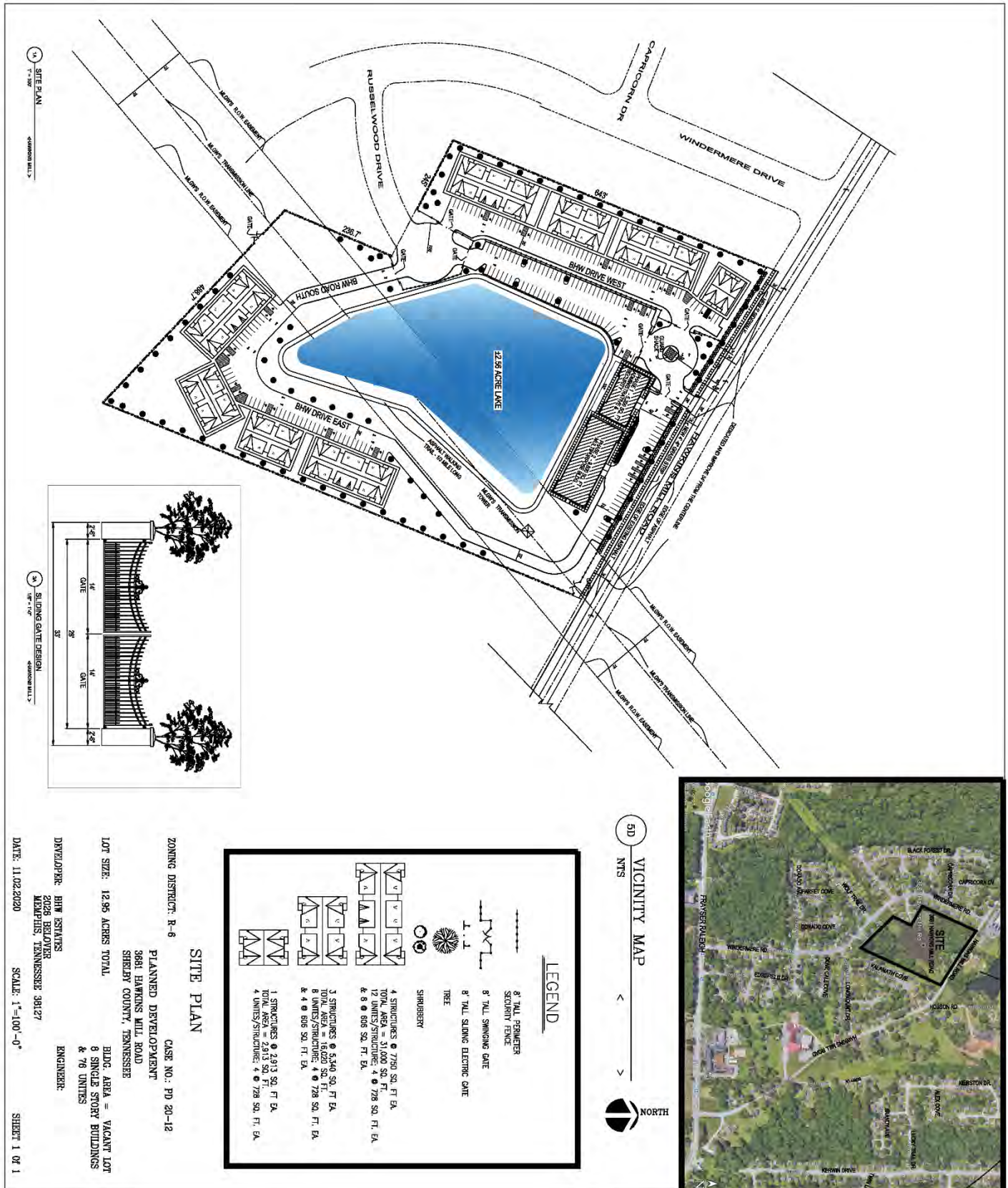
View of subject property from Hawkins Mill Road looking southwest

CONCEPT PLAN – ORIGINAL

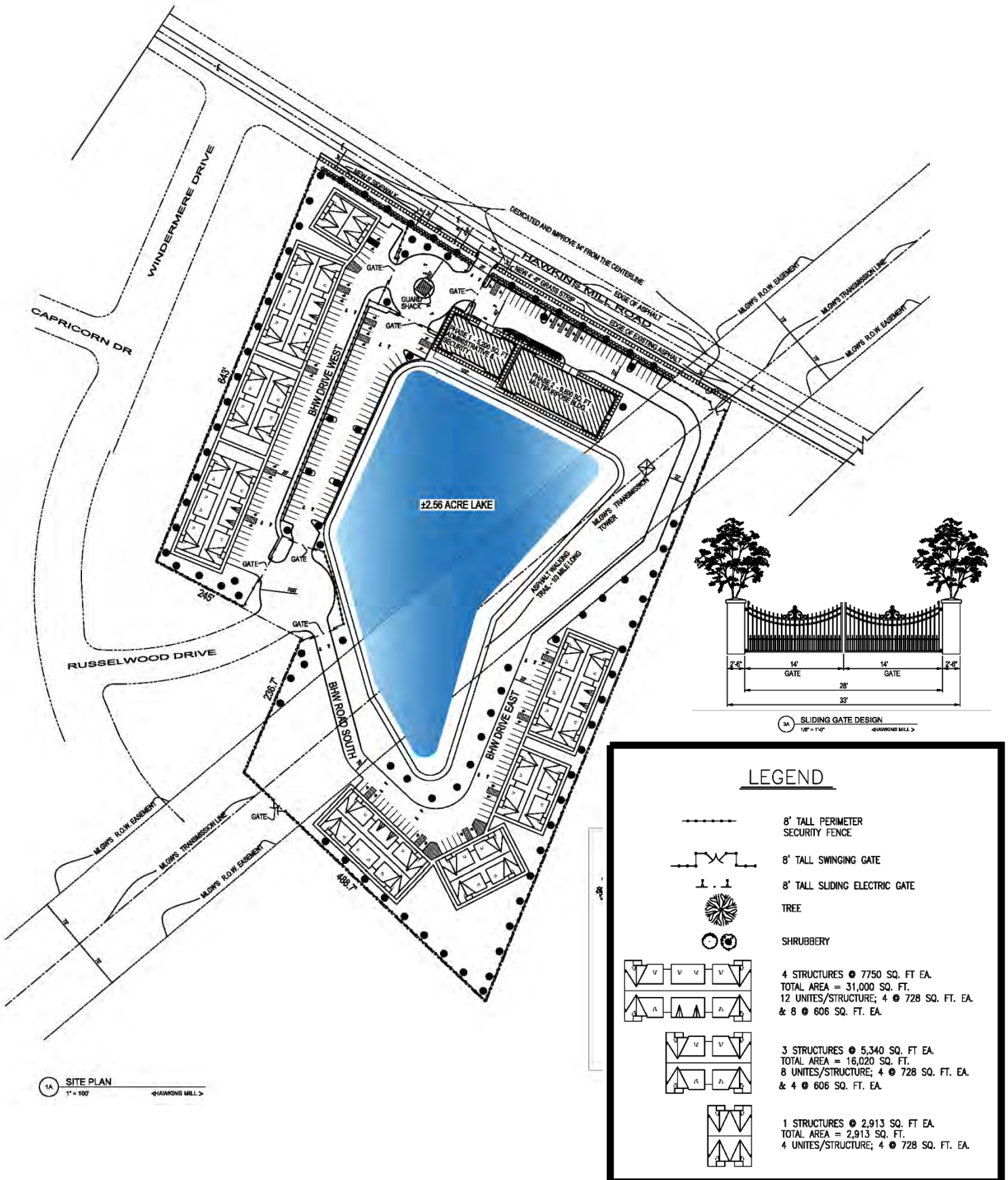


1A SITE PLAN
 1" = 10'

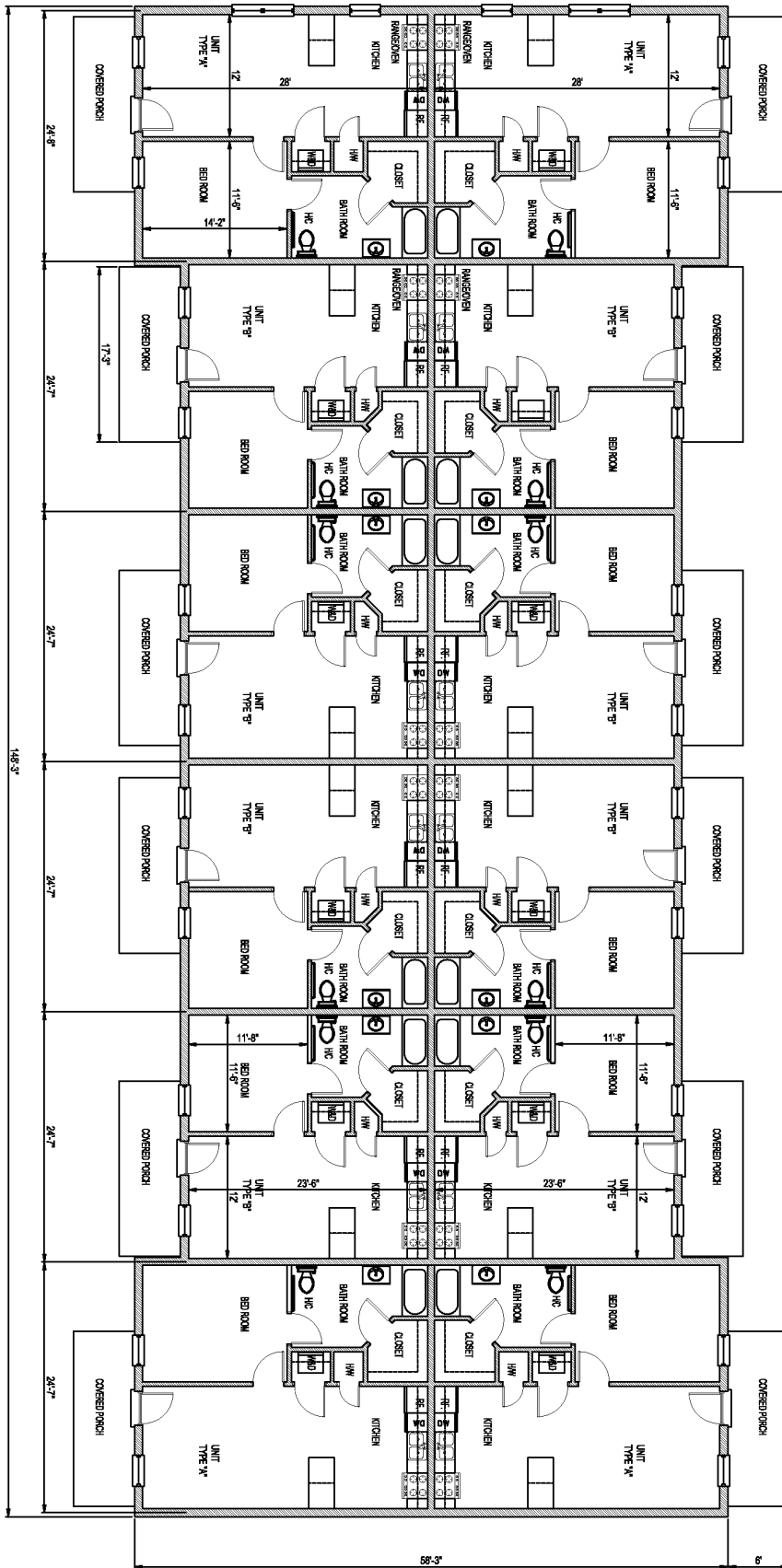
CONCEPT PLAN – REVISED



CONCEPT PLAN – REVISED (ZOOMED)



CONCEPTUAL FLOOR PLAN



STAFF ANALYSIS

Request

The application, planned development general provisions, and letter of intent have been added to this report.

The request is for a multi-use veteran's facility providing a total of 76 multifamily dwelling units with supportive programs and services including an on-site private community center

Applicability

Staff agrees the applicability standards and criteria as set out in Section 4.10.2 of the Unified Development Code are or will be met.

4.10.2 Applicability

The governing bodies may, upon proper application, grant a special use permit for a planned development (see Chapter 9.6) for a tract of any size within the City or for tracts of at least three acres in unincorporated Shelby County to facilitate the use of flexible techniques of land development and site design, by providing relief from district requirements designed for conventional developments, and may establish standards and procedures for planned developments in order to obtain one or more of the following objectives:

- A. Environmental design in the development of land that is of a higher quality than is possible under the regulations otherwise applicable to the property.*
- B. Diversification in the uses permitted and variation in the relationship of uses, structures, open space and height of structures in developments intended as cohesive, unified projects.*
- C. Functional and beneficial uses of open space areas.*
- D. Preservation of natural features of a development site.*
- E. Creation of a safe and desirable living environment for residential areas characterized by a unified building and site development program.*
- F. Rational and economic development in relation to public services.*
- G. Efficient and effective traffic circulation, both within and adjacent to the development site, that supports or enhances the approved transportation network.*
- H. Creation of a variety of housing compatible with surrounding neighborhoods to provide a greater choice of types of environment and living units.*
- I. Revitalization of established commercial centers of integrated design in order to encourage the rehabilitation of such centers in order to meet current market preferences.*
- J. Provision in attractive and appropriate locations for business and manufacturing uses in well-designed buildings and provision of opportunities for employment closer to residence with a reduction in travel time from home to work.*
- K. Consistency with the Memphis 3.0 General Plan.*

General Provisions

Staff agrees the general provisions standards and criteria as set out in Section 4.10.3 of the Unified Development Code are or will be met.

4.10.3 General Provisions

The governing bodies may grant a special use permit for a planned development which modifies the applicable district regulations and other regulations of this development code upon written findings and recommendations of the Land Use Control Board and the Planning Director which shall be forwarded pursuant to provisions

contained in this Chapter.

- A. *The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.*
- B. *An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development.*
- C. *The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for structures, parking and loading areas or access way shall be landscaped or otherwise improved except where natural features are such as to justify preservation.*
- D. *Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.*
- E. *Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.*
- F. *Lots of record are created with the recording of a planned development final plan.*

Residential Criteria

Staff agrees the additional planned residential development criteria as set out in Section 4.10.4 of the Unified Development Code are or will be met.

4.10.4 Planned Residential Developments

In addition to the standards and criteria set forth in Section 4.10.3, planned residential developments shall comply with the standards and criteria set forth below:

- A. **Formal Open Space**
A minimum of 0.6% of the total land area of a planned residential development of 15 acres or more shall be subject to the formal open space requirements of Section 6.2.3. No open area may be delineated or accepted as formal open space under the provisions of this Chapter unless it meets the standards of Chapter 6.2, Open Space.
- B. **Accessibility of Site**
All proposed streets, alleys and driveways shall be adequate to serve the residents, occupants, visitors or other anticipated traffic of the planned residential development. The location of the entrance points of the streets, alleys and driveways upon existing public roadways shall be subject to the approval of the City or County Division of Public Works.
- C. **Off-Street Parking**
Off-street parking shall be conveniently accessible to all dwelling units and other uses. Where appropriate, common driveways, parking areas, walks and steps may be provided, maintained and lighted for night use. Screening of parking and service areas shall be required through use of trees, shrubs and/or hedges and screening walls.
- D. **Pedestrian Circulation**
The pedestrian circulation system and its related walkways shall be separated, whenever feasible, from the vehicular street system in order to provide an appropriate degree of separation of pedestrian and vehicular movement.
- E. **Privacy**
The planned residential development shall provide reasonable visual and acoustical privacy for

dwelling units within and adjacent to the planned residential development. Protection and enhancement of property and the privacy of its occupants may be provided by the screening of objectionable views or uses and reduction of noise through the use of fences, insulation, natural foliage, berms and landscaped barriers. High-rise buildings shall be located within the development in such a way as to minimize any adverse impact on adjoining low rise buildings.

F. Distance Requirements

Where minimum distance requirements are provided between single family residential zoning districts and certain stipulated uses in this Code, the single-family residential areas of planned developments shall be considered zoned residential.

Approval Criteria

Staff agrees the approval criteria as set out in Section 9.6.9 of the Unified Development Code are being 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:

- A. 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.*
- B. 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.*
- C. 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.*
- D. 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.*
- E. The project complies with all additional standards imposed on it by any particular provisions authorizing such use.*
- F. 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.*
- G. 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.*
- H. 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 +/-12.95 acres located at 3681 Hawkins Mill Road. The site is zoned Residential Single-Family – 6 (R-6) and is vacant land. The site is primarily forested land with a larger pond in the middle of the site. Additionally, along the northern boundary of the site adjacent to Hawkins Mill Road are utility poles and cutting diagonally through the eastern half of the property are double circuit lattice transmission towers.

Conclusions

The applicant is requesting a multi-use veteran’s facility providing a maximum of 76 multifamily dwelling units with supportive programs and services including an on-site private community center.

The applicant proposes to develop a gated community for independent veterans. As designed, the development includes 7 apartment buildings and 1 quadplex providing a total of 76 dwelling units, an administrative/security building, and an on-site private community center.

The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.

The location and arrangement of the structures, parking areas, walks, lighting and other service facilities are compatible with the surrounding land uses.

RECOMMENDATION

Staff recommends approval with outline plan conditions.

Outline Plan Conditions

I. PERMITTED USES

- A. Multi-use veteran’s facility providing a maximum of 76 multifamily dwelling units with supportive programs and services including an on-site private community center.

II. BULK REGULATIONS

- A. The bulk regulations shall be in conformance with the Residential Urban District – 3 (RU-3) District.
- B. The building elevations, design, setback, placement, and orientation shall be illustrated on the final site plan, subject to administrative review and approval by Land Use and Development Services (LUDS).

III. CIRCULATION, ACCESS AND PARKING

- A. Shared Parking shall be approved for all permitted uses.
- B. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.
- C. The Developer shall dedicate and improve 34 feet from the centerline of Hawkins Mill Road with curb, gutter, and sidewalk.
- D. The Developer shall be responsible for the installation, repair and/or replacement of all existing curb and gutter along the frontages of this site as necessary.

- E. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk as identified during the plan review process.
- F. The City Engineer or County Engineer shall approve the design, number, and location of curb cuts.
- G. Adequate queuing spaces in accordance with the current ordinance shall be provided between the street right-of-way line and any proposed gate/guardhouse/card reader.
- H. Dedicate and improve a cul-de-sac at the end of Russelwood Drive or design and construct an equivalent connection suitable to the Fire Department.

IV. LANDSCAPING

- A. Streetscape shall be in accordance with the Memphis-Shelby County Unified Development Code or an equivalent alternative as approved by LUDS.
- B. Parking lot landscaping shall be in accordance with the Memphis-Shelby County Unified Development Code or an equivalent streetscape as approved by LUDS.
- C. All landscaping shall be located on the property such that it shall not interfere with any utility easements.

V. DRAINAGE AND SEWERS

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

VI. SIGNS

- A. Signage shall be in conformance with regulations established for Residential Urban Districts as defined in Section 4.9.
- B. Location and design of signs shall be shown on the Final Plat.

- VII. The Land Use Control Board may modify the bulk, access, parking, landscaping and sign requirements if equivalent alternatives are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder, may within ten days of such action, file a written appeal to the Zoning Administrator of the Land Use Development Services, to have such action reviewed by the appropriate Governing Body.
- VIII. A final plan shall be filed within five (5) years of the date of approval of the outline plan by the Governing Body. The Land Use Control Board may grant extensions at the request of the applicant.
- IX. Any final plan is subject to the administrative approval of Land Use and Development Services and shall include the following:
- A. The outline plan conditions.
 - B. The location and dimensions, including height of all buildings or buildable areas, pedestrian and utility easements, service drives, parking areas, trash receptacles, loading facilities, and required landscaping and screening areas.
 - D. The location and ownership, whether public or privates of any easement.
 - E. The location and dimensions of all buildings, buildable areas, signs, parking areas, and dumpster location.
 - F. Specific plans for internal and perimeter landscaping and screening including landscaping of all open space features.
 - G. Illustrations/elevations of the design and materials of any proposed buildings and signs.
 - H. A statement conveying all common facilities and areas to a property owner's association or other entity, for ownership and maintenance purposes.
 - I. The following note shall be placed on the final plat of any development requiring on-site water detention facilities: The areas denote by "Reserved for Storm Water Detention" shall not be used as a building site or filed without first obtaining written permission from the City or County Engineer. The storm water detention systems located at these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or a homeowners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approval plan on file in the City/County Engineer's Office. Such maintenance shall include, but not be limited to: removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.

DEPARTMENTAL COMMENTS

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

City/County Engineer:

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

Sewers:

2. City sanitary sewers are available to serve this development.
3. All sewer connections must be designed and installed by the developer. This service is no longer offered by the Public Works Division.

Roads:

4. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
5. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.
6. The Developer shall dedicate and improve 34 ft. from the centerline of Hawkins Mill Road with curb, gutter, and sidewalk.
7. Dedicate and improve a cul-de-sac at the end of Russelwood Drive or design and construct an equivalent connection suitable to the Fire Department.
8. Adequate maneuvering area necessary for Fire Department vehicles to navigate the internal private streets shall be provided. The proposed layout does not meet these requirements.
9. The internal street configuration does not meet minimum UDC requirements. Revise to provide adequate circulation.

Traffic Control Provisions:

10. The developer shall provide a traffic control plan to the city engineer that shows the phasing for each street frontage during demolition and construction of curb gutter and sidewalk. Upon completion of sidewalk and curb and gutter improvements, a minimum 5-foot-wide pedestrian pathway shall be provided throughout the remainder of the project. In the event that the existing right of way width does not allow for a 5-foot clear pedestrian path, an exception may be considered.
11. Any closure of the right of way shall be time limited to the active demolition and construction of sidewalks and curb and gutter. Continuous unwarranted closure of the right of way shall not be allowed for the duration of the project. The developer shall provide on the traffic control plan, the time needed per phase to complete that portion of the work. Time limits will begin on the day of closure and will be monitored by the Engineering construction inspectors on the job.

12. The developer's engineer shall submit a Trip Generation Report that documents the proposed land use, scope and anticipated traffic demand associated with the proposed development. A detailed Traffic Impact Study will be required when the accepted Trip Generation Report indicates that the number for projected trips meets or exceeds the criteria listed in Section 210-Traffic Impact Policy for Land Development of the City of Memphis Division of Engineering Design and Policy Review Manual. Any required Traffic Impact Study will need to be formally approved by the City of Memphis, Traffic Engineering Department.

Curb Cuts/Access:

13. 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.
14. Access to Hawkins Mill Road from individual lots is prohibited. All access to Hawkins Mill Road will be via internal private streets.

Drainage:

15. A grading and drainage plan for the site shall be submitted to the City Engineer for review and approval prior to recording of the final plat.
16. Drainage improvements, including possible on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis/Shelby County Storm Water Management Manual.
17. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.
18. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City and/or County Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City and/or County Engineer's Office. Such maintenance shall include, but not be limited to removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.
19. The developer should be aware of his obligation under 40 CFR 122.26(b)(14) and TCA 69-3-101 et. seq. to submit a Notice of Intent (NOI) to the Tennessee Division of Water Pollution Control to address the discharge of storm water associated with the clearing and grading activity on this site.

Site Plan Notes:

20. Adequate queuing spaces in accordance with the current ordinance shall be provided between the street right-of-way line and any proposed gate/guardhouse/card reader. Minimum distance between the gate and ROW line on Hawkins Mill Road is 40 ft.
21. Adequate maneuvering room shall be provided between the right-of-way and the gate/guardhouse/card reader for vehicles to exit by forward motion.

22. The proposed gate on BHW Drive needs to have a suitable turn around area in advance of the gate in order to allow vehicles to exit by forward motion.

City/County Fire Division:

- 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: No comments received.

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:

- The subject property is encumbered by an existing utility right of way easement, which may include overhead and underground facilities. MLGW prohibits any development or improvements within the Easement, except as provided by the, MLGW Right of Way Encroachment Policy
- It is the responsibility of the owner/applicant, prior to any development, to contact Keith Ledbury, with MLGW – Property Management @ 901-528-4186 and obtain written approval for any improvements within the Easement.
- It is the responsibility of the owner/applicant to contact Angel Bailey, with MLGW-Property Management, @ 901-528-4186 to request a release of easement for any existing MLGW Easement(s) in conflict with the proposed development.
- STREET NAMES: It is the responsibility of the owner/applicant to contact MLGW–Address Assignment @ 729-8628 and submit proposed street names for review and approval. Please use the following link to the MLGW Land & Mapping website for Street Naming Guidelines and the Online Street Name Search: <http://www.mlgw.com/builders/landandmapping>
- It is the responsibility of the owner/applicant to identify any utility easements, whether dedicated or

prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.

- It is the responsibility of the owner/applicant to contact TN-1-CALL @ 1.800.351.1111, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc.
- Underground Utility separation and clearance: The subject property is encumbered by existing utilities which may include overhead and underground facilities.
- It is the responsibility of the owner/applicant to maintain a minimum 3-foot (3') separation between any existing underground service lines or utilities and any proposed permanent structure or facility. This separation is necessary to provide sufficient space for any excavations to perform service, maintenance or replacement of existing utilities.
- It is the responsibility of the owner/applicant to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- It is the responsibility of the owner/applicant to comply with the National Electric Safety Code (NESC) and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance - Landscape and Screening Regulations.
- Street Trees are prohibited, subject to the review and approval of the landscape plan by MLGW Engineering.
- It is the responsibility of the owner/applicant to submit a detailed landscape plan to MLGW Engineering.
- Landscaping is prohibited within any MLGW utility easement without prior MLGW approval.
- It is the responsibility of the owner/applicant to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s).
- Application for utility service is necessary before plats can be recorded.
 - All residential developers must contact MLGW's Residential Engineer at Builder Services: (901) 729-8675 to initiate the utility application process.
 - All commercial developers must contact MLGW's Builder Services line at 729-8630 to initiate the utility application process.
- It is the responsibility of the owner/applicant to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

Office of Sustainability and Resilience: No comments received.

Office of Comprehensive Planning:

Land Use Designation: Primarily Single-Unit Neighborhood (NS)

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

1. Future Land Use Planning Map



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

2. Land use description & applicability:

The site is designated as a 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.



“NS” Goals/Objectives:

Preservation/maintenance of existing single-family housing stock and neighborhoods.

“NS” Form & Location Characteristics:

Primarily detached house-scale buildings. Primarily residential, 1-3 stories, and beyond 1/2 mile from a Community Anchor.

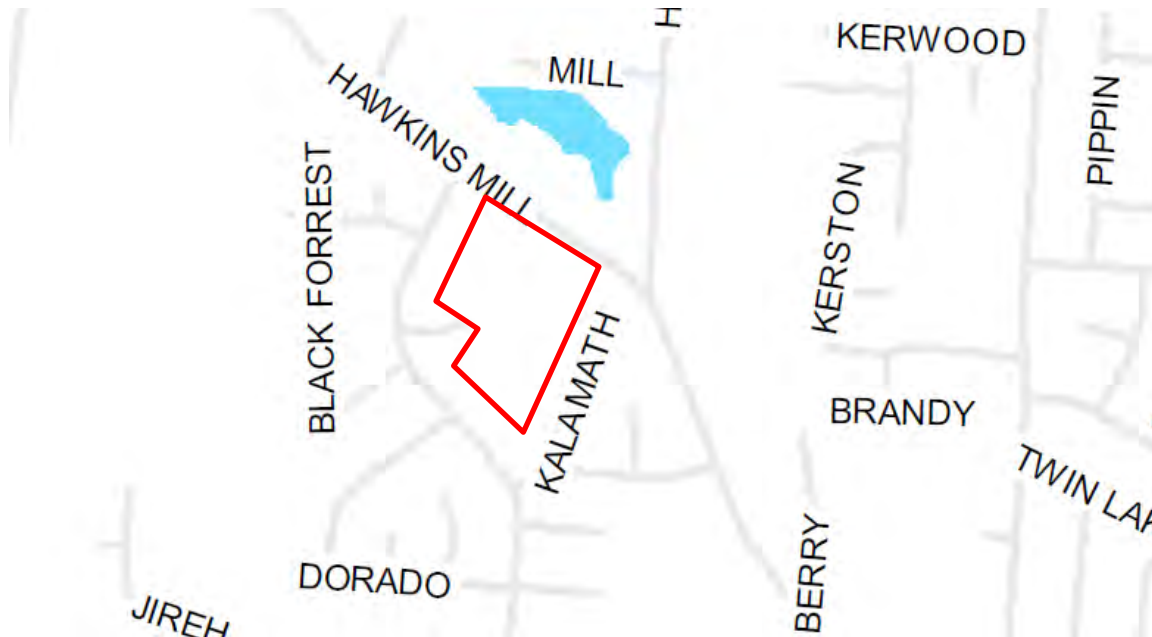
The applicant is seeking Planned Development approval to subdivide vacant land for 22 single-family residences and a community center.

The request meets the criteria because detached single-family residences and house-scale buildings are compatible within NS areas.

3. Existing, Adjacent Land Use and Zoning

The subject site is surrounded by the following land uses: Single-Family Residential, Institutional, and Vacant land. The subject site is surrounded by the following zoning districts: R-6. This requested land use is compatible with these adjacent land uses and zoning districts because existing land use surrounding the parcels is similar in nature to the requested use.

4. Degree of Change Map



There is no degree of change for this site.

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 PLANNED DEVELOPMENT APPROVAL (OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)

Date: _____

Case #: _____

PLEASE TYPE OR PRINT

Name of Development: BHW Estates

Property Owner of Record: Paul O. Brantley Sr. Phone #: 901.314.6279

Mailing Address: 2026 Belover City/State: Memphis, TN Zip 38127

Property Owner E-Mail Address: paulb@bhwestate.org

Applicant: Debra Hogue Brantley Phone # 901.288.0787

Mailing Address: 2026 Belover City/State: Memphis, TN Zip 38127

Applicant E-Mail Address: debrab@bhwestates.org

Representative: Debra Hogue Brantley Phone #: 901.288.0787

Mailing Address: 2026 Belover City/State: Memphis, TN Zip 38127

Representative E-Mail Address: debrab@bhwestates.org

Engineer/Surveyor: _____ Phone # _____

Mailing Address: _____ City/State: _____ Zip _____

Engineer/Surveyor E-Mail Address: _____

Street Address Location: 3681 Hawkins Mill Rd.

Distance to nearest intersecting street: the NW corner is 121.62' SE of the East property line of Windermere Drive

	Parcel 1	Parcel 2	Parcel 3
Area in Acres:	<u>12.95 Acres</u>	_____	_____
Existing Zoning:	<u>R-6</u>	_____	_____
Existing Use of Property	<u>Vacant</u>	_____	_____
Requested Use of Property	<u>R-6 & Community Center</u>	_____	_____

Medical Overlay District: Per Section 8.2.2D of the UDC, no Planned Developments are permitted in the Medical Overlay District.

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

Number of Residential Units: N/A Bedrooms: _____

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

Amendment(s): Is the applicant applying for an amendment to an existing Planned Development?
Yes _____ No X

The following modifications to existing planned developments are considered amendments: 1) a change to the permitted uses in a planned development, except in situations where a use of a higher classification is proposed to be changed to a use of a lower classification; 2) a modification to conditions that phases the uses, and 3) a conversion of public streets. See Section 9.6.11E(1) of the UDC for further details.

4.10.3 Planned Development General Provisions

The governing bodies may grant a special use permit for a planned development which modifies the applicable district regulations and other regulations of this development code upon written findings and recommendations to the Land Use Control Board and the Planning Director which shall be forwarded pursuant to provisions contained in section 4.10.3:

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

- The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.
This project will be compatible with the R-6 surrounding community. The Community Center will provide services and jobs for the residents and public.

- An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development.
The 12.95 acre site has an existing 2.5 acre lake that may allow for an area of natural storm water detention. The sewer, water, electric and gas connection shall be engineered, approved and constructed accordingly.

- The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses... (see UDC sub-section 4.10.3C)
The required landscape buffers shall be installed and maintained adjacent to the commercial structures and parking areas. All exterior lighting shall be installed based on an approved Photometric study.

- Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.
The intent of this 12.95 acre development is to provide R-6 zoned residential housing for veterans. The community center and the residential development will providing services and jobs opportunities for the public and the residents.

- Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.
The owner/developer shall manage, supervise and be responsible for maintaining the property.

- Lots of records are created with the recording of a planned development final plan.
Once the final plan is approved by the Engineering Department the lots shall be recorded.

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: 10.16.2020 with Seth Thomas

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).

Neighborhood Meeting Requirement Met: Yes or Not Yes (Circle one)
(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.

I (we) hereby make application for the Planned Development 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.

Paul D. Blum 11-01-20 Delra Hogue Brantley 11/1/2020
Property Owner of Record Date Applicant Date

**GUIDE FOR SUBMITTING
PLANNED DEVELOPMENT APPLICATION
(OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)**

- A. **THE APPLICATION** - Two (2) collated sets of this application in accordance with the requirements of the Unified Development Code and as outlined below shall be submitted to OPD. The following information is required to be submitted for consideration as a complete application, and except for copies of the Outline and/or Site/Concept Plan, shall be provided on sheets of 8.5"x11" in size. The application with original signatures shall be completed either with legible print or typewritten. Each application set shall be compiled in the following order:
 - 1) This application, 8.5"x11" Outline and/or Site/Concept Plan, Legal Description, Vicinity Map, 2-3 sets of gummed-backed Mailing Labels, 2 sets of paper copied Mailing Labels, Letter of Intent, 20"x24" Outline and/or Site/Concept Plan (folded), copy of Deed(s).
 - 2) A compact disc with all submittal documents in "PDF" and any proposed conditions in "WORD".
- B. **LETTER OF INTENT** - The letter shall include the following:
 - a) A brief narrative statement generally describing the nature, location and extent of the development and the market it is intended to serve.
 - b) A list of any professional consultants associated with the proposed development.
 - c) A written statement generally describing the relationship of the proposed development to the current policies and plans of the City and County. The statement shall include how the proposed

LETTER OF INTENT

Letter of Intent

BHW Estate goal is to develop a gated community for Veterans. BHW Estate is designed for shared living among independent veterans to help support each other in everyday living in a safe and clean environment. BHW Estate is looking to build approximately (22) 3 bedroom housing units along with a community center with multi-purpose rooms to hold programs and services for our residents. We are desiring to be a lasting positive pillar in the Raleigh/ Frayser area.

This request is for the approval of a Planned Development Application on a 12.95 acre lot located at 3681 Hawkins Mill Road, Memphis, TN. 38128. This site is located in an R-6 District. The community center element requires the initiation of this Planned Development Application process.

SIGN AFFIDAVIT

AFFIDAVIT

Shelby County
State of Tennessee

I, Paul O. Brantley Sr., being duly sworn, depose and say that at 8:30 am/pm on the 20 day of NOVEMBER, 2020, I posted a Public Notice Sign(s) pertaining to Case No. PD 20-17 at 3681 Hawkins Mill Road (address) providing notice of a Public Hearing before the X Land Use Control Board, X Memphis City Council, Shelby County Board of Commissioners for consideration of a proposed Land Use Action (X Planned Development, Special Use Permit, Use Variance, Zoning District Map Amendment), a photograph of said sign(s) being attached hereon and a copy of the sign purchase receipt or rental contract attached hereto.

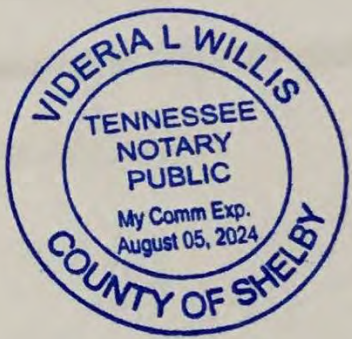
Paul O. Brantley Sr.
Owner, Applicant or Representative

November 20th, 2020
Date

Subscribed and sworn to before me this 21st day of November, 2020.

Videria L. Willis
Notary Public

My commission expires: August 05, 2024



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

Debra Hogue Brantley
2026 Belover
Memphis, TN 38127

Sent via electronic mail to: debrab@bhwestate.org

BHW Estates Planned Development
Case Number: PD 20-17
LUCB Recommendation: Approval with outline plan conditions

Dear applicant,

On Thursday, January 14, 2021, the Memphis and Shelby County Land Use Control Board recommended **approval** of your planned development application for the BHW Estates Planned Development, subject to the attached outline plan conditions.

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 jeffrey.penzes@memphistn.gov.

Respectfully,



Jeffrey Penzes
Principal Planner

Letter to Applicant
PD 20-17

Land Use and Development Services
Division of Planning and Development

Cc: Delinor Smith, Smith Building Design & Associates, Inc.
File

Letter to Applicant

PD 20-17

Outline Plan Conditions

I. PERMITTED USES

- A. Multi-use veteran's facility providing a maximum of 76 multifamily dwelling units with supportive programs and services including an on-site private community center.

II. BULK REGULATIONS

- A. The bulk regulations shall be in conformance with the Residential Urban District – 3 (RU-3) District.
- B. The building elevations, design, setback, placement, and orientation shall be illustrated on the final site plan, subject to administrative review and approval by Land Use and Development Services (LUDS).

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- C. The Developer shall dedicate and improve 34 feet from the centerline of Hawkins Mill Road with curb, gutter, and sidewalk.
- D. The Developer shall be responsible for the installation, repair and/or replacement of all existing curb and gutter along the frontages of this site as necessary.
- E. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk as identified during the plan review process.
- F. The City Engineer or County Engineer shall approve the design, number, and location of curb cuts.
- G. Adequate queuing spaces in accordance with the current ordinance shall be provided between the street right-of-way line and any proposed gate/guardhouse/card reader.
- H. Dedicate and improve a cul-de-sac at the end of Russelwood Drive or design and construct an equivalent connection suitable to the Fire Department.

IV. LANDSCAPING

- A. Streetscape shall be in accordance with the Memphis-Shelby County Unified Development Code or an equivalent alternative as approved by LUDS.

Letter to Applicant

PD 20-17

- B. Parking lot landscaping shall be in accordance with the Memphis-Shelby County Unified Development Code or an equivalent streetscape as approved by LUDS.
- C. All landscaping shall be located on the property such that it shall not interfere with any utility easements.

V. DRAINAGE AND SEWERS

- A. A grading and drainage plan for the site shall be submitted for review and approval prior to recording of the final plat.
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- A. Signage shall be in conformance with regulations established for Residential Urban Districts as defined in Section 4.9.
- B. Location and design of signs shall be shown on the Final Plat.

VII. The Land Use Control Board may modify the bulk, access, parking, landscaping and sign requirements if equivalent alternatives are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder, may within ten days of such action, file a written appeal to the Zoning Administrator of the Land Use Development Services, to have such action reviewed by the appropriate Governing Body.

VIII. A final plan shall be filed within five (5) years of the date of approval of the outline plan by the Governing Body. The Land Use Control Board may grant extensions at the request of the applicant.

IX. Any final plan is subject to the administrative approval of Land Use and Development Services and shall include the following:

- A. The outline plan conditions.

Letter to Applicant

PD 20-17

- B. The location and dimensions, including height of all buildings or buildable areas, pedestrian and utility easements, service drives, parking areas, trash receptacles, loading facilities, and required landscaping and screening areas.
- D. The location and ownership, whether public or private of any easement.
- E. The location and dimensions of all buildings, buildable areas, signs, parking areas, and dumpster location.
- F. Specific plans for internal and perimeter landscaping and screening including landscaping of all open space features.
- G. Illustrations/elevations of the design and materials of any proposed buildings and signs.
- H. A statement conveying all common facilities and areas to a property owner's association or other entity, for ownership and maintenance purposes.
- I. The following note shall be placed on the final plat of any development requiring on-site water detention facilities: The areas denote by "Reserved for Storm Water Detention" shall not be used as a building site or filed without first obtaining written permission from the City or County Engineer. The storm water detention systems located at these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or a homeowners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approval plan on file in the City/County Engineer's Office. Such maintenance shall include, but not be limited to: removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.



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 PLANNED DEVELOPMENT APPROVAL (OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)

Date: _____

Case #: _____

PLEASE TYPE OR PRINT

Name of Development: BHW Estates

Property Owner of Record: Paul O. Brantley Sr. Phone #: 901.314.6279

Mailing Address: 2026 Belover City/State: Memphis, TN Zip 38127

Property Owner E-Mail Address: paulb@bhwestate.org

Applicant: Debra Hogue Brantley Phone # 901.288.0787

Mailing Address: 2026 Belover City/State: Memphis, TN Zip 38127

Applicant E- Mail Address: debrab@bhwestates.org

Representative: Debra Hogue Brantley Phone #: 901.288.0787

Mailing Address: 2026 Belover City/State: Memphis, TN Zip 38127

Representative E-Mail Address: debrab@bhwestates.org

Engineer/Surveyor: _____ Phone # _____

Mailing Address: _____ City/State: _____ Zip _____

Engineer/Surveyor E-Mail Address: _____

Street Address Location: 3681 Hawkins Mill Rd.

Distance to nearest intersecting street: the NW corner is 121.62' SE of the East property line of Windermere Drive

	Parcel 1	Parcel 2	Parcel 3
Area in Acres:	<u>12.95 Acres</u>	_____	_____
Existing Zoning:	<u>R-6</u>	_____	_____
Existing Use of Property	<u>Vacant</u>	_____	_____
Requested Use of Property	<u>R-6 & Community Center</u>	_____	_____

Medical Overlay District: Per Section 8.2.2D of the UDC, no Planned Developments are permitted in the Medical Overlay District.

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

Number of Residential Units: N/A Bedrooms: _____

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

Amendment(s): Is the applicant applying for an amendment to an existing Planned Development?

Yes _____ No X

The following modifications to existing planned developments are considered amendments: 1) a change to the permitted uses in a planned development, except in situations where a use of a higher classification is proposed to be changed to a use of a lower classification; 2) a modification to conditions that phases the uses, and 3) a conversion of public streets. See Section 9.6.11E(1) of the UDC for further details.

4.10.3 Planned Development General Provisions

The governing bodies may grant a special use permit for a planned development which modifies the applicable district regulations and other regulations of this development code upon written findings and recommendations to the Land Use Control Board and the Planning Director which shall be forwarded pursuant to provisions contained in section 4.10.3:

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

- The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.
This project will be compatible with the R-6 surrounding community. The Community Center will provide services and jobs for the residents and public.

- An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development.
The 12.95 acre site has an existing 2.5 acre lake that may allow for an area of natural storm water detention. The sewer, water, electric and gas connection shall be engineered, approved and constructed accordingly.

- The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses... (see UDC sub-section 4.10.3C)
The required landscape buffers shall be installed and maintained adjacent to the commercial structures and parking areas. All exterior lighting shall be installed based on an approved Photometric study.

- Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.
The intent of this 12.95 acre development is to provide R-6 zoned residential housing for veterans. The community center and the residential development will providing services and jobs opportunities for the public and the residents.

- Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.
The owner/developer shall manage, supervise and be responsible for maintaining the property.

- Lots of records are created with the recording of a planned development final plan.
Once the final plan is approved by the Engineering Department the lots shall be recorded.

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: 10.16.2020 with Seth Thomas

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).

Neighborhood Meeting Requirement Met: Yes or Not Yes (Circle one)
(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.

I (we) hereby make application for the Planned Development 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.

Paul D. Blum 11-01-20 Delra Hogue Brantley 11/1/2020
Property Owner of Record Date Applicant Date

**GUIDE FOR SUBMITTING
PLANNED DEVELOPMENT APPLICATION
(OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)**

- A. **THE APPLICATION** - Two (2) collated sets of this application in accordance with the requirements of the Unified Development Code and as outlined below shall be submitted to OPD. The following information is required to be submitted for consideration as a complete application, and except for copies of the Outline and/or Site/Concept Plan, shall be provided on sheets of 8.5"x11" in size. The application with original signatures shall be completed either with legible print or typewritten. Each application set shall be compiled in the following order:
 - 1) This application, 8.5"x11" Outline and/or Site/Concept Plan, Legal Description, Vicinity Map, 2-3 sets of gummed-backed Mailing Labels, 2 sets of paper copied Mailing Labels, Letter of Intent, 20"x24" Outline and/or Site/Concept Plan (folded), copy of Deed(s).
 - 2) A compact disc with all submittal documents in "PDF" and any proposed conditions in "WORD".
- B. **LETTER OF INTENT** - The letter shall include the following:
 - a) A brief narrative statement generally describing the nature, location and extent of the development and the market it is intended to serve.
 - b) A list of any professional consultants associated with the proposed development.
 - c) A written statement generally describing the relationship of the proposed development to the current policies and plans of the City and County. The statement shall include how the proposed

development is to be designed, arranged and operated in order to limit impact to neighboring properties.

- d) A description of the applicant's planning objectives, the approaches to be followed in achieving those objectives.

C. **OUTLINE PLAN**

1) Two (2) copies of an Outline Plan shall be submitted and drawn at a scale of not less 1"=100' for developments of less than 150 acres, 1"=200' for developments between 150 and 1,000 acres, and 1"=300' feet for developments in excess of 1,000 acres. If property is encumbered by easements, show type and location on plot plan.

2) Two (2) copies of legal description shall be attached to plot plan if not shown or described on the plan

- D. **SITE/CONCEPT PLAN** – Two (2) copies of the site/concept plan shall be submitted and depict the following: (a) property boundary lines and dimensions, existing utilities and easements, roadways, rail lines and public rights-of-way, crossing adjacent to the subject property; (b) the proposed height, dimensions and arrangements of buildings on the property; (c) the type and location of proposed landscaping; (d) the location of points of ingress/egress (driveways), parking lots and loading areas on the site; and (e) any proposed substantial re-grading of the site and any significant topographical or physical features of the site including water courses or ponds. Site/Concept plans shall be drawn at a scale of not less 1"=100' for developments of less than 150 acres, 1"=200' for developments between 150 and 1,000 acres, and 1"=300' feet for developments in excess of 1,000 acres.

- E. **ELEVATIONS** – Two (2) copies of building elevations *may* be required upon request by the Office of Planning and Development. Factors that will be taken into consideration by the Office of Planning and Development in its determination that building elevations are required are surrounding land uses, frontage requirements and proximity of the requested building(s) to the public right-of-way.

F. **VICINITY MAP**

Two (2) copies showing the subject property (boldly outlined) and all parcels within a 500' radius. If the 500' radius includes less than 25 property owners, the radius shall be extended at 100' intervals to reach a minimum of 25 property owners provided, however, that the maximum total radius is 1,500'. Show for each parcel its dimensions, owner's name (on the vicinity map unless prior approval is given to do otherwise) and the public streets, alleys or private drives that it abuts. In situations where the parcels on the map are so small that the property owner's names are unable to fit and numbered legend is used, every effort should be made to place the legend on the map itself and not a separate sheet.

G. **LIST OF NAMES AND ADDRESSES**

1) Two (2) complete lists of names and mailing addresses, including zip codes, of all owners shown on the vicinity map, typewritten on 1"x 2^{5/8}" self-adhesive mailing labels and 2 paper sets. Three (3) sets of gummed back mailing labels and paper copies are needed for subject properties located in Shelby County but within five (5) miles of the Memphis City limits.

2) Two (2) self-adhesive mailing labels (1"x 2^{5/8}") each for the owner of record, applicant, representative and/or engineer/surveyor.

H. **FILING FEES** (*All Fees Are Subject To Change without Prior Notice*)

1) Planned Development: 5.0 Acres or less=\$1,500. Each additional acre or fraction thereof =\$100, Maximum =\$10,000. Make check payable to "M/SC Office of Planning and Development"

***ALL APPLICATIONS MUST BE SUBMITTED IN PERSON AND THE SUBMITTER MUST RECEIVE A RECEIPT OF ACCEPTANCE FROM STAFF**

Return to

Tracey P. Malone
2850 Bartlett Rd.
Bartlett, TN 38134

* re-recorded to correct grantee's name

WARRANTY DEED

This Instrument was prepared by
Tracey P. Malone, Attorney
2850 Bartlett Rd.
Bartlett, TN 38134

THIS INDENTURE, made and entered into as of the 27th day of June, 2018, by and between Sharon E. Bensley, hereinafter referred to as Grantor, and Paul O. Brantley, Jr., married, hereinafter referred to as Grantee.

WITNESS: 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:

BEGINNING at a point in the Hawkins Mill Road at the southeast corner of the land of L. L. Bolton, running thence west 481 feet to a stake; thence south 592 feet to a stake; thence west 1531.5 feet to a stake; thence north 21 degrees 40 minutes east 2192.4 feet to a point in the center of Hawkins Mill Road; thence along the center of said road with the meanders of same, south 60 degrees 20 minutes east 765 feet, south 37 degrees 30 minutes east 100 feet, south 22 degrees 30 minutes east 300 feet, south 36 degrees east 100 feet, south 23 degrees 50 minutes east 684 feet to the beginning, containing 55 acres and being the east 55 acres of the L. L. Bolton tract about 2 miles north of Raleigh and the same conveyed by deed of record in Book 1761, Page 469, in the Register's Office of Shelby County, Tennessee.

LESS AND EXCEPT that part conveyed by Warranty Deed of record in Book 4413, Page 304, in the Register's Office of Shelby County, Tennessee, dated October 31, 1960, by and between E.D. Jamison and wife, Marie L. Jamison, to Nam Ni Estates, Inc.

Parcel 2:

BEGINNING at an iron pipe in the south line of Hawkins Mill Road, being the N.E. corner of said Thompson tract; thence along the south line of Hawkins Mill Road north 61 degrees 30 minutes west 175 feet to a stake; thence south 18 degrees 20 minutes west 643 feet to a stake; thence south 66 degrees 15 minutes east 175 feet to a stake; thence north 18 degrees 20 minutes east 620 feet to the point of beginning, containing 2.53 acres, more or less.

Being the same property conveyed to Grantor, by Quit Claim Deed of record at Instrument Number GC1991 and Order Redeeming Exhibit No. 16412 from Tax Sale at Instrument # 06105472, in the Register's Office of Shelby County, Tennessee.



OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

ENDORSEMENT

To be attached to and become a part of Policy No. OX12362779 of Old Republic National Title Insurance Company.

Schedule A of the above referenced policy is hereby amended as follows:

1. Name of Insured: **Paul O. Brantley, Sr.**

3. Title is vested in: **Paul O. Brantley, Sr.**

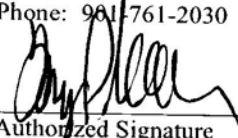
4. The instrument(s) creating the estate or the interest in the Land are described as follows:


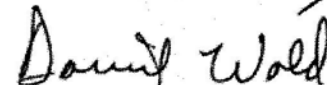
That certain Warranty Deed dated June 29, 2018, executed by Sharon E. Bensley conveying the property described therein to Paul O. Brantley, Sr., filed for record in the Register's Office of Shelby County, TN on July 6, 2018 at 03:57 PM, and recorded in Instrument Number 18067709 and as re-recorded on September 19, 2018 at 03:46 PM in Instrument Number 18096209.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Issued through the Office of:
Old Republic National Title Insurance Company
5865 Ridgeway Center Parkway, Suite 104
Memphis, TN 38120-4006
Phone: 901-761-2030

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(612) 371-1111


Authorized Signature

By  President
Attest  Secretary

Return to

Tracey P. Malone
2850 Bartlett Rd.
Bartlett, TN 38134

* re-recorded to correct grantee's name

WARRANTY DEED

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Tracey P. Malone, Attorney
2850 Bartlett Rd.
Bartlett, TN 38134

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Being the same property conveyed to Grantor, by Quit Claim Deed of record at Instrument Number GC1991 and Order Redeeming Exhibit No. 16412 from Tax Sale at Instrument # 06105472, 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 Grantee, their 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, any taxes not yet due, but constituting a lien which are assumed by Grantee; subdivision restrictions, building lines and easements of record including Easements at Book 1918, Page 617, Book 2115, Page 336, and Book 4093, Page 155, Page, all 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 person.

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.

