

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

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

Planning & Zoning COMMITTEE: 22 March 2022

DATE

PUBLIC SESSION: 22 March 2022

DATE

ITEM (CHECK ONE)

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

ITEM DESCRIPTION: A resolution approving a special use permit for used vehicle sales

CASE NUMBER: SUP 21-37

DEVELOPMENT: Used vehicle sales

LOCATION: 2328 Elvis Presley Blvd.

COUNCIL DISTRICTS: District 4 and Super District 8

OWNER/APPLICANT: Hythem Thahabieh of Bargain Divers, Inc.

REPRESENTATIVE: Evelyn Royston

EXISTING ZONING: Commercial Mixed Use – 3

REQUEST: Special use permit for used vehicle sales

AREA: Commercial Mixed Use – 3

RECOMMENDATION: The Division of Planning and Development recommends: **Rejection**
 The Land Use Control Board recommends: **Rejection**

RECOMMENDED COUNCIL ACTION: **Public Hearing Not Required**
 First reading/hearing – 22 March 2022

PRIOR ACTION ON ITEM:

(2) _____	APPROVAL - (1) APPROVED (2) DENIED
10 March 2022 _____	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)
_____	_____	
_____	_____	CHIEF ADMINISTRATIVE OFFICER
_____	_____	COMMITTEE CHAIRMAN



Memphis City Council Summary Sheet

SUP 21-37

Resolution approving a special use permit for used vehicle sales:

- This item is a resolution for a special use permit subject to certain conditions; and
- The Division of Planning & Development sponsors this resolution at the request of the Owner and Applicant: Hythem Thahabieh; and Representative: Evelyn Royston; and
- Approval of this special use permit would be reflected on the Memphis and Shelby County Zoning Atlas.

**RESOLUTION APPROVING A SPECIAL USE PERMIT FOR USED VEHICLE SALES AT
2328 ELVIS PRESLEY BLVD., KNOWN AS CASE NUMBER SUP 21-37.**

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

WHEREAS, Hythem Thahabieh of Bargain Divers, Inc. filed an application with the Memphis and Shelby County Division of Planning and Development to allow used vehicle sales; and

WHEREAS, the Division of Planning and Development has received and reviewed the application in accordance with procedures, objectives, and standards for special use permits as set forth in Chapter 9.6 with regard to the proposed development's impacts upon surrounding properties, availability of public facilities, both external and internal circulation, land use compatibility, and consistency of its design and amenities with the public interest; and has submitted its findings and recommendation 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 March 10, 2022, and said Board has submitted its recommendation concerning the above considerations to the Council of the City of Memphis; and

WHEREAS, the Council of the City of Memphis has reviewed the aforementioned application pursuant to Tennessee Code Annotated Section 13-4-202(B)(2)(B)(iii) and has determined that said development is consistent with the Memphis 3.0 Comprehensive 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 Division of Planning and Development and has determined that said development meets the objectives, standards and criteria for a special use permit, and said development is consistent with the public interests.

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

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

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

CONDITIONS:

1. All nonconforming fencing, signage, and parking shall be removed.
2. The general development standards of Unified Development Code Article 4, or equivalent alternatives, shall apply.
3. A revised plan set that demonstrates compliance with conditions 1 and 2 and any other relevant zoning and engineering standards shall be submitted, subject to administrative review and approval.

ATTEST:

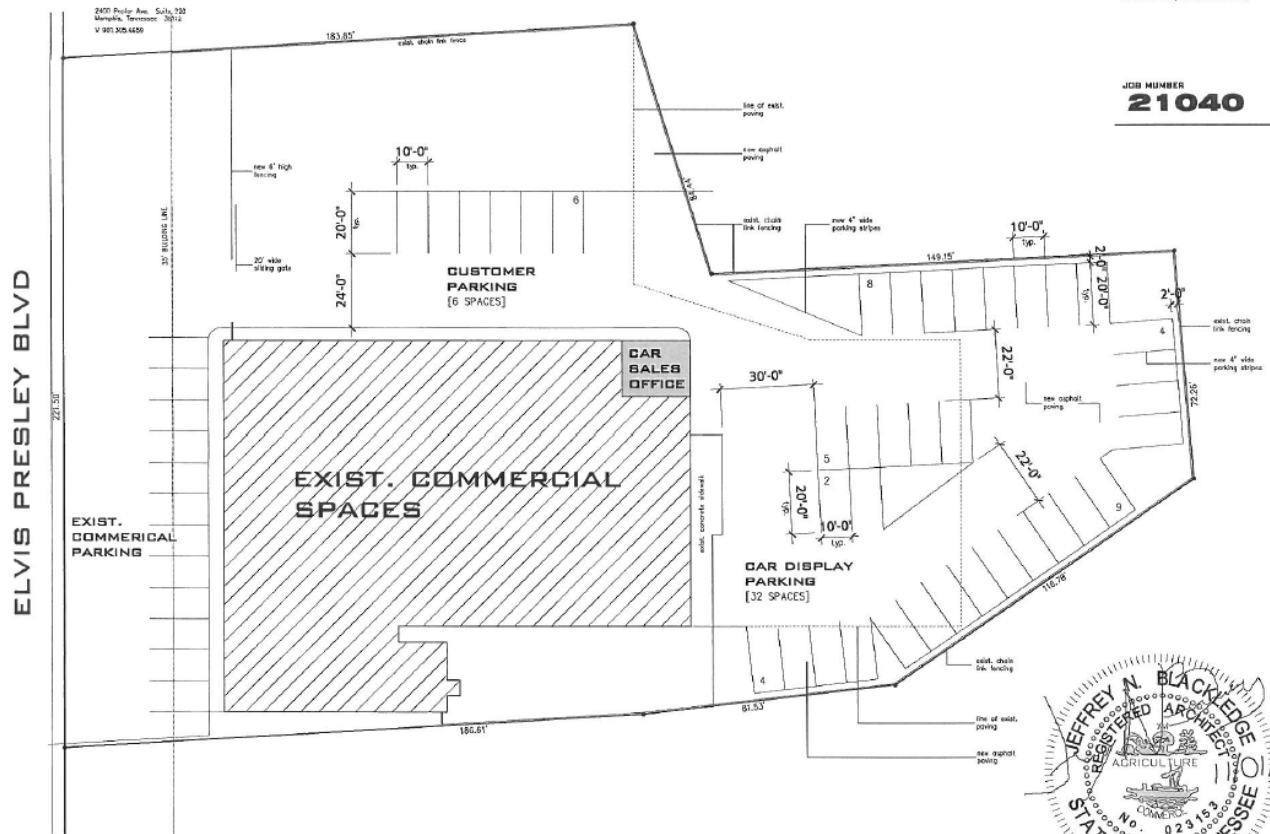
**CC: Division of Planning and Development
– Land Use and Development Services**

CONCEPTUAL SITE PLAN

JEFF BLACKLEDGE
architect

**SITE LAYOUT FOR
 CAR SALES**
**2328 ELVIS PRESLEY BLVD
 MEMPHIS, TENNESSEE**

**JOB NUMBER
 21040**



ELVIS PRESLEY BLVD

S1 SITE PLAN - proposed



11.01.21

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday, March 10, 2022**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER:	SUP 21-37
LOCATION:	2328 Elvis Presley Blvd.
COUNCIL DISTRICTS:	District 4 and Super District 8
OWNER/APPLICANT:	Hythem Thahabieh of Bargain Divers, Inc.
REPRESENTATIVE:	Evelyn Royston
REQUEST:	Special use permit for used vehicle sales
EXISTING ZONING:	Commercial Mixed Use – 3
AREA:	1.4 acres

The following spoke in support of the application: Evelyn Royston

The following spoke in opposition to the application: No one

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

1. All nonconforming fencing, signage, and parking shall be removed.
2. The general development standards of Unified Development Code Article 4, or equivalent alternatives, shall apply.
3. A revised plan set that demonstrates compliance with conditions 1 and 2 and any other relevant zoning and engineering standards shall be submitted, subject to administrative review and approval.

The motion *failed* by a vote of 0-9.

AGENDA ITEM: 11

CASE NUMBER: SUP 21-37 **L.U.C.B. MEETING:** 10 March 2022

LOCATION: 2328 Elvis Presley Blvd.

COUNCIL DISTRICT: District 4 and Super District 8

OWNER/APPLICANT: Hythem Thahabieh of Bargain Divers, Inc.

REPRESENTATIVE: Evelyn Royston

REQUEST: Special use permit for used vehicle sales

AREA: 1.4 acres

EXISTING ZONING: Commercial Mixed Use – 3

CONCLUSIONS (p. 17)

1. Hythem Thahabieh of Bargain Divers, Inc., has requested a special use permit for used vehicle sales.
2. The vehicle sales business would share the site and structure with an existing furniture retail business, also operated by the applicant.
3. The proposed use – given its outdoor storage and auto-oriented nature – may have an injurious impact on the community development efforts underway in the Alcy Ball neighborhood. Moreover, the subject site is within 150 feet of a single-family zoning district and abuts two churches (one of which submitted a letter of opposition).
4. There are five existing vehicle sales businesses within a half-mile of this site (*Google Maps, retrieved 4 March 2022*), suggesting there is no regional need for an additional such business in this area of the Elvis Presley commercial corridor.
5. For these reasons, staff recommends rejection. If approved, staff recommends the requirement of significant site upgrades, including the removal of certain nonconformities and installation of streetscaping.

CONSISTENCY WITH MEMPHIS 3.0 (pp. 20-22)

The Department of Comprehensive Planning has commented that this proposal is inconsistent with the Memphis 3.0 Comprehensive Plan’s future land use designation at this site of “Anchor Neighborhood – Mix of Building Types.”

RECOMMENDATION (p. 17)

Rejection

GENERAL INFORMATION

Street Frontage:	Elvis Presley Blvd.	(Minor Arterial)	221.5 linear feet
Zoning Atlas Page:	2230		
Parcel ID:	060032 00078		
Existing Zoning:	Commercial Mixed Use – 3		

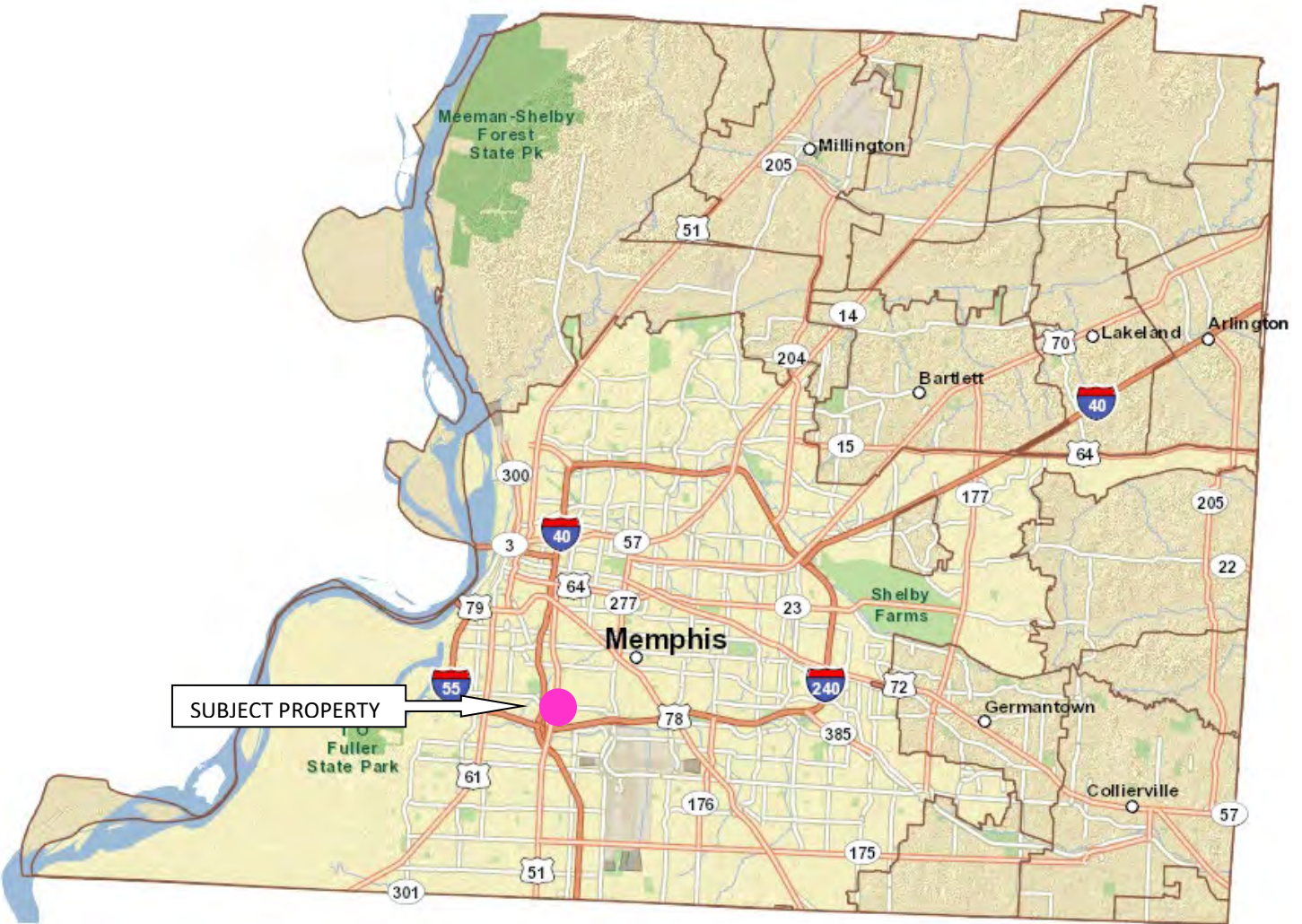
NEIGHBORHOOD MEETING

The required neighborhood meeting was held at 4 p.m. on Saturday 26 February 2022 via Zoom.

