

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

Planning & Development

ONE ORIGINAL |
ONLY STAPLED |

COMMITTEE: 02/20/2024
DATE
PUBLIC SESSION: 02/20/2024
DATE

ITEM (CHECK ONE)

 ORDINANCE X RESOLUTION X REQUEST FOR PUBLIC HEARING

ITEM DESCRIPTION: Resolution pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code approving a special use permit to allow a towing service without an impound lot in the Commercial Mixed Use – 1 (CMU-1) District, known as case number SUP 23-026

CASE NUMBER: SUP 23-026

LOCATION: 3545 South Third Street

COUNCIL DISTRICTS: District 6 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Al Moore

REPRESENTATIVE: Al Moore, Moore Towing and Recovery

REQUEST: Special use permit to allow a towing service without an impound lot in the Commercial Mixed Use – 1 (CMU-1) District

AREA: +/-0.922 acres

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

RECOMMENDED COUNCIL ACTION: **Public Hearing Required**
Hearing – February 20, 2024

PRIOR ACTION ON ITEM:

(1) _____ APPROVAL - (1) APPROVED (2) DENIED
12/14/2023 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>
	<u>1/12/24</u>	PRINCIPAL PLANNER
_____	_____	DEPUTY ADMINISTRATOR
	<u>1/12/24</u>	ADMINISTRATOR
_____	_____	DIRECTOR (JOINT APPROVAL)
_____	_____	COMPTROLLER
_____	_____	FINANCE DIRECTOR
_____	_____	CITY ATTORNEY

CHIEF ADMINISTRATIVE OFFICER

COMMITTEE CHAIRMAN



Memphis City Council Summary Sheet

SUP 23-026

RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A SPECIAL USE PERMIT AT THE SUBJECT PROPERTY LOCATED 3545 SOUTH THIRD STREET, KNOWN AS CASE NUMBER SUP 23-026

- This item is a resolution with conditions for a special use permit to allow a towing service without an impound lot in the Commercial Mixed Use – 1 (CMU-1) District; and
- The item may require future public improvement contracts.

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday, December 14, 2023**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER:	SUP 2023-026
LOCATION:	3545 South Third Street
COUNCIL DISTRICT(S):	District 6 and Super District 8 – Positions 1, 2, and 3
OWNER/APPLICANT:	Al Moore
REPRESENTATIVE:	Al Moore, Moore Towing and Recovery
REQUEST:	Special use permit to allow a towing service without an impound lot in the Commercial Mixed Use – 1 (CMU-1) District
EXISTING ZONING:	Commercial Mixed Use – 1 (CMU-1)
AREA:	+/-0.922 acres

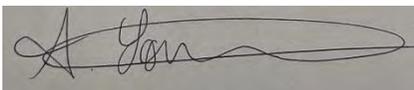
The following spoke in support of the application: None

The following spoke in opposition the application: None

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

The motion passed by a vote of 9-0 on the consent agenda.

Respectfully,



Alexis Longstreet
Planner I
Land Use and Development Services
Division of Planning and Development

Cc: Committee Members
File

SUP 23-026
CONDITIONS

1. The proposed fence must not exceed 8' in height.
2. All parking pads and curb cuts must be installed and improved to the standard of the UDC.
3. Parking pads must meet parking setback requirements.
4. Fence must be constructed of permissible material allowed within the CMU-1 zoning district.
5. Future modifications to the site plan will not require re-recording of the site plan unless additional uses/activities are being added that beyond the scope of all prior approvals for the site or this approval.

SITE PLAN



RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A SPECIAL USE PERMIT AT THE SUBJECT PROPERTY LOCATED AT 3545 SOUTH THIRD STREET, KNOWN AS CASE NUMBER SUP 2023-026

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, Al Moore filed an application with the Memphis and Shelby County Division of Planning and Development to allow a towing service without an impound lot in the Commercial Mixed Use – 1 (CMU-1) District; 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 that the design and amenities are consistent with the public interest; and has submitted its findings and recommendation concerning the above considerations to the Land Use Control Board; and

WHEREAS, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on December 14, 2023, and said Board has submitted its findings and recommendation concerning the above considerations to the Council of the City of Memphis; and

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

WHEREAS, the Council of the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the 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 the request use in accordance with the attached conditions.

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

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

ATTEST:

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

CONDITIONS

1. The proposed fence must not exceed 8' in height.
2. All parking pads and curb cuts must be installed and improved to the standard of the UDC.
3. Parking pads must meet parking setback requirements.
4. Fence must be constructed of permissible material allowed within the CMU-1 zoning district.
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SITE PLAN



AGENDA ITEM: 12

CASE NUMBER: SUP 2023-026 (ENF. 22-1908) **L.U.C.B. MEETING:** December 14, 2023

LOCATION: 3545 South Third Street

OWNER/APPLICANT: Al Moore, Moore Towing and Recovery

REPRESENTATIVE: Christine Donhardt, The Reaves Firm

REQUEST: Special use permit to allow a towing service without an impound lot in the Commercial Mixed Use – 1 (CMU-1) District

AREA: +/-0.922 acres

EXISTING ZONING: Commercial Mixed Use - 1

CONCLUSIONS

1. The applicant is seeking a special use permit to allow a towing service without an impound lot within CMU-1.
2. The current property is the primary location for Moore Towing and Recovery's employees and houses the company tow trucks.
3. The applicant did receive a citation for utilizing the property for a tow yard within CMU-1 zoning. They have since removed the vehicles.
4. The applicant would be utilizing the proposed gravel lot to park the company trucks within a proposed 8' fence.
5. This project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.

CONSISTENCY WITH MEMPHIS 3.0

This proposal is consistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on page *awaiting* of this report.

RECOMMENDATION

Approval with conditions

GENERAL INFORMATION

Street Frontage: South Third Street +/-205.1 linear feet

Zoning Atlas Page:

Parcel ID: 075074 00089

Existing Zoning: Commercial Mixed Use - 1

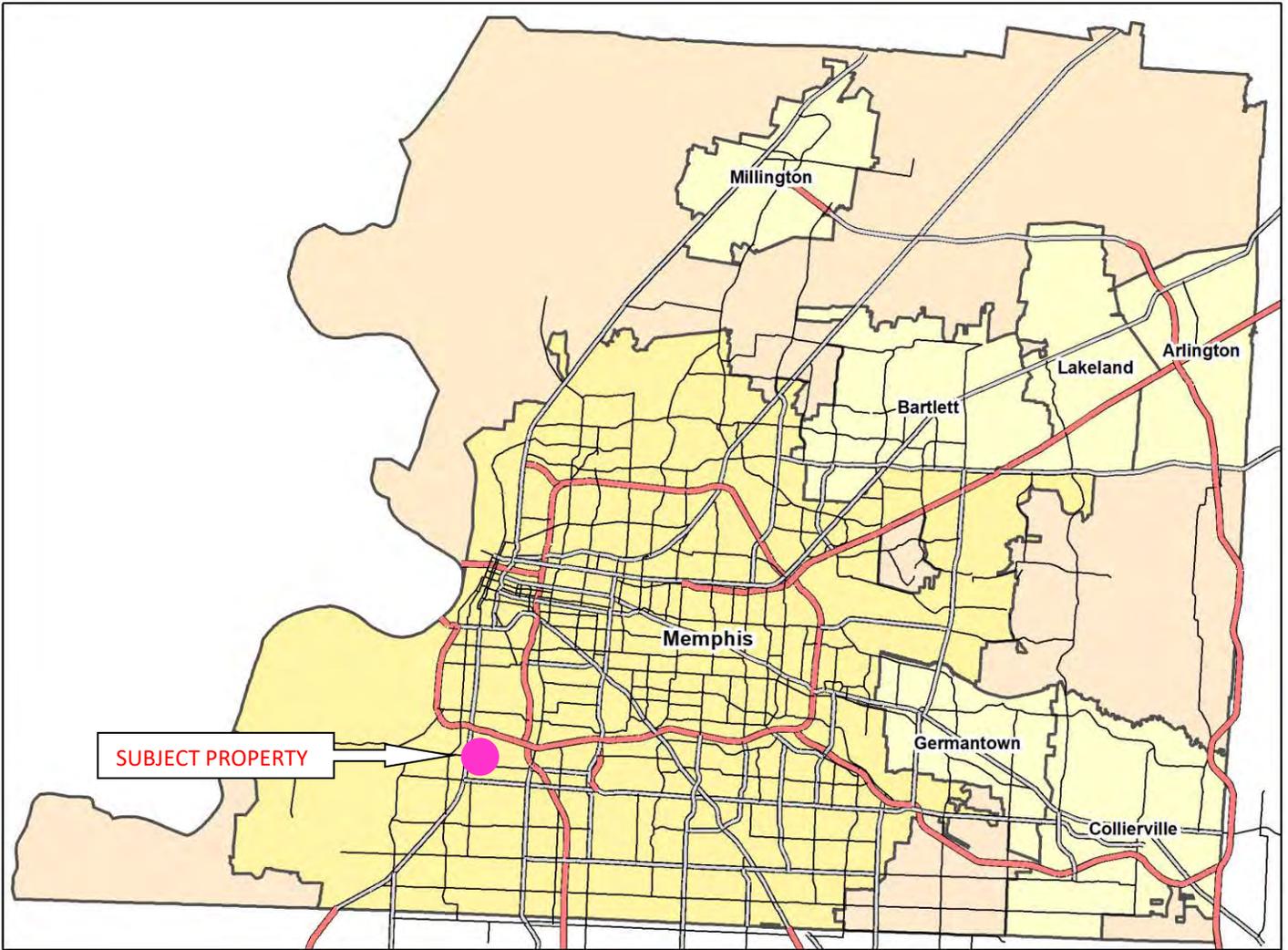
NEIGHBORHOOD MEETING

The meeting was held at 6:00 PM on Thursday, November 30, 2023, at Event Center, 3059 South Third Street.

PUBLIC NOTICE

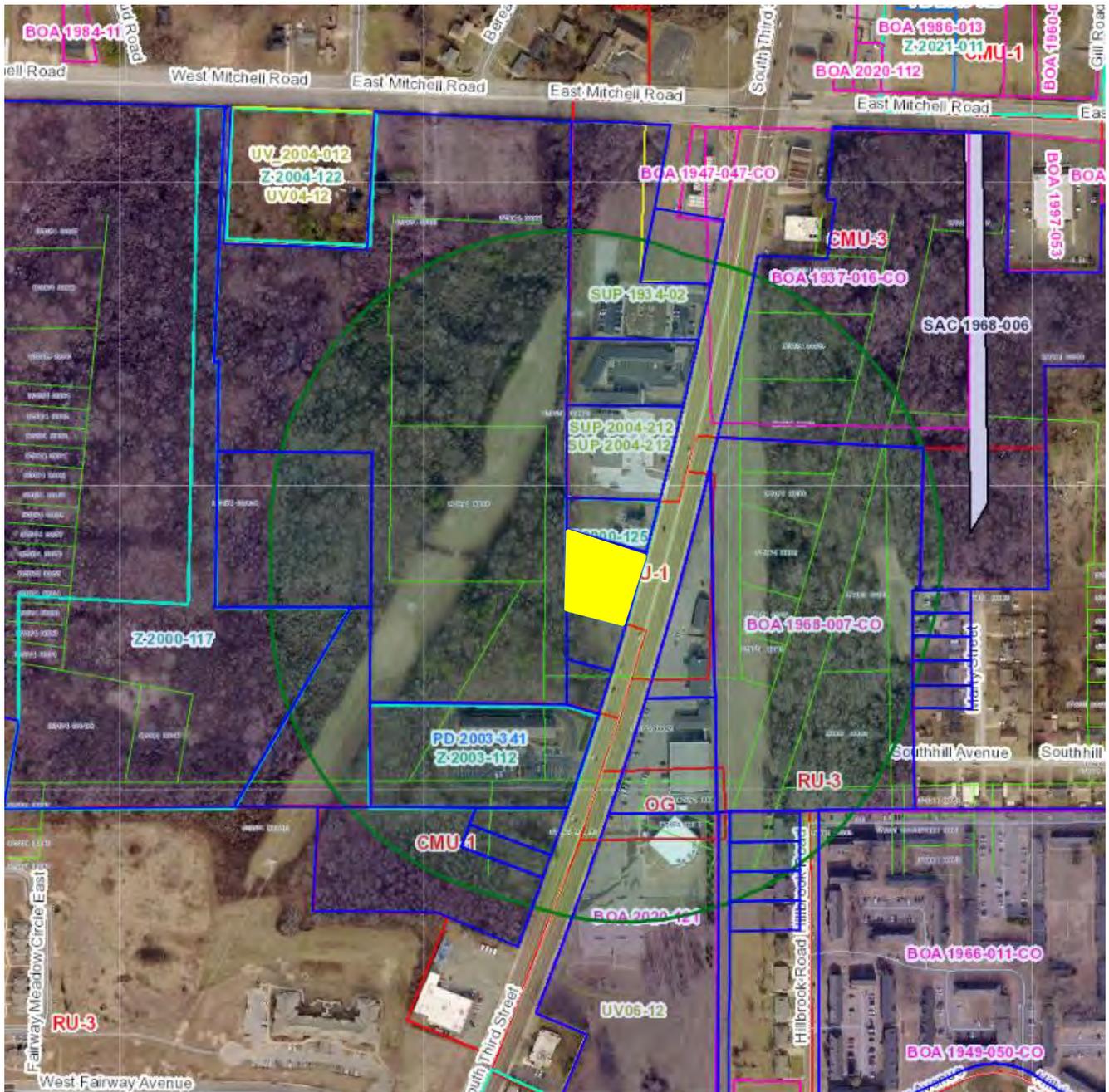
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 32 notices were mailed on November 29, 2023, and a total of 1 sign was posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



Subject property located within the pink circle, Valley Forge neighborhood

VICINITY MAP



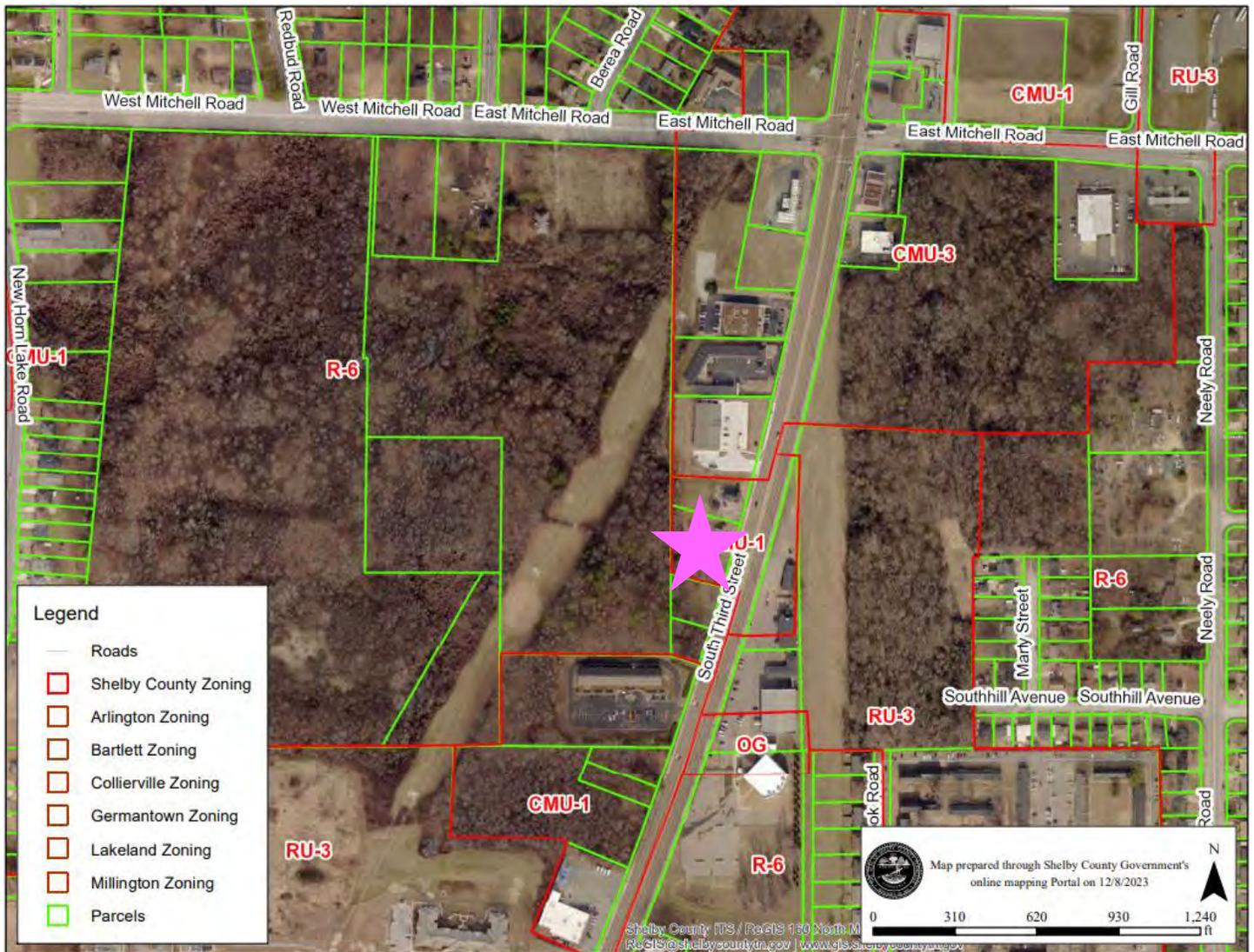
Site highlighted in yellow

AERIAL



Subject property outlined in orange, imagery from 2023

ZONING MAP



Subject property indicated by a pink star.

Existing Zoning: Commercial Mixed Use - 1

Surrounding Zoning

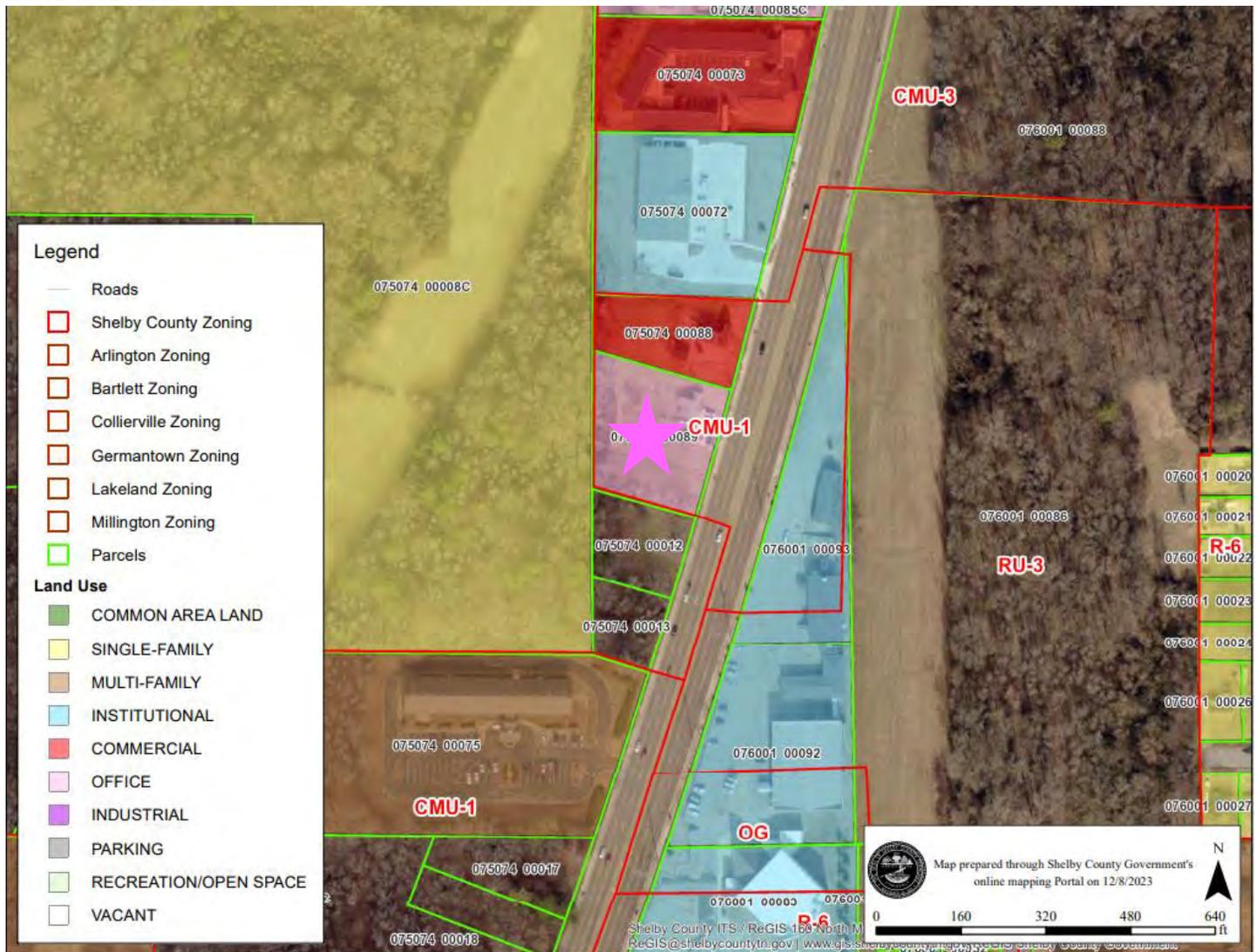
North: CMU-3

East: RU-3, R-6

South: CMU-1, OG, R-6

West: R-6

LAND USE MAP



Subject property indicated by a pink star

SITE PHOTOS



View of subject property looking north South Third Street



View of subject property from South Third Street



View of subject property looking South Third Street

SITE PLAN



STAFF ANALYSIS

Request

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

The request is for a special use permit to allow a towing service without an impound lot in the Commercial Mixed Use – 1 (CMU-1) District

Approval Criteria

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

9.6.9 Approval Criteria

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

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

Conclusions

1. The applicant is seeking a special use permit to allow a towing service without an impound lot within CMU-1.
2. The current property is the primary location for Moore Towing and Recovery's employees and houses the company tow trucks.
3. The applicant did receive a citation for utilizing the property for a tow yard within CMU-1 zoning. They have since removed the vehicles.
4. The applicant would be utilizing the proposed gravel lot to park the company trucks within a proposed 8' fence.
5. This project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.

RECOMMENDATION

Staff recommends approval with conditions.

Conditions

1. The proposed fence must not exceed 8' in height.
2. All parking pads and curb cuts must be installed and improved to the standard of the UDC.
3. Parking pads must meet parking setback requirements.
4. Fence must be constructed of permissible material allowed within the CMU-1 zoning district.
5. Future modifications to the site plan will not require re-recording of the site plan unless additional uses/activities are being added that beyond the scope of all prior approvals for the site or this approval.

DEPARTMENTAL COMMENTS

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

City/County Engineer:

1. Standard Public Improvement Contract or Right-Of-Way Permit as required in Section 5.5.5 of the Unified Development Code.

Sewers:

2. City sanitary sewer capacity is available to serve this development.

Roads:

3. 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.

4. 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:

5. 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.

6. 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.

7. 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:

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

9. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter, and sidewalk.

10. Will require engineering ASPR.

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. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.

14. 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.

15. 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.

General Notes:

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

17. Development is .922 acre and is located within a sensitive drainage basin. Detention is required.

18. No other utilities or services may occupy sanitary sewer easements in private drives and yards except for crossings.

19. All connections to the sewer shall be at manholes only.

20. 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.

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

City/County Fire Division:

All design and construction shall comply with the 2021 edition of the International Fire Code (as locally amended) and referenced standards.

· Fire apparatus access shall comply with section 503.

· Where security gates are installed that affect required fire apparatus access roads, they shall comply with section 503.6 (as amended).

· Fire protection water supplies (including fire hydrants) shall comply with section 507.

· Where fire apparatus access roads or a water supply for fire protection are required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when approved alternate methods of protection are provided.

· A detailed plans review will be conducted by the Memphis Fire Prevention Bureau upon receipt of complete construction documents. Plans shall be submitted to the Shelby County Office of Code Enforcement.

City Real Estate: No comments received.

City/County Health Department: No comments received.

Shelby County Schools: No comments received.

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water: No comments received.

Office of Sustainability and Resilience: No comments received.

Office of Comprehensive Planning: No comments received.

APPLICATION



Record Summary for Special Use Permit

Record Detail Information

Record Type: Special Use Permit

Record Status: Processing

Opened Date: October 25, 2023

Record Number: SUP 2023-026

Expiration Date:

Record Name: Moore Towing and Recovery

Description of Work: The applicant is seeking Board of Adjustment approval for a use variance for general outdoor storage on the property (UDC 4.8.4.3). This business has operated at this location only recently. The company, which was at this location previously, McConnell Towing (Todd McConnell), was cited for having a tow yard in 2022 (citation ENF 22-1908).

Moore Towing and Recovery has made an investment in the community by locating his business here and signed a lease-to-own contract. Moore proposes to install an eight-foot site proof wood fence with a secure gate to block the view of the general outdoor storage.

Parent Record Number: BOA 2023-0117

Address:

3545 S THIRD ST, MEMPHIS 38109

Owner Information

Primary Owner Name

Y HARRIS J W JR DDS PC PENSION PLAN (TR)

Owner Address

135 MOSBY RD, OAKLAND, TN 38060

Owner Phone

9012471044

Parcel Information

075074 00089

Data Fields

PREAPPLICATION MEETING

Name of OPD Planner Lucas
 Date of Meeting 07/31/2023
 Pre-application Meeting Type Email

GENERAL PROJECT INFORMATION

Application Type New Special Use Permit (SUP)
 List any relevant former Docket / Case Number(s) related to previous applications on this site -
 Is this application in response to a citation, stop work order, or zoning letter 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

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 SEE APPLICATION

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 SEE APPLICATION

UDC Sub-Section 9.6.9C SEE APPLICATION
 UDC Sub-Section 9.6.9D SEE APPLICATION
 UDC Sub-Section 9.6.9E SEE APPLICATION
 UDC Sub-Section 9.6.9F SEE APPLICATION

GIS INFORMATION

Case Layer Z00-125
 Central Business Improvement District No
 Class C
 Downtown Fire District No
 Historic District -
 Land Use -
 Municipality MEMPHIS
 Overlay/Special Purpose District -
 Zoning CMU-1
 State Route -
 Lot -
 Subdivision -
 Planned Development District -
 Wellhead Protection Overlay District No

Contact Information

Name	Contact Type
MOORE TOWING AND RECOVERY	APPLICANT
Address	
Phone	
(901)247-1044	

Fee Information

Invoice #	Fee Item	Quantity	Fees	Status	Balance	Date Assessed
1512790	Single Family Detached Variance	1	150.00	INVOICED	150.00	10/25/2023
1512790	Office Commercial Industrial or Institutional Variance	1	1,000.00	INVOICED	1,000.00	10/25/2023
1512790	Credit Card Use Fee (.026 x fee)	1	0.00	INVOICED	0.00	10/25/2023
1512790	Credit Card Use Fee (.026 x fee)	1	3.90	INVOICED	3.90	10/25/2023
1512790	Credit Card Use Fee (.026 x fee)	1	26.00	INVOICED	26.00	10/25/2023

Total Fee Invoiced: \$1,179.90 Total Balance: \$1,179.90

LETTER OF INTENT



August 29, 2023

Mr. Brett Ragsdale
Zoning Administrator
Division of Planning and Development
125 N. Main, Ste. 477
Memphis, TN 38103

RE: 3545 S. 3rd Street – Moore Towing & Recovery

Dear Mr. Ragsdale:

On behalf of Aldoncy 'Al' Moore with Moore Towing and Recovery, we are submitting the enclosed application to the Office of Planning and Development. The applicant is seeking Board of Adjustment approval for a use variance for general outdoor storage on the property (UDC 4.8.4.3). This business has operated at this location only recently. The company, which was at this location previously, McConnell Towing (Todd McConnell), was cited for having a tow yard in 2022 (citation ENF 22-1908).

Moore Towing and Recovery has made an investment in the community by locating his business here and signed a lease-to-own contract. Moore proposes to install an eight-foot site proof wood fence with a secure gate to block the view of the general outdoor storage.

Your consideration of this application is greatly appreciated.

Sincerely,



Mike Davis, RLA

SIGN AFFIDAVIT

AFFIDAVIT

Shelby County
State of Tennessee

I, Aldoncy MOORE, being duly sworn, depose and say that at 1:30 am on the 4th day of December, 2023, I posted 1 Public Notice Sign(s) pertaining to Case No. SUP 23-026 at 3545 S. Third providing notice of a Public Hearing before the (check one):

- Land Use Control Board
- Board of Adjustment
- Memphis City Council
- Shelby County Board of Commissioners

for consideration of a proposed land use action, a photograph of said sign(s) being attached hereon and a copy of the sign purchase receipt or rental contract attached hereto.

Aldoncy Moore
Owner, Applicant or Representative

12-4-2023
Date

Subscribed and sworn to before me this 4 day of December, 2023.

Michelle Cortese
Notary Public

My commission expires: 8/3/24



LETTERS RECEIVED

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



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Name of OPD Planner	Lucas
Date of Meeting	07/31/2023
Pre-application Meeting Type	Email

GENERAL PROJECT INFORMATION

Application Type	New Special Use Permit (SUP)
List any relevant former Docket / Case Number(s) related to previous applications on this site	-
Is this application in response to a citation, stop work order, or zoning letter	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

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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	SEE APPLICATION
UDC Sub-Section 9.6.9C	SEE APPLICATION
UDC Sub-Section 9.6.9D	SEE APPLICATION
UDC Sub-Section 9.6.9E	SEE APPLICATION
UDC Sub-Section 9.6.9F	SEE APPLICATION

GIS INFORMATION

Case Layer	Z00-125
Central Business Improvement District	No
Class	C
Downtown Fire District	No
Historic District	-
Land Use	-
Municipality	MEMPHIS
Overlay/Special Purpose District	-
Zoning	CMU-1
State Route	-
Lot	-
Subdivision	-
Planned Development District	-
Wellhead Protection Overlay District	No

Contact Information

Name
MOORE TOWING AND RECOVERY
Address

Contact Type
APPLICANT

Phone
(901)247-1044

Fee Information

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Total Fee Invoiced: \$1,179.90

Total Balance: \$1,179.90



August 29, 2023

Mr. Brett Ragsdale
Zoning Administrator
Division of Planning and Development
125 N. Main, Ste. 477
Memphis, TN 38103

RE: 3545 S. 3rd Street – Moore Towing & Recovery

Dear Mr. Ragsdale:

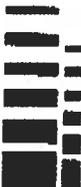
On behalf of Aldoncy 'Al' Moore with Moore Towing and Recovery, we are submitting the enclosed application to the Office of Planning and Development. The applicant is seeking Board of Adjustment approval for a use variance for general outdoor storage on the property (UDC 4.8.4.3). This business has operated at this location only recently. The company, which was at this location previously, McConnell Towing (Todd McConnell), was cited for having a tow yard in 2022 (citation ENF 22-1908).

Moore Towing and Recovery has made an investment in the community by locating his business here and signed a lease-to-own contract. Moore proposes to install an eight-foot site proof wood fence with a secure gate to block the view of the general outdoor storage.

Your consideration of this application is greatly appreciated.

Sincerely,

Mike Davis, RLA

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

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 least 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, J.W. HARRIS, JR Trustee John W. Harris, Jr. Tr., state that I have read the definition of
(Print Name) (Sign Name)

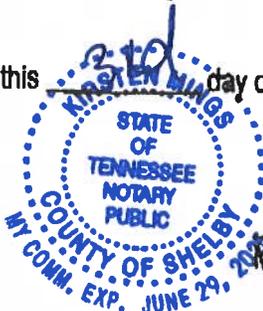
"Owner" as outlined in the Memphis and Shelby County Unified Development Code Section 12.3.1 and hereby state that (select applicable box):

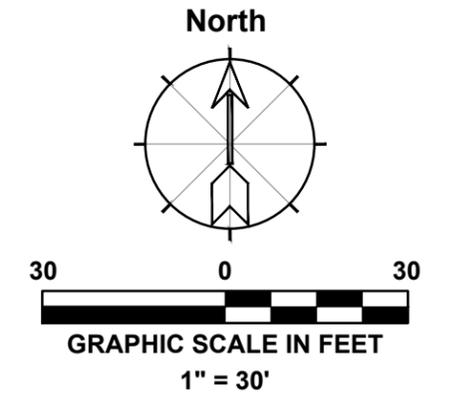
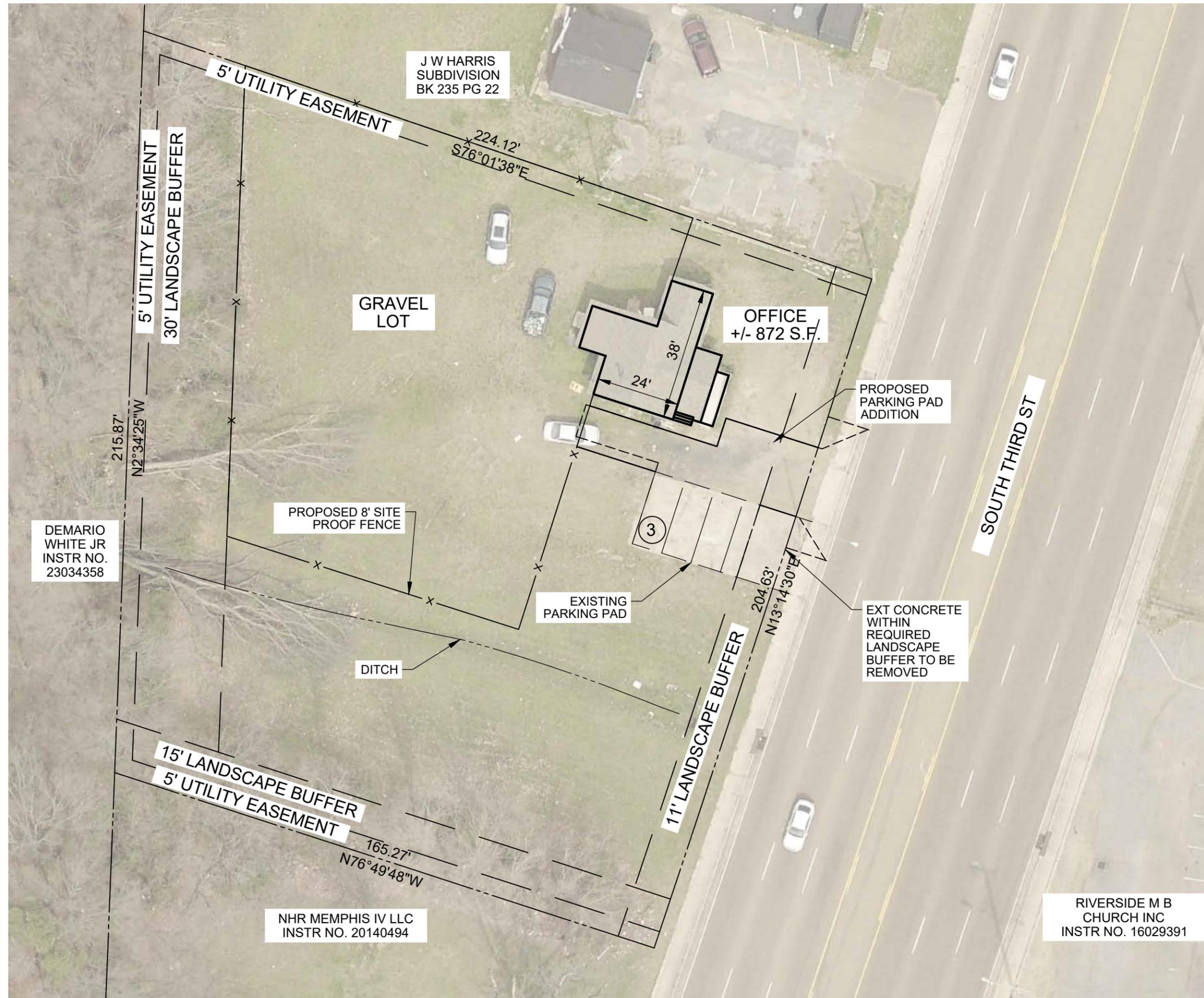
- I am the owner of record as shown on the current tax rolls of the county Assessor of Property; the mortgage holder of record as shown in the mortgage records of the county Register of Deeds; purchaser under a land contract; a mortgagee or vendee in possession; or I have a freehold or lesser estate in the premises
- I have 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 3535 So. Highway 61
and further identified by Assessor's Parcel Number 075-0740-0-00089-0
for which an application is being made to the Division of Planning and Development.

Subscribed and sworn to (or affirmed) before me this 3rd day of July in the year of 2023.