Sharon E. Bensley
Sharon E. Bensley

STATE OF TENNESSEE
COUNTY OF SHELBY

On this 29th day of June 2018, before me a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Sharon E. Bensley, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

WITNESS my hand and Notarial Seal at office the day and year above written.

My Commission Expires: 05-01-21
Michelle A. Hamm
Notary Public
05-01-21



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 \$59,900.00 which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

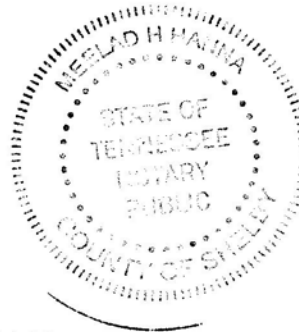
[Handwritten Signature]

Affiant

Subscribed and sworn to before me this 29th day of June, 2018.

[Handwritten Signature]

Notary Public



Commission Expiration: 05-01-21

Return to:
Tracey P. Malone
2850 Bartlett Road
Bartlett, TN 38134

Send Tax Bills To:
Paul O. Brantley, Jr. Sr.
2026 Belover Cv.
Memphis, TN 38127

Property Address & Owner:
Paul O. Brantley, Jr. Sr.
3681 Hawkins Mill Rd.
Memphis, TN 38128

Parcel No. 090-071-00002



Tom Leatherwood
Shelby County Register

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.

	
18067709	
07/06/2018 - 03:57 PM	
3 PGS	
KRISTIN	1756442-18067709
VALUE	59900.00
MORTGAGE TAX	0.00
TRANSFER TAX	221.63
RECORDING FEE	15.00
DP FEE	2.00
REGISTER'S FEE	1.00
WALK THRU FEE	0.00
TOTAL AMOUNT	239.63
TOM LEATHERWOOD	
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	




Shelby County Tennessee

Shelandra Y. Ford

Shelby County Register

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.

Re Recording

	
18096209	
09/19/2018	03:46 PM
4 PGS	
BRANDON	1785480-18096209
VALUE	
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	20.00
DP FEE	2.00
REGISTER'S FEE	0.00
WALK THRU FEE	0.00
TOTAL AMOUNT	22.00
SHELANDRA Y FORD	
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	

1075 Mullins Station, Suite W165 ~ Memphis, Tennessee 38134 (901) 222-8100
Website: <http://register.shelby.tn.us> Email: register@shelbycountyttn.gov

Letter of Intent

BHW Estate goal is to develop a gated community for Veterans. BHW Estate is designed for shared living among independent veterans to help support each other in everyday living in a safe and clean environment. BHW Estate is looking to build approximately (22) 3 bedroom housing units along with a community center with multi-purpose rooms to hold programs and services for our residents. We are desiring to be a lasting positive pillar in the Raleigh/ Frayser area.

This request is for the approval of a Planned Development Application on a 12.95 acre lot located at 3681 Hawkins Mill Road, Memphis, TN. 38128. This site is located in an R-6 District. The community center element requires the initiation of this Planned Development Application process.



OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

ENDORSEMENT

To be attached to and become a part of Policy No. OX12362779 of Old Republic National Title Insurance Company.

Schedule A of the above referenced policy is hereby amended as follows:

1. Name of Insured: **Paul O. Brantley, Sr.**

3. Title is vested in: **Paul O. Brantley, Sr.**

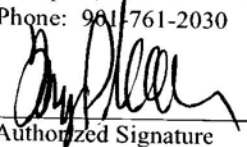
4. The instrument(s) creating the estate or the interest in the Land are described as follows:


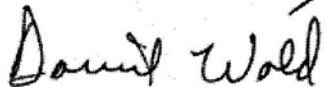
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Issued through the Office of:
Old Republic National Title Insurance Company
5865 Ridgeway Center Parkway, Suite 104
Memphis, TN 38120-4006
Phone: 901-761-2030

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(612) 371-1111


Authorized Signature

By  President
Attest  Secretary

Return to

Tracey P. Malone
2850 Bartlett Rd.
Bartlett, TN 38134

* re-recorded to correct grantee's name

WARRANTY DEED

This Instrument was prepared by
Tracey P. Malone, Attorney
2850 Bartlett Rd.
Bartlett, TN 38134

THIS INDENTURE, made and entered into as of the 27th day of June, 2018, by and between Sharon E. Bensley, hereinafter referred to as Grantor, and Paul O. Brantley, Jr., married, hereinafter referred to as Grantee.

WITNESS: 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:

BEGINNING at a point in the Hawkins Mill Road at the southeast corner of the land of L. L. Bolton, running thence west 481 feet to a stake; thence south 592 feet to a stake; thence west 1531.5 feet to a stake; thence north 21 degrees 40 minutes east 2192.4 feet to a point in the center of Hawkins Mill Road; thence along the center of said road with the meanders of same, south 60 degrees 20 minutes east 765 feet, south 37 degrees 30 minutes east 100 feet, south 22 degrees 30 minutes east 300 feet, south 36 degrees east 100 feet, south 23 degrees 50 minutes east 684 feet to the beginning, containing 55 acres and being the east 55 acres of the L. L. Bolton tract about 2 miles north of Raleigh and the same conveyed by deed of record in Book 1761, Page 469, in the Register's Office of Shelby County, Tennessee.

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Being the same property conveyed to Grantor, by Quit Claim Deed of record at Instrument Number GC1991 and Order Redeeming Exhibit No. 16412 from Tax Sale at Instrument # 06105472, 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 Grantee, their 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, any taxes not yet due, but constituting a lien which are assumed by Grantee; subdivision restrictions, building lines and easements of record including Easements at Book 1918, Page 617, Book 2115, Page 336, and Book 4093, Page 155, Page, all 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 person.

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.

Sharon E. Bensley
Sharon E. Bensley

STATE OF TENNESSEE
COUNTY OF SHELBY

On this 29th day of June 2018, before me a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Sharon E. Bensley, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

WITNESS my hand and Notarial Seal at office the day and year above written.

My Commission Expires: 05-01-21
Michelle A. Hamm
Notary Public
05-01-21



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 \$59,900.00 which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

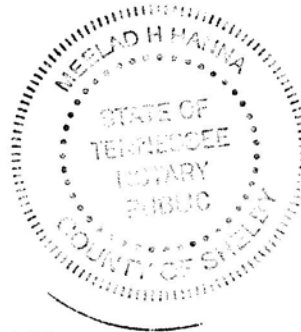
[Signature]

Affiant

Subscribed and sworn to before me this 29th day of June, 2018.

[Signature]

Notary Public



Commission Expiration: 05-01-21

Return to:
Tracey P. Malone
2850 Bartlett Road
Bartlett, TN 38134

Send Tax Bills To:
Paul O. Brantley, *M. Sr.*
2026 Belover Cv.
Memphis, TN 38127

Property Address & Owner:
Paul O. Brantley, *M. Sr.*
3681 Hawkins Mill Rd.
Memphis, TN 38128

Parcel No. 090-071-00002



Tom Leatherwood
Shelby County Register

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.

	
18067709	
07/06/2018 - 03:57 PM	
3 PGS	
KRISTIN	1756442-18067709
VALUE	59900.00
MORTGAGE TAX	0.00
TRANSFER TAX	221.63
RECORDING FEE	15.00
DP FEE	2.00
REGISTER'S FEE	1.00
WALK THRU FEE	0.00
TOTAL AMOUNT	239.63
TOM LEATHERWOOD	
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	




Shelby County Tennessee

Shelandra Y. Ford

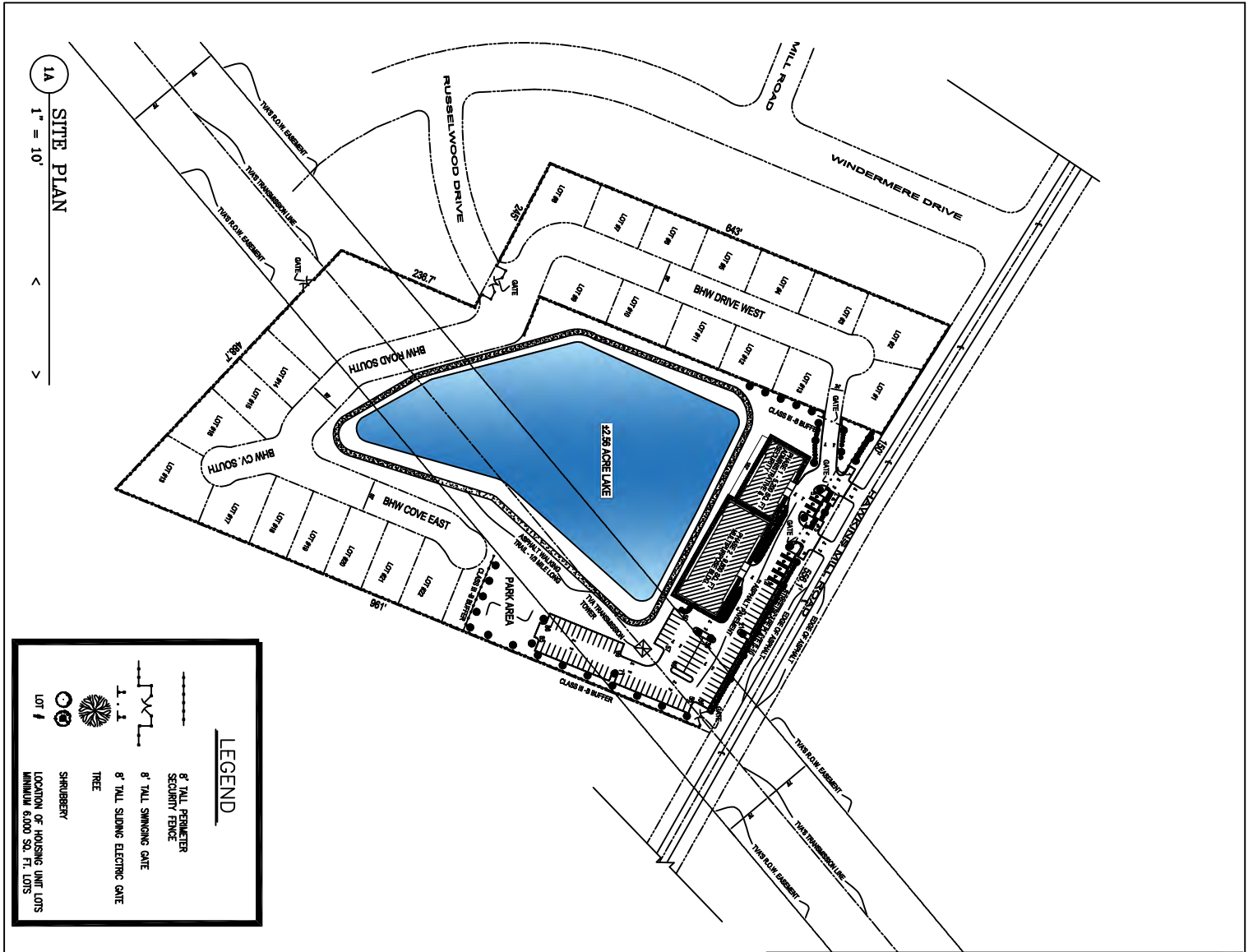
Shelby County Register

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.

Re Recording

	
18096209	
09/19/2018	03:46 PM
4 PGS	
BRANDON	1785480-18096209
VALUE	
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	20.00
DP FEE	2.00
REGISTER'S FEE	0.00
WALK THRU FEE	0.00
TOTAL AMOUNT	22.00
SHELANDRA Y FORD	
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	

1075 Mullins Station, Suite W165 ~ Memphis, Tennessee 38134 (901) 222-8100
Website: <http://register.shelby.tn.us> Email: register@shelbycountyttn.gov

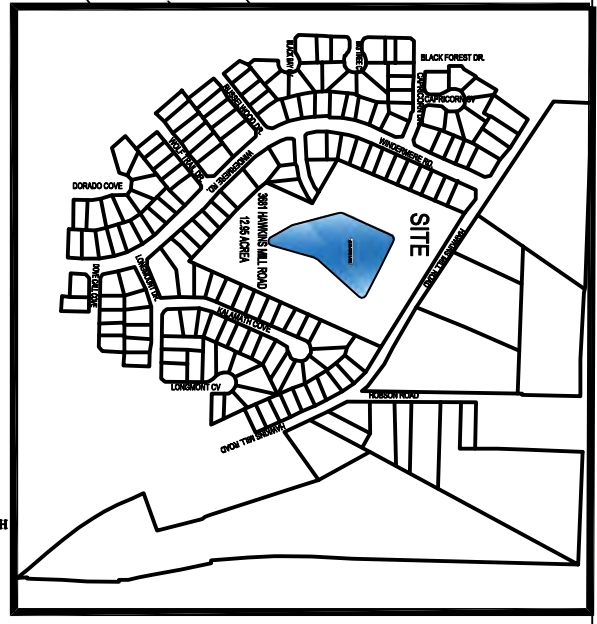


1A

SITE PLAN
1" = 10'

LEGEND

- 8' TALL PERIMETER SECURITY FENCE
- 8' TALL SWINGING GATE
- 8' TALL SLIDING ELECTRIC GATE
- TREE
- SHRUBBERY
- LOT
- LOCATION OF HOUSING UNIT LOTS MINIMUM 6,000 SQ. FT. LOTS



5D VICINITY MAP
NTS



SITE PLAN

ZONING DISTRICT: R-6
CASE NO.:
PLANNED DEVELOPMENT
3661 HAWKINS MILL ROAD
SHELBY COUNTY, TENNESSEE

LOT SIZE: 12.96 ACRES TOTAL
PROPOSED LOT SIZE: 122 R-6 LOTS
ENGINEER:

DEVELOPER: BHW ESTATES
2028 BELLOVER
MEMPHIS, TENNESSEE 38127

BLDG. AREA = VACANT LOT

DATE: 11.02.2020 SCALE: 1"=100'-0" SHEET 1 OF 1



1A SITE PLAN
1" = 10'

LEGEND	
	8' TALL PERIMETER SECURITY FENCE
	8' TALL SWINGING GATE
	8' TALL SLIDING ELECTRIC GATE
	TREE
	SHRUBBERY
	LOT # LOCATION OF HOUSING UNIT LOTS MINIMUM 6,000 SQ. FT. LOTS

SITE PLAN

ZONING DISTRICT: R-6 CASE NO.:
 PLANNED DEVELOPMENT
 3681 HAWKINS MILL ROAD
 SHELBY COUNTY, TENNESSEE

LOT SIZE: 12.95 ACRES TOTAL BLDG. AREA = VACANT LOT
 PROPOSED LOT SIZE: ±22 R-6 LOTS ENGINEER:

DEVELOPER: BHW ESTATES
 2026 BELOVER
 MEMPHIS, TENNESSEE 38127

DATE: 11.02.2020 SCALE: 1"=100'-0" SHEET 1 Of 1

MEMPHIS ACADEMY OF HEALTH SCIENCES HIGH
3925 CHELSEA AVE EXT
MEMPHIS TN 38108

JONES MARILYN J
6122 TRAIL CREEK LN
MEMPHIS TN 38135

RANDALL LAURENCE II
19 SAINT PIERRE CT
SAN RAMON CA 94583

HAWKINS RODNEY
1619 OLD HICKORY RD
MEMPHIS TN 38116

TIDWELL PATRICIA A
3878 WINDERMERE RD
MEMPHIS TN 38128

EDINGBOURGH BRUCE E
PO BOX 772
MILLINGTON TN 38083

HARRIS MARQUETTE
6752 CAMP JOHN RD
MILLINGTON TN 38053

WILLIAMS MICHELLE V N
3597 HOBSON RD
MEMPHIS TN 38127

NEAL TAMARA
3874 HOBSON RD
MEMPHIS TN 38128

MEMPHIS ACADEMY OF HEALTH SCIENCES HIGH
3925 CHELSEA AVE EXT
MEMPHIS TN 38108

PHAM TAI
3232 ROCKY MOUNTAIN DR
SAN JOSE CA 95127

STEVENS PAUL A & AUDREA C
3583 CAPRICORN DR
MEMPHIS TN 38128

ALSOBROOK CHRIS
4827 AVI DR
ARLINGTON TN 38002

MARSHALL SCOTT
2282 WHITTEN RD
MEMPHIS TN 38133

FUNEZ CARLOS R A & MELISSA G R
3589 CAPRICORN DR
MEMPHIS TN 38128

TUCKER SHYAMALA
3668 HAWKINS MILL RD
MEMPHIS TN 38128

BRANTLEY PAUL O SR
2026 BELOVER CV
MEMPHIS TN 38127

HOWZE WILLIE B B
3597 CAPRICORN
MEMPHIS TN 38128

KENT ALVIN & BOBBIE T
3700 MILL LN
MEMPHIS TN 38128

BROOKS SHELLYE
1996 WOODCHASE CV
CORDOVA TN 38016

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

WU KIN W
3700 S PLAZA DR #J211
SANTA ANA CA 92704

THOMPSON WILLIE E
3861 WINDERMERE RD
MEMPHIS TN 38128

MORRIS REGINALD
PO BOX 753193
MEMPHIS TN 38175

LYONS JENOSHA R
3879 WINDERMERE RD
MEMPHIS TN 38128

COX DORIS J
3861 CAPRICORN CV
MEMPHIS TN 38128

THOMAS MARY E
3864 HOBSON RD
MEMPHIS TN 38128

EDINGBOURGH ERROL
3878 CAPRICORN CV
MEMPHIS TN 38128

CRESTCORE II LLC
4435 SUMMER AVE
MEMPHIS TN 38122

GREENE GWENDOLYN T
3588 BIG TREE CV
MEMPHIS TN 38128

FELIX IMOGENE
3833 WINDERMERE RD
MEMPHIS TN 38128

HOME SFR BORROWER IV LLC
3505 KOGER BLVD #400
DULUTH GA 30096

BLEVINS MATTIE
3805 WINDERMERE RD
MEMPHIS TN 38128

PBT JUNE PROPERTY TRUST
11781 MAGNOLIA PARK CT
LAS VEGAS NV 89141

WADE JESSIE M
3815 WINDERMERE RD
MEMPHIS TN 38128

RAGSDALE WILLIE B
3705 HAWKINS MILL RD
MEMPHIS TN 38128

FERGUSON WILLIE B
PO BOX 751944
MEMPHIS TN 38175

DAVIS MARY L
3803 KALAMATH CV
MEMPHIS TN 38128

JUSTICE TIJUANA S AND RICKEY CHAMBERS
3799 KALAMATH CV
MEMPHIS TN 38128

LUNDGREN KENNETH M
19598 JURUPA AVE
BLOOMINGTON CA 92316

POPE BETTY J
3816 WINDERMERE RD
MEMPHIS TN 38128

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

DEARAUJO CLAUDIO P
135 E MAIN ST #L5
WESTBOROUGH MA 1581

STANTON INVESTMENT USA LLC

PARKER THERESA
3799 WINDERMERE RD
MEMPHIS TN 38128

PLEASANT ROYAL HOMES LLC
7105 TAGEN DR
MEMPHIS TN 38133

ATWATER DENNIS E
757 SPRING ST
MEMPHIS TN 38112

HARRIS ELIZABETH & WILLIE & LENA HARRIS
3793 KALAMATH CV
MEMPHIS TN 38128

P FIN I LLC
3525 PIEDMONT RD NE #5, STE 410
ATLANTA GA 30305

MC2012 PROPERTIES MEMPHIS LLC
6262 POPLAR AVE #201
MEMPHIS TN 38119

WILLIAMS REALTY AND INVESTMENT LLC
941 E RAINES RD #R2
MEMPHIS TN 38116

HILL ROBERT (1/2) & BELVER J (1/2)
3911 FERDIE CV
MEMPHIS TN 38127

GREEN LEMONTVE
116 SCOTTLAND DR
JACKSON TN 38301

DOCKERY DIANE
3792 WINDERMERE RD
MEMPHIS TN 38128

HARRIS MELVN C AND FORREST E HARRIS SR
6752 CAMP JOHN RD
MILLINGTON TN 38053

BARNES MARY A
3810 KALAMATH CV
MEMPHIS TN 38128

CRUTCHFIELD DARYL M
2000 HIGHWAY 196 S
COLLIERVILLE TN 38017

HOUSTON HOSEA AND ARTHUR HOUSTON (RS)
5594 RAMSEY RD
MEMPHIS TN 38127

VINSON JIMMIE JR & VIOLA R
3592 BLACK BAY CV
MEMPHIS TN 38128

GRIFFITH LOLA J
3591 BLACK BAY CV
MEMPHIS TN 38128

CRESTCORE II LLC
4435 SUMMER AVE
MEMPHIS TN 38122

JAMERSON JAMES E
3721 HAWKINS MILL RD
MEMPHIS TN 38128

SMITH REGINALD K & DOROTHY J
3601 RUSSELWOOD DR
MEMPHIS TN 38128

SHARP EDWARD L & HELEN M
3789 KALAMATH CV
MEMPHIS TN 38128

SRMZ 1 LLC
5001 PLAZA ON THE LAKE #200
AUSTIN TX 78746

JOHNSON MARGARET D
330 ROSSVILLE RD
HOLLY SPRINGS MS 38635

MIDSOUTH INVESTMENT HOLDINGS
92 MARY'S CREEK CV
EADS TN 38028

ATWATER CARL R & LINDA F
3598 RUSSELWOOD DR
MEMPHIS TN 38128

MEYERS DEAN
135 CHARLES ST #5D
NEW YORK NY 10014

THOMAS NATASHA
3587 BLACK BAY CV
MEMPHIS TN 38128

CRESTCORE II LLC
4435 SUMMER AVE
MEMPHIS TN 38122

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

SMITH CLEO R & MATTIE J
3717 HAWKINS MILL RD
MEMPHIS TN 38128

CHAMBERS FRANK J & JOANNE
3771 LONGMONT CV
MEMPHIS TN 38128

COLLIER ROSIE L B
3772 KALAMATH CV
MEMPHIS TN 38128

REVE LLC
PO BOX 1161
HALEIWA HI 96712

FLEMING LESTER W
9436 OAK LEAF DR
CHATSWORTH CA 91311

ARGUETA DUNIA E
3765 LONGMONT CV
MEMPHIS TN 38128

JONES CHARLES R
3608 RUSSELWOOD DR
MEMPHIS TN 38128

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

WILEY LINDA G & JEFFREY A NIELSEN
43 WILSON RD
NEWPORT KY 41071

TUCKER LOUISE AND CYNTHIA J BROWN AND
3783 KALAMATH CV
MEMPHIS TN 38128

FARMER TAMARA D AND DONALD C FARMER
2042 WASKOM DR
MEMPHIS TN 38116

SURRATT SARAH B
7978 WINDING CREEK
GERMANTOWN TN 38138

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

CRESTCORE II LLC
4435 SUMMER AVE
MEMPHIS TN 38122

MCGRONE RICKEY R
3761 KALAMATH CV
MEMPHIS TN 38128

PARSON TOMMY L & DOROTHY J
3788 KALAMATH CV
MEMPHIS TN 38128

WARD LAURA L R
3778 KALAMATH CV
MEMPHIS TN 38128

FILSINGER ROLAND
3248 AIRLINE RD
EADS TN 38028

RUBICON INVESTMENTS-TN LLC
263 FRIDAY CREEK RD
BELLINGHAM WA 98229

TOLBERT CLAUDIE M
3747 WINDERMERE RD
MEMPHIS TN 38128

ASL INVESTMENT LLC

SCOTT ALEX SR & HELEN O
3764 LONGMONT DR
MEMPHIS TN 38128

MOORE ALBERT L
3750 WOLF TRAIL DR
MEMPHIS TN 38128

VDV MEMPHIS CORP
310 GERMANTOWN BEND CV #101
CORDOVA TN 38018

WILLIAMSON FELTON R JR & JEWEL
3743 WOLF TRAIL DR
MEMPHIS TN 38128

GARTRELL SHARON M
3381 PRYOR ST
MEMPHIS TN 38127

CSMA BLT LLC
1850 PARKWAY PL #900
MARIETTA GA 30067

GILLIAMS SHEILA
3748 KALAMATH CV
MEMPHIS TN 38128

FIELDS WILMA
3739 KALAMATH CV
MEMPHIS TN 38128

GREEN ALISHIA L
3681 LONGMONT DR
MEMPHIS TN 38128

TAYLOR CORNELL & RUBY AND LULA M GRAHAM
3739 WOLF TRAIL DR
MEMPHIS TN 38128

CRESTCORE II LLC
4435 SUMMER AVE
MEMPHIS TN 38122

GENTLE WINDS INVESTMENTS LLC
31730 NE 139TH ST
DUVALL WA 98019

NEELY KAELA
PO BOX 34277
MEMPHIS TN 38184

GARCIA VICTOR H & ADA RAMOS
3730 WINDERMERE RD
MEMPHIS TN 38128

FOLSON MARIA
3721 DORADO CV
MEMPHIS TN 38128

PIGGIE ROBERT L & MARVA E
3710 LONGMONT DR
MEMPHIS TN 38128

RAYMOND PROPERTIES LLC
5701 W SLAUGHTER LN #A130-256
AUSTIN TX 78749

BRAXTON JANICE L
3716 DORADO CV
MEMPHIS TN 38128

JAMISON LORI
11859 EVERGOLD ST
SAN DIEGO CA 92131

VDV MEMPHIS CORP
1308 CRANE CT
MCDONOUGH GA 30252

SY TRAINING CENTER INC AND CALIFORNIA
765 THE CITY DR #300
ORANGE CA 92868

YOSEF SIVAL & TUVYA

CRESTCORE II LLC
4435 SUMMER AVE
MEMPHIS TN 38122

KLUG ALFRED E III & MALISA L
365 FLORENCEWOOD DR
COLLIERVILLE TN 38017

CLANAT SCULLARK AND VERNITA COX
1531 ASH ST
MEMPHIS TN 38108

MILLICAN AGNES M
3725 DORADO CV
MEMPHIS TN 38128

MOUNTAIN WEST IRA INC FBO JASON D MAUGHA
10096 W FAIRVIEW AVE #160
BOISE ID 83704

MIRELES MARCO A
2776 WELCHLAWN CV
MEMPHIS TN 38134

SORRELLS G W JR & CARYL S
PO BOX 624
WEST MEMPHIS AR 72303

BARIO MARCO AND CHELSEA CANNING (RS)
15030 VENTURA BLVD #305
SHERMAN OAKS CA 91403

SPRINGHILL MISSIONARY BAPTIST CHURCH
3815 HAWKINS MILL RD
MEMPHIS TN 38128

KING HOLDINGS USA 2012 LLC

PARKER ELIZABETH A
3697 HAWKINS MILL RD
MEMPHIS TN 38128

JACKSON MARY A
3706 DORADO CV
MEMPHIS TN 38128

PRASADAM INC
1671 JOSEPH CT
BUFFALO GROVE IL 60089

BAILEY SAMMIE B & ALINE
3809 KALAMATH CV
MEMPHIS TN 38128

BAKER ANGELITA D
600 16TH ST
ALAMOGORDO NM 88310

JOHNSON MARY LEE
3601 CAPRICORN DR
MEMPHIS TN 38128

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

CHAFFIN JESSIE L & GLORIA J
3700 WINDEMERE DR
MEMPHIS TN 38128

KING SADIE M
3617 CAPRICORN DR
MEMPHIS TN 38128

WRIGHT MILDRED L
3701 HAWKINS MILL RD
MEMPHIS TN 38128

HARDING KEVIN A
1356 HIGDON RD
HOLLY SPRINGS MS 38635

CLEAR THE WAY SUPPORTIVE HOUSING CORP
5018 EXPRESSWAY DR S #204
RONKONKOMA NY 11779

MIMS HATTIE D
PO BOX 281101
MEMPHIS TN 38168

JACKSON VIRGIE L AND AUDREY R JOHNSON (R)
4689 NORTHWOOD HILLS DR
MEMPHIS TN 38128

SAMSAMI FERESHTEH
38727 GREENWICH CIR
FREMONT CA 94536

CALLICUTT DENNIS & BERTHA L
3709 HAWKINS MILL RD
MEMPHIS TN 38128

JAQUES JOE
3630 E 3892 N
KIMBERLY ID 83341

RILEY CAROLYN AND TYANA RILEY (RS)
3592 BIG TREE CV
MEMPHIS TN 38128

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

ROBINSON WILLIE F & ODESSA
3874 CAPRICORN CV
MEMPHIS TN 38128

TAGGART LESTER JR
3834 WINDERMERE RD
MEMPHIS TN 38128

HOPKINS ROBERT
8872 TOTH CV
CORDOVA TN 38106

ROBINSON ROOSEVELT JR AND ANNA THOMPSON
3886 HOBSON RD
MEMPHIS TN 38128

STEVENS BRENDA A
5339 AUGUST MOON LN
BARTLETT TN 38135

SCOTT ZELDA R
9218 AFTON GROVE RD
CORDOVA TN 38018

KO HAO HSIEN
472 KAHLO ST
MOUNTAIN VIEW CA 94041

DAVIDSON JERRY T & NINA C
PO BOX 69
MILLINGTON TN 38083

JUSTICE VERESTINE
3704 DOVE CALL CV
MEMPHIS TN 38128

AC BROTHERS LLC
4118 148TH ST #H3
LYNNWOOD WA 98087

TAYLOR SHARION
3748 KALAMATH CV
MEMPHIS TN 38128

GWYNN ANTWONE AND FATIMA HALL (RS)
9712 TRIBUTARY CV
ARLINGTON TN 38002

NUVIEW IRA INC FBO DEBRA PORIES IRA #
436 CENTRAL AVE
OAK HILL WV 25901

BOGGS ADAM C AND JOHN E DONELSON
924 7TH ST #3
SANTA MONICA CA 90403

PARKER DWAYNE
1677 WINSTON DR
MEMPHIS TN 38127

BROWN VELMA AND THELMA BROWN AND
3767 KALAMATH CV
MEMPHIS TN 38128

STOLTZFUS JOHN M
178 MEADOWCREEK RD
NEW HOLLAND PA 17557

WESBY JESSIE L & QUEEN C
3711 LONGMONT DR
MEMPHIS TN 38128

LEWIS JAMES D & PHILLIPPA
3757 WOLF TRAIL DR
MEMPHIS TN 38128

RNT LLC
PO BOX 18393
DENVER CO 80218

HARRIS MELVN C AND FORREST E HARRIS SR
6752 CAMP JOHN RD
MILLINGTON TN 38053

SHARABI AMIR & MAYA A
2748 WYTHAM CV
MEMPHIS TN 38119

DURON JORGE AND ESPERANZA CHAVEZ
3719 WINDERMERE RD
MEMPHIS TN 38128

DIVERSIFI LLC
2225 7th PKWY #25
OAKLAND CA 94606

TAYLOR JOYCE M
3766 KALAMATH CV
MEMPHIS TN 38128

EARLE MARIAH K
1050 SE 15TH AVE
FORT LAUDERDALE FL 33316

THIRTY-SEVEN FIFTY-SEVEN LONGMONT TRUST
7940 OWENSMOUTH AVE
CANOGA PARK CA 91304

MAYHORN JOHNNIE L
3747 KALAMATH CV
MEMPHIS TN 38128

ANDERSON ROSIE E
3755 KALAMATH CV
MEMPHIS TN 38128

WESTBROOK EDDIE & ELOISE
P O BOX 280926
MEMPHIS TN 38168

WEDDLE JAMES I & MATTIE C
3746 WINDERMERE RD
MEMPHIS TN 38128

BINION INETA
3699 LONGMONT DR
MEMPHIS TN 38128

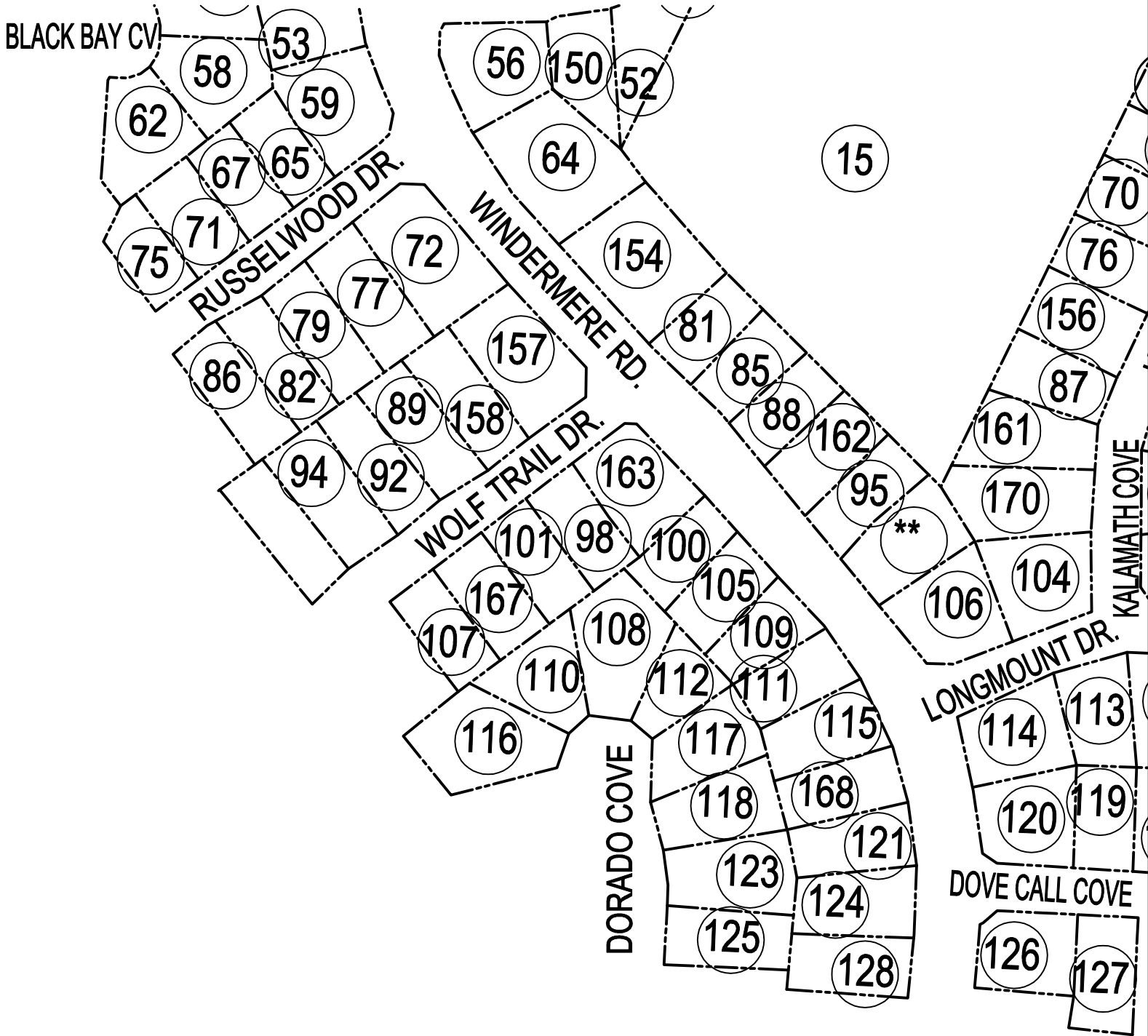
VICINITY MAP 2

VICINITY MAP 3



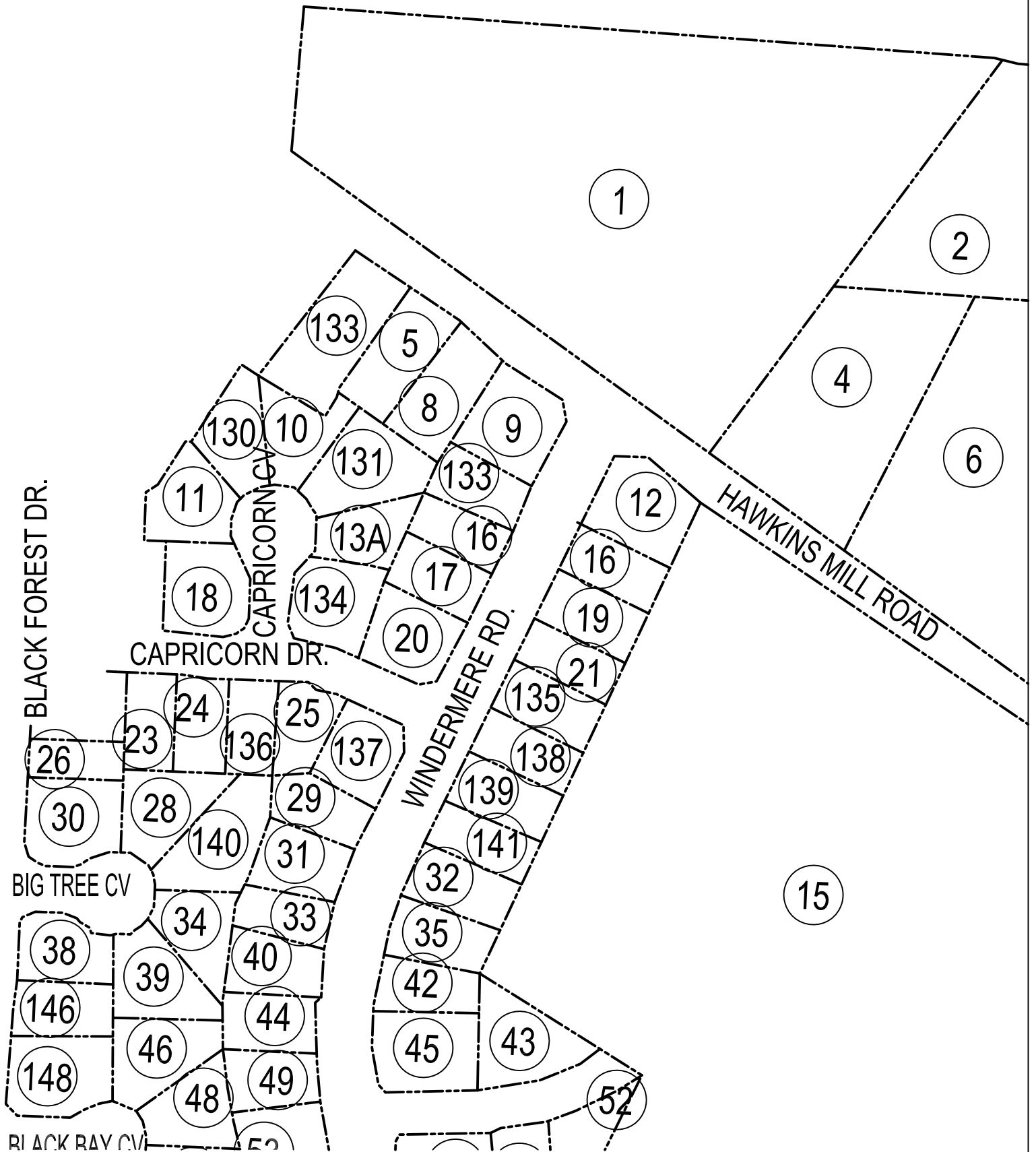
VICINITY MAP 1

VICINITY MAP 4



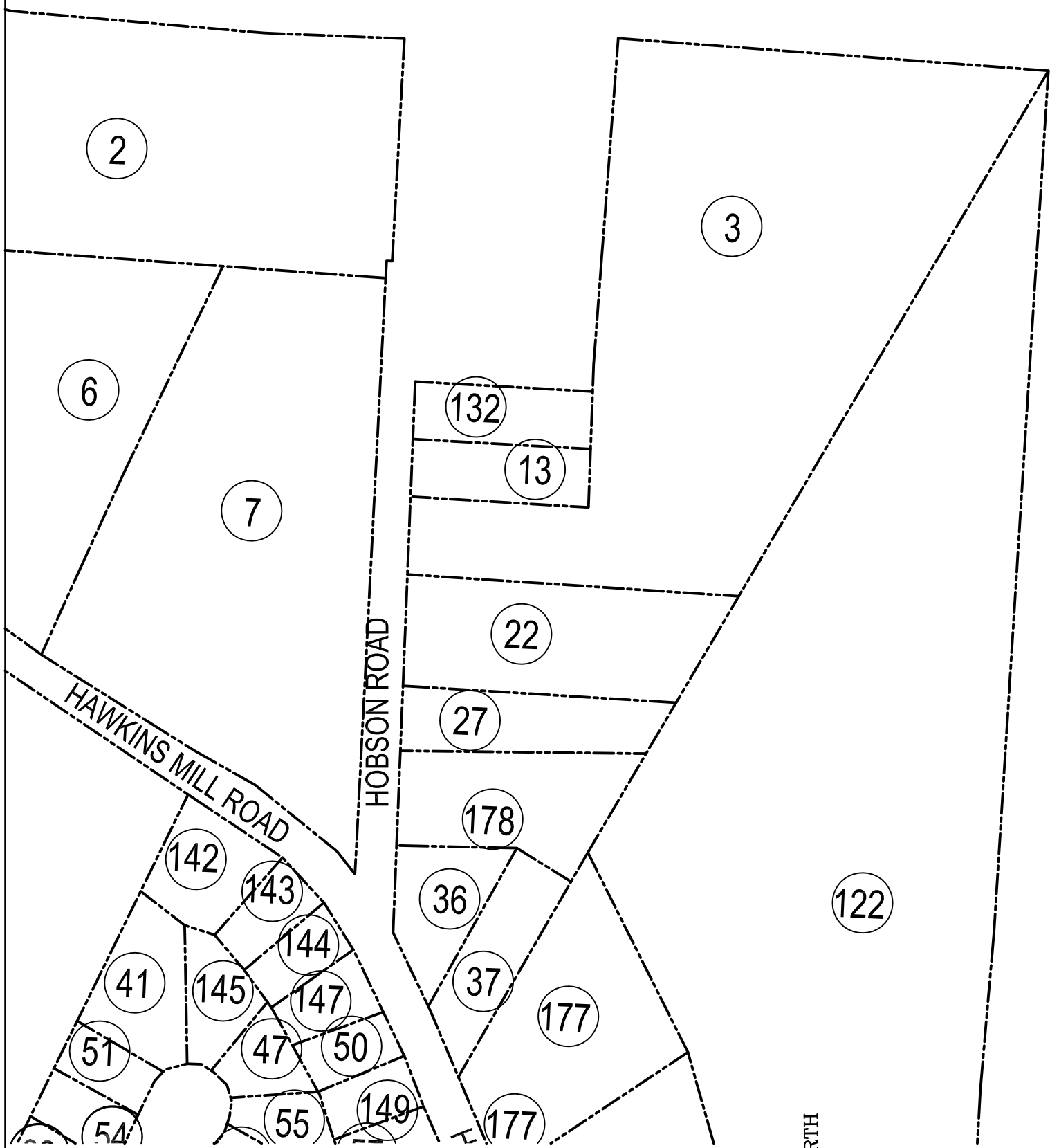
VICINITY MAP 1 WITH NAMES





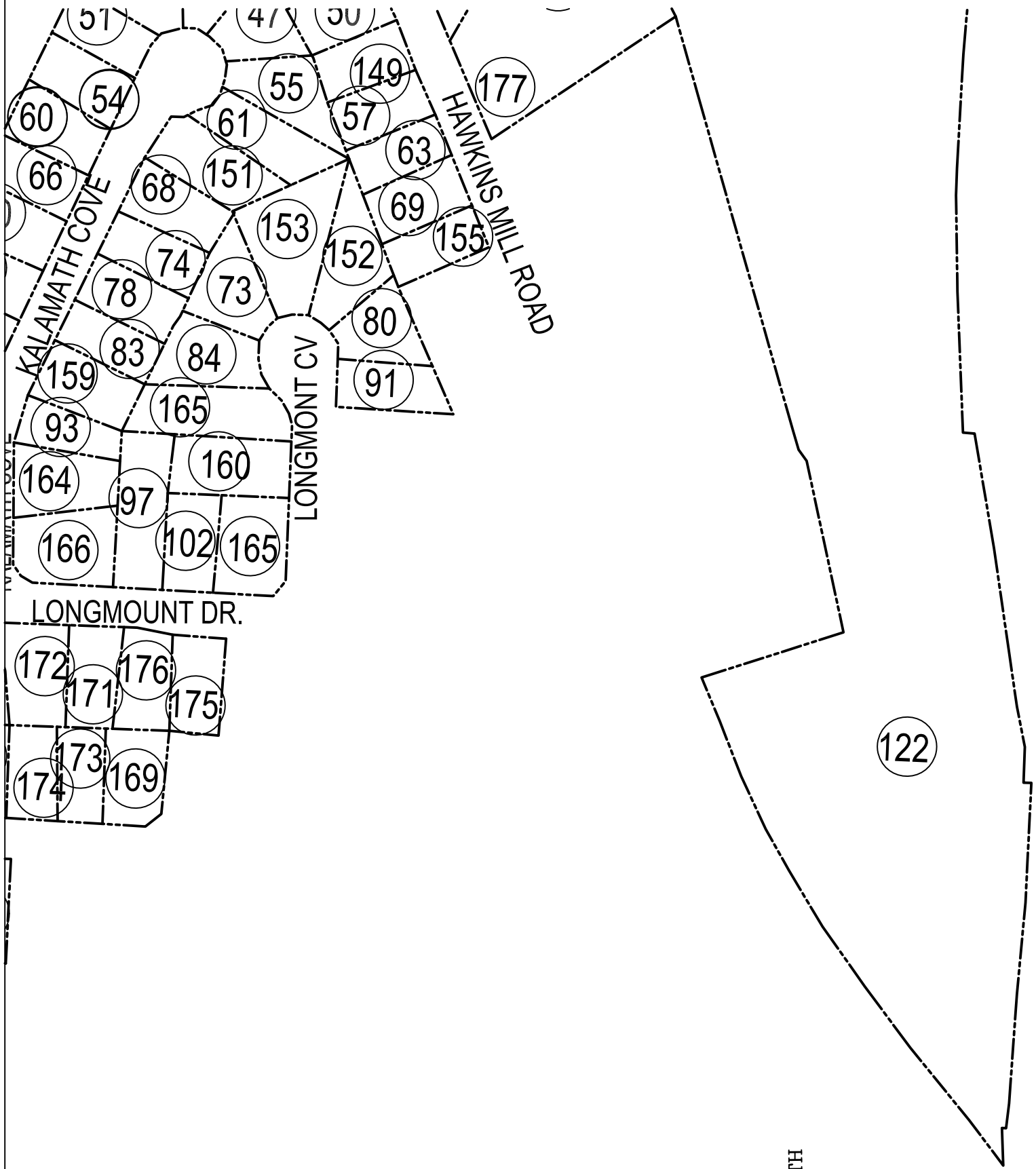
VICINITY MAP 2 WITH NAMES





VICINITY MAP 3
WITH NAMES





VICINITY MAP 4 WITH NAMES



VICINITY LIST OF NAMES

- 1 - MEMPHIS ACADEMY OF HEALTH SCIENCES HIGH
- 2 - HAWKINS RODNEY
- 3 - HARRIS MARQUETTE
- 4 - MEMPHIS ACADEMY OF HEALTH SCIENCES HIGH
- 5 - ALSOBROOK CHRIS
- 6 - TUCKER SHYAMALA
- 7 - KENT ALVIN & BOBBIE T
- 8 - WU KIN W
- 9 - LYONS JENOSHA R
- 10 - EDINGBOURGH ERROL
- 11 - JONES MARILYN J
- 12 - TIDWELL PATRICIA A
- 13 - WILLIAMS MICHELLE V N
- 13A - PHAM TAI
- 14 - MARSHALL SCOTT
- 15 - BRANTLEY PAUL O SR
- 16 - BROOKS SHELLYE
- 17 - THOMPSON WILLIE E
- 18 - COX DORIS J
- 19 - CRESTCORE II LLC
- 20 - RANDALL LAURENCE II
- 21 - EDINGBOURGH BRUCE E
- 22 - NEAL TAMARA
- 23 - FUNEZ CARLOS R A & MELISSA G R
- 24 - HOWZE WILLIE B B
- 25 - MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
- 26 - MORRIS REGINALD
- 27 - THOMAS MARY E
- 28 - GREENE GWENDOLYN T
- 29 - FELIX IMOGENE
- 30 - PBT JUNE PROPERTY TRUST
- 31 - FERGUSON WILLIE B
- 32 - LUNDGREN KENNETH M
- 33 - DEARAUJO CLAUDIO P
- 34 - PLEASANT ROYAL HOMES LLC

35 - P FIN I LLC
36 - HILL ROBERT (1/2) & BELVER J (1/2)
37 - HARRIS MELVN C AND FORREST E HARRIS SR
38 - HOUSTON HOSEA AND ARTHUR HOUSTON (RS)
39 - HOME SFR BORROWER IV LLC
40 - WADE JESSIE M
41 - DAVIS MARY L
42 - POPE BETTY J
43 - STANTON INVESTMENT USA LLC
44 - ATWATER DENNIS E
45 - MC2012 PROPERTIES MEMPHIS LLC
46 - GREEN LEMONTVE
47 - BARNES MARY A
48 - VINSON JIMMIE JR & VIOLA R
49 - BLEVINS MATTIE
50 - RAGSDALE WILLIE B
51 - JUSTICE TIJUANA S AND RICKEY CHAMBERS
52 - MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
53 - PARKER THERESA
54 - HARRIS ELIZABETH & WILLIE & LENA HARRIS
55 - WILLIAMS REALTY AND INVESTMENT LLC
56 - DOCKERY DIANE
57 - CRUTCHFIELD DARYL M
58 - GRIFFITH LOLA J
59 - CRESTCORE II LLC
60 - SHARP EDWARD L & HELEN M
61 - MIDSOUTH INVESTMENT HOLDINGS
62 - THOMAS NATASHA
63 - SMITH CLEO R & MATTIE J
64 - REVE LLC
65 - JONES CHARLES R
66 - TUCKER LOUISE AND CYNTHIA J BROWN AND
67 - MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
68 - PARSON TOMMY L & DOROTHY J
69 - JAMERSON JAMES E
70 - SRMZ 1 LLC
71 - ATWATER CARL R & LINDA F
72 - CRESTCORE II LLC

73 - CHAMBERS FRANK J & JOANNE
74 - FLEMING LESTER W

75 - MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
76 - FARMER TAMARA D AND DONALD C FARMER
77 - CRESTCORE II LLC
78 - WARD LAURA L R
79 - SMITH REGINALD K & DOROTHY J
80 - JOHNSON MARGARET D
81 - MEYERS DEAN
82 - MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
83 - COLLIER ROSIE L B
84 - ARGUETA DUNIA E
85 - WILEY LINDA G & JEFFREY A NIELSEN
86 - SURRATT SARAH B
87 - MCGRONE RICKEY R
88 - FILSINGER ROLAND
89 - RUBICON INVESTMENTS-TN LLC
91 - SCOTT ALEX SR & HELEN O
92 - WILLIAMSON FELTON R JR & JEWEL
93 - GILLIAMS SHEILA
94 - TAYLOR CORNELL & RUBY AND LULA M GRAHAM
95 - NEELY KAELA
96 - PIGGIE ROBERT L & MARVA E
97 - JAMISON LORI
98 - YOSEF SIVAL & TUVYA
99 - CLANAT SCULLARK AND VERNITA COX
100 - TOLBERT CLAUDIE M
101 - MOORE ALBERT L
102 - GARTRELL SHARON M
104 - FIELDS WILMA
105 - CRESTCORE II LLC
106 - GARCIA VICTOR H & ADA RAMOS
107 - RAYMOND PROPERTIES LLC
108 - VDV MEMPHIS CORP
109 - CRESTCORE II LLC
110 - MILLICAN AGNES M
111 - ASL INVESTMENT LLC