PUBLIC NOTICE

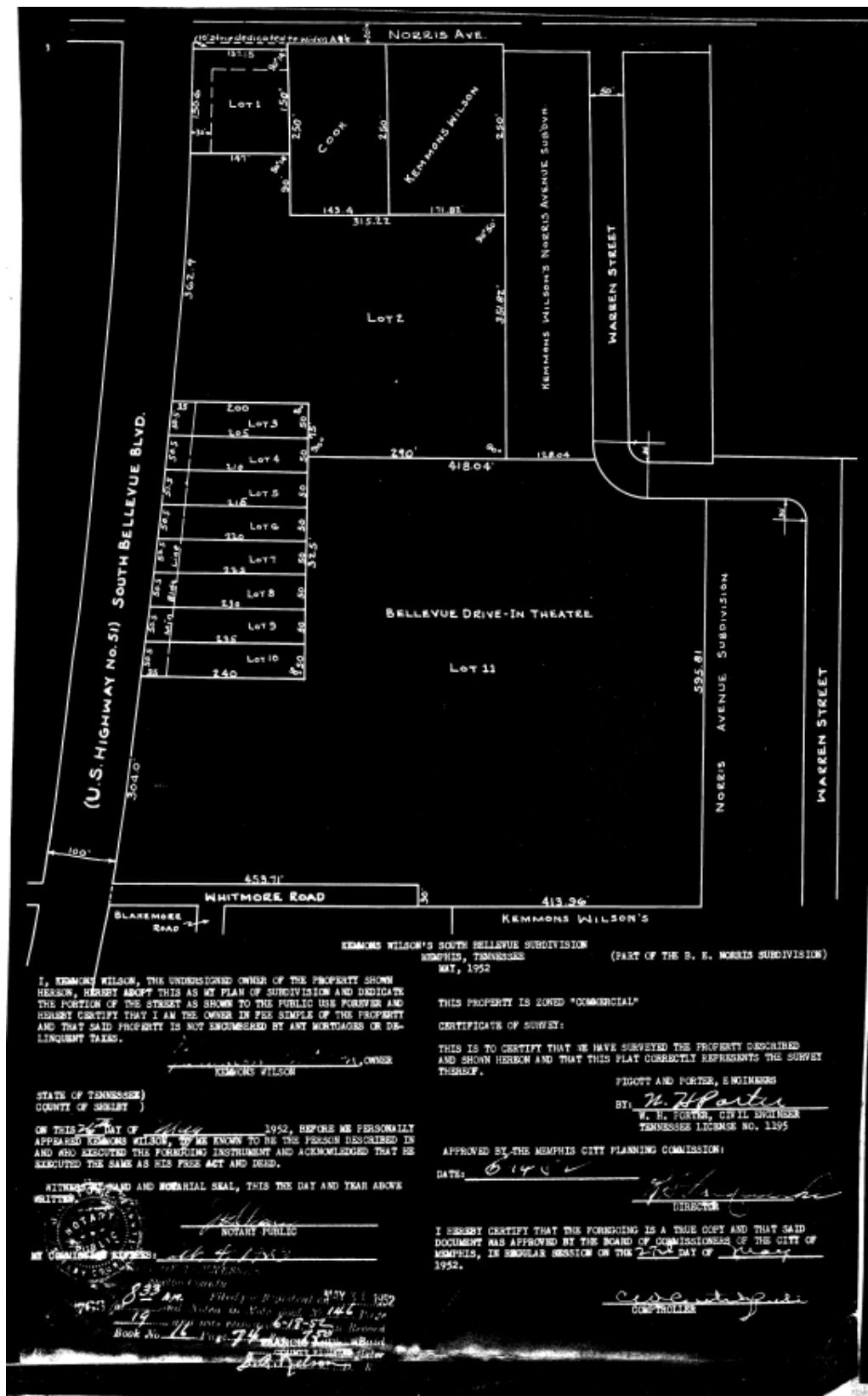
In accordance with Sub-Section 9.3.4A of the Unified Development Code, notice of public hearing is required to be mailed and posted. 62 letters were mailed on 20 December 2021 (the mailed notice itself incorrectly stated that 68 letters were mailed), and one sign posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



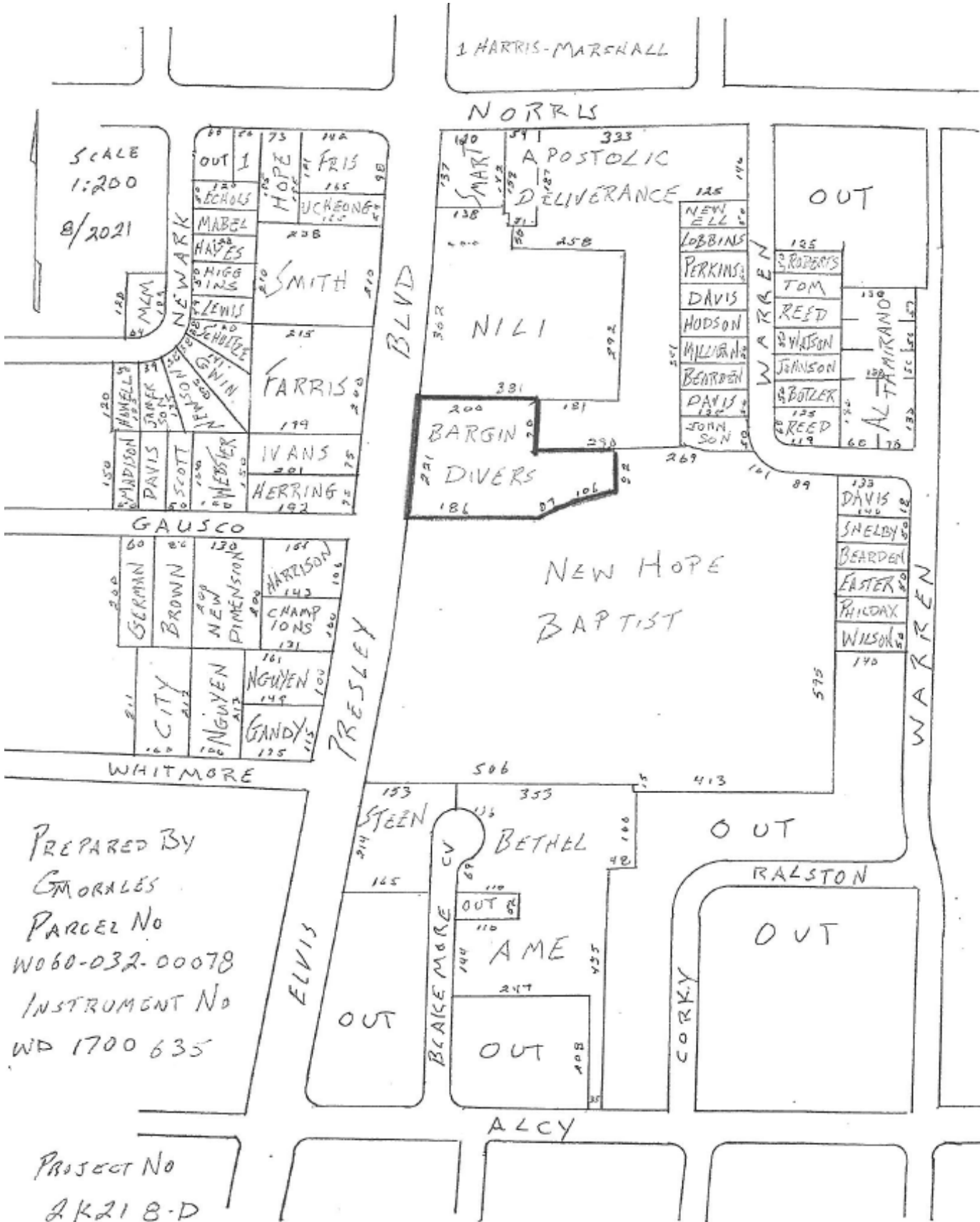
Subject property located in Alcy Ball neighborhood

KEMMONS WILSON'S SOUTH BELLEVUE SUBDIVISION (1952)



Subject property comprises Lots 5 and 6 as well as parts of Lots 3, 4, 7, and 11.

VICINITY MAP



SATELLITE PHOTO



ZONING MAP



Existing Zoning: Commercial Mixed Use – 3

Surrounding Zoning

North: Commercial Mixed Use – 3

East: Commercial Mixed Use – 3

South: Commercial Mixed Use – 3

West: Commercial Mixed Use – 3

LAND USE MAP



- COMMON AREA LAND
- SINGLE-FAMILY
- MULTI-FAMILY
- INSTITUTIONAL
- COMMERCIAL
- OFFICE
- INDUSTRIAL
- PARKING
- RECREATION/OPEN SPACE
- VACANT

SITE PHOTOS



A view north down Elvis Presley.

Note the overhead utilities, lack of curb/sidewalk/streetscape, detached sign, window signage, and parking configuration.



View south down Elvis Presley. Note both detached signs, as well as two portable signs.

This parking appears to be at least partially within the right-of-way.



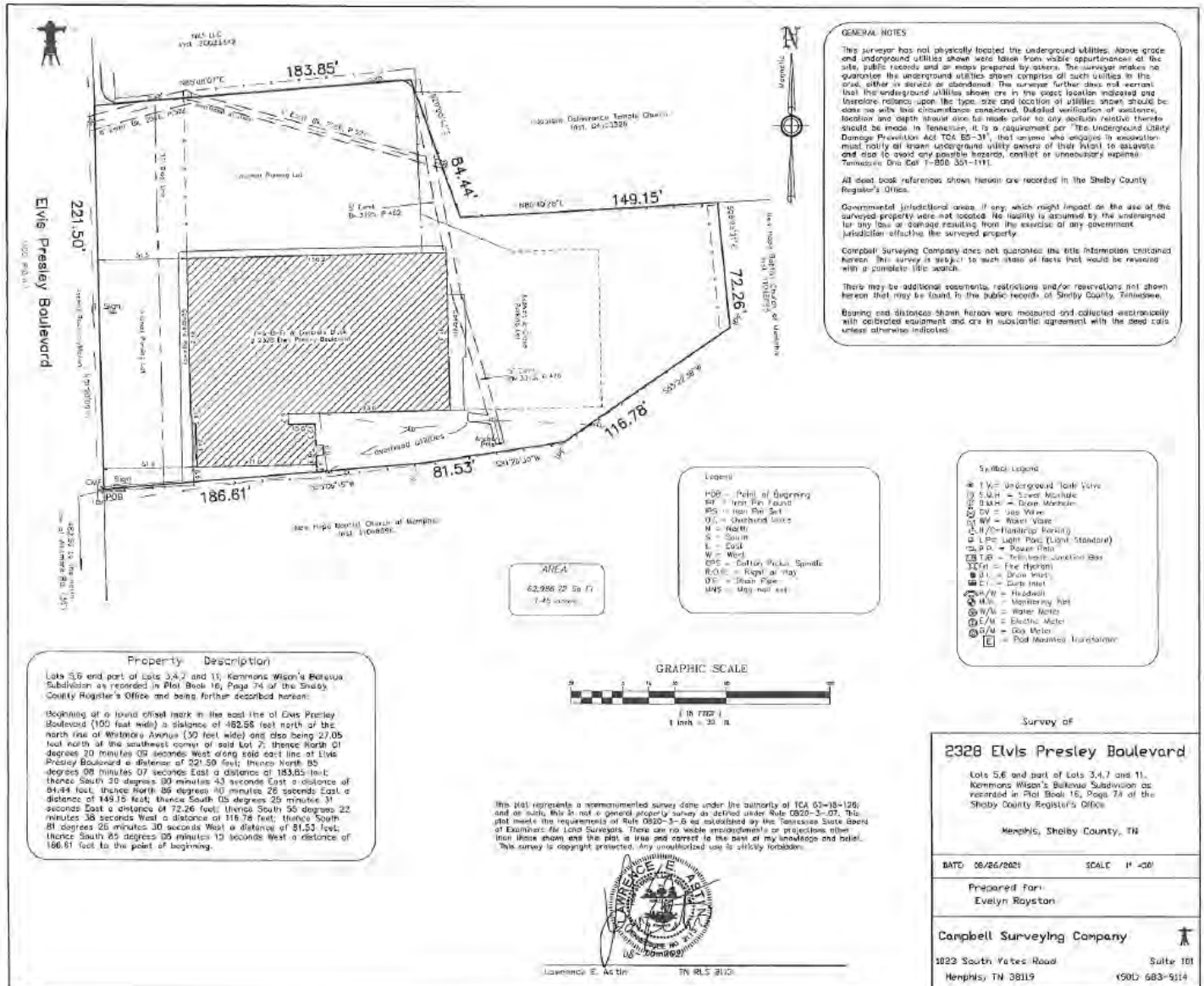
A view of the shopping strip, including the furniture store (left) and a vacant storefront (right). Note the truck, two detached signs, and chain link fencing.