Kristen King
Signature of Notary Public

 My Commission Expires _____



MOORE TOWING & RECOVERY 3545 S. THIRD ST

RIVERSIDE M B
CHURCH INC
INSTR NO. 16029391

NHR MEMPHIS IV LLC
INSTR NO. 20140494

DEMARIO
WHITE JR
INSTR NO.
23034358

J W HARRIS
SUBDIVISION
BK 235 PG 22

The Reaves Firm
INCORPORATED

Engineering
Planning
Landscape Architecture
Land Surveying

6800 Poplar Avenue, Suite 101 Memphis, TN 38138
901.761.2016 Fax: 901.763.2847
www.ReavesFirm.com

" JOSEPH L. FACELLOW, ET AL "

JAMES C. JONES, SR.
INST. NO. FB-6891

LOT 1
0.619 AC.
26,963 S.F.

LOT 2
0.922 AC.
40,162 S.F.

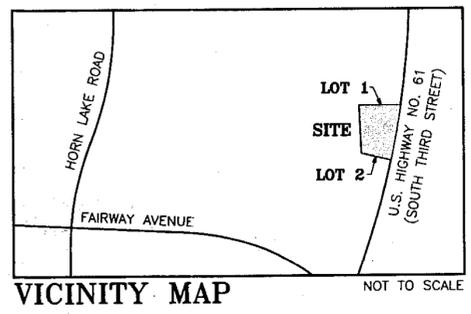
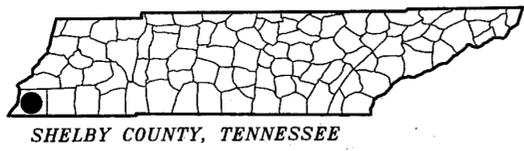
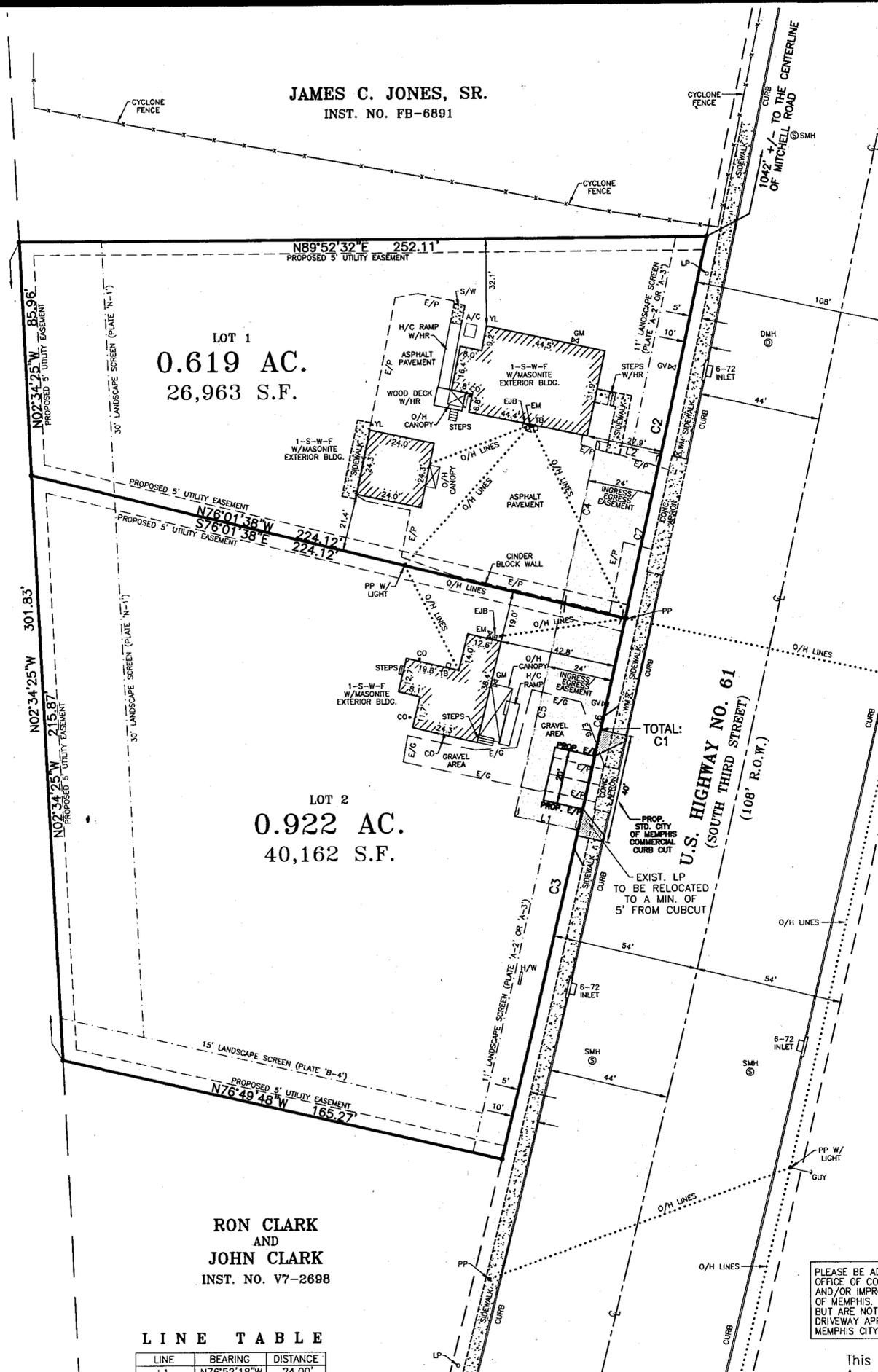
RON CLARK
AND
JOHN CLARK
INST. NO. V7-2698

LINE TABLE

LINE	BEARING	DISTANCE
L1	N76°52'18"W	24.00'
L2	S77°36'07"E	24.00'

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD BRNG	CHORD
C1	348.50'	11165.48'	1°47'18"	S12°52'21"W	348.48'
C2	143.87'	11165.48'	0°44'18"	S12°20'51"W	143.86'
C3	204.63'	11165.48'	1°03'00"	S13°14'30"W	204.63'
C4	61.42'	11141.48'	0°18'52"	N12°33'21"E	61.42'
C5	80.58'	11141.48'	0°24'52"	N12°55'16"E	80.58'
C6	80.23'	11165.48'	0°24'42"	S12°55'20"W	80.23'
C7	62.08'	11165.48'	0°19'07"	S12°33'26"W	62.08'

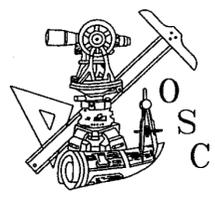
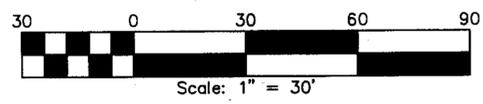
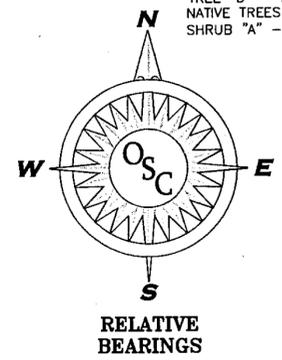


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09/26/2007 03:54 PM
2 PGS : 8 - PLAT
DOKOBY 523092-7149439
PLAT BOOK : 235
PAGE : 22

RECORDING FEE 15.00
DP FEE 2.00
TOTAL AMOUNT 17.00

TOM LEATHERWOOD
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

- LANDSCAPE NOTE: TREE "A" - RED OAK
TREE "B" - THORNLESS HONEY LOCUST
TREE "C" - CRAPE MYRTLE
TREE "D" - EASTERN WHITE PINE
NATIVE TREES - OAKS
SHRUB "A" - DWARF PFITZER JUNIPER



B.M. CITY OF MEMPHIS BENCHMARK NO. 909
THIRD STREET SOUTH & FAIRWAY AVENUE
CITY MONUMENT IS LOCATED ON THE SE CORNER, AT
BACK OF SIDEWALK AT EAST SIDE OF H/C RAMP.
ELEV. - 268.42

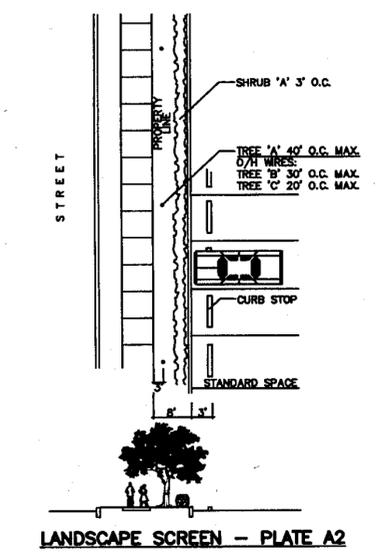
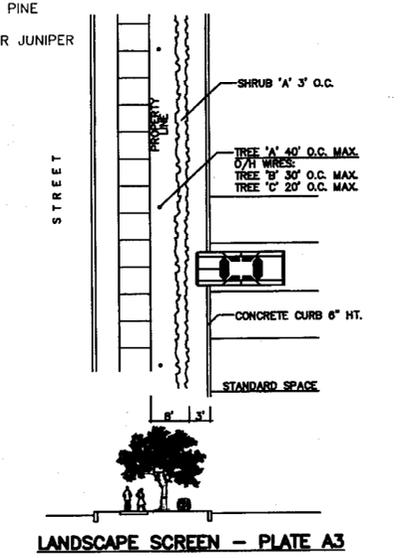
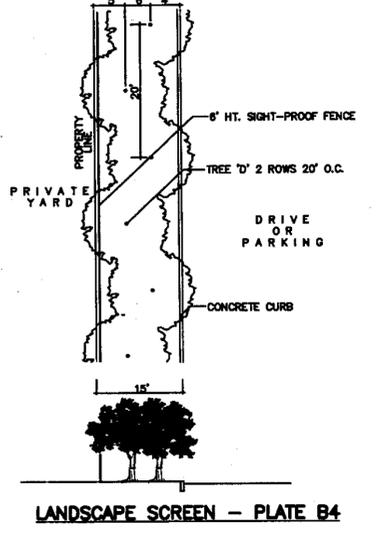
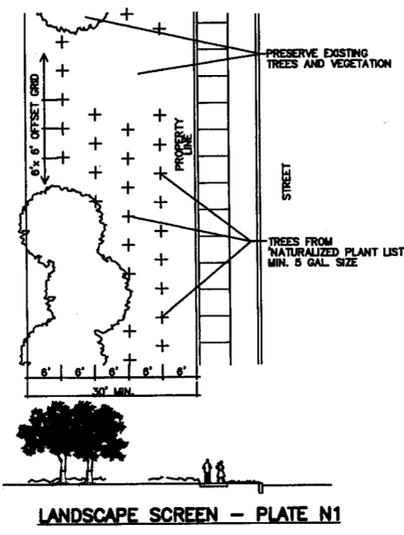
PLEASE BE ADVISED THAT A BUILDING PERMIT ISSUED BY THE MEMPHIS/SHELBY COUNTY OFFICE OF CONSTRUCTION CODE ENFORCEMENT DOES NOT ALLOW FOR ALTERATIONS AND/OR IMPROVEMENTS TO ANY RIGHT-OF-WAY (R.O.W.) MAINTAINED BY THE CITY OF MEMPHIS. ALTERATIONS AND/OR IMPROVEMENTS TO CITY OF MEMPHIS R.O.W. INCLUDE BUT ARE NOT LIMITED TO WORK PERFORMED ON SIDEWALKS, CURB AND GUTTER, DRIVEWAY APRONS AND UTILITY TIE-INS. R.O.W. PERMITS MUST BE OBTAINED FROM THE MEMPHIS CITY ENGINEER'S OFFICE AT PH. 576-6700.

This property is not located in a Special Flood Hazard Area per Flood Insurance Rate Map, Community Panel No. 470177 0270 C, Effective Date: December 2, 1994.

REQUIRED SIDEWALKS

STREET NAME	SIDEWALK WIDTH	SIDE	LOCATION
U.S. HIGHWAY 61 (S. THIRD ST)	5'	WEST	BACK OF CURB

NOTE: SIDEWALK ON U.S. HIGHWAY 61(S. THIRD ST) IS EXISTING.



CASE # S 07-006
FINAL PLAN
J W HARRIS SUBDIVISION
MEMPHIS, TENNESSEE

ZONED: C-L (LOCAL COMMERCIAL DISTRICT)	2 LOTS TOTAL: 1.541 ACRES	W-075, B-074, P-074
OWNER/DEVELOPER: JOHN W. HARRIS, JR., TRUSTEE 3015 N. WINDSTONE WAY LANE GERMANTOWN, TENNESSEE 38138	SURVEYOR/ENGINEER: OLLAR SURVEYING COMPANY 3161 U.S. HIGHWAY No. 64, SUITE 500 EADS, TENNESSEE 38028	
100 YEAR FLOOD ELEVATION 225.0	F.E.M.A. MAP PANEL NUMBER 47157C0270 E	F.E.M.A. MAP DATE: 12/02/94
JULY 2007	SCALE: 1"=30'	SHEET 1 OF 2

NOTE #1:
The minimum lot area located within this subdivision is 26,963 square feet.

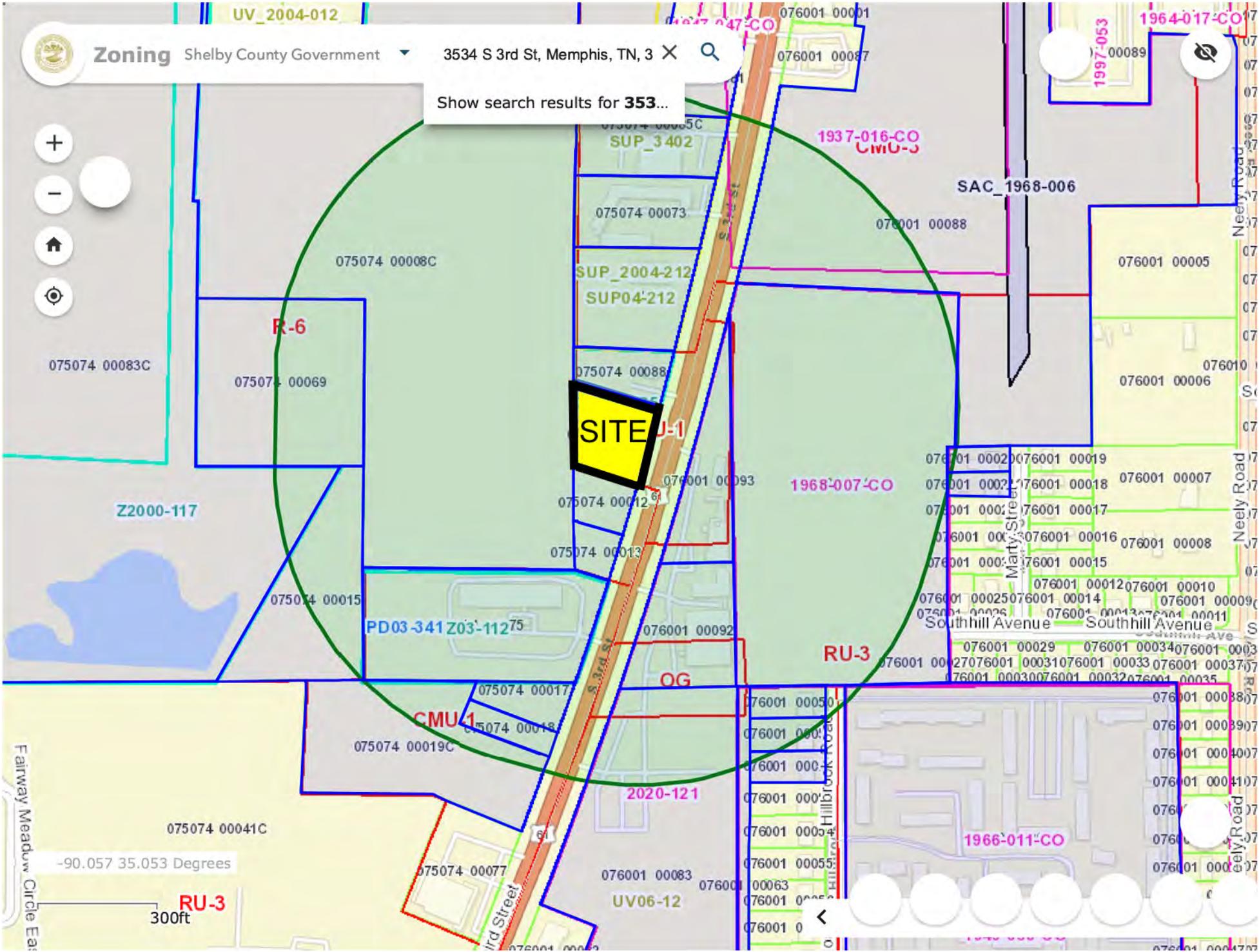


Zoning Shelby County Government

3534 S 3rd St, Memphis, TN, 3



Show search results for 353...



-90.057 35.053 Degrees

300ft



RICHARDSON WILLIE J & DORA L
3754 SHADY HOLLOW LN
MEMPHIS TN 38116

SHAI AKSHAR-SAI CORPORATION
1500 HIGHWAY 84 E
HAYTI MO 63851

PROCTOR LASHONDA
3563 MARTY ST
MEMPHIS TN 38109

RIVERSIDE M B CHURCH INC
3560 S 3RD ST
MEMPHIS TN 38109

LOUIE EDWIN G REVOCABLE LIVING TRUST
1815 BEACH PARK BLVD
SAN MATEO CA 94404

HARRIS J W JR DDS PC PENSION PLAN (TR)
135 MOSBY RD
OAKLAND TN 38060

RIVERSIDE M B CHURCH INC
3560 S 3RD ST
MEMPHIS TN 38109

WARE C E TOWERS INC
3571 S THIRD ST
MEMPHIS TN 38109

MEMPHIS POWER & LIGHT COMPANY
179 MADISON AVE
MEMPHIS TN 38103

RICHARDSON PRYCE
1728 FOX HUNT LN
MEMPHIS TN 38134

DAVIDSON RHONDA C
3673 S THIRD
MEMPHIS TN 38109

RIVERSIDE BAPTIST CHURCH
3560 S THIRD ST
MEMPHIS TN 38109

HOWLADER MOHAMMAD R
4100 BLACKHEATH DR
BARTLETT TN 38135

CRP INC
756 E BROOKHAVEN CIR
MEMPHIS TN 38117

DWJ HOLDINGS
1000 PARK AVE 2205
ATLANTA GA 30325

HENDERSON RAYMOND
3555 MARTY ST
MEMPHIS TN 38109

NHR MEMPHIS IV LLC
PO BOX 241865
MEMPHIS TN 38124

MAYES BOBBYE
5024 TEAL AVE
MEMPHIS TN 38118

BROWN LINDA K AND AQUIL ELAMIN
8928 BENT GRASS LOOP W
SOUTHAVEN MS 38671

VALLEY FORGE LLC
200 WITMER RD
HORSHAM PA 19044

DESAI MAYANKI
12857 NE 200TH PL
WOODINVILLE WA 98072

RIVERSIDE M B CHURCH INC
3560 S 3RD ST
MEMPHIS TN 38109

DWJ HOLDINGS
1000 PARK AVE 2205
ATLANTA GA 30325

HARRIS J W JR DDS PC PENSION PLAN (TR)
135 MOSBY RD
OAKLAND TN 38060

SOUTHWEST DEVELOPMENT GROUP LLC
1311 BRIGHTWATER AVE 18E
BROOKLYN NY 11235

HIGHWAY 61 SOUTH LLC
1010 JUNE RD
MEMPHIS TN 38119

RIVERSIDE M B CHURCH INC
3560 S 3RD ST
MEMPHIS TN 38109

RAINIER GSAP I - MEMPHIS LLC
13760 NOEL RD 800
DALLAS TX 75240

CHRISTINE DONHARDT
THE REAVES FIRM, INC.
6800 POPLAR AVE. SUITE 101
MEMPHIS, TN

075074 00013 - RICHARDSON WILLIE J & DORA L
075074 00073 - SHAI AKSHAR-SAI CORPORATION
076001 00021 - PROCTOR LASHONDA
076001 00063 - RIVERSIDE M B CHURCH INC
076001 00051 - LOUIE EDWIN G REVOCABLE LIVING TRUST
075074 00089 - HARRIS J W JR DDS PC PENSION PLAN (TR)
076001 00092 - RIVERSIDE M B CHURCH INC
075074 00075 - WARE C E TOWERS INC
075074 00015 - MEMPHIS POWER & LIGHT COMPANY
075074 00017 - RICHARDSON PRYCE
075074 00019C - DAVIDSON RHONDA C
076001 00088 - RIVERSIDE BAPTIST CHURCH
075074 00081 - HOWLADER MOHAMMAD R
075074 00072 - CRP INC
075074 00069 - DWJ HOLDINGS
076001 00020 - HENDERSON RAYMOND
075074 00012 - NHR MEMPHIS IV LLC
076001 00050 - MAYES BOBBYE
075074 00018 - BROWN LINDA K AND AQUIL ELAMIN
076001 00094 - VALLEY FORGE LLC
076001 00052 - DESAI MAYANKI
076001 00083 - RIVERSIDE M B CHURCH INC
075074 00008C - DWJ HOLDINGS
075074 00088 - HARRIS J W JR DDS PC PENSION PLAN (TR)
075074 00083C - SOUTHWEST DEVELOPMENT GROUP LLC

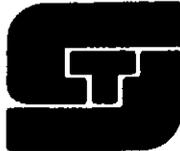
076001 00086 - HIGHWAY 61 SOUTH LLC

076001 00093 - RIVERSIDE M B CHURCH INC

075074 00085C - RAINIER GSAP I - MEMPHIS LLC

78 8520

Compliments of



Security Title Company, Inc.

5085 RIDGEWAY PARKWAY • SUITE 104 • PHONE 761-2820
MEMPHIS, TENNESSEE 38119

J

WARRANTY DEED

THIS INDENTURE, made and entered into this 1 day of July, 1987

by and between JOHN W. HARRIS, JR., TRUSTEE, for John W. Harris, Jr., Trust #1, party

of the first part, and THE J. W. HARRIS, JR., D.D.S., P.C. PENSION PLAN, JOHN W. HARRIS, JR., TRUSTEE, party, of the second part

WITNESSETH: That for the consideration hereinafter expressed the said part y of the first part has _____ bargained and sold and do es hereby bargain, sell, convey and confirm unto the said part y of the second part the following described real estate, situated and being in _____ County of Shelby, State of Tennessee to wit:

Part of the 3.165 acre parcel of land lying west of and fronting 355.4 feet on U.S. Highway 61 at 521.5 feet northwardly from the southeast corner of the Lee A. Alexander 9.34 acres of the Lucie Hutton 11.4 acres lying west of the U.S. Highway 61 and south of the Mitchell Road in the Newton Ford 40.27 acres in Section 5, Township 1, Range 8, west of Chickasaw Cession in Shelby County, Tennessee; being the same property conveyed to the party of the first part by warranty deed of record as Inst. No. P9-2890 in said the Register's Office of Shelby County, Tennessee. The party of the first part makes this conveyance as Trustee of and pursuant to the terms of a trust agreement for the benefit of Fannie R. Harris.

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

And the said part y of the first part do es hereby covenant with the said part y of the second part that he is lawfully seized in fee of the aforescribed real estate; that he has a good right to sell and convey the same; that the same is unencumbered, except taxes for the year 1987,

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

THE CONSIDERATION for this conveyance is as follows: TEN (\$10.00) DOLLARS, cash in hand paid, and other good and valuable valuable considerations, the receipt and sufficiency of which is hereby acknowledged.

WITNESS the signature _____y of the said part y of the first part the day and year first above written.

John W. Harris, Jr. Trustee

John W. Harris, Jr., Trustee

STATE OF TENNESSEE, COUNTY OF SHELBY

78 8520

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared _____

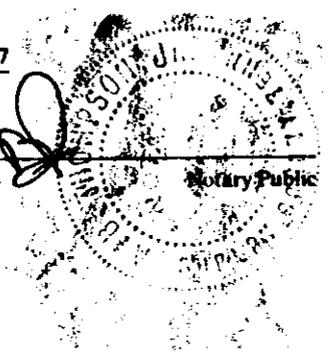
John W. Harris, Jr., Trustee

to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal at office this 11th day of July 19 87

My commission expires 1-17-89

Arne B. Thompson



(FOR RECORDING DATA ONLY)

Property address 3533 Hwy. 61 So. Memphis, TN

Mail tax bills to: (Person or Agency responsible for payment of taxes) Dr. J. W. Harris 2128 Florida Street Memphis, TN 38109

This instrument prepared by: Arne B. Thompson, Jr. 1045 S. Yates Rd. Memphis, TN 38119

State Tax \$ Register's fee .50 Recording fee 6.00 Total T.G. #

Return to: Arne B. Thompson, Jr. 1045 S. Yates Rd. Memphis, TN 38119

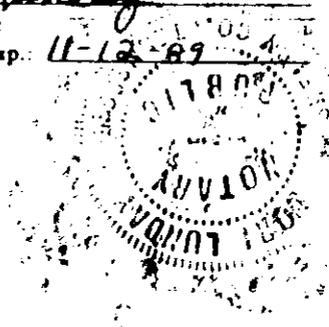
I, or we, hereby swear or affirm that, to the best of affiant's knowledge, information, and belief, the actual consideration for this transfer or value of the property transferred, whichever is greater, is \$45,000.00, which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

Arne B. Thompson, Agent
Affiant

Subscribed and sworn to before me this 16 day of July 19 87
Arne B. Thompson
Notary Public
My Comm. Exp.: 11-12-89

788520

STATE TAX 126.00
REGISTER'S FEE .50
RECORDING FEE 6.00
132.50
JUL 17 3 49 PM '87



STATE OF TENNESSEE
SHELBY COUNTY
Arne B. Thompson
REGISTRAR

126.00
6.50
132.50
The Printery/Form #632-50
02972

Description:

CITE TO COURT.Tow yard located in CMU-1 zone not allowed. Todd McConnell dob 10-13-1973 . phone 901-468-7398

Owner:

HARRIS J W JR DDS PC PENSION PLAN (TR) *
135 MOSBY RD
OAKLAND, TN
OAKLAND TN 38060



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

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

January 08, 2024

Al Moore, Moore Towing and Recovery
Christine Donhardt and Mike Davis, The Reaves Firm

Sent via electronic mail to: cdonhardt@reavesfirm.com, moorealdoncey@gmail.com

Special use permit to allow a towing service without an impound lot in the Commercial Mixed Use – 1 (CMU-1) District

Case Number: SUP 2023-026

LUCB Decision: Approval with Conditions

Dear applicant,

On Thursday, December 14, 2023, the Memphis and Shelby County Land Use Control Board **approved** your special use permit to allow a towing service without an impound lot in the Commercial Mixed Use – 1 (CMU-1) District at 3545 South Third Street, subject to the following conditions and waivers:

1. The proposed fence must not exceed 8' in height.
2. All parking pads and curb cuts must be installed and improved to the standard of the UDC.
3. Parking pads must meet parking setback requirements.
4. Fence must be constructed of permissible material allowed within the CMU-1 zoning district.
5. Future modifications to the site plan will not require re-recording of the site plan unless additional uses/activities are being added that beyond the scope of all prior approvals for the site or this approval.

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

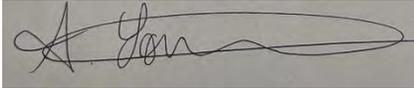
It is the applicant's responsibility to contact the City Council Records Office to determine when the application is scheduled to be heard at committee and in public session. The City Council Records Office may be reached at (901) 636-6792.

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

Letter to Applicant
SUP 2023-026

If you have questions regarding this matter, please feel free to contact me at (901) 636-7120 or via email at alexis.longstreet@memphistn.gov.

Respectfully,

A handwritten signature in black ink, appearing to read "Alexis Longstreet", is written over a light gray rectangular background.

Alexis Longstreet
Planner I
Land Use and Development Services
Division of Planning and Development

Letter to Applicant
SUP 2023-026
SITE PLAN



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

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

Planning & Zoning COMMITTEE: 03/19/2024
DATE
PUBLIC SESSION: 03/19/2024
DATE

ITEM (CHECK ONE)
_____ ORDINANCE RESOLUTION _____ REQUEST FOR PUBLIC HEARING

ITEM DESCRIPTION: Resolution pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code approving a special use permit at the subject property located 2491 Joy Ln, known as case number SUP 2023-028.

CASE NUMBER: SUP 2023-028

LOCATION: 2491 Joy Ln

COUNCIL DISTRICTS: District 4 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Esmeralda Apartments

REPRESENTATIVE: S Berry Jones

REQUEST: Conversion of an existing abandoned social services facility (transitional home) into 80 studio apartments.

AREA: +/-34,029 SF

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

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

PRIOR ACTION ON ITEM:

(1) _____ APPROVAL - (1) APPROVED (2) DENIED
02/08/2024 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>
<u>Mahesh Gostain</u>	<u>03/05/2024</u>	STAFF PLANNER
_____		DEPUTY ADMINISTRATOR
<u>Britt Hill</u>	<u>3/5/24</u>	ADMINISTRATOR
_____		DIRECTOR (JOINT APPROVAL)
_____		COMPTROLLER
_____		FINANCE DIRECTOR
_____		CITY ATTORNEY
_____		CHIEF ADMINISTRATIVE OFFICER
_____		COMMITTEE CHAIRMAN



Memphis City Council Summary Sheet

SUP 2023-028

RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A SPECIAL USE PERMIT AT THE SUBJECT PROPERTY LOCATED AT 2491 JOY LN, KNOWN AS CASE NUMBER SUP 2023-028.

- This item is a resolution with conditions for a special use permit to allow Conversion of an existing abandoned social services facility (transitional home) into 80 studio apartments; and
- The item may require future public improvement contracts.

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday, February 08, 2024**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: SUP 2023-028

LOCATION: 2491 Joy Ln

COUNCIL DISTRICT(S): District 4 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Esmeralda Apartments

REPRESENTATIVE: S Berry Jones

REQUEST: Conversion of an existing abandoned social services facility (transitional home) into 80 studio apartments.

EXISTING ZONING: Commercial Mixed Use-3 (CMU-3), SUP 2011-209

AREA: +/-34,029 SF

The following spoke in support of the application: None

The following spoke in opposition the application: None

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

The motion **passed by a vote of 7-0- on the consent agenda.**

Respectfully,

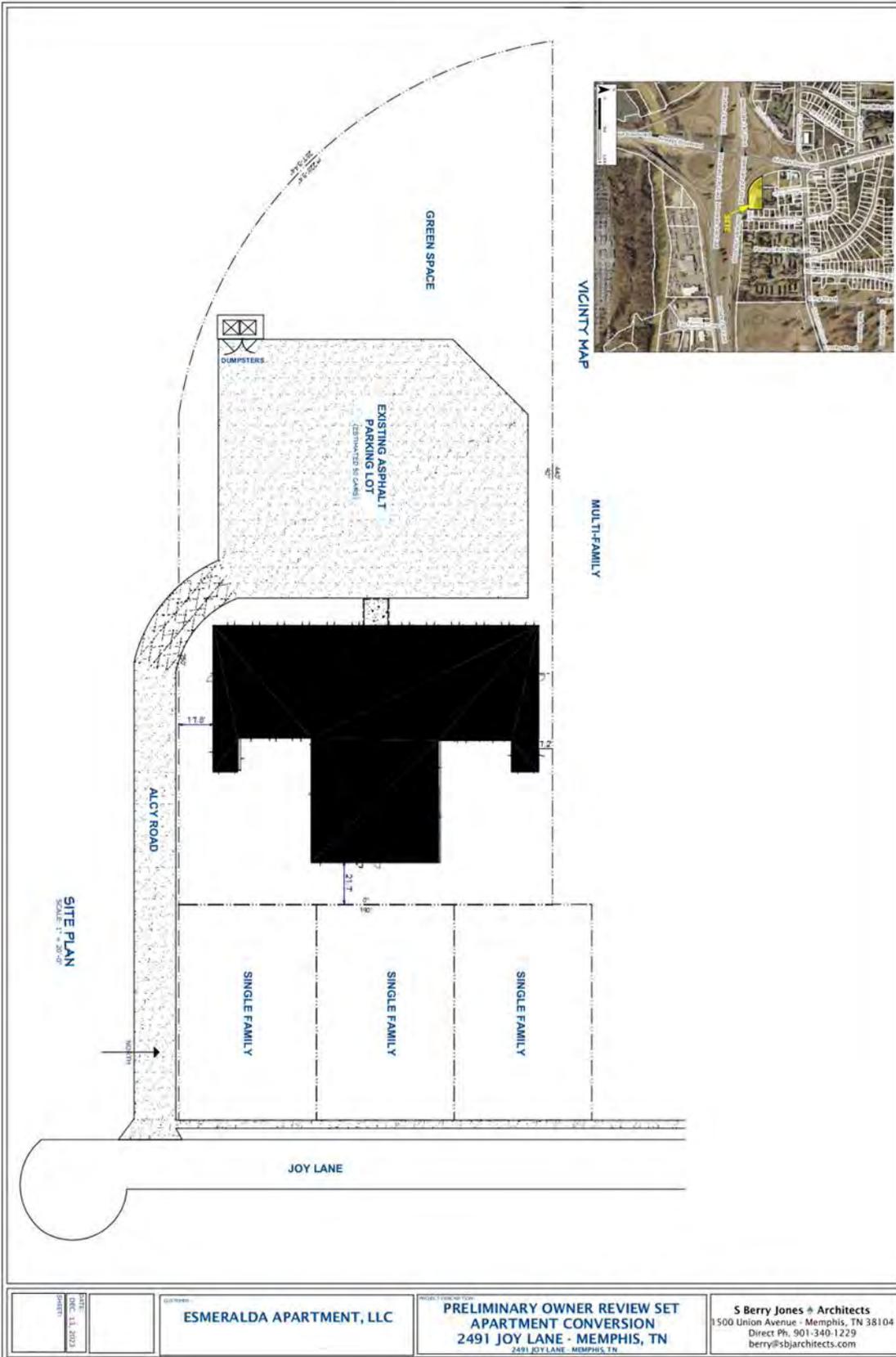


Planner II
Land Use & Development Services

SUP 2023-028
CONDITIONS

1. A total of 80 studio apartments are permitted in the existing building.
2. A final site plan shall be provided that demonstrates site plan compliance including, but not limited to: landscaping, screening, parking, compliance with building setback and height requirements, lighting, and any other development standards that are applicable according to article 4 of the unified development code.

SITE PLAN



RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A SPECIAL USE PERMIT AT THE SUBJECT PROPERTY LOCATED AT 2491 JOY LN, KNOWN AS CASE NUMBER SUP 2023-028.

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

WHEREAS, the Esmeralda Apartments filed an application with the Memphis and Shelby County Division of Planning and Development to allow Conversion of an existing abandoned social services facility (transitional home) into 80 studio apartments; 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 that the design and amenities are consistent with the public interest; and has submitted its findings and recommendation concerning the above considerations to the Land Use Control Board; and

WHEREAS, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on February 08, 2024, and said Board has submitted its findings and recommendation concerning the above considerations to the Council of the City of Memphis; and

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

WHEREAS, the Council of the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the 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 the request use in accordance with the attached conditions.

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

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

CONDITIONS

1. A total of 80 studio apartments are permitted in the existing building.
2. A final site plan shall be provided that demonstrates site plan compliance including, but not limited to: landscaping, screening, parking, compliance with building setback and height requirements, lighting, and any other development standards that are applicable according to article 4 of the unified development code.

ATTEST:

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

AGENDA ITEM: 3

CASE NUMBER: SUP 2023-028 **L.U.C.B. MEETING:** February 08, 2024

LOCATION: 2491 Joy Ln

COUNCIL DISTRICT: District 4 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Esmeralda Apartments

REPRESENTATIVE: S Berry Jones

REQUEST: Conversion of an existing abandoned social services facility (transitional home) into 80 studio apartments.

AREA: +/-34,029 SF

EXISTING ZONING: Commercial Mixed Use-3 (CMU-3), SUP 2011-209

CONCLUSIONS

1. The applicant is seeking a conversion of an existing abandoned assisted living facility into 80 studio apartments.
2. The subject property is +/-34,029 SF and the current zoning is Commercial Mixed Use (CMU-3).
3. There will be a total of 80 units and the building is a 3-floor apartment complex. The apartment complex includes studio units, studio + units, king units, 2BR units, and queen units.
4. The proposal will serve as a buffer between the low intensity single-family residences and the high intensity interstate highway system.
5. This project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.

CONSISTENCY WITH MEMPHIS 3.0

This proposal is consistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on pages 21-23 of this report.

RECOMMENDATION

Approval with conditions.