112 - VDV MEMPHIS CORP
113 - CSMA BLT LLC
114 - GREEN ALISHIA L
115 - GENTLE WINDS INVESTMENTS LLC
116 - FOLSON MARIA
117 - BRAXTON JANICE L
118 - SY TRAINING CENTER INC AND CALIFORNIA
119 - KLUG ALFRED E III & MALISA L
120 - MOUNTAIN WEST IRA INC FBO JASON D MAUGHA
121 - MIRELES MARCO A
122 - SPRINGHILL MISSIONARY BAPTIST CHURCH
123 - JACKSON MARY A
124 - BAKER ANGELITA D
125 - MAXWELL CATHERINE B (3/5%) AND MARJORIE
126 - CHAFFIN JESSIE L & GLORIA J
127 - HARDING KEVIN A
128 - WOODLEY BILL
129 - JACKSON VIRGIE L AND AUDREY R JOHNSON (R
130 - JAQUES JOE
131 - ROBINSON WILLIE F & ODESSA
132 - ROBINSON ROOSEVELT JR AND ANNA THOMPSON
133 - SORRELLS G W JR & CARYL S
134 - KING HOLDINGS USA 2012 LLC
135 - PRASADAM INC
136 - JOHNSON MARY LEE
137 - KING SADIE M
138 - CLEAR THE WAY SUPPORTIVE HOUSING CORP
139 - SAMSAMI FERESHTEH
140 - RILEY CAROLYN AND TYANA RILEY (RS)
141 - TAGGART LESTER JR
142 - STEVENS BRENDA A
143 - BARIO MARCO AND CHELSEA CANNING (RS)
144 - PARKER ELIZABETH A
145 - BAILEY SAMMIE B & ALINE
146 - MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
147 - WRIGHT MILDRED L
148 - MIMS HATTIE D
149 - CALLICUTT DENNIS & BERTHA L

150 - MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
151 - HOPKINS ROBERT
152 - SCOTT ZELDA R
153 - KO HAO HSIEN
154 - AC BROTHERS LLC
155 - NUVIEW IRA INC FBO DEBRA PORIES IRA #
156 - BROWN VELMA AND THELMA BROWN AND
157 - LEWIS JAMES D & PHILLIPPA
158 - SHARABI AMIR & MAYA A
159 - TAYLOR JOYCE M
160 - THIRTY-SEVEN FIFTY-SEVEN LONGMONT TRUST
161 - ANDERSON ROSIE E
162 - WEDDLE JAMES I & MATTIE C
163 - DAVIDSON JERRY T & NINA C
164 - TAYLOR SHARION
165 - BOGGS ADAM C AND JOHN E DONELSON
166 - STOLTZFUS JOHN M
167 - RNT LLC
168 - DURON JORGE AND ESPERANZA CHAVEZ
169 - EARLE MARIAH K
170 - MAYHORN JOHNNIE L
171 - WESTBROOK EDDIE & ELOISE
172 - BINION INETA
173 - JUSTICE VERESTINE
174 - GWYNN ANTWONE AND FATIMA HALL (RS)
175 - PARKER DWAYNE
176 - WESBY JESSIE L & QUEEN C
177 - HARRIS MELVN C AND FORREST E HARRIS SR
178 - DIVERSIFI L

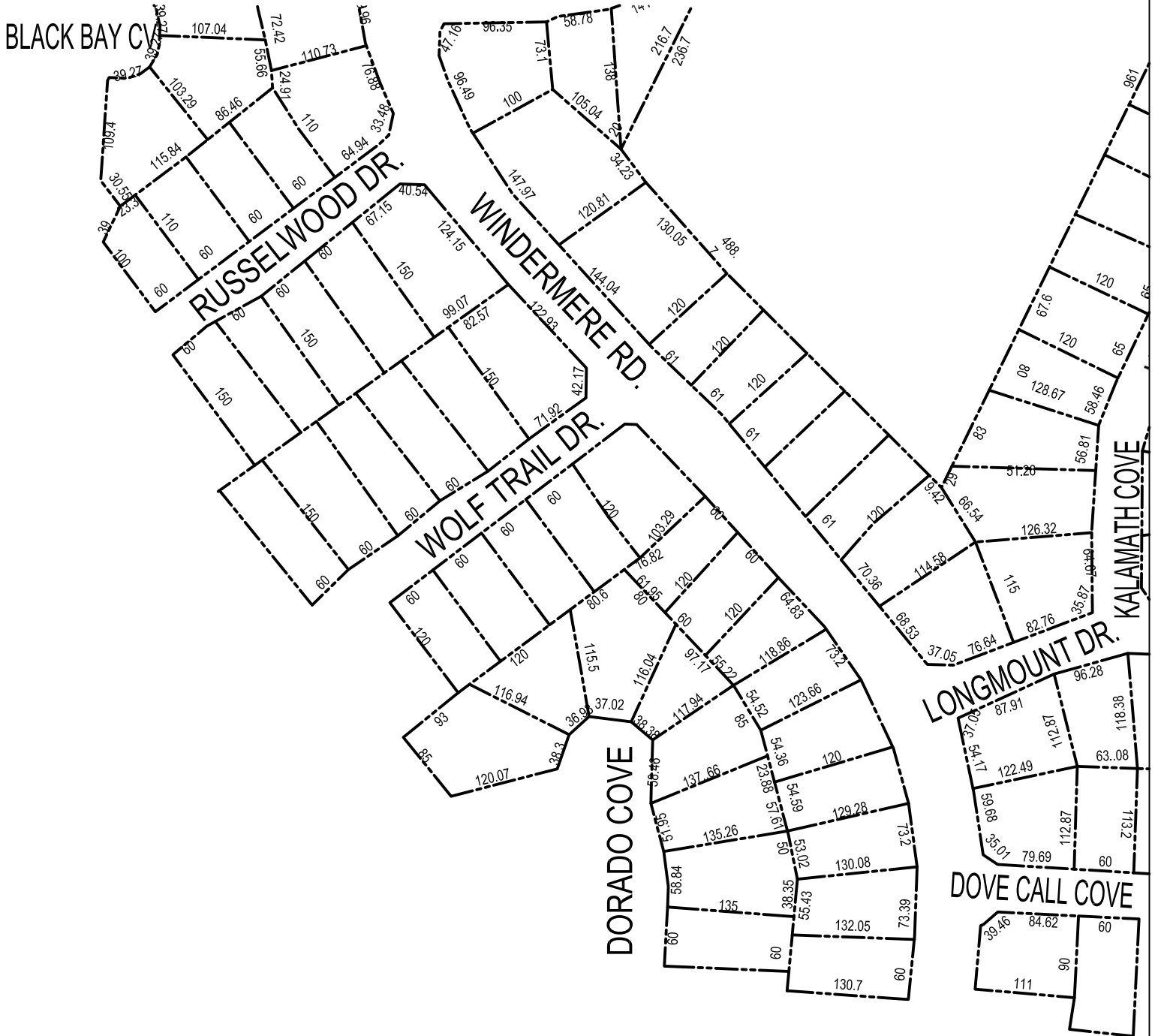
VICINITY MAP 2

VICINITY MAP 3



VICINITY MAP 1

VICINITY MAP 4

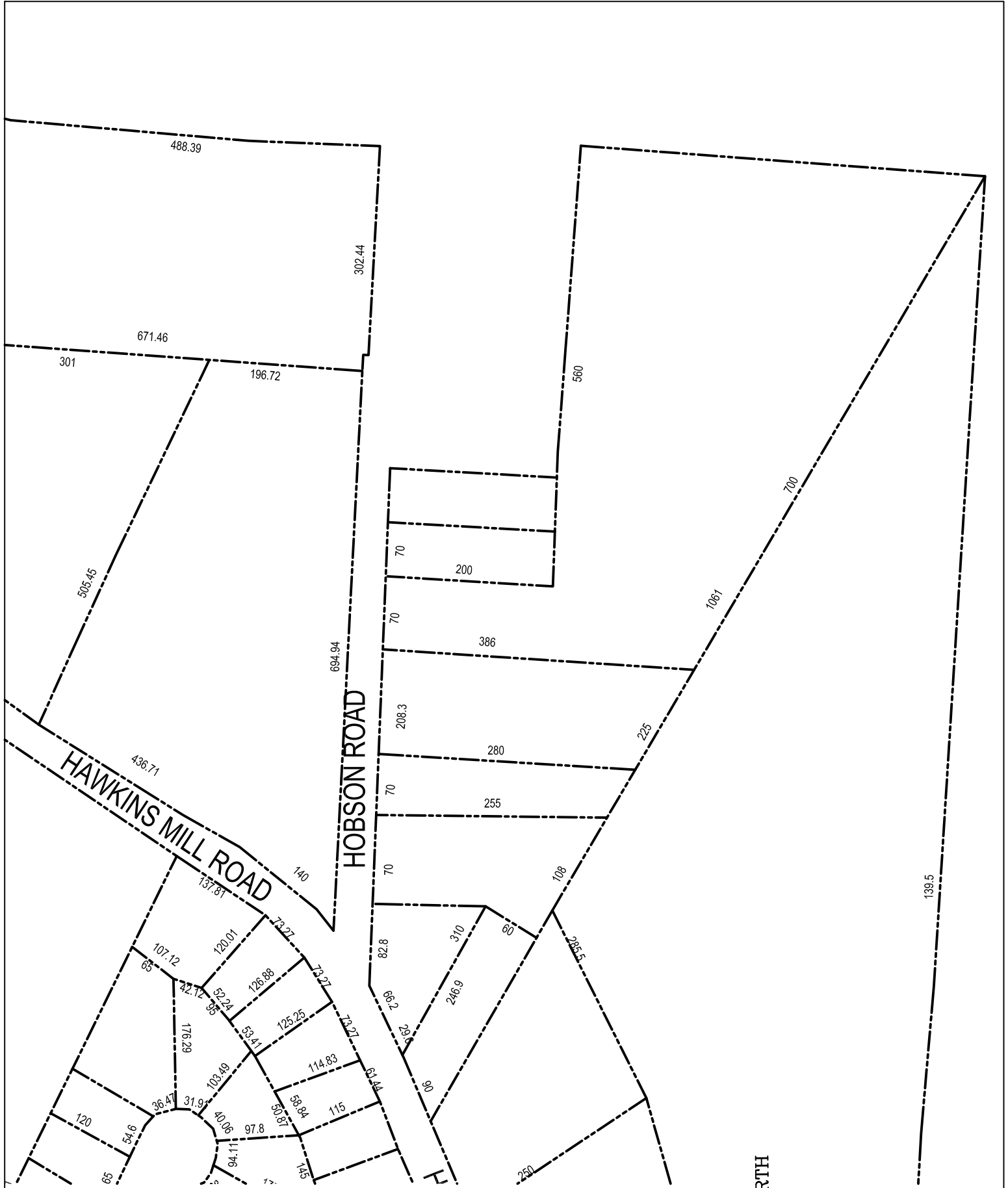


VICINITY MAP 1
WITHOUT NAMES

Planning and Zoning Documents

February 2, 2021





VICINITY MAP 3
 WITHOUT NAMES





VICINITY MAP 4 WITHOUT NAMES



**NOTICE TO INTERESTED OWNERS OF PROPERTY
(PLANNED DEVELOPMENT)**

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 granting an application for a planned development pursuant to Article 9.6 of the Memphis and Shelby County Unified Development Code, as follows:

- CASE NUMBER:** PD 20-17
- LOCATION:** 3681 Hawkins Mill Road
- COUNCIL DISTRICTS:** District 1 and Super District 9 – Positions 1, 2, and 3
- OWNER/APPLICANT:** Paul O. Brantley Sr. / Debra Hogue Brantley
- REPRESENTATIVE:** Delinor Smith, Smith Building Design & Associates, Inc.
- EXISTING ZONING:** Residential Single-Family – 6 (R-6)
- REQUEST:** Multi-use veteran’s facility providing multifamily dwelling units with supportive programs and services including an on-site private community center planned development
- AREA:** +/-12.95 acres

RECOMMENDATIONS:

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

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

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 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 COMPROLLER

TO BE PUBLISHED:

MEMPHIS ACADEMY OF HEALTH SCIENCES HIGH
3925 CHELSEA AVE EXT
MEMPHIS TN 38108

JONES MARILYN J
6122 TRAIL CREEK LN
MEMPHIS TN 38135

RANDALL LAURENCE II
19 SAINT PIERRE CT
SAN RAMON CA 94583

HAWKINS RODNEY
1619 OLD HICKORY RD
MEMPHIS TN 38116

TIDWELL PATRICIA A
3878 WINDERMERE RD
MEMPHIS TN 38128

EDINGBOURGH BRUCE E
PO BOX 772
MILLINGTON TN 38083

HARRIS MARQUETTE
6752 CAMP JOHN RD
MILLINGTON TN 38053

WILLIAMS MICHELLE V N
3597 HOBSON RD
MEMPHIS TN 38127

NEAL TAMARA
3874 HOBSON RD
MEMPHIS TN 38128

MEMPHIS ACADEMY OF HEALTH SCIENCES HIGH
3925 CHELSEA AVE EXT
MEMPHIS TN 38108

PHAM TAI
3232 ROCKY MOUNTAIN DR
SAN JOSE CA 95127

STEVENS PAUL A & AUDREA C
3583 CAPRICORN DR
MEMPHIS TN 38128

ALSOBROOK CHRIS
4827 AVI DR
ARLINGTON TN 38002

MARSHALL SCOTT
2282 WHITTEN RD
MEMPHIS TN 38133

FUNEZ CARLOS R A & MELISSA G R
3589 CAPRICORN DR
MEMPHIS TN 38128

TUCKER SHYAMALA
3668 HAWKINS MILL RD
MEMPHIS TN 38128

BRANTLEY PAUL O SR
2026 BELOVER CV
MEMPHIS TN 38127

HOWZE WILLIE B B
3597 CAPRICORN
MEMPHIS TN 38128

KENT ALVIN & BOBBIE T
3700 MILL LN
MEMPHIS TN 38128

BROOKS SHELLYE
1996 WOODCHASE CV
CORDOVA TN 38016

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

WU KIN W
3700 S PLAZA DR #J211
SANTA ANA CA 92704

THOMPSON WILLIE E
3861 WINDERMERE RD
MEMPHIS TN 38128

MORRIS REGINALD
PO BOX 753193
MEMPHIS TN 38175

LYONS JENOSHA R
3879 WINDERMERE RD
MEMPHIS TN 38128

COX DORIS J
3861 CAPRICORN CV
MEMPHIS TN 38128

THOMAS MARY E
3864 HOBSON RD
MEMPHIS TN 38128

EDINGBOURGH ERROL
3878 CAPRICORN CV
MEMPHIS TN 38128

CRESTCORE II LLC
4435 SUMMER AVE
MEMPHIS TN 38122

GREENE GWENDOLYN T
3588 BIG TREE CV
MEMPHIS TN 38128

FELIX IMOGENE
3833 WINDERMERE RD
MEMPHIS TN 38128

HOME SFR BORROWER IV LLC
3505 KOGER BLVD #400
DULUTH GA 30096

BLEVINS MATTIE
3805 WINDERMERE RD
MEMPHIS TN 38128

PBT JUNE PROPERTY TRUST
11781 MAGNOLIA PARK CT
LAS VEGAS NV 89141

WADE JESSIE M
3815 WINDERMERE RD
MEMPHIS TN 38128

RAGSDALE WILLIE B
3705 HAWKINS MILL RD
MEMPHIS TN 38128

FERGUSON WILLIE B
PO BOX 751944
MEMPHIS TN 38175

DAVIS MARY L
3803 KALAMATH CV
MEMPHIS TN 38128

JUSTICE TIJUANA S AND RICKEY CHAMBERS
3799 KALAMATH CV
MEMPHIS TN 38128

LUNDGREN KENNETH M
19598 JURUPA AVE
BLOOMINGTON CA 92316

POPE BETTY J
3816 WINDERMERE RD
MEMPHIS TN 38128

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

DEARAUJO CLAUDIO P
135 E MAIN ST #L5
WESTBOROUGH MA 1581

STANTON INVESTMENT USA LLC

PARKER THERESA
3799 WINDERMERE RD
MEMPHIS TN 38128

PLEASANT ROYAL HOMES LLC
7105 TAGEN DR
MEMPHIS TN 38133

ATWATER DENNIS E
757 SPRING ST
MEMPHIS TN 38112

HARRIS ELIZABETH & WILLIE & LENA HARRIS
3793 KALAMATH CV
MEMPHIS TN 38128

P FIN I LLC
3525 PIEDMONT RD NE #5, STE 410
ATLANTA GA 30305

MC2012 PROPERTIES MEMPHIS LLC
6262 POPLAR AVE #201
MEMPHIS TN 38119

WILLIAMS REALTY AND INVESTMENT LLC
941 E RAINES RD #R2
MEMPHIS TN 38116

HILL ROBERT (1/2) & BELVER J (1/2)
3911 FERDIE CV
MEMPHIS TN 38127

GREEN LEMONTVE
116 SCOTTLAND DR
JACKSON TN 38301

DOCKERY DIANE
3792 WINDERMERE RD
MEMPHIS TN 38128

HARRIS MELVN C AND FORREST E HARRIS SR
6752 CAMP JOHN RD
MILLINGTON TN 38053

BARNES MARY A
3810 KALAMATH CV
MEMPHIS TN 38128

CRUTCHFIELD DARYL M
2000 HIGHWAY 196 S
COLLIERVILLE TN 38017

HOUSTON HOSEA AND ARTHUR HOUSTON (RS)
5594 RAMSEY RD
MEMPHIS TN 38127

VINSON JIMMIE JR & VIOLA R
3592 BLACK BAY CV
MEMPHIS TN 38128

GRIFFITH LOLA J
3591 BLACK BAY CV
MEMPHIS TN 38128

CRESTCORE II LLC
4435 SUMMER AVE
MEMPHIS TN 38122

JAMERSON JAMES E
3721 HAWKINS MILL RD
MEMPHIS TN 38128

SMITH REGINALD K & DOROTHY J
3601 RUSSELWOOD DR
MEMPHIS TN 38128

SHARP EDWARD L & HELEN M
3789 KALAMATH CV
MEMPHIS TN 38128

SRMZ 1 LLC
5001 PLAZA ON THE LAKE #200
AUSTIN TX 78746

JOHNSON MARGARET D
330 ROSSVILLE RD
HOLLY SPRINGS MS 38635

MIDSOUTH INVESTMENT HOLDINGS
92 MARY'S CREEK CV
EADS TN 38028

ATWATER CARL R & LINDA F
3598 RUSSELWOOD DR
MEMPHIS TN 38128

MEYERS DEAN
135 CHARLES ST #5D
NEW YORK NY 10014

THOMAS NATASHA
3587 BLACK BAY CV
MEMPHIS TN 38128

CRESTCORE II LLC
4435 SUMMER AVE
MEMPHIS TN 38122

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

SMITH CLEO R & MATTIE J
3717 HAWKINS MILL RD
MEMPHIS TN 38128

CHAMBERS FRANK J & JOANNE
3771 LONGMONT CV
MEMPHIS TN 38128

COLLIER ROSIE L B
3772 KALAMATH CV
MEMPHIS TN 38128

REVE LLC
PO BOX 1161
HALEIWA HI 96712

FLEMING LESTER W
9436 OAK LEAF DR
CHATSWORTH CA 91311

ARGUETA DUNIA E
3765 LONGMONT CV
MEMPHIS TN 38128

JONES CHARLES R
3608 RUSSELWOOD DR
MEMPHIS TN 38128

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

WILEY LINDA G & JEFFREY A NIELSEN
43 WILSON RD
NEWPORT KY 41071

TUCKER LOUISE AND CYNTHIA J BROWN AND
3783 KALAMATH CV
MEMPHIS TN 38128

FARMER TAMARA D AND DONALD C FARMER
2042 WASKOM DR
MEMPHIS TN 38116

SURRATT SARAH B
7978 WINDING CREEK
GERMANTOWN TN 38138

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

CRESTCORE II LLC
4435 SUMMER AVE
MEMPHIS TN 38122

MCGRONE RICKEY R
3761 KALAMATH CV
MEMPHIS TN 38128

PARSON TOMMY L & DOROTHY J
3788 KALAMATH CV
MEMPHIS TN 38128

WARD LAURA L R
3778 KALAMATH CV
MEMPHIS TN 38128

FILSINGER ROLAND
3248 AIRLINE RD
EADS TN 38028

RUBICON INVESTMENTS-TN LLC
263 FRIDAY CREEK RD
BELLINGHAM WA 98229

TOLBERT CLAUDIE M
3747 WINDERMERE RD
MEMPHIS TN 38128

ASL INVESTMENT LLC

SCOTT ALEX SR & HELEN O
3764 LONGMONT DR
MEMPHIS TN 38128

MOORE ALBERT L
3750 WOLF TRAIL DR
MEMPHIS TN 38128

VDV MEMPHIS CORP
310 GERMANTOWN BEND CV #101
CORDOVA TN 38018

WILLIAMSON FELTON R JR & JEWEL
3743 WOLF TRAIL DR
MEMPHIS TN 38128

GARTRELL SHARON M
3381 PRYOR ST
MEMPHIS TN 38127

CSMA BLT LLC
1850 PARKWAY PL #900
MARIETTA GA 30067

GILLIAMS SHEILA
3748 KALAMATH CV
MEMPHIS TN 38128

FIELDS WILMA
3739 KALAMATH CV
MEMPHIS TN 38128

GREEN ALISHIA L
3681 LONGMONT DR
MEMPHIS TN 38128

TAYLOR CORNELL & RUBY AND LULA M GRAHAM
3739 WOLF TRAIL DR
MEMPHIS TN 38128

CRESTCORE II LLC
4435 SUMMER AVE
MEMPHIS TN 38122

GENTLE WINDS INVESTMENTS LLC
31730 NE 139TH ST
DUVALL WA 98019

NEELY KAELA
PO BOX 34277
MEMPHIS TN 38184

GARCIA VICTOR H & ADA RAMOS
3730 WINDERMERE RD
MEMPHIS TN 38128

FOLSON MARIA
3721 DORADO CV
MEMPHIS TN 38128

PIGGIE ROBERT L & MARVA E
3710 LONGMONT DR
MEMPHIS TN 38128

RAYMOND PROPERTIES LLC
5701 W SLAUGHTER LN #A130-256
AUSTIN TX 78749

BRAXTON JANICE L
3716 DORADO CV
MEMPHIS TN 38128

JAMISON LORI
11859 EVERGOLD ST
SAN DIEGO CA 92131

VDV MEMPHIS CORP
1308 CRANE CT
MCDONOUGH GA 30252

SY TRAINING CENTER INC AND CALIFORNIA
765 THE CITY DR #300
ORANGE CA 92868

YOSEF SIVAL & TUVYA

CRESTCORE II LLC
4435 SUMMER AVE
MEMPHIS TN 38122

KLUG ALFRED E III & MALISA L
365 FLORENCEWOOD DR
COLLIERVILLE TN 38017

CLANAT SCULLARK AND VERNITA COX
1531 ASH ST
MEMPHIS TN 38108

MILLICAN AGNES M
3725 DORADO CV
MEMPHIS TN 38128

MOUNTAIN WEST IRA INC FBO JASON D MAUGHA
10096 W FAIRVIEW AVE #160
BOISE ID 83704

MIRELES MARCO A
2776 WELCHLAWN CV
MEMPHIS TN 38134

SORRELLS G W JR & CARYL S
PO BOX 624
WEST MEMPHIS AR 72303

BARIO MARCO AND CHELSEA CANNING (RS)
15030 VENTURA BLVD #305
SHERMAN OAKS CA 91403

SPRINGHILL MISSIONARY BAPTIST CHURCH
3815 HAWKINS MILL RD
MEMPHIS TN 38128

KING HOLDINGS USA 2012 LLC

PARKER ELIZABETH A
3697 HAWKINS MILL RD
MEMPHIS TN 38128

JACKSON MARY A
3706 DORADO CV
MEMPHIS TN 38128

PRASADAM INC
1671 JOSEPH CT
BUFFALO GROVE IL 60089

BAILEY SAMMIE B & ALINE
3809 KALAMATH CV
MEMPHIS TN 38128

BAKER ANGELITA D
600 16TH ST
ALAMOGORDO NM 88310

JOHNSON MARY LEE
3601 CAPRICORN DR
MEMPHIS TN 38128

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

CHAFFIN JESSIE L & GLORIA J
3700 WINDEMERE DR
MEMPHIS TN 38128

KING SADIE M
3617 CAPRICORN DR
MEMPHIS TN 38128

WRIGHT MILDRED L
3701 HAWKINS MILL RD
MEMPHIS TN 38128

HARDING KEVIN A
1356 HIGDON RD
HOLLY SPRINGS MS 38635

CLEAR THE WAY SUPPORTIVE HOUSING CORP
5018 EXPRESSWAY DR S #204
RONKONKOMA NY 11779

MIMS HATTIE D
PO BOX 281101
MEMPHIS TN 38168

JACKSON VIRGIE L AND AUDREY R JOHNSON (R)
4689 NORTHWOOD HILLS DR
MEMPHIS TN 38128

SAMSAMI FERESHTEH
38727 GREENWICH CIR
FREMONT CA 94536

CALLICUTT DENNIS & BERTHA L
3709 HAWKINS MILL RD
MEMPHIS TN 38128

JAQUES JOE
3630 E 3892 N
KIMBERLY ID 83341

RILEY CAROLYN AND TYANA RILEY (RS)
3592 BIG TREE CV
MEMPHIS TN 38128

MEMPHIS RESIDENTIAL INCOME FUND 51 LLC
180 AVENIDA LA PATA #102
SAN CLEMENTE CA 92673

ROBINSON WILLIE F & ODESSA
3874 CAPRICORN CV
MEMPHIS TN 38128

TAGGART LESTER JR
3834 WINDERMERE RD
MEMPHIS TN 38128

HOPKINS ROBERT
8872 TOTH CV
CORDOVA TN 38106

ROBINSON ROOSEVELT JR AND ANNA THOMPSON
3886 HOBSON RD
MEMPHIS TN 38128

STEVENS BRENDA A
5339 AUGUST MOON LN
BARTLETT TN 38135

SCOTT ZELDA R
9218 AFTON GROVE RD
CORDOVA TN 38018

KO HAO HSIEN
472 KAHLO ST
MOUNTAIN VIEW CA 94041

DAVIDSON JERRY T & NINA C
PO BOX 69
MILLINGTON TN 38083

JUSTICE VERESTINE
3704 DOVE CALL CV
MEMPHIS TN 38128

AC BROTHERS LLC
4118 148TH ST #H3
LYNNWOOD WA 98087

TAYLOR SHARION
3748 KALAMATH CV
MEMPHIS TN 38128

GWYNN ANTWONE AND FATIMA HALL (RS)
9712 TRIBUTARY CV
ARLINGTON TN 38002

NUVIEW IRA INC FBO DEBRA PORIES IRA #
436 CENTRAL AVE
OAK HILL WV 25901

BOGGS ADAM C AND JOHN E DONELSON
924 7TH ST #3
SANTA MONICA CA 90403

PARKER DWAYNE
1677 WINSTON DR
MEMPHIS TN 38127

BROWN VELMA AND THELMA BROWN AND
3767 KALAMATH CV
MEMPHIS TN 38128

STOLTZFUS JOHN M
178 MEADOWCREEK RD
NEW HOLLAND PA 17557

WESBY JESSIE L & QUEEN C
3711 LONGMONT DR
MEMPHIS TN 38128

LEWIS JAMES D & PHILLIPPA
3757 WOLF TRAIL DR
MEMPHIS TN 38128

RNT LLC
PO BOX 18393
DENVER CO 80218

HARRIS MELVN C AND FORREST E HARRIS SR
6752 CAMP JOHN RD
MILLINGTON TN 38053

SHARABI AMIR & MAYA A
2748 WYTHAM CV
MEMPHIS TN 38119

DURON JORGE AND ESPERANZA CHAVEZ
3719 WINDERMERE RD
MEMPHIS TN 38128

DIVERSIFI LLC
2225 7th PKWY #25
OAKLAND CA 94606

TAYLOR JOYCE M
3766 KALAMATH CV
MEMPHIS TN 38128

EARLE MARIAH K
1050 SE 15TH AVE
FORT LAUDERDALE FL 33316

Paul Brantley Sr.
2026 Belover
Memphis, TN 38127

THIRTY-SEVEN FIFTY-SEVEN LONGMONT TRUST
7940 OWENSMOUTH AVE
CANOGA PARK CA 91304

MAYHORN JOHNNIE L
3747 KALAMATH CV
MEMPHIS TN 38128

Debra Hogue Brantley
2026 Belover
Memphis, TN 38127

ANDERSON ROSIE E
3755 KALAMATH CV
MEMPHIS TN 38128

WESTBROOK EDDIE & ELOISE
P O BOX 280926
MEMPHIS TN 38168

Delinor Smith
3831 Lakehurst Drive
Memphis, TN 38128

WEDDLE JAMES I & MATTIE C
3746 WINDERMERE RD
MEMPHIS TN 38128

BINION INETA
3699 LONGMONT DR
MEMPHIS TN 38128

VICINITY MAP 2

VICINITY MAP 3



VICINITY MAP 1

VICINITY MAP 4

**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... <u>new</u> tire sales and mounting
Vehicle repair including... <u>used tire sales and mounting</u>

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:

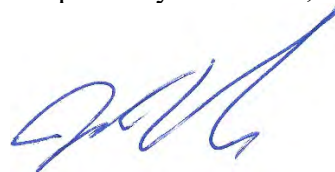
Don Jones
Britton White

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”).

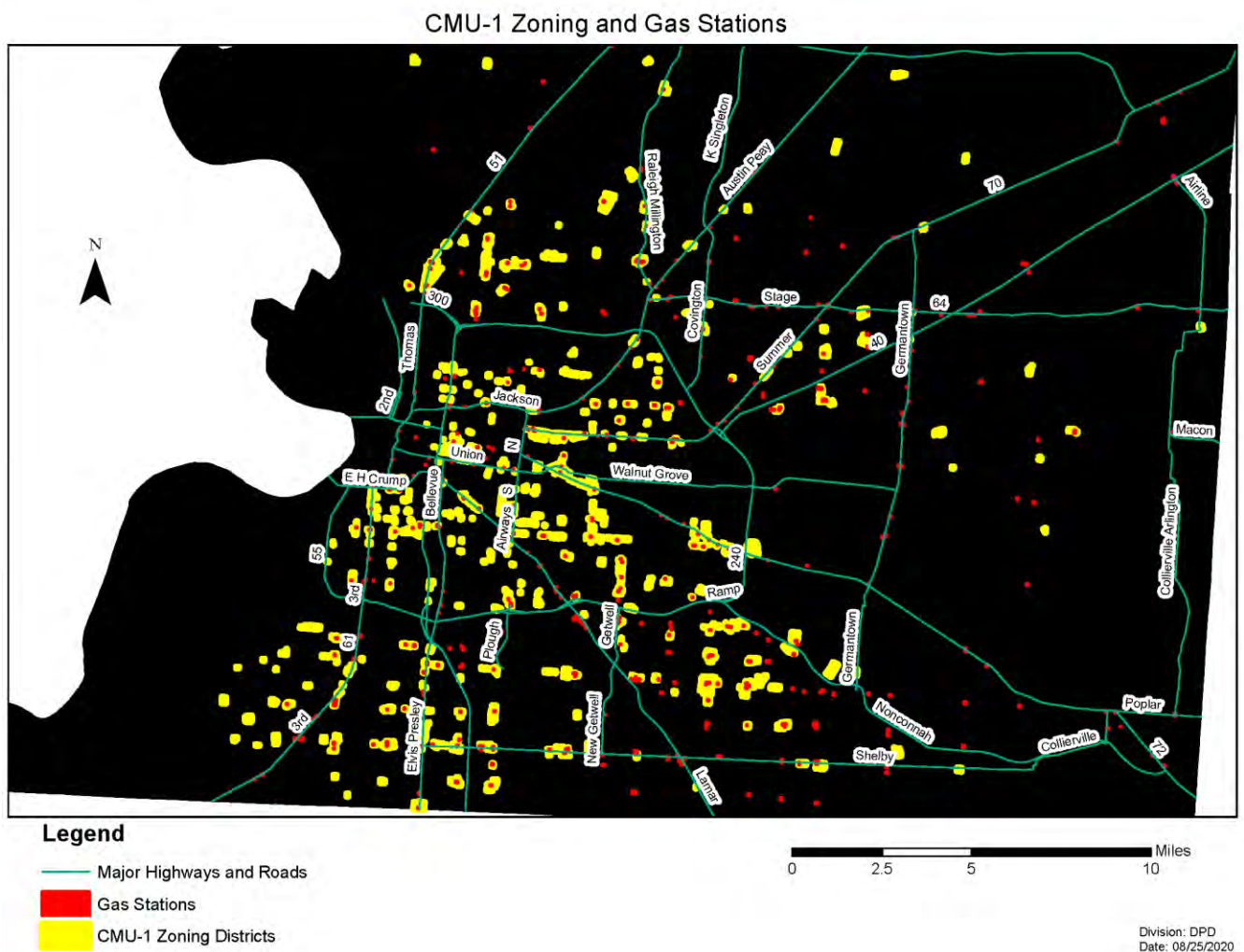
9.5.12A:…Only the legislative bodies may initiate a comprehensive rezoning, ~~with the exception of comprehensive rezonings related to Federal Emergency Management Agency floodway and floodplain maps…~~

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.**



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

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**

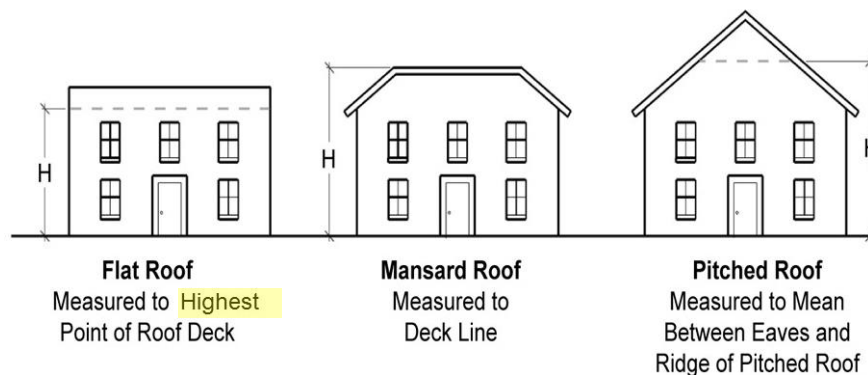
20. 3.1.3B: Grammatic error:

...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

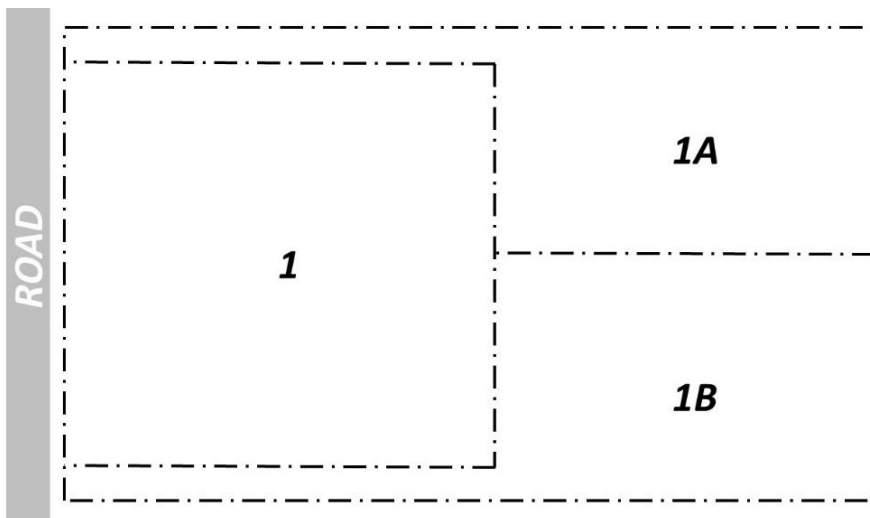
The beginning of Sub-Section 3.3.1B covers two important matters involving lots: the fact that all lots must have frontage on a public roadway and that an alley may not constitute a roadway for frontage purposes. After that, this section states that lots along arterials must be at least 100 feet wide. 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:

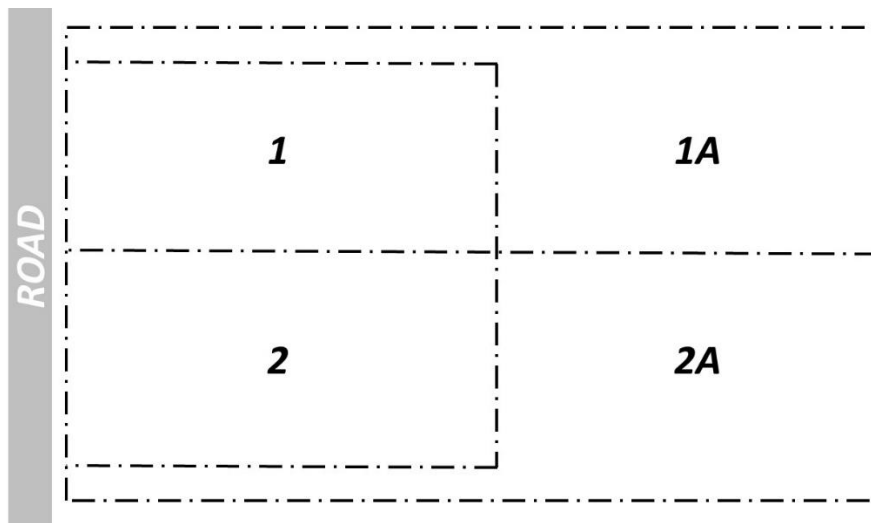


The outright prohibition of multiple abutting flag lots found in the Code today is inappropriate due to two reasons: 1) it prevents the filing of a subdivision application to achieve the layout of multiple flag lots such as the one pictured above, its purported purpose, and 2) it prevents small flag 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** ~~Terminial~~

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,

A handwritten signature in black ink, appearing to read 'A. Kitsinger'.

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.

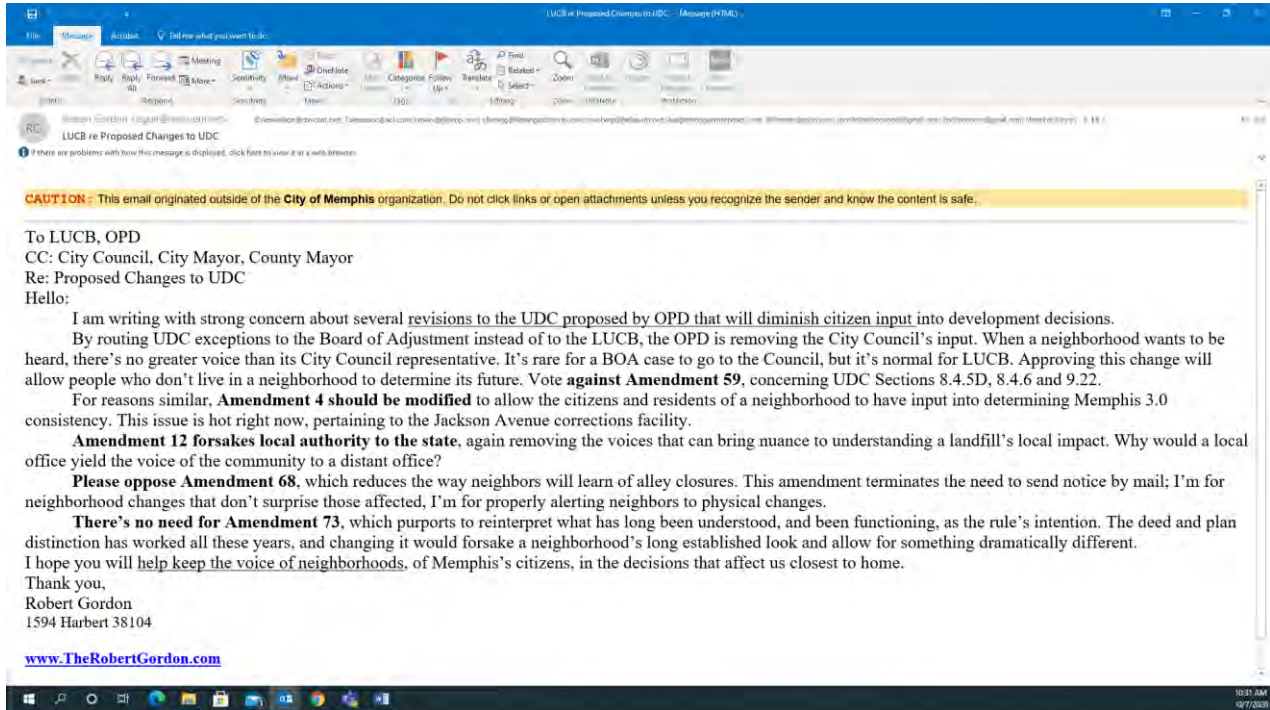
73. 10.5.1 Nonconforming lots and tracts; **Keep current version**

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.

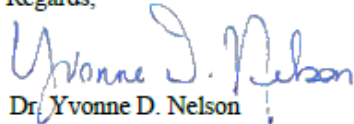
Residents of all districts have the right to be notified, far in advance, when zoning or other changes are being made or contemplating to be made in their communities. The size of the subdivision should not play a role in who is notified, when, and/or why. Furthermore, the boundaries should be defined 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=VEZBREpZbUh5cTd1bGZVd1I5MHp1Zz09>

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 <kstuart49@yahoo.com>
Sent: Thursday, November 5, 2020 4:55 PM
To: Whitehead, Josh
Subject: UDC

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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

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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





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

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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

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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



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



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**

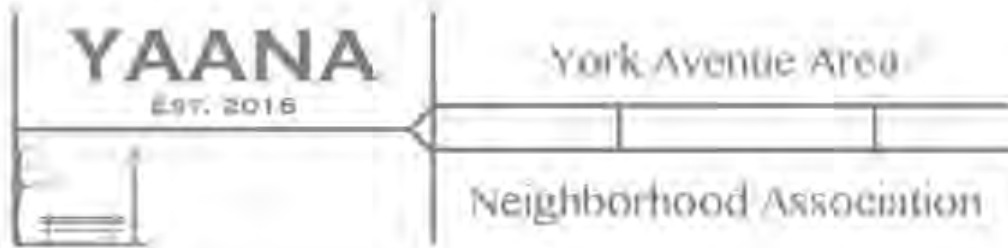
68. 9.8.6B: Sign posting for street and alley closure extensions. **Keep current version**

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~~ 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~~ 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

2020-11-05 ZTA 20-1 Spreadsheet - McInerney Comments

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

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2020-11-05 ZTA 20-1 Spreadsheet - McInerney Comments

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).	

2020-11-05 ZTA 20-1 Spreadsheet - McInerney Comments

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@shelbycountytn.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; mnbwilliams@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:

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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@shelbycountyttn.gov; rose.hill@shelbycountyttn.gov;
chris.simmons@shelbycountyttn.gov; Saliba, Norman <Norman.Saliba@memphistn.gov>
Cc: Mills, Amber <Amber.Mills@shelbycountyttn.gov>; mnbwilliams@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@shelbycountytg.gov<mailto:Robert.Rolwing@shelbycountytg.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@shelbycountytg.gov<mailto:Robert.Rolwing@shelbycountytg.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



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



December 3, 2020

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.

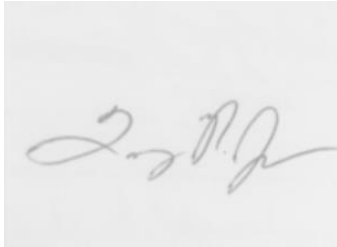
Response: Agreed; see revised language in Sub-Section 9.6.13A above.

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,

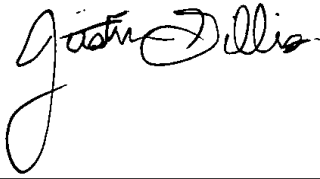


Quincy N. Jones, Director of Programs, Neighborhood Preservation, Inc.

Charia Jackson, Frayser CDC; Board President, BLDG Memphis



Jennifer Amido, President Crosstown Neighborhood Association



Justin Gillis, Speedway Terrace Historic District



Anna Joy Tamayo, President, Crosstown CDC



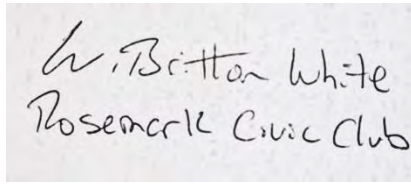
Ms. Quincy Morris, President, Klondike Smokey City, CDC



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: 

Cc: ; ; ; ; ; 

 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.

**BOURLAND
HEFLIN
ALVAREZ
MINOR &
MATTHEWS, PLLC**
ATTORNEYS AT LAW

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

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Response: The amendment proposed to this section has been dropped.



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DISTRICT**
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MR. SAMMIE RINK

President, HCC
Hobby Foundation, et al.

MR. RICHARD SHADYAC JR.

President, BETH, et al.

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**

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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

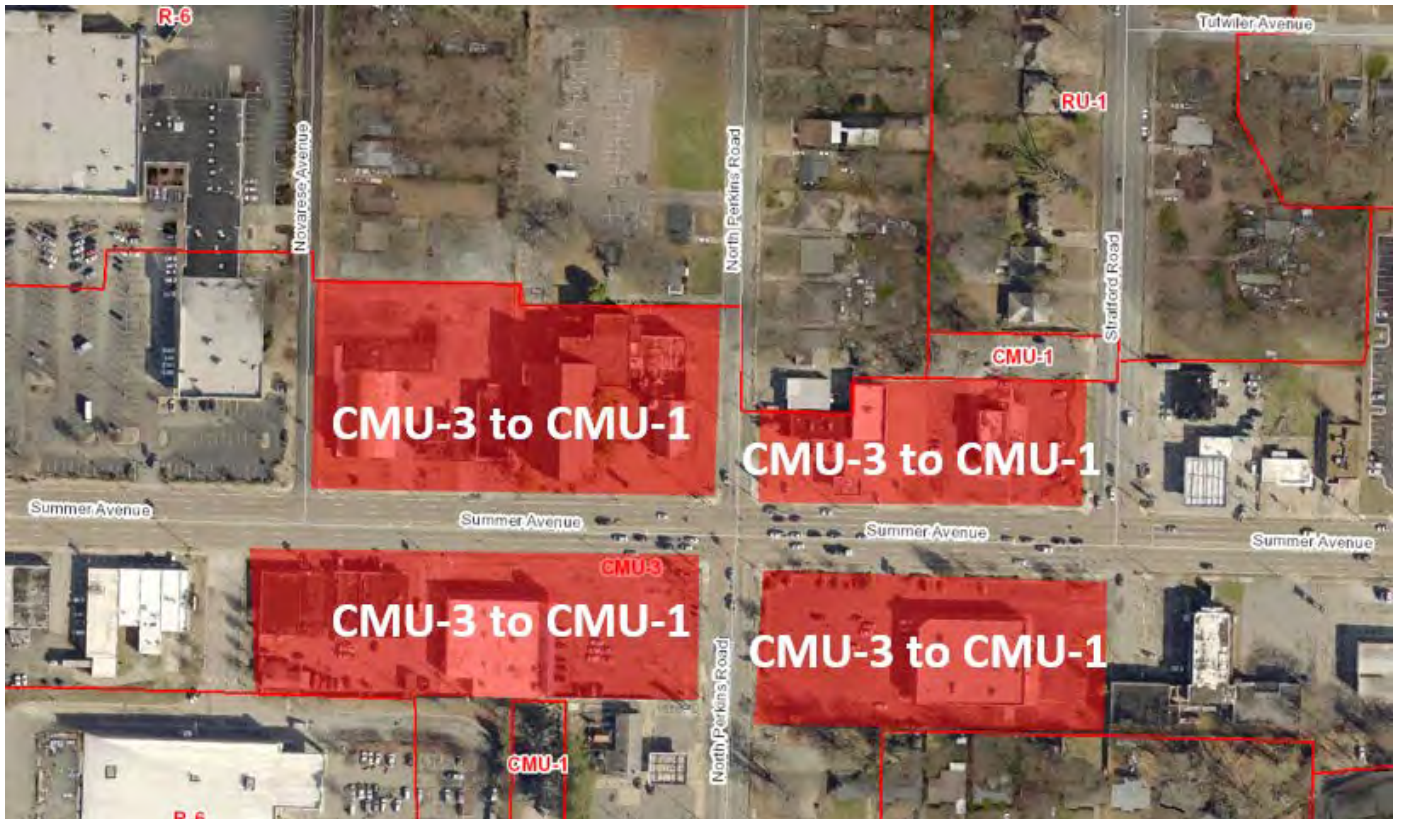
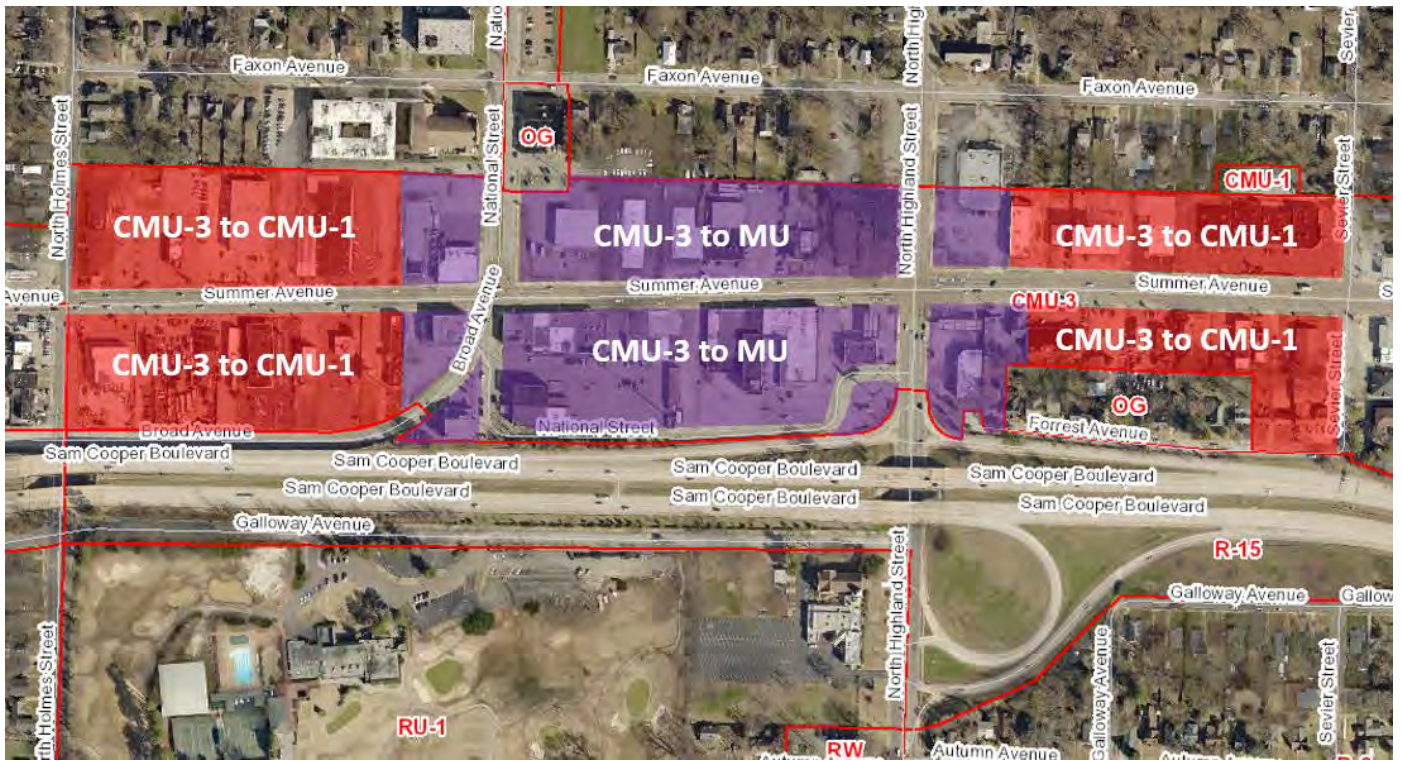


TABLE WITH DATA ON EACH AFFECTED PARCEL

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-3/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	GFENBERG 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	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	3427 SUMMER AVE	MIGUJARA 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 # 15X	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 38122-4136	Low Intensity Commercial & Services	13623.7
65	063022 00039C	CMU-3	CMU-1	4626 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	PSC 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

Staff Writer: **Brett Davis**

E-mail: brett.davis@memphistn.gov

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.