A view of the rear parking area. Note the chain link fencing and gate, as well as signage on fence.



An alternative view of the rear parking area.



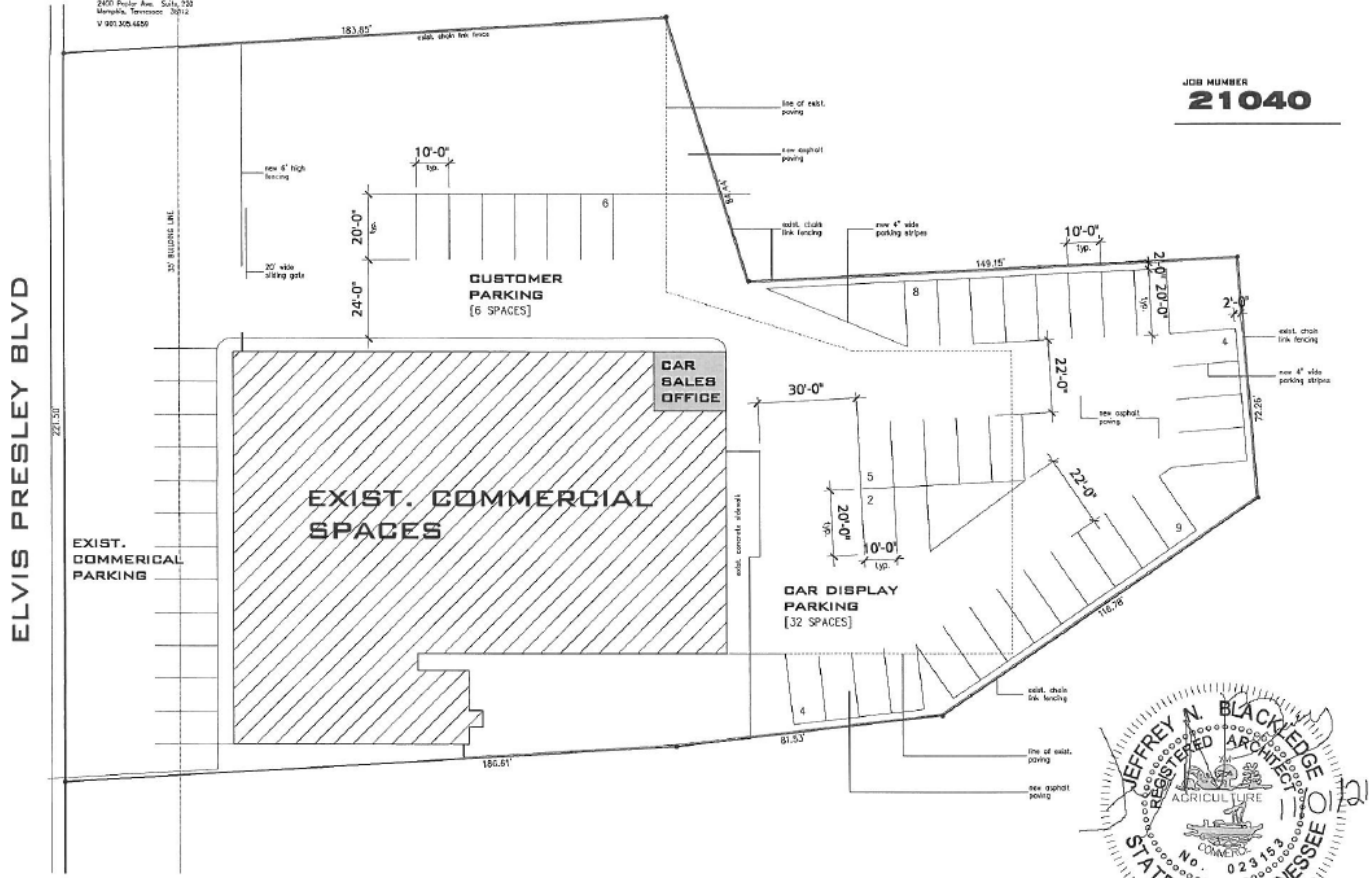
SITE PLAN



2470 Pecker Ave. Suite 200
Memphis, Tennessee 38112
V 901.208.4450

SITE LAYOUT FOR
CAR SALES
2328 ELVIS PRESLEY BLVD
MEMPHIS, TENNESSEE

JOB NUMBER
21040



S1 SITE PLAN - proposed



11.01.21

STAFF ANALYSIS

Request

The request is for a special use permit for used vehicle sales.

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

Approval Criteria

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

9.6.9 Approval Criteria

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

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

Site Description

The 1.4-acre subject site consists of Lots 5 and 6 as well as parts of Lots 3, 4, 7, and 11 of Kemmons Wilson's South Bellevue Subdivision. It has 221.5 feet of frontage on Elvis Presley, a minor arterial. The frontage has overhead utilities and lacks curb/sidewalk/streetscaping. Some parking spaces appear to have been recently painted on asphalt at least partially within the right-of-way. Per the Assessor of Property, this grade-D strip shopping center was built in 1950 and has a square footage of 15,722. The center has two bays: one (13650 sf.) contains a furniture store, and the other (2072 sf.) is vacant. The property has two detached signs as well as several other types of attached and portable signs. There is chain link fencing and a chain link gate. The rear parking area contains many vehicles apparently in storage.

Site Plan Review

A full site plan review will be conducted in accordance with Condition 3, if approved.

Conclusions

Hythem Thahabieh of Bargain Divers, Inc., has requested a special use permit for used vehicle sales.

The vehicle sales business would share the site and structure with an existing furniture retail business, also operated by the applicant.

The proposed use – given its outdoor storage and auto-oriented nature – may have an injurious impact on the community development efforts underway in the Alcy Ball neighborhood. Moreover, the subject site is within 150 feet of a single-family zoning district and abuts two churches (one of which submitted a letter of opposition).

There are five existing vehicle sales businesses within a half-mile of this site (*Google Maps, retrieved 4 March 2022*), suggesting there is no regional need for an additional such business in this area of the Elvis Presley commercial corridor.

The Department of Comprehensive Planning has commented that this proposal is inconsistent with the Memphis 3.0 Comprehensive Plan’s future land use designation at this site of “Anchor Neighborhood – Mix of Building Types.”

For these reasons, staff recommends rejection. If approved, staff recommends the requirement of significant site upgrades, including the removal of certain nonconformities and installation of streetscaping.

RECOMMENDATION

Staff recommends *rejection*.

However, if approved, staff recommends the following conditions:

1. All nonconforming fencing, signage, and parking shall be removed.
2. The general development standards of Unified Development Code Article 4, or equivalent alternatives, shall apply.
3. A revised plan set that demonstrates compliance with conditions 1 and 2 and any other relevant zoning and engineering standards shall be submitted, subject to administrative review and approval.

DEPARTMENTAL COMMENTS

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

City Engineer:

1. Standard Subdivision Contract or Right-Of-Way 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.

Traffic Control Provisions:

6. 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.
7. 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.
8. 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:

9. The City Engineer shall approve the design, number and location of curb cuts.
10. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.

Drainage:

11. 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.

12. 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.
13. 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.

City Fire Division:

Reviewed by: J. Stinson

Address or Site Reference: 2328 Elvis Presley

- 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).
- 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.

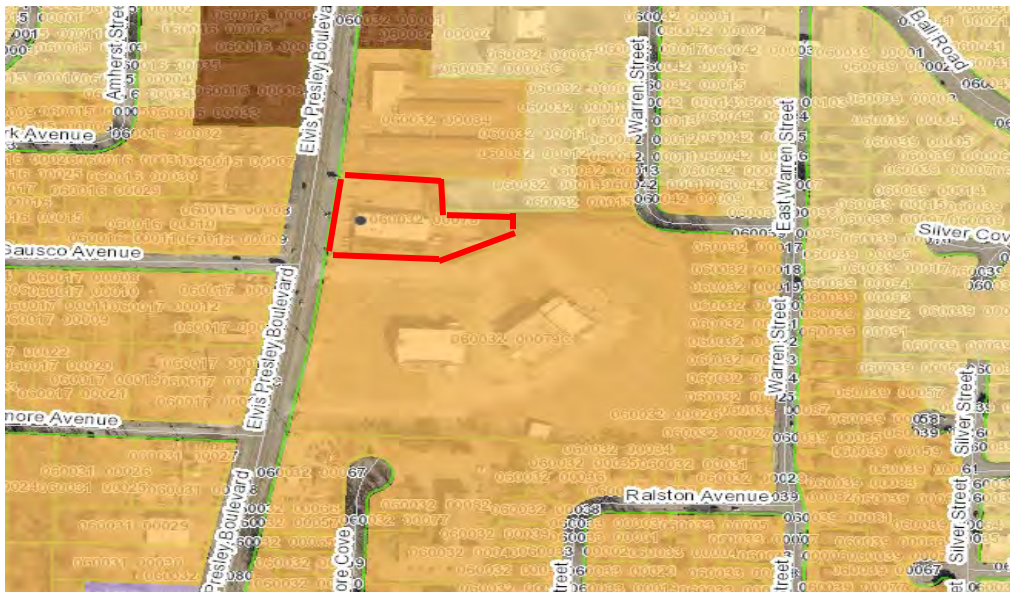
Dept. of Comprehensive Planning:

Land Use Designation (see page 82 for details): Anchor Neighborhood- Mix of Building Types (AN-M)

Based on the future land use and degree of change map the proposal IS NOT 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



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

2. Land use description & applicability:

Mix of Building Types Anchor Neighborhoods 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.



“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:

NURTURE - Primarily detached, single-family residences. Attached single-family, duplexes, triplexes and quadplexes permitted on parcels within 100 feet of an anchor and at intersections where the presence of such housing type currently exists; Other housing and commercial types along avenues, boulevards and parkways as identified in the Street Types Map where same types exist on two or more adjacent parcels. Height: 1-3

stories. Scale: house-scale.

The applicant is seeking approval to operate an automobile sales business on the parcel.

The request does not meet the criteria of AN-M, Nurture because the proposed commercial use does not exist on two or more adjacent parcels.

3. Existing, Adjacent Land Use and Zoning

The subject site is surrounded by the following land uses: Single-family and Commercial. The subject site is surrounded by the following zoning districts: RU-1, RU-3, CMU-3, and CMU-1. This requested land use is not compatible with the adjacent land use because *existing land uses surrounding the parcels is dissimilar in nature to the requested use.*

4. Degree of Change Map



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

5. Degree of Change Descriptions

Nurture areas rely primarily on public and philanthropic resources to stabilize the existing pattern of a place.

Actions for Nurture anchors and anchor neighborhoods are meant to:

- Stabilize the community
- Protect and support community assets
- Protect and stabilize existing affordable housing
- Promote activities that will stimulate market activity

Ways to Nurture:

- "Road diets" – reduce the number of lanes to make room for wider sidewalks, bike lanes, and/or on-street parking
- Improve pedestrian realm (sidewalks, crosswalks, planting buffer and street trees, street lights, street furniture)
- Repurpose vacant land as temporary civic space
- Grants for small business frontage improvement

- Reduce number of curb cuts to improve pedestrian and cyclist safety (access management)
- Enhance connectivity to transit network
- Introduce or improve bike lanes and sidewalks
- Improve public access points (covered bus stops, benches)
- Improve public services (trash cleanup and collection)
- Control scale and frequency of signage
- Plan community programs on streets or vacant lots (markets, festivals)
- Upgrade infrastructure to improve flood control and internet access
- Improve existing parks and civic buildings and spaces
- Allow increased density and building height
- Allow a broader mix of uses

Based on the information provided, the proposal IS NOT CONSISTENT with the Memphis 3.0 Comprehensive Plan.

Summary Compiled by: Melanie Batke, Comprehensive Planning.