GENERAL INFORMATION

Street Frontage: Interstate 240 West +/-287 curvilinear feet

Zoning Atlas Page: 2235

Parcel ID: 060137 00163

Existing Zoning: Commercial Mixed Use (CMU-3), SUP 2011-209

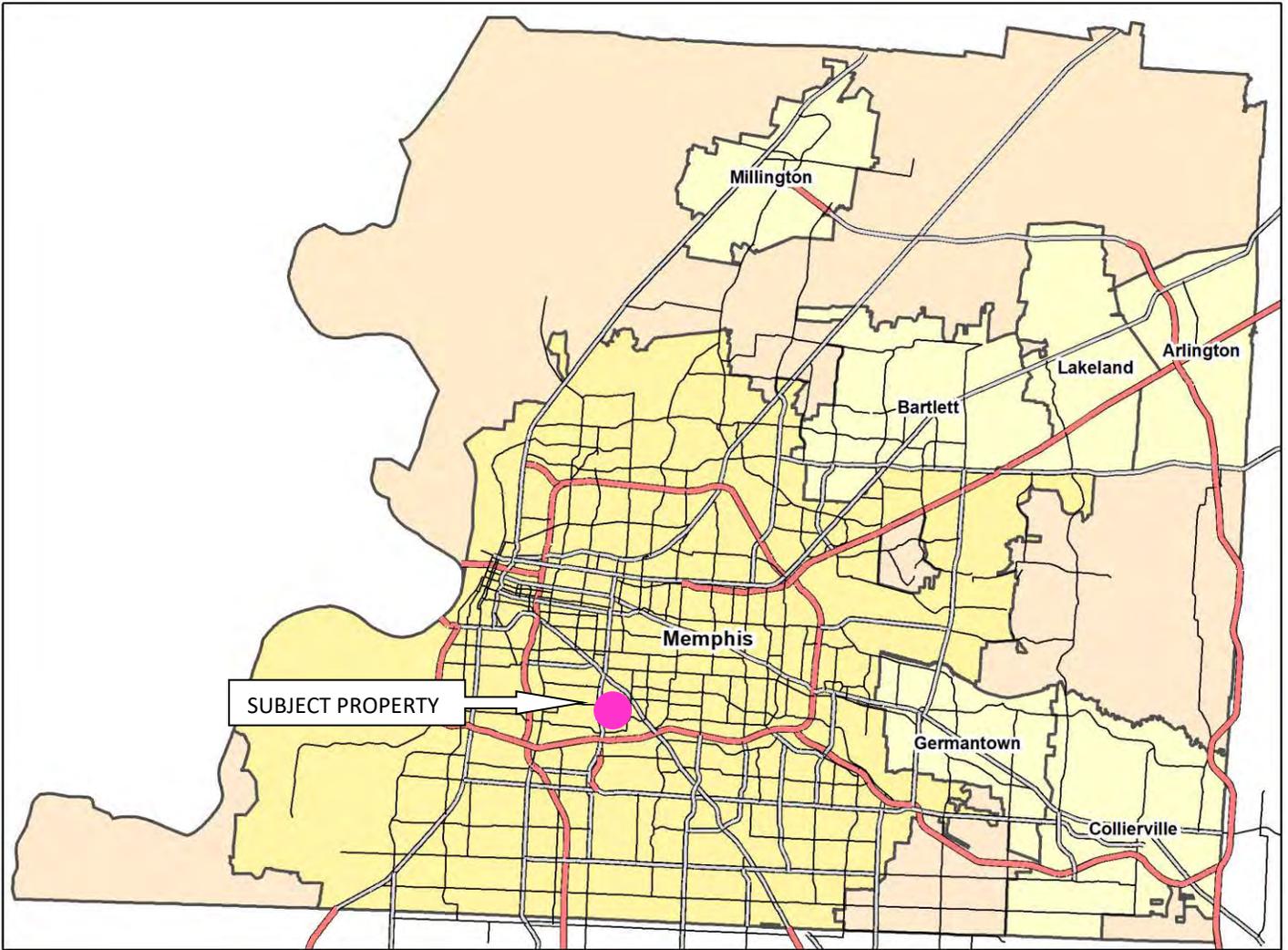
NEIGHBORHOOD MEETING

The meeting was held at 5:00 PM on Wednesday, December 27, 2023, at the New Jerusalem Temple Church at 2711 Ketchum Road.

PUBLIC NOTICE

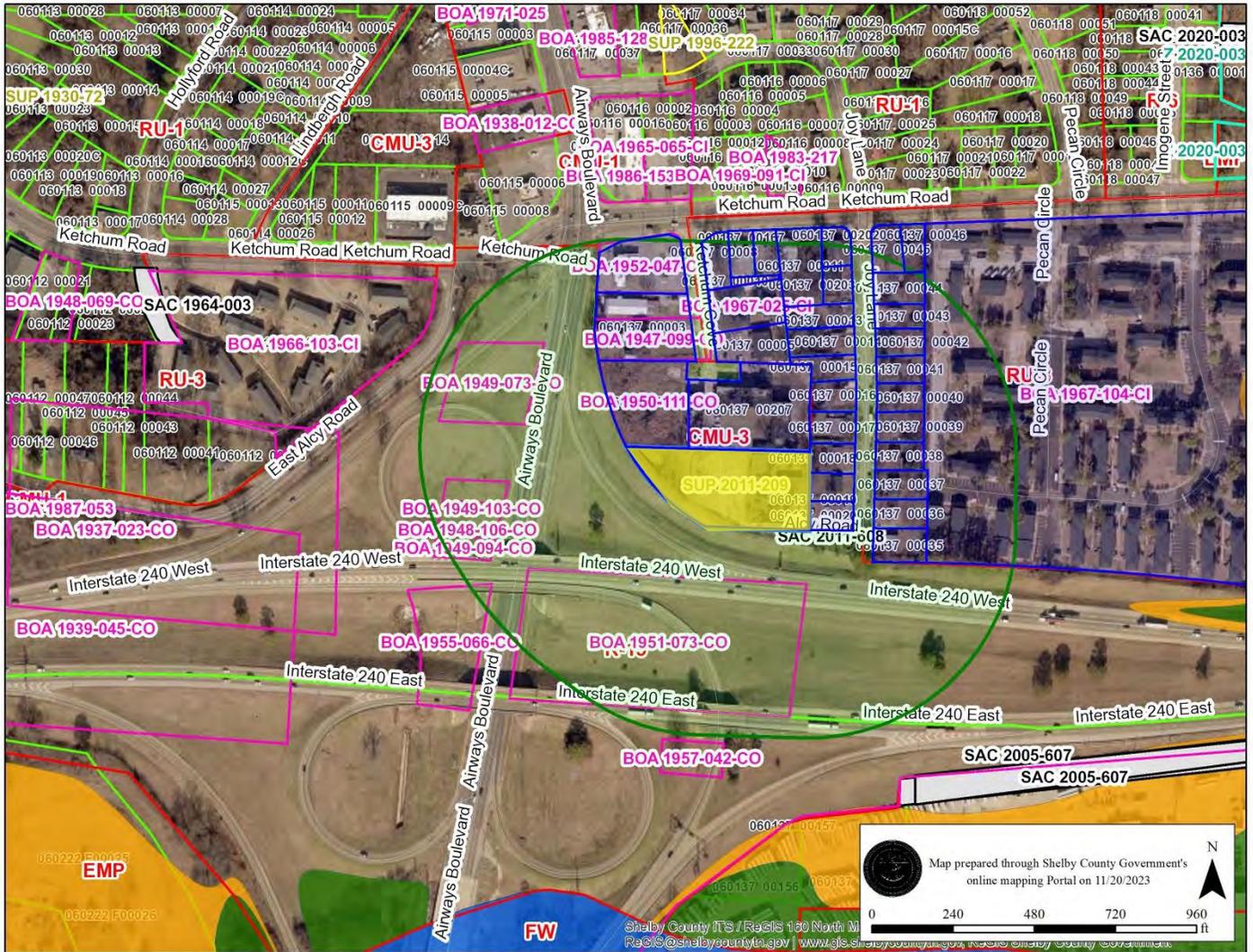
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 35 notices were mailed on November 20, 2023, and a total of 1 sign posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



Subject property located within the pink circle.

VICINITY MAP



Site highlighted in yellow.

AERIAL



Subject property outlined in yellow.

LAND USE MAP



Subject property indicated by a pink star.

SITE PHOTOS



View of the subject property from I-240 (Avron B. Fogelman Expy) from Front.

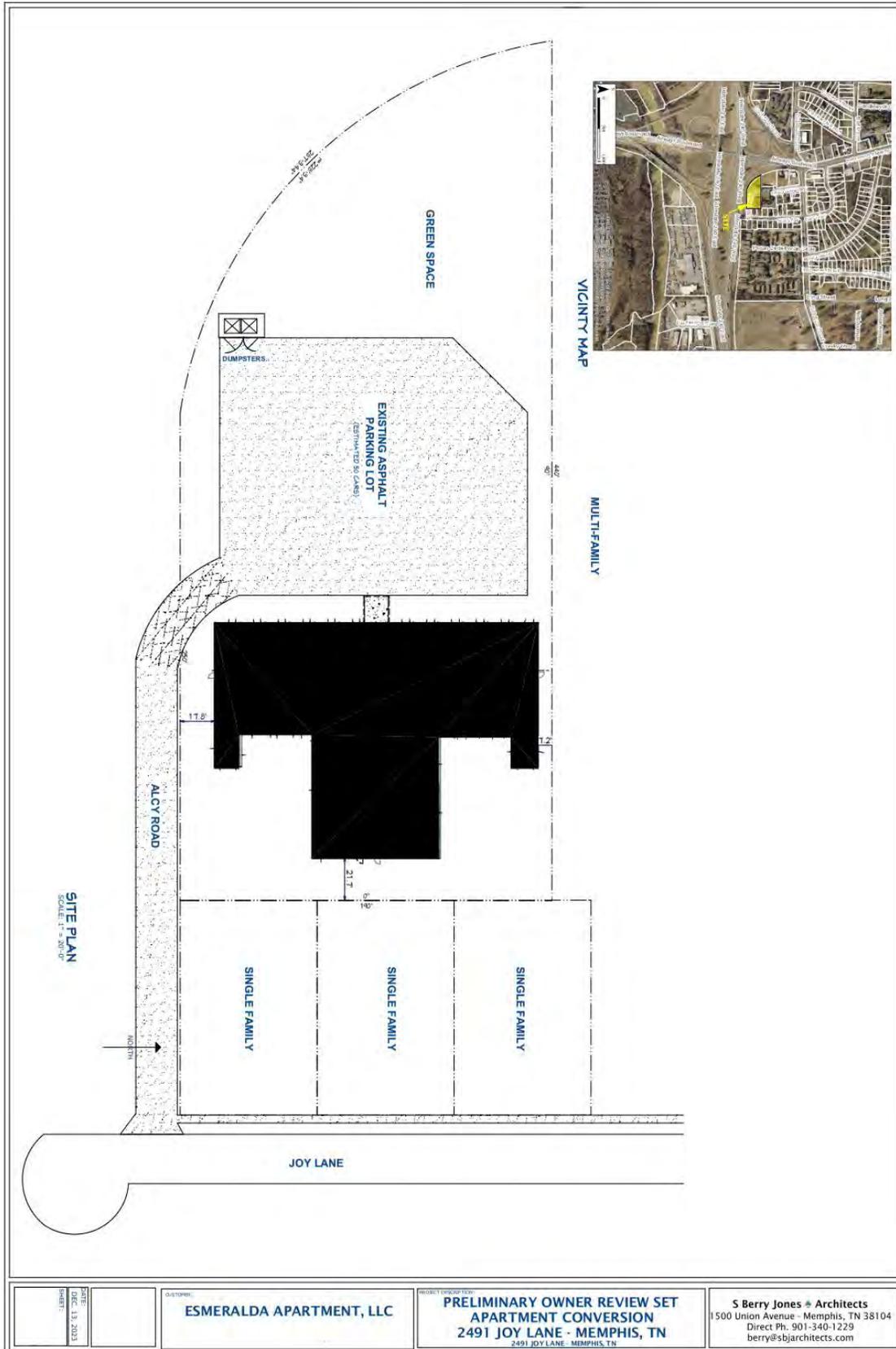


View of the subject property from I-240 (Avron B. Fogelman Expy) from West.



View of the subject property from above.

SITE PLAN



DATE: DEC. 13, 2023	PROJECT: ESMERALDA APARTMENT, LLC
------------------------	--------------------------------------

ESMERALDA APARTMENT, LLC

PRELIMINARY OWNER REVIEW SET
APARTMENT CONVERSION
2491 JOY LANE - MEMPHIS, TN
 2491 JOY LANE, MEMPHIS, TN

S Berry Jones & Architects
 1500 Union Avenue - Memphis, TN 38104
 Direct Ph: 901-340-1229
 berry@sbjarchitects.com

ELEVATIONS

**APARTMENT CONVERSION
 ESMERALDA APARTMENTS
 2491 JOY LANE - MEMPHIS, TN**

2491 JOY LANE - MEMPHIS, TN



UNIT COUNT BY FLOOR

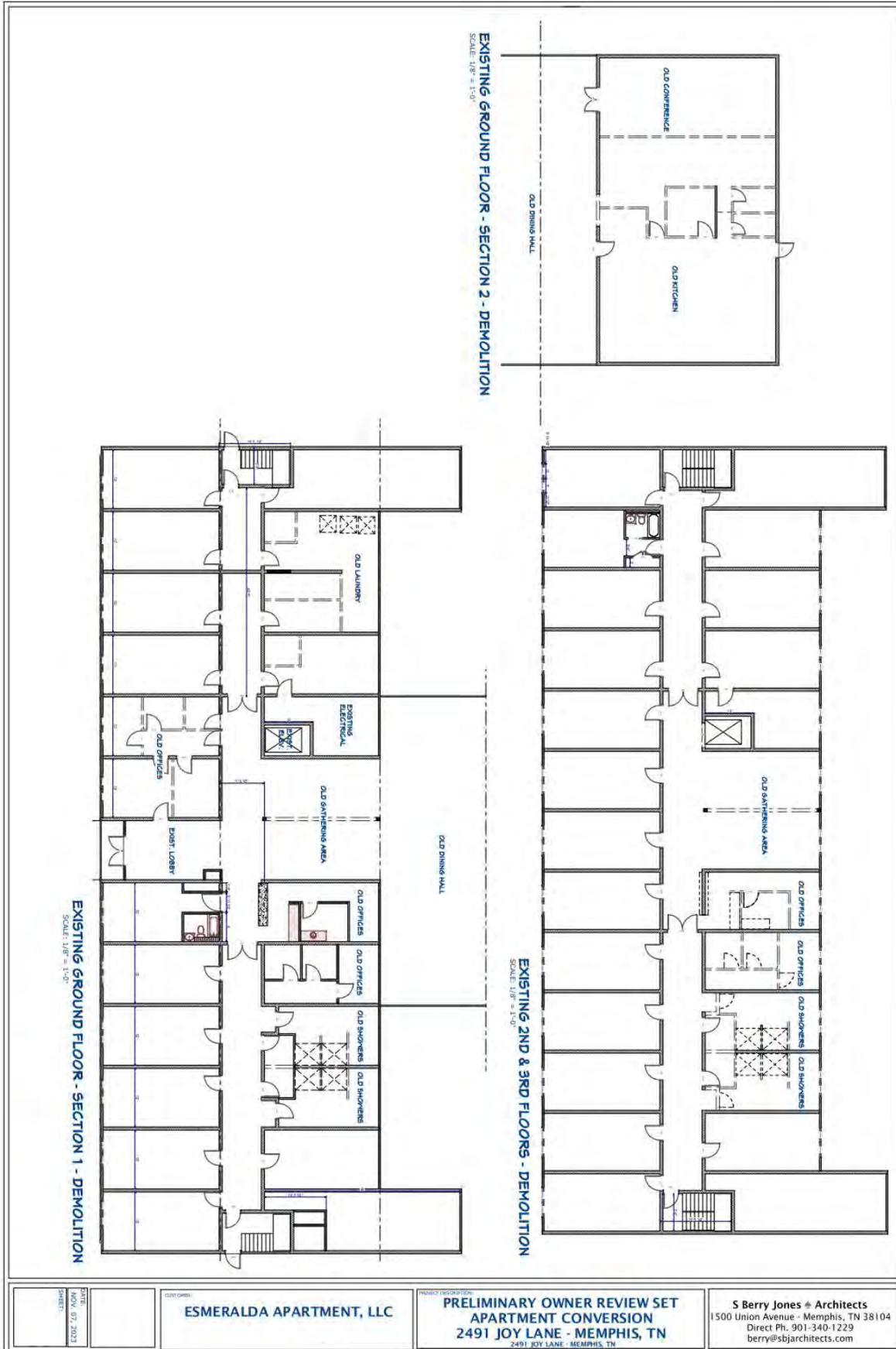
ESMERALDA APARTMENTS									
	NO. OF UNITS	STUDIO UNITS	STUDIO + LOUNGE UNITS	1-BED UNITS	2-BED UNITS	3-BED UNITS	4-BED UNITS	5-BED UNITS	GROSS SF
GROUND FLOOR	30	14	10	2	2	2	2	2	13,860
1ST FLOOR	52	22	2	2	2	2	2	2	18,600
2ND FLOOR	25	22	1	2	2	2	2	2	13,860
TOTAL	107	58	13	6	6	6	6	6	46,320

DATE: NOV. 07, 2023
 SHEET: 11

CLIENT: ESMERALDA APARTMENT, LLC

PROJECT DESCRIPTION:
 PRELIMINARY OWNER REVIEW SET
 APARTMENT CONVERSION
 2491 JOY LANE - MEMPHIS, TN
 2491 JOY LANE - MEMPHIS, TN

S Berry Jones & Architects
 1500 Union Avenue - Memphis, TN 38104
 Direct Ph. 901-340-1229
 berry@sbjarchitects.com



<p>DATE: NOV. 07, 2023 PROJECT:</p>	<p>CLIENT/OWNER: ESMERALDA APARTMENT, LLC</p>	<p>PROJECT DESCRIPTION: PRELIMINARY OWNER REVIEW SET APARTMENT CONVERSION 2491 JOY LANE - MEMPHIS, TN <small>2491 JOY LANE - MEMPHIS, TN</small></p>	<p>S Berry Jones + Architects 1500 Union Avenue - Memphis, TN 38104 Direct Ph. 901-340-1229 berry@sbjarchitects.com</p>
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UNIT COUNT BY FLOOR

SUBJECTIVE APARTMENTS	NO. OF UNITS	STUDIO UNITS	STUDIO + UNIT	2BR UNITS	2BR UNITS - B	KING UNITS	STUDIO UNITS	TOTAL
GROUND FLOOR	10	10	1	2	1	1	1	16
FIRST FLOOR	22	22	2	2	1	1	1	30
THIRD FLOOR	22	22	2	2	1	1	1	30
TOTALS	54	54	5	6	3	3	3	74

<p>DATE: NOV. 07, 2023 SHEET: _____</p>	<p>ESMERALDA APARTMENT, LLC</p>	<p>PRELIMINARY OWNER REVIEW SET APARTMENT CONVERSION 2491 JOY LANE - MEMPHIS, TN <small>2491 JOY LANE - MEMPHIS, TN</small></p>	<p>S Berry Jones Architects 1500 Union Avenue - Memphis, TN 38104 Direct Ph. 901-340-1229 berry@sbjarchitects.com</p>
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DATE: NOV. 02, 2023	SHEET:
------------------------	--------

ESMERALDA APARTMENT, LLC

PROJECT LOCATION:
PRELIMINARY OWNER REVIEW SET
APARTMENT CONVERSION
2491 JOY LANE - MEMPHIS, TN
 2491 JOY LANE - MEMPHIS, TN

S Berry Jones Architects
 1500 Union Avenue - Memphis, TN 38104
 Direct Ph. 901-340-1229
 berry@sbjarchitects.com

UNIT VIEW



OVERHEAD VIEW TYPICAL UNIT

VIEW TYPICAL UNIT

VIEW TYPICAL UNIT

<p>DATE: NOV. 07, 2023 SHEET:</p>	<p>CUSTOMER: ESMERALDA APARTMENT, LLC</p>	<p>PROJECT DESIGN TITLE: PRELIMINARY OWNER REVIEW SET APARTMENT CONVERSION 2491 JOY LANE - MEMPHIS, TN 2491 JOY LANE - MEMPHIS, TN</p>	<p>S Berry Jones Architects 1500 Union Avenue - Memphis, TN 38104 Direct Ph: 901-340-1225 berry@sbjarchitects.com</p>
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STAFF ANALYSIS

Request

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

The request is for a conversion of an existing abandoned assisted living facility into 80 studio apartments.

Approval Criteria

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

9.6.9 Approval Criteria

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

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

Site Description

The subject property is +/-34,029 SF located at 2491 Joy Lane, Memphis, TN 38114.

This strategic location was chosen based on various factors, including its proximity to schools, parks, public transportation, hospitals, and the evolving housing needs of the community. Additionally, it is conveniently located just 15 minutes away from Downtown Memphis. The site is easily accessible from major thoroughfares and is consistent with the long-term land use and zoning goal of the region.

Previous Special USE Permit Approval

The Council of the City of Memphis previously approved a special use permit (SUP 201-209) on September 06, 2011, for this site to be used as a juvenile transitional housing facility, see pages 30-34 of this report for resolution and site plan.

Site Zoning History

The current zoning is Commercial Mixed Use (CMU-3). The site has previously been used for a hotel, nursing home facility, and the aforementioned juvenile transitional housing facility.

Site Plan Review

The subject property is +/-34,029 SF.

The current zoning is Commercial Mixed Use (CMU-3).

There will be a total of 80 units.

The building is a 3-floor apartment complex.

The apartment complex includes studio units, studio + units, king units, 2BR units, and queen units.

Access will be provided from Alcy Road.

The building appears to meet all required minimum building setbacks and maximum building height requirements.

Parking will have to be provided on site at a ratio provided in the unified development code.

Landscaping and screening requirement found in the UDC must also be met.

Conclusions

The reuse of this existing building for apartments is consistent with prior uses for this site. This use actually reintroduces a residential component versus a number of uses that could be provided on this site that would potentially not be as compatible with the abutting single family homes due to the CMU-3 zoning designation currently existing.

RECOMMENDATION

Staff recommends approval with conditions.

Conditions:

1. A total of 80 studio apartments are permitted in the existing building.
2. A final site plan shall be provided that demonstrates site plan compliance including, but not limited to: landscaping, screening, parking, compliance with building setback and height requirements, lighting, and any other development standards that are applicable according to article 4 of the unified development code.

DEPARTMENTAL COMMENTS

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

City Engineer:

1. Standard Public Improvement Contract or Right-Of-Way Permit as required in Section 5.5.5 of the Unified Development Code.

Sewers:

2. The availability of City sanitary sewer is unknown at this time. Once the developer has submitted proposed sewer discharge rates to the City's Sewer Design Dept, a determination can be made as to available sewer capacity.

Roads:

3. 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.

4. 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:

5. 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.

6. 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.

7. 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:

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

9. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter, and sidewalk.

Drainage:

10. 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.

11. 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.

12. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.

13. 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.

14. 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.

General Notes:

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

16. Development is greater than 1 acre. Detention is required.

17. No other utilities or services may occupy sanitary sewer easements in private drives and yards except for crossings.

18. All connections to the sewer shall be at manholes only.

19. 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.

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

City Fire Division:

- All design and construction shall comply with the 2021 edition of the International Fire Code (as locally amended) and referenced standards.
- Fire apparatus access shall comply with section 503.

- Where security gates are installed that affect required fire apparatus access roads, they shall comply with section 503.6 (as amended).
- Fire protection water supplies (including fire hydrants) shall comply with section 507.
- Where fire apparatus access roads or a water supply for fire protection are required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when approved alternate methods of protection are provided.
- IFC 510 In-building two-way emergency responder communication coverage shall be provided in all new and existing buildings. Buildings and structures that cannot support the required level of coverage shall be equipped with systems and components to enhance signals and achieve the required level of communication coverage.
- A detailed plans review will be conducted by the Memphis Fire Prevention Bureau upon receipt of complete construction documents. Plans shall be submitted to the Shelby County Office of Code Enforcement.

City Real Estate: No comments received.

City/County Health Department: No comments received.

Shelby County Schools: No comments received.

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water: No comments received.

Office of Sustainability and Resilience: No comments received.

Office of Comprehensive Planning:

This summary is being produced in response to the following application to support the Land Use and Development Services department in their recommendation: [SUP 23 -028 Airport Adjacent](#)

Site Address/Location: 2491 Joy Lane

Overlay District/Historic District/Flood Zone: Not in an Overlay District, Historic District, or Flood Zone

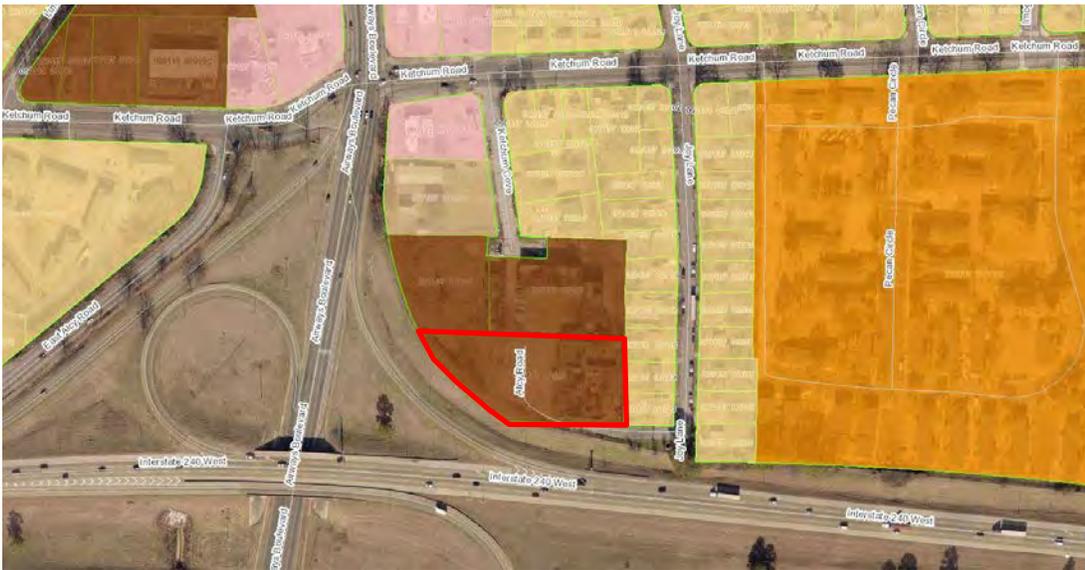
Future Land Use Designation: High Intensity Commercial & Services (CSH)

Street Type: N/A

The applicant is seeking a special use permit to allow apartments in the Commercial Mixed Use-3 (CMU-3) Districts.

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 site on the Future Land Use Map.

2. Land Use Description/Intent

High Intensity Commercial and Service areas typically not associated with anchors. These areas may include commercial uses that serve a larger trade area; this may include large-scale retail, self-storage, vehicle sales, leasing and repair, water-oriented services, lodging, indoor recreation, and social service institutions. Graphic portrayal of CSH is to the right.



“CSH” Form & Location Characteristics

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

“CSH” Zoning Notes

Generally compatible with the following zone districts: CMU-2, CMU-3 without frontage requirements, C-G in accordance with Form and characteristics listed above.

Existing, Adjacent Land Use and Zoning

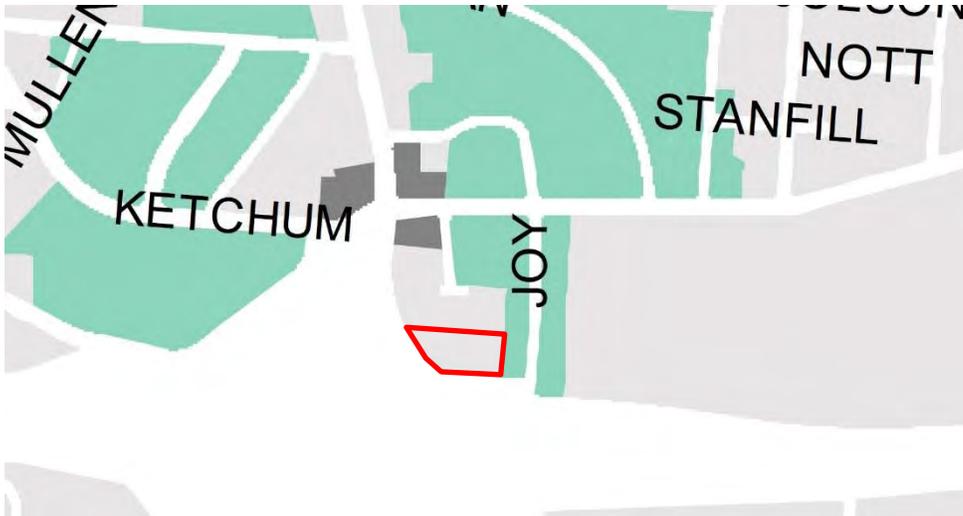
Existing Land Use and Zoning: Multi-Family, CMU-3

Adjacent Land Use and Zoning: Commercial, Single-Family, Vacant, Multi-Family; CMU-3, R-15 RU-3, CMU-1

Overall Compatibility: *The requested use is not compatible with the land use description/intent, form & location characteristics, zoning notes, as the proposed use is a multi-family apartment. However, the proposed use is compatible with the existing and adjacent land uses and the proposed development will act as an adaptive reuse of the former*

nursing home. Additionally, the proposal will serve as a buffer between the low intensity single-family residences and the high intensity interstate highway system.

Degree of Change Map



Red polygon denotes the proposed site on the Degree of Change Map. There is no Degree of Change.

3. Degree of Change Description

N/A

4. Objectives/Actions Consistent with Goal 1, Complete, Cohesive, Communities

NA

5. Pertinent Sections of Memphis 3.0 that Address Land Use Recommendations

NA

Consistency Analysis Summary

The applicant is seeking a special use permit to allow apartments in the Commercial Mixed Use-3 (CMU-3) Districts.

The requested use is not compatible with the land use description/intent, form & location characteristics, zoning notes, as the proposed use is a multi-family apartment. However, the proposed use is compatible with the existing and adjacent land uses and the proposed development will act as an adaptive reuse of the former nursing home. Additionally, the proposal will serve as a buffer between the low intensity single-family residences and the high intensity interstate highway system.

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

APPLICATION



Record Summary for Special Use Permit

Record Detail Information

Record Type: Special Use Permit

Record Status: Processing

Opened Date: November 7, 2023

Record Number: SUP 2023-028

Expiration Date:

Record Name: Esmeralda Apartments

Description of Work: Conversion of an existing abandoned assisted living facility into 80 studio apartments.

Parent Record Number:

Address:

2491 JOY LN, MEMPHIS 38114

Owner Information

Primary Owner Name

Y ESMERALDA APARTMENT LLC

Owner Address

0 PO BOX 20242, CLEVELAND, OH 44120

Owner Phone

8122398734

Parcel Information

060137 00163

Data Fields

PREAPPLICATION MEETING

Name of OPD Planner

brianna

Date of Meeting

11/03/2023

Pre-application Meeting Type

Phone

GENERAL PROJECT INFORMATION

Application Type

New Special Use Permit (SUP)

GENERAL PROJECT INFORMATION

List any relevant former Docket / Case Number(s) related to previous applications on this site -

Is this application in response to a citation, stop work order, or zoning letter 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

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 No building already exist and has been used as a housing facility since its construction in 1970's.

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 Yes.

UDC Sub-Section 9.6.9C Yes this project will be served adequately.
 UDC Sub-Section 9.6.9D Yes that is correct - this project will not result in destruction of any kind

UDC Sub-Section 9.6.9E Yes this requirement will be met or exceeded.
 UDC Sub-Section 9.6.9F Yes this statement is correct. There will be no adverse effects from this project.

GIS INFORMATION

Case Layer -
 Central Business Improvement District No
 Class -
 Downtown Fire District No
 Historic District -
 Land Use -
 Municipality -
 Overlay/Special Purpose District -
 Zoning -
 State Route -
 Lot -
 Subdivision -
 Planned Development District -
 Wellhead Protection Overlay District No

Contact Information

Name	Contact Type
ESMERALDA APARTMENT LLC	APPLICANT
Address	

Phone
(812)239-8734

Fee Information

Invoice #	Fee Item	Quantity	Fees	Status	Balance	Date Assessed
1516301	Special Use Permit Fee - 5 acres or less (Base Fee)	1	500.00	INVOICED	0.00	11/07/2023
1516301	Credit Card Use Fee (.026 x fee)	1	13.00	INVOICED	0.00	11/07/2023

Total Fee Invoiced: \$513.00

Total Balance: \$0.00

Payment Information

Payment Amount	Method of Payment
\$513.00	Credit Card

LETTER OF INTENT

Esmeralda Apartment LLC
2491 Joy Lane, Memphis, TN 38114
901-402-4444
11/01/2023

Memphis and Shelby County, Division of Planning and Development
City Hall, 125 N. Main Street, Suite 468, Memphis, TN 38103
901-636-6619

Subject: Letter of Intent for Special Use Permit Application – Residential Building

To whom it may concern,

We express our intent to apply for a Special Use Permit for the development of a former nursing home located at 2491 Joy Lane, Memphis, TN 38114. This Letter of Intent outlines the nature, location, and extent of the proposed development and the market it is intended to serve.

Nature of Development:

Our proposed development is a multi-unit residential apartment building, designed to provide high-quality, sustainable housing options to the residents of Memphis. The building will consist of three stories and include a Laundry Room. The primary objective of this development is to meet the growing demand for high quality residential housing within the Memphis City.

Location:

The Development site is situated at 2491 Joy Lane, Memphis, TN 38114, within the jurisdiction of Memphis and Shelby County. This strategic location was chosen based on various factors, including its proximity to schools, parks, public transportation, hospitals, and the evolving housing needs of the community. Additionally, it is conveniently located just 15 minutes away from Downtown

Memphis. The site is easily accessible from major thoroughfares and is consistent with the long-term land use and zoning goal of the region.

Extent of Development:

The proposed development encompasses an approximate area of 34,029 Sq Ft. and is expected to be completed in multiple phases over a period of three years. We aim to create a sustainable and aesthetically pleasing environment that harmonizes with the local community while meeting the needs of our target market.

Market It is Intended to Serve:

Our primary objective is to address to the housing needs of young professionals, families, or seniors, offering affordable housing that will appeal to the target market. We believe that this development aligns with the growing demand for quality housing options in Memphis. Our project's design and amenities have been carefully considered to meet the needs and preferences of our target market.

In accordance with the requirements of the City of Memphis and Shelby County, we intend to submit a formal application for a Special Use Permit to facilitate this development. We understand the importance of adhering to local regulations and will work closely with the relevant departments to ensure that our project in compliance with all applicable zoning and land use regulations.

Please consider this Letter of Intent as the initial step in our application process for the Special Use Permit. We look forward to initiating the Special Use Permit application process and working closely with your department to address any questions or concerns. Please feel free to contact us if you require any additional information or clarification.

Sincerely,

Esmeralda Apartment LLC.

SIGN AFFIDAVIT



AFFIDAVIT

Shelby County
State of Tennessee

I, S. BERRY LANE, being duly sworn, depose and say that at 12:00 am/pm on the 26 day of JANUARY, 2024, I posted 1 Public Notice Sign(s) pertaining to Case No. 23-028 at 2491 JOY LANE, providing notice of a Public Hearing before the (check one):

- Land Use Control Board
- Board of Adjustment
- Memphis City Council
- Shelby County Board of Commissioners

for consideration of a proposed land use action, 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

JAN 26, 2024
Date

Subscribed and sworn to before me this 26th day of January, 2024.

[Signature]
Notary Public

My commission expires: 06/07/2027



**PREVIOUS RESOLUTION THAT PERMITTED THE OPERATION OF A JUVENILE TRANSITIONAL HOUSING FACILITY
(SUP 2011-209)**

ZONING RESOLUTION

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 subject to standards of general applicability and any additional standards applicable to specific special uses in the various zoning districts within the Memphis City Limits, and

WHEREAS, Application has been made by Tennessee Learning Academy for a special use permit to allow a Juvenile Transitional Housing Facility with respect to the property located at the northwest intersection of Joy Lane and Interstate-240; and

WHEREAS, The Office of Planning and Development has received and reviewed the application in accordance with procedures, objectives and standards for special use permits as set forth in Section 9.6.9 and reported said findings and recommendations to the Land Use Control Board; and

WHEREAS, A public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on July 14, 2011, and said Board has studied and reported its recommendation to the City Council regarding the following potential effects of granting the Special Use Permit:

- 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.

WHEREAS, The Memphis and Shelby County Land Use Control Board and the Memphis and Shelby County Office of Planning and Development has recommended certain conditions be attached to the special use permit to reduce any potential adverse impacts of the proposed building or use on the neighborhood, adjacent properties, public facilities and significant natural, scenic or historic features; and

WHEREAS, The Memphis and Shelby County Land Use Control Board has also determined that the proposed building or use complies with all additional standards imposed on it by the particular provision of Chapter 9.6 authorizing such particular special use.

NOW, THEREFORE, BE IT RESOLVED By the Council of the City of Memphis that a special use permit is hereby granted in accordance with the site plan incorporated in the application, and subject to attached conditions.