APPLICATION (pp. 5-40)



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



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*



New Tyler African Methodist Episcopal Church, continued

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*

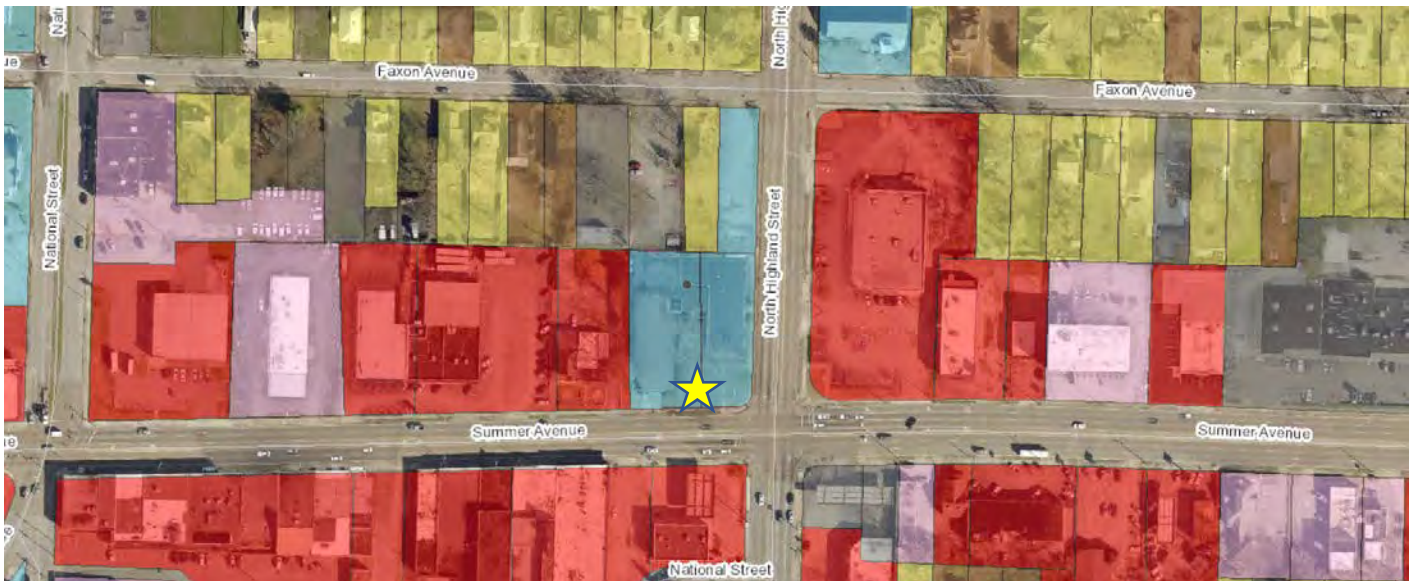


Former Highland Heights United Methodist Church, continued

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*

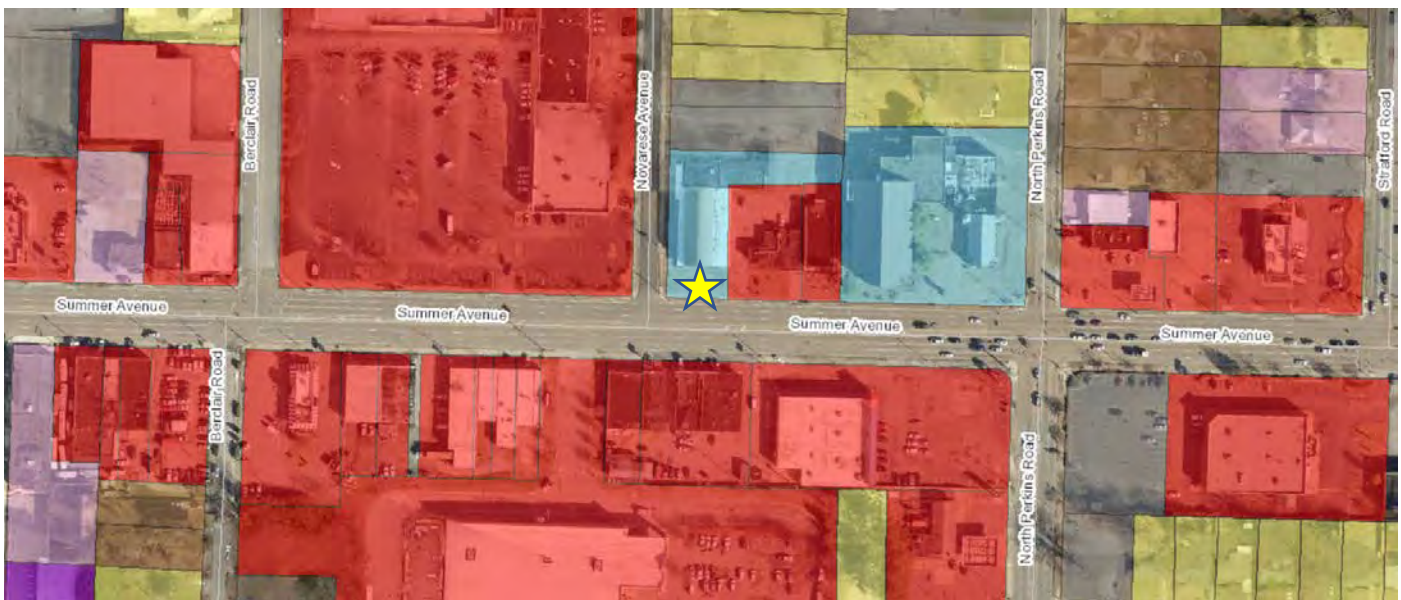


Berclair Church of Christ, continued

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*



Berclair Baptist Church, continued

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

RECOMMENDATIONS

Based on the findings of the demolition permit moratorium passed by the Memphis City Council on August 18, 2020, and the recommendations of the Memphis 3.0 General Plan, the Division of Planning and Development recommends that the subject sites, as well as those properties adjacent to these sites, be rezoned in the following manner:

Area 1: Holmes to Sevier Streets (including Churches 1 and 2 as outlined in this report, Taylor AME and Highland Heights Methodist).

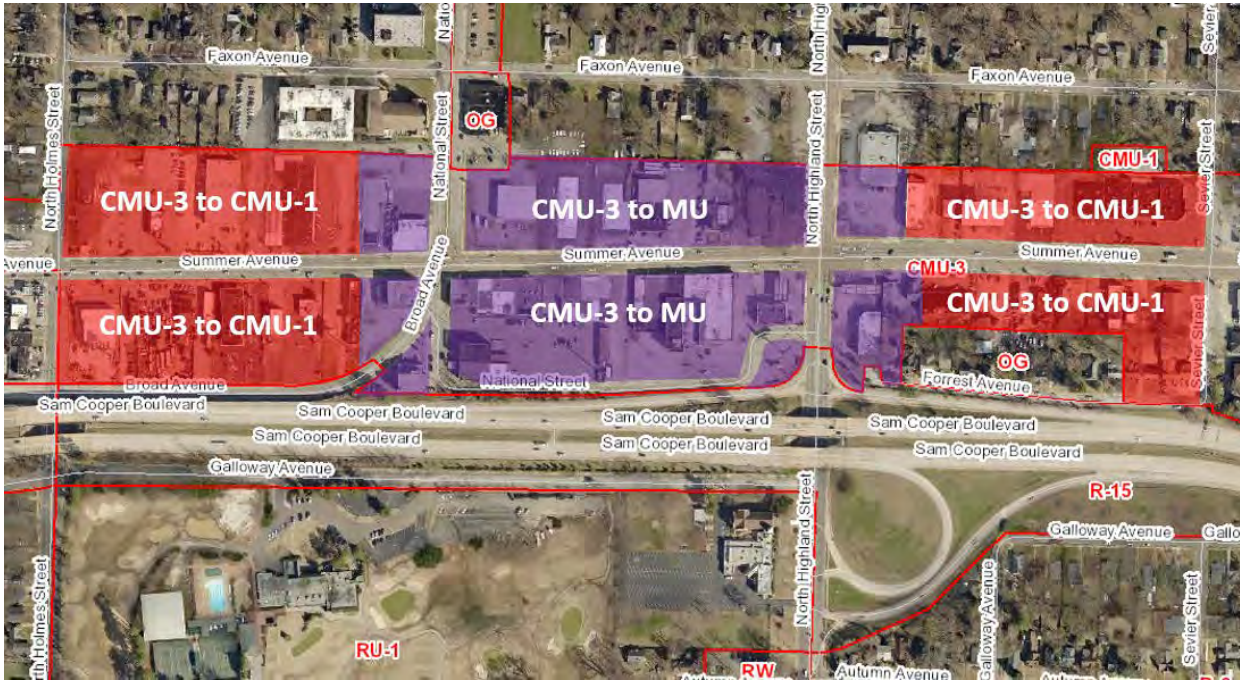
This area encompasses the historic heart of the Highland Heights neighborhood. In fact, the Memphis 3.0 Plan classifies the stretch of Summer Avenue in this area as an Urban Main Street as a nod to the fact that it comprised “downtown” Highland Heights during much of the twentieth century. See map below; parcels classified as Urban Main Street are indicated in purple.



Currently, this stretch of Summer Avenue is zoned CMU-3, the most intense of the commercial zoning districts under the Memphis and Shelby County Unified Development Code (the “UDC”). It is the recommendation of the Division of Planning and Development (“DPD”) that the section of Summer Avenue be removed from the CMU-3 zoning district in an effort to prohibit such auto-oriented uses, at least as a matter of right, as gas stations, car lots, auto repair shops and self-storage facilities.

For those parcels identified by the Memphis 3.0 General Plan as Urban Main Street along Summer Avenue (and colored in purple along that street in the map above), DPD recommends a reclassification to the MU, Mixed Use, zoning district. This district requires new buildings to be built in close proximity of the sidewalk, to align with the existing structures in this area, and limit auto-related uses such as those listed above. Under Sec. 3.11.1, existing buildings could be expanded to a degree without complying with this setback requirement, but all new buildings would be required to be built in compliance with the MU zoning district regulations.

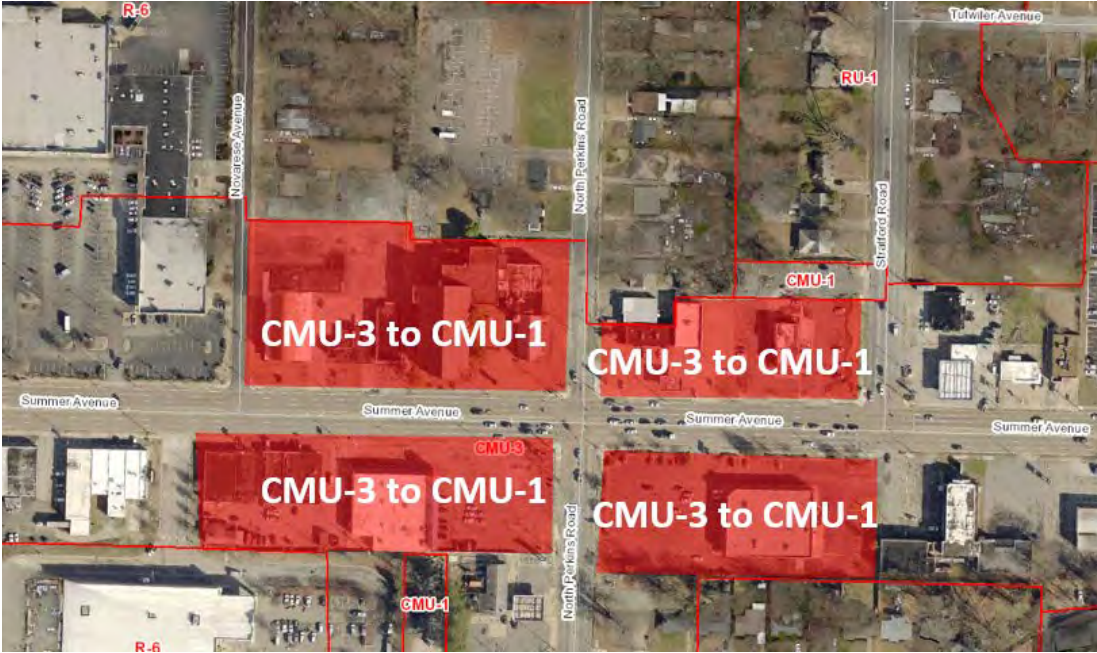
For those parcels identified by the Memphis 3.0 General Plan as an Anchor Neighborhood (and colored in orange in the map above), DPD recommends a reclassification to the CMU-1, Commercial Mixed Use-1, zoning district. Like the MU district, this district would limit more intense auto-related uses cited 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 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 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 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	MONTESEI 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-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	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	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	4000 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.

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 – Urban Main Street (A-UMS). 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. See graphic portrayal to the right.



Part of 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.



“A-UMS” Goals/Objectives:

Support organization of services, amenities, opportunities, and housing choices in direct relationship to anchor neighborhoods, focusing investment toward areas that support plan goals and objectives, nodal development of continuous commercial corridors.

“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.

“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 large 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, 125 N. MAIN STREET SUITE 400A, MEMPHIS, TN 38102-2094 (901) 526-6619

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

IN ACCORD WITH THE PROVISIONS OF THE ZONING ORDINANCES, THE CITY OF MEMPHIS, TENNESSEE, HAS ADOPTED THE FOLLOWING ZONING ORDINANCES:



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", with a long horizontal flourish extending to the right.

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.

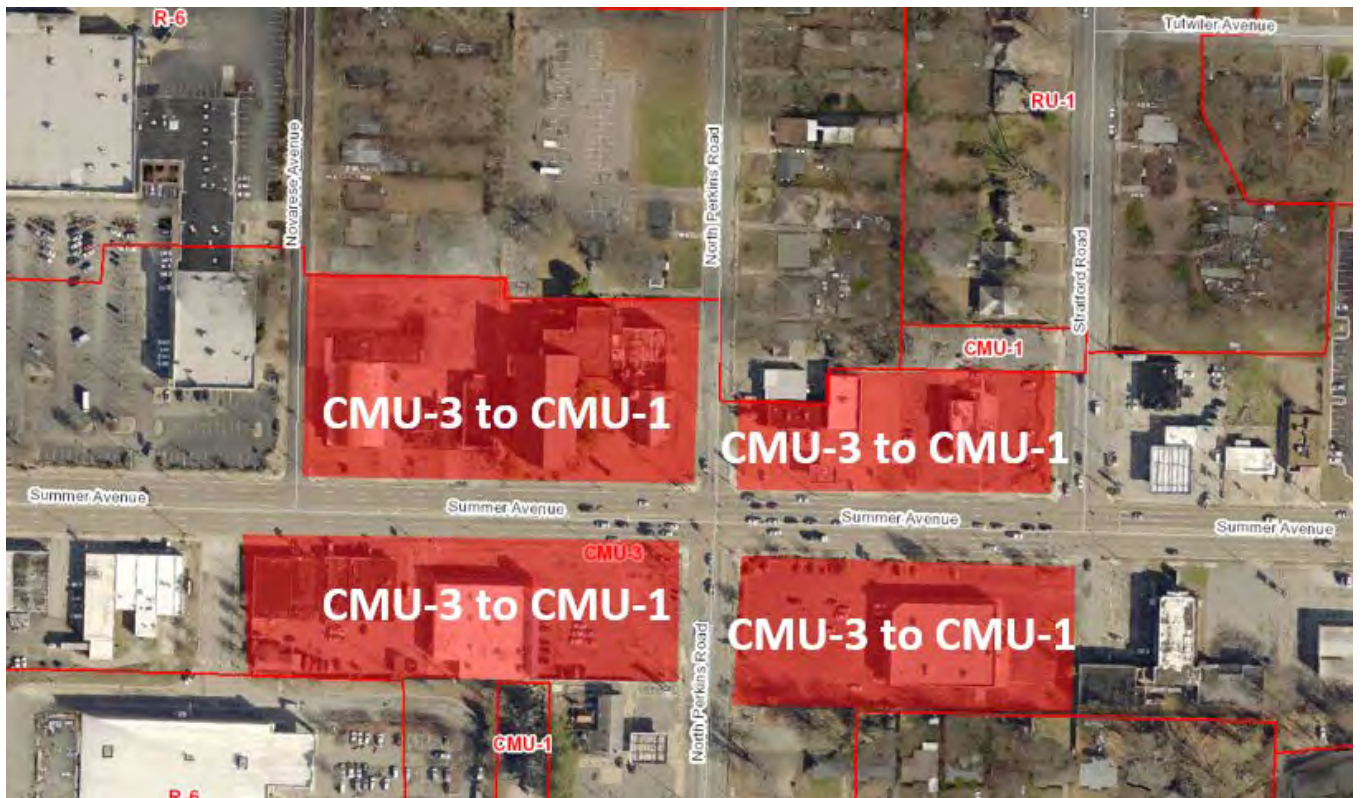
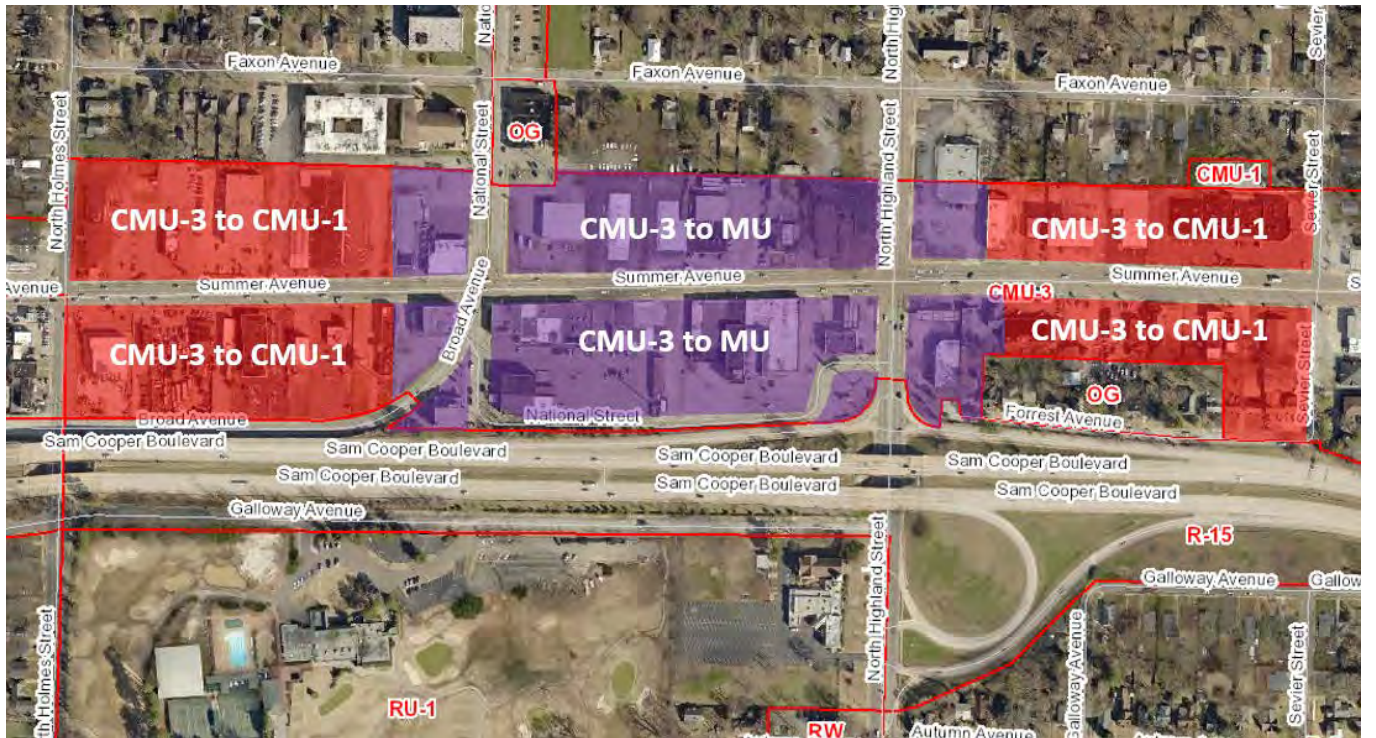
THIS THE _____, _____

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		

AN ORDINANCE OF THE CITY OF MEMPHIS CODE OF ORDINANCES TO AMEND CHAPTER 5 "ANIMALS AND FOWL" TO CREATE ARTICLE V TO RESTRICT THE "RETAIL SALE OF DOGS AND CATS AT PET STORES"

WHEREAS, the Memphis City Council has an interest in maintaining the public safety and welfare of citizens of the City of Memphis and its visitors; and

WHEREAS, the Humane Society of the United States ("Humane Society") estimates that 10,000 high-volume dog breeding facilities, also known as puppy mills, are producing more than 1,000,000 puppies a year in the country; and

WHEREAS, according to the Humane Society, puppy and kitten mills are inhumane commercial breeding facilities that disregard the animals' physical and emotional health in order to maximize profits; and

WHEREAS, according to the Humane Society, these mills produce animals for sale, oftentimes at retail in pet stores; and

WHEREAS, current Federal and State regulations do not adequately address the sale of puppy and kitten mill dogs and cats in pet shops; and

WHEREAS, cities across the country including Atlanta, Austin, Chicago, Los Angeles Philadelphia, San Diego, and San Francisco have adopted ordinances banning retail pet sales; and

WHEREAS, cities in Tennessee, including Nashville and Franklin, have adopted legislation that bans the retail sale of dogs and cats at pet stores; and

WHEREAS, the Memphis City Council believes it is in the best interest of the City of Memphis to adopt reasonable regulations to reduce costs to the city and its residents, protect citizens who may purchase cats or dogs from a pet store, help prevent inhumane breeding conditions, promote community awareness of animal welfare, and foster a more humane environment in the City of Memphis.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, TENNESSEE that Chapter 5 "Animals and Fowl" also referenced as Sec 8-16 titled "Dogs and Cats" is hereby amended as follows:

Article V "RETAIL SALE OF DOGS AND CATS AT PET STORES"

SECTION 1. DEFINITIONS

For the purpose of this section, the following shall be defined as

Animal care facility means an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes or rescue organizations.

Animal rescue organization means any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes. This term does not include an entity that is a breeder or broker or one that obtains animals from a breeder or broker for profit or compensation.

Breeder means a person that maintains a dog or cat for the purpose of breeding and selling their offspring.

Broker means a person that transfers a dog or cat from a breeder for resale by another person.

Cat means a member of the species of domestic cat, *Felis catus*.

Dog means a member of the species of domestic dog, *Canis familiaris*.

Offer for sale means to sell, offer for sale or adoption, advertise for the sale of, barter, auction, give away or otherwise dispose of a dog or cat.

Pet store means a retail establishment where dogs or cats are sold, exchanged, bartered, or offered for sale as pet animals to the general public at retail. Such definition shall not include animal care facility, animal rescue organization, or breeder, as defined.

SECTION 2. RESTRICTIONS ON THE SALE OF DOGS AND CATS

No pet store shall sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of cats or dogs. Nothing in this section shall prohibit pet stores from collaborating with animal care facilities or animal rescue organizations to offer space for such entities to showcase adoptable dogs or cats provided the pet store shall not have any ownership interest in the animals offered for adoption and shall not receive a fee for providing space for the adoption of any of these animals.

SECTION 3. PENALTY.

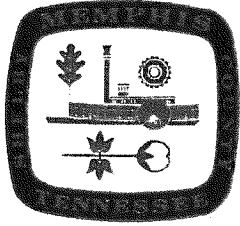
A pet store that violates this section shall be subject to a civil penalty of \$50.00, and each dog or cat offered for sale in violation of this section shall constitute a separate violation.

SECTION 4. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 5. BE IT FURTHER ORDAINED, that this Ordinance shall take effect from and after the date, it shall have been passed by the Council, signed by the Chairperson 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.

Sponsors
Worth Morgan
Jeff Warren
City Administration

Chairman
Frank Colvett



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

This is an ordinance to amend Chapter 13, Section 13-16-2 to update the sewer development fees.

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

Initiating Party is the Division of Public Works (Environmental Engineering).

3. State whether this is a change to an existing ordinance or resolution, if applicable.

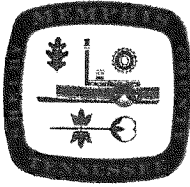
This is an amendment to an existing ordinance, Chapter 13, Section 13-16-2.

4. State whether this requires a new contract, or amends an existing contract, if applicable.

Not applicable.

5. State whether this requires an expenditure of funds/requires a budget amendment.

The ordinance does not require a budget amendment.



AN ORDINANCE TO AMEND CITY OF MEMPHIS, CODE OF ORDINANCES, CHAPTER 33, DIVISION IV, TO MODIFY SECTION 33-62 RELATED TO THE SEWER DEVELOPMENT FEE

WHEREAS, Chapter 33, Section 33-62 of the City's Sewer Use Ordinance currently authorizes the Division of Public Works to charge a sewer development fee to defray a portion of the construction costs incurred by the City regarding its sanitary sewer collection system and treatment facilities ("System"); and

WHEREAS, the sewer development fee applies to all subdivisions, land developments, new buildings and redevelopments of land or buildings served by the System; and

WHEREAS, the existing sewer development fee does not account for prior capital costs incurred by the City for the construction, maintenance, and upgrade of the System; and

WHEREAS, the Division of Public Works has developed a fair and equitable sewer development fee that would allow the City to recover the actual cost required to serve each new customer to the System and a portion of the prior capital cost incurred by the City to provide service to such new customers; and

WHEREAS, the expanded scope of the sewer development fee would protect existing customers from subsidizing the sewer connection for new customers connecting to the System; and

WHEREAS, the Council deems it in the best interest of the City of Memphis and current users of the System that Chapter 33, Section 33-62, be amended to require that new sewer customers pay a sewer development fee which allows the City to recover a portion of the original capital costs incurred by the City for the construction of its wastewater treatment plants, related assets, and wastewater collection and conveyance system using a trended original cost method as well as the actual cost to provide service to such new customer of the System;

NOW THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Section 33-62 of the City of Memphis, Code of Ordinances is hereby amended to read as follows with corresponding changes to be made to Section 13-16-2 included in Municode:

Sec. 33-62. Sewer Development Fees.

(a) There is established a sewer development fee, as set forth herein, to be paid by new sanitary sewer customers connecting to the System as of July 1, 2021. Such fee shall reflect (1) the actual cost to provide service to such new customers connecting to the System seeking an approved sewer connection for subdivisions, land developments, new buildings, and redevelopments of land or buildings served by the City sanitary sewer system or where the facility served requires modification of or enlargement of the existing sewers, whether within or outside the corporate limits of the City and whether service is by existing or by new facilities to be constructed; (2) a portion of the capital costs incurred by the City for the construction of wastewater treatment plant facilities and related assets, including prior upgrades and expansions; and (3) a portion of the capital costs incurred by the City for the construction of the sewage collection and conveyance system including sewer mains, manholes, lift stations, associated appurtenances including prior upgrades and expansions. The sewer development fee shall be payable by the applicant, developer of the subdivision, or developer of industrial, commercial or

residential site as set forth herein, upon the execution of the subdivision contract or the sewer extension contract, or at the time of application for the sewer connection or plumbing permit, as appropriately determined by the Approving Authority.

(b) Sewer development fees shall be calculated based upon the size of the water meter used for the connection using a trended original cost method defined as the historical cost of the City's assets in present day dollar amounts. Written confirmation of the applicable water meter size from Memphis Light, Gas & Water (MLGW) must be provided by the applicant or developer prior to payment of the sewer development fee as such payment is required in accordance with Section 33-62(a). The sewer development fee shall be assessed as set forth in this section and the fee schedule adopted by the Approving Authority:

Meter Size (in inches)	Sewer Development Fee
5/8	\$2,255
3/4	\$3,383
1	\$5,638
1 ½	\$11,277
2	\$18,043
3	\$33,830
4	\$56,384
6	\$112,767
8	\$180,427
10	\$259,364
12	\$484,899

(c) The sewer development fee calculation may be reviewed and adjusted by the Approving Authority every five years or as determined necessary due to significant changes to the customer makeup of the System, and in the instance of an extensive capital improvement plan.

(d) The sewer development fee authorized herein shall become effective on July 1, 2021. Notwithstanding the foregoing, such fee assessment shall be implemented as follows:

From July 1, 2021 to June 30, 2022	50% of applicable fee
Subsequent years	100% of applicable fee

(e) In support of the objectives of the Memphis 3.0 Comprehensive Plan which encourage increased support for community-based developers and development of affordable housing, the sewer development fee may be reduced up to 50% (fifty percent) by the Director of Public Works or his designee upon written request. In order to qualify for this discounted fee, developer must submit proof of 501c3 status and evidence that the development meets affordable housing standards for the following residential property types: 2-family (duplex), 3-family (triplex), 4-family (quadplex) structures, and single family homes. For purposes herein, affordable housing shall be defined as at least 50% of the units serving households at 80% of the Area Median Income as defined by the applicable standards adopted by the US Department of Housing & Urban Development.

(f) No sewer development fee shall be assessed to a person authorized to install a private sewage disposal system pursuant to this division, but a sewer development fee may be charged to the developer or property owner when sanitary sewers are available under Section 33-28 or when it is determined that sanitary sewers shall be extended to such development. The Approval Authority may thereafter require the installation of the

sewer and the payment of the sewer development fee. The developer or property owner by applying for and receiving a private sewage disposal permit shall agree to such fee when the sewer is available. Notwithstanding the foregoing, a sewer development fee may be waived or reduced up to fifty percent (50%) by the Director of Public Works or his designee upon written request by a low-income residential property owner of the following property types: 2-family (duplex), 3-family (triplex), 4-family (quadplex) structures and single family homes; provided that, proof of such low-income is made available to the City upon request. For purposes herein, low-income shall mean families who have incomes at or below 80% of the Area Median Income as defined by the applicable standards adopted by the US Department of Housing & Urban Development.

(g) A sewer development fee shall be assessed to any development, redevelopment, new building or building addition resulting in the installation of an additional water meter or enlarged water meter. No sewer development fee shall be assessed for water meters dedicated to fire protection or irrigation.

(h) Within the City reserve area, the owner(s) of property who petition for connection to the City's sanitary sewer system to serve their property shall at that time consent to, petition and request the annexation of such property by the City, with the annexation to take place at such time as the City may deem appropriate pursuant to state law. Until such time as annexation occurs, the owner(s) shall agree not to seek either incorporation as a separate entity nor annexation to any other incorporated area.

The consent to annexation shall be incorporated as a part of the city land development and/or sewer extension contract(s). At the time the sewer extension and/or land development contract is entered into the property owner shall submit his or her petition for annexation to the City.

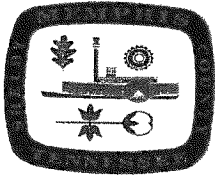
The above-described consent to annexation by the City shall be made a restrictive covenant imposed by the property owner(s) upon the property which shall run with the land and shall be binding upon all heirs, successors and assigns. Such covenant shall be recorded in the office of the Shelby County register and it shall be the duty of the original property owner and all subsequent property owners to disclose the existence of the covenant to any parties to whom the property or a portion thereof is conveyed. Reference to such recorded covenant shall be evidenced on any final plat or plan development prior to the recordation of the plat or plan in the office of Shelby County register. It shall be the responsibility of the division of planning and development to ensure that the signed petition for annexation is submitted by the property owner and that the covenant appears on the plat or plan prior to signing and recordation of the final plat or plan.

SECTION 2. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this Ordinance Amendment shall 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.

Patrice J. Robinson, Chairwoman
Memphis City Council

ATTEST:

Comptroller



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

This is an ordinance to amend Chapter 13, Section 13-16-5 to eliminate the process resulting in the granting of sewer credits and reflect the City's existing sewer policy regarding cost sharing for developments located within the City's municipal boundaries and in Unincorporated Shelby County.

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

Initiating Party is the Division of Public Works (Environmental Engineering).

3. State whether this is a change to an existing ordinance or resolution, if applicable.

This is an amendment to an existing ordinance, Chapter 13, Section 13-16-5.

4. State whether this requires a new contract, or amends an existing contract, if applicable.

Not applicable.

5. State whether this requires an expenditure of funds/requires a budget amendment.

The ordinance does not require a budget amendment.



AN ORDINANCE TO AMEND CITY OF MEMPHIS, CODE OF ORDINANCES, CHAPTER 33, DIVISION IV, TO MODIFY SECTION 33-65 RELATED TO THE SEWER EXTENSION FEE.

WHEREAS, Chapter 33, Section 33-64 of the City's Sewer Use Ordinance currently authorizes the City of Memphis, through its Division of Public Works, to extend its sanitary sewer system, subject to its comprehensive growth plan and applicable sewer policies, to provide gravity sewer service to unsewered properties and properties which are not currently served by sewers of adequate capacity; and

WHEREAS, in accordance with Section 33-65, a sewer extension fee is paid by the developer, owner or applicant upon execution of a sewer extension contract with the City; and

WHEREAS, the sewer extension fees paid to the City run with the land described in the sewer extension contract and are used for the purpose of defraying payment of sewer development fees; and

WHEREAS, the application of such sewer extension fee payments to sewer development fees has resulted in the practice of the City granting "sewer credits" associated with the land, including parcels that are to be developed in the future in the instance of multi-phased developments; and

WHEREAS, the Division of Public Works desires to amend Section 33-65 to eliminate this process to relieve the administrative burden resulting from the maintenance and oversight of such sewer credits and avoid the potential loss of payment of future sewer development fees; and

WHEREAS, the Division of Public Works desires to further amend Section 33-65 to reflect the City's current sewer policy, adopted in 2017, regarding cost sharing for sewer extensions associated with the development of parcels located in unincorporated Shelby County; and

WHEREAS, the Council deems it in the best interest of the City of Memphis and users of the City's sanitary sewer system that Chapter 33, Section 33-65, be amended to eliminate the process resulting in the granting of sewer credits and reflect the City's existing sewer policy regarding cost sharing for developments located within the City's municipal boundaries and in unincorporated Shelby County;

NOW THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Section 33-65 of the City of Memphis, Code of Ordinances is hereby amended to read as follows with corresponding changes to be made to Section 13-16-5 included in Municode:

Sec. 33-65. Sewer Extension Fees.

(a) The developer/owner/applicant shall pay to the City, upon execution of the sewer extension contract, a sewer extension fee as set forth herein. The developer/owner/applicant may secure payment of the

sewer extension fee by executing a performance bond, certificate of deposit assigned to the City, or an irrevocable, automatically renewable letter of credit in favor of the City. Such securities shall be in the full amount of the sewer extension fee and be in a form acceptable to the City. Payment of the sewer development fee shall be made by the developer/owner/applicant to the City upon advertisement for bids for construction of the sewer extension.

(b) The minimum sewer extension fee to be paid by the developer/owner/applicant shall not be less than 50% (fifty percent) of the cost of engineering including surveying, easement acquisition, inspection and construction of any sewer extension and other applicable fees for a development located within the municipal boundaries of Memphis and one hundred percent of such cost for developments located in unincorporated Shelby County. A preliminary estimate, based on the estimated cost of construction, engineering, easement acquisition, inspection, and other applicable fees shall be used for determining the fee to be charged to the developer for the purpose of negotiating a sewer extension contract. The final cost accounting shall be determined by the City upon completion of the sanitary sewer extension, and final accounting shall be made to the developer of any additional fee required or refund due to the developer.

(c) Sewer extension fees paid to the City prior to July 1, 2021 shall run with the land described in the sewer extension contract and may be used for the purpose of defraying sewer development fees. Any sewer extension fees paid on or after July 1, 2021 shall not be used for the purpose of defraying sewer development fees as determined in Section 33-62.

SECTION 2. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this Ordinance Amendment shall 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.

Patrice J. Robinson, Chairwoman
Memphis City Council

ATTEST:

**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 County 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

923± feet to centerline of Lamar Ave.

300.00' N40°00'00"E

10.00' 50°00'00"E

450.00' N40°00'00"E

290.00' N0°00'00"E

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

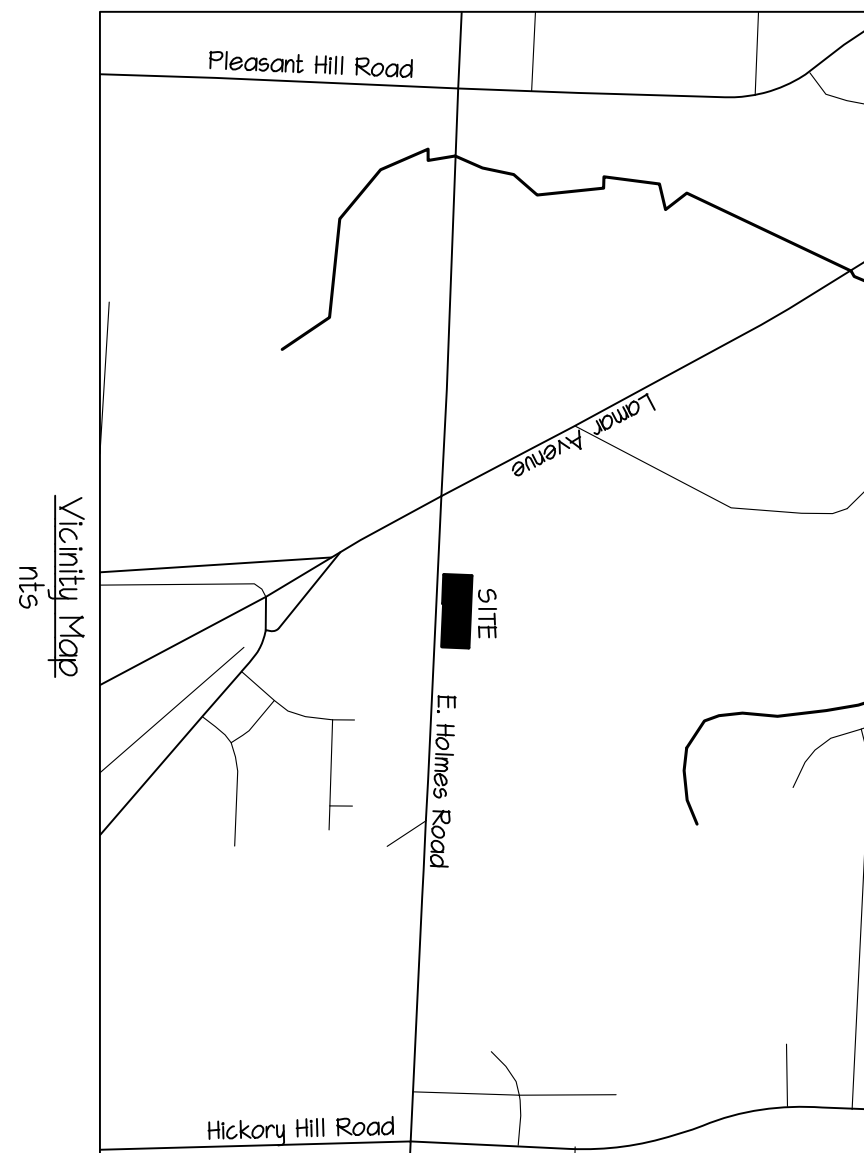
1750.00' N40°00'00"E

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

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

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

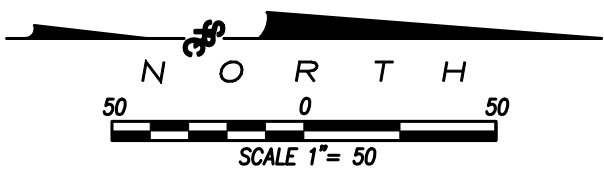
280.00' 50°00'00"E



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 15057483 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 Lamar 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 750.00 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"E 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"E 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

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 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.
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

ZONING MAP



Subject property outlined in yellow

Existing Zoning: Conservation Agriculture (CA)

Surrounding Zoning

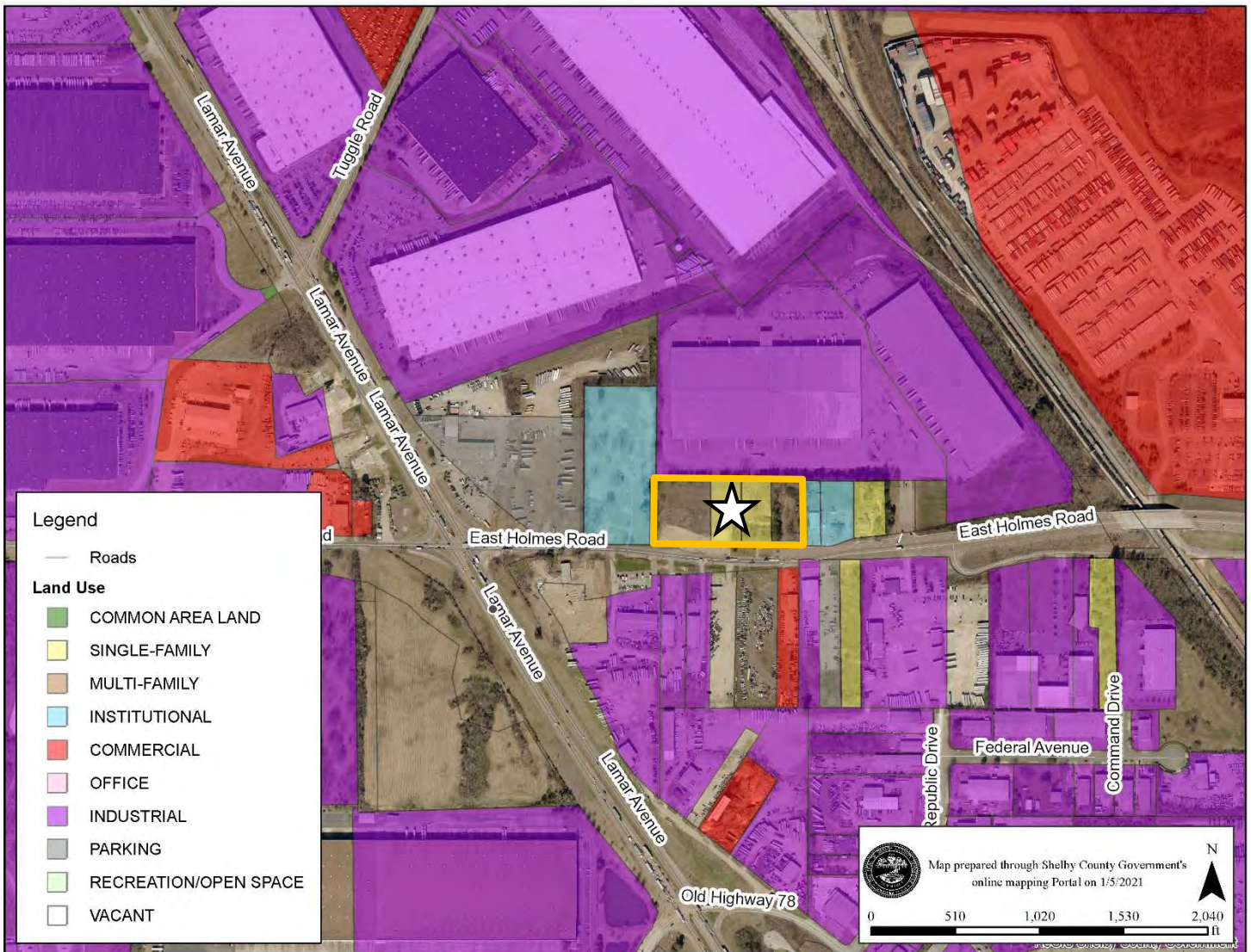
North: Heavy Industrial (IH)

East: Conservation Agriculture (CA)

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

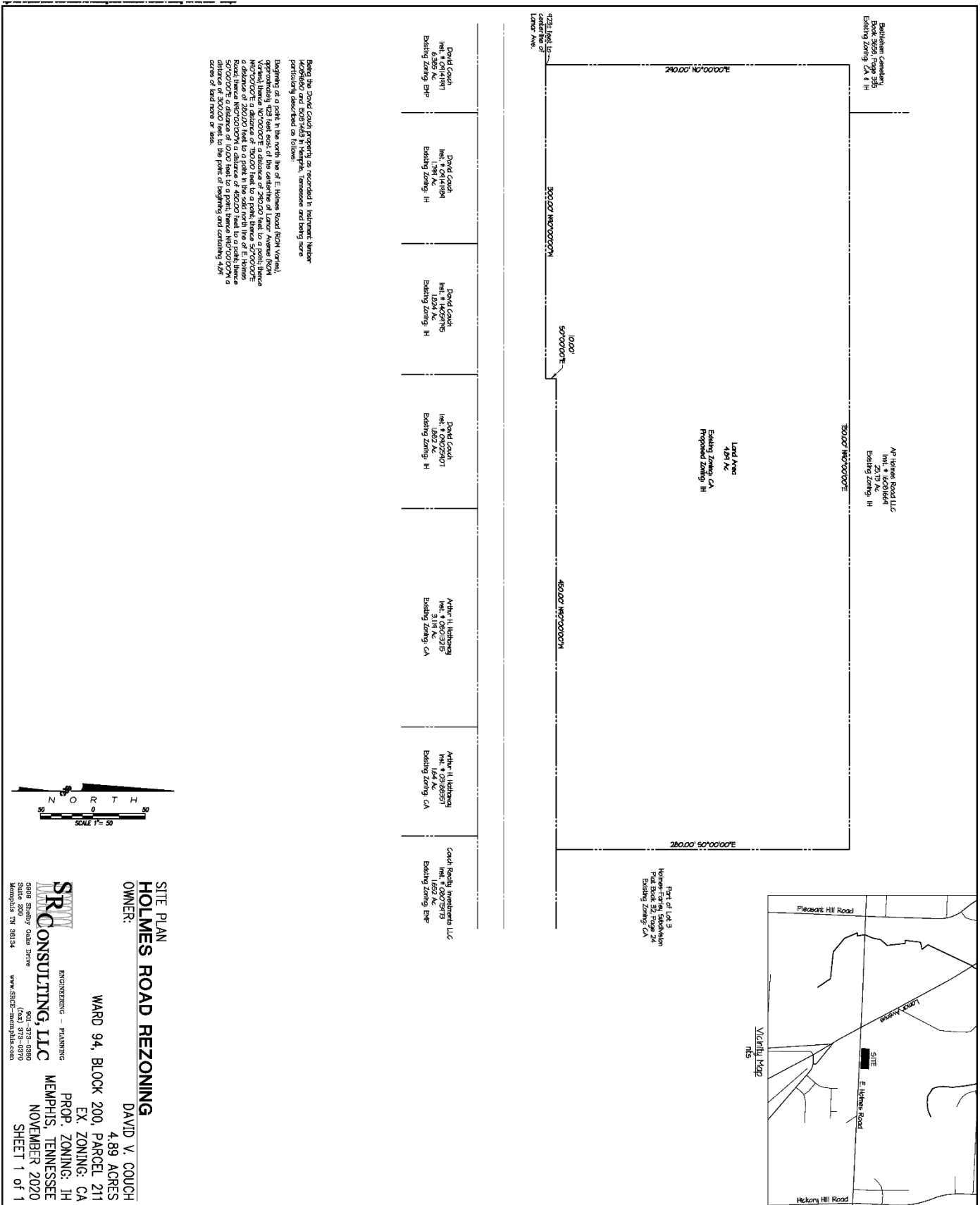
West: Conservation Agriculture (CA)

LAND USE MAP



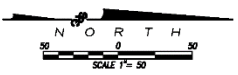
Subject property outlined in orange and indicated by a white star

PLOT PLAN



Being the David Couch property as recorded in Instrument Under public record and subject to following rights, interests and being more particularly described as follows:

Beginning at a point in the north line of E. Holmes Road (200' x 162') (Vandyke Ridge NLS) and running North 00°00'00"E a distance of 280.00' feet to a point; thence North 00°00'00"E a distance of 780.00' feet to a point; thence South 00°00'00"E a distance of 280.00' feet to a point in the south right line of E. Holmes Road (200' x 162') (Vandyke Ridge NLS) and running South 00°00'00"E a distance of 120.00' feet to a point; thence North 00°00'00"E 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
6808 SHADY OAKS DRIVE
MEMPHIS, TN 38134
901-579-0380
www.srcc-memphis.com

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.

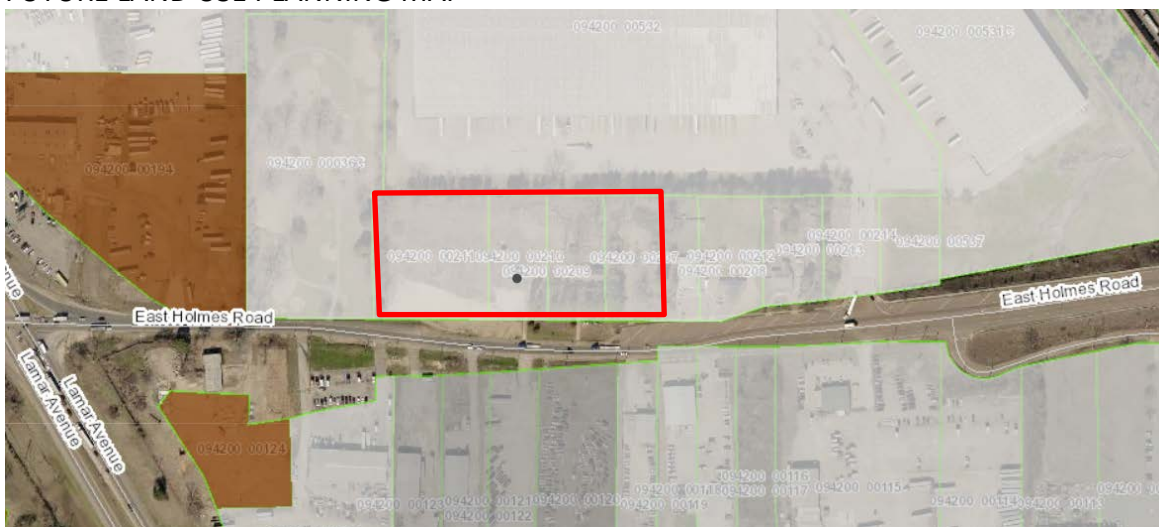
Office of Sustainability and Resilience: No comments received.

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.

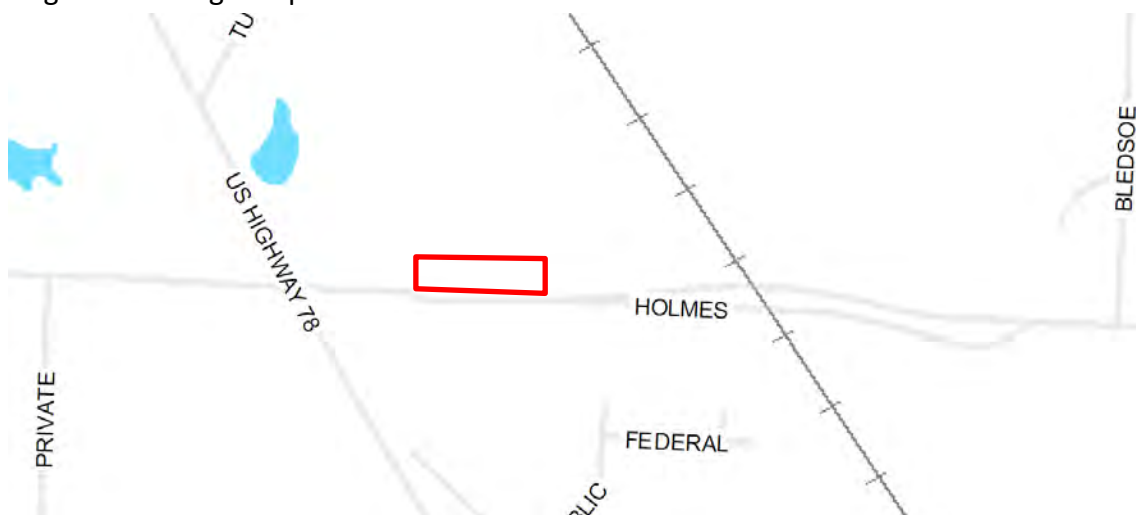
The applicant is requesting for a rezoning for the properties at 5414, 5434, 5456, & 0 E. Holmes Road, located east of Lamar Avenue. The application seeks to rezone approximately 4.89 acres of land to Heavy Industrial (IH) from Conservation Agriculture (CA), which is bounded by East Holmes road on the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



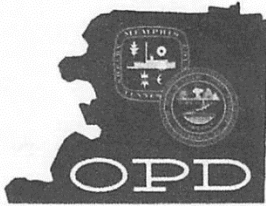
Red polygon denotes the proposed site in Degree of Change area.