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

APPLICATION FORM



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

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

Date: 10/29/21

Case #: S.U.P. 21-37

PLEASE TYPE OR PRINT

Property Owner of Record: Bargain Drivers, Inc. Phone #: 252.378.6029
 Mailing Address: 4018 Fairway View Ct. W. City/State: Bartlett Tn Zip 38135
 Property Owner E-Mail Address: roystonconsult@aol.com
 Applicant: Hythem Tnahabien Phone # 2523786029
 Mailing Address: 2328 Elvis Presley Blvd City/State: Memphis Tenn Zip 38106
 Applicant E-Mail Address: schooluniform2127@yahoo.com
 Representative: Evelyn Royston, Construction Code Consultants, LLC Phone #: 901.340.1878
 Mailing Address: 2809 Kirby Parkway, Suite 116-132 City/State: Memphis, Tn Zip 38119
 Representative E-Mail Address: roystonconsult@aol.com
 Engineer/Surveyor: Charles Campbell Surveying Phone # _____
 Mailing Address: 1023 S Yates Rd City/State: Memphis, Tn Zip 38119
 Engineer/Surveyor E-Mail Address: charles@campbellsurveying.net
 Street Address Location: 2328 Elvis Presley Blvd., Memphis Tenn 38106
 Distance to nearest intersecting street: Norris Rd and Elvis Presley approx. 500'

	Parcel 1	Parcel 2	Parcel 3
Area in Acres:	<u>1.443</u>	_____	_____
Existing Zoning:	<u>CMU-3</u>	_____	_____
Existing Use of Property	<u>Commercial Retail</u>	_____	_____
Requested Use of Property	<u>Auto Sales</u>	_____	_____

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

Yes No

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: _____

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

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

BAKOPIN DUDS INC 11/3/2021 Mahesh 11/3/2021
Property Owner of Record Date Applicant Date

REQUIREMENTS PRIOR TO APPLICATION SUBMISSION

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

Pre-Application Conference held on: 7/20/21 with Brian Bascuss

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

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

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

9.6.9 Special Use Permit Approval Criteria

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

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

- The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare (UDC sub-section 9.6.9A).
The project will not have any effects upon adjacent properties or character of the neighborhood
- The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations (UDC sub-section 9.6.9B).
Project will meet requirement set forth above
- The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services (UDC sub-section 9.6.9C).
The project meet standards above
- The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic or historic importance (UDC sub-section 9.6.9D).
Project meet standards above
- The project complies with all additional standards imposed on it by any particular provisions authorizing such use (UDC sub-section 9.6.9E).
Project complies with standards imposed
- The request will not adversely affect any plans to be considered (see UDC Chapter 1.9) or violate the character of existing standards for development of the adjacent properties (UDC sub-section 9.6.9F).
Project will not affect any future plans

LETTER OF INTENT

CONSTRUCTION CODES CONSULTANTS, LLC 2809 Kirby Parkway, Suite 116-132 MEMPHIS, TN 38119 901.340.1878 : ROYSTONCONSULT@AOL.COM	
--	--

October 27, 2021

Office of Planning and Development
125 N. Main St., Rm. 468
Memphis, Tenn. 38103

RE: Use Variance
2328 Elvis Presley Blvd.
Memphis, Tenn. 38106

LETTER OF INTENT

Please find enclosed our application for the above reference site to request approval for a Special Use Permit for Auto Sales at this location.

The property is located in a CMU-3 Zoning which is a permitted use with Special Use Permit. The applicant, Mr. Hythem Thahabien is the owner of the Shopping Center and will be the tenant for Heba Auto dba Bargain Drivers, Inc.

The Sales lot will provide a maximum of 32 cars and are located in the rear of the property. Sale cars will not be visible from Elvis Presley. Only drivable vehicles for immediate sales will be permitted on the lot. There will be no repair service on the premises.

There are six (6) parking spaces for customer with 2 handicap parking spaces accessible to sales office on the North side of the building enclosed in a site proof fence. Access to sales office on North side will be ADA accessible with a unisex handicap restroom and drinking fountain for customers.

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

SIGN AFFIDAVIT

AFFIDAVIT

Shelby County
State of Tennessee

I, Evelyn Royston, being duly sworn, depose and say that at 7:25 am/pm on the 18th day of FEB, 20 22, I posted Public Notice Sign(s) pertaining to Case No. 21-37 at 2328 Elvis Presley Blvd. providing notice of a Public Hearing before the Land Use Control Board, Memphis City Council, Shelby County Board of Commissioners for consideration of a proposed Land Use Action (Planned Development, Special Use Permit, Zoning District Map Amendment, Street and/or Alley Closure), a photograph of said sign(s) being attached hereon and a copy of the sign purchase receipt or rental contract attached hereto.

[Signature]
Owner, Applicant or Representative

02/18/22
Date

Subscribed and sworn to before me this 19th day of Feb., 20 22

[Signature]
Notary Public

My commission expires: 7-31-22



LETTERS RECEIVED

One letter of opposition was received by the time of this report's publication; it is pasted below.

***NEW HOPE BAPTIST CHURCH
OF MEMPHIS
2356 ELVIS PRESLEY BLVD.
MEMPHIS, TENNESSEE 38106
901-947-2212
Robert J. Matthews, Senior Pastor***

Land Use Control Board
Memphis City Hall
125 N. Main
Memphis, Tennessee 38103
Re: SUP #21-37 2328 Elvis Presley Blvd.
Attn: Brett Davis

March 3, 2022

Gentlemen:

Please be advised that the New Hope Baptist Church of Memphis located at 2356 Elvis Presley Blvd. (directly adjacent to the subject property) is categorically opposed to the granting of a Special Use Permit for the above-mentioned applicant for the following reasons:

1. The neighborhood is already saturated with used car lots, tire shops, and car repair businesses. We already have a car repair shop to our immediate south, there is a car lot at the corner of Elvis Presley and Norris/Mallory and several similar businesses across the street.
2. The applicant has not reached out to us, or as far as we can see, the community as a whole, to gather community input. He has been storing and possibly selling cars there for some time. While the applicant claims there won't be repair work done on the premises, there are several instances of disabled vehicles presently parked on the property. This blatant disregard for usual and customary pre-applicant zoning requirements, in particular, and business norms in general, certainly does not bode well for any future interactions with the community.

**continued on next page*

Our church has made a concerted effort to upgrade our neighborhood. Beginning with the purchase of an abandoned drive-in during the 1990, NHBC has invested over THREE MILLION DOLLARS in the construction of our Sanctuary and Family Life Center & beautification of our 11-acre campus. The addition of another unwanted and unneeded car lot, we believe, only diminishes the value of our investment. If you would survey Elvis Presley Blvd. from South Parkway to Shelby Drive, how many multi-million-dollar investments (other than Bulk Mail and EPE) have been made? We firmly believe that the addition of another used car lot in such close proximity to our property only diminishes the value of our investment.

Moving forward it would also be our hope that, just as there was a moratorium on similar business along the Lamar Corridor, the same would be placed on Elvis Presley Blvd. Enough is enough. There must be better and higher uses for commercial property on Elvis Presley Blvd.

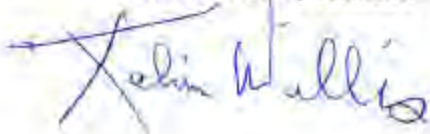
For the reasons stated above, we therefore respectfully request that the applicant's submission for a SUP be denied.

Respectfully submitted,

Robert J. Matthews, Senior Pastor



Kelvin Willis, Trustee



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

ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS

Planning & Development
DIVISION

Planning & Zoning COMMITTEE: 22 March 2022

DATE

PUBLIC SESSION: 22 March 2022

DATE

ITEM (CHECK ONE)

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

OTHER: _____

ITEM DESCRIPTION: A resolution approving a special use permit for a planned residential development

CASE NUMBER: PD 21-43

DEVELOPMENT: Berryhill Downs Planned Development

LOCATION: Berryhill Rd., beginning approximately 555' south of Chimneyrock Blvd.

COUNCIL DISTRICTS: District 2 and Super District 9

APPLICANT: Brad Reedy

OWNERS: Farid and Lynda Akil

REPRESENTATIVE: Danny Tabrizi

EXISTING ZONING: Conservation Agriculture

REQUEST: Special use permit for a planned residential development

AREA: 18.6 acres

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

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

First reading/hearing – 22 March 2022

PRIOR ACTION ON ITEM:

(1) _____ APPROVAL - (1) APPROVED (2) DENIED
10 March 2022 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
_____	_____	ZONING ADMINISTRATOR
_____	_____	DIRECTOR (JOINT APPROVAL)
_____	_____	COMPTROLLER
_____	_____	FINANCE DIRECTOR
_____	_____	CITY ATTORNEY
_____	_____	CHIEF ADMINISTRATIVE OFFICER
_____	_____	COMMITTEE CHAIRMAN



Memphis City Council Summary Sheet

PD 21-43 – Berryhill Downs Planned Development

Resolution requesting a special use permit for a planned residential development at Berryhill Rd., beginning approximately 555' south of Chimneyrock Blvd.:

- The Division of Planning & Development sponsors this resolution at the request of the Owners: Farid and Lynda Akil; Applicant: Brad Reedy; and Representative: Danny Tabrizi; and
- This resolution, if approved, would supersede the existing zoning for this property once a plan were recorded; and
- The item may require future public improvement contracts.

RESOLUTION APPROVING THE BERRYHILL DOWNS PLANNED DEVELOPMENT AT BERRYHILL ROAD, BEGINNING APPROXIMATELY 555' SOUTH OF CHIMNEYROCK BLVD., KNOWN AS CASE NUMBER PD 21-43.

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

WHEREAS, Brad Reedy filed an application with the Memphis and Shelby County Division of Planning and Development to allow a planned residential development; and

WHEREAS, the Division 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 the consistency of its design and amenities with the public interest; and has submitted its findings and recommendation 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 March 10, 2022, and said Board has submitted its recommendation concerning the above considerations to the Council of the City of Memphis; and

WHEREAS, the Council of the City of Memphis has reviewed the aforementioned application pursuant to Tennessee Code Annotated Section 13-4-202(B)(2)(B)(iii) and has determined that said development is consistent with the Memphis 3.0 Comprehensive 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 Division of Planning and Development and has determined that said development meets the objectives, standards and criteria for a special use permit, and said development is consistent with the public interests.

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

BE IT FURTHER RESOLVED, that the requirements of said aforementioned clause of the Unified Development Code shall be deemed to have been complied with; that the outline plan, once recorded, shall bind the applicant, owner, mortgagee, if any, and the legislative body with respect to the contents of said plan; and the applicant and 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.

OUTLINE PLAN CONDITIONS

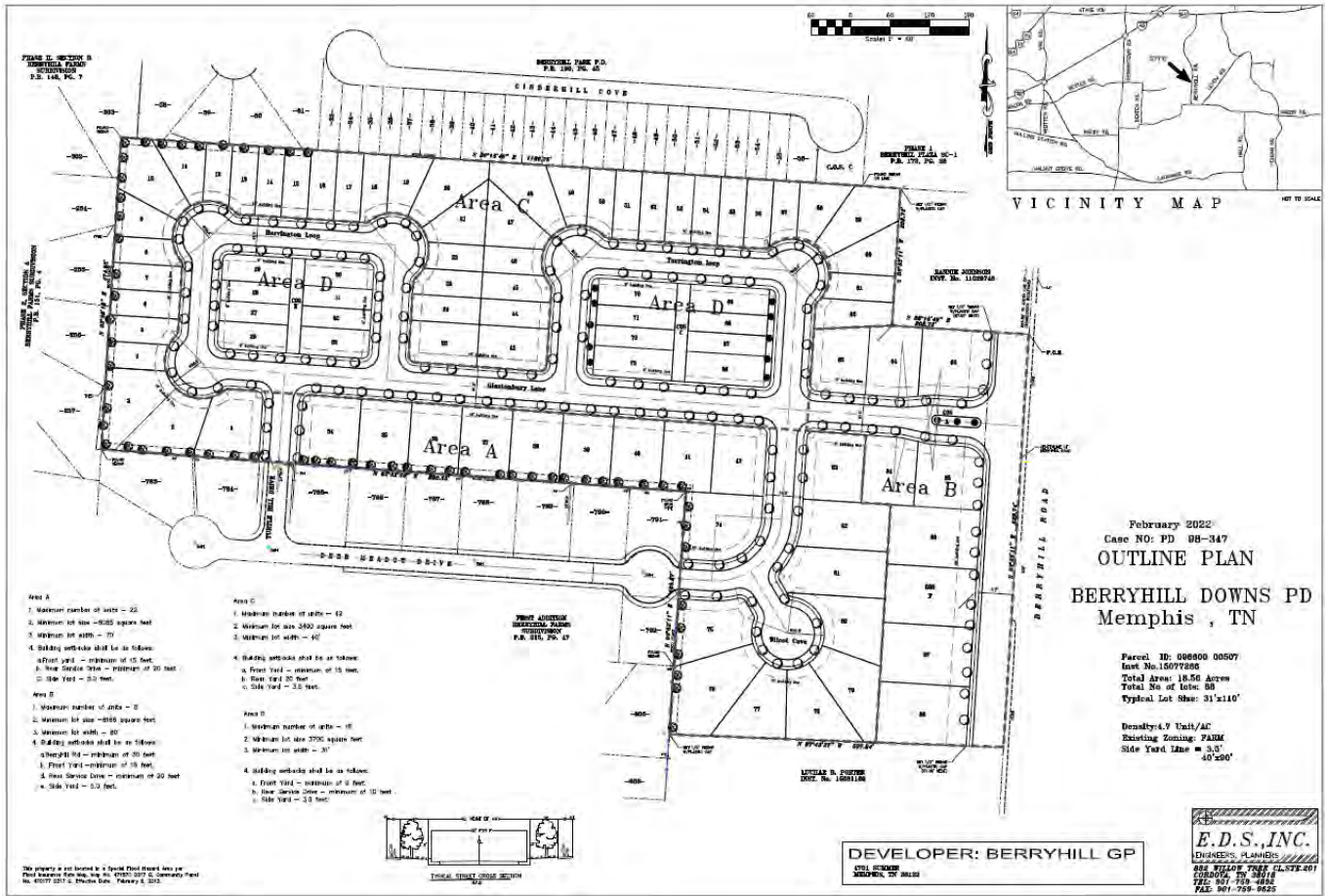
- I. Uses Permitted
 - A. Single-Family Detached (All Areas) and Semi-Attached Housing (Area D only) and Customary Accessory Uses
- II. Building Envelope Standards
 - A. Areas A and B shall be regulated as if zoned R-8, with the following exceptions:
 - 1. Those lots with driveways on Berryhill shall have a minimum width of 100 feet; otherwise the minimum lot width shall be 60 feet.
 - 2. The front setback along Berryhill shall be 25 feet; otherwise the front setback shall be 15 feet.
 - B. Area C shall be subject to the following standards:
 - 1. The minimum lot size shall be 3400 square feet.
 - 2. The minimum lot width shall be 40 feet.
 - 3. The minimum setbacks shall be: 15 feet from front and rear, 3.5 feet from internal side, and 7 feet from street side.
 - 4. The maximum height shall be 40 feet.
 - C. Area D shall be subject to the following standards:
 - 1. The minimum lot size shall be 3700 square feet.
 - 2. The minimum lot width shall be 31 feet.
 - 3. The minimum setbacks shall be: 9 feet from front, 10 feet from rear, 3.5 feet from internal side, and 7 feet from street side.
 - 4. The maximum height shall be 40 feet.
- III. Lot Elements
 - A. Street-Accessed Lots
 - 1. The driveway shall have a maximum width of 12 feet from the property line to the front setback.
 - 2. Transformers, refuse, satellites, plumbing cleanouts, utility meters, and air conditioning compressors shall be properly screened from public view.
 - 3. Accessory structures shall have a minimum rear setback of 10 feet.
 - 4. Corner lots shall respond to their context, such as by including a wraparound porch, turret, or an equivalent side-street architectural detail. All lots shall have front porches. Porches shall have a minimum depth of 6 feet.
 - 5. Regularly-shaped walkways shall connect a recognizable front door to the right-of-way, shall have a width of 5 feet, and should continue to the street.
 - 6. Front-facing garages shall be at least 20 feet behind the front façade of the house. Such garages shall be permitted a maximum of two bays, each with a maximum width of 9 feet.
 - 7. Hook-in garages shall be masked in any way possible, such as by incorporating the porch along the garage wall. Such garages shall be permitted a maximum of three bays, each with a maximum width of 9 feet.
 - 8. Side yard, front-facing fencing shall be at least 12 feet behind the front façade of the house. Side yard, front-facing brick walls shall not be subject to this standard. Such fencing should be coordinated with adjacent homeowners.
 - B. Alley-Accessed Lots
 - 1. The rear garage shall have lighting that matches the lighting of the house's front façade.