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

ATTEST:

cc: Office of Code Enforcement
City Engineer
OPD – LUC ✓
OPD – LUC (East)
County Assessor

SUP 11-209

Juvenile Transitional Housing Facility Special Use Permit

I hereby certify that the foregoing is a true copy
and document was adopted, approved by the
Council of the City of Memphis in regular
session on

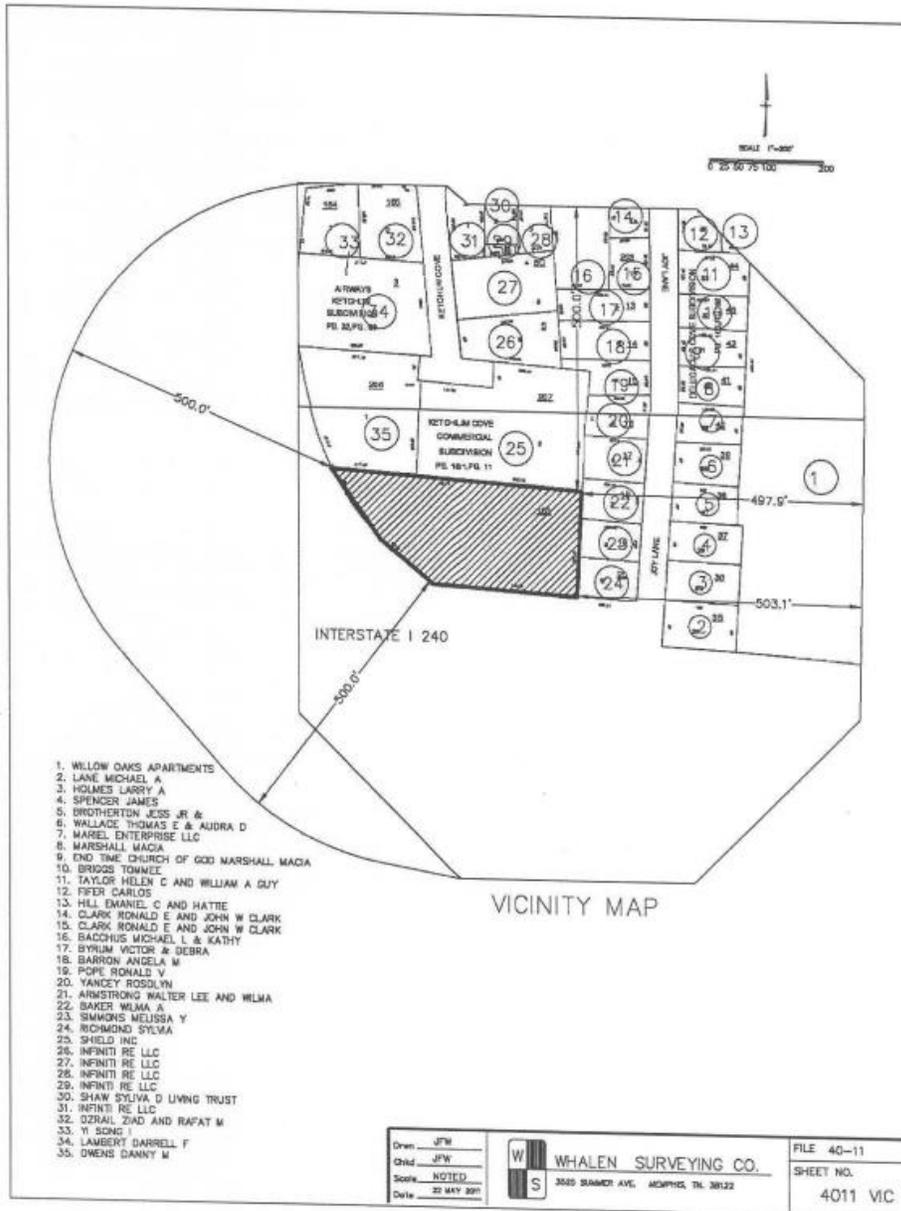
Date SEP 06 2011
Valerie C. Sripes
Deputy Comptroller-Council Records

SUP 11-209
Page 3

SITE PLAN CONDITIONS:

A **Special Use Permit** is hereby authorized to allow a **Juvenile Transitional Housing Facility** on the property located at the **2491 Joy Lane, northwest intersection of Joy Lane and Interstate-240**, in accordance with the approved site plan and the following supplemental conditions:

1. Final SUP site plan approval shall be contingent upon the driveway area shown as the east/west segment of Joy Lane on the Official City Map being acquired and added within the boundaries of the site plan.
2. The proposed site plan with the existing building, parking, and landscape buffering, signage is approved as is. Any changes to the site, parking addition or building expansion shall require the approval of a new site plan in conformance development standards of the Unified Development Code.
3. Signage shall be regulated by the CMU-3 District and no signage facing the residential neighborhood shall be illuminated.
4. Lighting on the site adjacent to the northern and eastern property lines shall be limited to what is customary for a residential site (ie., a motion detector or security light mounted on a MLGW pole).
5. Any refuse dumpster shall be screened from the view of traffic on the adjoining streets and from adjoining properties.
6. A new site plan that reflects the location and type of fencing along the perimeter of the site, the location of existing mature trees and scrubs, existing detached sign (size & height), trash dumpster, entrance gate and driveway width, and number parking space with dimensions shall be submitted for review and approval by OPD prior this application being forwarded to the Memphis City Council for final disposition.
7. The applicant shall submit to OPD verification of meeting all local and state licensing requirements for operation of a Juvenile Transitional Housing Facility prior to the issuance of a final Certificate of Occupancy for this site at 2491 Joy Lane.



1. WILLOW OAKS APARTMENTS
2. LANE MICHAEL A
3. HOLMES LARRY A
4. SPENCER JAMES
5. BROTHERTON JESS JR &
6. WALLACE THOMAS E & AUDRA D
7. MARREL ENTERPRISE LLC
8. MARSHALL MACIA
9. FND TIME CHURCH OF GOD MARSHALL MACIA
10. BRIGGS TOMMIE
11. TAYLOR HELEN C AND WILLIAM A GUY
12. PFER CARLOS
13. HILL DANIEL C AND HATRE
14. CLARK RONALD E AND JOHN W CLARK
15. CLARK RONALD E AND JOHN W CLARK
16. SACCHUS MICHAEL L & KATHY
17. SYRUM VICTOR & DEBRA
18. BARRON ANGELA M
19. POPE RONALD V
20. YANCEY ROSALYN
21. ARMSTRONG WALTER LEE AND WILMA
22. BAKER WILMA A
23. SIMMONS MELISSA Y
24. RICHMOND SYLVIA
25. SHIELD INC
26. INFINITI RE LLC
27. INFINITI RE LLC
28. INFINITI RE LLC
29. INFINITI RE LLC
30. SHAW SYLVIA D LIVING TRUST
31. INFINITI RE LLC
32. OZRAH ZAD AND RAFAT M
33. YI SONG I
34. LAMBERT DARRRELL F
35. OWENS DANNY M

VICINITY MAP

Drawn: JFW	WHALEN SURVEYING CO. 2020 BARBER AVE. ADOPHUS, TN 38122	FILE 40-11
Checked: JFW		SHEET NO.
Scale: NOTED		4011 VIC
Date: 22 MAY 2021		

Handwritten notes:
 POSSIBLE
 2/8/24

LETTERS RECEIVED

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



Record Summary for Special Use Permit

Record Detail Information

Record Type: Special Use Permit

Record Status: Processing

Opened Date: November 7, 2023

Record Number: SUP 2023-028

Expiration Date:

Record Name: Esmeralda Apartments

Description of Work: Conversion of an existing abandoned assisted living facility into 80 studio apartments.

Parent Record Number:

Address:

2491 JOY LN, MEMPHIS 38114

Owner Information

Primary Owner Name

Y ESMERALDA APARTMENT LLC

Owner Address

0 PO BOX 20242, CLEVELAND, OH 44120

Owner Phone

8122398734

Parcel Information

060137 00163

Data Fields

PREAPPLICATION MEETING

Name of OPD Planner

brianna

Date of Meeting

11/03/2023

Pre-application Meeting Type

Phone

GENERAL PROJECT INFORMATION

Application Type

New Special Use Permit (SUP)

GENERAL PROJECT INFORMATION

List any relevant former Docket / Case Number(s) related to previous applications on this site -

Is this application in response to a citation, stop work order, or zoning letter 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

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 No building already exist and has been used as a housing facility since its construction in 1970's.

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 Yes.

UDC Sub-Section 9.6.9C Yes this project will be served adequately.
UDC Sub-Section 9.6.9D Yes that is correct - this project will not result in destruction of any kind

UDC Sub-Section 9.6.9E Yes this requirement will be met or exceeded.
UDC Sub-Section 9.6.9F Yes this statement is correct. There will be no adverse effects from this project.

GIS INFORMATION

- Case Layer -
- Central Business Improvement District No
- Class -
- Downtown Fire District No
- Historic District -
- Land Use -
- Municipality -
- Overlay/Special Purpose District -
- Zoning -
- State Route -
- Lot -
- Subdivision -
- Planned Development District -
- Wellhead Protection Overlay District No

Contact Information

Name
ESMERALDA APARTMENT LLC
Address

Contact Type
APPLICANT

Phone

(812)239-8734

Fee Information

Invoice #	Fee Item	Quantity	Fees	Status	Balance	Date Assessed
1516301	Special Use Permit Fee - 5 acres or less (Base Fee)	1	500.00	INVOICED	0.00	11/07/2023
1516301	Credit Card Use Fee (.026 x fee)	1	13.00	INVOICED	0.00	11/07/2023

Total Fee Invoiced: \$513.00

Total Balance: \$0.00

Payment Information

Payment Amount	Method of Payment
\$513.00	Credit Card

Esmeralda Apartment LLC
2491 Joy Lane, Memphis, TN 38114
901-402-4444
11/01/2023

Memphis and Shelby County, Division of Planning and Development
City Hall, 125 N. Main Street, Suite 468, Memphis, TN 38103
901-636-6619

Subject: Letter of Intent for Special Use Permit Application – Residential Building

To whom it may concern,

We express our intent to apply for a Special Use Permit for the development of a former nursing home located at 2491 Joy Lane, Memphis, TN 38114. This Letter of Intent outlines the nature, location, and extent of the proposed development and the market it is intended to serve.

Nature of Development:

Our proposed development is a multi-unit residential apartment building, designed to provide high-quality, sustainable housing options to the residents of Memphis. The building will consist of three stories and include a Laundry Room. The primary objective of this development is to meet the growing demand for high quality residential housing within the Memphis City.

Location:

The Development site is situated at 2491 Joy Lane, Memphis, TN 38114, within the jurisdiction of Memphis and Shelby County. This strategic location was chosen based on various factors, including its proximity to schools, parks, public transportation, hospitals, and the evolving housing needs of the community. Additionally, it is conveniently located just 15 minutes away from Downtown

Memphis. The site is easily accessible from major thoroughfares and is consistent with the long-term land use and zoning goal of the region.

Extent of Development:

The proposed development encompasses an approximate area of 34,029 Sq Ft. and is expected to be completed in multiple phases over a period of three years. We aim to create a sustainable and aesthetically pleasing environment that harmonizes with the local community while meeting the needs of our target market.

Market It is Intended to Serve:

Our primary objective is to address to the housing needs of young professionals, families, or seniors, offering affordable housing that will appeal to the target market. We believe that this development aligns with the growing demand for quality housing options in Memphis. Our project's design and amenities have been carefully considered to meet the needs and preferences of our target market.

In accordance with the requirements of the City of Memphis and Shelby County, we intend to submit a formal application for a Special Use Permit to facilitate this development. We understand the importance of adhering to local regulations and will work closely with the relevant departments to ensure that our project in compliance with all applicable zoning and land use regulations.

Please consider this Letter of Intent as the initial step in our application process for the Special Use Permit. We look forward to initiating the Special Use Permit application process and working closely with your department to address any questions or concerns. Please feel free to contact us if you require any additional information or clarification.

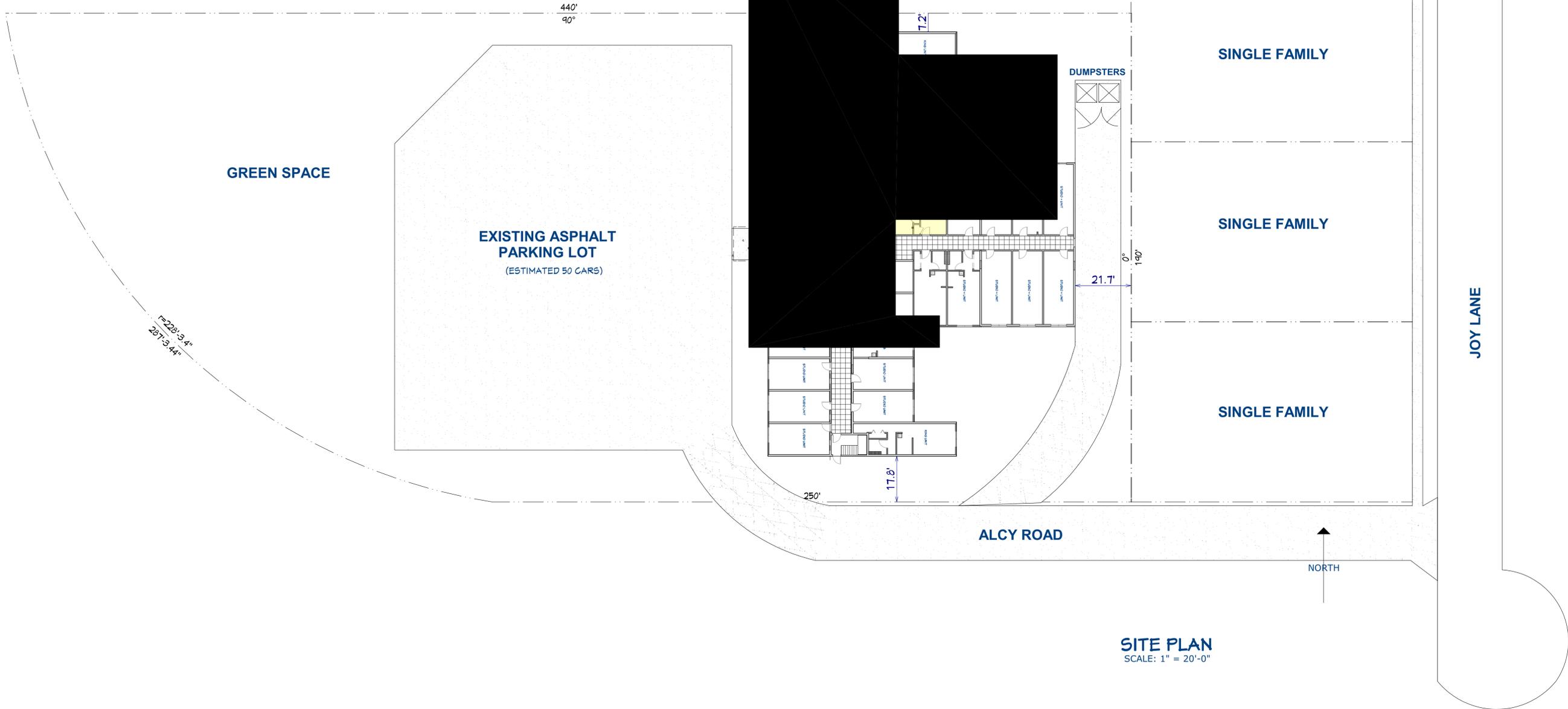
Sincerely,

Esmeralda Apartment LLC.



VICINITY MAP

MULTI-FAMILY

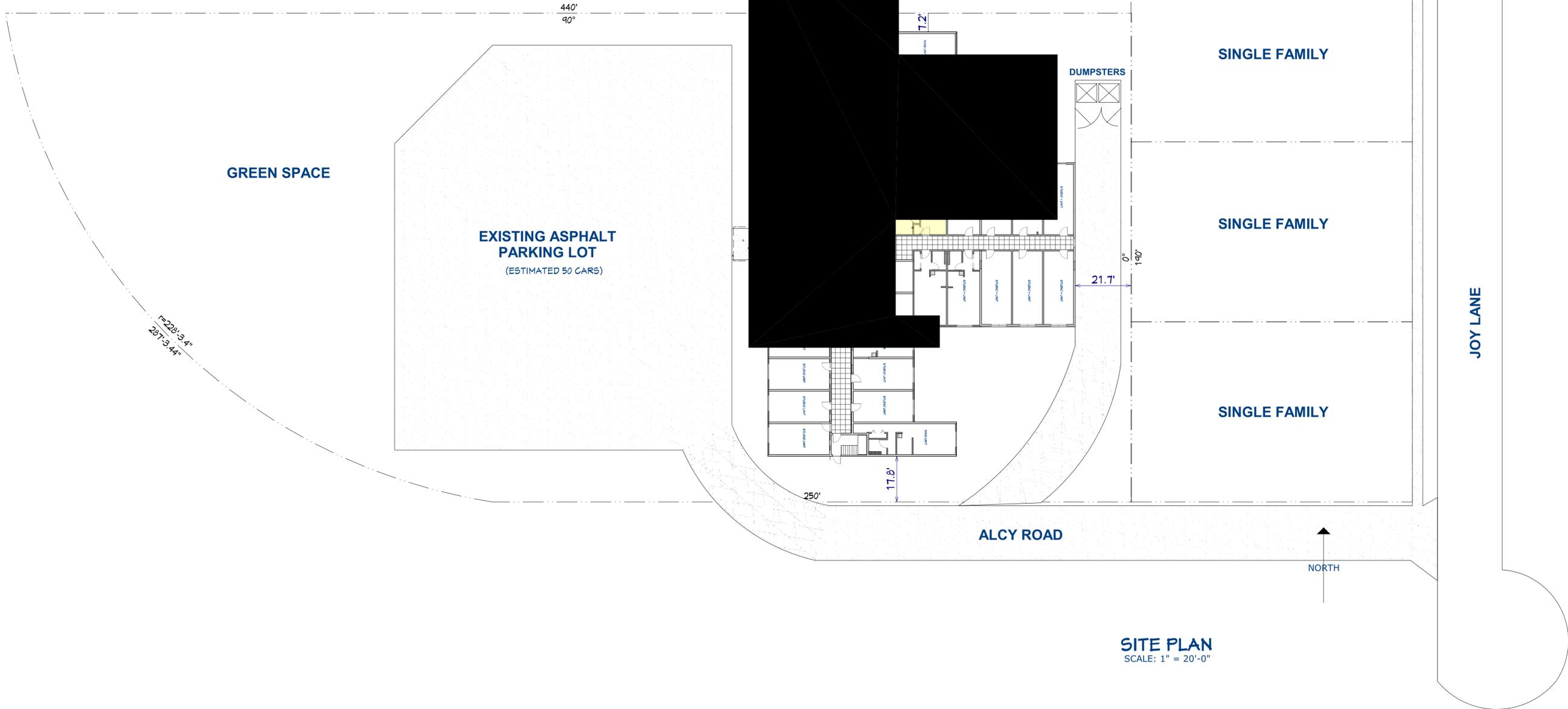


SITE PLAN
SCALE: 1" = 20'-0"



VICINITY MAP

MULTI-FAMILY



SITE PLAN
SCALE: 1" = 20'-0"

APARTMENT CONVERSION ESMERALDA APARTMENTS 2491 JOY LANE - MEMPHIS, TN

2491 JOY LANE - MEMPHIS, TN



UNIT COUNT BY FLOOR

ESMERALDA APARTMENTS							
	NO. OF UNITS	STUDIO UNITS	STUDIO + UNITS	KING UNITS	2BR UNITS	QUEEN UNITS	GROSS SF
GROUND FLOOR	30	16	10	2	2		13,965
SECOND FLOOR	25	22		2		1	9,960
THIRD FLOOR	25	22		2		1	9,960
TOTALS	80	60	10	6	2	2	33,885 SF

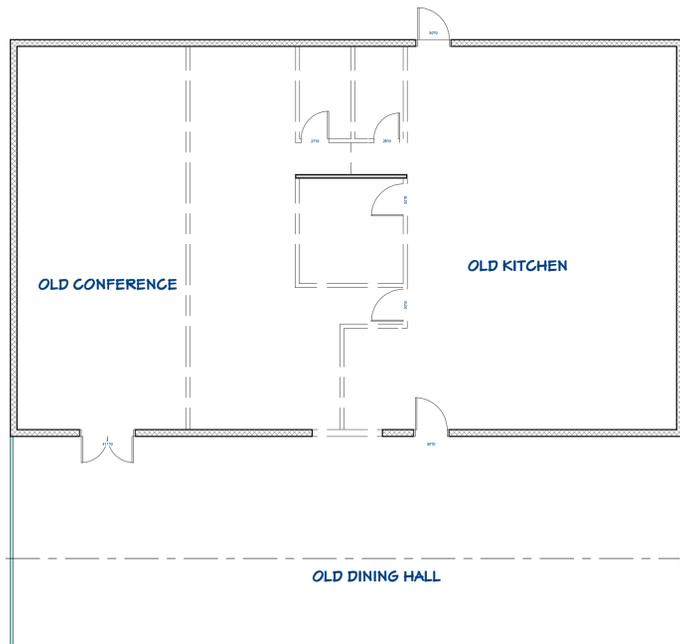
S Berry Jones Architects
1500 Union Avenue - Memphis, TN 38104
Direct Ph. 901-340-1229
berry@sbjarchitects.com

PROJECT DESCRIPTION:
PRELIMINARY OWNER REVIEW SET
APARTMENT CONVERSION
2491 JOY LANE - MEMPHIS, TN
2491 JOY LANE - MEMPHIS, TN

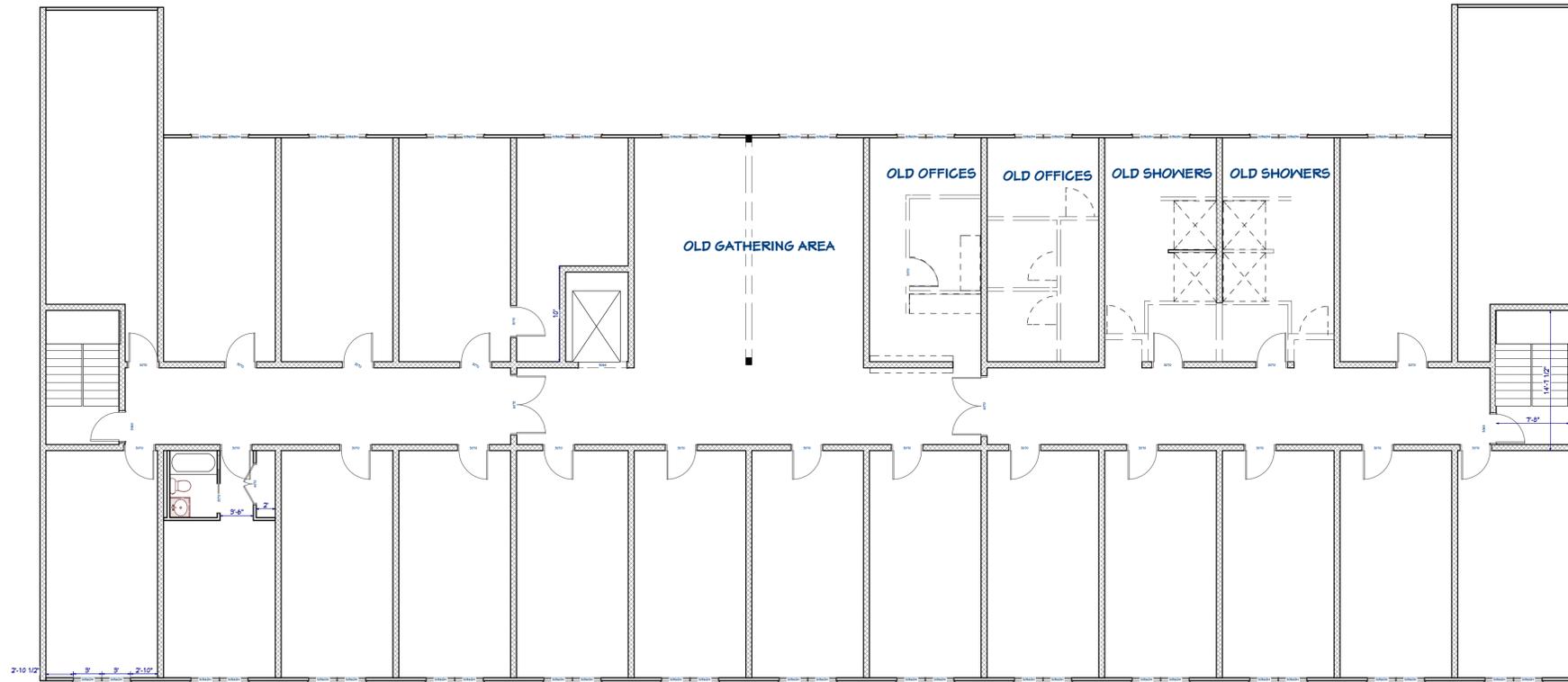
CUSTOMER:
ESMERALDA APARTMENT, LLC

DATE:
NOV. 07, 2023

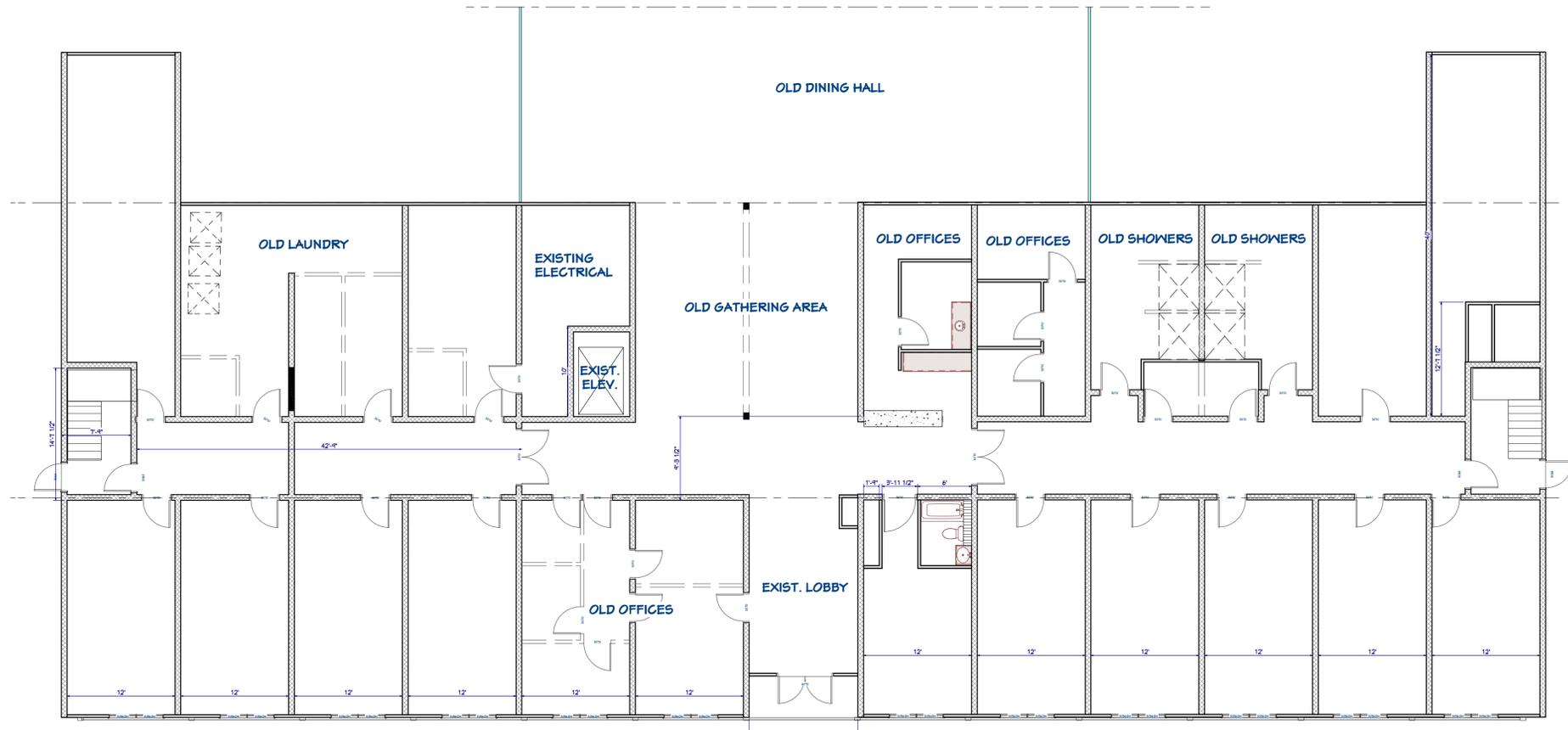
SHEET:



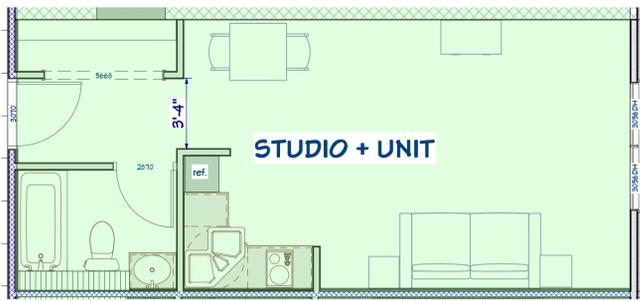
EXISTING GROUND FLOOR - SECTION 2 - DEMOLITION
SCALE: 1/8" = 1'-0"



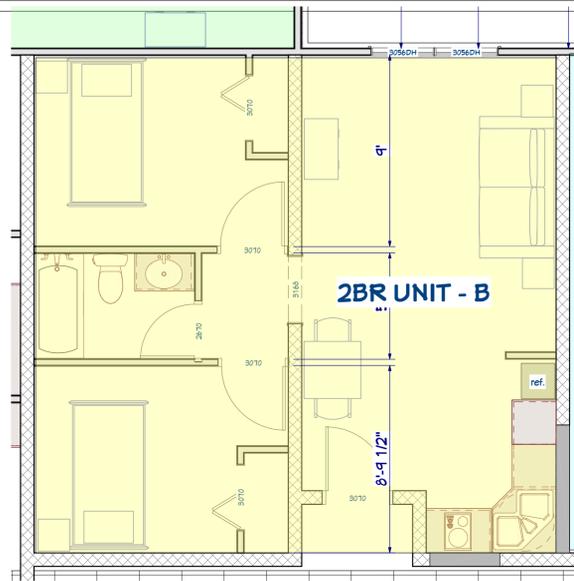
EXISTING 2ND & 3RD FLOORS - DEMOLITION
SCALE: 1/8" = 1'-0"



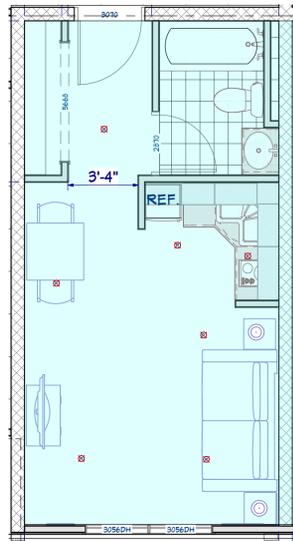
EXISTING GROUND FLOOR - SECTION 1 - DEMOLITION
SCALE: 1/8" = 1'-0"



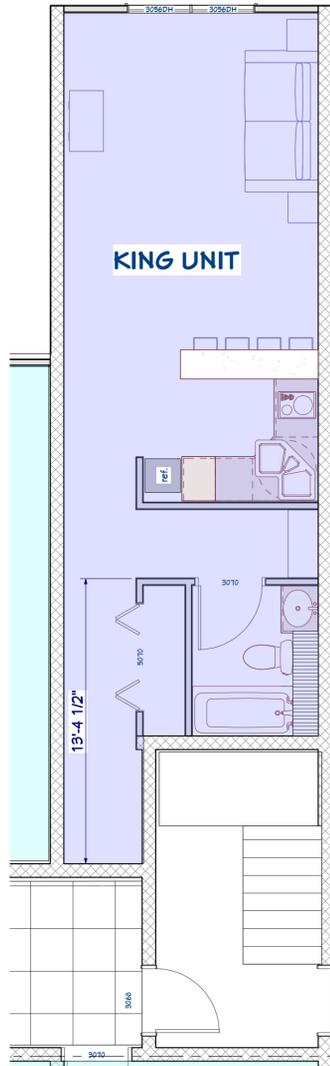
STUDIO + UNIT - 3805F
SCALE: 1/4" = 1'-0"



2BR UNIT B - 6005F
SCALE: 1/4" = 1'-0"



STUDIO UNIT - 3055F
SCALE: 1/4" = 1'-0"



KING UNIT - 4305F
SCALE: 1/4" = 1'-0"



NEW GROUND FLOOR PLAN
SCALE: 1/8" = 1'-0"

UNIT COUNT BY FLOOR

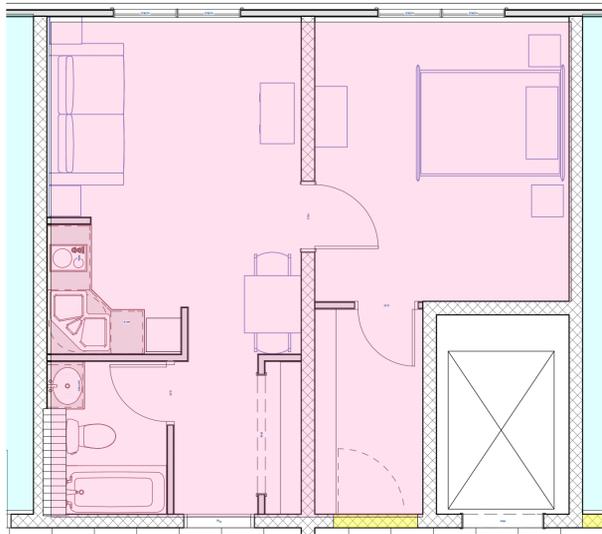
ESMERALDA APARTMENTS							
	NO. OF UNITS	STUDIO UNITS	STUDIO + UNITS	KING UNITS	2BR UNITS	QUEEN UNITS	GROSS SF
GROUND FLOOR	30	16	10	2	2		13,965
SECOND FLOOR	25	22		2		1	9,960
THIRD FLOOR	25	22		2		1	9,960
TOTALS	80	60	10	6	2	2	33,885 SF

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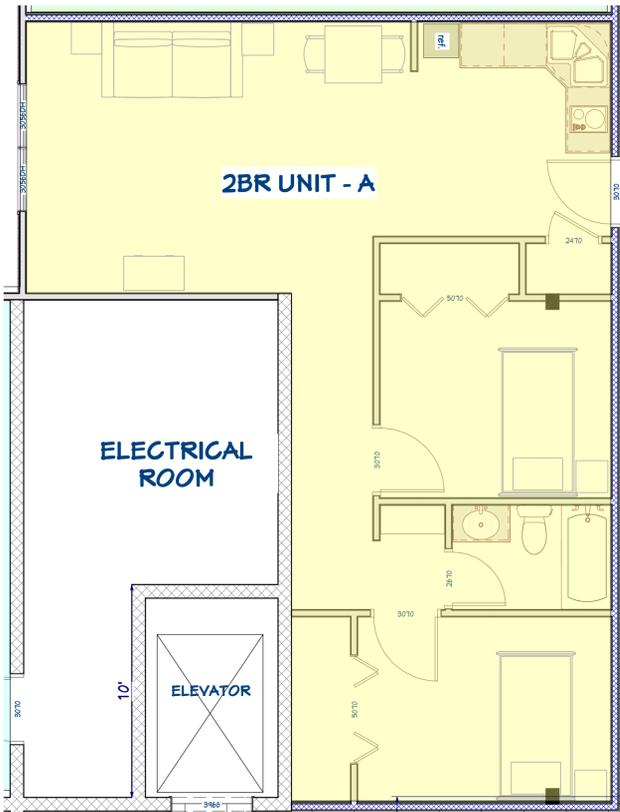
PROJECT DESCRIPTION:
PRELIMINARY OWNER REVIEW SET
APARTMENT CONVERSION
2491 JOY LANE - MEMPHIS, TN
2491 JOY LANE - MEMPHIS, TN