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

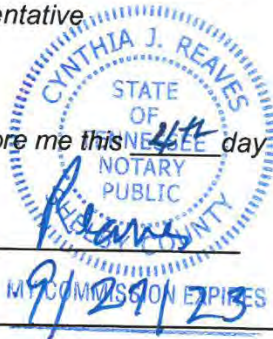
01/04/2021

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

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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



ENGINEERING • PLANNING

5909 Shelby Oaks Drive
Suite 200
Memphis TN 38134

Tel: 901-373-0380
Fax: 901-373-0370
www.SRCE-memphis.com

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.

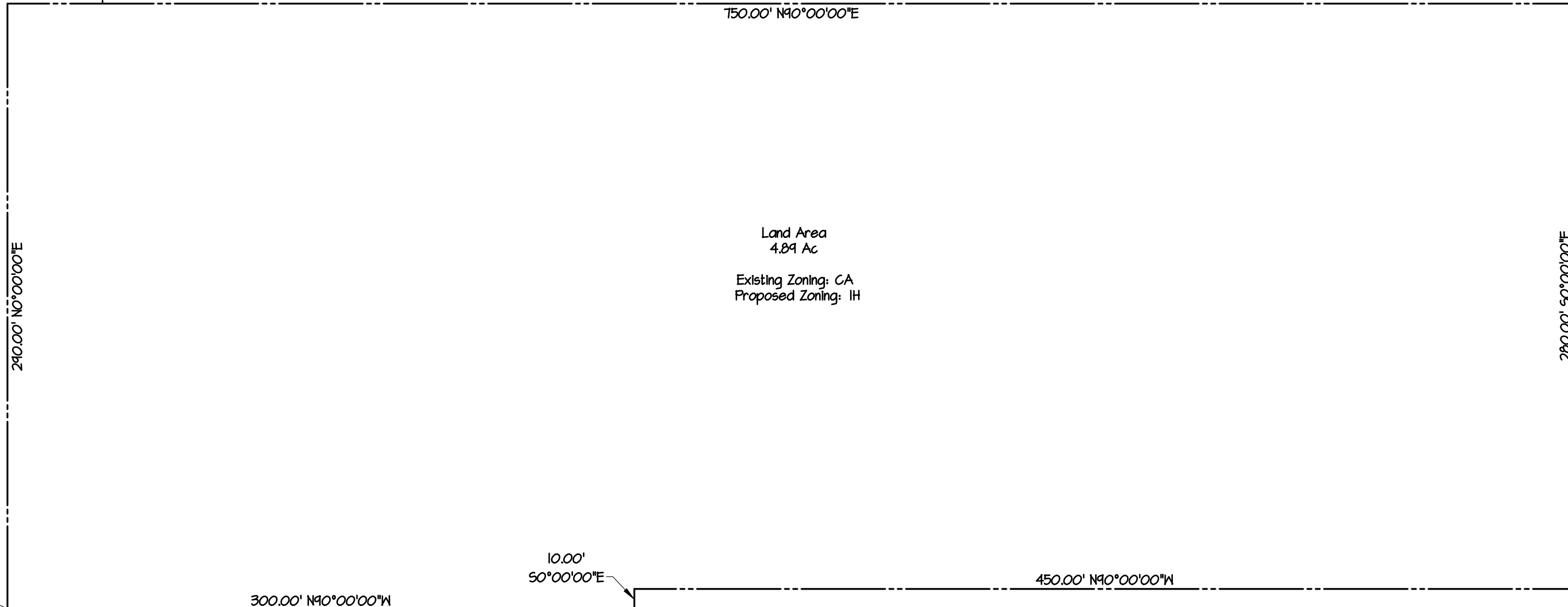
We appreciate your support with this request. Please contact me if you have any questions.

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

AP Holmes Road LLC
Inst. # 16081669
25.73 Ac
Existing Zoning: IH



Vicinity Map
nts



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

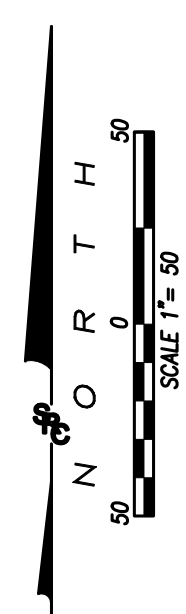
Part of Lot 3
Holmes-Farley Subdivision
Plat Book 32, Page 24
Existing Zoning: CA

923± feet to
centerline of
Lamar Ave.

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
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Being the David Couch property as recorded in Instrument Number 14089680 and 15081483 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 50°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 50°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.



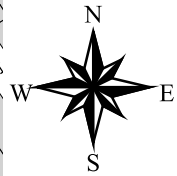
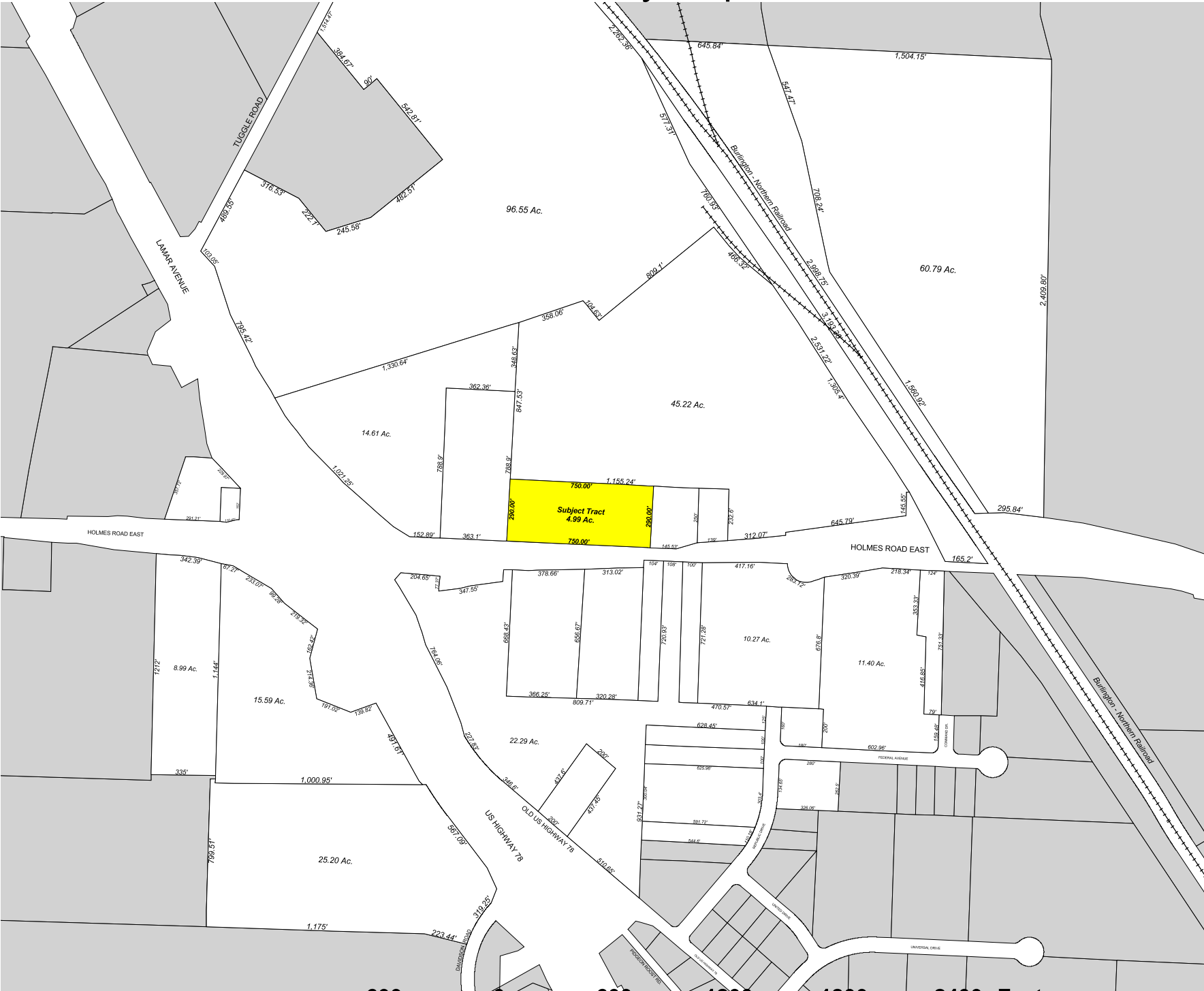
**SITE PLAN
HOLMES ROAD REZONING**

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

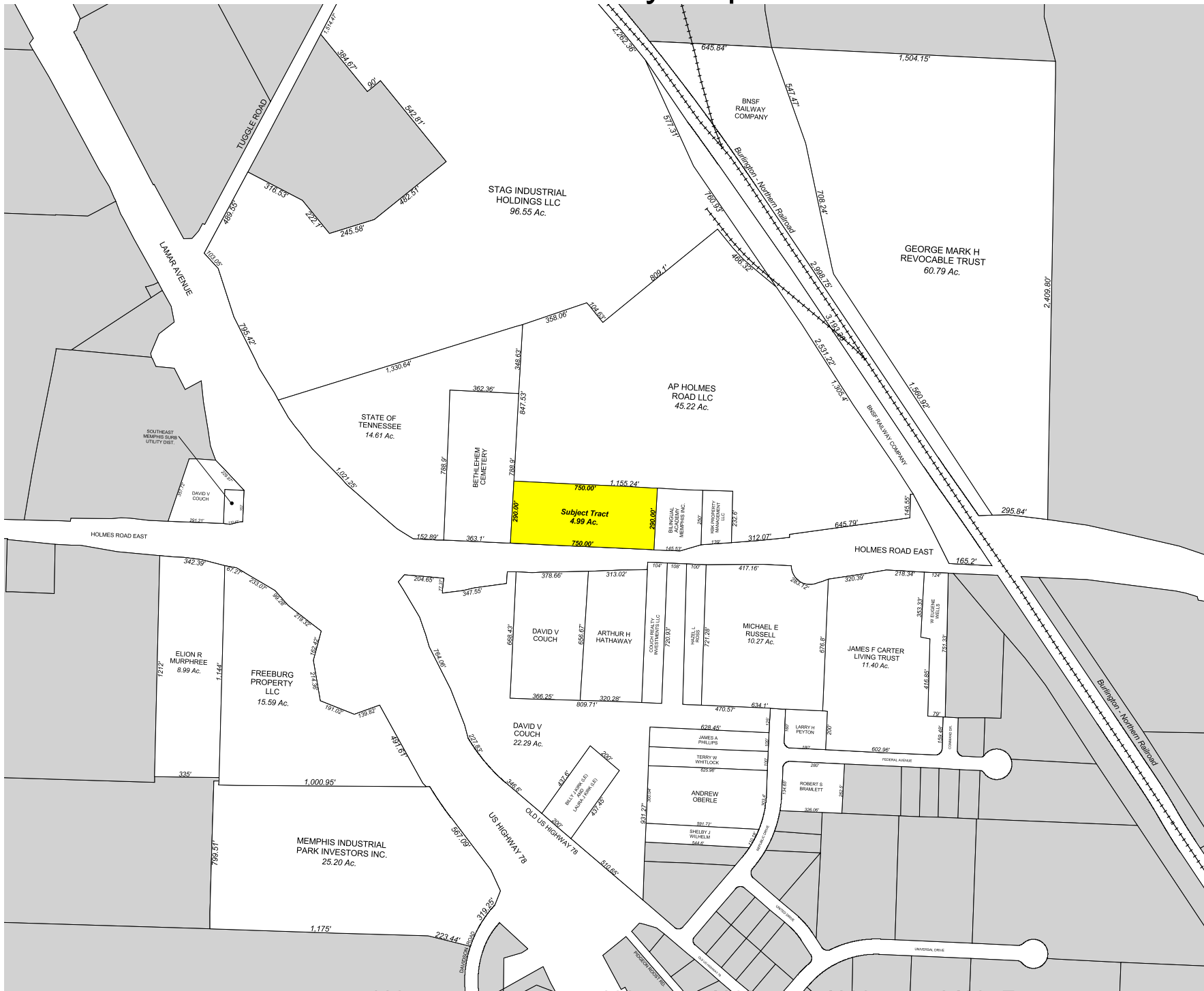
SR CONSULTING, LLC
ENGINEERING - PLANNING
5909 Shelby Oaks Drive Suite 200 Memphis TN 38134
901-373-0380 (fax) 373-0370
www.SRCE-memphis.com

File No. 910201000-018 Holmes Rd Rezoning David Couch/Plat Book 32, 2020 - 2021

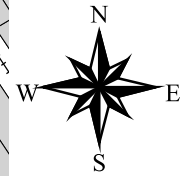
Vicinity Map



Vicinity Map



600 0 600 1200 1800 2400 Feet



Date: 11/23/20
 Prepared By"
 Property Research Data
 Page 5 of 6
 PRD Job #20-090

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
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Couch David V
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Couch Realty Investments LLC
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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
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Phillips James A & Cheryl L
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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

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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

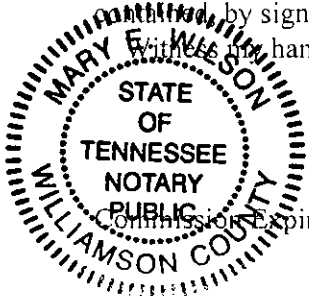
Marion A Goodman Co-successor Trustee

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

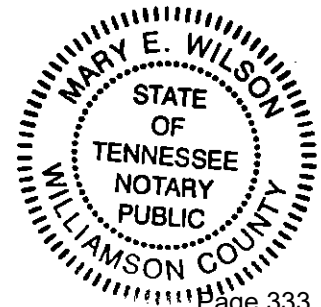
Before me, the undersigned Notary Public of the aforesaid County and State, personally appeared Joy E Anderson with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be a Co-Successor Trustee of The Ella A 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

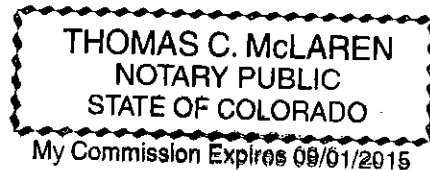
Before me, the undersigned Notary Public of the aforesaid County and State, personally appeared Marion A Goodman with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be a Co-Successor Trustee of The Ella 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.

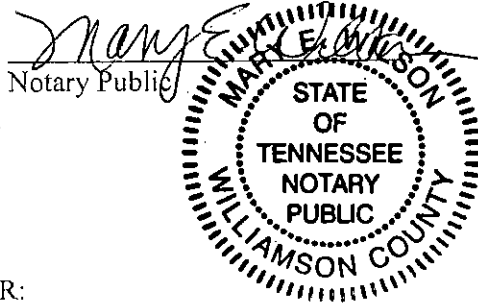
Notary Public

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

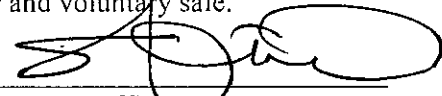
Commission Expiration: _____

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.



Affiant

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



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	

1075 Mullins Station, Suite W165 ~ Memphis, Tennessee 38134 (901) 222-8100
 Website: <http://register.shelby.tn.us> Email: Tom.L Leatherwood@shelbycountyttn.gov
 Join us on Facebook

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

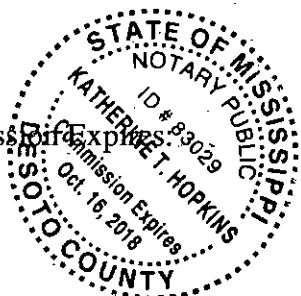
Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared **Jo Ann Crowder**, with whom I am personally acquainted, and who, upon oath, acknowledged that she executed the above and foregoing instrument for the purposes therein contained.

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



NOTARY PUBLIC

My Commission Expires



STATE OF TENNESSEE
COUNTY OF SHELBY

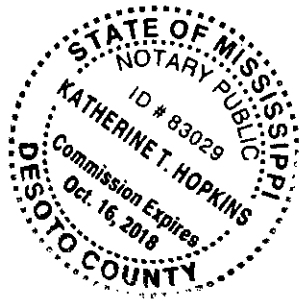
I hereby swear or affirm that to the best of affiant's knowledge, information and belief, the actual consideration for this transfer is **THIRTY THOUSAND AND 00/100 Dollars (\$30,000.00)**.

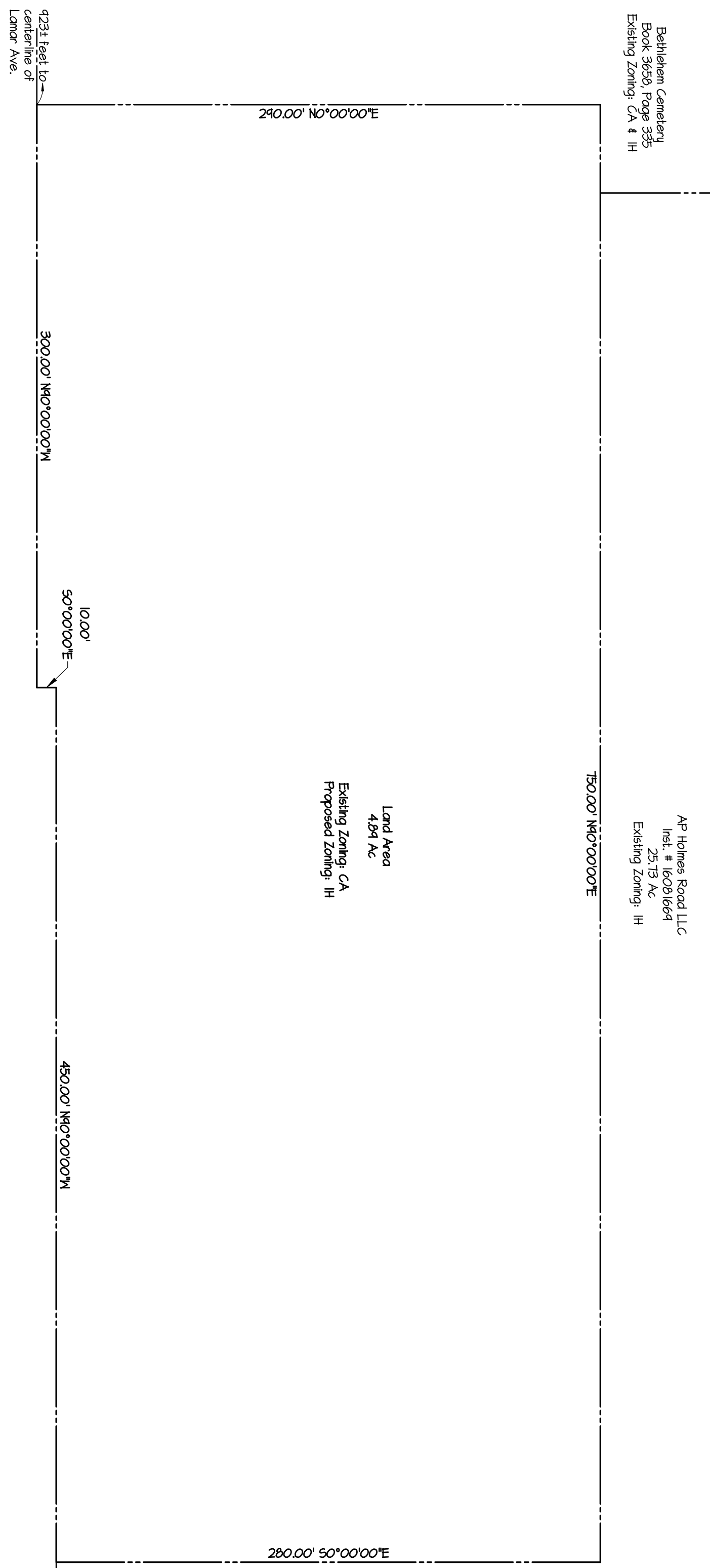
W. Von Couch
AFFIANT

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

Katherine Hopkins
NOTARY PUBLIC

My Commission Expires:



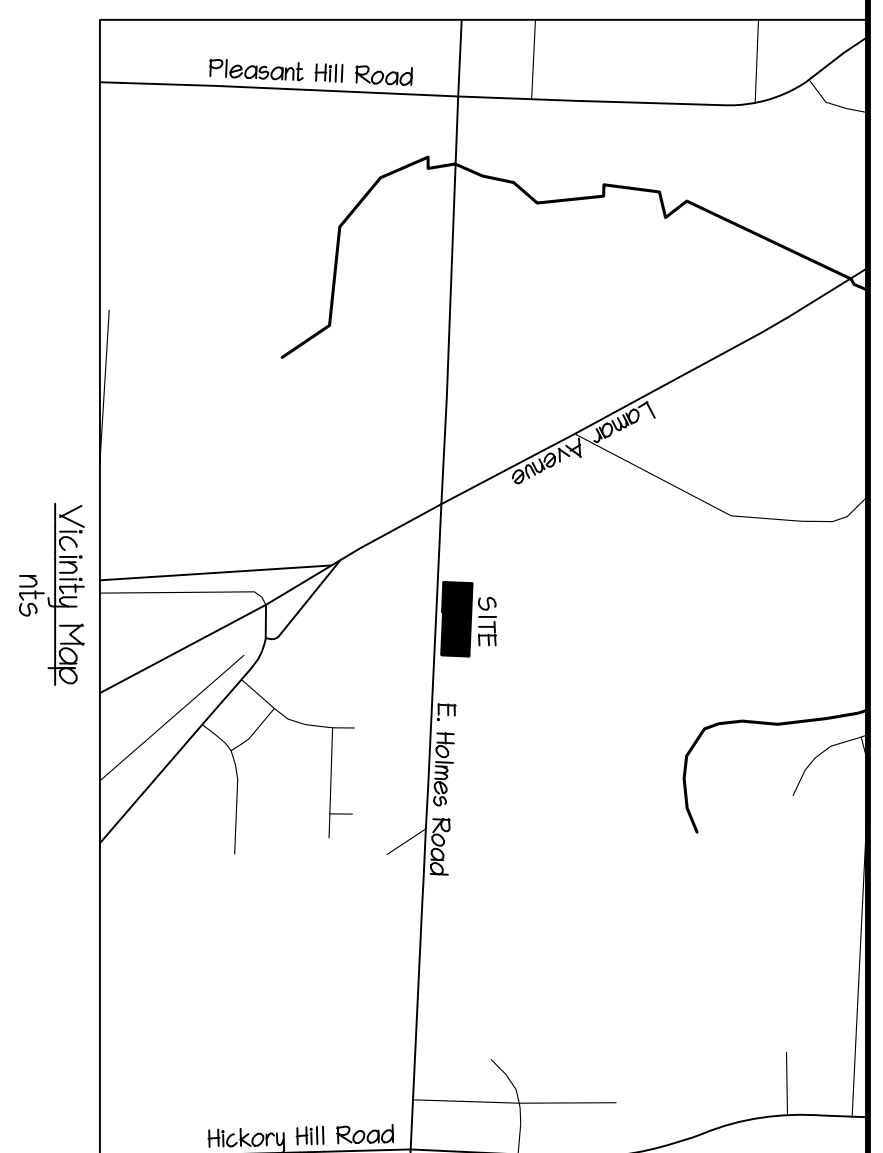


Bethlehem Cemetery
Book 3658, Page 335
Existing Zoning: CA & IH

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

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

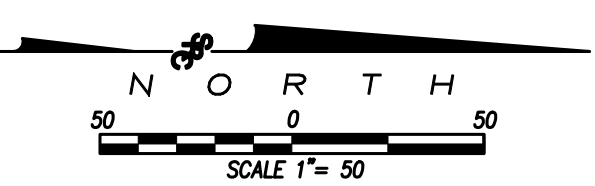
Part of Lot 3
Holmes-Fornell subdivision
Plat Book 32, Page 24
Existing Zoning: CA



David Couch Inst. # 04141947 6.385 Ac Existing Zoning: EHP	David Couch Inst. # 04141944 1.794 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 3.119 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 (RON Varies), approximately 423 feet east of the centerline of Lamar 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 750.00 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

www.SRCE-memphis.com
901-379-0380
(fax) 379-0370

**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

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3150 Lenox Park Boulevard, Ste. 312
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James F Carter Living Trust
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Memphis, TN 38177-1020

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Oberle Andrew & Janice
5311 Republic Drive
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Peyton Larry H & Deborah A
5304 Republic Drive
Memphis, TN 38118-7911

Phillips James A & Cheryl L
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Collierville, TN 38017-3205

Ross Hazel L
P O Box 754201
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Russell Michael E And Richard A Russell
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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
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Memphis, TN 38118

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

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

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Wednesday, January 20, 2021 Call In "ZOOM" Meeting

MLGW ITEMS FOR CITY COUNCIL APPROVAL ON February 2, 2021. (NOTE: The Minutes for items #1 - 6 will be placed on the MLGW Board Agenda for approval on February 3, 2021.)

1. Resolution approving Change No. 1 to Contract No. 12254 (formerly Purchase Order No. 449343), with Ventureforth, Inc. in the funded amount of \$142,390.00. (This change is to ratify and renew annual software maintenance, license and support services for multiple Ventureforth software products covering December 17, 2020 through December 16, 2023. The purchase also includes the vStores Iphone Application Subscription for Oracle EBS, annual subscription for 100 users, for the period covering July 30, 2021 through July 29, 2024.)
2. Resolution awarding Contract No. 12163; Electric Distribution, Construction and Maintenance to Davis H. Elliott Construction Company, Inc., in the funded amount not-to-exceed \$55,254,992.00.
3. Resolution approving the payment of an invoice for the 2021 annual membership dues plus locate request tickets from Tennessee One Call System in the amount of \$130,589.80.
4. Resolution approving Change No. 1 to Contract No. 11927, Voice and Data Services with AT&T in the funded amount of \$636,000.00. (This change is to renew the current contract for a 24 month period; covering July 1, 2021 through June 30, 2023 with no increase in rates from the previous term.)
5. Resolution awarding a purchase order to Engineered Sealing Components, LLC. for fiber optic 192 A.D.S.S. cable in the amount of \$104,976.00.
6. Resolution approving Change No. 3 to Contract No. 11560, Professional Design Services for Fabrication and Repair Shop Design, with The Crump Firm, Incorporated, in the funded amount not-to-exceed \$499,650.00, based on agreed upon rates. (This change is to extend the current contract expiration date an additional five years for the period covering April 12, 2021 through April 11, 2026)

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of January 20, 2021 approved Change No. 1 to Contract No. 12254 (*formerly Purchase Order No. 449343*), vMobile Applications Suite Software Maintenance and Support with Ventureforth, Inc. to ratify and renew the current contract in the funded amount of \$142,390.00, and is now recommending to the Council of the City of Memphis that it approves said ratification and renewal as approved; and

WHEREAS, the project scope is to purchase additional software licenses and continued technical support and maintenance for both Ventureforth mobile crew time reporting and the mobile EAM reporting solution. These are third party applications integrated with Oracle EBS. vTime is used for Crews to report their time via a laptop in the field. vStores is an iPhone application that can be used by any MLGW personnel to access Storeroom On-Hand quantity information external to the MLGW Corporate network. vWork is the Oracle EAM Asset Management Field Reporting application. This change is to ratify and renew annual software maintenance, license, and support services for Ventureforth Software Maintenance and Support products which include: Mobile OTL and vWork client licenses support, vMobile server license support for the period covering December 17, 2020 through December 16, 2023. Also, the purchase includes the vStores iPhone Application Subscription for Oracle EBS, annual subscription for 100 users, for the period covering July 30, 2021 through July 29, 2024 in the funded amount of \$142,390.00. MLGW is requesting continuous maintenance of the acquired software, which can only be performed by Ventureforth, Inc. This sole source ratification and renewal complies with all applicable laws and policies. The new contract value is \$417,341.00; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved Change No. 1 to Contract No. 12254, vMobile Applications Suite Software Maintenance and Support with Ventureforth, Inc. to ratify and renew the current contract in the funded amount of \$142,390.00 as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
January 20, 2021

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 1 to Contract No. 12254 (*formerly Purchase Order No. 449343*), vMobile Applications Suite Software Maintenance and Support with Ventureforth, Inc. to ratify and renew the current contract in the funded amount of \$142,390.00.

The project scope is to purchase additional software licenses and continued technical support and maintenance for both Ventureforth mobile crew time reporting and the mobile EAM reporting solution. These are third party applications integrated with Oracle EBS. vTime is used for Crews to report their time via a laptop in the field. vStores is an iPhone application that can be used by any MLGW personnel to access Storeroom On-Hand quantity information external to the MLGW Corporate network. vWork is the Oracle EAM Asset Management Field Reporting application. This change is to ratify and renew annual software maintenance, license, and support services for Ventureforth Software Maintenance and Support products which include: Mobile OTL and vWork client licenses support, vMobile server license support for the period covering December 17, 2020 through December 16, 2023. Also, the purchase includes the vStores iPhone Application Subscription for Oracle EBS, annual subscription for 100 users, for the period covering July 30, 2021 through July 29, 2024 in the funded amount of \$142,390.00. MLGW is requesting continuous maintenance of the acquired software, which can only be performed by Ventureforth, Inc. This sole source ratification and renewal complies with all applicable laws and policies. The new contract value is \$417,341.00.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the approval of Change No. 1 to Contract No. 12254, vMobile Applications Suite Software Maintenance and Support with Ventureforth, Inc. to ratify and renew the current contract in the funded amount of \$142,390.00, as outlined in the above preamble, is approved; and further

THAT, the President or his designated representative is authorized to execute the Ratification and Renewal.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular-special meeting held on 20th day of January, 2021, at which a quorum was present.


Secretary-Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of January 20, 2021 awarded Contract No. 12163, Electric Distribution, Construction and Maintenance to Davis H. Elliot Construction Company, Inc. in the funded not-to-exceed amount of \$55,254,992.00, and is now recommending to the Council of the City of Memphis that it approves said award as approved; and

WHEREAS, the project scope is to construct and maintain the overhead electric distribution system to MLGW's most current construction standards.

WHEREAS, the Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on April 1, 2020. MLGW solicited 16 bids; and received three (3) bids on April 28, 2020. The lowest and best bid was from Davis H. Elliot Construction Company, Inc. in the amount of \$55,254,992.00. The term of this contract is for 60 months from the date of the Notice to Proceed. This award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved an award of Contract No. 12163, Electric Distribution, Construction and Maintenance to Davis H. Elliot Construction Company, Inc. in the funded not-to-exceed amount of \$55,254,992.00 as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
January 20, 2021

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards Contract No. 12163, Electric Distribution, Construction and Maintenance to Davis H. Elliot Construction Company, Inc. in the funded not-to-exceed amount of \$55,254,992.00.

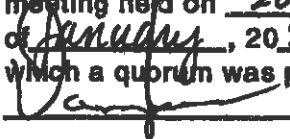
The project scope is to construct and maintain the overhead electric distribution system to MLGW's most current construction standards.

The Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on April 1, 2020. MLGW solicited 16 bids; and received three (3) bids on April 28, 2020. The lowest and best bid was from Davis H. Elliot Construction Company, Inc. in the amount of \$55,254,992.00. The term of this contract is for 60 months from the date of the Notice to Proceed. This award complies with all applicable laws and policies.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the approval of award of Contract No. 12163, Electric Distribution, Construction and Maintenance to Davis H. Elliot Construction Company, Inc. in the funded not-to-exceed amount of \$55,254,992.00, as outlined in the above preamble, is approved and further

THAT, the President or his designated representative is authorized to execute the Award.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular-special meeting held on 20th day of January, 2021, at which a quorum was present.

Secretary-Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners at its meeting held on January 20, 2021, approved payment to Tennessee One Call System, in the amount of \$130,589.80 for annual membership dues for the year 2021 plus locate request tickets.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that the payment to Tennessee One Call System in the amount of \$130,589.80, for annual membership dues for the year 2021 plus locate request tickets is approved as set forth in the foregoing preamble.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
January 20, 2021

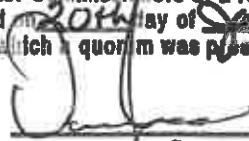
The Vice President of Design, Construction and Delivery presented for consideration of the Board, payment of an invoice from Tennessee One Call System for the 2021 annual membership dues plus locate request tickets in the amount of \$130,589.80.

This amount is included in the 2021 Budget.

NOW THEREFORE BE IT RESOLVED by the Board of Light, Gas and Water Commissioners:

THAT, subject to the consent and approval of the Council of the City of Memphis, the Secretary-Treasurer is hereby authorized and directed to have a check issued in the amount of \$130,589.80, payable to Tennessee One Call System.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular - ~~special~~ meeting held on 20th day of January, 2021, at which quorum was present.


Secretary - Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of January 20, 2021 approved Change No. 1 to Contract No. 11927, Voice and Data Services with AT&T to renew the current contract in the funded amount of \$636,000.00, and is now recommending to the Council of the City of Memphis that it approves said renewal as approved; and

WHEREAS, the project scope is to provide voice and data communication services at various MLGW locations. This change is to renew the current contract for a 24 month renewal term for the period covering July 1, 2021 through June 30, 2023 in the funded amount of \$636,000.00, with no increase in rates from the previous term. This renewal complies with all applicable laws and policies. The new contract value is \$1,590,000.00; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved Change No. 1 to Contract No. 11927, Voice and Data Services with AT&T to renew the current contract in the funded amount of \$636,000.00 as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
January 20, 2021

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 1 to Contract No. 11927, Voice and Data Services with AT&T to renew the current contract in the funded amount of \$636,000.00.

The project scope is to provide voice and data communication services at various MLGW locations. This change is to renew the current contract for a 24 month renewal term for the period covering July 1, 2021 through June 30, 2023 in the funded amount of \$636,000.00, with no increase in rates from the previous term. This renewal complies with all applicable laws and policies. The new contract value is \$1,590,000.00.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the approval of Change No. 1 to Contract No. 11927, Voice and Data Services with AT&T to renew the current contract in the funded amount of \$636,000.000, as outlined in the above preamble, is approved; and further

THAT, the President or his designated representative is authorized to execute the Renewal.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular special meeting held on 20th day of January, 2021, at which a quorum was present.


Secretary-Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of January 20, 2021 approved the purchase of approximately 54,000 feet of fiber optic 192 A.D.S.S. cable and is now recommending to the Council of the City of Memphis that it approves said purchase as approved in the 2021 fiscal year budget; and

WHEREAS, the fiber optic 192 A.D.S.S. cable is needed to provide cable for new and existing electric customers, supply cable for upcoming jobs, historical usage for emergencies and to replenish inventory; and

WHEREAS, bids were opened on December 16, 2020. Notice to Bidders was advertised. Twelve (12) bids were solicited and five (5) bids were received with the lowest and best complying bidder being the firm of Engineered Sealing Components, LLC. This award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis that there be and is hereby approved the purchase of fiber optic 192 A.D.S.S. cable from Engineered Sealing Components, LLC for the sum of \$104,976.00 chargeable to the MLGW 2021 fiscal year budget.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
January 20, 2021

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards a purchase order to Engineered Sealing Components, LLC in the amount of \$104,976.00 for fiber optic 192 A.D.S.S. cable.

The fiber optic 192 A.D.S.S. cable is needed to provide cable for new and existing electric customers, supply cable for upcoming jobs, historical usage for emergencies and to replenish inventory.

Bids were opened on December 16, 2020. Notice to Bidders was advertised. Twelve (12) bids were solicited and five (5) bids were received with the lowest and best complying bidder being the firm of Engineered Sealing Components, LLC. This award complies with all applicable laws and policies.

The 2021 budgeted amount for Telecommunication Network is \$2,834,000.00; of which \$104,976.00 will be spent on this purchase order in 2021; leaving a balance of \$2,729,024.00 after award; and

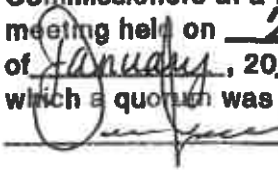
NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, subject to the consent and approval of the Council of the City of Memphis, award of purchase order to Engineered Sealing Components, LLC is approved for furnishing:

Approximately 54,000 feet – Fiber Optic 192 A.D.S.S. cable - polyethylene jacketed, (inner and outer) all dielectric self-supporting in eight (8) tubes, single-mode, shall be in full compliance with IEEE 1222 standard for A.D.S.S. cable at \$1.944 per foot;

The total award amounts to approximately \$104,976.00; f.o.b. Memphis, Tennessee, our dock, transportation prepaid; said price being firm; delivery in 20 weeks; terms net 30 days.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a ~~regular~~-special meeting held on 20th day of January, 2021, at which a quorum was present.


Secretary-Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of January 20, 2021 approves Change No. 3 to Contract No. 11560, Professional Design Services for Fabrication and Repair Shop Design, with The Crump Firm, Incorporated to change the current contract in the funded amount not-to-exceed \$499,650.00, based on agreed upon rates, and is now recommending to the Council of the City of Memphis that it approves said change as approved; and

WHEREAS, the project scope is to provide design and construction administration services for a new fabrication and maintenance facility consisting of the following: Transformer Processing and Repair Shop, Machine Shop, Sheet Metal Shop, Electric Motor Shop, Welding/Steel Erectors Shop, Paint Shop, and Vehicle Maintenance Garage and Body Shop. This change is to extend the current contract expiration date an additional five (5) years for the period covering April 12, 2021 through April 11, 2026 to allow additional time for construction and administration work in the funded amount not-to-exceed \$499,650.00 to cover unforeseen delays. This change complies with all applicable laws and policies. The new contract value is \$3,097,650.00; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved Change No. 3 to Contract No. 11560, Professional Design Services for Fabrication and Repair Shop Design, with The Crump Firm, Incorporated to change the current contract, based on approved rates in the funded amount not-to-exceed \$499,650.00, as approved.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
January 20, 2021

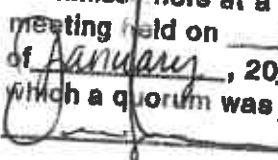
The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners, the approval of Change No. 3 to Contract No. 11560, Professional Design Services for Fabrication and Repair Shop Design, with The Crump Firm, Incorporated to change the current contract in the funded amount not-to-exceed \$499,650.00, based on agreed upon rates.

The project scope is to provide design and construction administration services for a new fabrication and maintenance facility consisting of the following: Transformer Processing and Repair Shop, Machine Shop, Sheet Metal Shop, Electric Motor Shop, Welding/Steel Erectors Shop, Paint Shop, Vehicle Maintenance Garage and Body Shop. This change is to extend the current contract expiration date an additional five (5) years for the period covering April 12, 2021 through April 11, 2026 to allow additional time for construction and administration work in the funded amount not-to-exceed \$499,650.00 to cover unforeseen delays. This change complies with all applicable laws and policies. The new contract value is \$3,097,650.00.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the approval of Change No. 3 to Contract No. 11560, Professional Design Services for Fabrication and Repair Shop Design, with The Crump Firm, Incorporated to change the current contract, based on approved rates in the funded amount not-to-exceed \$499,650.00, as outlined in the above preamble, is approved; and further

THAT, the President or his designated representative is authorized to execute the Change.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular-special meeting held on 20th day of January, 2021, at which a quorum was present.

Secretary-Treasurer

City of Memphis



TENNESSEE

JIM STRICKLAND
MAYOR

January 15, 2021

The Honorable Chase Carlisle, Chairman
Personnel, Intergovernmental & Annexation Committee
City Hall - Room 514
Memphis, TN 38103

Dear Chairman Carlisle:

Subject to Council approval, I hereby recommend that:

Lee A. Jackson

be reappointed to the Memphis Convention Center Commission with a term expiring July 1, 2022.

I have attached biographical information.

Sincerely,


Jim Strickland
Mayor

JSS/sss

Cc: Council Members

ADOPTING ORDINANCE

ORDINANCE NO. 5769

An Ordinance Adopting and Enacting a New Code of Ordinances of the City of Memphis, Tennessee; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for the Manner of Amending such Code; and Providing When such Code and this Ordinance Shall Become Effective

WHEREAS, the Council of the City of Memphis, as the City's legislative body, has the full power and authority under the Charter of the City to codify, revise and collect in the form of a code of ordinances of a general nature, and in doing so has the full power, to amend, alter, repeal or modify any ordinance of a general nature other than contract ordinances to conform such ordinances to the legislative intent of the Council before inclusion in said code;

WHEREAS, the last official code of ordinances was adopted by the City Council on September 1, 1985 pursuant to Ordinance No. 3490 (the "1985 Code");

WHEREAS, the City has contracted with different publishing companies to republish and supplement the 1985 Code, but such republications and supplements have not been reviewed and adopted by the Council as an official code from time to time as suggested by the City's Charter;

WHEREAS, the absence of an official code of ordinances and the use of unofficial republications of the former code with amendments has created confusing and lack of certainty as to the form, content and existence of new and amending ordinances adopted since September 1, 1985;

WHEREAS, due to clerical errors and omissions there have been many instances in which new and amending ordinances adopted since September 1, 1985 have been omitted or misstated in the unofficial republications

of the City's Ordinances;

WHEREAS, the use of numbering systems in the unofficial republications of the former code that are different from that used in the 1985 Code has made placement of new and amending ordinances more difficult and more susceptible to the opinion of the publisher of the republications rather than the intent of the Council.

WHEREAS, the Council has delegated to the City Attorney and the Council's Attorney the responsibility of making a thorough review of new and amending ordinances adopted by the Council since September 1, 1985 for the purpose of producing for adoption by the City Council a new Official Code of Ordinances that accurately reflects the state of law of the City as of the date(s) of adoption by the City Council.

WHEREAS, due to the volume of ordinances to be considered and codified and the need to provide clear guidance to the City and its citizens, the City Attorney and the Council's Attorney have presented this adopting ordinance consisting of the codification of 4 of the 49 Chapters of the 1985 Code and will periodically provide for adoption by the Council supplementary codification ordinances to supplement the codification herein approved.

Be It Ordained by the Council of the City of Memphis That

Section 1. A Code of Ordinances, consisting of Chapters 1 through 49, each inclusive, and the errata thereto, is hereby adopted and enacted as the "2021 Code of Ordinances, City of Memphis, Tennessee" (the "2021 Code").

Section 2. The Chapters of the 2021 Code will be approved in a series of Codification Adoption Ordinances. As and when chapters of the 2021 Code are approved by

ordinance, such approved chapters shall supersede and replace all then existing general and permanent ordinances of the City to the extent included in such codified chapters or to the extent such ordinances are inconsistent with the provisions of the chapters so codified.

Section 3. The Council does hereby further ordain that the following chapters of the 2021 Code as presented to and considered by the Council are hereby adopted and codified, namely:

Chapter 1-General Provisions

Chapter 2-Administration

Chapter 3-Personnel

Chapter 4-Pension and Retirement System

Section 4. All provisions of the Chapters of the 2021 Code adopted and codified by this ordinance shall be in full force and effect from and after this ordinance becomes effective, and all conflicting codes, provisions, chapters, sections, paragraphs and sentences of ordinances of a general and permanent nature in existence or enacted on final passage on or before the effective date of this ordinance, and not included in the 2021 Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this Ordinance.

Section 5. Any and all additions and amendments to the

2021 Code, when passed by ordinance in a form to specifically indicate the intention of the Council to make such additions and amendments a part of the 2021 Code, shall be deemed to be incorporated in the 2021 Code, so that reference to the 2021 Code shall be understood and intended to include such additions and amendments.

Section 6. Three (3) copies of the 2021 Code shall be kept on file in the office of the comptroller preserved in loose-leaf form, or in such other form as the comptroller may consider most expedient. The comptroller is also authorized to contract for the republication of the 2021 Code and supplements as approved by the Council in electronic format through a nationally recognized legal code publication company.

It shall be the express duty of the comptroller or someone authorized by him to insert in such copies and in their designated places all amendments or ordinances which the council has specifically approved, from time to time, to be to made a part of the 2021 Code when the same have been printed or reprinted in page form, and to extract from such copies all provisions which may be from time to time repealed by the Council. Such copies shall be available for all persons desiring to examine the same.

Section 7. The provisions the 2021 Code as approved by the Council or any copy thereof which purports to be published and maintained, in written or electronic

form, by authority of the City of Memphis shall be conclusively held to be evidence of the law of the City of Memphis from and after the times of their passage, with respect to any subject or provisions contained therein, and no person shall be permitted to impeach any such code provision on the ground that it was not duly and regularly passed in accordance with the laws existing at the time of its passage. Any prior uncodified republications of ordinances of the City with respect to any subject or provisions contained in the 2021 Code shall not be read and accepted in evidence from and after the adoption of any chapter of the 2021 Code.

Section 8. The provisions the 2021 Code as approved by the Council, or any copy thereof which purports to be published by authority of the City of Memphis, may be read and accepted in evidence in any court in this State without further proof of its passage.

Section 9. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 10. Severability. The provisions of this Ordinance are hereby declared to be severable. If any of the sections, amendments, provisions, sentences, clauses, phrases, or parts hereof are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Section 11. Effective Date. The provisions of this Ordinance shall 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 Mayor in writing by the comptroller and become effective as otherwise provided by law.

SPONSOR:
Council Chairman

PATRICE ROBINSON
CHAIRPERSON

Ordinance No. _____

AN ORDINANCE OF THE CITY OF MEMPHIS TO AMEND THE CITY OF MEMPHIS CODE OF ORDINANCE CHAPTER 21, TRAFFIC AND VEHICLES, ARTICLE III, OPERATION OF VEHICLES GENERALLY TO ADD SECTION 21-135 TO BE ENTITLED "NON-DRIVER PARTICIPATION IN DRAG RACING AND RECKLESS DRIVING EXHIBITIONS", TO SET PENALTIES FOR VIOLATIONS, AND FOR OTHER PURPOSES.

WHEREAS, the City of Memphis has an interest in maintaining the health, safety, and welfare of the citizens of the City and its visitors; and

WHEREAS, pursuant to T.C. A. § 55-10-502, no person shall operate a motor vehicle or motor vehicles upon the public highways of Tennessee, or while on the premises of any shopping center, trailer park, any apartment house complex, or any other premises generally frequented by the public at large, or who is a participant therein, for the purpose of drag racing; and

WHEREAS, drag racing and reckless driving exhibitions have been on the rise in cities across the country and are an immediate threat to public safety and a nuisance to neighborhoods and commuters using various modes of transportation; and

WHEREAS, multiple deaths of innocent children have occurred in other cities due to the engagement in drag racing and reckless driving exhibitions; and

WHEREAS, cities across the country, such as Atlanta, San Diego, Sacramento, Kansas City, Albuquerque, and Milwaukee have enacted ordinances to prohibit drag racing exhibitions, including the prohibition of non-driver or spectator participation therein; and

WHEREAS, the City of Memphis has experienced an increasing occurrence of such activities over the past year; and

WHEREAS, this issue has caused multiple occurrences of public streets being shut down and made impassable; and

WHEREAS, in addition to prohibiting and penalizing drag racing and reckless driving exhibitions, it is also necessary to prohibit and penalize the organization of, and participation in, such activities, which draw large numbers of spectators, causing a disturbance of the peace and a threat to public safety; and

WHEREAS, establishing an ordinance to prohibit the organization of and participation in drag racing exhibitions, as defined herein, would enable the Memphis Police Department to more effectively combat the occurrence of such behavior; and

WHEREAS, in the interests of public safety and ensuring the well-being of motorists and pedestrians, it is necessary to amend the City of Memphis's Code of Ordinances to prohibit the organization of, and participation in, drag racing and reckless driving exhibitions.

THE CITY COUNCIL OF THE CITY OF MEMPHIS HEREBY ORDAINS as follows:

SECTION 1: That Chapter 21, Traffic and Vehicles Article III, Operation of Vehicles Generally, Section 21-135 shall be added and entitled "Non-Driver Participation in Drag Racing and Reckless Driving Exhibitions", as follows:

Sec. 21-135. - **Non-Driver Participation in Drag Racing and Reckless Driving Exhibitions**

(a) *For purposes of this section, the following terms shall mean:*

Drag racing and reckless driving exhibition means any motor vehicle ascertaining the maximum speed obtainable by the vehicle; ascertaining the highest obtainable speed of the vehicle within a certain distance or within a certain time limit; the use of any one or more motor vehicles for the purpose of comparing the relative speeds of the vehicle or vehicles, or for comparing the relative speeds of the vehicle or vehicles within a certain distance or within a certain time limit; the use of one or more motor vehicles in an attempt to outgain, outdistance or to arrive at a given destination simultaneous with or prior to that of any other motor vehicle; or the use of any motor vehicle for the purpose of the accepting of, or the carrying out of any challenge, made orally, in writing, or otherwise, made or received with reference to the performance abilities of one or more motor vehicles;

Organizer means any individual who in any manner knowingly takes part in the planning, organization, coordination, facilitation, advertising or sharing of the location for any such drag race, or collect moneys in connection with an drag racing exhibition, as defined herein;

Participant means any individual who is knowingly present at an drag racing exhibition for the purpose of actively taking part in the event, through conduct including riding in a race vehicle as a passenger; assisting the organizers and/or drivers in carrying out or promoting the event; or exchanging money or anything of value with any driver, car owner, or other participant in connection with the event. For the purposes of this section, a person who is a mere bystander, passerby, or observer not aware of the illegal activity shall not be deemed a participant.

(b) *Violations.*

(1) No person shall knowingly act as an organizer of a drag racing or reckless driving exhibition, as defined herein.

(2) Except as provided elsewhere in this chapter, no person shall knowingly act as a participant in a drag racing or reckless driving exhibition, as defined herein.

(d) *Penalties.*

(1) Anyone found in violation of this chapter commits a Class C misdemeanor and shall be subject to a \$50.00 fine.

(e) *Exemptions.*

This section shall not apply to licensed or duly authorized racetracks, drag strips, or other designated areas set aside by proper authorities for such purposes.

SECTION 2. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED, that this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairperson 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.

Sponsor
Ford Canale

Chairwoman
Patrice Robinson

Ordinance No. _____

AN ORDINANCE OF THE CITY OF MEMPHIS TO AMEND THE CITY OF MEMPHIS CODE OF ORDINANCE CHAPTER 22, NOISE, SECTION 22-12 TO ADD SUBSECTION 22-12 (B) REGARDING MUFFLER NOISE VIOLATIONS AND PENALTIES

WHEREAS, the citizens of Memphis have a continued interest in public safety and the most efficient use of law enforcement; and

WHEREAS, City Council desires to modernize the current ordinance and strengthen the ordinance regarding vehicle noise regulations; and

WHEREAS, the Memphis Police Department supports efforts to reduce loud vehicle noise disturbances; and

WHEREAS, City Council finds it necessary for the health, safety and welfare of citizens to amend the ordinance to regulate vehicle noise and to ensure all muffler violations shall require a mandatory court appearance.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that Chapter 22 of the Code of Ordinance regarding Noise is hereby amended to add subsection 22-12 (b):

Sec. 22-12. - Mufflers

It is unlawful for any person to operate or cause to be operated any *muffler* attached to any motor vehicle or any other mechanized unit which produces noise within the city.

Sec. 22-12 (b) – Violation and Penalties

Violations of this section shall be prosecuted in the same manner as other misdemeanor violations of this Code and shall be initiated upon issuance of a traffic citation ticket and shall require a mandatory court appearance.