2. Transformers, refuse, satellites, plumbing cleanouts, utility meters, and air conditioning compressors shall be properly screened from public view.
3. Front fencing shall have a maximum height of 4 feet and a minimum/maximum setback of 18 inches. Land between the sidewalk and front fence shall be landscaped.
4. Side street fencing shall have a maximum height of 6 feet and a minimum setback of 18 inches. Such fencing shall have brick columns 25 feet on-center beginning 40 feet behind the front façade of the house.
5. Corner lots shall have wraparound porches or an equivalent side street architectural detail. Other lots shall have either a front porch or a front stoop connected to the sidewalk by a regularly-shaped walkway. Porches shall have a minimum depth of 6 feet.
6. Side yard, front-facing fencing shall be at least 12 feet behind the front façade of the house. Side yard, front-facing brick walls shall not be subject to this standard. Such fencing should be coordinated with adjacent homeowners. Other internal side yard fencing shall be along the property line.
7. Vehicular access shall be from the alley.

IV. Miscellaneous

- A. No parking shall be designed so that any car must back onto Berryhill Rd.
- B. A minimum of 0.6% of total area shall be developed as formal open space in accordance with Section 6.2.3.
- C. Electric utilities shall be predominantly underground.
- D. Berryhill Rd. and proposed streets/alleys shall be dedicated (or, for alleys, overlaid with easements) and improved in accordance with Article 5 and as directed by the City Engineer.
- E. A property owners' association that owns and maintains all common land shall be formed concurrent to the recording of a final plan.
- F. Existing trees shall be incorporated into streetscaping, rear buffers, and elsewhere to the maximum extent possible.
- G. All standards of the Unified Development Code not otherwise modified by these conditions shall apply, subject to administrative approval during final plan review.

CONCEPTUAL SITE PLAN



ATTEST:

**CC: Division of Planning and Development
 – Land Use and Development Services**

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday 10 March 2022**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER:	PD 21-43
DEVELOPMENT:	Berryhill Downs Planned Development
LOCATION:	Berryhill Rd., beginning approximately 555' south of Chimneyrock Blvd.
COUNCIL DISTRICTS:	District 2 and Super District 9
OWNERS:	Farid and Lynda Akil
APPLICANT:	Brad Reedy
REPRESENTATIVE:	Danny Tabrizi
REQUEST:	Special use permit for a planned residential development
EXISTING ZONING:	Conservation Agriculture
AREA:	18.6 acres

The following spoke in support of the application: Danny Tabrizi

The following spoke in opposition the application: Cynthia Baker and Holly Simmons

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval with outline plan conditions, as modified. The modified conditions are attached.

The motion *passed* by a unanimous vote of 9-0.

Recommended Outline Plan Conditions, as Modified

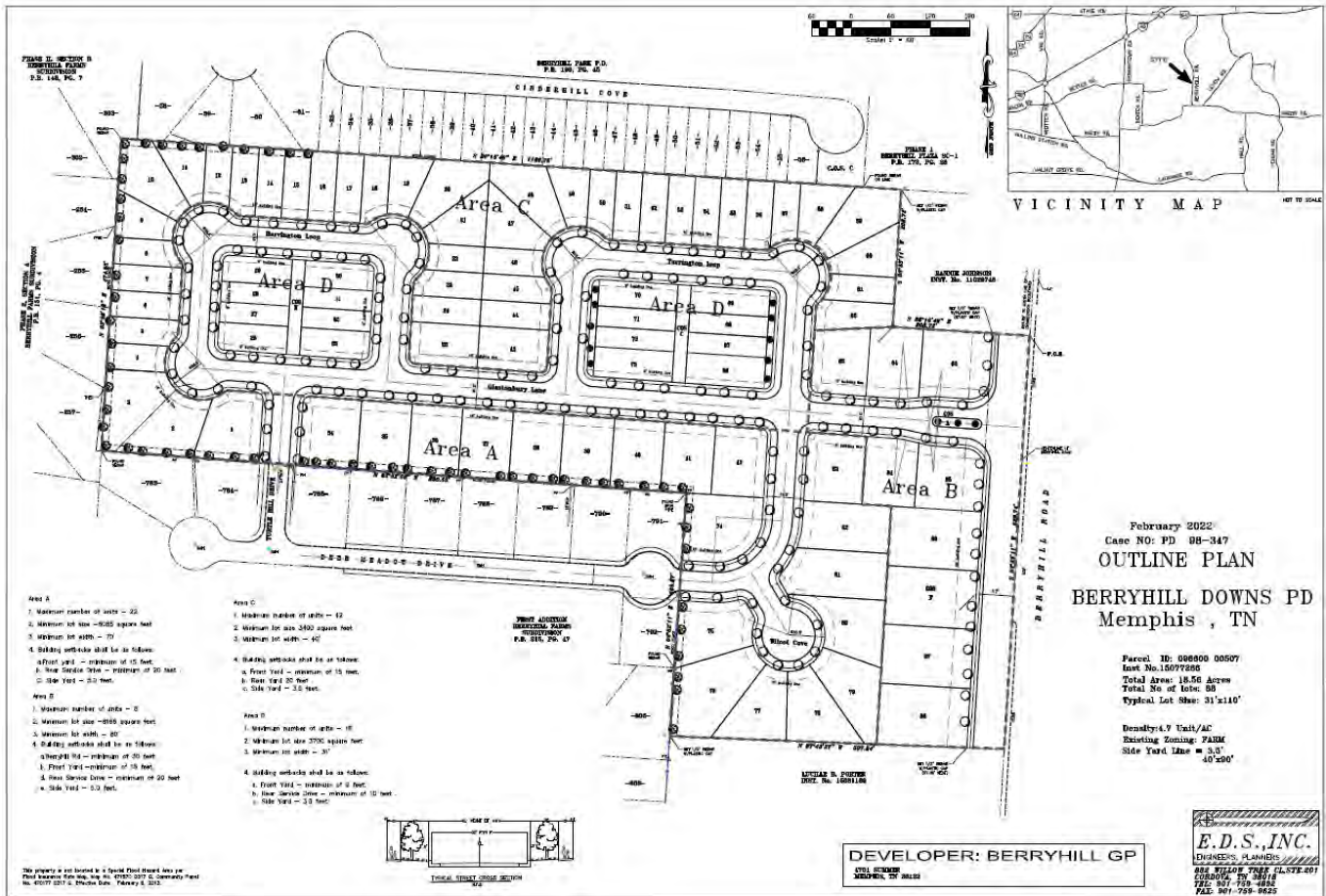
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- E. A property owners' association that owns and maintains all common land shall be formed concurrent to the recording of a final plan.
- F. Existing trees shall be incorporated into streetscaping, rear buffers, and elsewhere to the maximum extent possible.
- G. All standards of the Unified Development Code not otherwise modified by these conditions shall apply, subject to administrative approval during final plan review.

CONCEPTUAL SITE PLAN



AGENDA ITEM: 14

CASE NUMBER: PD 21-43 **L.U.C.B. MEETING:** 10 March 2022
DEVELOPMENT: Berryhill Downs Planned Development
LOCATION: Berryhill Rd., beginning approximately 555' south of Chimneyrock Blvd.
COUNCIL DISTRICT: District 2 and Super District 9
OWNERS: Farid and Lynda Akil
APPLICANT: Brad Reedy
REPRESENTATIVE: Danny Tabrizi
REQUEST: Special use permit for a *planned residential development*
AREA: 18.6 acres
EXISTING ZONING: Conservation Agriculture

CONCLUSIONS (p. 18)

1. Brad Reedy has requested a special use permit for a planned residential development of 88 single-family lots. This development would extend two existing stub streets, improve its Berryhill frontage, and construct several short streets.
2. This land is currently zoned Conservation Agriculture. As such, it may be conserved as natural land, used for agricultural purposes, or subdivided into residential lots with a minimum lot size of one acre. Staff recognizes that this land, adjacent on three sides to single-family housing and on the fourth to Cordova High School, is better suited for suburban development than agricultural purposes or large-lot housing.
3. The applicant has proposed a variety of lot sizes, from 3400 to over 10000 square feet. This range is designed as a gradient with smaller lots to the north and larger lots to the south. This gradient complements adjacent development: the south-adjacent First Addition of Berryhill Farms Subdivision has lots with areas of ~10000 square feet and the north-adjacent Berryhill Planned Development has lots with areas of ~3200 square feet.
4. Staff has assented to all of the applicant's requested lot sizes and setbacks, with one exception: lots along Berryhill are recommended to have a minimum width of 100 feet given that street's arterial status.
5. Staff recommends certain conditions related to individual lot elements, including garage placement and porches. These standards will improve the aesthetic of the street, as well as contribute to individual homeowners' privacy and safety.

CONSISTENCY WITH MEMPHIS 3.0 (pp. 25-26)

This proposal is *consistent* with Memphis 3.0, per the Department of Comprehensive Planning.

RECOMMENDATION (pp. 18-22)

Approval with outline plan conditions

GENERAL INFORMATION

Street Frontage: Berryhill Rd. (Minor Arterial) 628.7 linear feet
Zoning Atlas Page: 1955
Parcel ID: 096600 00507
Existing Zoning: Conservation Agriculture

NEIGHBORHOOD MEETING

The required neighborhood meeting was held on Tuesday 8 February 2022 at the Cordova Library.