CUSTOMER:
ESMERALDA APARTMENT, LLC

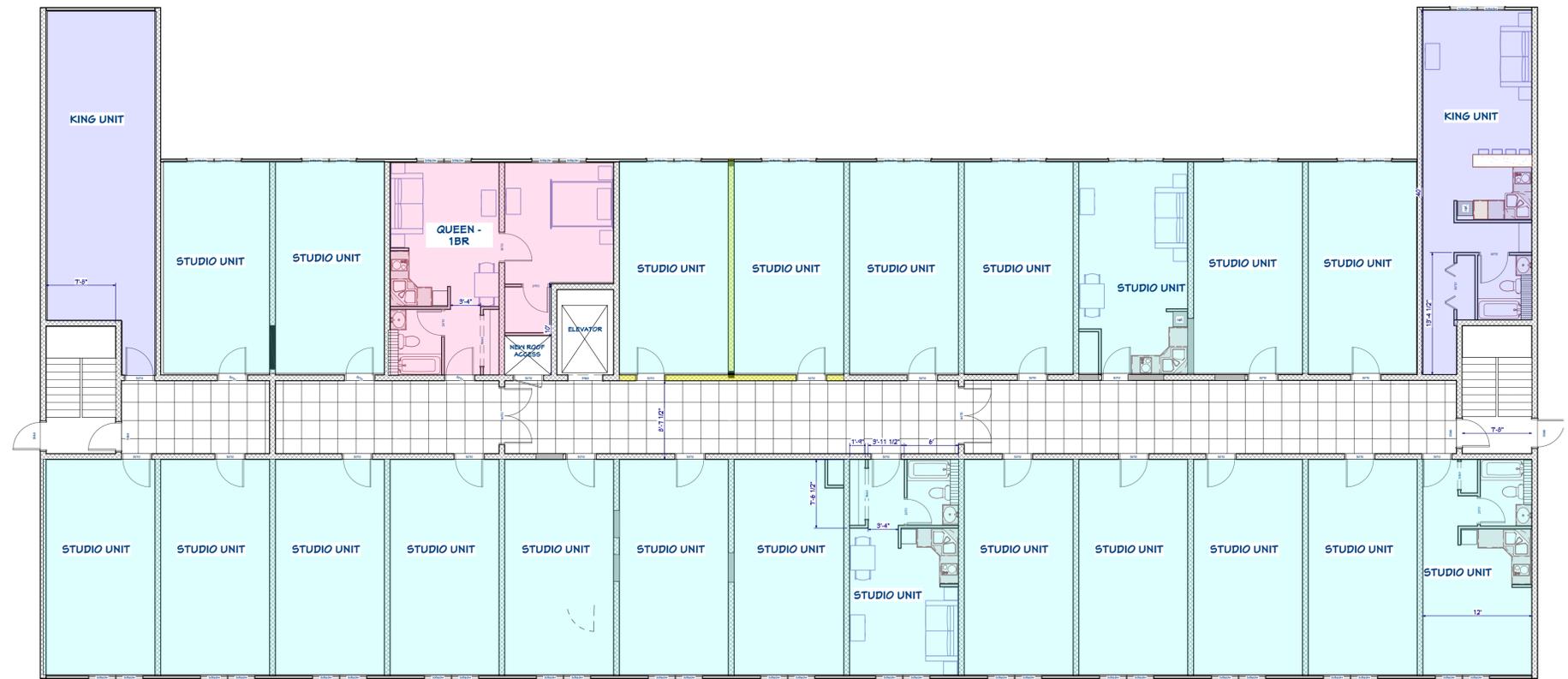
DATE:
NOV. 07, 2023
SHEET:



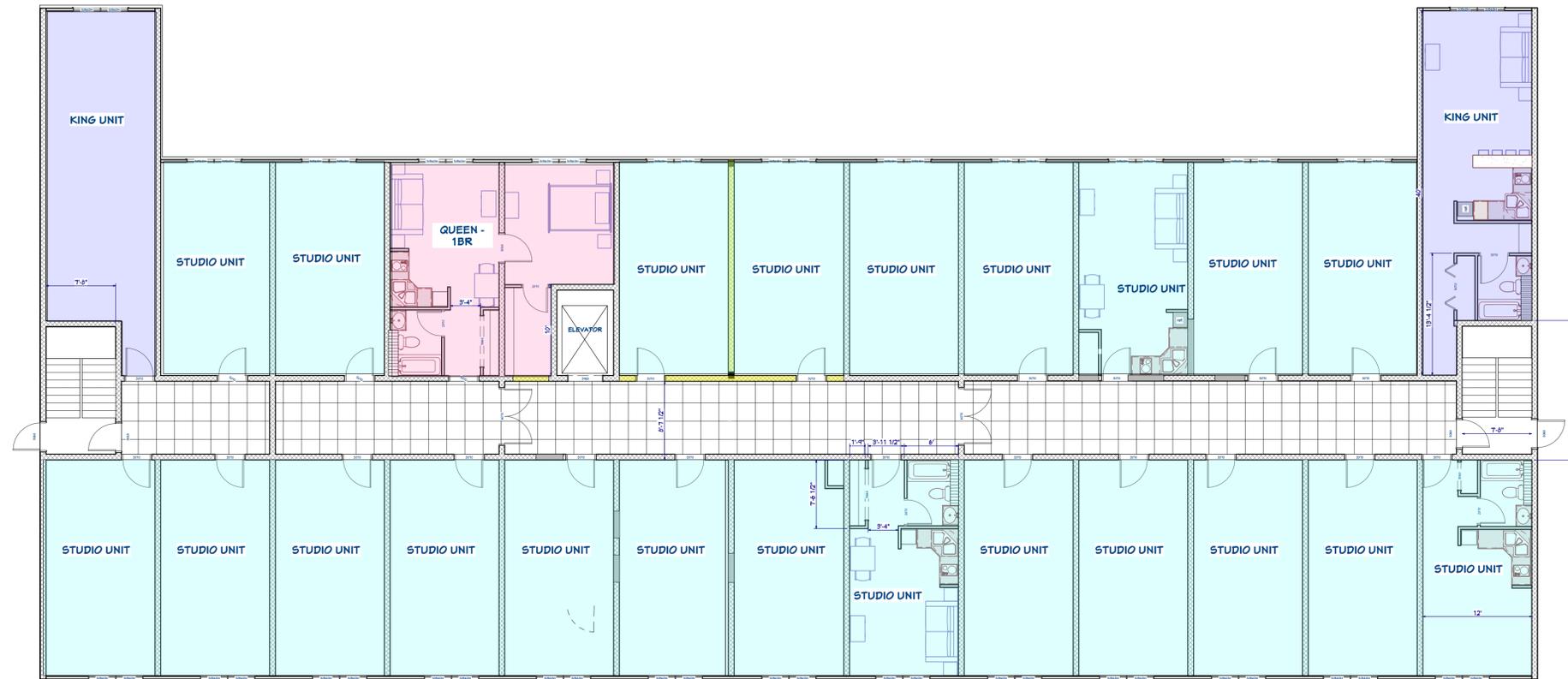
QUEEN UNIT - 4805F
SCALE: 1/4" = 1'-0"



2BR UNIT A - 7105F
SCALE: 1/4" = 1'-0"



NEW 3RD FLOOR PLAN
SCALE: 1/8" = 1'-0"



NEW 2ND FLOOR PLAN
SCALE: 1/8" = 1'-0"

S Berry Jones Architects
1500 Union Avenue - Memphis, TN 38104
Direct Ph. 901-340-1229
berry@sbjarchitects.com

PROJECT DESCRIPTION:
PRELIMINARY OWNER REVIEW SET
APARTMENT CONVERSION
2491 JOY LANE - MEMPHIS, TN
2491 JOY LANE - MEMPHIS, TN

CUSTOMER:
ESMERALDA APARTMENT, LLC

DATE:
NOV. 07, 2023
SHEET:



VIEW TYPICAL UNIT



OVERHEAD VIEW TYPICAL UNIT



VIEW TYPICAL UNIT

S Berry Jones Architects
 1500 Union Avenue - Memphis, TN 38104
 Direct Ph. 901-340-1229
 berry@sbjarchitects.com

PRELIMINARY OWNER REVIEW SET
 APARTMENT CONVERSION
 2491 JOY LANE - MEMPHIS, TN
 2491 JOY LANE - MEMPHIS, TN

ESMERALDA APARTMENT, LLC

DATE:
 NOV. 07, 2023
 SHEET:



Willie F. Brooks, Jr.
Shelby County Register of Deeds

Owner: ESMERALDA APARTMENT LLC

Parcel Address: 2491 JOY LN

Parcel ID: 060137 00163

2023 Appraisal: \$1,353,600

Tax District: MEMPHIS

Year Built:

Lot Number: 0 2

Subdivision: MEACHAM PARTITION

Plat BK & PG: UNKNOWN

Dimensions:

Total Acres: 1.807

Owner Address: PO BOX 20242
CLEVELAND OH
44120 0242

Map prepared on 11/7/2023



This instrument Prepared by and return to:
Griffin Clift Everton & Maschmeyer, PLLC
6489 Quail Hollow #100
Memphis, TN 38120

DEED OF TRUST

This Indenture made and entered into this **10th day of January, 2022**, by and between

Esmeralda Apartment LLC, a Tennessee Limited Liability Company

Party of the first part, and

Glenn D. Everton, Trustee, Party of the second part,

WITNESSETH: That for and in consideration of Five Dollars Cash in hand paid by the party of the second part to the party of the first part, and the debt and trusts hereinafter mentioned, said party of the first part has bargained and sold and does hereby bargain, sell, convey and confirm unto the said party of the second part the following described real estate situated and being in **Shelby**, County, Tennessee, to wit:

THE WILLIAM BOND, INC. PART OF LOT 2, WILLIAM F. MEACHAM SUBDIVISION, OF PART OF LOT 3, OF PEARCE & SUGGS SUBDIVISION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT AN OLD IRON PIN IN THE WEST LINE OF DELUGACH'S PEACH COVE SUBDIVISION, AS RECORDED IN PLAT BOOK 18, PAGE 13, SAID POINT BEING 209.25 FEET SOUTHWARDLY FROM THE NORTHEAST CORNER OF SAID WILLIAM F. MEACHAM SUBDIVISION, AND SAID POINT BEING THE NORTHEAST CORNER OF LOT 2 AND THE SOUTHEAST CORNER OF LOT 1; THENCE SOUTHWARDLY WITH THE WEST LINE OF SAID DELUGACH'S PEACH COVE SUBDIVISION, 177.17 FEET TO THE NORTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY ROUTE 1-240; THENCE WESTWARDLY WITH SAID RIGHT OF WAY LINE 0.6 FEET TO CONCRETE MONUMENT; THENCE SOUTHWARDLY WITH SAID RIGHT OF WAY LINE 21.97 FEET TO THE SOUTH LINE OF LOT 2, WILLIAM F. MEACHAM SUBDIVISION; THENCE WESTWARDLY WITH THE SOUTH LINE OF SAID LOT 2 AND WITH THE NORTH RIGHT OF WAY LINE OF SAID INTERSTATE HIGHWAY 1-240, 144.82 FEET; THENCE NORTHWESTWARDLY WITH SAID RIGHT OF WAY LINE 170.56 FEET TO AN ANGLE IN SAID RIGHT OF WAY LINE; THENCE CONTINUING NORTHWESTWARDLY WITH SAID NORTH RIGHT OF WAY LINE 180.41 FEET TO THE SOUTH LINE OF LOT 1 AND THE NORTH LINE OF LOT 2; THENCE EASTWARDLY 429.21 FEET TO THE POINT OF BEGINNING.

Property Address: 2491 Joy Lane, Memphis, Tennessee

TO HAVE AND TO HOLD, the aforesaid real estate, together with all the hereditaments and appurtenances thereunto belonging or in any wise appertaining unto the said party of the second part, his successors and assigns, in fee simple forever, and the said party of the first part does hereby covenant with the said party of the second part, his successors and assigns, that he is lawfully seized in fee of the aforesaid real estate; that he has a good right to sell and convey the same; that the same is unencumbered, and that the title and quiet possession thereto he will and his heirs and personal representatives shall warrant and forever defend against the lawful claims of all persons.

But this is a Deed of Trust, and is made for the following uses and purposes, and none other; that is to say; the said party of the first part is justly indebted to **Tennessee Learning Academy, a Tennessee Non-Profit Corporation, or the holder of the notes hereinafter mentioned, in the sum of Four Hundred Fifty Thousand and No/100 Dollars (\$450,000.00) evidenced by**

One Promissory Note of even date herewith payable to **Tennessee Learning Academy, a Tennessee Non-Profit Corporation** in the principal sum of **\$450,000.00** with interest thereon on the date hereof. Said principal and interest are due and payable in accordance with the terms of said Note with a maturity date of **June 10, 2021**.

Maximum principal indebtedness for Tennessee recording tax purposes is **\$450,000.00**

The principal balance from time to time outstanding hereunder shall become immediately due and payable at the option of the holder of the note if the mortgagor or any subsequent owner of the mortgaged premises should sell, convey, or further encumber such premises, without prior written consent of the holder. Said option may be exercised at any time after such conveyance without holder's prior approval and the acceptance of one or more monthly installments made by the new owner shall not constitute a waiver of the holder's option. Holder's approval of a transferee or failure to exercise said option shall not be construed as a waiver of the provisions hereof as regards any subsequent owner.

The holder hereof agrees to look solely to this Deed of Trust and any other security now or hereafter given to secure the Note secured by this Deed of Trust, and to the income, rents, profits and issues as may be derived therefrom, for repayment of the indebtedness secured hereby and further agrees that no deficiency judgment shall be sought or obtained against the maker of the Note hereby secured, nor against any of the members or shareholders of the maker if applicable.

The party of the first part desires to secure and make certain the payment of said indebtedness, and of any and all renewals and extensions thereof. Now, therefore, the party of the first part agrees and binds himself that so long as any part of the indebtedness aforesaid shall remain unpaid, he will pay all taxes and assessments against said property promptly when due, and deposit all tax receipts with the holder of the greater portion of the outstanding indebtedness secured hereby; will insure the buildings on said property for not less than the lesser of (1) the insurable value thereof or (2) the total indebtedness secured by mortgages, deeds of trust or other security instruments encumbering the aforescribed real estate against loss or damage by fire and the perils against which insurance is afforded by extended coverage endorsement in some insurance company or companies approved by the holder of the greater portion of the outstanding indebtedness secured hereby, cause said policies to contain a standard mortgage clause in favor of the holder of said indebtedness and deposit said policies with the holder of the greater portion of the outstanding indebtedness secured hereby as further security for the said debt; will protect the improvements on said property by proper repairs and maintain them in good repair and condition; will not do anything or suffer or permit anything to be done whereby the lien of this Deed of Trust might or could be impaired; will pay such expenses and fees as may be necessary in the protection of the property and the maintenance and execution of this trust, including, but not being limited to, expenses incurred by the Trustee in any legal proceeding to which he is made or becomes a party. The net proceeds resulting from the taking of all or any part of the property by eminent domain, or from any sale in lieu thereof, shall be applied upon the indebtedness in inverse order of its maturity; and in the event of the destruction of the improvements by fire or other casualty, the net proceeds of the insurance shall be applied upon the indebtedness secured hereby in inverse order of its maturity, or at the option of the party of the first part, his heirs and assigns, such proceeds may be used to restore the improvements to their former condition.

The owner of any part of the indebtedness aforesaid may, at his discretion, advance and pay such sums as may be proper to satisfy taxes, maintain insurance and repairs, and protect and preserve the property; and such amount so paid shall be held and treated as part of the expense of administering this trust, shall be repaid on demand with

interest at the highest rate legally chargeable on the date of the advance, and shall be secured by lien of this Deed of Trust.

If the said party of the first part shall pay said indebtedness when due, and shall pay such sums as shall be necessary to discharge taxes and maintain insurance and repairs and the costs, fees and expenses of making, enforcing and executing this trust, when that shall severally be due and payable, then this conveyance shall become null and void, and the owner of the indebtedness shall execute proper deed of release or enter marginal satisfaction on the record of this deed of trust, or in the alternative, the Trustee shall reconvey by quit claim deed the property herein described, all at expense of said party of the first part.

But if said party of the first part shall fail to pay any part of said indebtedness, whether principal or interest, promptly when the same becomes due, or shall fail to pay any sum necessary to satisfy and discharge taxes and assessments before they become delinquent, or to maintain insurance or repairs, or the necessary expense of protecting the property and executing this trust, then, or in either event, all of the indebtedness herein secured shall, at the option of the owner of any of said indebtedness and without notice, become immediately due and payable, principal and interest, and the said Trustee is hereby authorized and empowered to enter and take possession of said property, and before or after such entry to advertise the sale of said property for twenty one days by three weekly notices in some newspaper published in Memphis, Tennessee, if the land described in this Deed is situated in Shelby County, Tennessee, or in some newspaper published in the County of Counties in which the land described in this Deed of Trust is situated, of other than Shelby County, Tennessee, and sell the said property for cash to the highest bidder, free from equity or redemption, statutory right of redemption, homestead, dower, and all other rights and exemptions of every kind, all of which are hereby expressly waived, and said Trustee shall execute a conveyance to the purchaser in fee simple, and deliver possession to the purchaser, which the party of the first part binds himself shall be given without obstruction, hindrance or delay.

The owners of any part of the indebtedness hereby secured may become the purchaser at any sale under this conveyance.

If the notes secured hereby are placed in the hands of an attorney for collection, by suit or otherwise, or to enforce their collection by foreclosure or to protect the security for their payment, the party of the first part will pay all costs of collection and litigation, together with an attorney's fee as provided in said notes, or, if none is so provided, a reasonable attorney's fee, and the same shall be a lien on the premises herein conveyed and enforced by a sale of the property and herein provided.

The proceeds of any sale shall be applied as follows: first to the payment of the expenses of making, maintaining and executing this trust, the protection of the property, including the expense of any litigation and attorney's fees, and the usual commissions to the Trustee; second, to the payment of the indebtedness herein secured or intended so to be, without preference or priority of any part over any other part, and any balance of said indebtedness remaining unpaid shall be the subject of immediate suit; and third, should there be any surplus, the Trustee will pay it to the party of the first part, or his assigns. In the event of the death, refusal, or of inability for any cause, on the part of the Trustee named herein, or of any successor trustee, to act hereunder, or for any other reason satisfactory to the owner of the said indebtedness, the owner or owners of the majority of the outstanding indebtedness aforesaid are authorized either in their own name or through an attorney or attorneys in fact appointed for that purpose by written instrument duly register, to name and appoint a successor or successors to execute this trust, such appointment to be evidenced by writing, duly acknowledged and when such writing shall have been registered, the substituted trustee named therein shall thereupon be vested with all the right and title, and clothed with all the power of the Trustee named herein and such like power of substitution shall continue so long as any part of the indebtedness secured hereby remains unpaid. The party of the first part, for himself, his heirs, representatives, successors and assigns, covenants and agrees that at any time after default in payment of any of the indebtedness hereby secured, or upon failure to perform any of the covenants to be kept and performed by him, said Trustee may enter upon and take possession of said property and collect the rents and profits therefrom with payment of such to the Trustee after default being full acquittance to the tenant, by the Trustee shall be required to account only for the net rents received by him; and from and after the conveyance of said

property under this Deed of Trust, the party of the first part, and all persons under him, shall, at the option of the purchaser, be and become the tenants at will of the purchaser, at a reasonable monthly rental, commencing with the date of delivery of the Trustee's Deed.

In the event that more than one Trustee be named herein, any one of such Trustees shall be clothed with full power to act when action hereunder shall be required, and to execute any conveyance of said property. In the event that more than one Trustee be named herein and the substitution of a trustee shall become necessary for any reason, the substitution of one trustee in the place of those or any of those named herein shall be sufficient. The term "Trustee" shall be construed to mean "Trustee" whenever the sense requires. The necessity of the Trustee herein named, or any successor in trust, making oath or giving bond, is expressly waived.

No waiver by the party of the second part or by the holder of the indebtedness secured hereby shall be construed as a waiver of a subsequent similar default or any other default by the party of the first part.

The singular number may be construed as plural, and the plural as singular, and pronouns occurring herein shall be construed according to their proper gender and number, as the context of this instrument may require.

IN WITNESS WHEREOF, the party of the first part has executed, or has caused to be executed, this instrument on the day and year first above written.

Esmeralda Apartment LLC, a Tennessee Limited Liability Company

By: Real Estate Holding 4 LLC, a Wyoming Limited Liability Company, its Sole Member

By: Richel Francis
Richel Francis, Chief Executive Manager

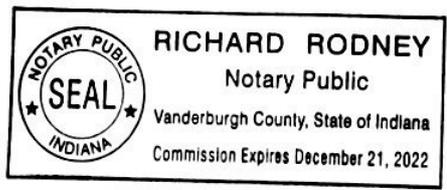
STATE OF Indiana
COUNTY OF Vanderburgh

Before me, a Notary Public in and for said State and County duly commissioned and qualified, personally appeared Richel Francis, with whom I am personally acquainted, the Chief Executive Manager of Real Estate Holding 4 LLC, a Wyoming Limited Liability Company, the Sole Member of Esmeralda Apartment LLC, a Tennessee Limited Liability Company, the within named bargainer, and that he as such Chief Executive Manager authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the company by himself as Chief Executive Manager.

WITNESS my hand and Notarial Seal at office this 10th day of January, 2022.

[Signature]
NOTARY PUBLIC

MY COMMISSION EXPIRES: December 21, 2022



MY UNDERSTANDI WAS MAILING LABELS ARE PROVIDED BY OPD NOW.

OWNER'S AFFIDAVIT WILL BE UPLOADED SHORTLY.

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

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

Planning & Zoning COMMITTEE: 02/20/2024
DATE
PUBLIC SESSION: 02/20/2024
DATE

ITEM (CHECK ONE)
 ORDINANCE RESOLUTION REQUEST FOR PUBLIC HEARING

ITEM DESCRIPTION: Resolution pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code approving a special use permit at the subject property located 391 Western Park Drive, known as case number SUP 23-036

CASE NUMBER: SUP 23-036

LOCATION: 391 Western Park Drive

COUNCIL DISTRICTS: District 6 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Musleh Hefdallah

REPRESENTATIVE: David Bray, The Bray Firm

REQUEST: Special use permit to allow a convenience store with gas sales in the Commercial Mixed Use – 3 (CMU-3) District.

AREA: +/-0.346 acres

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

RECOMMENDED COUNCIL ACTION: **Public Hearing Not Required**
Hearing – January 11, 2024

PRIOR ACTION ON ITEM:

(1) _____ APPROVAL - (1) APPROVED (2) DENIED
01/11/2024 DATE
 (1) Land Use Control Board ORGANIZATION - (1) BOARD / COMMISSION
 (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE

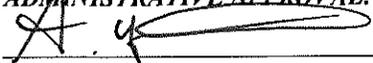
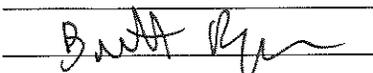
FUNDING:

(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>
	<u>2/5/24</u>	PRINCIPAL PLANNER
_____	_____	DEPUTY ADMINISTRATOR
	<u>2/5/24</u>	ADMINISTRATOR
_____	_____	DIRECTOR (JOINT APPROVAL)
_____	_____	COMPROLLER
_____	_____	FINANCE DIRECTOR
_____	_____	CITY ATTORNEY
_____	_____	CHIEF ADMINISTRATIVE OFFICER
_____	_____	COMMITTEE CHAIRMAN



Memphis City Council Summary Sheet

SUP 23-036

RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A SPECIAL USE PERMIT AT THE SUBJECT PROPERTY LOCATED 391 WESTERN PARK DRIVE, KNOWN AS CASE NUMBER SUP 23-036

- This item is a resolution with conditions for a special use permit to allow a convenience store with gas sales in the Commercial Mixed Use – 3 (CMU-3) District.
- The item may require future public improvement contracts.

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday, January 11, 2024**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: SUP 2023-036

LOCATION: 391 Western Park Drive

COUNCIL DISTRICT(S): District 6 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Musleh Hefdallah

REPRESENTATIVE: David Bray, The Bray Firm

REQUEST: Special use permit to allow a convenience store with gas sales in the Commercial Mixed Use – 3 (CMU-3) District.

EXISTING ZONING: Commercial Mixed Use - 3

AREA: +/-0.346 acres

The following spoke in support of the application: None

The following spoke in opposition the application: None

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

The motion passed by a vote of 8-0 on the consent agenda.

Respectfully,



Alexis Longstreet
Planner I
Land Use and Development Services
Division of Planning and Development

Cc: Committee Members
File

SUP 23-036
CONDITIONS

1. Canopy lighting shall not extend beyond the area beneath the canopy and all fixtures shall be recessed, including any fixture or lens.
2. Canopy support columns shall be sheathed in the same masonry used on the principal building.
3. No gasoline pumps shall be located no closer than 20 feet to any side or rear property line or right-of-way.
4. The fuel canopy must be either: rear-loaded and located behind or beside a principal building located no further than 20 feet from the right-of-way that adheres to the provisions of Paragraph 3.10.2B(1) of the Code; or structurally integrated with and located in front of the principal building. The fuel canopy shall be located no further than 20 feet from the right-of-way.
5. The landscape plan as included in the application and staff report should be executed based on approval by the governing board(s).
6. Future modifications to the site plan will not require re-recording of the site plan unless additional uses/activities are being added that beyond the scope of all prior approvals for the site or this approval.

RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A SPECIAL USE PERMIT AT THE SUBJECT PROPERTY LOCATED AT 391 WESTERN PARK DRIVE, KNOWN AS CASE NUMBER SUP 2023-036

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, Musleh Hefdallah filed an application with the Memphis and Shelby County Division of Planning and Development to allow a convenience store with gas sales in the Commercial Mixed Use – 3 (CMU-3) District; 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 that the design and amenities are consistent with the public interest; and has submitted its findings and recommendation concerning the above considerations to the Land Use Control Board; and

WHEREAS, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on January 11, 2024, and said Board has submitted its findings and recommendation concerning the above considerations to the Council of the City of Memphis; and

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

WHEREAS, the Council of the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the 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 the request use in accordance with the attached conditions.

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

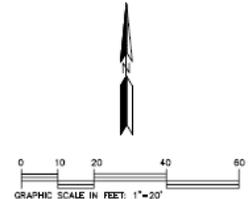
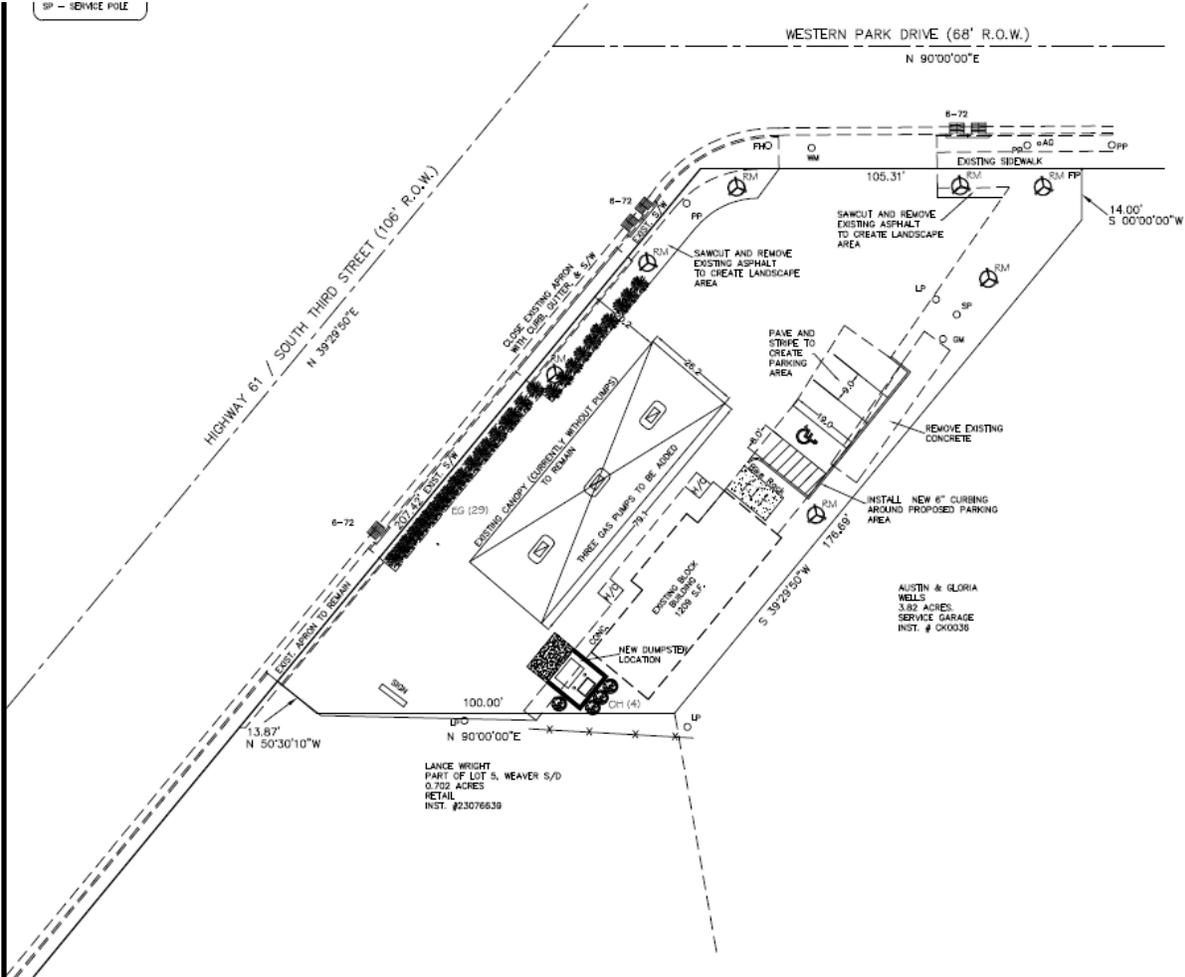
BE IT FURTHER RESOLVED, that this Resolution take effect from and after the date it shall have been passed by this Council of the City of Memphis, and become effective as otherwise provided by law, and thereafter shall be treated as in full force and effect by virtue of passage thereof by the Council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

CONDITIONS

1. Canopy lighting shall not extend beyond the area beneath the canopy and all fixtures shall be recessed, including any fixture or lens.
2. Canopy support columns shall be sheathed in the same masonry used on the principal building.
3. No gasoline pumps shall be located no closer than 20 feet to any side or rear property line or right-of-way.
4. The fuel canopy must be either: rear-loaded and located behind or beside a principal building located no further than 20 feet from the right-of-way that adheres to the provisions of Paragraph 3.10.2B(1) of the Code; or structurally integrated with and located in front of the principal building. The fuel canopy shall be located no further than 20 feet from the right-of-way.
5. The landscape plan as included in the application and staff report should be executed based on approval by the governing board(s).
6. Future modifications to the site plan will not require re-recording of the site plan unless additional uses/activities are being added that beyond the scope of all prior approvals for the site or this approval.

SITE PLAN

SP - SERVICE POLE



THIS PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA PER FEMA FLOOD MAP # 47157C0455 F DATED SEPTEMBER 28, 2007.

STREET NAME	SIDEWALK WIDTH	SIDE	LOCATION	ACTION
SOUTH THIRD STREET	5.5	EAST	ADJACENT TO CURB	REPAIR, REEF ACE
WESTERN PARK DRIVE	5.0	SOUTH	4.5' GRASS STRIP	REPAIR, REEF ACE

THE REQUIRED SIDEWALK SHALL BE INSTALLED ACROSS THE FRONTAGE OF EACH LOT BY THE BUILDING PERMIT HOLDER PRIOR TO USE AND OCCUPANCY. EXISTING SIDEWALKS SHALL BE REPAIRED AS NECESSARY BY THE BUILDING PERMIT HOLDER ACROSS THE LOT FRONTAGE PRIOR TO USE AND OCCUPANCY. REPAIR, REPLACE SIDEWALK THAT IS IN DISREPAIR OR A.S.A. NON-COMPLIANT Install Compliant Curb Ramp. Survey sidewalk, replace broken and non-compliant areas along R.O.W.

PROPOSED PLANTS

SHAPE	SYM	COMMON NAME	BOTANICAL NAME	SIZE	QTY
EG	(Symbol)	Emerald Green Arborvitae	Thuja occidentalis 'Emerald Green'	3 GAL	29
OH	(Symbol)	Oak Leaf Holly	Ilex x 'Conif'	3-4 ft.	4
RM	(Symbol)	October Glory Red Maple	Acer rubrum 'October Glory'	4-5 ft.	7

SITE PLAN		
391 WESTERN PARK		
PART OF LOT 5, WEAVER S/D (NOT RECORDED)		
EXISTING ZONING DISTRICT:	CMU-3	
MEMPHIS, TENNESSEE		
LOTS: 1	AREA: 0.399 ACRES	
PREPARED FOR:	ENGINEER:	
HEFDALLAH MUSLEH	THE BRAY FIRM	
391 WESTERN PARK DR.	2950 STAGE PLAZA NORTH	
MEMPHIS, TN 38109	BARTLETT, TN 38134	
	(901) 383-8668	
DATE: DECEMBER 2023	SCALE: 1"=20'	SHEET 1 OF 1

ATTEST:

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

AGENDA ITEM: 13

CASE NUMBER: SUP 2023-036

L.U.C.B. MEETING: January 11, 2024

LOCATION: 391 Western Park

COUNCIL DISTRICT: District 6 and Super District 8

OWNER/APPLICANT: Musleh Hefdallah

REPRESENTATIVE: David Bray, The Bray Firm

REQUEST: Special use permit to allow a convenience store with gas sales in the Commercial Mixed Use – 3 (CMU-3) District.

AREA: +/-0.346 acres

EXISTING ZONING: Commercial Mixed Use - 3

CONCLUSIONS

1. The applicant is seeking a special use permit to allow a convenience store with gas sales in CMU-3.
2. The subject property isn't located at an intersection that is defined as two collectors or greater.
3. The property is an existing non-operating fuel station with a convenience store. It has not been operational for more than 365 days.
4. The applicant is looking to re-install three (3) fuel pumps.
5. This project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.

CONSISTENCY WITH MEMPHIS 3.0

This proposal is consistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on page 14-16 of this report.

RECOMMENDATION

Approval with conditions

GENERAL INFORMATION

Street Frontage: South Third Street +/-194.7 linear feet
Western Park Drive +/-92.3 linear feet

Zoning Atlas Page:

Parcel ID: 075150 00093

Existing Zoning: Commercial Mixed Use - 3

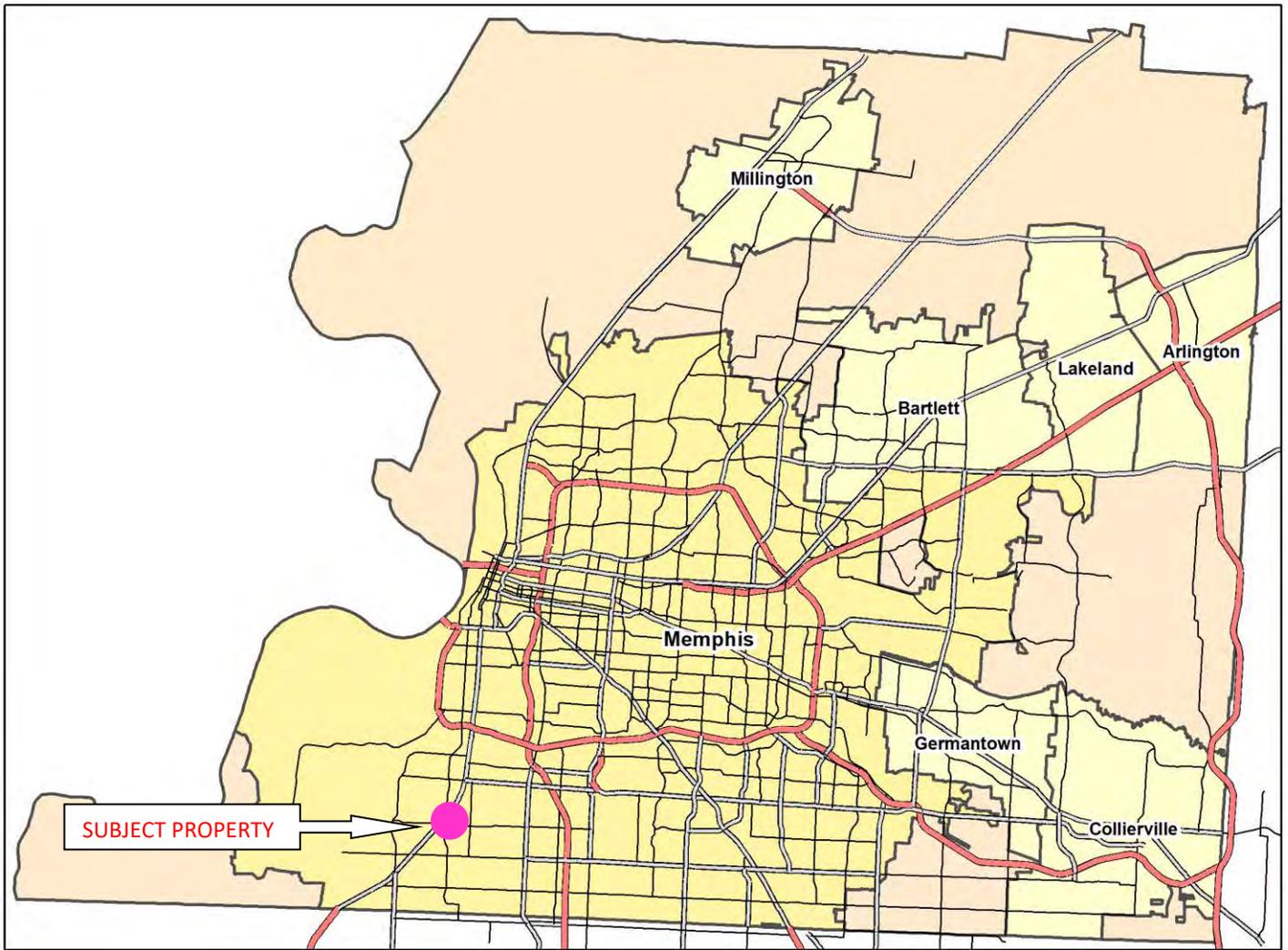
NEIGHBORHOOD MEETING

The meeting was held at 5:00 PM on Wednesday, December 27, 2023, at Whitehaven Library.