SECTION 2. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that this Ordinance shall 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.

Sponsor:
Ford Canale

Chairwoman
Patrice Robinson

Ordinance No. _____

AN ORDINANCE OF THE CITY OF MEMPHIS TO AMEND THE CITY OF MEMPHIS CODE OF ORDINANCE CHAPTER 21, TRAFFIC AND VEHICLES, ARTICLE X, VEHICLE EQUIPMENT AND LOADS TO ADD SUBSECTION 21-335 (B) AND SECTION 21-336 (B) REGARDING MUFFLER VIOLATIONS AND PENALTIES

THE CITY COUNCIL OF THE CITY OF MEMPHIS HEREBY ORDAINS as follows:

SECTION 1: That Chapter 21, Traffic and Vehicles Article X, Vehicle Equipment and Load, Section 21-335 and Section 21- 336 shall be amended to add the following new subsection to be known as Section 21-335 (b) and Section 21-336 (b):

Sec. 21-335. - Muffler required.

No person shall drive a motor vehicle on a street unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, annoying smoke and the escape of excessive gas, steam or oil.

Sec. 21- 335 (B) – Violations and penalties

Violations of this section shall be prosecuted in the same manner as other misdemeanor violations of this Code and shall be initiated upon issuance of a traffic citation ticket and shall require a mandatory court appearance.

Sec. 21-336. - Muffler cutout prohibited.

It is unlawful to use a muffler cutout on any motor vehicle upon a street.

Sec. 21-336 (B) – Violations and penalties

1st Violation - shall be prosecuted in the same manner as other misdemeanor violations of this Code and shall be initiated upon issuance of a traffic citation ticket and shall require a mandatory court appearance.

2nd Violation - shall be prosecuted in the same manner as other misdemeanor violations of this Code, punished by a fine not to exceed \$50.00 and shall require a mandatory court appearance.

3rd Violation - shall be prosecuted in the same manner as other misdemeanor violations of this Code, punished by a fine not to exceed \$100.00 and shall require a mandatory court appearance.

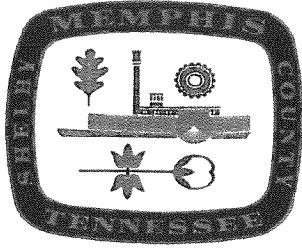
SECTION 2. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that the provisions of this Ordinance are hereby severable. If any of these

sections, provisions, sentences, clauses, phrases or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that this Ordinance shall 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.

Sponsor:
Ford Canale

Chairwoman
Patrice Robinson



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

This is a Resolution requesting the approval for the sale of City owned parcel known as 1418 Willie Mitchell Blvd. in Memphis, Shelby County, Tennessee 38106 and further described as Parcel ID # 025061 00033.

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

General Services

3. State whether this is a change to an existing ordinance or resolution, if applicable.

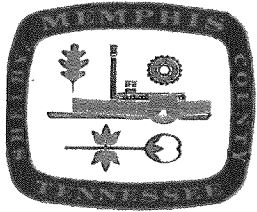
This item does not require a change to an existing ordinance.

4. State whether this requires a new contract, or amends an existing contract, if applicable.

This item does not require a new contract or amend an existing contract.

5. State whether this requires an expenditure of funds/requires a budget amendment.

This item does not require an expenditure of funds or a budget amendment.



A Resolution requesting approval of the sale of a city owned parcel known as 1418 Willie Mitchell Blvd., Parcel ID #025061 00033 Memphis, Tennessee 38106

WHEREAS, the City of Memphis owns a surplus parcel located at 1418 Willie Mitchell Blvd. ("The Parcel") that was acquired in Plat Book 6, Page 42 in the Register's Office and is further identified by Shelby County Tax Assessor as Parcel 025061 00033 containing 0.3765 acres. The Parcel has a value of less than \$10,000; and

WHEREAS, the sale of the subject Parcel will increase the City's Community Development Block Grant Fund for the Division of Housing and Community Development, and eliminate blight and maintenance cost for the City of Memphis; and

WHEREAS, Timmy Hervery an adjoining property owner, submitted an offer of Two Thousand Five Hundred Dollars (\$2,500.00) along with a Two Hundred Fifty Dollars (\$250.00) Earnest Money deposit to the City of Memphis Real Estate Center; and

WHEREAS, it is deemed to be in the best interest of the Citizens of the City of Memphis and County of Shelby that said sale be accepted subject to City Ordinance 5637, Amendment to Section 2-291(A) of the City's Code of ordinance;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the offer made by Timmy Hervery, on the above-described Parcel is hereby accepted subject to the City Ordinance 5637, Amendment to Chapter 2, Article V, Division 2, Section 1, Section 2-291(A)1 which states in part, "properties receiving an initial bid offer of twenty thousand dollars (\$20,000) OR LESS SHALL BE SUBMITTED FOR APPROVAL TO THE City Council for first reading, which is final."

BE IT FURTHER RESOLVED, that subject to the Ordinance, the City of Memphis Real Estate Department shall prepare and arrange for the execution of the quit claim deed, and any other documents incidental to the completion of the transfer, and the Mayor of the City of Memphis is hereby authorized to execute said deeds or any other documents necessary to complete the sale and conveyance.

Search Details Layers

Property Details

Owner Name: CITY OF MEMPHIS
 Property Address: 1418 WILLIE MITCHELL BLVD
 Parcel ID: 025061 00233
 Appraisal: \$0.00
 Tax District: MEMPHIS
 Tax Map: 1517F
 Year Built:
 Lot Number: 687
 Subdivision: WORKMAN-CARBERRY
 Plat Book & Page: LANCOWYN

Dimensions: 80 X 205
 Total Acres: 0.3765
 Owner Address: 701 N MAIN ST
 MEMPHIS TN 38107 2311

Class: EXEMPT
 Use: - VACANT LAND
 Longitude: -90.04330661
 Latitude: 35.10838651

[Appraisal Info](#)
[Memphis Tax Info](#)
[County Tax Info](#)
[Google Maps](#)
[Search Most Recent Property Records](#)

Inst# / Type	022033 WARRANTY DEED
Sales Date/Price	10/25/2000 \$22,000.00
Inst# / Type	030890 QUIT CLAIM
Sales Date/Price	7/26/1994 \$0.00
Inst# / Type	198370 QUIT CLAIM
Sales Date/Price	11/23/1986 \$0.00
Inst# / Type	0229-313 LANCOWYN
Sales Date/Price	12/26/1963 \$12,500.00



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Memphis City Council Summary Sheet

Please provide a brief summary of the item, in bullet form, not to exceed one page:

1. A resolution to amended Housing and Community Development's federal budget by appropriating the Expenditures and Revenues for the 2020-2021 Low Income Home Energy Assistance Program Weatherization grant in the total amount of Six Hundred Sixty-Nine Thousand, Three Hundred Eighty-Four Dollars and 44/100 (\$669,384.44) for the Low-Income Home Energy Assistance Program Weatherization. *City-wide (all Council Districts)*
2. Initiating Party is the Division of Housing & Community Development's Weatherization Program (CD90147).
3. Not applicable to a change to an existing ordinance or resolution.
4. A new contract will be required.
5. An expenditure of funds will be required.

Resolution-Division of Housing and Community Development



Resolution to amend Housing and Community Development's federal budget by appropriating the Expenditures and Revenues for the 2020-2021 *Low Income Home Energy Assistance Program Weatherization grant* in the total amount of **Six Hundred Sixty-Nine Thousand, Three Hundred Eighty-Four Dollars and 44/100 (\$669,384.44)** for the *Low-Income Home Energy Assistance Program Weatherization*.

WHEREAS, Tennessee was classified as one of four states with the highest energy burden for its residents in the ACEEE September 2020, "*National and Regional Energy Burdens Report*", which indicates the need for programs to reduce utility burden and improve housing stock by making it more energy efficient for the citizens of Memphis; and

WHEREAS, this program is designed to assist low-income households in reducing their energy costs and to contribute to national energy conservation through increase in energy efficiency and consumer education and home retrofits; and

WHEREAS, weatherization measures provided by this program will reduce heat loss and energy costs by improving the thermal efficiency of dwelling units occupied by low-income property owners and renters throughout Shelby County; and

WHEREAS, the City of Memphis Division of Housing and Community Development (HCD) has received *Low Income Home Energy Assistance Program Weatherization funds (LIHEAP Wx)* in the total amount of **Six Hundred Sixty-Nine Thousand, Three Hundred Eighty-Four Dollars and 44/100 (\$669,384.44)** from the United States, Department of Health and Human Services; and the State of Tennessee, Tennessee Housing Development Agency (THDA); and

WHEREAS, HCD received these funds through a non-competitive grant process; and

WHEREAS, these funds will be used by HCD to administer the weatherization assistance and the low income home energy assistance program activities throughout Shelby County and carry out all fiscal responsibilities in accordance with THDA WAP and LIHEAP policies and procedures; the Tennessee Weatherization Field Guide and subsequent technical guidance; all applicable federal regulations, all applicable Office of Management and Budget (OMB) circulars; and all Tennessee Housing Development Agency's program and fiscal policies to educate, train and to help reduce utility burden with energy efficiency mechanisms and address health and safety in residential units; and

WHEREAS, it is necessary to accept the grant funding and amend Housing and Community Development's Fiscal Year 2021 Federal Budget to establish funds for the 2020-2021 Low Income Home Energy Assistance Program Weatherization (LIHEAP Wx); and

Resolution-Division of Housing and Community Development

WHEREAS, it is necessary to appropriate the FY 2021 *Low Income Home Energy Assistance Program Weatherization (LIHEAP Wx)* in the total amount of **Six Hundred Sixty-Nine Thousand, Three Hundred Eighty-Four Dollars and 44/100 (\$669,384.44)** in conjunction with the 2020-2021 Low Income Home Energy Assistance Program Weatherization (LIHEAP Wx);

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the 2020-2021 *Low Income Home Energy Assistance Program Weatherization (LIHEAP Wx)* in the total amount of **Six Hundred Sixty-Nine Thousand, Three Hundred Eighty-Four Dollars and 44/100 (\$669,384.44)** be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that Housing and Community Development's Fiscal Year 2021 Federal Budget be and is hereby amended by appropriating the Expenditures and Revenues for the 2020-2021 *Low Income Home Energy Assistance Program Weatherization grant* in the total amount of **Six Hundred Sixty-Nine Thousand, Three Hundred Eighty-Four Dollars and 44/100 (\$669,384.44)** as follows:

REVENUES

State of Tennessee, Tennessee Housing & Development Agency	<u>\$669,384.44</u>
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EXPENDITURES

Low Income Home Energy Assistance Program Grant	<u>\$669,384.44</u>
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**GRANT CONTRACT LIHEAP Wx 20-03
BETWEEN THE STATE OF TENNESSEE,
Tennessee Housing Development Agency AND
CITY OF MEMPHIS DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT**

This grant contract ("Grant Contract"), by and between the State of Tennessee, Tennessee Housing Development Agency, hereinafter referred to as the "State" or the "Grantor State Agency" and City of Memphis Division of Housing and Community Development, hereinafter referred to as the "Grantee," is for the provision of Scope of Service Caption, as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee Edison Vendor ID # 4104

A. SCOPE OF SERVICES AND DELIVERABLES:

- A.1. The Grantee shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Grant Contract.
- A.2. The Grantee shall administer the Low Income Home Energy Assistance Program Weatherization (LIHEAP Wx) program and fiscal responsibilities in accordance with THDA Weatherization Assistance Program (WAP) policies and procedures; the TN WAP Standard Work Specifications Field Guide and subsequent technical guidance; all applicable federal regulations, all applicable Office of Management and Budget (OMB) circulars; and all Tennessee Housing Development Agency's program and fiscal policies.
- A.3. The Grantee shall submit a LIHEAP Wx Operational Plan to the State for approval on a date defined by the State for the contract period, utilizing a template provided by the State. Any subsequent changes to an approved Operational Plan will require approval by the State.
- A.4. The Grantee shall utilize application and other program forms and notice templates provided by THDA.
- A.5. The Grantee shall accept applications for LIHEAP Wx assistance as determined by the State, and as described in their State approved Operational Plan.
- A.6. The Grantee shall evaluate and determine eligibility (approval or denial), and notify clients of its eligibility determination within 90 calendar days of receipt of application.
- A.7. The Grantee shall assist applicants, as needed, with the completion of their applications.
- A.8. The Grantee shall determine eligibility for assistance based on applicable federal income guidelines, and applicable policies as defined by the State.
- A.9. The Grantee shall maintain a waiting list according to State policies and procedures of eligible clients by county, for a period determined by the State, when available contract funds are expended.
- A.10. The Grantee shall submit supporting documentation to the agency's monthly invoice. Payment of the monthly invoice is contingent upon agency submission of required documentation as prescribed by the State.
- A.11. The Grantee shall not pay LIHEAP benefits directly to a client.

- A.12. The Grantee shall establish a formal process by which an individual or family who receives assistance from the Grantee may have such assistance terminated in the event that violation of program requirements occur as defined in the agency's State approved Operational Plan.
- A.13. The Grantee shall employ a procedure for client appeals based on those described in the LIHEAP federal application and must list those procedures in the Agency's State approved Operational Plan. Furthermore, the Grantee shall ensure that the appeal procedure is explained to all potential clients.
- A.14. The Grantee shall maintain an on-going list of all units that have received weatherization services under this Grant Contract. The list is to be maintained by address and date weatherization services were provided. The list shall be maintained throughout the existence of LIHEAP Wx and for a minimum of five (5) years following the conclusion of LIHEAP Wx, regardless of whether this Grant Contract ends or is terminated or if administration of the program is moved to other state, federal, or local entities. Grantee shall check all new applications submitted against this list to establish eligibility and re-weatherization shall occur only in compliance with the Operational Plan or the Program Requirements. The list of all units weatherized shall be provided to THDA.
- A.15. The Grantee shall use, or ensure the usage of, the National Energy Audit Tool (NEAT) or the Manufactured Home Energy Audit (MHEA), or another energy audit tool as approved by THDA, to conduct pre- and post-energy audits on approved dwelling units.
- A.16. The Grantee shall limit individual unit costs to an amount not to exceed \$10,000. This limit shall not be exceeded without the express approval of THDA which may be withheld in THDA's sole discretion.
- A.17. All work on eligible units under LIHEAP Wx shall be individually bid, utilizing procurement practices that comply with state and federal requirements and in accordance with the Operational Plan.
- A.18. The Grantee shall ensure that employees who act as auditors and other entities and their employees who provide auditor or weatherization installation services in carrying out Grantee's obligations under Grant Contract complete certification, licensing, and training requirements as required to participate in and prior to any work in connection with LIHEAP Wx and to retain documentation of compliance.
- A.19. The Grantee shall utilize a THDA approved document when contracting with weatherization contractors.
- A.20. The Grantee shall ensure that any required permits are obtained and that work performed under this contract complies with applicable federal, state, and municipal laws, codes, and regulations.
- A.21. The Grantee shall continuously monitor the performance of its weatherization contractors and take appropriate action as necessary to address deficiencies in performance or to address any issues identified by THDA.
- A.22. The Grantee shall not pay the weatherization contractor until all work for a particular contract has been completed and passed inspection by Grantee. The Grantee shall not waive this requirements, in whole or in part, without THDA's consent, which consent may be withheld in THDA's sole discretion.
- A.23. The Grantee shall require appropriate staff to attend and participate in training as THDA may direct.
- A.24. The Grantee shall cooperate with all THDA, State, and Federal entities and their representatives regarding all monitoring.

- A.25. The Grantee shall repay all affected LIHEAP Wx Funds to THDA as THDA may direct in the event non-compliance with the Operational Plan and/or Program Requirements.
- A.26. The Grantee shall comply with all reporting requirements in a timely manner, with reports to be provided in a format defined by THDA. Failure to timely submit a report in the prescribed format, or submission of a partial or inaccurate report may result in the future payments being held until compliance with reporting is corrected.
- A.27. The Grantee shall enter all data related to approved applications in the THDA WAP Database. Data is to be continuously and timely entered and updated for each client from the point the application is approved until the job is completed. The Grantee shall monitor data entry for accuracy.
- A.28. The Grantee shall maintain a client file for each job selected for LIHEAP Wx with documentation to support program eligibility, the energy audit process, work performed, bid and invoice details, and contractor and auditor assignments for the specific job. This client file is to be retained for a minimum of five (5) years from the date the case is closed, and is to be provided upon request.
- A.29. The Grantee shall maintain a current System for Award Management registration and provide documentation of such upon request.
- A.30. The State, at its discretion, may visit the Grantee at any time to review records or programs.

B. TERM OF CONTRACT:

This Grant Contract shall be effective on July 1, 2020 ("Effective Date") and extend for a period of number (12) months after the Effective Date ("Term"). The State shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed **SIX HUNDRED SIXTY NINE THOUSAND THREE HUNDRED EIGHTY FOUR AND 44/100 DOLLARS (\$669,384.44)** ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment Reference is the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.
- C.2. Compensation Firm. The Maximum Liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.
- C.3. Payment Methodology. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.
- C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

- C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, and present such to:

Tennessee Housing Development Agency
 Community Programs Division
 Andrew Jackson Building
 502 Deaderick St., Third Floor
 Nashville, TN 37243

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice/Reference Number (assigned by the Grantee).
 - (2) Invoice Date.
 - (3) Invoice Period (to which the reimbursement request is applicable).
 - (4) Grant Contract Number (assigned by the State).
 - (5) Grantor: State Agency & Division Name.
 - (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
 - (7) Grantee Name.
 - (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
 - (9) Grantee Remittance Address.
 - (10) Grantee Contact for Invoice Questions (name, phone, or fax).
 - (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
 - i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).
 - ii. The amount reimbursed by Grant Budget line-item to date.
 - iii. The total amount reimbursed under the Grant Contract to date.
 - iv. The total amount requested (all line-items) for the Invoice Period.
- b. The Grantee understands and agrees to all of the following.
- (1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.
 - (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.
 - (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
 - (4) An invoice under this Grant Contract shall be presented to the State within sixty (60) days after the end of the calendar month in which the subject costs were paid or services were rendered by the Grantee. An invoice submitted more than sixty (60) days after such date will NOT be paid. The State will not deem such Grantee costs to be allowable and reimbursable by the State unless, at the sole discretion of the State, the failure to submit a timely invoice is warranted. The Grantee shall submit a special, written request for reimbursement with any such untimely invoice. The request must detail the reason the invoice is untimely as well as the Grantee's plan for submitting future invoices as required, and it must

be signed by a Grantee agent that would be authorized to sign this Grant Contract.

- C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. Any increase in the Grant Budget, grand total amounts shall require an amendment of this Grant Contract.
- C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within sixty (60) days of the Grant Contract end date, in form and substance acceptable to the State.
- a. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract, the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.
 - b. The State shall not be responsible for the payment of any invoice submitted to the State after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
 - c. The Grantee's failure to provide a final grant disbursement reconciliation report to the State as required by this Grant Contract shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the State pursuant to this Grant Contract.
 - d. The Grantee must close out its accounting records at the end of the Term in such a way that reimbursable expenditures and revenue collections are NOT carried forward.
- C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.
- C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or related matter. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.
- C.11. Non-allowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.

- C.12. State's Right to Set Off. The State reserves the right to set off or deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.
- C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following, properly completed documentation.
- a. The Grantee shall complete, sign, and return to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").
 - b. The Grantee shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Tennessee laws and regulations (the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the State is liable shall be determined by the State. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the State's exercise of its right to terminate for convenience.
- D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate this Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the State's right to terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.
- D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a

minimum, sections of this Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.

- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.
- D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
 - c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The State:

Cynthia Peraza, Community Programs Director
 Tennessee Housing Development Agency
 Andrew Jackson Building
 502 Deaderick Street, Third Floor
 Nashville, TN 37243
CPeraza@thda.org
 Telephone # (615) 815-2030
 FAX # (615) 564-1292

The Grantee:

Paul Young, Executive Director
 City of Memphis Division of Housing and Community Development
 170 North Main Street, Memphis, Tennessee 38103
 Email: paul.young@memphistn.gov
 Telephone # (901) 576-7356
 Fax # (901) 576-7373

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.10. Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.11. HIPAA Compliance. The State and the Grantee shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH) and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Grant Contract.
- a. The Grantee warrants to the State that it is familiar with the requirements of the Privacy Rules and will comply with all applicable HIPAA requirements in the course of this Grant Contract.
 - b. The Grantee warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.
 - c. The State and the Grantee will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and the Grantee in compliance with the Privacy Rules. This provision shall not apply if information received by the State under this Grant Contract is

NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive such information without entering into a business associate agreement or signing another such document.

- D.12. Public Accountability. If the Grantee is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.
- D.14. Licensure. The Grantee, its employees, and any approved subcontractor shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.15. Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee

shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

- D.16. **Monitoring.** The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.17. **Progress Reports.** The Grantee shall submit brief, periodic, progress reports to the State as requested.
- D.18. **Annual and Final Reports.** The Grantee shall submit, within three (3) months of the conclusion of each year of the Term, an annual report. For grant contracts with a term of less than one (1) year, the Grantee shall submit a final report within three (3) months of the conclusion of the Term. For grant contracts with multiyear terms, the final report will take the place of the annual report for the final year of the Term. The Grantee shall submit annual and final reports to the Grantor State Agency. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and whether any proposed activities were not completed; and (d) other relevant details requested by the Grantor State Agency. Annual and final report documents to be completed by the Grantee shall appear on the Grantor State Agency's website or as an attachment to the Grant Contract.

The following red text is instructional language for D.19 and should be deleted from the contract. Tennessee law provides specific audit requirements based upon the classification of the Grantee. In those circumstances, the Grantee must be audited in compliance with Tennessee statutory requirements. These instances include, without limitation, the following when the Grantee is considered a:

1. State government and county government under Tenn. Code Ann. § 4-3-301;
2. TNInvestco under Tenn. Code Ann. § 4-28-110(a)(4);
3. Municipality under Tenn. Code Ann. § 6-56-105;
4. Tourism development authority under Tenn. Code Ann. § 7-69-105;
5. Utility district under Tenn. Code Ann. § 7-82-401;
6. Emergency communication district under Tenn. Code Ann. § 7-86-113;
7. Public building authority under Tenn. Code Ann § 12-10-109;
8. Insurance pool under Tenn. Code Ann. § 29-20-401(g)(1)(A);
9. Community corrections fund under Tenn. Code Ann. § 40-36-303(d);
10. School under Tenn. Code Ann. § 49-2-112;
11. Charter school under Tenn. Code Ann. § 49-13-111;
12. Medicaid provider under Tenn. Code Ann. § 71-5-130;
13. Contractor with the Department of Intellectual and Developmental Disabilities under the Medicaid waiver program;
14. Human resource agency under Tenn. Code Ann. § 13-26-106; or
15. Developmental district under Tenn. Code Ann. § 13-14-112.

If the Grantee is not statutorily subject to an audit, insert the Audit Report provision in the "Instructions, Considerations, and Options" section of the template.

- D.19. **Audit Report.** The Grantee shall be audited in accordance with applicable Tennessee law. If the Grantee is subject to an audit under this provision, then the Grantee shall complete Attachment C.

When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.326 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00).

- D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Grant Contract is not a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.
- D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- D.23. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State be liable to the Grantee or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The State's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.
- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either party from its obligations under this Grant Contract. Except as set forth in this

Section, any failure or delay by a party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Grantee's representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Grantee's performance longer than forty-eight (48) hours, the State may, upon notice to Grantee: (a) cease payment of the fees until Grantee resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Grantee will not increase its charges under this Grant Contract or charge the State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.

- D.25. Tennessee Department of Revenue Registration. The Grantee shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.
- D.26. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract.
- D.27. No Acquisition of Equipment or Motor Vehicles. This Grant Contract does not involve the acquisition and disposition of equipment or motor vehicles acquired with funds provided under this Grant Contract.
- D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
- D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-408.
- D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.
- D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.

- D.33. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.34. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.35. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Grantee by the State or acquired by the Grantee on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Grantee to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Grantee shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Grant Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.

- E. 2. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable State and federal law. All material and information, regardless of form, medium or method of communication, provided to the Grantee by the State or acquired by the Grantee on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable State and federal law, State and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Grantee to safeguard the confidentiality of such material or information in conformance with applicable State and federal law, State and federal rules and regulations, departmental policy, and ethical standards.

The Grantee's obligations under this section do not apply to information in the public domain; entering the public domain, but not from a breach by the Grantee of this Grant Contract; previously possessed by the Grantee without written obligations to the State to protect it; acquired by the Grantee without written restrictions against disclosure from a third party which, to the Grantee's knowledge, is free to disclose the information; independently developed by the Grantee without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Grantee to disclose any information that is confidential under federal or State law or regulations, regardless of whether it has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the State or third parties.

The State acknowledges that the Grantee may use data generated through work under this Contract for educational, patient care, and research purposes, including academic publication. All such research activities shall preserve the confidentiality of DCS client and family records at each level of research and data usage. All privacy preservation safeguard procedures must be approved by the Grantee's Institutional Review Board (IRB) and the DCS Research Committee, which provide separate Grantee and State oversight for research activities using de-identified and/or limited data sets that do not maintain links to identifying information about individual children. These data sets will be used to conduct statistical analyses on the cross sectional and longitudinal assessment of the mental health needs, strengths, service utilizations and outcomes of children in state custody.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Grant Contract.

- E.2. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn. Code Ann. §§ 39-17-1601 through 1606, the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Grantee shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Grant Contract.
- E.3. Work Papers Subject to Review. The Grantee shall make all audit, accounting, or financial analysis work papers, notes, and other documents available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Grant Contract.
- E.4. Federal Funding Accountability and Transparency Act (FFATA).

This Grant Contract requires the Grantee to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Grantee is responsible for ensuring that all applicable FFATA requirements, including but not limited to those below, are met and that the Grantee provides information to the State as required.

The Grantee shall comply with the following:

- a. Reporting of Total Compensation of the Grantee's Executives.
- (1) The Grantee shall report the names and total compensation of each of its five most highly compensated executives for the Grantee's preceding completed fiscal year, if in the Grantee's preceding fiscal year it received:
- i. 80 percent or more of the Grantee's annual gross revenues from Federal procurement contracts and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and sub awards); and
 - ii. \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and sub awards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

As defined in 2 C.F.R. § 170.315, "Executive" means officers, managing partners, or any other employees in management positions.

- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Grantee's preceding fiscal year and includes the following (for more information see 17 CFR § 229.402(c)(2)):
- i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
- b. The Grantee must report executive total compensation described above to the State by the end of the month during which this Grant Contract is established.

- c. If this Grant Contract is amended to extend its term, the Grantee must submit an executive total compensation report to the State by the end of the month in which the amendment to this Grant Contract becomes effective.
- d. The Grantee will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Grant Contract. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>.

The Grantee's failure to comply with the above requirements is a material breach of this Grant Contract for which the State may terminate this Grant Contract for cause. The State will not be obligated to pay any outstanding invoice received from the Grantee unless and until the Grantee is in full compliance with the above requirements.

IN WITNESS WHEREOF,

CITY OF MEMPHIS:

Jim Strickland, Mayor **DATE**

Jennifer A. Sink, Chief Legal Officer/City Attorney **DATE**

ATTEST: City of Memphis Comptroller **DATE**

CITY OF MEMPHIS DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT:

Paul Young, Executive Director **DATE**

TENNESSEE HOUSING DEVELOPMENT AGENCY:

Cynthia Peraza, Director of Community Programs **DATE**

**ATTACHMENT A
Amendment Budget
LIHEAP Wx**

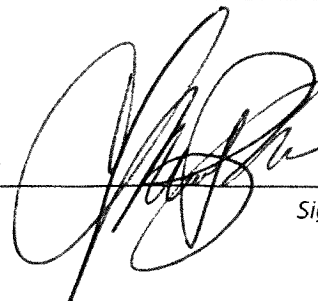
Subgrantee: City of Memphis Division of Housing and Community Development

Contract Number: 20-03

Cost Category	Amount	Justification/Comments	Sum
A. Administrative			
1. Salaries	\$ 41,927.00 -		\$ 41,927.00 -
2. Benefits	\$ 10,481.75 -		\$ 10,481.75 -
3. Indirect Cost	\$ 0.00 -		\$ 0.00 -
4. Supplies	\$ 1,142.00 -		\$ 1,142.00 -
Administrative Total:	\$ 53,550.75 -	8% cap	\$ 53,550.75 -
B. Program Support			
1. Salaries	\$ 46,856.91 -		\$ 46,856.91 -
2. Fringe	\$ 20,081.53 -		\$ 20,081.53 -
Program Support Total:	\$ 66,938.44 -	10% cap	\$ 66,938.44 -
C. Program Operations			
1. Weatherization Services - Contracted Jobs	\$ 531,792.68 -		\$ 531,792.68 -
2. Vehicles - Mileage, Maintenance, Ins.	\$ 0.00 -		\$ 0.00 -
3. Supplies & Equipment	\$ 1,500.00 -		\$ 1,500.00 -
4. Energy Audits & Inspections	\$ 15,602.57 -		\$ 15,602.57 -
Program Ops Total:	\$ 548,895.25		\$ 548,895.25
Total Budget:			\$669,384.44

Prepared By/Contact: Chad Bowman, WAP Manager

Print Name, Title

 11/24/2020

Sign

Approved By: Harry Green Sr., Sr. Finance Administrator

Print Name, Title

Sign

ATTACHMENT B

Federal Award Identification Worksheet

Sub recipient's name (must match registered name in DUNS)	City of Memphis Division of Housing and Community Development
Sub recipient's DUNS number	051386258
Federal Award Identification Number (FAIN)	G-2001TNLIEA
Federal award date	10/1/2019
CFDA number and name	93.568 Low-Income Home Energy Assistance
Grant contract's begin date	7/1/2020
Grant contract's end date	6/30/2021
Amount of federal funds obligated by this grant contract	\$669,384.44
Total amount of federal funds obligated to the sub recipient	To be determined based on county poverty levels
Total amount of the federal award to the pass-through entity (Grantor State Agency)	\$66,583,472.00
Name of federal awarding agency	US Department of Health and Human Services
Name and contact information for the federal awarding official	Lauren Christopher, Director Administration for Children and Families 370 L'enfant Promenade, S.W. Washington, DC 20447
Is the federal award for research and development?	No
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	N/A

ATTACHMENT C

Notice of Audit Report

Check one of the two boxes below and complete the remainder of this document as instructed. Send completed documents as a PDF file to cpo.auditnotice@tn.gov. **The Grantee should submit only one, completed "Notice of Audit Report" document to the State ninety (90) days prior to the Grantee's fiscal year.**

- City of Memphis Division of Housing and Community Development is subject to an audit for fiscal year 2020.
- City of Memphis Division of Housing and Community Development is not subject to an audit for fiscal year 2020.

Grantee's Edison Vendor ID Number: 4104

Grantee's fiscal year end: FY 2019

Any Grantee that is subject to an audit must complete the information below.

Type of funds expended	Estimated amount of funds expended by end of Grantee's fiscal year
Federal pass-through funds	
a. Funds passed through the State of Tennessee	a. 9,129,371
b. Funds passed through any other entity	b. 784,165
Funds received directly from the federal government	43,132,191
Non-federal funds received directly from the State of Tennessee	1,748,259

Auditor's name: Banks, Finley, White & Company

Auditor's address: 1450 Poplar Ave.
Memphis, TN 38104

Auditor's phone number: 901-274-6702

Auditor's email: johnhatcher@bfcwcpa.com

ATTACHMENT D

Parent Child Information

Send completed documents as a PDF file to cpo.auditnotice@tn.gov. **The Grantee should submit only one, completed "Parent Child Information" document to the State during the Grantee's fiscal year if the Grantee indicates it is subject to an audit on the "Notice of Audit Report" document.**

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Grantee's Edison Vendor ID number: 4104

Is City of Memphis Division of Housing and Community Development a parent?

Yes No

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is City of Memphis Division of Housing and Community Development a child?

Yes No

If yes, complete the fields below.

Parent entity's name: City of Memphis Tennessee

Parent entity's tax identification number: _____

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager
3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: Paul A. Young

Address: 170 North Main, Suite 300

Phone number: 901-636-7307

Email address: Paul.Young@memphistn.gov

Parent entity's Edison Vendor ID number, if applicable: 4104



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

This is a resolution to appropriate funds for a sludge line replacement project at the TE Maxson WWTF.

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

Public Works (Environmental Engineering)

3. State whether this is a change to an existing ordinance or resolution, if applicable.

This resolution does not change any existing ordinance or resolution.

4. State whether this will impact specific council districts or super districts.

The project site is located in district 6 and super district 8. It serves all or portions of districts 2, 3, 4, 6, 8 and 9.

5. State whether this requires a new contract, or amends an existing contract, if applicable.

This request will require a new construction contract.

6. State whether this requires an expenditure of funds/requires a budget amendment.

Yes, this requires an expenditure of funds and budget amendment.

7. If applicable, please list the MWBE goal and any additional information needed.

This request is to appropriate \$1,332,320.00 for a sludge line replacement project at the TE Maxson WWTF. The Goal setting committee set an MWBE participation goal of 10% MBE and 2% WBE. The award for the contract is going to Acuff Enterprises Inc. who responded with a participation commitment of 10.07% MBE and 2.06% WBE. The City certified vendors will be Brighter Days & Nites (MBE) and Airfield Etc., Inc. (WBE).



This is a resolution to transfer and appropriate construction funds to replace an existing sludge line at the TE Maxson WWTF.

WHEREAS, the Council of the City of Memphis approved FY'21 Rehab Existing Coverline, project number SW21200, as part of the Public Works Fiscal Year 2021 Capital Improvement Budget; and

WHEREAS, bids were received to replace an existing sludge line at the TE Maxson WWTF with the lowest complying bid being \$1,211,200.00 submitted December 30, 2020 by Acuff Enterprises, Inc., d/b/a Scott Contractors; and

WHEREAS, it is necessary to transfer a construction allocation of \$1,332,320.00 funded by Capital Pay Go-Sewer in FY'21 Rehab Existing Coverline, project number SW21200 to Maxson Primary Sludge Force Main Replacement, project number SW20203; and

WHEREAS, it is necessary to appropriate \$1,332,320.00 funded by Capital Pay Go-Sewer in Maxson Primary Sludge Force Main Replacement, project number SW20203 as follows:

Contract Amount	\$1,211,200.00
Project Contingencies	<u>\$121,120.00</u>
Total Amount	\$1,332,320.00

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2021 Capital Improvement Budget be and is hereby amended by transferring a construction allocation of \$1,332,320.00 funded by Capital Pay Go-Sewer in FY'21 Rehab Existing Coverline, project number SW21200 to Maxson Primary Sludge Force Main Replacement, project number SW20203 to replace an existing sludge line at the TE Maxson WWTF.

BE IT FURTHER RESOLVED, that there be and is hereby appropriated the sum of \$1,332,320.00 funded by Capital Pay Go-Sewer chargeable to the FY 2021 Capital Improvement Budget and credited as follows:

Project Title	Maxson Primary Sludge Force Main Replacement
Project Number	SW20203
Total Amount	\$1,332,320.00

Resolution to support a Group Violence Intervention Program

WHEREAS, the City of Memphis is committed to the safety, health, and welfare of all its residents; and

WHEREAS, ensuring the safety of Memphis residents, public safety officers, and visitors is a top priority for the City of Memphis; and

WHEREAS, this year, Memphis has experienced a record-setting number of homicides and aggravated assaults, with number over the 2016 rate, and with far too many shootings; and

WHEREAS, the COVID-19 pandemic has negatively impacted the crime rate within the City of Memphis, including an uptick from last year's murder rate due to the increased financial strain placed on many from the loss of employment and the lack of outlets away from home; and

WHEREAS, young Memphians are being adversely affected by the unprecedented violent crime rate that Memphis is facing this year; and

WHEREAS, these young people represent the future of our City and are too valuable to our future to ignore; and

WHEREAS, violent crime in Memphis has restrained the ability of our City to address the issues of neglect, poverty, education and employment; and

WHEREAS, it is necessary to address and combat drivers of violent crime in Memphis to focus on the educational and financial aspects of life that Memphians must consider daily.

WHEREAS, evidence based and promising comprehensive violence reduction strategies are being employed with success in other major cities; and

WHEREAS, law enforcement alone cannot be government's sole response to the complex web of social and economic forces that result in violence; and

WHEREAS, through significant research, review of prior practice, evidence from DoJ and OJJDP (Office of Juvenile Justice and Delinquency Prevention) and experts on the subject like Thomas Abt author of "Bleeding Out" the Mayor has proposed a Group Violence Intervention Program (GVIP) that will employ the public health approach to reducing violent crime with the aim of changing individual behaviors and changing our collective norms through five focused program areas:

1. Suppression – through reimagined policing practices and focused deterrence

2. Intervention and Outreach – In the streets, in the schools and in our hospitals, interrupting violence and connecting those most at risk to services they need
3. Prevention – Promoting jobs, learning, and opportunities with an emphasis on building skills our young people need to be productive
4. Community Mobilization - galvanizing our community against this epidemic by bringing young people, neighborhood residents, community organizations, and law enforcement together to address the underlying causes of the violence.
5. Organizational Change - Transforming policies, coordinating practices, and advocating for changes necessary to reduce youth gun violence.

NOW, THEREFORE, BE IT RESOLVED that the Memphis City Council emphatically supports this comprehensive approach to violence reduction in our City, calls for its immediate implementation, encourages the Mayor and Administration to provide detailed budgets for City Council approval and to identify other public and philanthropic sources of funding to facilitate and sustain the work, and calls upon other local government, non-profit and private organizations, and community leaders and activists to align with, stand behind and support this effort.

Sponsor: Jeff Warren

Frank Colvett, Chairman



Resolution to Amend the Debt Management Policy

WHEREAS, the City is poised to execute on a project identified as *Accelerate Memphis: Investment in Neighborhoods (Accelerate Memphis)* to facilitate catalytic community projects in neighborhoods throughout the City, all of which are intended to accelerate growth by improving quality of life, driving equity and inclusion, improving connectivity, and providing a transformative investment in our City; and

WHEREAS, project Accelerate Memphis necessitates a debt model structure identified as “balloon indebtedness” that requires submission to and approval by the Tennessee Comptroller of the Treasury for execution; and

WHEREAS, Public Chapter 766, Acts of 2014 (the “Act”) requires the Comptroller of the Treasury to approve plans of balloon indebtedness and authorizes the State Funding Board to establish guidelines with respect to such approval; and

WHEREAS, prior to the submission of a Plan of Balloon Indebtedness to the Comptroller of the Treasury, the local government must have amended its Debt Management Policy to permit the issuance of debt with a balloon indebtedness structure and included criteria to determine the appropriateness of delaying principal payments at a higher interest cost than a level principal or level debt service structure; and

WHEREAS, to accommodate the authority to seek State approval of a Plan of Balloon Indebtedness as defined in Tennessee Code § 9-21-134, it is necessary and desired to amend the current Debt Management Policy of the City of Memphis to include such required language as necessitated by the Act; and

WHEREAS, the amended City of Memphis Debt Management Policy is attached as Exhibit A to this resolution.

NOW, THEREFORE BE IT RESOLVED, that the Memphis City Council hereby approves the amended City of Memphis Debt Management Policy, attached hereto as Exhibit A, to include such language as to allow for authorization to seek approval for a Plan of Balloon Indebtedness from the Comptroller of the Treasury.

NOW, THEREFORE BE IT FURTHER RESOLVED, that amendment of the City of Memphis Debt Management Policy is approved upon the City of Memphis seeking approval for a Plan of Balloon Indebtedness for the sole purpose of executing the project identified as Accelerate Memphis.

Resolution to Amend the Debt Management Policy

EXHIBIT A

DEBT MANAGEMENT POLICY



CITY OF MEMPHIS

TABLE OF CONTENTS

	<u>Page</u>
PURPOSE	1
POLICY STATEMENT.....	1
GOALS AND OBJECTIVES.....	1
CAPITAL IMPROVEMENT PROGRAM AND FINANCING SYSTEM	2
DEBT AUTHORIZATION	3
DEBT LIMITATIONS AND AFFORDABILITY.....	3
G.O. Debt Limitation	3
Limitations on General Fund Credit Support	3
Limitations on the Issuance of Revenue-Secured Debt Obligations	3
Pledge of Restricted Funds to Secure Debt	4
Affordability	4
DEBT STRUCTURE.....	4
Rapidly of Long-Term Debt Repayment.....	4
Term.....	5
Balloon Indebtedness.....	5
TYPES OF DEBT.....	6
General Obligation Bonds	6
Revenue Bonds	7
Notes	7
Lease/Lease Purchase Agreements and Aid and Assistance	7
Funding Bonds.....	7
Loan Obligations.....	8
Interfund Loans.....	8
Pension Obligation Bonds	8
Revenue Securitization	8
Tax Increment Financing.....	8
DERIVATIVE PRODUCTS.....	8
Purpose of Derivatives.....	9
Legality	9
No Speculation.....	9
Methods of Soliciting and Procuring Derivatives.....	9
Aspects of Risk Exposure Associated with Such Contracts	10

Counterparty Credit Standards.....	10
Use of highly rated and experienced counterparties	10
Collateralization on Downgrade	11
Termination.....	11
Long-Term Implications.....	11
Reporting in Financial Statements.....	11
 SHORT-TERM DEBT AND INTERIM FINANCING VARIABLE-RATE SECURITIES	 11
Lines and Letters of Credit	11
Bond Anticipation Notes	12
Tax Anticipation Notes	12
Commercial Paper.....	12
 REFUNDING OF CITY INDEBTEDNESS	 12
Advance Refundings.....	12
Forward Refundings	13
Synthetic Refundings.....	13
Current Refundings.....	13
Restructuring of Debt.....	14
Open Market Purchase of City Securities.....	14
 FINANCIAL CONSULTANTS AND SERVICE PROVIDERS.....	 14
Conflict of Interest	15
 METHOD OF SALE	 15
Competitive Sale.....	15
Negotiated Sale	16
Private Placement	16
Use of Technology in Bond Sale Process.....	16
 CREDIT RATINGS AND ENHANCEMENTS.....	 16
Rating Agency Relationships.....	16
Use of Rating Agencies	17
Use of Credit Enhancement	17
Bond Insurance	17
Debt Service Reserve Funds	17
Minimum Debt Service Fund Balance.....	17
 POST ISSUANCE COMPLIANCE.....	 17
Transparency.....	17
Report on Debt Obligation.....	18
Investment Policy	18

Tax-Exempt Status Compliance 18
 Arbitrage Rebate Compliance..... 18
 Private Use Compliance..... 19
Continuing Disclosure 19
Document Retention 19
POLICY REVIEW 20

PURPOSE

The City of Memphis recognizes the foundation of any well-managed debt program is a comprehensive debt management policy. The purpose of this policy is to establish parameters and provide guidance governing the issuance, management, continuing evaluation of and reporting on all debt obligations issued by the City, and to provide for the preparation and implementation necessary to ensure compliance and conformity with this policy and Federal, State, and local laws, rules, and regulations.

POLICY STATEMENT

Debt is a valuable source of capital project financing, and its use should be limited to projects that relate to the mission and strategic objectives of the City. The amount of debt incurred impacts the financial health of the City, its credit rating, and its cost of capital. The City will consider other funding opportunities (e.g., grants from federal, state and other sources; current revenues and fund balances; private sector contributions; public/private partnerships; etc.) when appropriate and advantageous to the City.

Under the governance and guidance of Federal and State laws and the City's Charter, ordinances and resolutions, the City will periodically enter into debt obligations to finance the construction, improvement or acquisition of infrastructure and other assets or to refinance existing debt for the purpose of meeting its governmental obligation to its residents. It is the City's desire and direction to ensure that such debt obligations are issued and administered in such fashion as to obtain the best long-term financial advantage to the City and its residents, while making every effort to maintain and improve the City's bond ratings and reputation in the investment community.

The issuance of debt to finance operating deficits is not permitted. However, the City may, pursuant to TCA §§9-21-801 et seq., issue Tax Anticipation Notes for the purpose of meeting appropriations for the then current fiscal year. The City may also issue Funding Bonds pursuant to TCA §§9-11-101 et seq. for the purpose of funding warrants, notes, or other indebtedness not evidenced by bonds which shall be outstanding at the close of the fiscal year immediately preceding authorization for issuance of such Funding Bonds.

GOALS AND OBJECTIVES

The primary goals of this policy are to provide the City with written guidelines to ensure quality debt management decisions concerning the amount, type, and structure of debt in the City's debt portfolio; promote consistency and continuity in the decision making process; demonstrate a commitment to long-term financial planning objectives; and ensure that debt management decisions comply with all laws related to debt issuance and are considered responsible by rating agencies, the investment community and taxpayers.

The guidelines outlined in this policy should be utilized as reference tools in making decisions involving the issuance and management of the City's debt. Specifically, this is intended to assist the City in the following:

- Establish clear criteria and promote prudent financial management for the issuance of all debt obligations to reflect responsibility, a good corporate image, and due care;
- Identify acceptable debt limits originating from legal, public policy, and financial and budgetary considerations;
- Maintain appropriate resources and funding capacity for present and future capital needs;
- Ensure the City's debt issuance conforms to all federal, state, and local laws; and
- Manage the City's exposure to interest rate and other inherent risks associated with certain debt instruments and derivative products.

CAPITAL IMPROVEMENT PROGRAM AND FINANCING SYSTEM

A sound debt management program begins with a well-devised Capital Improvement Program. A Capital Improvement Program, or CIP, is a short-range plan, usually four to ten years, which identifies capital projects and equipment purchases, provides a planning schedule and identifies options for financing the plan.

The City's CIP is a five-year plan that is updated annually to reflect the latest priorities and to provide updated cost estimates and available revenue sources. The CIP process begins each October with the submission of projects by each division. Costs and priorities for the projects are developed through a planning process that includes the Capital Committee and the Budget Office.

The planning process identifies funding sources for each project and analyzes the conformance of planned financings with policy targets regarding the magnitude and composition of the City's indebtedness, and the economic and fiscal resources of the City to bear such indebtedness over the life of the debt. The affordability of the plan is evaluated in consultation with the various City divisions. Projects in the CIP are ranked using various criteria such as the availability of funds, importance to the overall mission of the division and strategic priorities of the Mayor and City Council.

Projects are reviewed by the administration based on need, impact of the area, quality of life in our neighborhoods and the general economic climate of the City. The Mayor submits the proposed CIP to the City Council for adoption. Adoption by the City Council allocates funds for the first year of the program with specific language on how to appropriate and spend capital funds contained in the CIP resolution.

It is the responsibility of the Deputy Chief Financial Officer, within the context of the CIP, to oversee and coordinate the timing, process of issuance, and marketing of debt obligations required in support of the CIP. In this capacity, the Deputy Chief Financial Officer shall make recommendations to the Chief Financial Officer regarding necessary and desirable actions and shall keep him/her informed through regular and special reports as to the progress and results of current-year activities under the CIP.

DEBT AUTHORIZATION

The City's charter authorizes the City to issue general obligation bonds subject to adoption of a bond resolution by the City Council. Sections of the Tennessee Code Annotated and the Federal Tax Code may govern the issuance or structure of the City's debt.

DEBT LIMITATIONS AND AFFORDABILITY

G.O. Debt Limitation

Although there are no statutory limitations on the amount of general obligation debt the City can issue, the City shall conduct its finances so that the amount of general obligation debt outstanding does not exceed twelve percent (12%) of the City's taxable assessed valuation.

Limitations on General Fund Credit Support

As part of City's financing activities, non-ad valorem General Fund resources may be used to provide credit support for public or private projects that meet high priority City needs. Key factors that will be considered in determining whether or not the General Fund should be used to secure a particular debt obligation will include the following:

- Demonstration of underlying self-support, thus limiting potential General Fund financial exposure;
- Use of General Fund support as a transition to a fully stand-alone credit structure, where interim use of General Fund credit support reduces borrowing costs and provides a credit history for new or hard to establish credits; and
- General Fund support is determined by the Chief Financial Officer to be in the City's overall best interest.

Limitations on the Issuance of Revenue-Secured Debt Obligations

The City shall seek to finance the capital needs of its revenue producing enterprise activities through the issuance of revenue-secured debt obligations. Prior to issuing revenue-secured debt obligations the City in consultation with the appropriate City divisions will develop financial plans and projections showing the feasibility of the planned financing, required rates and charges needed to support the planned financing, and the impact of the planned financing on

ratepayers, property owners, City divisions, and other affected parties. The amount of revenue-secured debt obligations issued by the City will be limited by the economic feasibility of the overall financing plan as determined by the Chief Financial Officer.

Pledge of Restricted Funds to Secure Debt

The City has the authority to make an irrevocable pledge of a security interest in an account created exclusively for the security of holders of City obligations. Before such funds are used to secure a prospective financing, guidelines regarding the use of such restricted funds shall be developed by the affected division and the Deputy Chief Financial Officer, subject to approval by the Chief Financial Officer, to ensure that the use of such funds does not violate restrictions on such funds and that underlying program commitments can be maintained in addition to meeting debt service obligations on debt secured by the restricted funds. The pledge and use of such restricted funds shall be subject to the approval of City Council.

Affordability

The City is aware of the need to gauge the effect of ongoing debt service on its budgets and fiscal priorities over time. As part of the debt management process, the City will consider generally accepted debt affordability standards in evaluating the timing and amount of debt that is issued. Long-term debt obligations incorporated in debt ratios include general obligation debt and general fund backed obligations such as capital leases. While other long-term liabilities such as unfunded pension liabilities are taken into account in determining the overall credit rating of the City, they may be excluded in these ratios unless they are owed to a third party over a predetermined schedule such as pension obligation bonds.

Affordability ratios may include but are not limited to:

- Debt as a percent of assessed valuation;
- Debt per capita; and
- Debt service as a percentage of operating budget.

DEBT STRUCTURE

The City shall establish all terms and conditions relating to the issuance of debt obligations and will invest all proceeds of such obligations pursuant to the terms of the authorizing resolution and the City's Investment Policy where applicable.

Rapidity of Long-Term Debt Repayment

Generally, borrowings by the City should be of a duration that does not exceed the economic life of the improvement that it finances and where feasible should be shorter than the projected economic life. The City shall strive to repay the principal amount of its long-term general obligation by at least fifty-five percent (55%) or greater within ten years unless in the case

of issuing Balloon Indebtedness, as provided below. The City may choose to structure debt repayment so as to wrap around existing obligations or to achieve other financial planning goals.

Term

The term of any debt obligation or portion thereof used to fund a capital project shall not be greater than the useful life of the project. Generally, the final maturity of the indebtedness should be restricted to no more than thirty-one years after date of issuance unless otherwise specified in the authorizing resolution. The structure of each debt obligation shall at all times comply with federal, state, and local laws, rules, and regulations.

Balloon Indebtedness

Public Chapter 766, Acts of 2014, codified as Tenn. Code Ann. § 9-21-134 (the "Act"), requires that prior to the adoption of any action authorizing the issuance of Balloon Indebtedness, as defined within the Act, local governments shall submit a plan of balloon indebtedness to the Comptroller of the Treasury for approval. The Comptroller of the Treasury or the Comptroller's designee shall evaluate each plan of balloon indebtedness based on the plan's particular circumstances and shall approve the plan only if a determination is made that the repayment structure is in the public's interest.

The Act states that the Comptroller of the Treasury or the Comptroller's designee shall report the comptroller's approval or disapproval of the plan of balloon indebtedness to the governing body within fifteen (15) business days after receipt of the plan and all requested supplemental documentation.

Generally speaking, Balloon Indebtedness includes any indebtedness that: (i) has a final term to maturity totaling thirty-one (31) or more years from the original date of issuance of the indebtedness, including any subsequent refinancing thereof; (ii) delays principal repayment for more than three (3) years after the date of issuance; (iii) capitalizes interest beyond the later of the construction period or three (3) years from the date of issuance; or (iv) does not have substantially level or declining debt service.