PUBLIC NOTICE

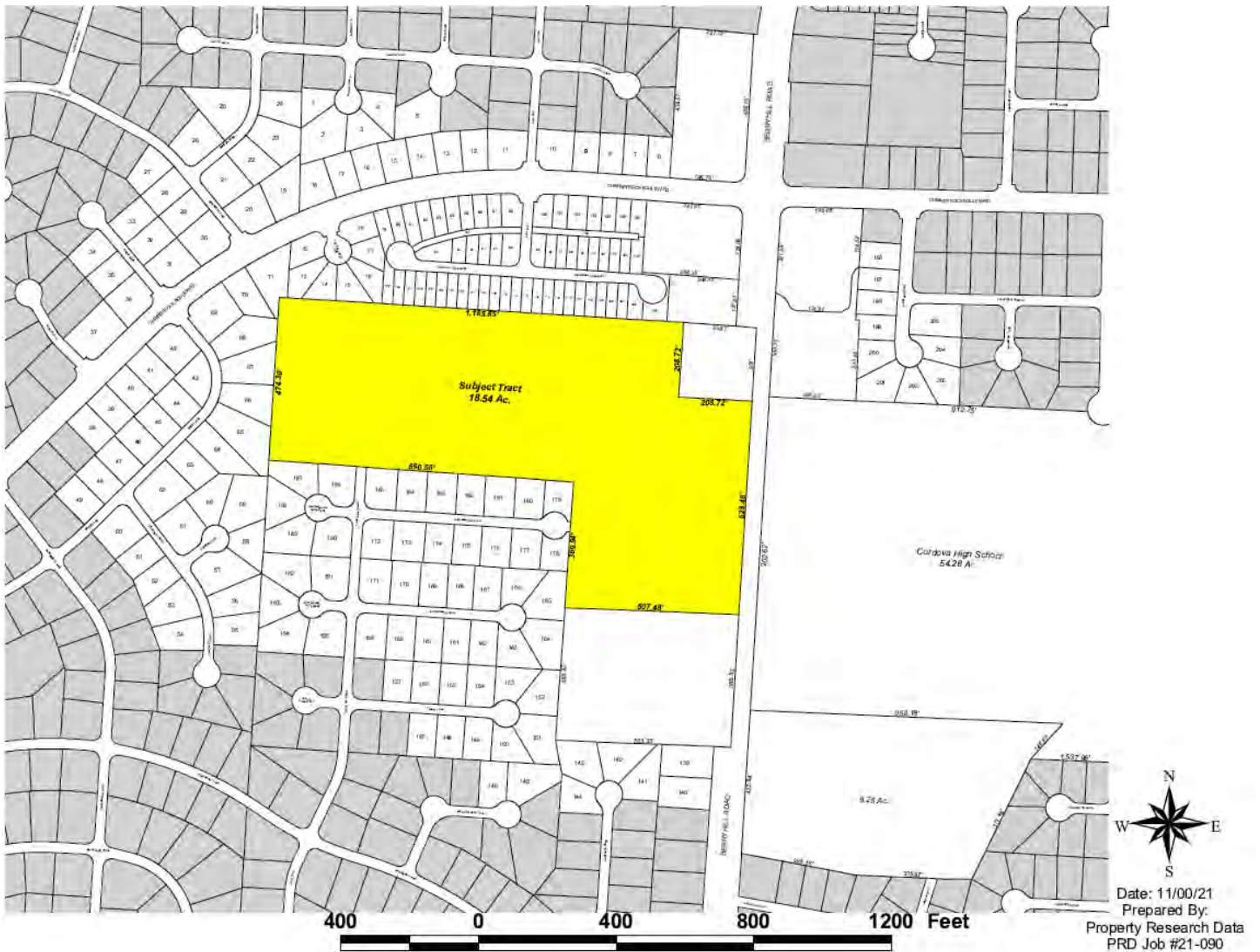
In accordance with Sub-Section 9.3.4A of the Unified Development Code, notice of public hearing is required to be mailed and posted. 207 notices were mailed on 24 February 2022, and one sign posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



Subject property located within Cordova neighborhood

VICINITY MAP



SATELLITE PHOTO WITH ZONING



Existing Zoning: Conservation Agriculture

Surrounding Zoning

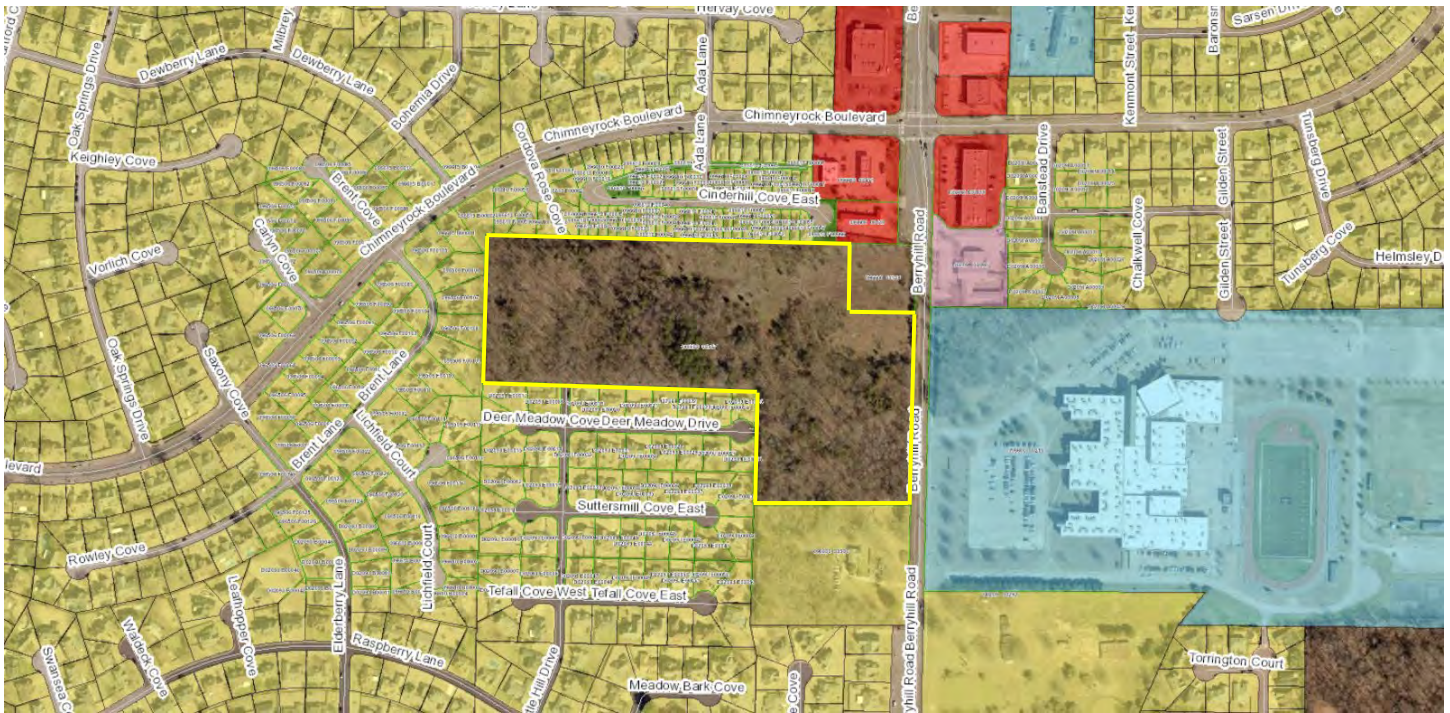
North: Commercial Mixed Use – 2











East: Conservation Agriculture

South: Conservation Agriculture and Residential – 8

West: Residential – 8

LAND USE MAP



-  COMMON AREA LAND
-  SINGLE-FAMILY
-  MULTI-FAMILY
-  INSTITUTIONAL
-  COMMERCIAL
-  OFFICE
-  INDUSTRIAL
-  PARKING
-  RECREATION/OPEN SPACE
-  VACANT

SITE PHOTOS



Existing woods



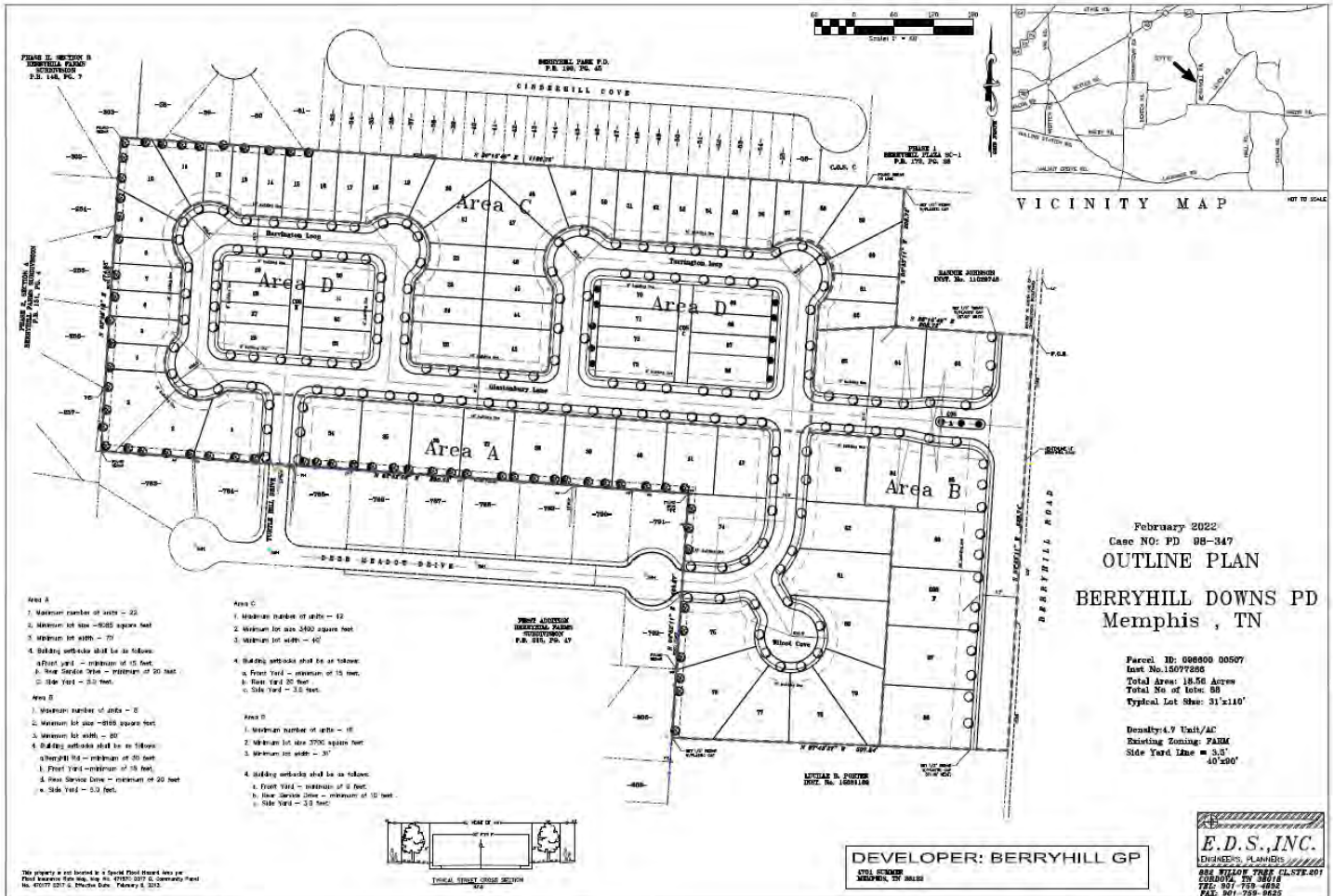
Deer Meadow Dr. stub.

This is both a stub and a dedicated cul-de-sac.



Turtle Hill Dr. stub

PROPOSED OUTLINE PLAN



CONCEPTUAL RENDERINGS AND FLOOR PLANS



Artist's conceptions, all plans
subject to change.
NPH 10-2-00



APPROX. HEATED AREA

1994





APPROX. HEATED AREA
 1826



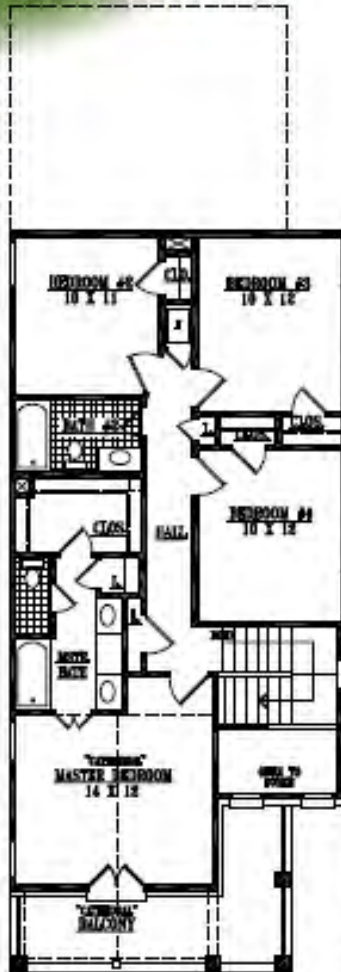
OPTIONAL SALON BATH

9'-0" CEILINGS DOWN
 8'-0" CEILINGS UP
 EXCEPT WHERE NOTED

SQUARE FOOTAGE
 909 HEATED DOWN
 962 HEATED UP
 436 GARAGE & STORAGE
 301 FRONT & REAR PORCHES

1871 TOTAL HEATED AREA
 2307 TOTAL ENCLOSED AREA
 2608 TOTAL UNDER ROOF

FIRST LEVEL FLOOR PLAN



PLAN NO. 928-980-757-1 R15

SECOND LEVEL FLOOR PLAN

Artist's conceptions, all plans
 subject to change.
 M/M 5-04-05



APPROX. HEATED AREA
 1617



"FRENCH COUNTRY"

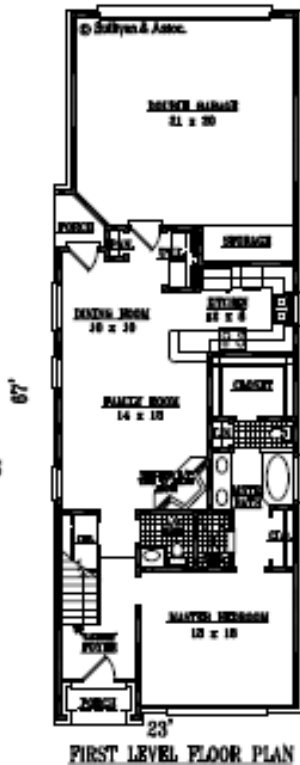


"FRENCH COUNTRY WITH STONE"

8'-0" CEILINGS DOWN
 8'-0" CEILINGS UP
 EXCEPT WHERE NOTED

SQUARE FOOTAGE
 1007 HEATED DOWN
 606 HEATED UP
 474 GARAGE & STORAGE
 47 FRONT & REAR PORCHES

1613 TOTAL HEATED AREA
 2087 TOTAL ENCLOSED AREA
 2134 TOTAL UNDER ROOF



FIRST LEVEL FLOOR PLAN



SECOND LEVEL FLOOR PLAN

PLAN NO. 1017-006-021-PC-SUM

Artist's conceptions, all plans
 subject to change.
 OCT 10-04-05

STAFF ANALYSIS

Request

The request is for a special use permit for a planned residential development.