PUBLIC NOTICE

In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 29 notices were mailed on December 21, 2023, and a total of 1 sign posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



Subject property located within the pink circle, Westwood neighborhood

VICINITY MAP



Site highlighted in yellow

AERIAL



Subject property outlined in yellow, imagery from 2023

ZONING MAP



Subject property indicated by a pink star.

Existing Zoning: Commercial Mixed Use – 3 (CMU-3)
Surrounding Zoning

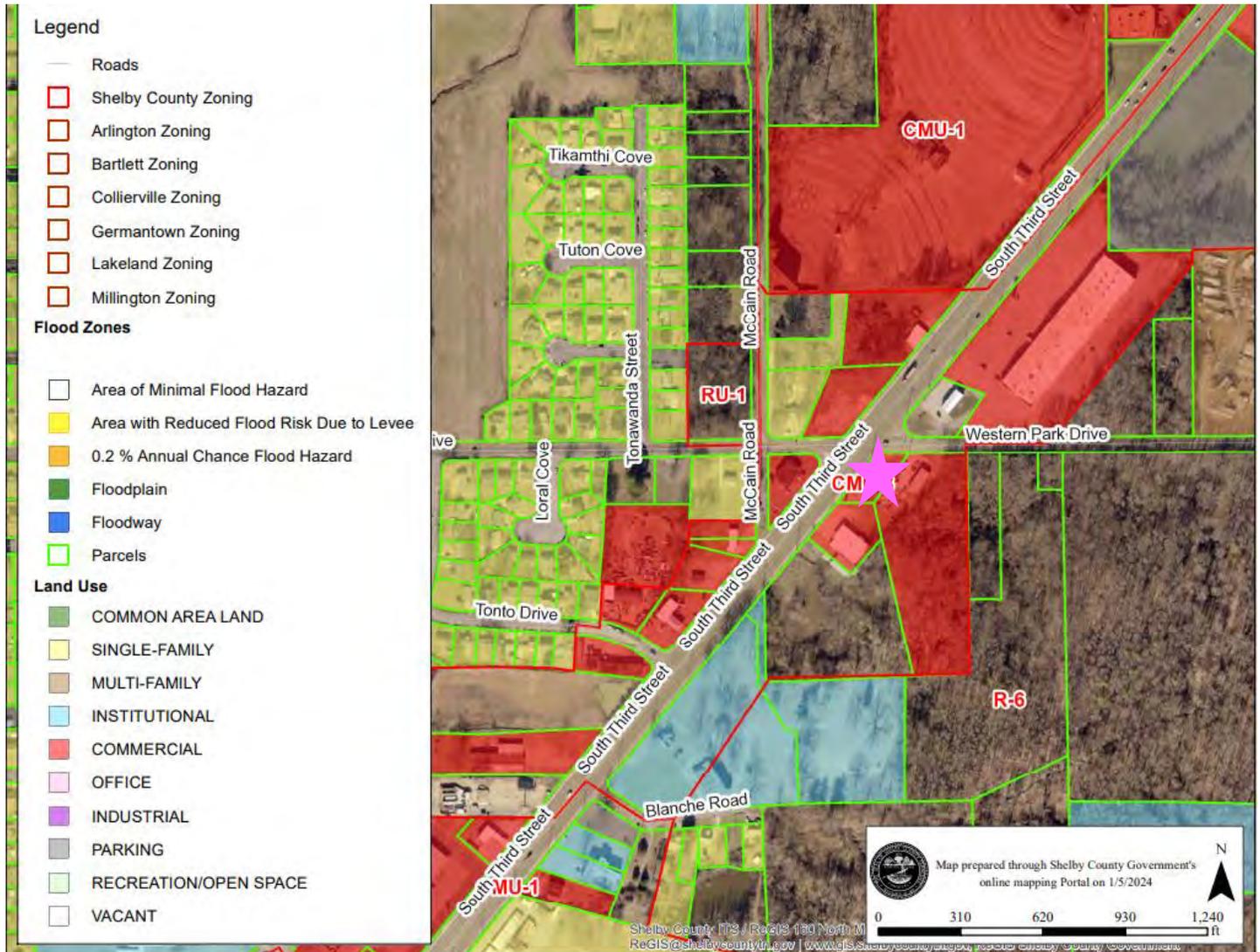
North: CMU-3

East: Residential Urban – 1 (RU-1)

South: CMU-3, Residential Single-Family – 6 (R-6)

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

LAND USE MAP



Subject property indicated by a pink star

SITE PHOTOS



View of subject property from South Third Street looking south, August 2023



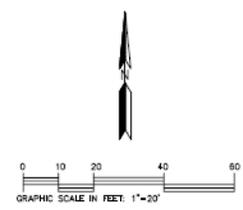
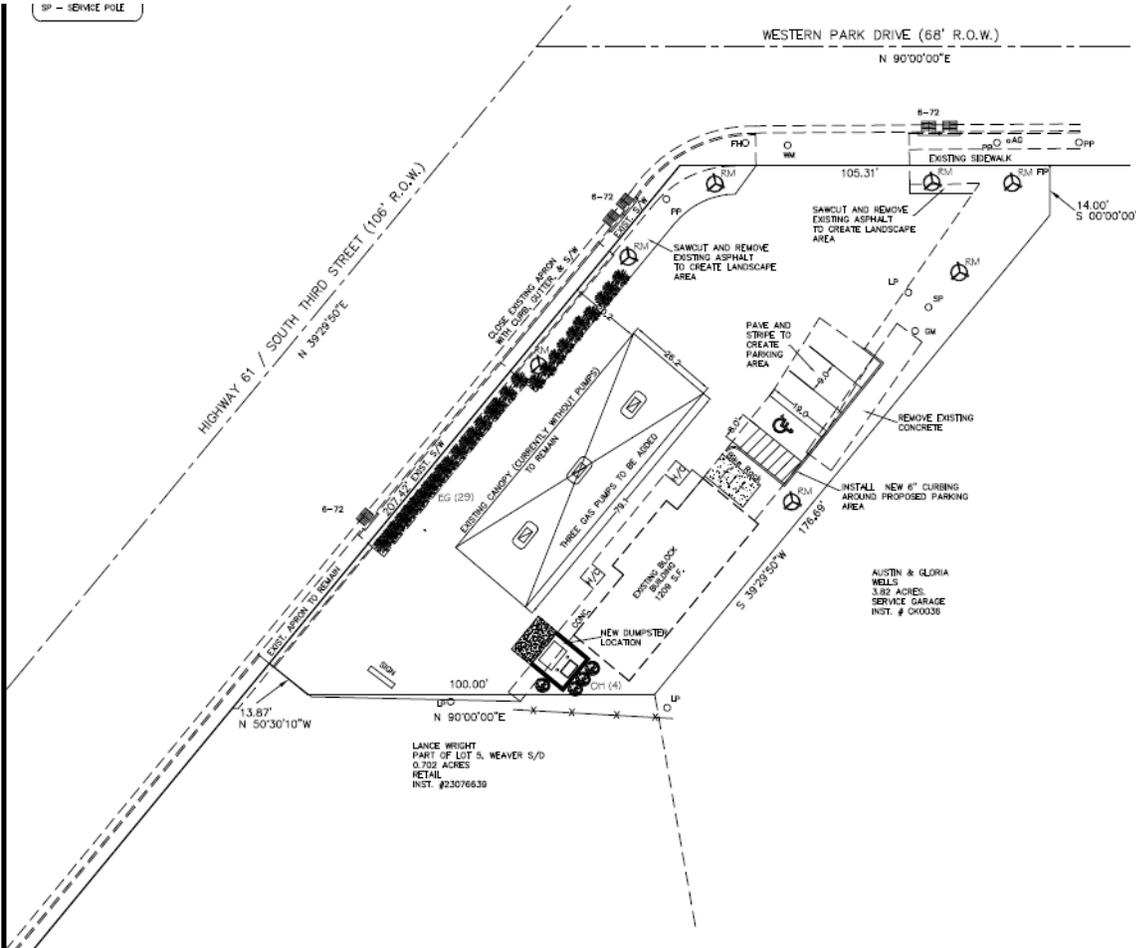
View of subject property from Western Park Drive, August 2023



View of subject property from South Third Street.

SITE PLAN

SP - SERVICE POLE



THIS PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA PER FEMA FLOOD MAP # 47157C0455 F DATED SEPTEMBER 26, 2007.

STREET NAME	SIDEWALK WIDTH	SIDE	LOCATION	ACTION
SOUTH THIRD STREET	5.5	EAST	ADJACENT TO CURB	REPAIR, REPLACE
WESTERN PARK DRIVE	5.0	SOUTH	4.5' GRASS STRIP	REPAIR, REPLACE

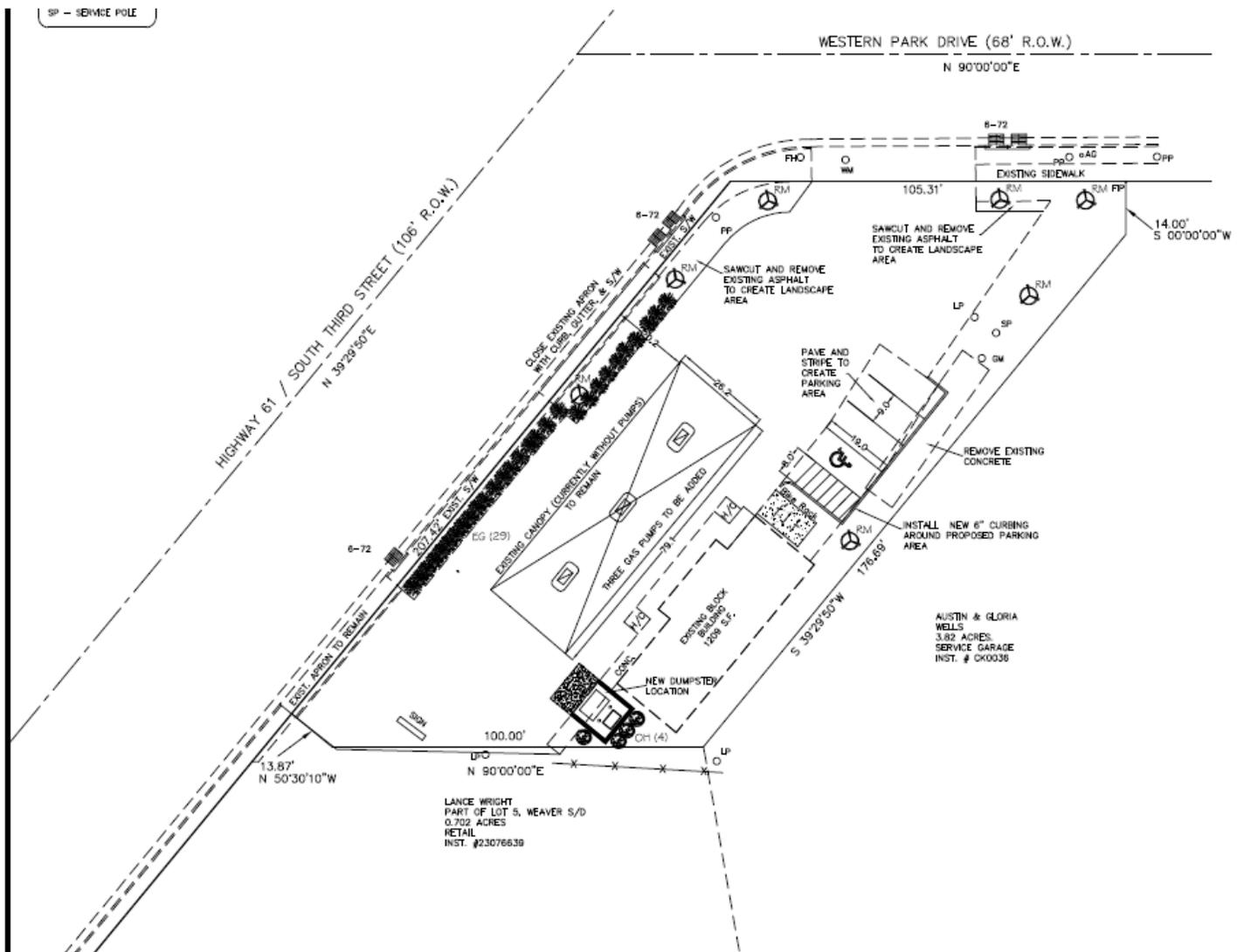
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PROPOSED PLANTS

SHAPE	SYM	COMMON NAME	BOTANICAL NAME	SIZE	QTY
EG	EG	Emerald Green Arborvitae	Thuja occidentalis 'Emerald Green'	3 GAL	29
OH	OH	Oak Leaf Holly	Ilex x 'Conif'	3-4 ft.	4
RM	RM	October Glory Red Maple	Acer rubrum 'October Glory'	4-5 ft.	7

SITE PLAN		
391 WESTERN PARK		
PART OF LOT 5, WEAVER S/D (NOT RECORDED)		
EXISTING ZONING DISTRICT: CMU-3	MEMPHIS, TENNESSEE	
LOTS: 1	AREA: 0.399 ACRES	
PREPARED FOR: HEFDALLAH MUSLEH 391 WESTERN PARK DR. MEMPHIS, TN 38109	ENGINEER: THE BRAY FIRM 2950 STAGE PLAZA NORTH BARTLETT, TN 38134 (901) 383-8668	
DATE: DECEMBER 2023	SCALE: 1"=20'	SHEET 1 OF 1

LANDSCAPE NOTES



STREET NAME	SIDEWALK WIDTH	SIDE	LOCATION	ACTION
SOUTH THIRD STREET	5.5	EAST	ADJACENT TO CURB	REPAIR/REPLACE
WESTERN PARK DRIVE	5.0	SOUTH	4.5' GRASS STRIP	REPAIR/REPLACE

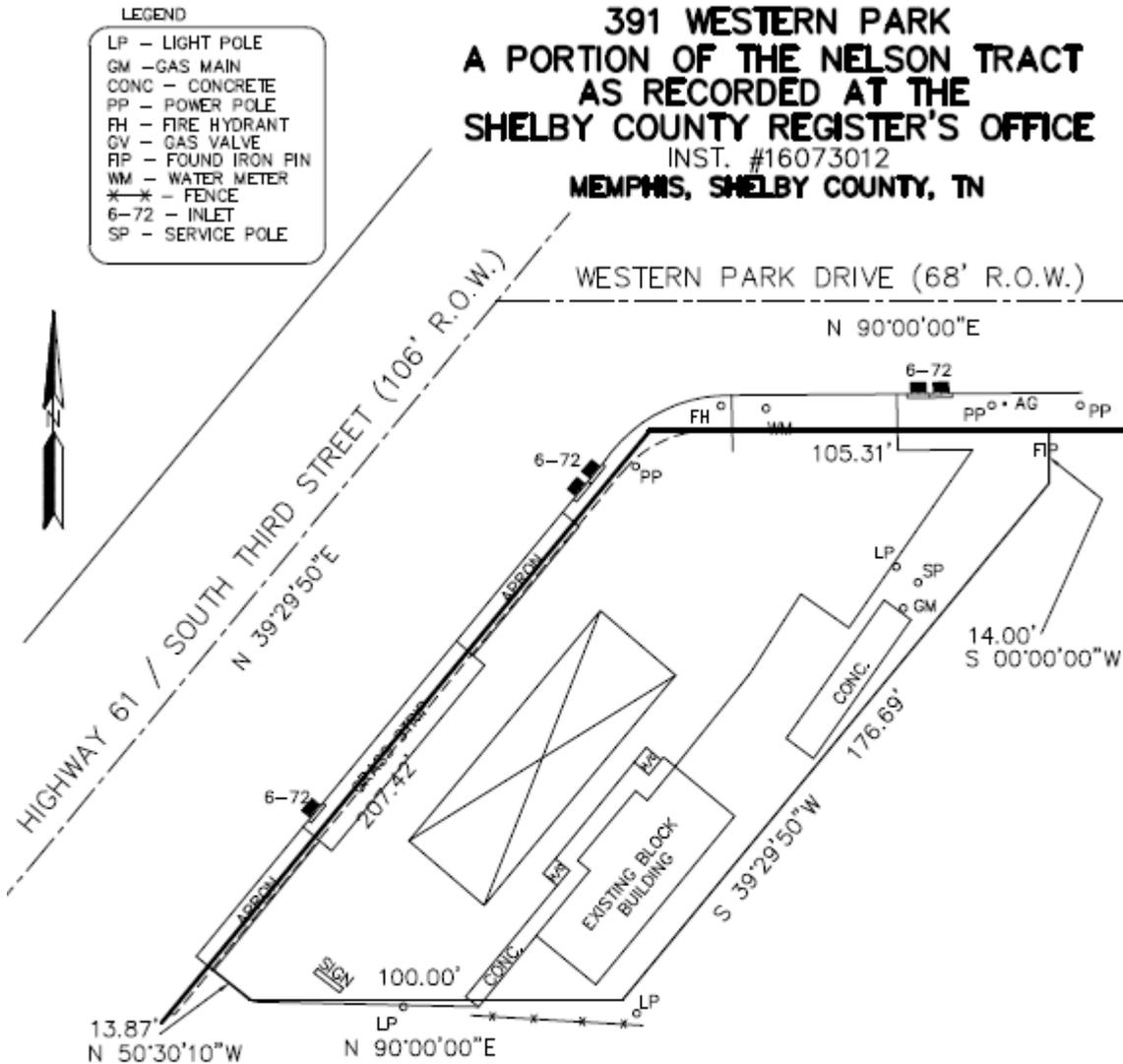
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PROPOSED PLANTS

SHAPE	SYM	COMMON NAME	BOTANICAL NAME	SIZE	QTY
	EG	Emerald Green Arborvitae	Thuja occidentalis 'Emerald Green'	3 GAL	29
	OH	Oak Leaf Holly	Ilex x 'Conif'	3-4 ft	4
	RM	October Glory Red Maple	Acer rubrum 'October Glory'	4-5 ft	7

SURVEY

LOT SURVEY
391 WESTERN PARK
A PORTION OF THE NELSON TRACT
AS RECORDED AT THE
SHELBY COUNTY REGISTER'S OFFICE
INST. #16073012
MEMPHIS, SHELBY COUNTY, TN

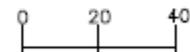


NOTE: THIS FIRM DOES NOT PERFORM TITLE SEARCHES.

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

THIS SURVEY HAS BEEN MADE USING THE LATEST RECORDED DEED TO THAT PROPERTY AND SHOWS ANY OTHER PERTINENT INFORMATION SUCH AS EASEMENTS, JOINT DRIVEWAYS, ETC. OF WHICH I HAVE BEEN ADVISED BY THE TITLE ATTORNEY.

THIS PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA PER FEMA FLOOD MAP #47157C0455 F DATED SEPTEMBER 28, 2007.



DATE: 12/1/23
SCALE: 1"=40'

PREPARED FOR:
COURTNEY CROSBY

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

STAFF ANALYSIS

Request

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

The request is for a special use permit to allow a convenience store with gas sales in the Commercial Mixed Use –3 (CMU-3).

Approval Criteria

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

9.6.9 Approval Criteria

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

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

Comprehensive Planning Review of Memphis 3.0 Consistency

This summary is being produced in response to the following application to support the Land Use and Development Services department in their recommendation: SUP 2023-036: Westwood

Site Address/Location: 391 Western Park Dr

Overlay District/Historic District/Flood Zone: Not in any Overlay District, Historic District or Flood Zone

Future Land Use Designation: Anchor Neighborhood-Mix of Building Types (AN-M)

Street Type: Avenue & Parkway

The applicant is requesting a special use permit for a C-Store with gasoline sales in the CMU-3 zoning district at an intersection that is not designated as two collectors or greater.

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 site on the Future Land Use Map.

2. Land Use Description/Intent

Anchor Neighborhood-Mix of Building Types (AN-M) are walkable neighborhoods within a 5 – 10-minute walk of a Community Anchor. neighborhoods are made up of a mix of single-unit and multi-unit. Graphic portrayal of AN-M is to the right.



These housing.

“AN-M” Form & Location Characteristics

ACCELERATE: Primarily detached, single-family house-scale residences of 1-3 stories in height. Attached, house-scale single-family, duplexes, triplexes and quadplexes of 1-3 stories in height permitted on parcels within 200 feet of an anchor and at intersections where the presence of such housing type currently exists. Building-scale large homes and apartments of 2-4 stories in height permitted on parcels within 100 feet of an anchor; at intersections where the presence of such housing type currently exists at the intersection. Other housing and commercial types along avenues, boulevards and parkways as identified in the Street Types Map where same types exist on one or more adjacent parcels.

“AN-M” Zoning Notes

Generally compatible with the following zone districts: RU-2, RU-3, RU-4, R-SD, R-R, MDR, and CMU-1 when located along avenues, boulevards, and parkways as identified in the Street Types Map, in accordance with Form and characteristics listed above.

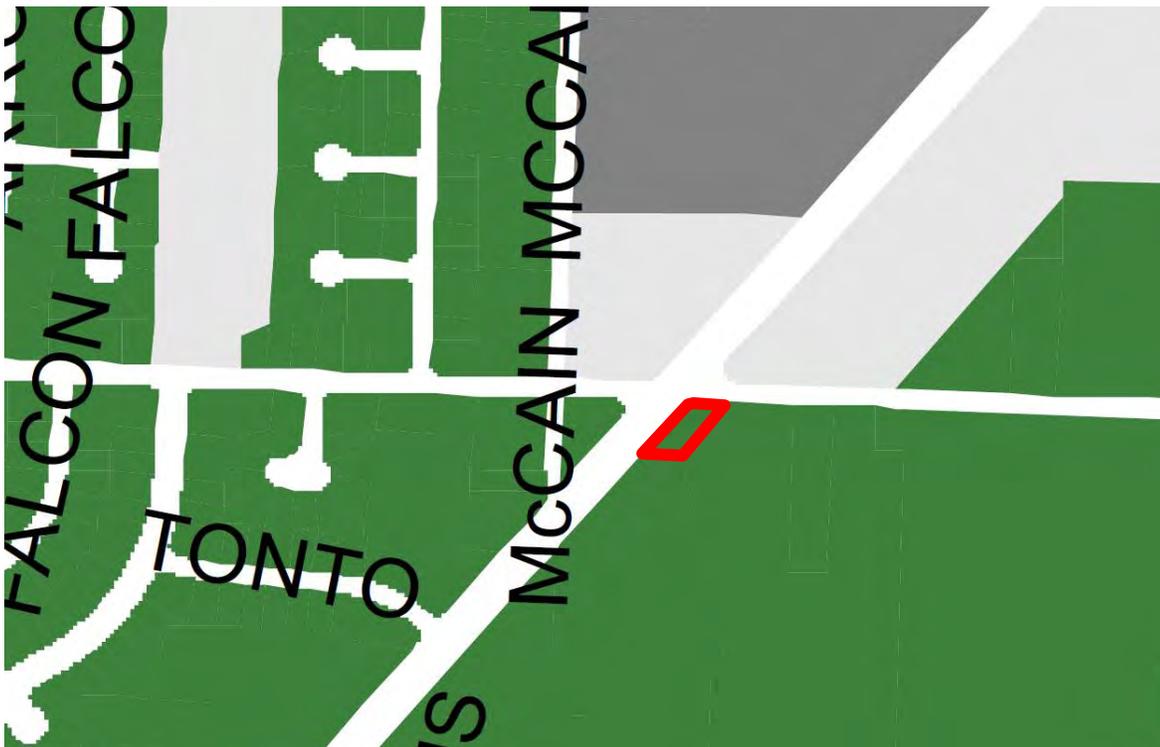
Existing, Adjacent Land Use and Zoning

Existing Land Use and Zoning: Commercial, CMU-3

Adjacent Land Use and Zoning: Commercial, Vacant, Institutional and Single-Family; CMU-3, CMU-1, and RU-1

Overall Compatibility: *This requested use is not compatible with the land use description/intent, form & location characteristics, zoning notes, and existing, adjacent land use and zoning.*

3. Degree of Change Map



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

4. Degree of Change Description

Accelerate areas rely on a mix of primarily private and philanthropic resources along with some public resources to intensify the existing pattern of a place.

The proposed application is a private investment. However, it will impede future development activity and be a barrier to promoting pedestrian-oriented infill development.

5. Objectives/Actions Consistent with Goal 1, Complete, Cohesive, Communities: N/A

6. Pertinent Sections of Memphis 3.0 that Address Land Use Recommendations: N/A

Consistency Analysis Summary

The applicant is requesting a special use permit for a C-Store with gasoline sales in the CMU-3 zoning district at an intersection that is not designated as two collectors or greater.

This requested use is not compatible with the land use description/intent, form & location characteristics, zoning notes, and existing, adjacent land use and zoning.

The proposed application is a private investment. However, it will impede future development activity and be a barrier to promoting pedestrian-oriented infill development.

However, the proposed site plan indicates that the existing condition of the site will be improved through better landscaping, curb cuts closure and restriping the site with additional ADA compliant facilities. Comprehensive Planning recommends conditional approval of this request to ensure that the development conforms to the proposed design.

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

Summary Compiled by: Romana Haque Suravi, Comprehensive Planning.

Conclusions

1. The applicant is seeking a special use permit to allow a convenience store with gas sales in CMU-3.
2. The property is an existing non-operating fuel station with convenience store. It has not been operational for more than 365 days.
3. The subject property isn't located at an intersection that is defined as two collectors or greater.
4. The applicant is looking to re-install three (3) fuel pumps.
5. This project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.

RECOMMENDATION

Staff recommends approval with conditions.

Conditions

1. Canopy lighting shall not extend beyond the area beneath the canopy and all fixtures shall be recessed, including any fixture or lens.
2. Canopy support columns shall be sheathed in the same masonry used on the principal building.
3. No gasoline pumps shall be located no closer than 20 feet to any side or rear property line or right-of-way.
4. The fuel canopy must be either: rear-loaded and located behind or beside a principal building located no further than 20 feet from the right-of-way that adheres to the provisions of Paragraph 3.10.2B(1) of the Code; or structurally integrated with and located in front of the principal building. The fuel canopy shall be located no further than 20 feet from the right-of-way.
5. The landscape plan as included in the application and staff report should be executed based on approval by the governing board(s).
6. Future modifications to the site plan will not require re-recording of the site plan unless additional uses/activities are being added that beyond the scope of all prior approvals for the site or this approval.

DEPARTMENTAL COMMENTS

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

City/County Engineer:

1. Standard Public Improvement Contract or Right-Of-Way Permit as required in Section 5.5.5 of the Unified Development Code.

Sewers:

2. Per City policy, sewer is not available to serve this proposed development. The City doesn't have a sewer at or in the vicinity of the proposed development.

Roads:

3. 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.
4. 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:

5. 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.
6. 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.
7. 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:

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

City/County Fire Division:

No comments received.

City Real Estate:

No comments received.

City/County Health Department:

No comments received.

Shelby County Schools:

No comments received.

Construction Code Enforcement:

No comments received.

Memphis Light, Gas and Water:

No comments received.

Office of Sustainability and Resilience:

No comments received.

Office of Comprehensive Planning:

See comments on page 14-16.

APPLICATION



Record Summary for Special Use Permit

Record Detail Information

Record Type: Special Use Permit

Record Status: Processing

Opened Date: December 8, 2023

Record Number: SUP 2023-036

Expiration Date:

Record Name: 391 Western Park

Description of Work: SUP application to permit C-Store with gasoline sales in the CMU-3 zoning district at intersection that is not designated as two collectors or greater.

Parent Record Number:

Address:

391 WESTERN PARK DR, MEMPHIS 38109

Owner Information

Primary Owner Name

Y MUSLEH HEFDALLAH M

Owner Address

391 WESTERN PARK DR, MEMPHIS, TN 38109

Owner Phone

Parcel Information

075150 00093

Data Fields

PREAPPLICATION MEETING

Name of OPD Planner

Chip Saliba

Date of Meeting

10/17/2023

Pre-application Meeting Type

Phone

GENERAL PROJECT INFORMATION

GENERAL PROJECT INFORMATION

Application Type	New Special Use Permit (SUP)
List any relevant former Docket / Case Number(s) related to previous applications on this site	n/a
Is this application in response to a citation, stop work order, or zoning letter	No
If yes, please provide a copy of the citation, stop work order, and/or zoning letter along with any other relevant information	n/a

APPROVAL CRITERIA

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	This site was previously the location of a c-store with gasoline sales but has been closed for more than 365 days. The existing structure and canopy will be used.
--	--

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	This site has been previously developed. The existing improvements will be utilized.
---	--

UDC Sub-Section 9.6.9C	All utilities are located at the site. Drive aprons are existing. One drive apron will be closed as a result of this application.
------------------------	---

UDC Sub-Section 9.6.9D	Agreed
UDC Sub-Section 9.6.9E	Agreed
UDC Sub-Section 9.6.9F	Agreed

GIS INFORMATION

Case Layer	-
Central Business Improvement District	No
Class	-
Downtown Fire District	No
Historic District	-
Land Use	-
Municipality	-
Overlay/Special Purpose District	-
Zoning	-
State Route	1
Lot	-
Subdivision	-
Planned Development District	-
Wellhead Protection Overlay District	No

Contact Information

Name
MUSLEH HEFDALLAH M
Contact Type
APPLICANT

Address

Phone
-

Fee Information

Invoice #	Fee Item	Quantity	Fees	Status	Balance	Date Assessed
1523231	Special Use Permit Fee - 5 acres or less (Base Fee)	1	500.00	INVOICED	0.00	12/08/2023
1523231	Credit Card Use Fee (.026 x fee)	1	13.00	INVOICED	0.00	12/08/2023
			Total Fee Invoiced: \$513.00	Total Balance: \$0.00		

Payment Information

Payment Amount
\$513.00
Method of Payment
Credit Card

LETTER OF INTENT

The Bray Firm

Telephone 901-383-8668
2950 Stage Plaza North
Bartlett, Tennessee 38134

December 7, 2023

Brett Ragsdale
Memphis and Shelby County
Division of Planning and Development
125 North Main Street
Memphis, Tennessee 38103

**RE: Special Use Permit for C-store with gasoline sales in the CMU-3 zoning district
391 Western Park Drive
Memphis, Shelby County, Tennessee**

Mr. Ragsdale:

Please find attached an application to permit a C-store with gasoline sales in the CMU-3 zoning district on the above captioned property at an intersection that is not defined as two collectors or greater. The site is on the southeast corner of South Third Street and Western Park Drive. Western Park Drive is not classified as a collector by the TDOT Functional Classification map. This site was previously the location of a convenience store with gasoline pumps but the site has not been operational in greater than 365 days. The original building and canopy are still located on the site. The owner would like to re-install three (3) gasoline pumps under the existing canopy and re-start operations at the site. Landscaping, as shown on the attached site plan, would be installed to bring the site into compliance with the current Unified Development Code.

Thank you for considering this request. If you have any questions or need any additional information, please feel free to call.

Sincerely,

David Gean Bray, P.E.

SIGN AFFIDAVIT

LETTERS RECEIVED

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



Record Summary for Special Use Permit

Record Detail Information

Record Type: Special Use Permit

Record Status: Processing

Opened Date: December 8, 2023

Record Number: SUP 2023-036

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Owner Information

Primary Owner Name

Y MUSLEH HEFDALLAH M

Owner Address

391 WESTERN PARK DR, MEMPHIS, TN 38109

Owner Phone

Parcel Information

075150 00093

Data Fields

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Name of OPD Planner

Chip Saliba

Date of Meeting

10/17/2023

Pre-application Meeting Type

Phone

GENERAL PROJECT INFORMATION

GENERAL PROJECT INFORMATION

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

APPROVAL CRITERIA

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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 This site has been previously developed. The existing improvements will be utilized.

UDC Sub-Section 9.6.9C All utilities are located at the site. Drive aprons are existing. One drive apron will be closed as a result of this application.

UDC Sub-Section 9.6.9D Agreed

UDC Sub-Section 9.6.9E Agreed

UDC Sub-Section 9.6.9F Agreed

GIS INFORMATION

Case Layer -
Central Business Improvement District No
Class -
Downtown Fire District No
Historic District -
Land Use -
Municipality -
Overlay/Special Purpose District -
Zoning -
State Route 1
Lot -
Subdivision -
Planned Development District -
Wellhead Protection Overlay District No

Contact Information

Name
MUSLEH HEFDALLAH M

Contact Type
APPLICANT

Address

Phone

-

Fee Information

Invoice #	Fee Item	Quantity	Fees	Status	Balance	Date Assessed
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Total Fee Invoiced: \$513.00

Total Balance: \$0.00

Payment Information

Payment Amount	Method of Payment
\$513.00	Credit Card

The Bray Firm

Telephone 901-383-8668
2950 Stage Plaza North
Bartlett, Tennessee 38134

December 7, 2023

Brett Ragsdale
Memphis and Shelby County
Division of Planning and Development
125 North Main Street
Memphis, Tennessee 38103

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391 Western Park Drive
Memphis, Shelby County, Tennessee**

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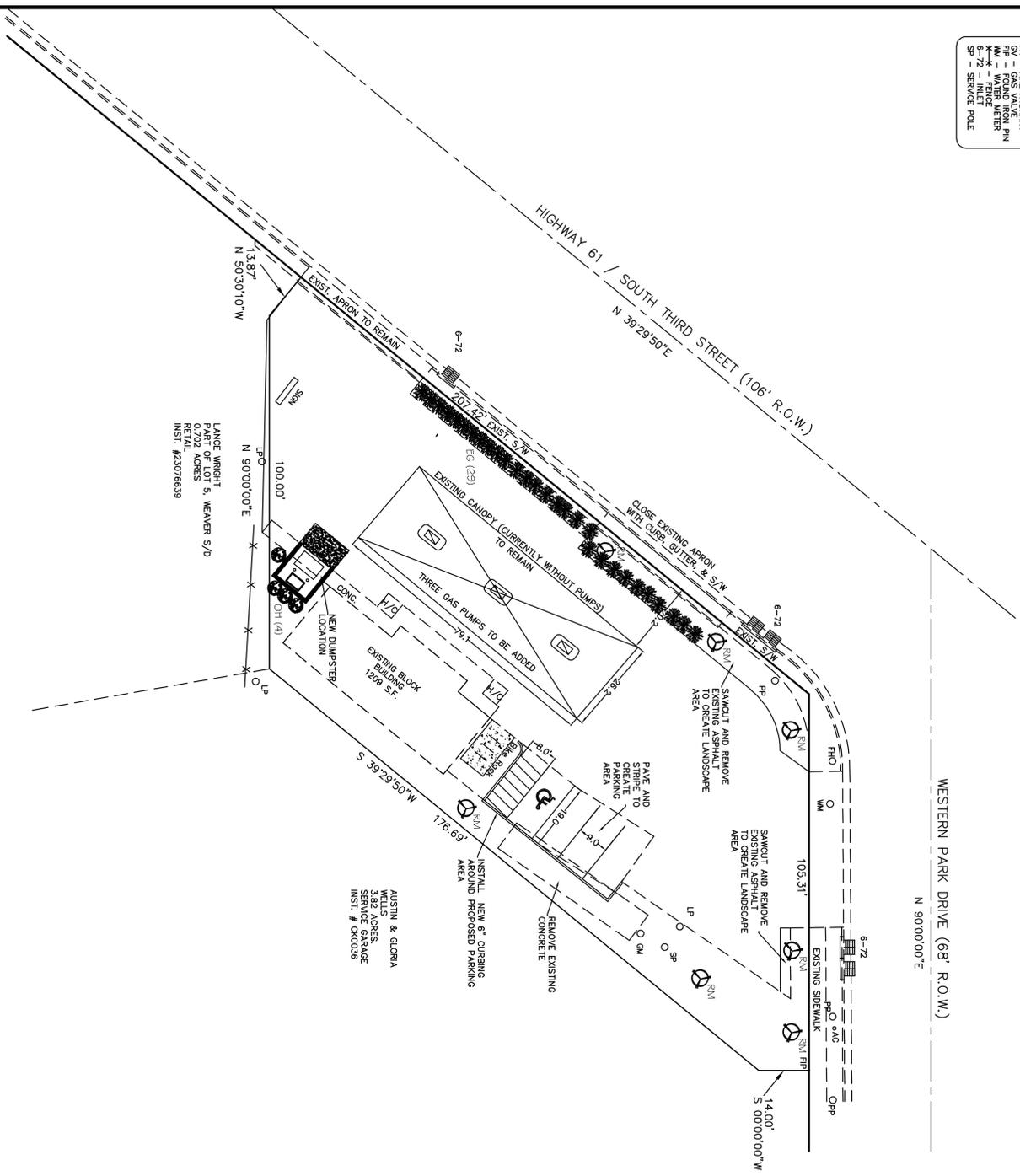
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Sincerely,

David Gean Bray, P.E.