The City recognizes that Balloon Indebtedness generally is not in the public's interest as delaying principal payments will usually lead to higher interest costs than a level principal or level debt service structure. Nevertheless, Balloon Indebtedness can be beneficial to the City in certain circumstances, particularly when viewed in the overall context of the City's outstanding debt and budget capacity.

The following examples provide situations in which the City may consider the issuance of Balloon Indebtedness. It should be noted that these examples specifically do not include a goal of simply delaying the repayment of principal on an issue for an extended period of time. The issuance of Balloon Indebtedness may be considered in, but is not limited to, the following:

- In the case of issuing new bonds to fund extraordinary or non-recurring capital projects with extended construction periods, a Balloon Indebtedness structure could potentially enable the City to structure the debt service to better match anticipated revenues to be received

following the completion of such projects or in consideration of the City's aggregate debt service structure; and

- In the case of a refunding issue, the principal payments on the refunding bonds could be scheduled to occur in the same years as the principal payments on the refunded bonds and the debt service savings resulting from refunding will be approximately level or proportional to the debt service of the refunded bonds during the principal repayment period of the refunding bonds.

In any of the cases such as described above where issuance of Balloon Indebtedness could be beneficial and in the public's interest, the City will ensure that any projected revenues used to secure the debt will:

- Be sufficient to pay for the debt being considered;
- Be sufficient to pay all of its other operating expenses and outstanding debt service secured by the same projected revenues; and
- Not hinder the City's ability to fund future capital needs or issue future debt with a level or declining debt service structure.

The City will also consider the possible reduction of the City's future debt capacity within the current projected revenue stream and the flexibility to use future revenues for other purposes.

If the City determines it is in the public's interest to issue Balloon Indebtedness, the City may present a Plan of Balloon Indebtedness to the Comptroller of the Treasury for approval in accordance with the Act, prior to the adoption of any authorizing resolution for debt structured as Balloon Indebtedness.

TYPES OF DEBT

There are many different types of debt instruments that are available to the City. Most of which require the approval of City Council by resolution or ordinance. The following are brief summaries of the various types of long-term and short-term financing instruments the City is authorized to consider.

General Obligation Bonds

The City may pledge its full faith, credit and unlimited taxing power as to all taxable property in the City or a portion thereof, if applicable, to the punctual payment of principal of and interest on bonds or notes issued to finance any public works project as defined in TCA §§9-21-105. When issuing general obligation bonds, the following must be considered:

- The resolution authorizing the issuance must contain certain information as provided in TCA §§9-21-205;

- Once the resolution is passed, a public notice must be published once in a newspaper of general circulation containing the initial resolution as required by TCA §§9-21-206; and
- General obligation bonds may not be sold for less than 98 percent of par value and accrued interest as required by TCA §§9-21-202.

Revenue Bonds

Revenue bonds are obligations payable from revenues generated from specifically designated sources. Revenue bonds are typically issued for capital projects which can be supported from project or enterprise related revenues.

Pursuant to TCA §§9-21-303 et seq., revenue bonds may not be sold for less than 97 percent of par value and accrued interest and may not have a term greater than 40 years.

Notes

Pursuant to Title 9, Chapter 21 of Tennessee Code Annotated, the City may issue the following types of notes: bond anticipation notes, capital outlay notes, grant anticipation notes, tax anticipation notes, and healthcare anticipation notes. Such notes are subject to the approval of the Office of State and Local Finance.

Lease/Lease Purchase Agreements and Aid and Assistance

Pursuant to TCA §§7-51-903 et seq., the City may enter into leases and lease purchase agreements. However, when the term of the lease or lease renewal for real property is greater than five years or when the lease or lease purchase is for tangible personal property such as equipment or machines of any term, the approval of City Council by resolution or ordinance is necessary.

Pursuant to TCA §§7-53-311 and 7-53-315, the City may inter into leases or lease-purchase agreements of projects, or otherwise aid or provide assistance for projects or portions of projects, with the approval of City Council by resolution or ordinance.

Such leases and lease purchase agreements, or other agreements to provide aid or assistance, are not subject to the approval of the Office of State and Local Finance.

Funding Bonds

Pursuant to TCA §§9-11-101 et seq., the City may issue Funding Bonds for the purpose of funding warrants, notes, or other indebtedness not evidenced by bonds which shall be outstanding at the close of the fiscal year immediately preceding authorization for issuance of such Funding Bonds.

Loan Obligations

The City may use loan obligations to fund capital projects. Such loan obligation may include but is not limited to a State Revolving Fund loan, a loan through the U. S. Department of Housing and Urban Development Section 108 Loan Guarantee Program, or a loan with a conduit issuer such as an Industrial Development Board.

Interfund Loans

Pursuant to TCA §§9-21-408 and TCA §§9-21-1104, the City is authorized to make interfund loans in accordance with procedures for issuance of notes under TCA Title 9, Chapter 21, Parts 5, 7, 8 or 11 and TCA §§9-21-604.

All such borrowings are to be considered temporary loans from one fund to another and should be used to assist the City in managing the availability of cash for activities authorized and approved by City Council. Furthermore, the eventual source of repayment for each borrowing should be clearly demonstrated at the time of the borrowing and such borrowing should not be made to the detriment of any function or project of the lending fund.

Interfund loans shall be evidenced by a formal loan agreement and are subject to the approval of City Council by resolution or ordinance and the approval of the Office of State and Local Finance as the designee of the Comptroller of the Treasury.

A State Form CT-0253 must be prepared for each interfund loan and presented to City Council with a copy to the Office of State and Local Finance.

Pension Obligation Bonds

Pension Obligation Bonds ("POBs") are financing instruments used to pay some or all of the unfunded pension liability of a pension plan.

Revenue Securitization

Revenues are said to be secured when the right to receive such revenues is sold to investors at a discounted price in exchange for an upfront, lump-sum payment. The current value of the receivable is determined by applying a discount rate to the projected revenue stream.

Tax Increment Financing

Tax Increment Financing ("TIF") is a method to use future gains in taxes to finance current improvements which theoretically will create the conditions for those future gains.

DERIVATIVE PRODUCTS

Derivative products can be important interest rate management tools that, when used properly, can increase the City's financial flexibility, provide opportunities for interest rate savings,

alter the pattern of debt service payments, create variable rate exposure, change variable rate payments to fixed rate, and otherwise limit or hedge variable rate payments.

This policy will govern the City's use of financial derivative products, such as swaps, swaptions, caps, floors, collars, etc. ("derivatives"). The failure by the City to comply with any provision of this policy will not invalidate or impair any derivative agreement.

Purpose of Derivatives

Derivatives may be used for the following purposes only:

1. To achieve significant savings as compared to a product available in the bond market. Significant savings shall be calculated after adjusting for (a) applicable fees, including takedown, remarketing fees, credit enhancement and legal fees, and (b) options that may be available. Examples may include synthetic fixed rate debt and synthetic variable rate debt. Alternatively, significant savings are deemed to occur if the use of derivatives helps to achieve diversification of a particular bond offering;
2. To enhance investment returns within prudent risk guidelines;
3. To prudently hedge risk in the context of a particular financing or the overall asset/liability management of the City's debt. Examples may include buying interest rate caps and entering into delayed start swaps;
4. To incur variable rate exposure within prudent guidelines, such as selling interest rate caps or entering into a swap in which the City's payment obligation is floating rate; and
5. To achieve more flexibility in meeting overall financial objectives than can be achieved in conventional markets. An example may include a swaption with an up-front payment.

Legality

The City must receive an opinion from a nationally recognized law firm that the agreement relating to the derivative is a legal, valid and binding obligation of the City and entering into the transaction complies with applicable law.

No Speculation

Derivatives shall not be used for purposes outside of prudent risks that are appropriate for the City.

Methods of Soliciting and Procuring Derivatives

In general, the City should procure derivatives by competitive bidding. The City shall determine which parties and the number of parties it will allow to participate in a competitive transaction. The City may allow one or more bidders in addition to the winning bidder to participate in the transaction if the City deems such participation to be in its best interests.

Notwithstanding the above, the City may procure derivatives by negotiated methods in the following situations:

The City may enter into a derivatives transaction on a negotiated basis if the City makes a determination that due to the size or complexity of a particular derivative transaction, a negotiated transaction would result in the most favorable pricing. In this situation, the City should attempt to price the derivative based upon an agreed-to methodology relying on available pricing screens to obtain inputs to a mathematical model. If appropriate, the City should use a financial advisory firm to assist in the price negotiations.

The City may enter into a derivatives transaction on a negotiated basis if it determines, in light of the facts and circumstances, that doing so will promote its interests by encouraging and rewarding innovation or the substantial commitment of time and resources by a counterparty.

Regardless of the method of procurement, the City shall obtain an independent finding that the terms and conditions of any derivative entered into reflect a fair market value of such derivative as of the date of its execution.

Aspects of Risk Exposure Associated with Such Contracts

Before entering into a derivative, the City shall evaluate all the risks inherent in the transaction. These risks to be evaluated should include counterparty risk, termination risk, rollover risk, basis risk, tax event risk and amortization risk.

The City shall endeavor to diversify its exposure to counterparties. To that end, before entering into a transaction, it should determine its exposure to the relevant counterparty or counterparties and determine how the proposed transaction would affect the exposure. The exposure should not be measured solely in terms of notional amount, but rather how changes in interest rates would affect the City's exposure ("Value at Risk"). The Value at Risk should be based on all outstanding derivative transactions of the City. The City may also elect to take into account the exposure of the City and any related entities to a particular counterparty.

Counterparty Credit Standards

Many derivative products create for the City a continuing exposure to the creditworthiness of financial institutions that serve as the City's counterparties on derivative transactions. To protect its interests in the event of a credit problem, the City will take a three-tiered approach.

Use of highly rated and experienced counterparties

Standards of creditworthiness, as measured by the credit ratings, will determine eligible counterparties. Differing standards may be employed depending on the term, size and interest-rate sensitivity of a transaction, types of counterparty, and potential for impact on the City's credit ratings. In addition, eligible counterparties should have demonstrated experience in successfully executing derivative transactions.

Collateralization on Downgrade

If a counterparty's credit rating is downgraded below a specified threshold, the City will require that its exposure to the counterparty be collateralized as per an ISDA Credit Support Annex.

Termination

If a counterparty's credit is downgraded below a second (lower) threshold, the City may exercise a right to terminate the transaction prior to its scheduled termination date. The City will seek to require, whenever possible, that terminations triggered by a counterparty credit downgrade will occur on the side of the bid-offered spread which is most beneficial to the City, and which would allow the City to go back into the market to replace the downgraded party with another suitable counterparty at no out-of-pocket cost to the City.

Long-Term Implications

In evaluating a particular transaction involving the use of derivatives, the City shall review long-term implications associated with entering into derivatives, including costs of borrowing, historical interest rate trends, variable rate capacity, credit enhancement capacity, opportunities to refund related debt obligations and other similar considerations.

Reporting in Financial Statements

The City shall reflect the use of derivatives on its financial statements in accordance with generally accepted accounting principles.

SHORT-TERM DEBT AND INTERIM FINANCING VARIABLE-RATE SECURITIES

When appropriate, the City may choose to issue securities that pay a rate of interest that varies according to a pre-determined formula or results from a periodic remarketing of the securities. The decisions to issue such securities must be reviewed and approved by the Chief Financial Officer before City Council is requested to approve their issuance.

Lines and Letters of Credit

Where their use is judged to be prudent and advantageous to the City, the City has the power to enter into agreements with commercial banks or other financial entities for purposes of acquiring lines or letters of credit that shall provide the City with access to credit under terms and conditions as specified in such agreements. Any agreements with financial institutions for the acquisition of lines or letters of credit shall be approved by City Council.

Bond Anticipation Notes

Where their use is judged to be prudent and advantageous to the City, the City may choose to issue Bond Anticipation Notes as a source of interim construction financing. The sale of such notes requires the approval of City Council and the Director of State and Local Finance.

Tax Anticipation Notes

Pursuant to TCA §§9-21-801 et seq., the City may issue Tax Anticipation Notes for the purpose of meeting appropriations for the then current fiscal year in anticipation of the collection of taxes and revenues of that fiscal year in amounts not exceeding sixty percent (60%) of such appropriation. The sale of such notes requires the approval of City Council and the Director of State and Local Finance and such notes must mature prior to the end of the fiscal year in which they were issued.

Commercial Paper

The City may choose to issue tax-exempt or taxable commercial paper as a source of interim construction financing for projects contained in the City's CIP.

REFUNDING OF CITY INDEBTEDNESS

The Deputy Chief Financial Officer in consultation with the City's financial advisor(s), has the responsibility to analyze outstanding bond issues for refunding opportunities that may be presented by underwriting and/or financial advisory firms. The City will, during periods of low interest rates, take advantage of the rate changes by refunding previously issued bonds.

The savings target for each type of permitted refunding is provided below; however, because the level of risk will vary depending on the specific structure of the transaction and market conditions at the time of issuance, the Chief Financial Officer has the discretion to prescribe different levels of target savings to optimize the City's financial objectives.

Advance Refundings

The City may issue advance refunding bonds (as defined for federal tax law purposes) when advantageous, legally permissible, prudent, and net present value savings equals or exceeds three and one-half percent (3.5%) or one million dollars (\$1,000,000). The present value savings will be net of all costs related to the refunding. If net present value savings are less than the savings target, the Chief Financial Officer may consider the option value of each maturity of the refunding candidates. If estimated savings for a maturity exceeds seventy percent (70.0%) of the estimated option value of that maturity, the Chief Financial Officer may opt to refund that maturity.

Prior to the issuance of any advance refunding bonds, the City shall engage an experienced bond counsel to ensure that the proposed advance refunding meets all federal tax compliance issues. Bond counsel shall verify the following:

- The proposed advance refunding meets federal tax requirements regarding the number of permitted advance refundings;
- The proposed advance refunding meets federal tax requirements that may be imposed on the redemption date of the refunded bonds;
- The proposed advance refunding complies with federal tax requirements which allow for the proceeds and replacement proceeds of an issue to be invested temporarily in higher yielding investments without causing the advance refunding bonds to be arbitrage bonds; and
- The proposed advance refunding will not enable the City to exploit the difference between tax-exempt and taxable interest rates to obtain a financial advantage nor will it overburden the tax-exempt bond market in a way that might be considered abusive.

If avoidable, the City shall not purchase zero-coupon State and Local Government Securities post-closing to blend down the escrow yield.

Forward Refundings

The City may issue forward refunding bonds when advantageous, legally permissible, prudent, and net present value savings equals or exceeds three and one-half percent (3.5%) or one million dollars (\$1,000,000). The present value savings will be net of all costs related to the refunding. If net present value savings are less than the savings target, the Chief Financial Officer may consider the option value of each maturity of the refunding candidates. If estimated savings for a maturity exceeds seventy percent (70.0%) of the estimated option value of that maturity, the Chief Financial Officer may opt to refund that maturity.

Synthetic Refundings

The City may use alternative refunding instruments such as swaps, derivatives, and hedges when advantageous, legally permissible, prudent, and net present value savings equals or exceeds four and one-half percent (4.5%) or one million dollars (\$1,000,000). The present value savings will be net of all costs related to the refunding. If net present value savings are less than the savings target, the Chief Financial Officer may consider the option value of each maturity of the refunding candidates. If estimated savings for a maturity exceeds seventy-five percent (75.0%) of the estimated option value of that maturity, the Chief Financial Officer may opt to refund that maturity.

Current Refundings

The City may issue current refunding bonds (as defined for federal tax law purposes) when advantageous, legally permissible, prudent, and net present value savings equal or exceed \$100,000. The present value savings will be net of all costs related to the refunding.

Restructuring of Debt

The City may choose to refund outstanding indebtedness when existing bond covenants or other financial structures impinge on prudent and sound financial management. Savings requirements for current, synthetic, forward or advance refundings undertaken to restructure debt may be waived by the Chief Financial Officer upon a finding that such a restructuring is in the City's overall best financial interests.

Open Market Purchase of City Securities

The City may choose to defease its outstanding indebtedness through purchases of its securities in the open market when market conditions make such an option financially feasible as determined by the Chief Financial Officer.

FINANCIAL CONSULTANTS AND SERVICE PROVIDERS

All professional service providers will be selected by the Chief Financial Officer.

The Deputy Chief Financial Officer shall be responsible for establishing a solicitation and selection process for securing professional services that are required to develop and implement the City's debt program. Goals of the solicitation and selection process shall include encouraging participation from qualified service providers, both local and national, at competitive prices. The selection process may allow for special consideration for minority and women owned business enterprises.

The City shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the City and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.

- **Bond Counsel:** The City shall enter into an engagement letter agreement with each lawyer or law firm representing the City in a debt transaction.
- **Disclosure Counsel:** The City shall enter into an engagement letter agreement with a nationally recognized disclosure counsel firm or firms to act as disclosure counsel to the City to assist the City in preparing all of its primary offering and reoffering documents, continuing disclosure undertakings and bond purchase agreements, and to assist the City in developing policies and procedures regarding its primary and secondary market disclosure obligations, including continuing disclosure compliance obligations.
- **Financial Advisor:** If the City chooses to hire financial advisors, the City shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions.

- **Underwriters:** If there is an underwriter, the City shall require the Underwriter to clearly identify itself in writing (e.g., in a response to a request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the City with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the City. The Underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the Chief Financial Officer in advance of the pricing of the debt.
- **Other Service Providers:** The Deputy Chief Financial Officer shall periodically solicit providers of other services necessary to carry out the debt issuance activities of the City (including but not limited to swap advisor, swap counsel, trustee, paying agent, counterparty, and remarketing agent) and, in selecting such additional service providers, shall evaluate the cost and perceived quality of service of the proposed service provider.

Conflict of Interest

Professionals involved in a debt transaction hired or compensated by the City shall be required to disclose to the City existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the City to appreciate the significance of the relationships.

No such relationship shall be permitted which could compromise the firm's ability to provide the highest quality level of independent advice or service which is solely in the City's best interests or which could reasonably be perceived as a conflict of interest.

Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation or professional conduct.

METHOD OF SALE

Competitive Sale

The City, as a matter of policy, shall issue its debt obligations through a competitive sale unless the Chief Financial Officer determines that such a sale method will not produce the best results for the City. In such instances where the City deems the bids received through a competitive sale process as unsatisfactory or does not receive bids, it may, at the election of the City Council, enter into negotiation for sale of the securities.

Negotiated Sale

When determined appropriate by the Chief Financial Officer, the City may elect to sell its debt obligations through a negotiated sale. Such determination may be made on an issue by issue basis, for a series of issues, or for part or all of a specific financing program.

The City may use the negotiated sale process if the City makes a determination that due to the size or complexity of a particular transaction, a negotiated sale would result in the most favorable pricing. If appropriate, the City should use a financial advisory firm to assist in the negotiations.

The City may also use the negotiated sale process if it determines, in light of the facts and circumstances, that doing so will promote its interests by encouraging and rewarding innovation or the substantial commitment of time and resources by an underwriting firm.

Regardless of the reason for selecting the negotiated sale process, the City shall obtain an independent finding that the terms and conditions of the sale reflect a fair market value of such debt as of the date of its execution.

Private Placement

When determined appropriate by the Chief Financial Officer, the City may elect to sell its debt obligations through a private placement or limited public offering. Selection of a placement agent shall be made pursuant to selection procedures developed by the Deputy Chief Financial Officer.

Use of Technology in Bond Sale Process

The City shall encourage the use of electronic bidding systems, electronic dissemination of disclosure information and other technological methods whenever the use of such technology is expected to reduce sale costs and enhance market participation in City financings.

CREDIT RATINGS AND ENHANCEMENTS

The City seeks to maintain the highest possible credit ratings that can be achieved for debt instruments without compromising the City's policies and objectives. Ratings are reflections of the general fiscal soundness of the City and the capabilities of its management. By maintaining the highest possible credit ratings, the City can issue its debt at a lower cost of capital.

Rating Agency Relationships

The Deputy Chief Financial Officer is responsible for maintaining relationships with the rating agencies that currently assign ratings to the City's various debt obligations. This effort shall include providing periodic updates on the City's general financial condition along with coordinating meetings and presentations in conjunction with debt issuances.

Use of Rating Agencies

The Chief Financial Officer shall be responsible for determining whether or not a rating shall be requested on a particular financing, and which of the major rating agencies shall be asked to provide such a rating.

The City shall strive to maintain a rating of at least "AA" on its general obligation debt. A lower rating standard may be accepted for indirect or conduit obligations, subject to approval of the Chief Financial Officer.

Use of Credit Enhancement

The City shall seek to use credit enhancement (letters of credit, bond insurance, etc.) when such credit enhancement proves cost-effective. Selection of credit enhancement providers shall be subject to the approval of the Chief Financial Officer in consultation with the City's financial advisor.

The City will consider the use of credit enhancement on a case-by-case basis, evaluating the economic benefit versus cost for each case. Only when a clearly demonstrable savings can be shown shall enhancement be considered. The City will consider each of the following enhancements as alternatives by evaluating the cost and benefit of such enhancement.

Bond Insurance

The City shall have the authority to purchase bond insurance when such purchase is deemed prudent and advantageous. The predominant determination shall be based on such insurance being less costly than the present value of the difference in the interest on insured bonds versus uninsured bonds.

Debt Service Reserve Funds

When required, a reserve fund may be used to strengthen the underlying credit of the debt.

Minimum Debt Service Fund Balance

The City shall strive to maintain a Debt Service Fund ("DSF") undesignated fund balance equal to or greater than 1/12 or eight percent (8%) of DSF expenditures.

POST ISSUANCE COMPLIANCE

Transparency

The City shall comply with legal requirements for notice and for public meetings related to debt issuance. In the interest of transparency, all costs including interest, issuance, continuing, and one-time) shall be disclosed to the citizens, City Council, and other stakeholders in a timely manner.

Report on Debt Obligation

TCA §§9-21-151 requires all municipalities to submit, or cause to be submitted, a report of debt obligation to the governing body of the public entity, with a copy to the comptroller of the treasury or the comptroller's designee within 45 days of the issuance, regardless of whether the issuance had to be approved by the Director of State and Local Finance. The designated form for this purpose is Form CT-0253. The form should be completed by the City or its financial advisor then presented to City Council with a copy to the Director of State and Local Finance. The City shall retain a copy of the form for its records.

Investment Policy

The City has adopted a comprehensive Investment Policy. The investment of all debt proceeds shall comply with the City's Investment Policy where applicable and will not enable the City to exploit the difference between tax-exempt and taxable interest rates to obtain a financial advantage that might be considered abusive.

Tax-Exempt Status Compliance

The purpose of this section is to establish policies and procedures in connection with tax-exempt bonds issued by the City ("TEBs") so as to ensure that the City exercises due diligence in complying with Section 148 of the Code, and all applicable regulations to preserve the tax-exempt status of the TEBs, as well as to provide for the timely identification of and expeditious remediation of any violation.

The City shall consult with bond counsel and other advisors, as needed, throughout the bond issuance process to review any additional requirements necessary or appropriate so that the TEBs will continue to qualify for tax-exempt status. The City's current procedures regarding arbitrage rebate compliance and private use compliance are set forth below. Notwithstanding anything herein to the contrary, the Chief Financial Officer may adopt and maintain policies and procedures on tax-exempt compliance.

Arbitrage Rebate Compliance

Arbitrage rebate compliance is a critical and serious matter which may affect the tax-exemption of the interest on bonds issued by the City. Therefore, the City will comply with all arbitrage rebate requirements as established by the Internal Revenue Service. To assist the City in its effort, the City shall seek the service of a firm with extensive arbitrage rebate compliance and related experience. The firm shall provide the City with arbitrage rebate compliance services tailored to the specific needs of the City including rebate analysis for general obligations and revenue bonds with parity debt service reserve funds for multiple issues.

The Deputy Chief Financial Officer in consultation with certain professional service providers shall be responsible for:

- For advance refunding escrows, ensure that no 0% Securities of State and Local Government Securities are used when avoidable. If unavoidable, confirm that all scheduled purchases are made on the scheduled date;
- Seek the services of an arbitrage compliance service provider to annually or biennially calculate and report the City's cumulative rebate liability, if any; and
- Maintain special records required by safe harbor under Section 1.148-5 of the Code for investment contracts or defeasance escrows, where applicable.

Private Use Compliance

The Deputy Chief Financial Officer in consultation with certain professional service providers shall be responsible for:

- Monitoring the use of tax-exempt bond proceeds to ensure compliance with covenants and restrictions set forth in tax certificates;
- Conferring at least annually with other personnel given charge of certain facilities financed with TEBs to identify and discuss any existing or planned use of such facilities to ensure that the use of such facilities is consistent with all covenants and restrictions set forth in relating tax certificates;
- Consulting with bond counsel and other legal counsel and advisors in the review of any change in use of any facility financed with TEBs to ensure compliance with all covenants and restrictions set forth in the related tax certificates; and
- Consult with bond counsel and other legal counsel or advisors to determine a course of action to remediate all nonqualified bonds, if such counsel advises that a remedial action is necessary.

Continuing Disclosure

The Chief Financial Officer will adopt and maintain policies and procedures on primary and secondary disclosure compliance after consultation with disclosure counsel to the City in order to comply with applicable federal securities laws and regulations (the "Disclosure Policies and Procedures").

Document Retention

The City shall retain all documents relating to a debt transaction for three years beyond the final maturity of the debt or any subsequent refunding debt. A retention date shall be placed on all transaction folders to ensure compliance with the City's retention policy.

Each transaction folder shall contain the following as applicable:

- Final versions of debt issuance documents including the official statement or private placement memorandum;
- Copy of resolutions authorizing the debt issuance;
- Applicable IRS and state forms such as 8038-G, 8038-B, and CT-0253;
- CPA verification reports;
- All final debt service schedules;
- Final closing documents;
- Liquidity agreements;
- Investment contract information;
- Bond proceeds expenditure reports;
- Any relevant correspondence with the arbitrage consultant, bond counsel, or other advisors;
- Rebate calculation and yield restriction reports; and
- Any documents required under the Disclosure Policies and Procedures.

POLICY REVIEW

The guidelines outlined herein are only intended to provide general direction regarding the future use and execution of debt obligations and derivative products. The City reserves the right to modify the guidelines contained herein and make exceptions to any of them at any time to the extent that doing so achieves City goals. Any such modification should be submitted to City Council for its consideration and approval.

This policy is subject to review no less than annually.

This policy was adopted by City Council on February 19, 2002, and amended on November 4, 2003, December 6, 2011, May 21, 2013, December 3, 2013, April 19, 2016, and January __, 2021.

RESOLUTION APPROVING “ACCELERATE MEMPHIS: INVEST IN NEIGHBORHOODS” A PLAN TO INVEST IN COMMUNITY PROJECTS TO ACTIVATE NEIGHBORHOODS, IMPROVE PARKS AND REVITALIZE CITY ASSETS

WHEREAS, for the past decade, the Memphis City Council and Administration have exercised fiscal discipline in the wake of the great recession including reforming pension and OPEB, restraint in debt policy and spending, and instituting a culture of data-driven governmental decision-making; and

WHEREAS, thanks to these measures and other conditions such as a low-interest environment for issuing bonds and a newly adopted comprehensive plan (Memphis 3.0) to guide development, transportation, infrastructure, and civic space over the next two decades and beyond, the City of Memphis is facing a “debt cliff” coming in 2026, when annual debt service will fall dramatically (by \$63M); and

WHEREAS, capitalizing on these favorable conditions, the City of Memphis will take advantage of the drop in debt service payments in 2026 today and make an unprecedented \$200 million investment in catalytic community projects intended to accelerate growth by improving quality of life, driving equity and inclusion, and improving housing and connectivity by making transformative, one-time investments in a variety of capital projects; and

WHEREAS, known as “Accelerate Memphis: Invest in Neighborhoods,” proceeds from \$200 million in Accelerate Memphis bonds will be used in the following three ways:

- Activating Memphis 3.0 — \$75 million
- Improving our parks — \$75 million; and
- Revitalizing citywide assets — \$50 million

WHEREAS, the Accelerate Memphis Whitepaper (see Exhibit A attached) dated 21 January 2021 contains detailed plans of how these funds will be spent; and

WHEREAS, Accelerate Memphis map (see Exhibit B attached) details where these projects will take place across all council districts; and

WHEREAS, Accelerate Memphis will intentionally seek to leverage additional funds — such as private and philanthropic dollars — to increase its impact; more than \$170 million in potential leverage opportunities have been identified, which could bring the true impact of Accelerate Memphis to as much as \$370 million.

NOW, THEREFORE BE IT RESOLVED, that the Memphis City Council hereby adopts the conceptual Accelerate Memphis: Invest in Neighborhoods plan, attached, with the knowledge that specific approvals will come before the Council beginning in the third quarter of FY21, including approval of issuing a maximum of \$200 million of indebtedness consisting of capital appreciation bonds with a 25-year term through the Public Building Authority and current interest bonds with a 25-year term through EDGE.

Sponsor: Administration

RESOLUTION APPROVING “ACCELERATE MEMPHIS: INVEST IN NEIGHBORHOODS” A PLAN TO INVEST IN COMMUNITY PROJECTS TO ACTIVATE NEIGHBORHOODS, IMPROVE PARKS AND REVITALIZE CITY ASSETS

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Sponsor: Administration

Accelerate Memphis

Invest in Neighborhoods

Whitepaper

January 21, 2020



Executive Summary

Through the 2010s, the City of Memphis exercised fiscal discipline through adverse conditions, such as modest gains in overall annual revenue and outsized debt service that consumed approximately one of every three dollars of property tax revenue. While notable investments were made in infrastructure, fiscal limitations such as annual borrowing caps still fall short of the kind of transformative work Memphians deserve.

But as the decade of the 2020s begins, Memphis stands at the precipice of a confluence of events, including:

- An administration committed to legacy-building, quality-of-life improvements throughout all neighborhoods of Memphis.
- An economy on an upward trajectory in the wake of the COVID-19 pandemic, building upon the momentum of the latter part of the 2010s.
- An ingrained culture of data-driven governmental decision-making and fiscal discipline, which has inspired confidence among citizens, other elected officials, bond rating agencies, and the State of Tennessee.
- A “debt cliff” coming in the 2027 fiscal year, when annual debt service will fall dramatically.
- A low-interest environment for issuing bonds.
- A newly adopted comprehensive plan to guide development, transportation, infrastructure, and civic space over the next two decades and beyond.

Accelerate Memphis is born from this confluence of events.

Capitalizing on these favorable conditions, the City of Memphis will make an unprecedented **\$200 million investment** in catalytic community projects intended to accelerate its growth by improving quality of life, driving equity and inclusion, improving housing and connectivity, and solving stubborn problems that are deeper than any single Capital Improvement Plan can solve. The City will take advantage *today* of the drop in debt service in the 2027 fiscal year to make a transformative, one-time investment in a variety of capital projects.

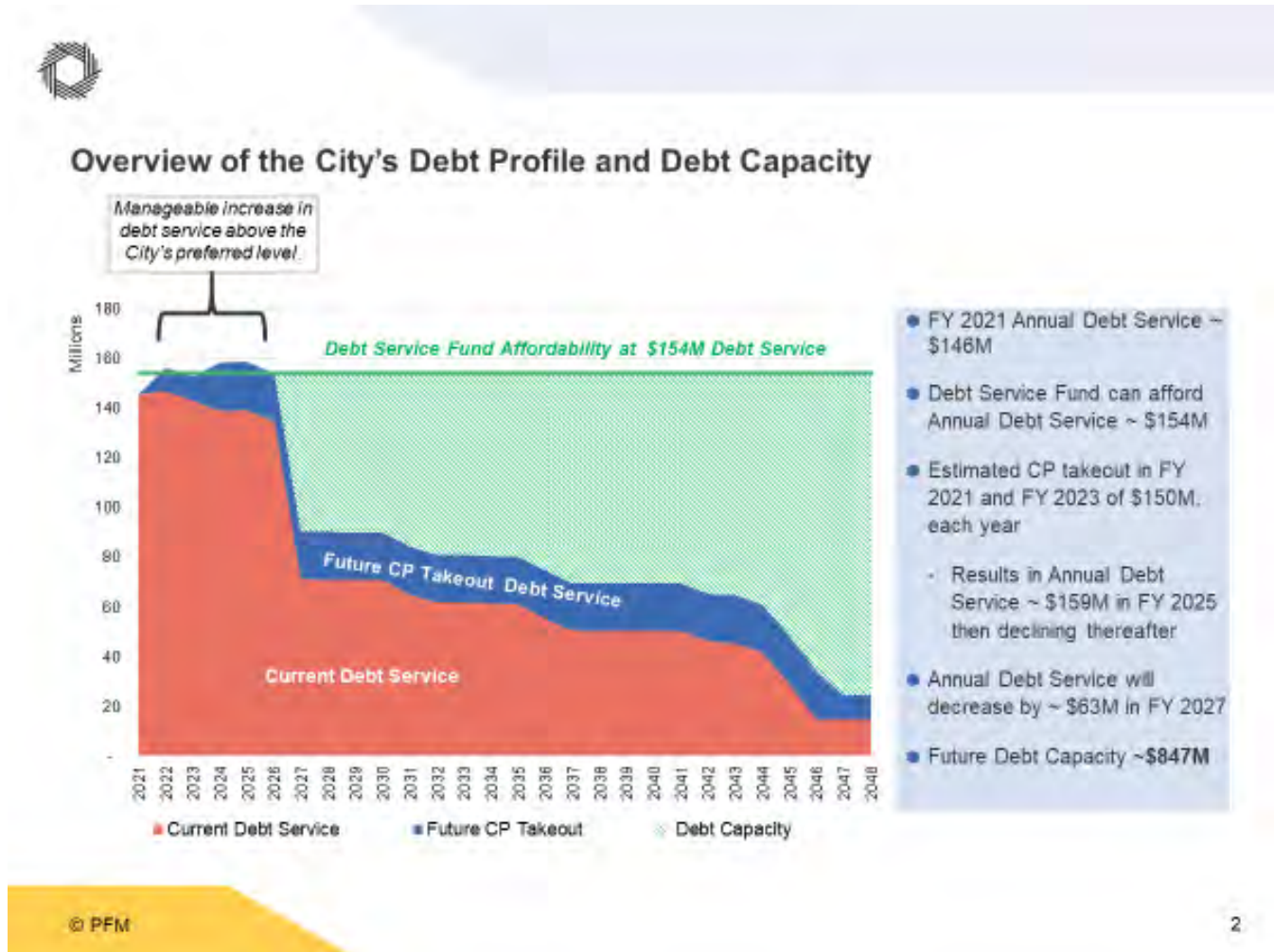
Accelerate Memphis will intentionally seek to leverage additional funds — such as private and philanthropic dollars — to increase its impact. More than \$170 million in *potential* leverage opportunities have been identified, which could bring the true impact of Accelerate Memphis to as much as \$370 million. Further conversations with the private, philanthropic, and other government sectors are expected to increase this total, along with private sector investments that cannot be reasonably forecasted at this time.

Accelerate Memphis will be a great leap forward in advancing Mayor Strickland's call for continued investment through all parts of our city, a call that has been joined by more and more citizens.

How this works

Accelerate Memphis hinges on the upcoming “debt cliff” — the expiration of a significant portion of the City’s current debt obligations — in FY27.

Pictured Below: City of Memphis debt profile and debt capacity, courtesy of Public Financial Management.



Taking into account this profile, the financial structure of Accelerate Memphis is as follows:

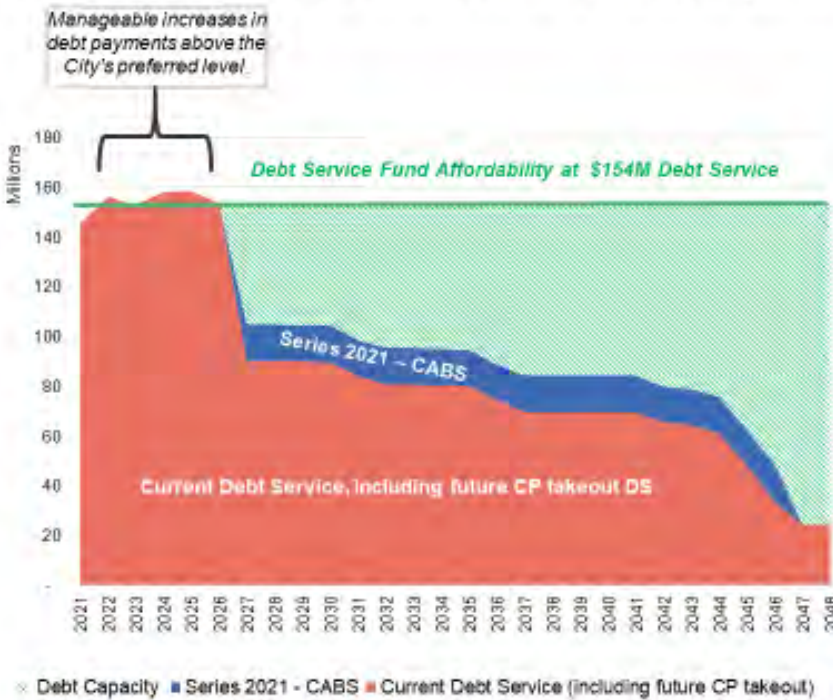
- On or shortly after July 1, 2021 (FY22), an entity or entities backed by the City will issue \$200 million in capital appreciation bonds. The term of the bonds will be for 25 years.

- In FY27, annual debt service of ~\$14.5 million will begin. That's also the fiscal year when the City's "debt cliff" is reached and annual debt service drops by \$63 million.

Below is a graphical representation of how the Accelerate Memphis bond issuance intersects with current City debt obligations:



Capital Appreciation Bonds Scenario – \$200M (Balloon Indebtedness)



- Funding of \$200M in projects with Capital Appreciation Bonds will not increase the annual debt service until FY 2027 but is considered balloon debt.
- FY 2027 through FY 2046 annual debt service in the CAB structure ~ \$14.5M/year
 - Does not require any additional pennies to be contributed to the City's Debt Service Fund.
- Future Debt Capacity after the issuance of \$200M in CABS is ~\$689M

How Accelerate Memphis will change our City

Deliberations between Mayor Strickland, the City’s senior leadership team, and the Accelerate Memphis team continue as it relates to specific projects. Following is a broad working outline of how proceeds from \$200 million in Accelerate Memphis bonds will be used:

- Activating Memphis 3.0 — \$75 million
- Improving our parks — \$75 million
- Revitalizing citywide assets — \$50 million

Activating Memphis 3.0 | \$75 million

As the adopted plan for Memphis by Mayor Strickland, the City Council, and the Land Use Control Board, Memphis 3.0 provides the road map for where and how to invest in communities to drive growth within our core — to “build up, not out.” More than 15,000 Memphians offered input at more than 400 events, ensuring that these priorities are informed by significant public input. Growth is anchored on the strength of our core and our neighborhoods, and these investments will kick-start that growth.

- **Improving neighborhoods with investments in 34 anchor areas across the city (\$13.6 million).** Memphis 3.0 identifies 71 anchor areas as “nurture anchors,” which typically do not have sufficient market-led activity to drive desired change, and 30 “accelerate anchors” with greater potential for private investment, but in need of public support. Early-stage investment in 34 of these anchors are a signal of public sector focus in these areas and designed to unlock opportunities for change. Each anchor will be funded at \$400,000 each for select improvements identified as actions associated with Nurture degree of change or actions specified in the District Priorities section of the comprehensive plan. These actions will be determined on an area-by-area basis, but may include:
 - Street recovering
 - Bus shelters
 - Light pole banners
 - Crosswalk/sidewalk improvements
 - Road diets
 - Public wifi
 - Street light upgrades
 - Street trees and street furniture
 - Repurposed vacant land as civic space
 - Closed curb cuts

- Signage improvements
- Those 34 anchor areas are:
 - Cleveland & Madison
 - Delano & Watkins
 - Frayser Gateway
 - Jackson & Evergreen
 - James Road/Old Raleigh
 - Kerr & Gaither
 - Kirby & Raines
 - Lamar & McLean
 - Lester
 - Macon & Berclair
 - Macon & Victor
 - Macon & Wells Station
 - Mendenhall & Knight Arnold
 - Merton & Harvard
 - Neptune & Walker
 - New Covington & Austin Peay
 - Old Cordova
 - Park & Getwell
 - Perkins & Knight Arnold
 - Poplar & Cleveland
 - Poplar & Danny Thomas
 - Raleigh Egypt
 - Ridgeway & Quince
 - Sea Isle
 - Sherwood
 - Soulsville
 - Southbrook/Southland
 - Southwest Tenn. Community College (Whitehaven)
 - Summer & Graham
 - Third & Belz
 - Third & Fairway/Levi Library
 - Wells Station & Grey
 - Winchester & Ridgeway
 - Winchester & Tchulahoma
- **Accelerating change with large-scale, targeted investments in nine anchor areas (\$37.4 million).** These nine anchors combine all elements from above: they are identified as priority anchors (either Accelerate or Nurture), intersect with high-frequency transit or bus rapid transit, and exhibit opportunities for greater private sector investment on the heels of public investment. Improvements in these areas will be directed by a small area plan that takes a deeper look at the types of public investments best suited to accelerate change in these areas. These nine areas are:
 - Raleigh Town Center (Austin Peay and Yale)
 - Whitehaven Plaza (Elvis Presley and Raines)
 - South City (Mississippi and Georgia; Lauderdale and Vance)

- Soulsville (Mississippi and Walker)
- Klondike (Jackson and Watkins; Brown and Watkins)
- Hollywood/Hyde Park (Chelsea and Hollywood)
- Orange Mound (Lamar/Park and Airways; Marechalneil and Park; Dallas and Park)
- Highland Heights (Summer and National)
- Oakhaven (Shelby and Tchulahoma)

Small area plans for Raleigh Town Center and Whitehaven Plaza are complete. A planning effort for the remaining small areas will soon begin. That planning effort will seek to identify opportunities for transit-oriented residential and business development in the selected areas and potential funding options and strategies to guide investment for future growth. Examples of the type of investments that may be recommended are found in the small area plans for Raleigh and Whitehaven and include:

- Public promenade and plaza (Raleigh and Whitehaven)
 - Installation of new streets, curb, and gutter (Raleigh and Whitehaven)
 - Neighborhood squares and parks (Raleigh and Whitehaven)
 - Landscaped medians (Raleigh)
 - Pedestrian scale street lights, new crosswalks, and signals (Raleigh)
 - New sidewalks and pedestrian trails (Raleigh and Whitehaven)
 - Broadband and wireless Internet (Raleigh and Whitehaven)
 - New community buildings (Whitehaven)
 - Rainwater detention (Whitehaven)
 - Mix of housing types, including affordable housing (Raleigh and Whitehaven)
- **Safety improvements in eight Memphis 3.0-identified infrastructure priority anchor areas or corridors (\$9 million).** Street improvements are proposed for areas of critical need. Accelerate Memphis dollars identified will match \$25.7 million in federal and state transportation funds. Street improvements may include: intersection redesign, improved lighting, signal upgrades, crosswalk/sidewalk

improvements, bike lanes and bicycle facility protection, street furniture, ADA improvements, or traffic calming. Areas include:

- Frayser & Overton Crossing — \$837,600
 - Hickory Hill & Winchester — \$497,200
 - Hollywood Street — \$1 million
 - Lamar/Kimball/Pendleton — \$730,800
 - Ridgeway & Quince — \$185,200
 - Third & Ford — \$2 million
 - Trinity & Germantown — \$468,000
 - Watkins/Cleveland/Bellevue/Elvis Presley corridor — \$3.2 million
- **Closing the knowledge gap with broadband infrastructure (\$7.5 million).** Too many Memphians do not have access to broadband Internet, negatively affecting learning, job access, and quality of life. By allocating \$7.5 million in Accelerate Memphis funds to bring fiber to more and more neighborhoods with strategies to be identified by the Memphis 3.0 Smart City Plan, the City could make meaningful progress in closing this gap.
 - **Investing in housing opportunities (\$7.5 million).** The City is committed to making investments in affordable housing that support the needs of Memphis residents. These funds will be used for infrastructure, acquisition, and demolition in support of affordable housing development in Memphis 3.0 anchors. These investments will ensure that long-term affordability in Memphis neighborhoods remains a priority as redevelopment occurs.

Improving our parks | \$75 million

Parks are often the focus of neighborhood life — from more than 150 Division of Parks and Neighborhoods parks of all sizes to 30 community and senior centers, 17 pools (14 outdoor, three indoor), seven golf courses, three splash pads, 81 playgrounds, 48 basketball courts, 78 pavilions, four dog parks, 80 tennis courts (12 indoor, 68 outdoor), and more. Parks has more than 3,200 fixed assets (benches, trash cans, water fountains, etc.) throughout 116 developed parks. As an initiative of Memphis 3.0 and the Division, a master plan for the city's parks is nearing completion. While the planning is not yet finalized, citizens have

already voiced a strong preference for bringing existing park assets to excellent condition. Furthermore, citizens have identified key priorities that include more splash pads, more and better walking trails, better connections to other parks, and amenities such as wireless Internet in parks and fitness rooms in community centers. Through a \$75 million allocation, Accelerate Memphis will attempt to address many of these issues while bringing vibrancy back to assets throughout the city.

- **Bringing our park assets back to life (\$35 million).** A wide range of maintenance needs exists in our parks system. By investing \$35 million in deferred maintenance, we will make significant, noticeable improvements to the assets citizens use on a daily basis.
 - Playground resurfacing (\$2.5 million). Twenty-five existing playgrounds will be resurfaced.
 - Neighborhood park maintenance and upgrades (\$14.5 million). More than 100 neighborhood park locations will receive repair, ranging from park fixtures, paving, and other grounds maintenance as needed.
 - Aquatic facilities (\$5 million). Fourteen indoor and outdoor aquatic facilities will be renovated based on recommendations from an assessment conducted by Duffield Aquatics for the Division of Parks and Neighborhoods. For example, a new splash pad will be installed at Hollywood Community Center based on community input.
 - Golf course/walking path maintenance (\$3 million). Seven city golf courses will receive clubhouse, cart path, and grounds maintenance. Cart paths often informally double as walking trails, meaning the cart path investment will benefit both golfers and walkers alike.
 - Community and senior center maintenance (\$10 million). This allocation will allow for repairs to be addressed at all 30 community and senior centers, based on recommendations from an assessment conducted by Allworld Project Management. The site assessment categorized repairs into five priority levels; this allocation will enable repairs for priority levels 1 through 4. Examples of projects include roof repairs, HVAC, and plumbing.
- **Immediate investments in community-identified improvements (\$40 million).** These are either new amenities or significant renovations to existing facilities:

- Audubon Park (\$425,000). Construct a new picnic pavilion on the north end of the park.
- Chelsea Greenline (\$1,075,000). Design, acquire right-of-way, and construct a 2.5-mile shared-use path in the unused Union Pacific Railroad right-of-way adjacent to Chelsea Avenue from Evergreen Street to Washington Park. The project will also include modernization of traffic crossing at Chelsea Avenue, west of Watkins Street. This is a 20% local match to 80% federal grant.
- Douglass Park (\$1 million). Build a splash pad, improve the sports fields, and repave asphalt. This would match a federal grant.
- Gaisman Community Center (\$8 million). Replacement of current facility, which was constructed in the 1960s.
- Gaisman Park (\$1.1 million). Construction of two new soccer fields on the south end of the park and upgrades to park furnishings and paving.
- Gaston Community Center (\$4 million). Complete renovation of facility.
- Heights Line (\$4 million). Enables construction of a new 1.75-mile linear park and multi-use path in the Highland Heights community, located in the median of National Street between Summer Avenue and Bayliss Avenue, connecting to the Hampline and Wolf River Greenway.
- May Park improvements (\$1.5 million). This heavily used soccer complex will receive two rebuilt primary soccer fields and new paving on all drives and parking areas.
- Pine Hill Golf Course (\$4 million). A new clubhouse will be built both to serve the golf course and as a multipurpose room for the community.
- Pine Hill Park (\$600,000). Construct a new playground and picnic pavilion.
- Riverview Community Center renovation/improvements (\$2 million).
- Shelby Farms Greenline western extension (\$1,065,000). Construction of a bridge over the CN Railroad allowing westward expansion of Shelby Farms Greenline into Tobey Park and Liberty Park/Fairgrounds via Flicker Street. This is a 20% local match to 80% federal grant.
- South Memphis Greenline (\$737,000). Design, land acquisition, and construction for a shared-use path to be constructed in an unused right-of-way alignment in northeast direction from Marjorie Street to Trigg Avenue in South Memphis. This is a 20% local match to 80% federal grant.

- Southwest Twin Drive-In (\$1 million). Acquisition and demolition of former drive-in movie theater on South Third, for future conversion into community asset.
- Whitehaven Community Center (\$2 million). New multipurpose room and parking.
- Wolf River Greenway (\$2.5 million). This allocation is consistent with the agreement for the City to provide matching funds to realize the vision of a 26-mile shared-use trail through 22 neighborhoods stretching from the Mississippi River to Germantown. This would provide funds for Phase 10B alternate route, acquiring property and developing the route under the Austin Peay Highway bridge to connect to Phase 11.

In addition to the items outlined above, any additional dollars remaining under this category will go toward project contingency.

Revitalizing Citywide Assets | \$50 million

Regardless of the neighborhoods in which Memphians live, there are common assets that all of us enjoy. Many are progressing through their life cycle to a critical point at which major repairs or renovations are necessary to maintain their usefulness and vibrancy.

- **AutoZone Park Capital Repair Fund (\$5 million).** A City-owned asset since 2014, AutoZone Park is now more than 20 years old and is carrying significant deferred maintenance.
- **FedExForum Capital Repair Fund (\$10 million).** The City and County are obligated per the terms of the 2002 Operating Agreement to maintain FedExForum to NBA standards. As the arena, which was constructed in 2004, ages, these costs are increasing annually. By placing \$10 million into a sinking fund, and combining those dollars with excess bond repayment from the Memphis-Shelby County Sports Authority and funds from Shelby County, we will be able to continue to keep FedExForum among the NBA and NCAA's best arenas while saving annual CIP dollars for other priorities.
- **Historic Melrose mixed use/library/housing development (\$10 million).** Historic Melrose is the location of the former Melrose High School building, which was built in

the 1930s and closed in 1979. Since that time, the building has been vacant and the subject of many community discussions. Since 2017, the City of Memphis has worked with the neighborhood to identify a use for the building that respects the history and culture of the school and the Orange Mound Community. This investment will fund a state-of-the-art library and genealogy center in the building, which will be co-located with senior housing on upper floors.