The application form and letter of intent have been included in this report.

Applicability

Staff **agrees** at least one planned development objective as set out in Section 4.10.2 of the Unified Development Code 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 to 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 as set out in Section 4.10.3 of the Unified Development Code 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 will be met, *as conditioned*.

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 will be 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 18.6-acre incorporated site is a mostly wooded property with 628.7 linear feet of frontage along Berryhill Rd., a minor arterial. This frontage is curbed and has not sidewalk or overhead utilities. The property also abuts the stubs of Deer Meadow and Turtle Hill Drives.

Site Plan Review

A full site plan review will be conducted during final plan review, if approved.

Conclusions

Brad Reedy has requested a special use permit for a planned residential development of 88 single-family lots. This development would extend two existing stub streets, improve its Berryhill frontage, and construct several short streets.

This land is currently zoned Conservation Agriculture. As such, it may be conserved as natural land, used for agricultural purposes, or subdivided into residential lots with a minimum lot size of one acre. Staff recognizes that this land, adjacent on three sides to single-family housing and on the fourth to Cordova High School, is better suited for suburban development than agricultural purposes or large-lot housing.

The applicant has proposed a variety of lot sizes, from 3400 to over 10000 square feet. This range is designed as a gradient with smaller lots to the north and larger lots to the south. This gradient complements adjacent development: the south-adjacent First Addition of Berryhill Farms Subdivision has lots with areas of ~10000 square feet and the north-adjacent Berryhill Planned Development has lots with areas of ~3200 square feet.

Staff has assented to all of the applicant's requested lot sizes and setbacks, with one exception: lots along Berryhill are recommended to have a minimum width of 100 feet given that street's arterial status.

Staff recommends certain conditions related to individual lot elements, including garage placement and porches. These standards will improve the aesthetic of the street, as well as contribute to individual homeowners' privacy and safety.

RECOMMENDATION

Staff recommends *approval* with outline plan conditions.

The applicant's requested conditions are pasted below. Staff's recommended additions are underlined and emboldened, and staff's recommended deletions are struck-through and emboldened.

- I. Uses Permitted
 - A. Single-Family Detached (All Areas) and Semi-Attached Housing (Area D only) and Customary Accessory Uses**
 - ~~A. A maximum of 88 single family residential lots~~
 - ~~B. Accessory uses as regulated by the R-S District~~
- II. ~~Bulk Regulations~~ **Building Envelope Standards**
 - A. Areas A and B shall be regulated as if zoned R-8, with the following exceptions: ~~Regulated by the R-8 District~~
 - 1. Those lots with driveways on Berryhill shall have a minimum width of 100 feet; otherwise the minimum lot width shall be 60 feet.**
 - 2. The front setback along Berryhill shall be 25 feet; otherwise the front setback shall be 15 feet.**
 - ~~1. Maximum of 22 lots.~~
 - ~~2. Minimum lot size 8085 square feet~~
 - ~~3. Minimum lot width 70 feet~~
 - ~~4. Building Setbacks~~

- a. ~~Front Yard 15'~~
- b. ~~Rear yard 20'~~
- c. ~~Side yard 5'~~

~~B. Area B – Regulated by the R-10 District~~

- 1. ~~Maximum of 8 lots.~~
- 2. ~~Minimum lot size 8166 square feet~~
- 3. ~~Minimum lot width 80 feet~~
- 4. ~~Building setbacks~~
 - a. ~~Front yard interior 15'~~
 - b. ~~Front yard Berryhill Rd 30'~~
 - c. ~~Rear yard 20'~~
 - d. ~~Side yard 5'~~

C. Area C shall be subject to the following standards: – Regulated by R-6 District

- 1. The minimum lot size shall be 3400 square feet.
- 2. The minimum lot width shall be 40 feet.
- 3. The minimum setbacks shall be: 15 feet from front and rear, 3.5 feet from internal side, and 7 feet from street side.
- 4. The maximum height shall be 40 feet.
- 1. ~~Maximum of 42 lots.~~
- 2. ~~Minimum lot size 3400 square feet~~
- 3. ~~Minimum lot width 40 feet~~
- 4. ~~Building Setbacks~~
 - a. ~~Front Yard 15'~~
 - b. ~~Rear yard 20'~~
 - c. ~~Side yard 3.5'~~

D. Area D shall be subject to the following standards: – Regulated by the RU-3 District

- 1. The minimum lot size shall be 3700 square feet.
- 2. The minimum lot width shall be 31 feet.
- 3. The minimum setbacks shall be: 9 feet from front, 10 feet from rear, 3.5 feet from internal side, and 7 feet from street side.
- 4. The maximum height shall be 40 feet.
- 1. ~~Maximum of 16 lots.~~
- 2. ~~Minimum lot size 3700 square feet~~
- 3. ~~Minimum lot width 31 feet~~
- 4. ~~Building setbacks~~
 - a. ~~Front Yard 9'~~
 - b. ~~Rear service Drive 10'~~
 - c. ~~Side yard 3.5'~~

III. Lot Elements

A. Street-Accessed Lots

- 1. The driveway shall have a maximum width of 12 feet from the property line to the front setback.
- 2. Transformers, refuse, satellites, plumbing cleanouts, utility meters, and air conditioning compressors shall be properly screened from public view.
- 3. Accessory structures shall have a minimum rear setback of 10 feet.
- 4. Corner lots shall have wraparound porches. Other lots shall have front porches. Porches

shall have a minimum depth of 6 feet.

5. Regularly-shaped walkways shall connect a recognizable front door to the right-of-way, shall have a width of 5 feet, and should continue to the street.
6. Front-facing garages shall be at least 20 feet behind the front façade of the house. Such garages shall be permitted a maximum of two bays, each with a maximum width of 9 feet.
7. Hook-in garages shall be masked in any way possible, such as by incorporating the porch along the garage wall. Such garages shall be permitted a maximum of three bays, each with a maximum width of 9 feet.
8. Side yard, front-facing fencing shall be at least 12 feet behind the front façade of the house. Side yard, front-facing brick walls shall not be subject to this standard. Such fencing should be coordinated with adjacent homeowners.

B. Alley-Accessed Lots

1. The rear garage shall have lighting that matches the lighting of the house's front façade.
2. Transformers, refuse, satellites, plumbing cleanouts, utility meters, and air conditioning compressors shall be properly screened from public view.
3. Front fencing shall have a maximum height of 4 feet and a minimum/maximum setback of 18 inches. Land between the sidewalk and front fence shall be landscaped.
4. Side street fencing shall have a maximum height of 6 feet and a minimum setback of 18 inches. Such fencing shall have brick columns 25 feet on-center beginning 40 feet behind the front façade of the house.
5. Corner lots shall have wraparound porches or an equivalent side street architectural detail. Other lots shall have either a front porch or a front stoop connected to the sidewalk by a regularly-shaped walkway. Porches shall have a minimum depth of 6 feet.
6. Side yard, front-facing fencing shall be at least 12 feet behind the front façade of the house. Side yard, front-facing brick walls shall not be subject to this standard. Such fencing should be coordinated with adjacent homeowners. Other internal side yard fencing shall be along the property line.
7. Vehicular access shall be from the alley.

IV. Miscellaneous

- A. No parking shall be designed so that any car must back onto Berryhill Rd.
- B. A minimum of 0.6% of total area shall be developed as formal open space in accordance with Section 6.2.3.
- C. Electric utilities shall be predominantly underground.
- D. Berryhill Rd. and proposed streets/alleys shall be dedicated (or, for alleys, overlaid with easements) and improved in accordance with Article 5 and as directed by the City Engineer.
- E. A property owners' association that owns and maintains all common land shall be formed concurrent to the recording of a final plan.
- F. Existing trees shall be incorporated into streetscaping, rear buffers, and elsewhere to the maximum extent possible.
- G. All standards of the Unified Development Code not otherwise modified by these conditions shall apply, subject to administrative approval during final plan review.

IV. Landscaping:

- ~~A. A 10' natural buffer shall be preserved along south and west property and west line.~~
- ~~B. Streetscape along all interior streets shall be in accordance with Type S-13 or an approved modified streetscape plate.~~
- ~~C. The applicant shall install the plants within the medians prior to the issuance of any Final Permit.~~

~~The applicant/developer shall be responsible for the maintenance of the plantings including the replacement of any plant materials that dies for a period of one year after the recording of the Final Plat for that phase.~~

~~V. Access~~

- ~~A. Dedicate and improve the major road (Berryhill/Forest Hill Irene) 114 feet of right of way and 36 feet of pavement on west side of the R O W with curb and gutter in accordance with the City of Memphis Subdivision Regulations.~~
- ~~B. Dedicate and improve the street A & loop A & B and Stub Street with curb and gutter.~~

~~VI. Sewer and Drainage:~~

- ~~A. Sanitary sewer to be approved by the City of Memphis.~~
- ~~B. Provide drainage data for assessment of on-site detention requirements by County Engineer's Office. All drainage plans are to be submitted to County Engineer's Office for review. Detention pond should be designed for multiple stage discharges and it is to be inspected by the design engineer when it is built to certify that it is working as designed. Detention pond should be built at the first phase when the land is cleared. Drainage improvements must be provided in accordance with the Subdivision Regulations and the City of Memphis Drainage Design Manual. Quantify and provide pre and post development stormwater discharge values. Provide an assessment of any downstream structures impacted by increased runoff.~~

~~VII. Other:~~

- ~~A. All commons, open areas, lakes, drainage detention facilities, private streets, private sewers and private drainage systems shall be owned and maintained by a Property Owner's Association. A statement to this effect shall appear on the final plat.~~
- ~~B. All common areas owned by a Property Owners' Association shall be labeled Unbuildable Common Open Space and be given an alpha lot designation (Lot A).~~

~~VIII. The Land Use Control Board may modify the bulk regulations, landscaping, and sign requirements if equivalent alternatives are presented.~~

~~IX. Final Plats:~~

- ~~A. A final plat shall be submitted for the review and approval of the Office of Planning and Development and other appropriate reviewing bodies. In the event that the applicant and the Office of Planning and Development do not agree on the meaning or intent of any condition, an appeal may be filed with the Land Use Control Board and the Memphis City Council.~~
- ~~B. A final plat shall be filed within five years of approval of the outline plan. The Land Use Control Board may grant extensions at the request of the applicant.~~

~~X. Final Plan Requirements:~~

- ~~A. The outline plan conditions,~~
- ~~B. A standard subdivision contract as defined by the Subdivision Regulations for any needed public improvements,~~
- ~~C. The location and ownership, whether public or private of any easement,~~
- ~~D. A statement conveying all common facilities and areas to a property owners' association or other entity, for ownership and maintenance purposes,~~
- ~~E. 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/County Engineer. The storm water detention systems 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 include, but not be limited to: removal of~~

~~sedimentation, fallen objects, debris and trash; mowing; outlet cleaning; and repair of drainage structures.~~

~~XI. The Land Use Control Board may modify building orientation, parking, access, landscaping and screening, setbacks, heights and other bulk and design features if equivalent alternatives are presented.~~

DEPARTMENTAL COMMENTS

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

City Engineer:

1. Standard Subdivision Contract or Right-Of-Way 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. Dedicate and improve 57 ft west of Berryhill centerline with curb, gutter, and sidewalk to City standards.
7. Internal streets to be built with curb, gutter, and sidewalk to City standards. Label proposed streets as public or private.
8. Connect to Turtle Hill Drive and Deer Meadow Drive for circulation and transition existing curb, gutter, and sidewalk to match new.
9. Label proposed alleys as public or private. If alleys are public, improve to a City standard width of 22 ft.
10. Include legal description for sidewalk easements if not dedicated as City right of way.

Traffic Control Provisions:

11. 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.
12. 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.
13. 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:

14. The City Engineer shall approve the design, number and location of curb cuts.
15. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.

Drainage:

16. 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.
17. 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.
18. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.
19. 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.
20. 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.

City Fire Division:

Reviewed by: J. Stinson

Address or Site Reference: Berryhill

- 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.

Department of Comprehensive Planning:

Land Use Designation (see page 106 for details): Open Spaces & Natural Features (OSN)

Based on the existing adjacent land use and zoning 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



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

2. Land use description & applicability:

Open Spaces and Natural Features are mainly natural features with a focus on preservation and sometimes allow for passive recreation, such as wildlands, wetlands, or waterways. These lands mainly perform environmental functions that allow for natural wildlife and ecological interactions to occur, therefore, necessitating conservation practices when applicable.



“OSN” Goals/Objectives:

Preservation, restoration, and maintenance of natural habitat, flood control, environmental stewardship, passive recreation.

“OSN” Form & Location Characteristics:

Conservation and recreational uses.