LEGEND

- LP - LIGHT POLE
- CONC - CONCRETE
- PP - POWER POLE
- CV - GAS VALVE
- RM - ROUND IRON PIN
- K-X - FENCE
- 6-72 - FINLET
- SP - SERVICE POLE



STREET NAME	SIDEWALK WIDTH	SIDE	LOCATION	ACTION
SOUTH THIRD STREET	5.5	EAST	ADJACENT TO CURB	REPAIR/REPLACE
WESTERN PARK DRIVE	5.0	SOUTH	4.5' GRASS STRIP	REPAIR/REPLACE

PROPOSED PLANTS			
SYMBL	SYMBL	COMMON NAME	BOTANICAL NAME
EG	EM	Emerald Green Arborvitae	Thuja occidentalis 'Emerald Green'
OH	OKL	Oak Leaf Holly	Ilex x Cornif
RM	OG	October Glory Red Maple	Acer rubrum 'October Glory'

THE REQUIRED SIDEWALK SHALL BE INSTALLED ACROSS THE FRONTAGE OF EACH LOT BY THE BUILDING PERMIT HOLDER PRIOR TO USE AND OCCUPANCY. THE BUILDING PERMIT HOLDER ACROSS THE LOT FRONTAGE PRIOR TO USE AND OCCUPANCY. REPAIR, REPLACE SIDEWALK THAT IS IN DISREPAIR OR A.D.A. NON-COMPLIANT. Install, Repair, Replace, Survey Sidewalk, Replace broken and non-compliant Street Signs

391 WESTERN PARK
PART OF LOT 5, WEAVER S/D (NOT RECORDED)
MEMPHIS, TENNESSEE

EXISTING ZONING DISTRICT: CMU-3

LOTS: 1

AREA: 0.399 ACRES

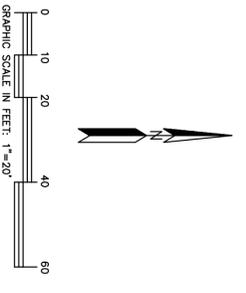
PREPARED FOR: HEFDALAH MUSLEH
391 WESTERN PARK DR.
MEMPHIS, TN 38109

ENGINEER: THE BRAY FIRM
2950 STAGE PLAZA NORTH
BARTLETT, TN 38134
(901) 383-8868

DATE: DECEMBER 2023

SCALE: 1"=20'

SHEET 1 OF 1



THIS PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA PER FEMA FLOOD MAP # 47157C0435 F DATED SEPTEMBER 28, 2007.

LOT SURVEY
391 WESTERN PARK
A PORTION OF THE NELSON TRACT
AS RECORDED AT THE
SHELBY COUNTY REGISTER'S OFFICE
 INST. #16073012
MEMPHIS, SHELBY COUNTY, TN

LEGEND

- LP - LIGHT POLE
- GM - GAS MAIN
- CONC - CONCRETE
- PP - POWER POLE
- FH - FIRE HYDRANT
- GV - GAS VALVE
- FIP - FOUND IRON PIN
- WM - WATER METER
- *-*- FENCE
- 6-72 - INLET
- SP - SERVICE POLE

WESTERN PARK DRIVE (68' R.O.W.)

N 90°00'00"E

6-72

105.31'

LP

SP

GM

14.00'
S 00°00'00"W

176.69'
CONC.

S 39°29'50"W

EXISTING BLOCK BUILDING

CONC.

100.00'

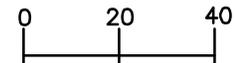
N 90°00'00"E

13.87'
N 50°30'10"W

207.42'

N 39°29'50"E

SOUTH THIRD STREET (106' R.O.W.)



DATE: 12/1/23
 SCALE: 1"=40'

PREPARED FOR:
 COURTNEY CROSBY

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

NOTE: THIS FIRM DOES NOT PERFORM TITLE SEARCHES.

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

THIS SURVEY HAS BEEN MADE USING THE LATEST RECORDED DEED TO THAT PROPERTY AND SHOWS ANY OTHER PERTINENT INFORMATION SUCH AS EASEMENTS, JOINT DRIVEWAYS, ETC. OF WHICH I HAVE BEEN ADVISED BY THE TITLE ATTORNEY.

THIS PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA PER FEMA FLOOD MAP #47157C0455 F DATED SEPTEMBER 28, 2007.

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

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 least 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.

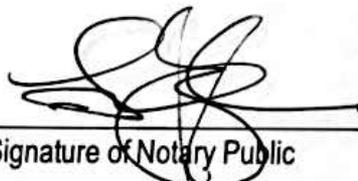
I, HEEDHALLAH MUSLEH (Print Name)  (Sign Name), state that I have read the definition of

"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 have 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 _____
and further identified by Assessor's Parcel Number _____
for which an application is being made to the Division of Planning and Development.

Subscribed and sworn to (or affirmed) before me this 7th day of December in the year of 2023


Signature of Notary Public



03/03/2024
My Commission Expires



Tom Leatherwood
Shelby County Register / Archives

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

16073012

07/19/2016 - 10:10 AM

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3 PGS	
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BUDDY	1486791-16073012
<hr/>	
VALUE	150000.00
MORTGAGE TAX	0.00
TRANSFER TAX	555.00
RECORDING FEE	15.00
DP FEE	2.00
REGISTER'S FEE	1.00
WALK THRU FEE	0.00
TOTAL AMOUNT	573.00
<hr/>	

TOM LEATHERWOOD

REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

This Instrument Prepared by & Return to:
Fearley, Martin & McDonald, PLLC
6389 N. Quail Hollow Road - Suite 202
Memphis, TN 38120
Firm File No.: JR1606006

CORPORATE WARRANTY DEED

THIS INDENTURE made and entered into this 12th day of July, 2016, by and between **Road Enterprises, Inc.**, a Kentucky corporation, party of the first part, and **Hefdallah M Musleh**, a married person, party of the second part.

WITNESS: That for and in consideration of ten and no/100 Dollars (\$10.00) cash in hand paid, and other good and valuable consideration, the receipt of all of which is hereby acknowledged, said party of the first part has bargained and sold and does hereby bargain, sell, convey, and confirm unto said party of the second part the following described real estate, situated and being in the County of Shelby, State of Tennessee, to wit:

That certain tract of land being a portion of the S. Roy Nelson and wife, Nelle W. Nelson tract as described in the Warranty Deed of record in Book 2718, Page 287, of the Register's Office of Shelby County, Tennessee, being more particularly described as follows:

Beginning at the intersection of the easterly right-of-way line of Highway 61 South and southerly right-of-way line of Western Park Drive (formerly Hughey Road); thence easterly along the southerly right-of-way line of Western Park Drive, said line having a relative bearing of North 90 degrees 00 minutes 00 seconds East a distance of 105.31 feet to a point; thence southerly along a line having a relative bearing of South 00 degrees 00 minutes 00 seconds East a distance of 14.00 feet to a point; thence southwest along a line having a relative bearing of South 39 degrees 29 minutes 50 seconds West a distance of 200.0 feet to a point; thence westerly along a line having relative bearing of South 90 degrees 00 minutes 00 seconds West a distance of 100.0 feet to a point; thence westerly along a line having a relative bearing of North 50 degrees 30 minutes 10 seconds West a distance of 13.00 feet to a point in the easterly right-of-way line of Highway 61 South; thence northerly along the easterly right-of-way line of Highway 61 South, having a relative bearing of North 39 degrees 29 minutes 50 seconds East a distance of 207.42 feet to the place of beginning, said parcel containing approximately 0.4482 acres; being the same land conveyed to Allied Chemical Corporation, by S. Roy Nelson and wife, Nelle W. Nelson, by Deed dated October 29, 1970, recorded as Instrument No. F7 6988 in the Register's Office of Shelby County, Tennessee.

Less and Except Part sold at Instrument No. AT 7215 being further described as follows:

Being part of the property conveyed to Road Enterprises, Inc., a Kentucky Corporation, as recorded in Instrument No. M2 0989, in the Shelby County Register's Office, more particularly described as follows:

Beginning at a point which the intersection of the east right of way line of U.S. Highway 61 (53' CL-R.O.W.) and the south line of Western Park Drive (34' CL-R.O.W.); thence along said south line of Western Park Drive 87° 47' 33" E, 15.8 feet to a point of curvature; thence along a curve to the left having a radius of 30 feet an arc distance of 26.35 feet to a point of tangency; thence S 41° 52' 48" W, 185.91 feet to a point; thence N 87° 47' 33" W, 1.71 feet to a point in the existing east right of way line of U.S. Highway 61; thence N 41° 52' 48" E, 200 feet to the point of beginning. Containing 290 square feet.

Being all or part of the same property conveyed to Road Enterprises, Inc., a Kentucky Corporation, by virtue of that certain Special Warranty Deed dated April 20, 1977, at Instrument No. M2 0989 in the Register's Office of Shelby County, Tennessee.

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

The said party of the first part does hereby covenant with the said party of the second part that it is lawfully seized in fee of the aforesaid real estate; that it has a good right to sell and convey the same; that same is unencumbered, except for the following:

- The lien of the following general and special taxes for the year or years specified and subsequent years: 2017 City of Memphis taxes and 2016 Shelby County taxes, being liens not yet due and payable.
- Easements of record at Instrument No. Book 1139, Page 213, Book 1620, Page 37, Book 1751, Page 423, Book 4330, Page 35, Book 4946, Page 213, and Instrument No. F9 5707, as recorded in the said Register's Office.
- Terms and conditions of Lease Agreement at Instrument No. M3 0613 Amended at Instrument No. KS 9040, and Affidavit Regarding Corporate Names at Instrument No. 02130658.

- Certificate of Amendment of Certificate of Incorporation at Instrument No. 03044060.
- Terms and conditions of Lease at Instrument No. M7 7660.
- Terms and conditions of Lease at Instrument No. EH 7136 Assigned at Instrument No. EY 1621.

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

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

WITNESS the signature of the party of the first part the day and year first above written.

Road Enterprises, Inc

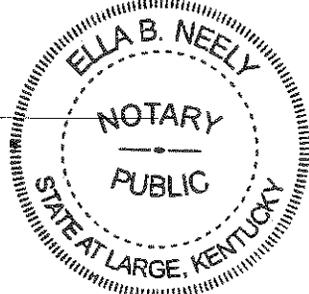
Jeffrey D. Uhling
By: Jeffrey D. Uhling
its: President

STATE OF Kentucky
COUNTY OF Jefferson

On this 12th day of July, 2016 before me the undersigned Notary Public of the State and County aforesaid, personally appeared Jeffrey D. Uhling, with whom I am personally acquainted, or proved to me to be on the basis of satisfactory proof, and who, upon oath, acknowledged himself/herself to be the President of the within named bargainor, Road Enterprises, Inc, and that he/she as such President being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as such President.

WITNESS my hand and official seal at office this 12th day of July, 2016.

ELLA B. NEELY
Notary Public



My Commission Expires: 1-5-2019

Property Owner(s) & Address: Hefdallah M Musleh
391 Western Park Dr.
Memphis, TN 38109
 075150 00093

Tax Parcel No:

Property Address: 391 Western Park Drive
 Memphis, TN 38109

Mail Tax Bills To: Hefdallah M Musleh
391 Western Park Dr.
Memphis, TN 38109

Firm File #: JR1606006/CMc

STATE OF TENNESSEE
COUNTY OF SHELBY

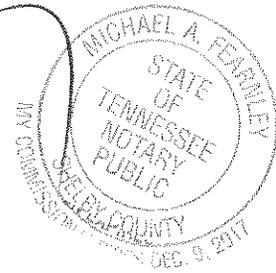
I, or we, hereby swear or affirm that to the best of Affiant's knowledge, information and belief the actual consideration for this transfer of value of the property transferred, whichever is greater is **\$150,000.00** which amount is equal to or greater than the amount which the property would command at a fair and voluntary sale.

Affiant

SUBSCRIBED AND SWORN TO before me this 12th day of July, 2016.

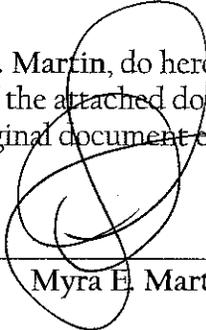
Michael A. Fearmley

Notary Public



My Commission Expires: 12/9/17

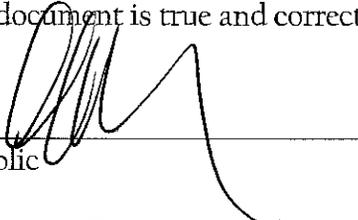
I, Myra E. Martin, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to law.



Signature Myra E. Martin

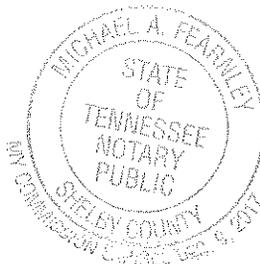
State of Tennessee
County of Shelby

On this the 15th day of July, 2016, personally appeared before me, Michael A. Fearnley, a Notary Public for this county and state, Myra E. Martin, who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.



Notary Public

My Commission Expires: 12/9/17



391 Western Park Drive
Page 1 of 2

Hefdallah M Musleh
391 Western Park Dr.
Memphis, TN 38109-5308

The Bray Firm
2950 Stage Plaza North
Bartlett, TN 38134

Owner

Engineer

Lance Wright
500 W Shelby Dr.
Memphis, TN 38019-5368

Shelby County Tax Sale 19.02
P.O. Box 2751
Memphis, TN 38101-2751

Stephenson Chapel Cemetery
Association TRS
4360 S 3rd St.
Memphis, TN 38109-5265

Divine Temple
4360 S 3rd St.
Memphis, TN 38109-5265

Austin & Gloria Wells
4370 Wanatah St.
Memphis, TN 38109-5261

Rodney Hollingsworth
1990 Gwynn Rd.
Nesbit, MS 38651

Fredrick & Jacqueline Wells
5702 NW Rotherwood Dr.
Lawton, OK 73505

Carroll H & Kristina C Bledsoe
7713 Meadowside Cv.
Memphis, TN 38125-3104

Herman F Bradley
1000 River Landing Dr.
Memphis, TN 38103-8931

Torrian Heath
790 Dellrose Dr.
Memphis, TN 38116-5417

Poplar Avenue Entertainment Co. Inc.
5050 Poplar Ave.
Ste. 1510
Memphis, TN 38157-1510

Cooper Y Robinson Jr.
5557 Hackberry Cv.
Memphis, TN 38120-2408

Musleh Hefdallah & Yousuf Hassen
4315 S 3rd St.
Memphis, TN 38109-5222

Resident
420 Western Park Dr.
Memphis, TN 38109

Resident
4268 McCain Rd.
Memphis, TN 38109

Rafael Orr Sr.
2810 Maggie Woods Pl
Arlington, TN 38002-6115

JNJ Partners
4564 Warden Rd.
Memphis, TN 38122-4120

City of Memphis
125 N Main St.
Memphis, TN 38103-2026

Mogul Developers
8638 Millbranch Rd.
Southaven, MS 38671-2316

Ruth Rawlings
P.O. Box 9505
Memphis, TN 38190-5050

Resident
445 Western Park Dr.
Memphis, TN 38109

391 Western Park Drive
Page 2 of 2

Shelby County Tax Sale 12.03
P.O. Box 2751
Memphis, TN 38101-2751

Ibrahima Basse
3252 Gill Rd.
Memphis, TN 38109-2921

Peggy Robinson
4323 S 3rd St.
Memphis, TN 38109-5269

Rickey R Burchett Sr.
4044 Hermitage Dr.
Memphis, TN 38116

Shelby County Tax Sale 18.04
P.O. Box 2751
Memphis, TN 38101-2751

Salam Wahab & Bilal Wahab
P.O. Box 343001
Memphis, TN 38184-3001

McLemore Real Estate Company II LP
19092 Highway 4 E
Senatobia, MS 38668-6581



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

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

January 15, 2024

Musleh Hefdallah
David Bray, The Bray Firm

Sent via electronic mail to: dqbray@comcast.net, hayel1120@yahoo.com

Special use permit to allow a convenience store with gas sales in the Commercial Mixed Use – 3 (CMU-3) District.

Case Number: SUP 2023-036

LUCB Decision: Approval with Conditions

Dear applicant,

On Thursday, January 11, 2024 the Memphis and Shelby County Land Use Control Board **approved** your special use permit application requesting a convenience store with gas sales in the Commercial Mixed Use – 3 (CMU-3) District located at 391 Western Park, subject to the following conditions:

1. Canopy lighting shall not extend beyond the area beneath the canopy and all fixtures shall be recessed, including any fixture or lens.
2. Canopy support columns shall be sheathed in the same masonry used on the principal building.
3. No gasoline pumps shall be located no closer than 20 feet to any side or rear property line or right-of-way.
4. The fuel canopy must be either: rear-loaded and located behind or beside a principal building located no further than 20 feet from the right-of-way that adheres to the provisions of Paragraph 3.10.2B(1) of the Code; or structurally integrated with and located in front of the principal building. The fuel canopy shall be located no further than 20 feet from the right-of-way.
5. The landscape plan as included in the application and staff report should be executed based on approval by the governing board(s).
6. Future modifications to the site plan will not require re-recording of the site plan unless additional uses/activities are being added that beyond the scope of all prior approvals for the site or this approval.

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

It is the applicant's responsibility to contact the City Council Records Office to determine when the

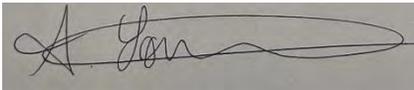
Letter to Applicant
SUP 2023-036

application is scheduled to be heard at committee and in public session. The City Council Records Office may be reached at (901) 636-6792.

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

If you have questions regarding this matter, please feel free to contact me at (901) 636-7120 or via email at alexis.longstreet@memphistn.gov.

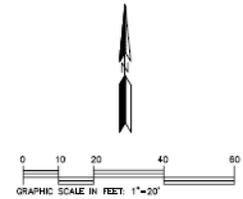
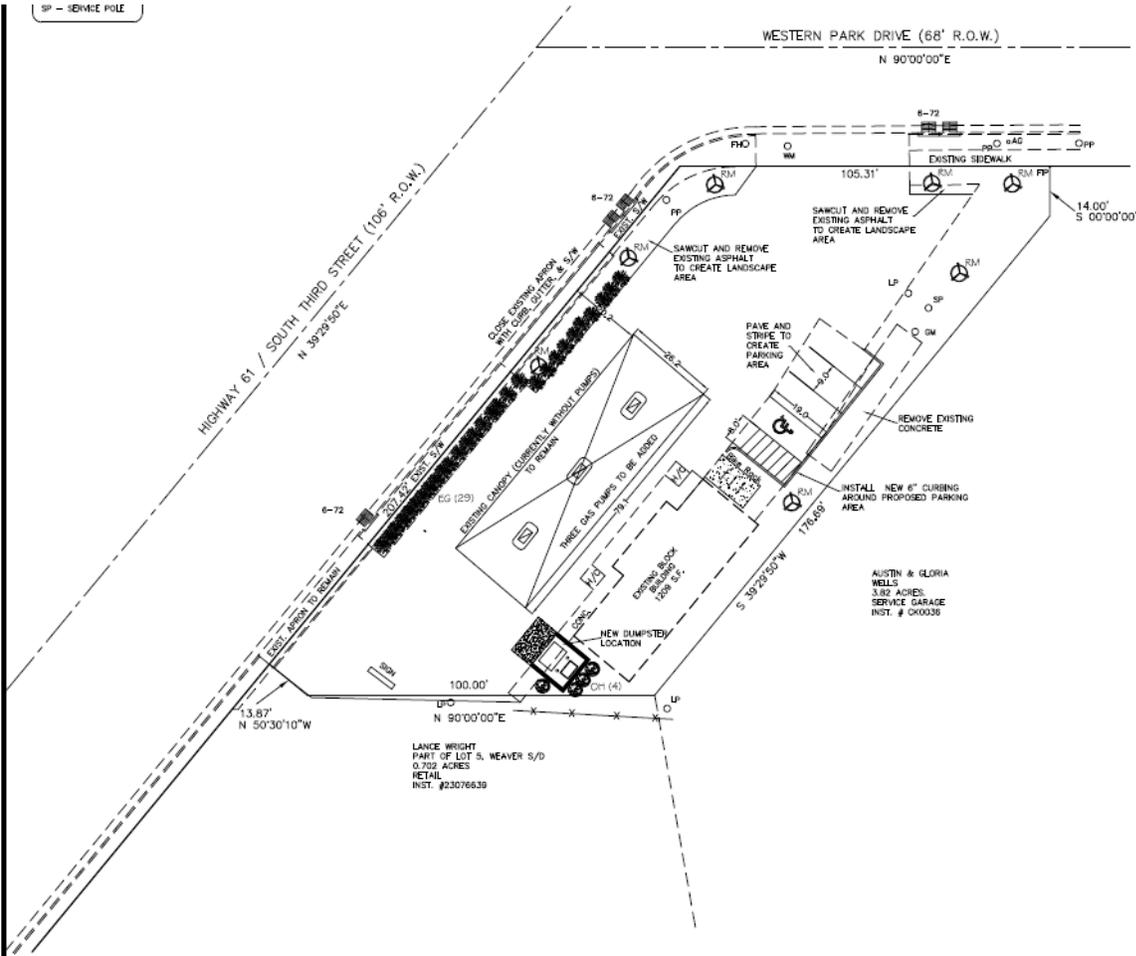
Respectfully,

A handwritten signature in black ink, appearing to read "Alexis Longstreet", is written over a light gray rectangular background.

Alexis Longstreet
Planner I
Land Use and Development Services
Division of Planning and Development

Letter to Applicant
 SUP 2023-036
 SITE PLAN

SP - SERVICE POLE



THIS PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA PER FEMA FLOOD MAP # 47157C0455 F DATED SEPTEMBER 28, 2007.

STREET NAME	SIDEWALK WIDTH	SIDE	LOCATION	ACTION
SOUTH THIRD STREET	5.5	EAST	ADJACENT TO CURB	REPAIR/REPLACE
WESTERN PARK DRIVE	5.0	SOUTH	4.5' GRASS STRIP	REPAIR/REPLACE

THE REQUIRED SIDEWALK SHALL BE INSTALLED ACROSS THE FRONTAGE OF EACH LOT BY THE BUILDING PERMIT HOLDER PRIOR TO USE AND OCCUPANCY. EXISTING SIDEWALKS SHALL BE REPAIRED AS NECESSARY BY THE BUILDING PERMIT HOLDER ACROSS THE LOT FRONTAGE PRIOR TO USE AND OCCUPANCY. REPAIR, REPLACE SIDEWALK THAT IS IN DISREPAIR OR A.D.A. NON-COMPLIANT. Install Compliant Curb Ramp. Survey sidewalk, replace broken and non-compliant areas along R.O.W.

SHAPE	SYM	COMMON NAME	BOTANICAL NAME	SIZE	QTY
EG		Emerald Green Arborvitae	Thuja occidentalis 'Emerald Green'	3 GAL	29
OH		Oak Leaf Holly	Ilex x 'Conair'	3-4 ft.	4
RM		October Glory Red Maple	Acer rubrum 'October Glory'	4-5 ft.	7

SITE PLAN		
391 WESTERN PARK		
PART OF LOT 5, WEAVER S/D (NOT RECORDED)		
EXISTING ZONING DISTRICT:	CMU-3	
MEMPHIS, TENNESSEE		
LOTS: 1	AREA: 0.399 ACRES	
PREPARED FOR:	ENGINEER:	
HEFDALLAH MUSLEH	THE BRAY FIRM	
391 WESTERN PARK DR.	2950 STAGE PLAZA NORTH	
MEMPHIS, TN 38109	BARTLETT, TN 38134	
	(901) 383-8668	
DATE: DECEMBER 2023	SCALE: 1"=20'	SHEET 1 OF 1

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

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

Planning & Zoning COMMITTEE: 03/19/2024
DATE
PUBLIC SESSION: 03/19/2024
DATE

ITEM (CHECK ONE)
_____ ORDINANCE RESOLUTION _____ REQUEST FOR PUBLIC HEARING

ITEM DESCRIPTION: Resolution pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code approving a special use permit at the subject property located 2491 Joy Ln, known as case number SUP 2023-028.

CASE NUMBER: SUP 2023-028

LOCATION: 2491 Joy Ln

COUNCIL DISTRICTS: District 4 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Esmeralda Apartments

REPRESENTATIVE: S Berry Jones

REQUEST: Conversion of an existing abandoned social services facility (transitional home) into 80 studio apartments.

AREA: +/-34,029 SF

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

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

PRIOR ACTION ON ITEM:

(1) _____ APPROVAL - (1) APPROVED (2) DENIED
02/08/2024 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:

DATE POSITION

_____	<u>03/05/2024</u>	STAFF PLANNER
_____		DEPUTY ADMINISTRATOR
_____	<u>3/5/24</u>	ADMINISTRATOR
_____		DIRECTOR (JOINT APPROVAL)
_____		COMPTROLLER
_____		FINANCE DIRECTOR
_____		CITY ATTORNEY
_____		CHIEF ADMINISTRATIVE OFFICER
_____		COMMITTEE CHAIRMAN



Memphis City Council Summary Sheet

SUP 2023-028

RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A SPECIAL USE PERMIT AT THE SUBJECT PROPERTY LOCATED AT 2491 JOY LN, KNOWN AS CASE NUMBER SUP 2023-028.

- This item is a resolution with conditions for a special use permit to allow Conversion of an existing abandoned social services facility (transitional home) into 80 studio apartments; and
- The item may require future public improvement contracts.

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday, February 08, 2024**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: SUP 2023-028

LOCATION: 2491 Joy Ln

COUNCIL DISTRICT(S): District 4 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Esmeralda Apartments

REPRESENTATIVE: S Berry Jones

REQUEST: Conversion of an existing abandoned social services facility (transitional home) into 80 studio apartments.

EXISTING ZONING: Commercial Mixed Use-3 (CMU-3), SUP 2011-209

AREA: +/-34,029 SF

The following spoke in support of the application: None

The following spoke in opposition the application: None

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

The motion **passed by a vote of 7-0- on the consent agenda.**

Respectfully,

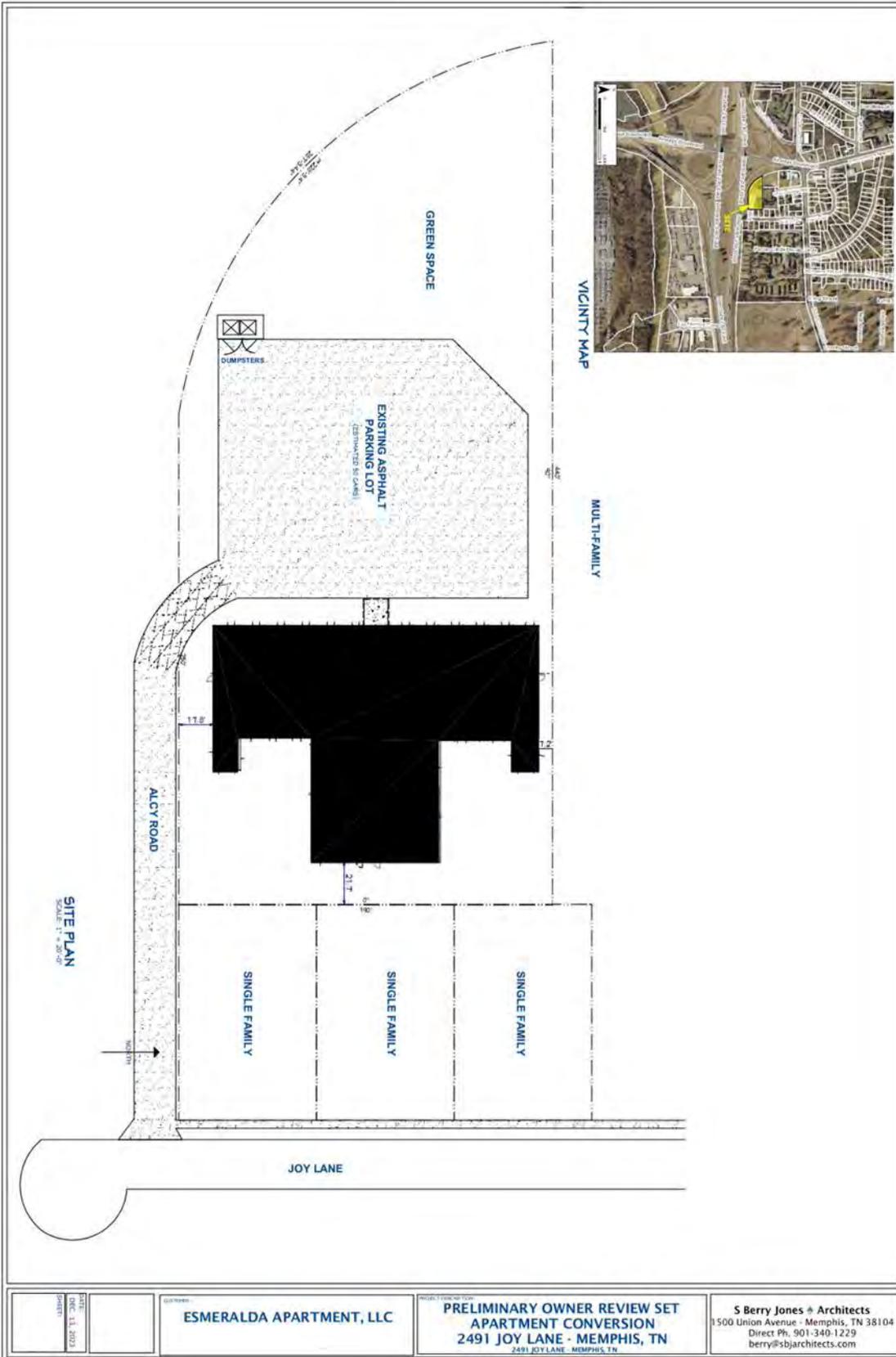


Planner II
Land Use & Development Services

SUP 2023-028
CONDITIONS

1. A total of 80 studio apartments are permitted in the existing building.
2. A final site plan shall be provided that demonstrates site plan compliance including, but not limited to: landscaping, screening, parking, compliance with building setback and height requirements, lighting, and any other development standards that are applicable according to article 4 of the unified development code.

SITE PLAN



RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A SPECIAL USE PERMIT AT THE SUBJECT PROPERTY LOCATED AT 2491 JOY LN, KNOWN AS CASE NUMBER SUP 2023-028.

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

WHEREAS, the Esmeralda Apartments filed an application with the Memphis and Shelby County Division of Planning and Development to allow Conversion of an existing abandoned social services facility (transitional home) into 80 studio apartments; 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 that the design and amenities are consistent with the public interest; and has submitted its findings and recommendation concerning the above considerations to the Land Use Control Board; and

WHEREAS, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on February 08, 2024, and said Board has submitted its findings and recommendation concerning the above considerations to the Council of the City of Memphis; and

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

WHEREAS, the Council of the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the 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 the request use in accordance with the attached conditions.

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

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

CONDITIONS

1. A total of 80 studio apartments are permitted in the existing building.
2. A final site plan shall be provided that demonstrates site plan compliance including, but not limited to: landscaping, screening, parking, compliance with building setback and height requirements, lighting, and any other development standards that are applicable according to article 4 of the unified development code.

ATTEST:

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

AGENDA ITEM: 3

CASE NUMBER: SUP 2023-028 **L.U.C.B. MEETING:** February 08, 2024

LOCATION: 2491 Joy Ln

COUNCIL DISTRICT: District 4 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: Esmeralda Apartments

REPRESENTATIVE: S Berry Jones

REQUEST: Conversion of an existing abandoned social services facility (transitional home) into 80 studio apartments.

AREA: +/-34,029 SF

EXISTING ZONING: Commercial Mixed Use-3 (CMU-3), SUP 2011-209

CONCLUSIONS

1. The applicant is seeking a conversion of an existing abandoned assisted living facility into 80 studio apartments.
2. The subject property is +/-34,029 SF and the current zoning is Commercial Mixed Use (CMU-3).
3. There will be a total of 80 units and the building is a 3-floor apartment complex. The apartment complex includes studio units, studio + units, king units, 2BR units, and queen units.
4. The proposal will serve as a buffer between the low intensity single-family residences and the high intensity interstate highway system.
5. This project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.

CONSISTENCY WITH MEMPHIS 3.0

This proposal is consistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on pages 21-23 of this report.

RECOMMENDATION

Approval with conditions.

GENERAL INFORMATION

Street Frontage: Interstate 240 West +/-287 curvilinear feet

Zoning Atlas Page: 2235

Parcel ID: 060137 00163

Existing Zoning: Commercial Mixed Use (CMU-3), SUP 2011-209

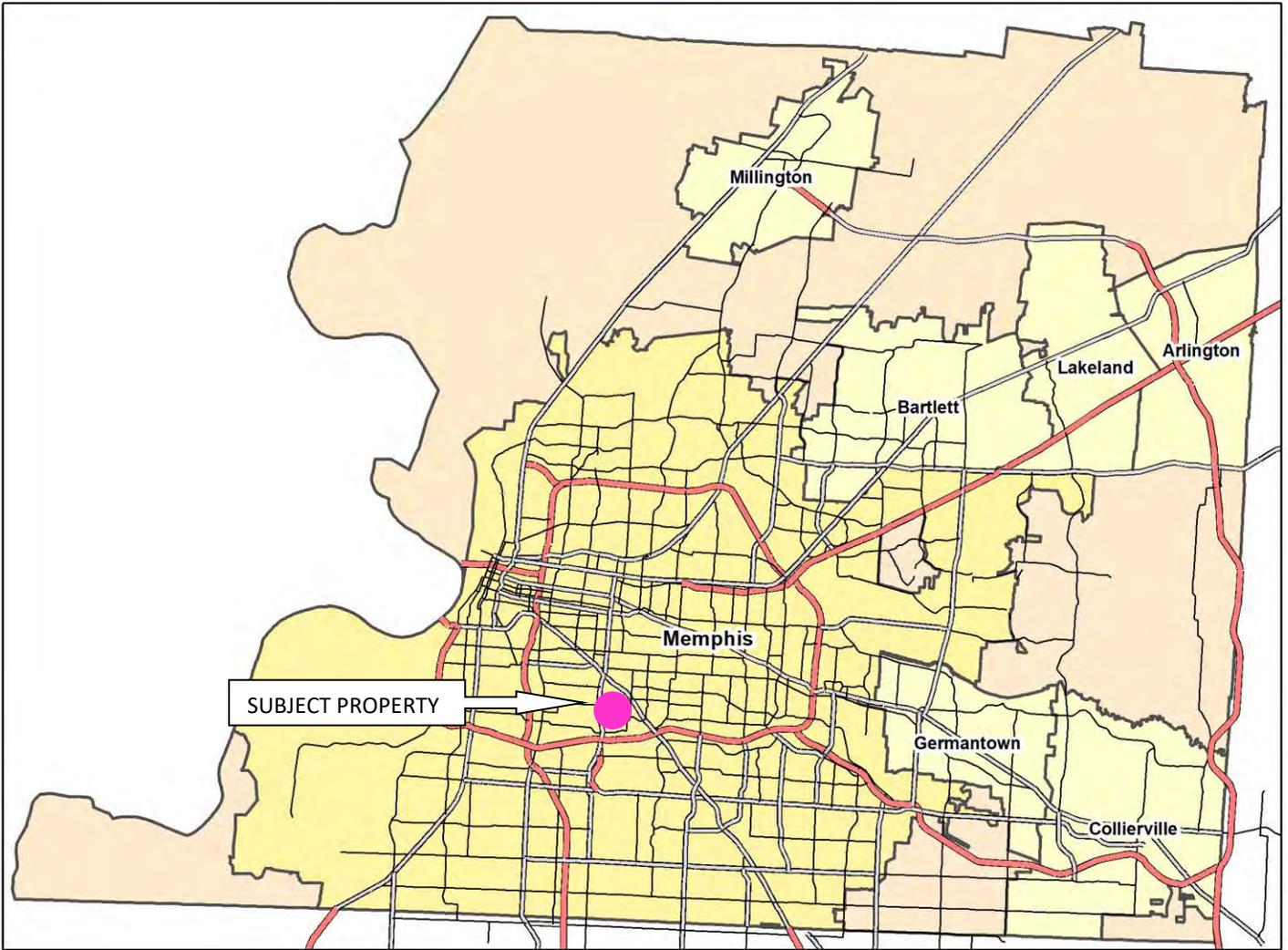
NEIGHBORHOOD MEETING

The meeting was held at 5:00 PM on Wednesday, December 27, 2023, at the New Jerusalem Temple Church at 2711 Ketchum Road.