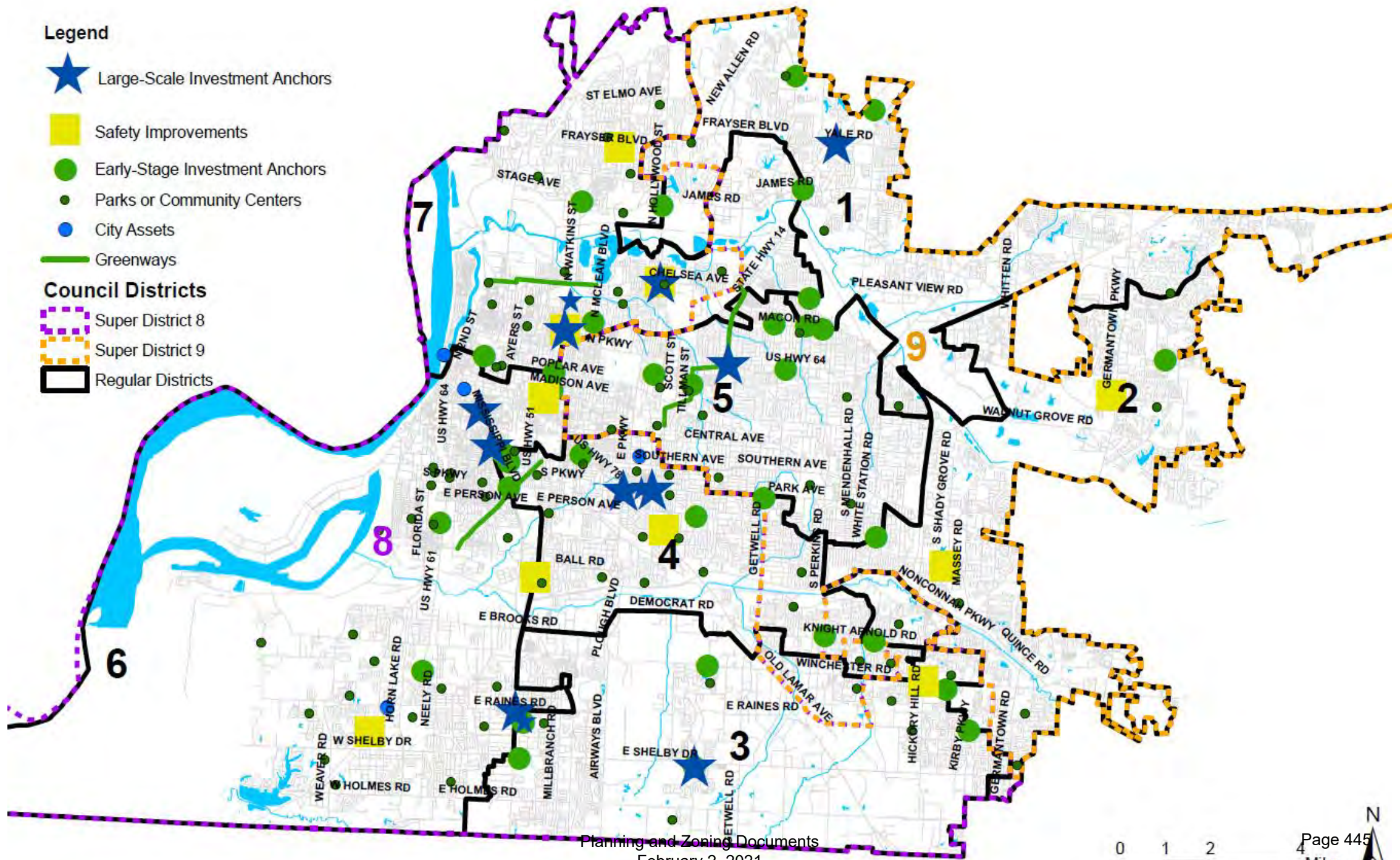
- **Liberty Park youth sports complex (\$10 million).** As part of the larger Liberty Park development and youth sports complex, the construction of which will be funded through Tourism Development Zone bonds, this \$10 million allocation will be used to construct assets on site — such as a playground, the replacement track and football stadium, and soccer fields — that will be of use to citizens of the surrounding neighborhoods of Orange Mound, Belt Line, and the Cooper-Young area of Midtown. When coupled with planned private development on the north side of Liberty Park (hotel, retail, family entertainment, restaurants), the facility will be both an asset for the neighborhoods as well as an engine for family tourists.
- **Mud Island River Park rehab (\$4 million).** Improvements to the existing amphitheater will allow that facility to come back online as a concert venue. Additional infrastructure improvements will increase the park's visibility, improve its north entrance and rehab parking areas.
- **100 N. Main remediation (\$10 million).** To catalyze activity on the north end of Downtown, and to complement the nearby \$200 million transformation of the Renasant Convention Center and the forthcoming Loews Hotel, these funds will be set aside for remedying the challenge of the vacant eyesore on the city's skyline.
- **Underpass improvements (\$1 million).** Cosmetic, safety, and lighting improvements to a variety of railroad and street underpasses throughout the city, improving the experience and sense of safety for pedestrians and motorists.

Legend

- ★ Large-Scale Investment Anchors
- Safety Improvements
- Early-Stage Investment Anchors
- Parks or Community Centers
- City Assets
- Greenways

Council Districts

- Super District 8
- Super District 9
- Regular Districts



**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 County 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

923± feet to centerline of Lamar Ave.

300.00' N40°00'00"E

10.00' 50°00'00"E

450.00' N40°00'00"E

290.00' N0°00'00"E

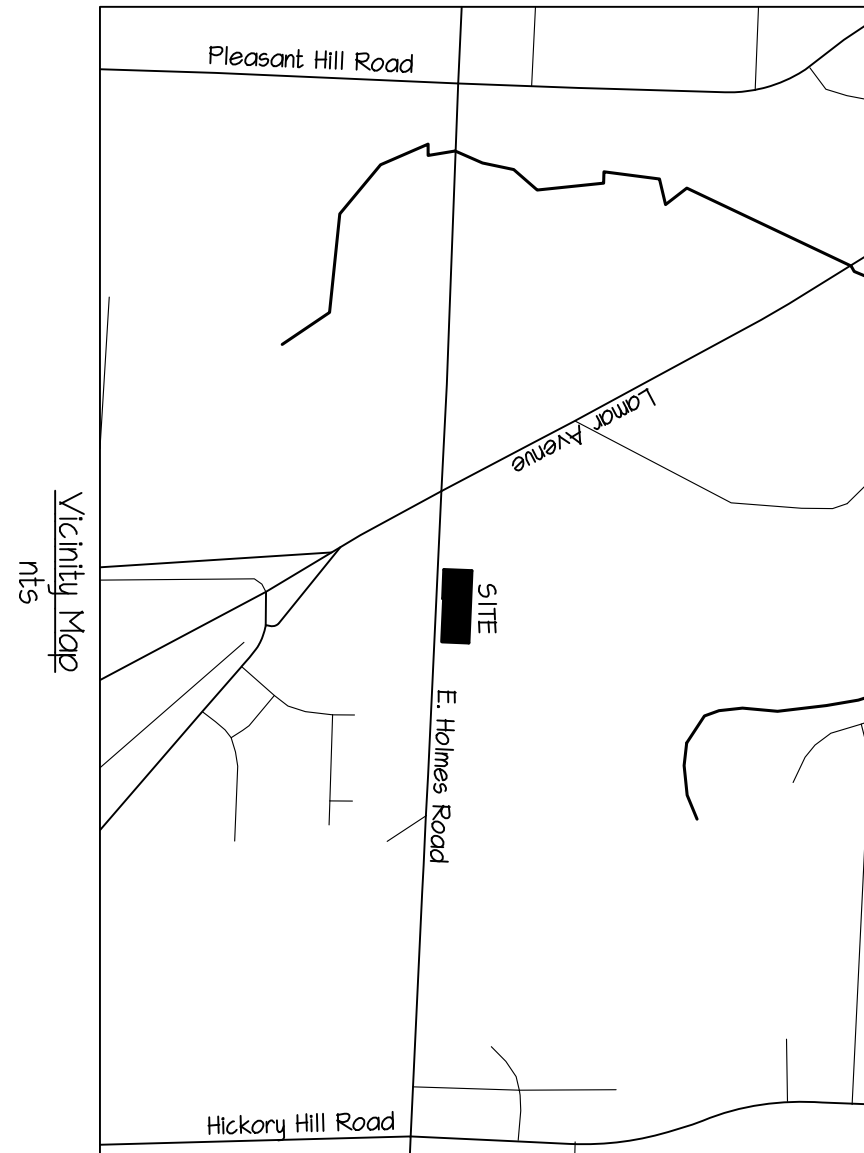
Land Area
4.89 Ac
Existing Zoning: CA
Proposed Zoning: IH

150.00' N40°00'00"E

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

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

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



280.00' 50°00'00"E

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

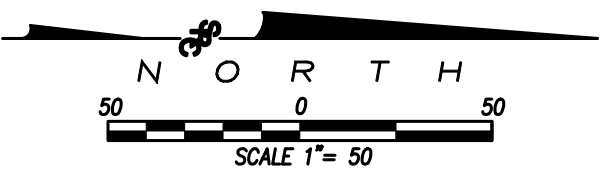
Arthur H. Hahnkay
Inst. # 08013215
3.114 Ac
Existing Zoning: CA

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 Lamar Avenue (ROM Varies); thence N40°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"E 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"E 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

EX. ZONING: CA

4.89 ACRES

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

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 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.
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)

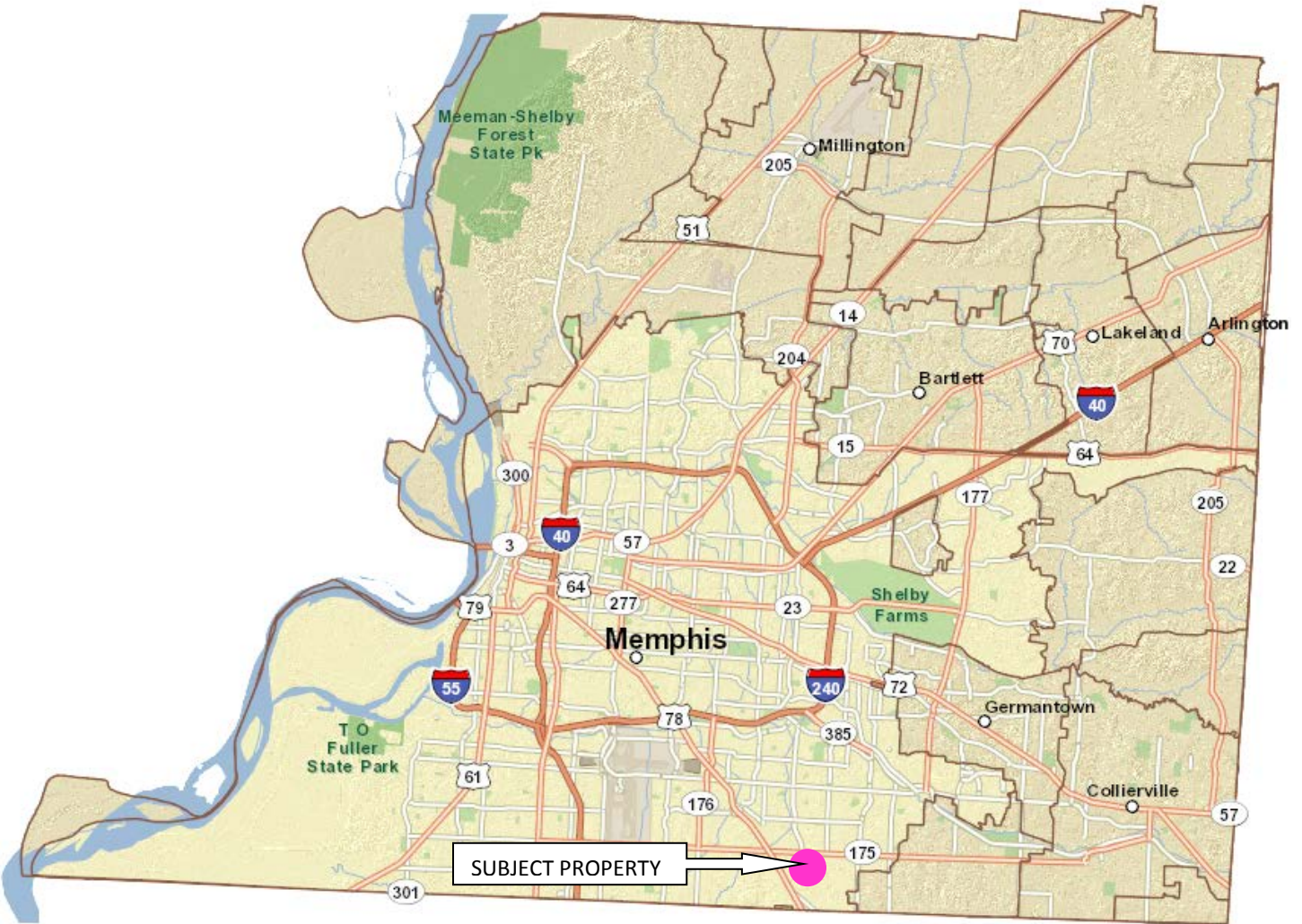
NEIGHBORHOOD MEETING

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

PUBLIC NOTICE

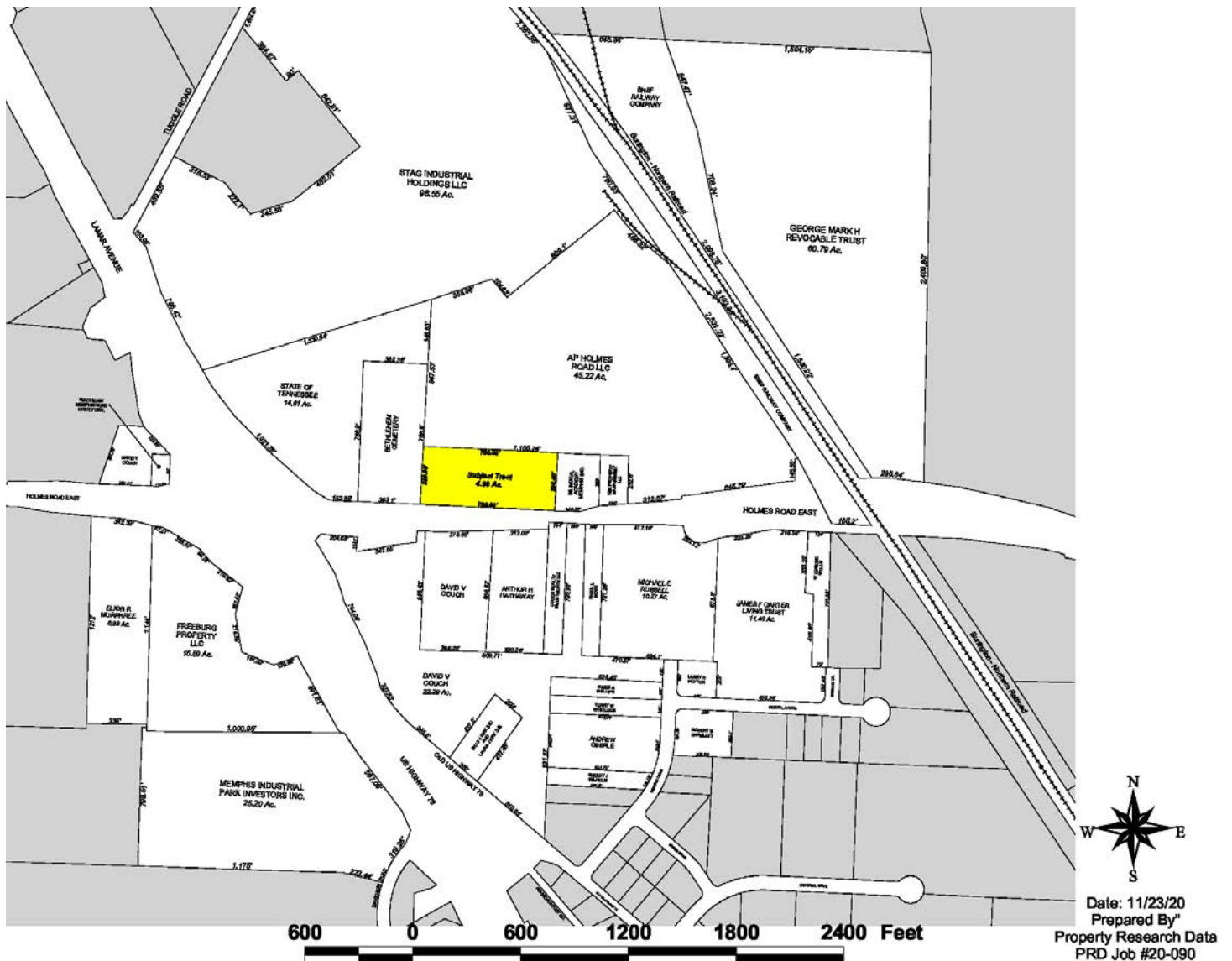
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 28 notices were mailed on December 31, 2020, and a total of 2 signs posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



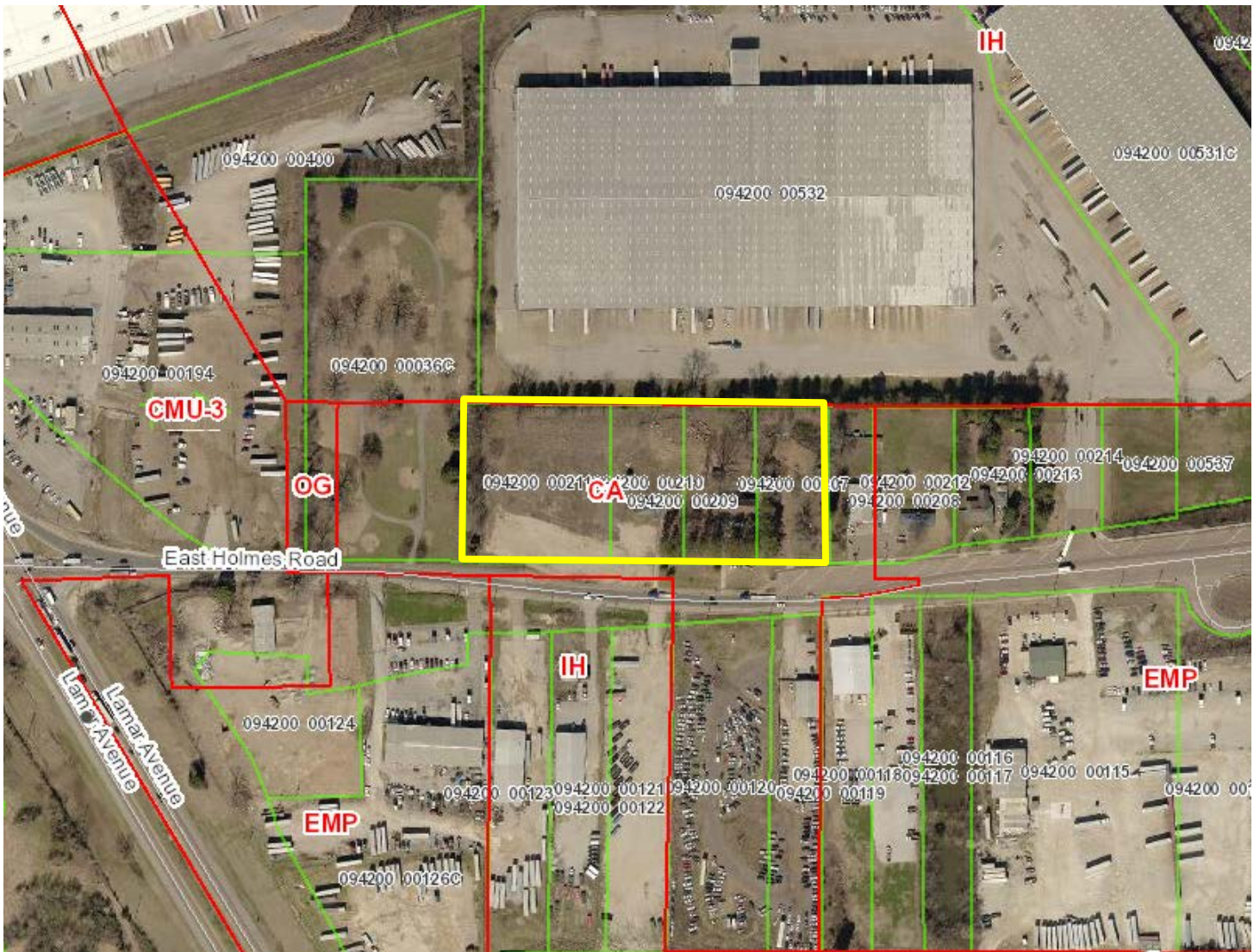
Subject property located within the pink circle, Capleville neighborhood

VICINITY MAP



Subject property highlighted in yellow

ZONING MAP



Subject property outlined in yellow

Existing Zoning: Conservation Agriculture (CA)

Surrounding Zoning

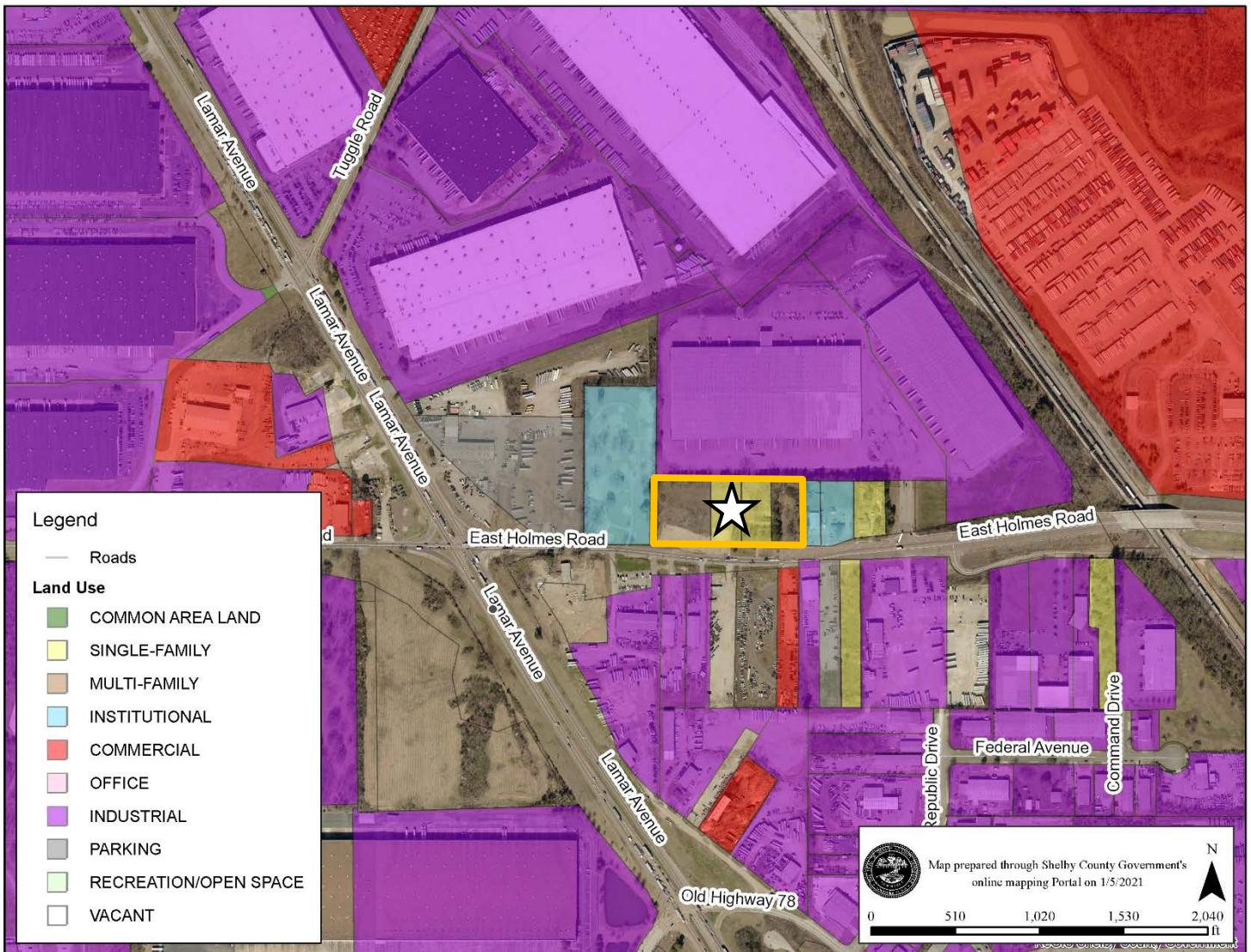
North: Heavy Industrial (IH)

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

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.

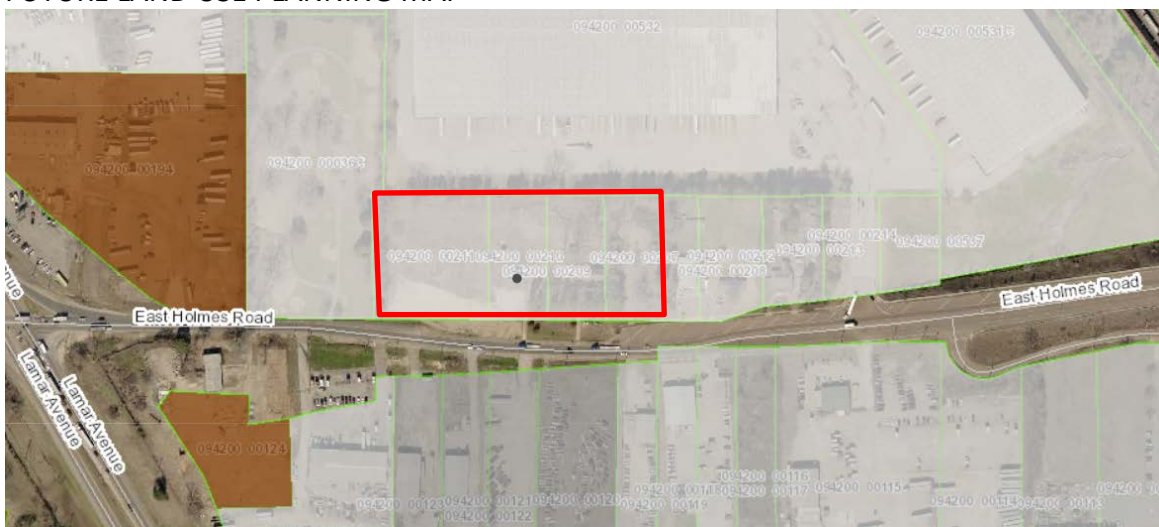
Office of Sustainability and Resilience: No comments received.

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.

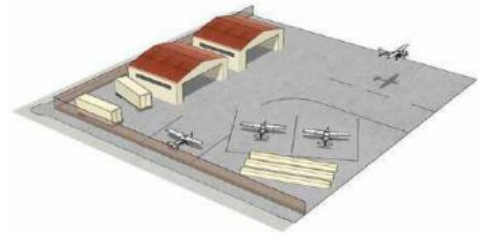
1. FUTURE LAND USE PLANNING MAP



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.

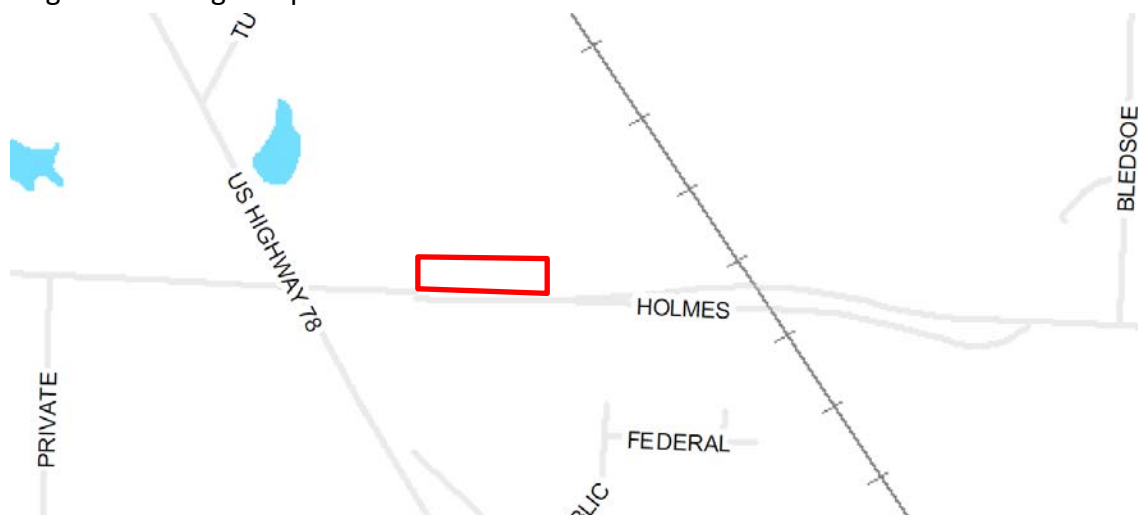
The applicant is requesting for a rezoning for the properties at 5414, 5434, 5456, & 0 E. Holmes Road, located east of Lamar Avenue. The application seeks to rezone approximately 4.89 acres of land to Heavy Industrial (IH) from Conservation Agriculture (CA), which is bounded by East Holmes road on the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



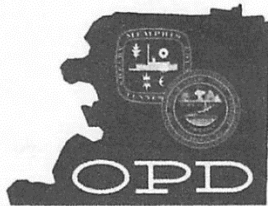
Red polygon denotes the proposed site in Degree of Change area.

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.

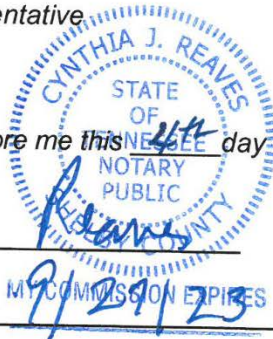
Raphael Shivers

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: _____

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



ENGINEERING • PLANNING

5909 Shelby Oaks Drive
Suite 200
Memphis TN 38134

Tel: 901-373-0380
Fax: 901-373-0370
www.SRCE-memphis.com

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.

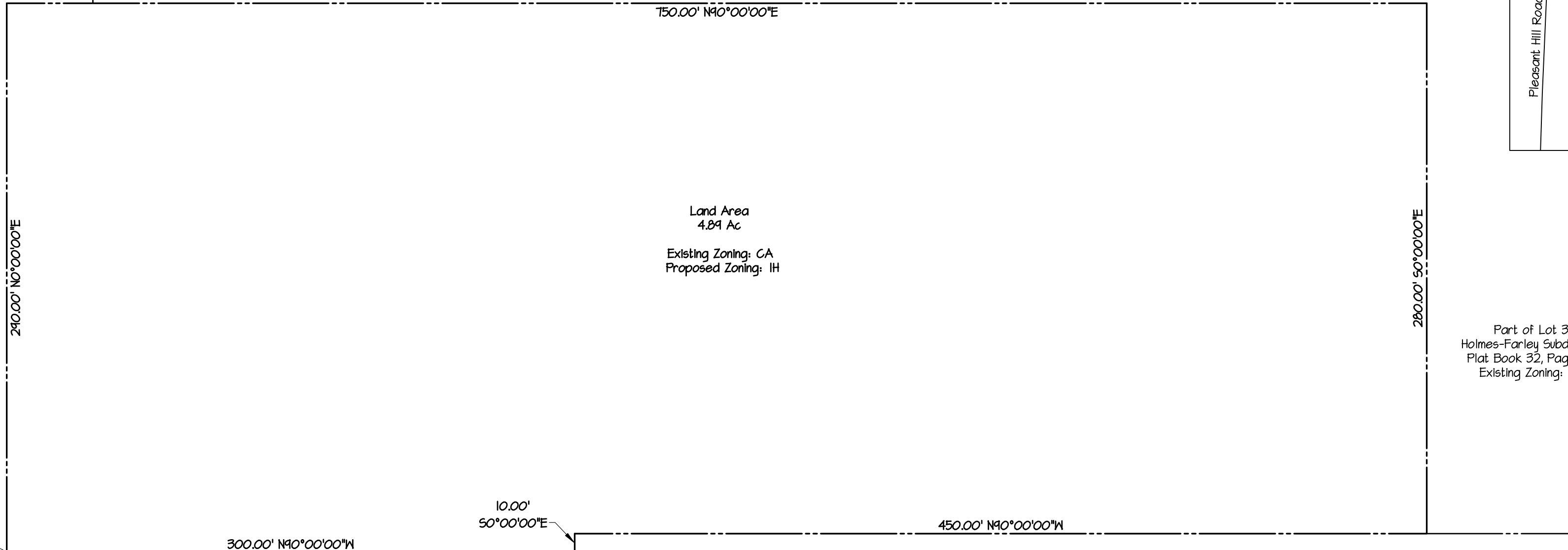
We appreciate your support with this request. Please contact me if you have any questions.

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

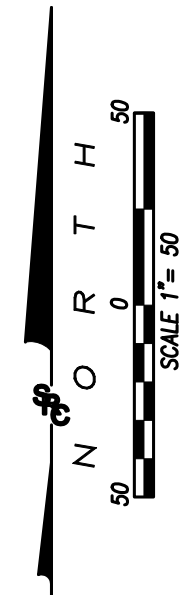
Part of Lot 3
Holmes-Farley Subdivision
Plat Book 32, Page 24
Existing Zoning: CA

923± feet to
centerline of
Lamar Ave.

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 150.00 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.



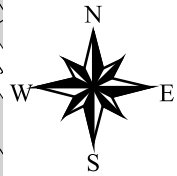
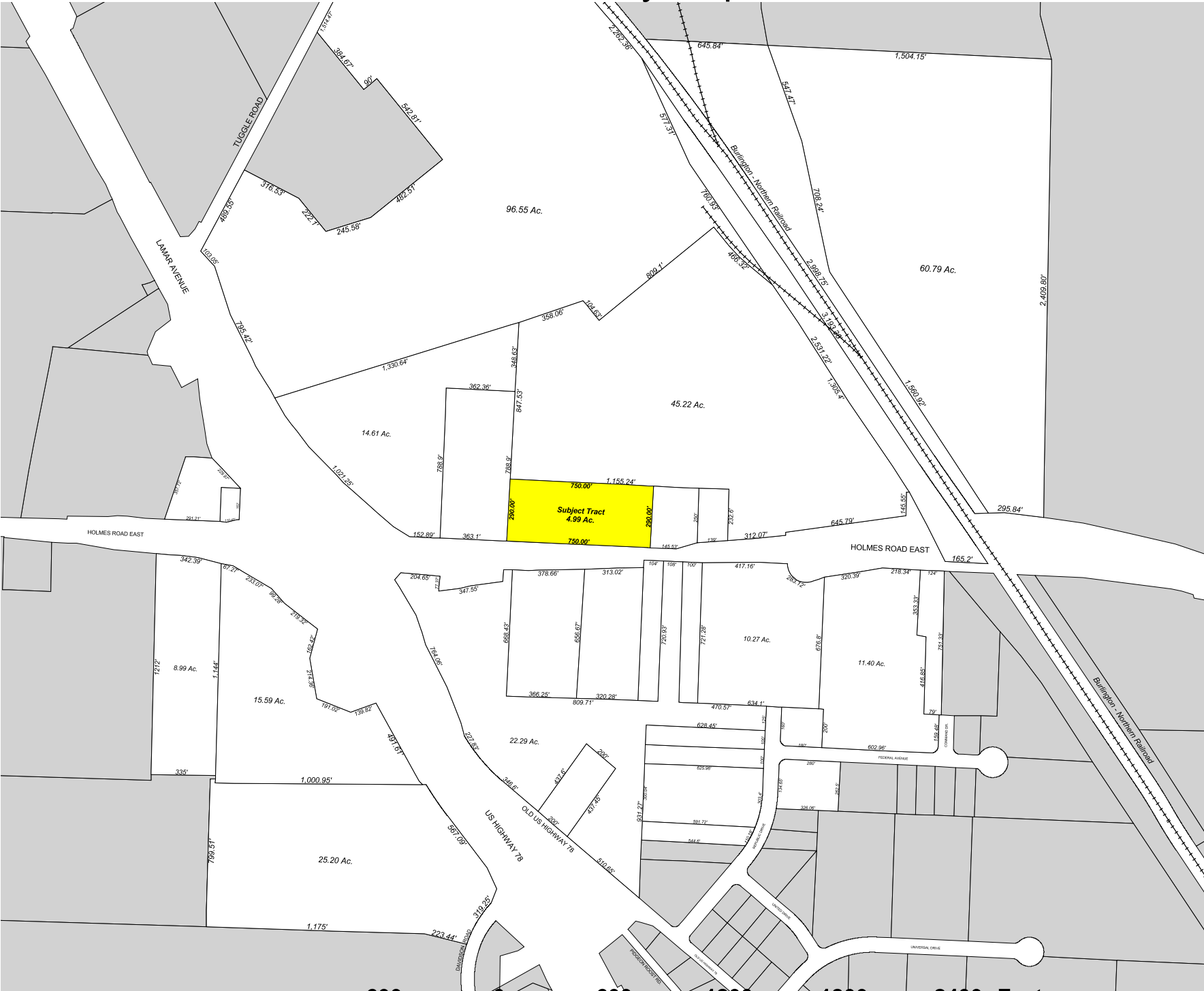
**SITE PLAN
HOLMES ROAD REZONING**

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

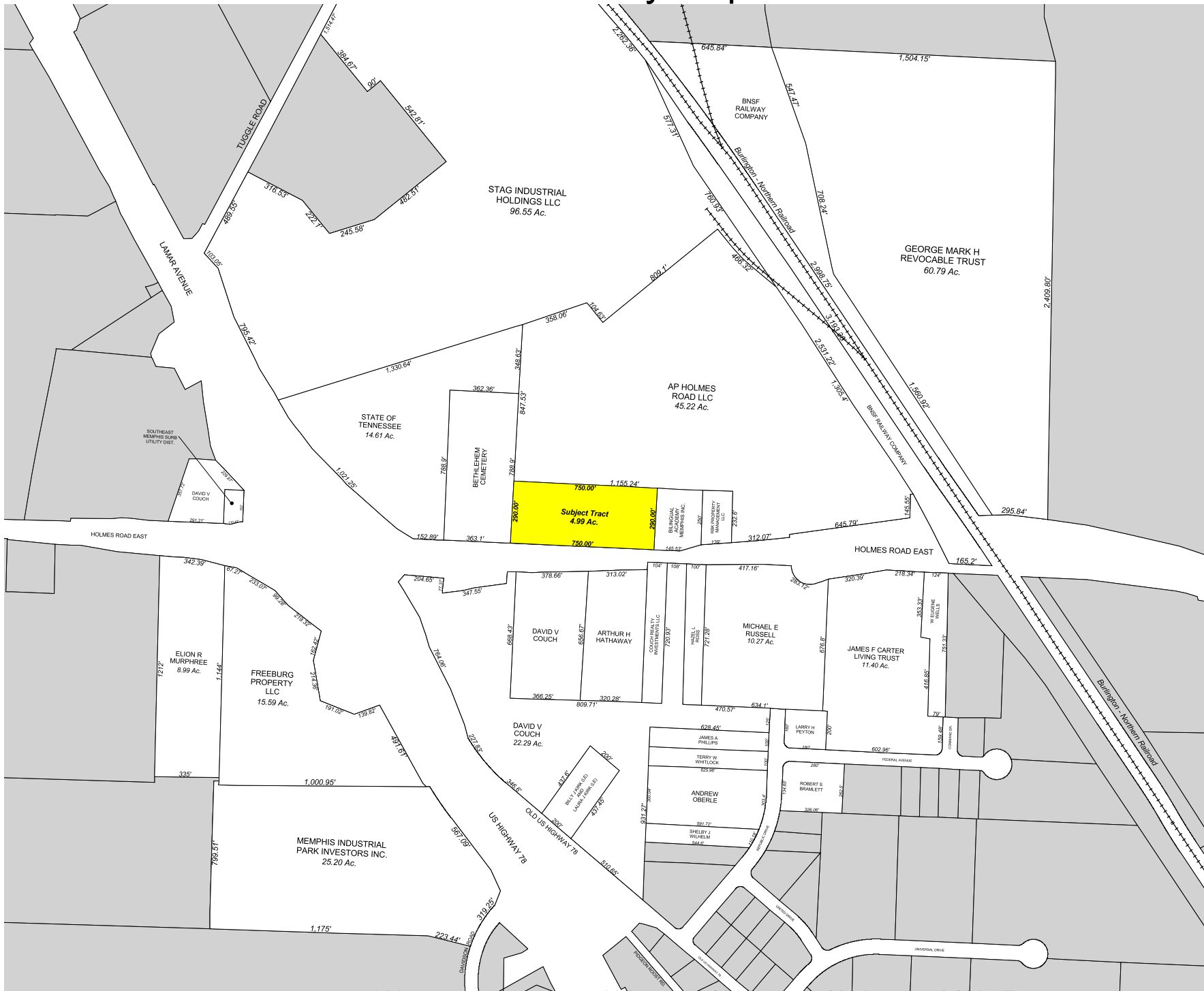
SR CONSULTING, LLC
ENGINEERING - PLANNING
5909 Shelby Oaks Drive Suite 200 Memphis TN 38134
901-373-0380 (fax) 373-0370
www.SRCE-memphis.com

File No. 910201000-018 Holmes Rd Rezoning David Couch/Realty Investments Planning Rev 8/19/2020 - 2:05pm

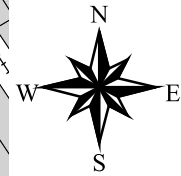
Vicinity Map



Vicinity Map



600 0 600 1200 1800 2400 Feet



Date: 11/23/20
Prepared By"

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

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Memphis TN 38134

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

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Collierville, TN 38017-9202


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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

Ella A DuBose Revocable Living Trust dated December 21, 1998

Joy Elaine Anderson
Joy Elaine Anderson, Trustee

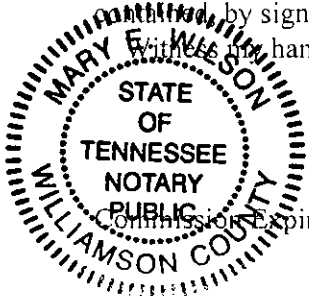
Marion A Goodman Co-successor Trustee

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

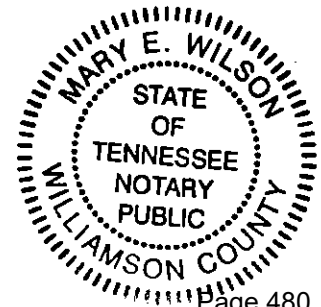
Before me, the undersigned Notary Public of the aforesaid County and State, personally appeared Joy E Anderson with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be a Co-Successor Trustee of The Ella A 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

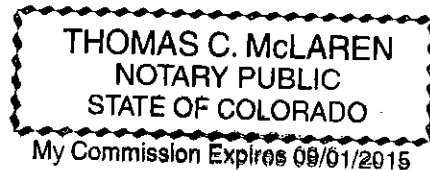
Before me, the undersigned Notary Public of the aforesaid County and State, personally appeared Marion A Goodman with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be a Co-Successor Trustee of The Ella 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.

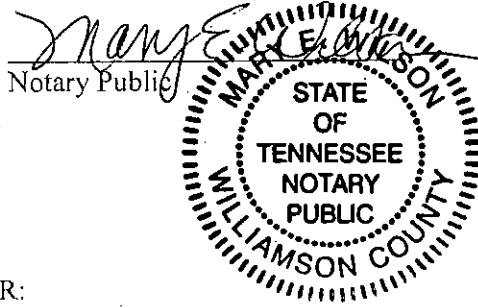
Notary Public

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.

Katherine Thomas
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	

1075 Mullins Station, Suite W165 ~ Memphis, Tennessee 38134 (901) 222-8100
 Website: <http://register.shelby.tn.us> Email: Tom.L Leatherwood@shelbycountyttn.gov
 Join us on Facebook

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.

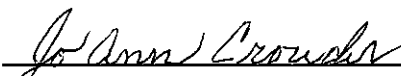
Being the same property conveyed to Grantor in Warranty Deed dated March 25, 1999, and recorded as Instrument No. JF 6967 in the Register's Office of Shelby County, Tennessee.

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

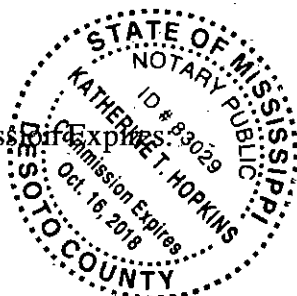
Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared **Jo Ann Crowder**, with whom I am personally acquainted, and who, upon oath, acknowledged that she executed the above and foregoing instrument for the purposes therein contained.

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



NOTARY PUBLIC

My Commission Expires



STATE OF TENNESSEE
COUNTY OF SHELBY

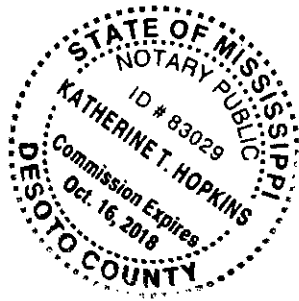
I hereby swear or affirm that to the best of affiant's knowledge, information and belief, the actual consideration for this transfer is **THIRTY THOUSAND AND 00/100 Dollars (\$30,000.00)**.

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 Lamar 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

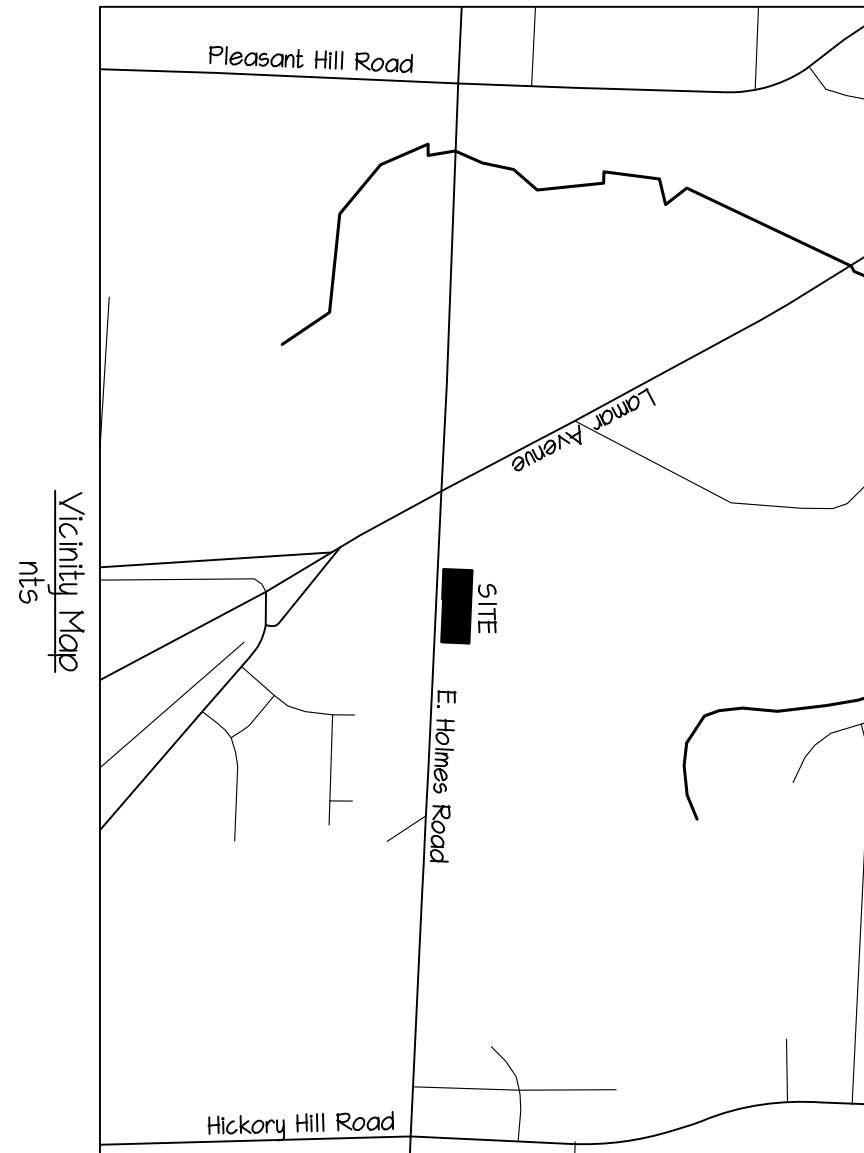
750.00' N40°00'00"E

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

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

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

280.00' 50°00'00"E



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

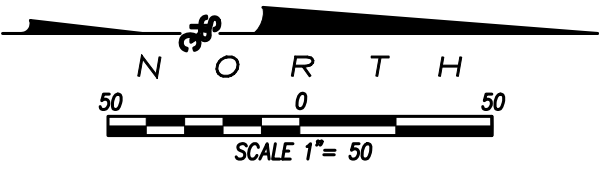
Arthur H. Hahnway
Inst. # 08013215
3.114 Ac
Existing Zoning: CA

Arthur H. Hahnway
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 (RON Varies), approximately 423 feet east of the centerline of Lamar Avenue (RON Varies); thence N40°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 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

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

901-379-0380
(fax) 379-0370
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
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Memphis TN 38134

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

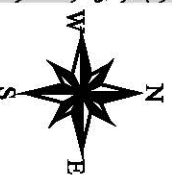
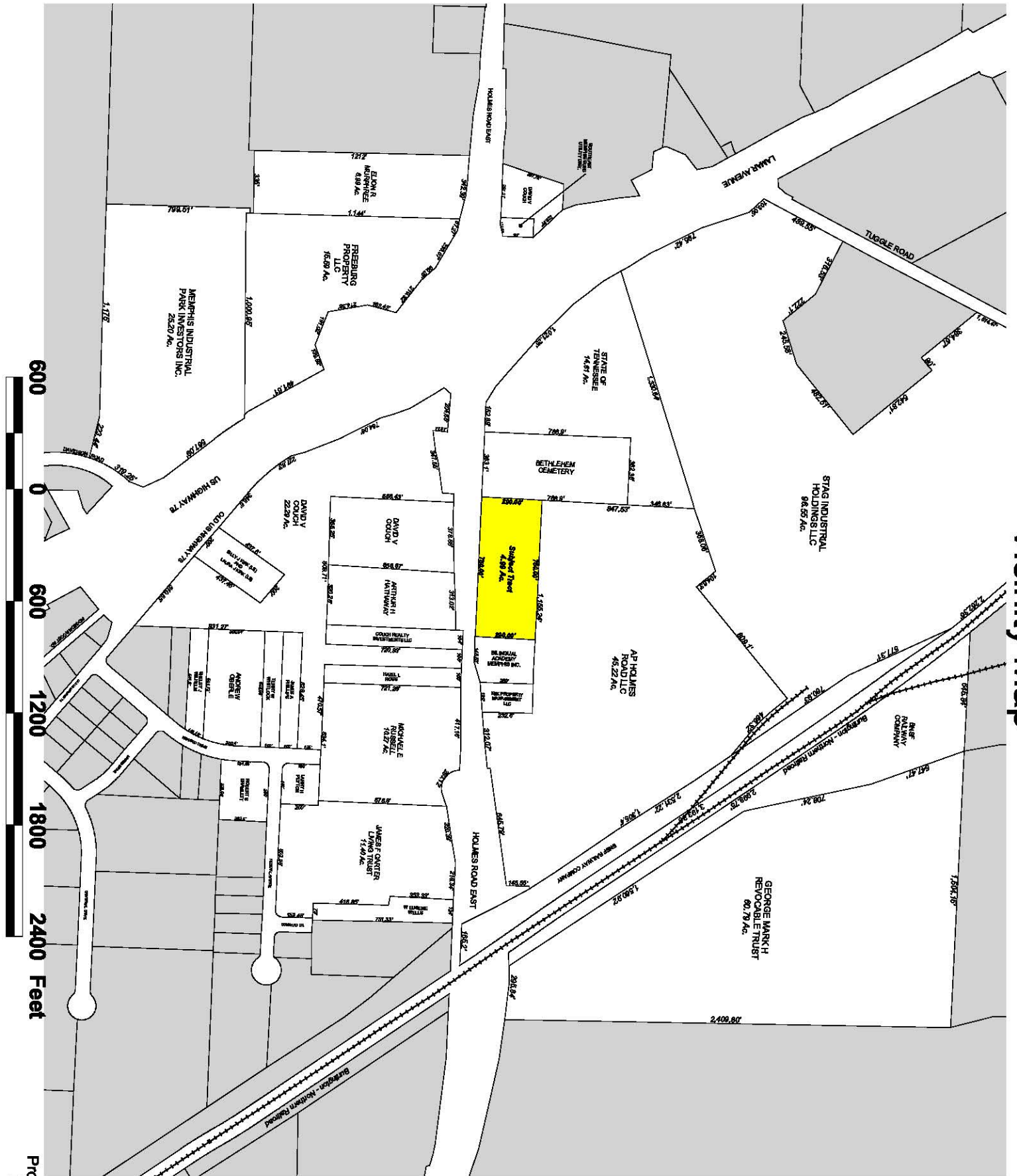
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9950 Center Hill Road
Collierville, TN 38017-9202

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