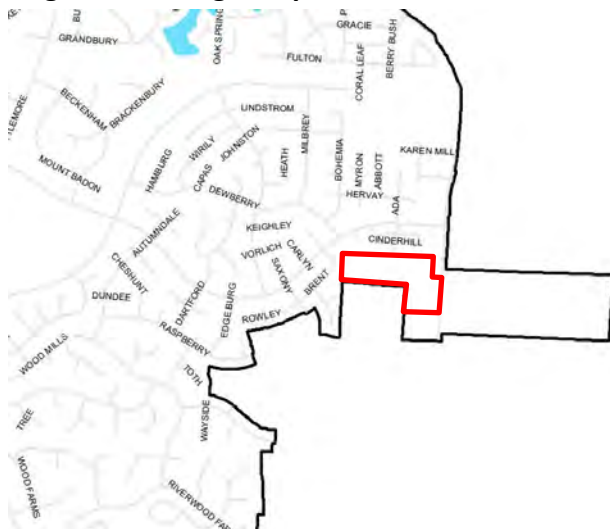
The applicant is seeking approval for a planned development with the intention of developing 88 lot single family subdivision to include single family uses for the entire site.

The request does not meet the criteria of OSN, as the proposed use would be entirely single-family residences which is not included under open spaces and natural features typology. However, the parcel is surrounded by institutional uses, and primarily single unit neighborhoods and it does not fall under any flood zone. The introduction of another single-family subdivision would be compatible with the surrounding community.

3. Existing, Adjacent Land Use and Zoning

The subject site is surrounded by the following land uses: Single-Family, Institutional, and Commercial. The subject site is surrounded by the following zoning district: R-8, CMU-2, and CA. This requested land use is compatible with the adjacent land uses because existing land uses surrounding the parcels is similar in nature to the requested use.

4. Degree of Change map



Red polygon denotes the proposed site in Degree of Change area. There is no degree of change.

5. 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: Faria Army, Comprehensive Planning.

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

APPLICATION FORM



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

LAND USE CONTROL BOARD PLANNED DEVELOPMENT APPLICATION
TO FILE ONLINE USE THE [DEVELOP 901 CITIZEN PORTAL](#)

Date: 2-23-2022

Previous Case/Docket #: PD-2021-43

PLEASE TYPE OR PRINT

Property Owner of Record: AKIL Farid Phone #: 901-652-1537

Mailing Address: P.O. Box 81501 City/State: Germentown, Tn Zip: 38138-1501

Property Owner Email Address: no email

Applicant: Berryhill GP, Brad Reedy Phone #: 901-491-0854

Mailing Address: 4701 Summer Ave City/State: Memphis, TN Zip: 38122

Applicant Email Address: breedy@reedyandcompany.net

Representative: Danny B. Tabrizi, EDS, INC Phone #: 901-650-0597

Mailing Address: 882 Willow Tree Circle, Suite 201 City/State: Cordova, TN Zip: 38018

Representative Email Address: dbtabrizi@aol.com

Architect/Engineer/Surveyor: EDS, Inc. Phone #: 901-759-4892

Mailing Address: 882 Willow Tree Circle, Ste.201 City/State: Cordova, TN Zip: 38018

Architect/Engineer/Surveyor Email Address: dbtabrizi@aol.com

PREMISES LOCATION (Describe by street address & directional location description, e.g. 200 Johnson Street, North side of Johnson Street, 100 feet east of Brown Street): 554.8' South of Chimneyrock Blvd

Parcel ID: 096600 00507

Project Name: Berryhill Downs PD

Project Description: Residential Development consist of 88 lots

Did you have a pre-application meeting with the Division of Planning and Development (DPD)?

Planner: Brett Davis Date of Meeting: Nov.23,2021

Type of Planned Development (PD) (check one)? New PD Amendment to Existing PD

Is the development located within the Medical Overlay District or Uptown Special Purpose District (Note these areas do not permit new planned developments)? NO (yes or no)

If this development is located in unincorporated Shelby County, is the tract at least three acres (Note a tract of less than three acres is not eligible for a planned development in unincorporated Shelby County)? NO (yes, no, or n/a)

	Area A	Area B	Area C
Acres:	18.56		
Existing Use of Property:	vacant		
Requested Use of Property:	Residential PD		

Is this application in response to a citation, stop work order, or zoning letter? NO (yes or no)

If yes, please provide a copy of the citation, stop work order, and/or zoning letter along with any other relevant information:

APPROVAL CRITERIA (UDC Section 9.6.9)

No 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: Project will not have adverse effect upon adjacent property.

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: proposed uses are in keeping with the character of existing uses to the north, west and south Cordova high school is to the east of proposed development.

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: This project will be served by public utilities and existing public infrastructure with adequate capacity. sewer, water and Drainage lines have been examined and they have ample capacity.

- 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: there are no natural scenic or historical importance features exists within proposed development area.

- E) The project complies with all additional standards imposed on it by any particular provisions authorizing such use: This project will be constructed in accordance with all applicable laws of state of TN and City of Memphis.

- 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: this project will not adversely affect character of existing and adjacent properties .

GENERAL PROVISIONS (UDC Section 4.10.3)

No planned development shall be approved unless the following findings are made concerning the application:

- 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: Proposed Development doesn't damage or hinder development of any of the surrounding properties, values of existing and adjacent properties will be further enhanced by completion of this development.

- 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: we have examined capacity of existing sewer and storm Drainage facilities and have an approval to utilize exiting infrastructure.

- C) The location and arrangement of the structures, parking and loading 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 such facilities shall be landscaped or otherwise improved except where natural features are such as to justify preservation: Proposed development is designed in a manor to provide a compatible development with surrounding, in addition we have reserved natural Buffers along south west and north line adjacent to proposed development, we have further incorporated street scape within our proposed street network.
- 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: All of our proposed design and standards are consistent with current codes and in keeping with 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: All the COS area are private including Street scape will they be maintained BY HOA
- F) Lots of record are created with the recording of a planned development final plan: 88

LAND USE CONTROL BOARD PLANNED DEVELOPMENT APPLICATION GUIDE

To file online use the Develop 901 Citizen Portal: www.aca-prod.accela.com/SHELBYCO/Default

GENERAL INFORMATION

UNIFIED DEVELOPMENT CODE (UDC) REFERENCES FOR PLANNED DEVELOPMENTS:

- a) Planned Development – UDC Chapter 9.6 and Section 9.6.11
- b) Planned Development Amendment – UDC Paragraph 9.6.11E(1)

PRE-APPLICATION MEETING – This is a meeting in which the Division of Planning and Development Land Use and Development Services discusses the procedures, standards, and regulations required of a request in accordance with the Unified Development Code with the applicant(s) and/or their representative(s), see Section 9.3.1 of [Unified Development Code](#) for additional information. To schedule a pre-application meeting please call Land Use and Development Services at (901) 636-6619.

APPLICATION REVIEW PROCESS – [Click here](#) to view a flowchart that explains the review process by application type, as well as the expected review time for each.

NEIGHBORHOOD MEETING – At least ten (10) days, but not more than one hundred twenty (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, see Section 9.3.2 of the [Unified Development Code](#) for additional information, procedures, standards, and requirements.

APPLICATION DEADLINES – A link to the Applications Deadlines Calendar can be found on the Land Use and Development Services' [webpage](#).

LETTER OF INTENT

E.D.S., INC.
ENGINEERS, PLANNERS
882 WILLOW TREE CIRCLE, SUITE 201
CORDOVA, TN 38018
Telephone (901)759-4892
Fax (901)759-9625
FILE NO.110-22
December.28, 2021

Mr. Brett Davis, AICP
Memphis and Shelby County
Division of Planning & development
125 N Main, 4th floor
Memphis, TN 38103

Re: Berryhill Downs PD
18.56 Acres Westside of Berryhill Road
Memphis, TN

Dear Mr. Davis:

On Behalf of our client, we respectfully submit our application for proposed planned development for the above referenced site.

Subject site contains 18.56 acres and is located on the west side of Berryhill Road, directly across from Cordova High School and 554.86' south of Chimneyrock Blvd, This site is located inside City Of Memphis corporate limit.

Subject site borders Berryhill Parks Townhome development to the north and Berryhill Farms 1st addition subdivision to the south and to the west joins phase 2, section A of Berryhill Farms subdivision.

Site generally slopes from north to south and east, Waterlines are located along Berryhill Road and adjoining streets to the south with ample capacity, proposed development will be served by existing sewer lines located on the south side of this site and Berryhill Road to the east. We have conducted preliminary discussion with City Engineer and public works office and we have received their approval for sewer service to this site.

Our plan proposes single family uses for entire site, plan is divided into four areas.

Area A contains 22 lots with and minimum lot size of 9000 SF, this area will be regulated by R-8 District, and homes in this area will be similar to Berryhill farms subdivision.

A 10' natural buffer along the south line of this area will be preserved, this buffer also includes west property line and portion of north line as shown on our plan.

Area B contains 9 lots with an average lot size of 13500 Sf area, Vehicular access to Berryhill Road is permitted for lots 86-88 and they will have forward motion egress only, no access to Berryhill Road is permitted from lots 61&85. This area will be regulated by R-10 district.

Mr. Brett Davis
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Area C contains 38 single family lots, this area is adjacent to Berryhill Park Townhomes, and with minimum lot size of 4700 Sf. This area will be regulated by R-6 district.


Area D contains 20 townhome lots, these lots will have vehicular access via service drive and no access will be permitted from individual lots into loop A & B, minimum lot size will be 3700 Sf. This area will be regulated by RU-3 district.

Existing stub streets on the south side of property will be connected via Street A with median entrance to Berryhill Road.
A 10' Street scape is designated along both side of internal street to promote greenspace within this development and provide for ecofriendly environment.

We believe our project is in keeping with character of this area and will provide new supply of diverse single-family homes for this area and we look forward to a successful project.

Once you have chance to review this should you need additional information, please contact me.

Sincerely,


Danny B. Fabrizio, P.E.
Project Manager

Enclosure
cc: File

OWNER'S AFFIDAVIT



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

Property Owner's Affidavit

Memphis and Shelby County Unified Development Code Section 12.3.1

OWNER: Includes the holder of legal title as well as holders of any equitable interest, such as trust beneficiaries, contract purchasers, option holders, lessees under leases having an unexpired term of at last ten years, and the like. Whenever a statement of ownership is required by the Memphis and Shelby County Unified Development Code, full disclosure of all legal and equitable interest in the property is required. Memphis and Shelby County Unified Development Code Section 12.3.1

I, AKIL Farid, state that I have read the definition of "Owner" as outlined in the Memphis and Shelby County Unified Development Code Section 12.3.1 and hereby state that (select applicable box):

I am the owner of record as shown on the current tax rolls of the county Assessor of Property; the mortgage holder of record as shown in the mortgage records of the county Register of Deeds; purchaser under a land contract; a mortgagee or vendee in possession; or I have a freehold or lesser estate in the premises

I charge, care or control of the premises as trustee, agent, executor, administrator, assignee, receiver, guardian or lessee (and have included documentation with this affidavit)

of the property located at 18.56 Ac., West side of Berry Hill Road and further identified by Assessor's Parcel Number 096600 00507, for which an application is being made to the Division of Planning and Development.

Subscribed and sworn to (or affirmed) before me this 22nd day of December in the year of 2021 at Farid Akil

William A. Ross
Signature of Notary Public

My Commission Expires 8/5/2024



SIGN AFFIDAVIT

AFFIDAVIT

Shelby County
State of Tennessee

I, Danny R. Tabor being duly sworn, depose and say that at 1:00 am/pm on the 22 day of Feb, 2022, I posted Public Notice Sign(s) pertaining to Case No. PD-2021-43 at West Side of Berryhill Rd, providing notice of a Public Hearing before the Land Use Control Board, Memphis City Council, Shelby County Board of Commissioners for consideration of a proposed Land Use Action (Planned Development, Special Use Permit, Zoning District Map Amendment, Street and/or Alley Closure), a photograph of said sign(s) being attached hereon and a copy of the sign purchase receipt or rental contract attached hereto.

Danny R. Tabor
Owner, Applicant or Representative

2-22-2022
Date

Subscribed and sworn to before me this 22nd day of February, 2022.

Toni Leggett
Notary Public

My commission expires:



LETTERS RECEIVED

No letters were received by the time of publication of this report.

From: [Danny B. Tabrizi](#)
To: [Davis, Brett](#)
Cc: breedy@reedyandcompany.net
Subject: Berryhill Downs PD- Memphis, TN
Date: Tuesday, March 8, 2022 2:23:33 PM

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.

Brett,

Thank you for meeting with us this morning to clarify conditions which was sent to us on Friday March 4,2022.

We would like to respectfully suggest following amendments for your consideration and incorporation into PD conditions:

Area B:

1. Restrict access from lots 63 & 85 only to Glastonbury Lane, BERRYHILL Road access is prohibited.
2. Allow lots 86,87& 88 to have minimum width of 90 feet, please note existing Berryhill farms subdivision located south of our site has lots fronting on Berryhill Road with 90' width.
3. Landscape COS F adjacent to lot 86 & 87

Area C:

1. Allow for interior side yards to have 0 and 5' to allow for additional foot print and flexibility with respect to available plans.

Area D:

1. Increase COS area B &D to 2500 SF each for the total of 5000 SF
2. Minimum lot area shall 3255 SF,

For additional Architectural enhancement for corner lots we would offer

- A. Garden windows,
- B. Shutters
- C. Bay windows

This will be as an alternative to wraparound porches.

Please review and let me know if you have any question.

Thanks,

Danny B.Tabrizi, PE

EDS,Inc.
882 Willow Tree Circle, Ste.201
Cordova, TN 38018
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Fax:901-759-9625
Cell:901-650-0597
Email:dbtabrizi@aol.com