PUBLIC NOTICE

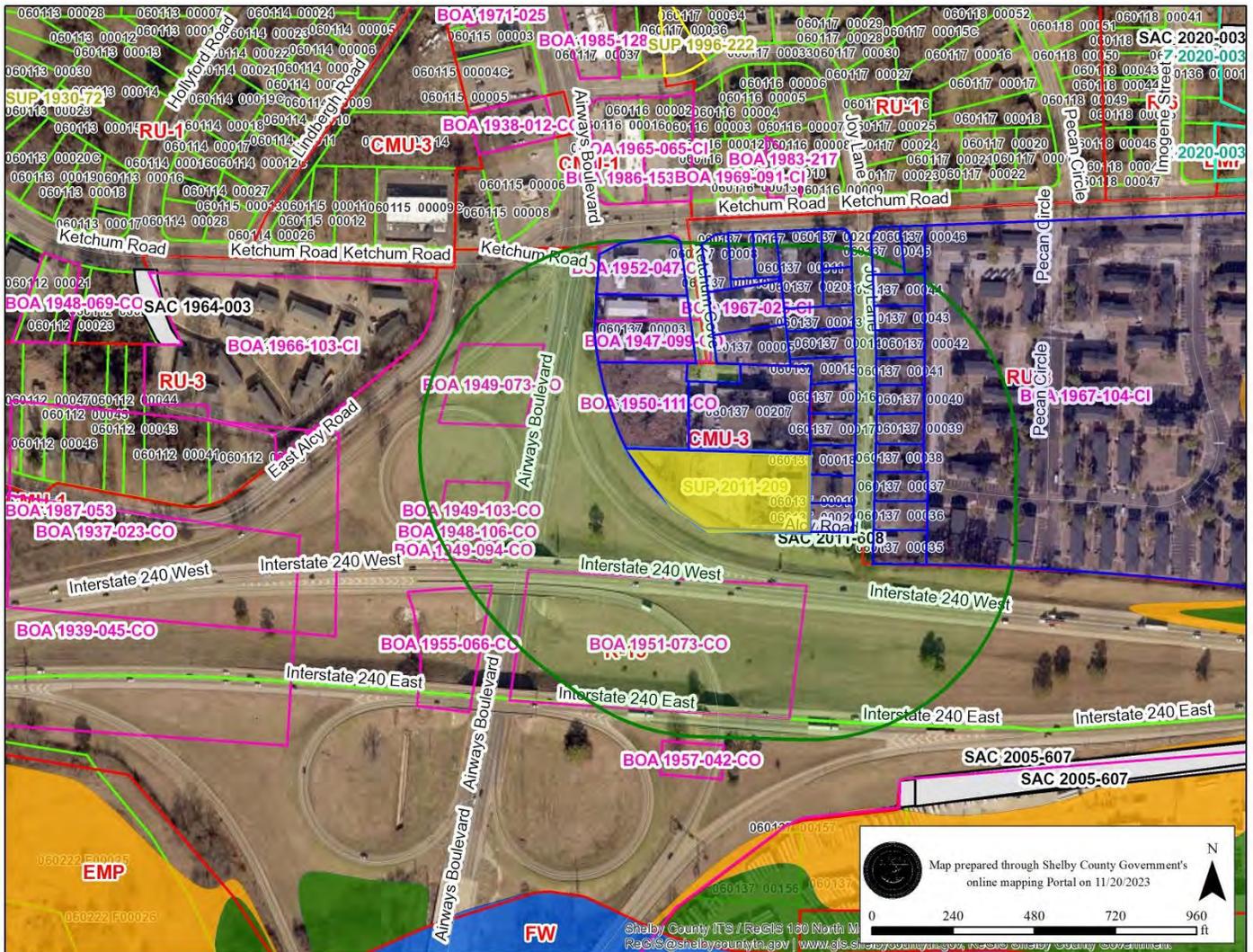
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 35 notices were mailed on November 20, 2023, and a total of 1 sign posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



Subject property located within the pink circle.

VICINITY MAP



Site highlighted in yellow.

AERIAL



Subject property outlined in yellow.

LAND USE MAP



Subject property indicated by a pink star.

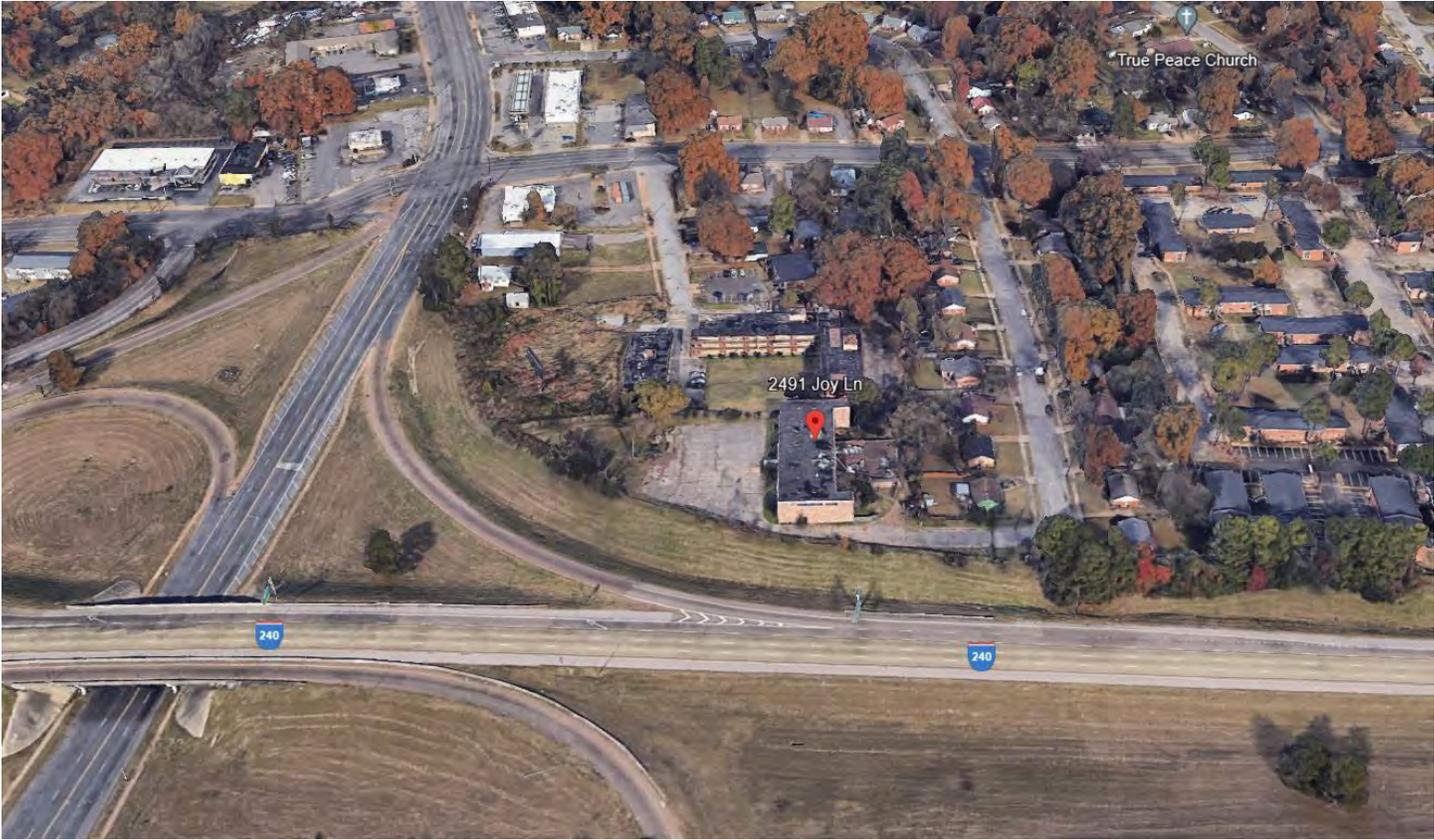
SITE PHOTOS



View of the subject property from I-240 (Avron B. Fogelman Expy) from Front.

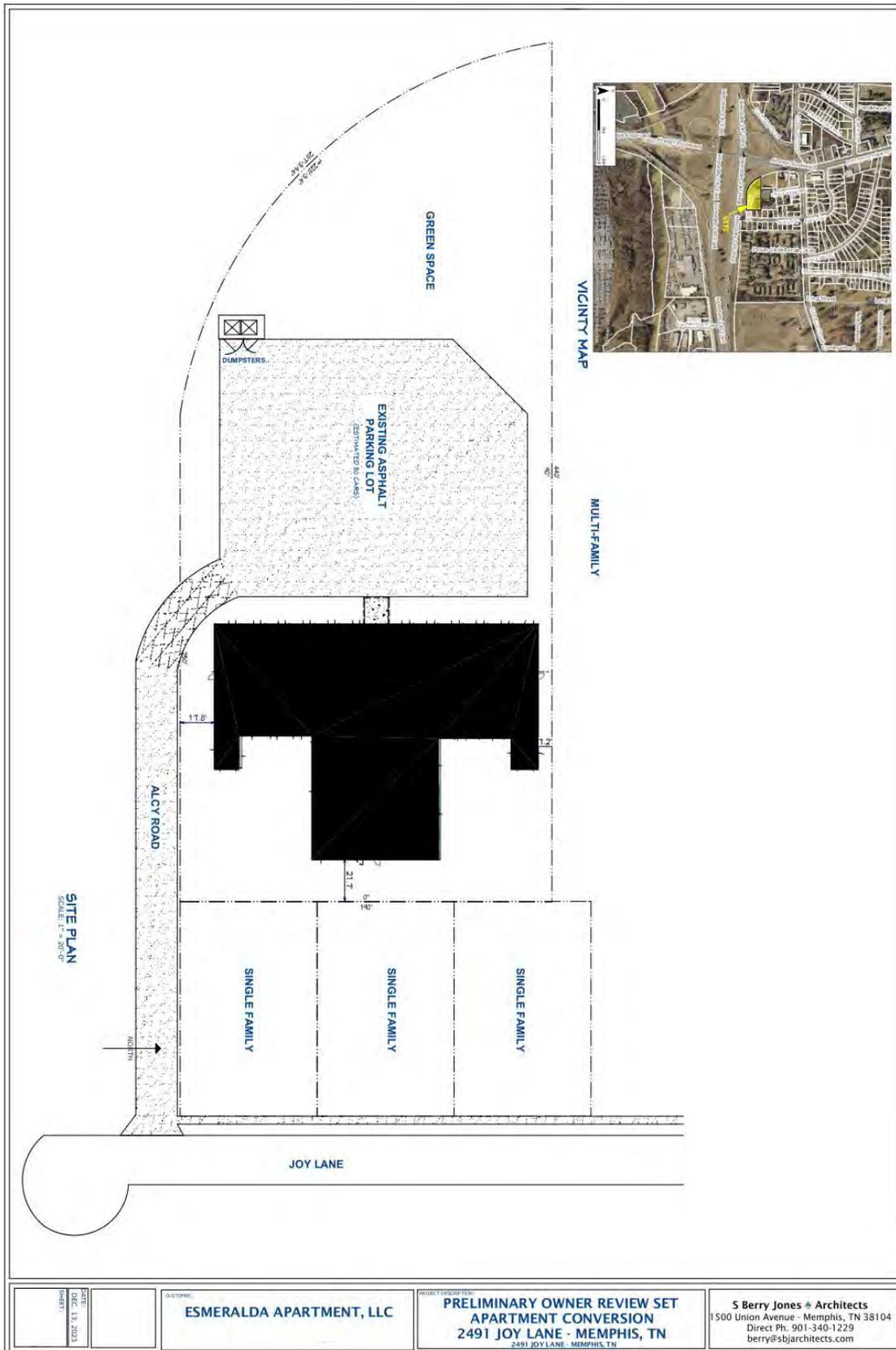


View of the subject property from I-240 (Avron B. Fogelman Expy) from West.



View of the subject property from above.

SITE PLAN



ELEVATIONS

**APARTMENT CONVERSION
 ESMERALDA APARTMENTS
 2491 JOY LANE - MEMPHIS, TN**

2491 JOY LANE - MEMPHIS, TN



UNIT COUNT BY FLOOR

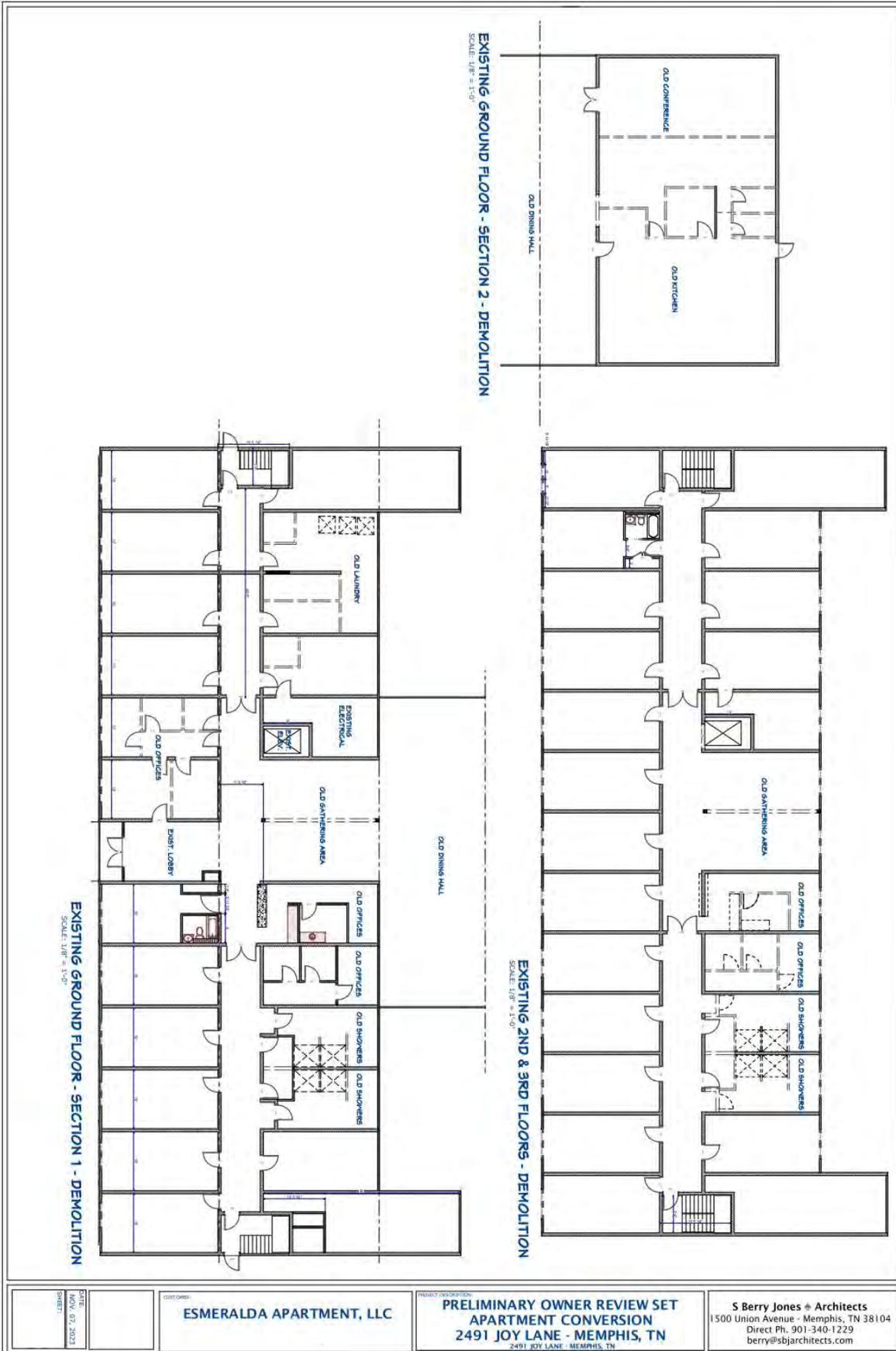
ESMERALDA APARTMENTS									
	NO. OF UNITS	STUDIO UNITS	STUDIO + LOUNGE UNITS	1-BED UNITS	2-BED UNITS	3-BED UNITS	4-BED UNITS	5-BED UNITS	GROSS SF
GROUND FLOOR	30	14	16	2	2	2	2	2	13,860
FLOOR 1	52	22	22	2	2	2	2	2	18,600
FLOOR 2	52	22	22	2	2	2	2	2	18,600
FLOOR 3	52	22	22	2	2	2	2	2	18,600
FLOOR 4	52	22	22	2	2	2	2	2	18,600
FLOOR 5	52	22	22	2	2	2	2	2	18,600
FLOOR 6	52	22	22	2	2	2	2	2	18,600
FLOOR 7	52	22	22	2	2	2	2	2	18,600
FLOOR 8	52	22	22	2	2	2	2	2	18,600
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FLOOR 37	52	22	22	2	2	2	2	2	18,600
FLOOR 38	52	22	22	2	2	2	2	2	18,600
FLOOR 39	52	22	22	2	2	2	2	2	18,600
FLOOR 40	52	22	22	2	2	2	2	2	18,600
FLOOR 41	52	22	22	2	2	2	2	2	18,600
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FLOOR 60	52	22	22	2	2	2	2	2	18,600
FLOOR 61	52	22	22	2	2	2	2	2	18,600
FLOOR 62	52	22	22	2	2	2	2	2	18,600
FLOOR 63	52	22	22	2	2	2	2	2	18,600
FLOOR 64	52	22	22	2	2	2	2	2	18,600
FLOOR 65	52	22	22	2	2	2	2	2	18,600
FLOOR 66	52	22	22	2	2	2	2	2	18,600
FLOOR 67	52	22	22	2	2	2	2	2	18,600
FLOOR 68	52	22	22	2	2	2	2	2	18,600
FLOOR 69	52	22	22	2	2	2	2	2	18,600
FLOOR 70	52	22	22	2	2	2	2	2	18,600
FLOOR 71	52	22	22	2	2	2	2	2	18,600
FLOOR 72	52	22	22	2	2	2	2	2	18,600
FLOOR 73	52	22	22	2	2	2	2	2	18,600
FLOOR 74	52	22	22	2	2	2	2	2	18,600
FLOOR 75	52	22	22	2	2	2	2	2	18,600
FLOOR 76	52	22	22	2	2	2	2	2	18,600
FLOOR 77	52	22	22	2	2	2	2	2	18,600
FLOOR 78	52	22	22	2	2	2	2	2	18,600
FLOOR 79	52	22	22	2	2	2	2	2	18,600
FLOOR 80	52	22	22	2	2	2	2	2	18,600
FLOOR 81	52	22	22	2	2	2	2	2	18,600
FLOOR 82	52	22	22	2	2	2	2	2	18,600
FLOOR 83	52	22	22	2	2	2	2	2	18,600
FLOOR 84	52	22	22	2	2	2	2	2	18,600
FLOOR 85	52	22	22	2	2	2	2	2	18,600
FLOOR 86	52	22	22	2	2	2	2	2	18,600
FLOOR 87	52	22	22	2	2	2	2	2	18,600
FLOOR 88	52	22	22	2	2	2	2	2	18,600
FLOOR 89	52	22	22	2	2	2	2	2	18,600
FLOOR 90	52	22	22	2	2	2	2	2	18,600
FLOOR 91	52	22	22	2	2	2	2	2	18,600
FLOOR 92	52	22	22	2	2	2	2	2	18,600
FLOOR 93	52	22	22	2	2	2	2	2	18,600
FLOOR 94	52	22	22	2	2	2	2	2	18,600
FLOOR 95	52	22	22	2	2	2	2	2	18,600
FLOOR 96	52	22	22	2	2	2	2	2	18,600
FLOOR 97	52	22	22	2	2	2	2	2	18,600
FLOOR 98	52	22	22	2	2	2	2	2	18,600
FLOOR 99	52	22	22	2	2	2	2	2	18,600
FLOOR 100	52	22	22	2	2	2	2	2	18,600

DATE: NOV. 07, 2023
 SHEET: 1

CLIENT: ESMERALDA APARTMENT, LLC

PROJECT DESCRIPTION: PRELIMINARY OWNER REVIEW SET
 APARTMENT CONVERSION
 2491 JOY LANE - MEMPHIS, TN
 2491 JOY LANE - MEMPHIS, TN

S Berry Jones & Architects
 1500 Union Avenue - Memphis, TN 38104
 Direct Ph. 901-340-1229
 berry@sbjarchitects.com



<p>DATE: NOV. 07, 2023 PROJECT:</p>	<p>CLIENT: ESMERALDA APARTMENT, LLC</p>	<p>PROJECT DESCRIPTION: PRELIMINARY OWNER REVIEW SET APARTMENT CONVERSION 2491 JOY LANE - MEMPHIS, TN <small>2491 JOY LANE - MEMPHIS, TN</small></p>	<p>S Berry Jones + Architects 1500 Union Avenue - Memphis, TN 38104 Direct Ph. 901-340-1229 berry@sbjarchitects.com</p>
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DATE:
 NOV. 02, 2023
 SHEET:

ESMERALDA APARTMENT, LLC

PROJECT LOCATION:
PRELIMINARY OWNER REVIEW SET
APARTMENT CONVERSION
2491 JOY LANE - MEMPHIS, TN
 2491 JOY LANE - MEMPHIS, TN

S Berry Jones Architects
 1500 Union Avenue - Memphis, TN 38104
 Direct Ph. 901-340-1229
 berry@sbjarchitects.com

UNIT VIEW



OVERHEAD VIEW TYPICAL UNIT

VIEW TYPICAL UNIT

VIEW TYPICAL UNIT

<p>DATE: NOV. 07, 2023 SHEET:</p>	<p>CUSTOMER: ESMERALDA APARTMENT, LLC</p>	<p>PROJECT DESIGN TYPE: PRELIMINARY OWNER REVIEW SET APARTMENT CONVERSION 2491 JOY LANE - MEMPHIS, TN 2491 JOY LANE - MEMPHIS, TN</p>	<p>S Berry Jones Architects 1500 Union Avenue - Memphis, TN 38104 Direct Ph: 901-340-1229 berry@sbjarchitects.com</p>
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STAFF ANALYSIS

Request

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

The request is for a conversion of an existing abandoned assisted living facility into 80 studio apartments.

Approval Criteria

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

9.6.9 Approval Criteria

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

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

Site Description

The subject property is +/-34,029 SF located at 2491 Joy Lane, Memphis, TN 38114.

This strategic location was chosen based on various factors, including its proximity to schools, parks, public transportation, hospitals, and the evolving housing needs of the community. Additionally, it is conveniently located just 15 minutes away from Downtown Memphis. The site is easily accessible from major thoroughfares and is consistent with the long-term land use and zoning goal of the region.

Previous Special USE Permit Approval

The Council of the City of Memphis previously approved a special use permit (SUP 201-209) on September 06, 2011, for this site to be used as a juvenile transitional housing facility, see pages 30-34 of this report for resolution and site plan.

Site Zoning History

The current zoning is Commercial Mixed Use (CMU-3). The site has previously been used for a hotel, nursing home facility, and the aforementioned juvenile transitional housing facility.

Site Plan Review

The subject property is +/-34,029 SF.

The current zoning is Commercial Mixed Use (CMU-3).

There will be a total of 80 units.

The building is a 3-floor apartment complex.

The apartment complex includes studio units, studio + units, king units, 2BR units, and queen units.

Access will be provided from Alcy Road.

The building appears to meet all required minimum building setbacks and maximum building height requirements.

Parking will have to be provided on site at a ratio provided in the unified development code.

Landscaping and screening requirement found in the UDC must also be met.

Conclusions

The reuse of this existing building for apartments is consistent with prior uses for this site. This use actually reintroduces a residential component versus a number of uses that could be provided on this site that would potentially not be as compatible with the abutting single family homes due to the CMU-3 zoning designation currently existing.

RECOMMENDATION

Staff recommends approval with conditions.

Conditions:

1. A total of 80 studio apartments are permitted in the existing building.
2. A final site plan shall be provided that demonstrates site plan compliance including, but not limited to: landscaping, screening, parking, compliance with building setback and height requirements, lighting, and any other development standards that are applicable according to article 4 of the unified development code.

DEPARTMENTAL COMMENTS

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

City Engineer:

1. Standard Public Improvement Contract or Right-Of-Way Permit as required in Section 5.5.5 of the Unified Development Code.

Sewers:

2. The availability of City sanitary sewer is unknown at this time. Once the developer has submitted proposed sewer discharge rates to the City's Sewer Design Dept, a determination can be made as to available sewer capacity.

Roads:

3. 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.

4. 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:

5. 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.

6. 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.

7. 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:

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

9. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter, and sidewalk.

Drainage:

10. 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.

11. 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.

12. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.

13. 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.

14. 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.

General Notes:

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

16. Development is greater than 1 acre. Detention is required.

17. No other utilities or services may occupy sanitary sewer easements in private drives and yards except for crossings.

18. All connections to the sewer shall be at manholes only.

19. 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.

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

City Fire Division:

- All design and construction shall comply with the 2021 edition of the International Fire Code (as locally amended) and referenced standards.
- Fire apparatus access shall comply with section 503.

- Where security gates are installed that affect required fire apparatus access roads, they shall comply with section 503.6 (as amended).
- Fire protection water supplies (including fire hydrants) shall comply with section 507.
- Where fire apparatus access roads or a water supply for fire protection are required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when approved alternate methods of protection are provided.
- IFC 510 In-building two-way emergency responder communication coverage shall be provided in all new and existing buildings. Buildings and structures that cannot support the required level of coverage shall be equipped with systems and components to enhance signals and achieve the required level of communication coverage.
- A detailed plans review will be conducted by the Memphis Fire Prevention Bureau upon receipt of complete construction documents. Plans shall be submitted to the Shelby County Office of Code Enforcement.

City Real Estate: No comments received.

City/County Health Department: No comments received.

Shelby County Schools: No comments received.

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water: No comments received.

Office of Sustainability and Resilience: No comments received.

Office of Comprehensive Planning:

This summary is being produced in response to the following application to support the Land Use and Development Services department in their recommendation: [SUP 23 -028 Airport Adjacent](#)

Site Address/Location: 2491 Joy Lane

Overlay District/Historic District/Flood Zone: Not in an Overlay District, Historic District, or Flood Zone

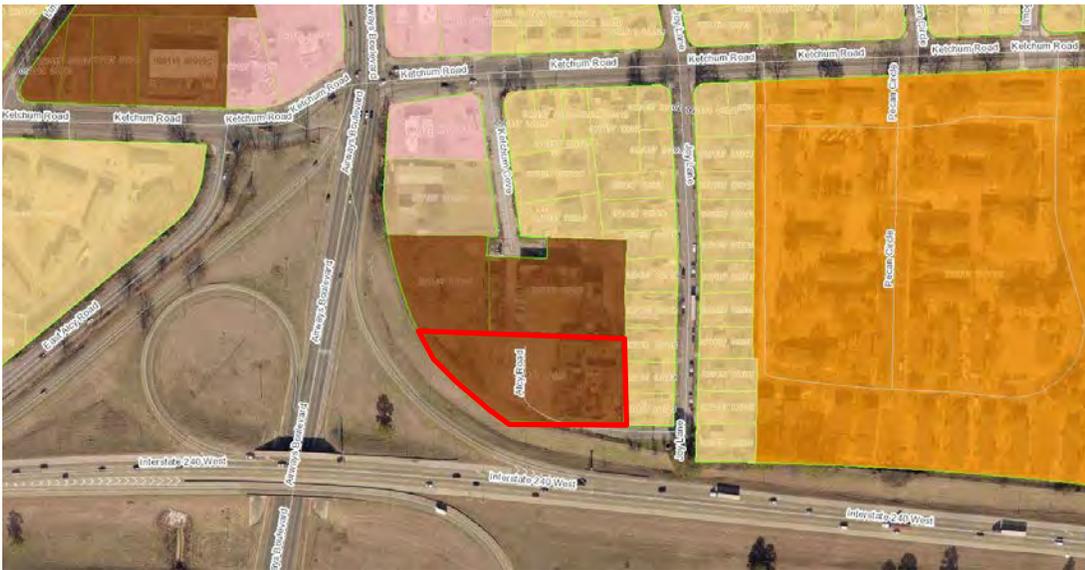
Future Land Use Designation: High Intensity Commercial & Services (CSH)

Street Type: N/A

The applicant is seeking a special use permit to allow apartments in the Commercial Mixed Use-3 (CMU-3) Districts.

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 site on the Future Land Use Map.

2. Land Use Description/Intent

High Intensity Commercial and Service areas typically not associated with anchors. These areas may include commercial uses that serve a larger trade area; this may include large-scale retail, self-storage, vehicle sales, leasing and repair, water-oriented services, lodging, indoor recreation, and social service institutions. Graphic portrayal of CSH is to the right.



“CSH” Form & Location Characteristics

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

“CSH” Zoning Notes

Generally compatible with the following zone districts: CMU-2, CMU-3 without frontage requirements, C-G in accordance with Form and characteristics listed above.

Existing, Adjacent Land Use and Zoning

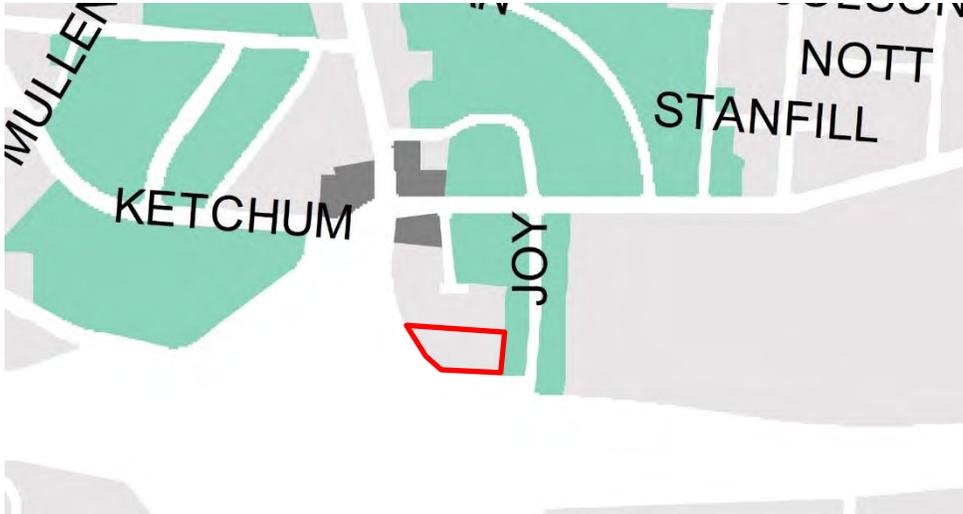
Existing Land Use and Zoning: Multi-Family, CMU-3

Adjacent Land Use and Zoning: Commercial, Single-Family, Vacant, Multi-Family; CMU-3, R-15 RU-3, CMU-1

Overall Compatibility: *The requested use is not compatible with the land use description/intent, form & location characteristics, zoning notes, as the proposed use is a multi-family apartment. However, the proposed use is compatible with the existing and adjacent land uses and the proposed development will act as an adaptive reuse of the former*

nursing home. Additionally, the proposal will serve as a buffer between the low intensity single-family residences and the high intensity interstate highway system.

Degree of Change Map



Red polygon denotes the proposed site on the Degree of Change Map. There is no Degree of Change.

3. Degree of Change Description

N/A

4. Objectives/Actions Consistent with Goal 1, Complete, Cohesive, Communities

NA

5. Pertinent Sections of Memphis 3.0 that Address Land Use Recommendations

NA

Consistency Analysis Summary

The applicant is seeking a special use permit to allow apartments in the Commercial Mixed Use-3 (CMU-3) Districts.

The requested use is not compatible with the land use description/intent, form & location characteristics, zoning notes, as the proposed use is a multi-family apartment. However, the proposed use is compatible with the existing and adjacent land uses and the proposed development will act as an adaptive reuse of the former nursing home. Additionally, the proposal will serve as a buffer between the low intensity single-family residences and the high intensity interstate highway system.

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

APPLICATION



Record Summary for Special Use Permit

Record Detail Information

Record Type: Special Use Permit

Record Status: Processing

Opened Date: November 7, 2023

Record Number: SUP 2023-028

Expiration Date:

Record Name: Esmeralda Apartments

Description of Work: Conversion of an existing abandoned assisted living facility into 80 studio apartments.

Parent Record Number:

Address:

2491 JOY LN, MEMPHIS 38114

Owner Information

Primary Owner Name

Y ESMERALDA APARTMENT LLC

Owner Address

0 PO BOX 20242, CLEVELAND, OH 44120

Owner Phone

8122398734

Parcel Information

060137 00163

Data Fields

PREAPPLICATION MEETING

Name of OPD Planner

brianna

Date of Meeting

11/03/2023

Pre-application Meeting Type

Phone

GENERAL PROJECT INFORMATION

Application Type

New Special Use Permit (SUP)

GENERAL PROJECT INFORMATION

List any relevant former Docket / Case Number(s) related to previous applications on this site -

Is this application in response to a citation, stop work order, or zoning letter 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

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 No building already exist and has been used as a housing facility since its construction in 1970's.

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 Yes.

UDC Sub-Section 9.6.9C Yes this project will be served adequately.
 UDC Sub-Section 9.6.9D Yes that is correct - this project will not result in destruction of any kind

UDC Sub-Section 9.6.9E Yes this requirement will be met or exceeded.
 UDC Sub-Section 9.6.9F Yes this statement is correct. There will be no adverse effects from this project.

GIS INFORMATION

Case Layer -
 Central Business Improvement District No
 Class -
 Downtown Fire District No
 Historic District -
 Land Use -
 Municipality -
 Overlay/Special Purpose District -
 Zoning -
 State Route -
 Lot -
 Subdivision -
 Planned Development District -
 Wellhead Protection Overlay District No

Contact Information

Name	Contact Type
ESMERALDA APARTMENT LLC	APPLICANT
Address	

Phone
(812)239-8734

Fee Information

Invoice #	Fee Item	Quantity	Fees	Status	Balance	Date Assessed
1516301	Special Use Permit Fee - 5 acres or less (Base Fee)	1	500.00	INVOICED	0.00	11/07/2023
1516301	Credit Card Use Fee (.026 x fee)	1	13.00	INVOICED	0.00	11/07/2023

Total Fee Invoiced: \$513.00

Total Balance: \$0.00

Payment Information

Payment Amount	Method of Payment
\$513.00	Credit Card

LETTER OF INTENT

Esmeralda Apartment LLC
2491 Joy Lane, Memphis, TN 38114
901-402-4444
11/01/2023

Memphis and Shelby County, Division of Planning and Development
City Hall, 125 N. Main Street, Suite 468, Memphis, TN 38103
901-636-6619

Subject: Letter of Intent for Special Use Permit Application – Residential Building

To whom it may concern,

We express our intent to apply for a Special Use Permit for the development of a former nursing home located at 2491 Joy Lane, Memphis, TN 38114. This Letter of Intent outlines the nature, location, and extent of the proposed development and the market it is intended to serve.

Nature of Development:

Our proposed development is a multi-unit residential apartment building, designed to provide high-quality, sustainable housing options to the residents of Memphis. The building will consist of three stories and include a Laundry Room. The primary objective of this development is to meet the growing demand for high quality residential housing within the Memphis City.

Location:

The Development site is situated at 2491 Joy Lane, Memphis, TN 38114, within the jurisdiction of Memphis and Shelby County. This strategic location was chosen based on various factors, including its proximity to schools, parks, public transportation, hospitals, and the evolving housing needs of the community. Additionally, it is conveniently located just 15 minutes away from Downtown

Memphis. The site is easily accessible from major thoroughfares and is consistent with the long-term land use and zoning goal of the region.

Extent of Development:

The proposed development encompasses an approximate area of 34,029 Sq Ft. and is expected to be completed in multiple phases over a period of three years. We aim to create a sustainable and aesthetically pleasing environment that harmonizes with the local community while meeting the needs of our target market.

Market It is Intended to Serve:

Our primary objective is to address to the housing needs of young professionals, families, or seniors, offering affordable housing that will appeal to the target market. We believe that this development aligns with the growing demand for quality housing options in Memphis. Our project's design and amenities have been carefully considered to meet the needs and preferences of our target market.

In accordance with the requirements of the City of Memphis and Shelby County, we intend to submit a formal application for a Special Use Permit to facilitate this development. We understand the importance of adhering to local regulations and will work closely with the relevant departments to ensure that our project in compliance with all applicable zoning and land use regulations.

Please consider this Letter of Intent as the initial step in our application process for the Special Use Permit. We look forward to initiating the Special Use Permit application process and working closely with your department to address any questions or concerns. Please feel free to contact us if you require any additional information or clarification.

Sincerely,

Esmeralda Apartment LLC.

SIGN AFFIDAVIT



AFFIDAVIT

Shelby County
State of Tennessee

I, S. BERRY LANE, being duly sworn, depose and say that at 12:00 am/pm on the 26 day of JANUARY, 2024, I posted 1 Public Notice Sign(s) pertaining to Case No. 23-028 at 2491 JOY LANE, providing notice of a Public Hearing before the (check one):

- Land Use Control Board
- Board of Adjustment
- Memphis City Council
- Shelby County Board of Commissioners

for consideration of a proposed land use action, 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

JAN 26, 2024
Date

Subscribed and sworn to before me this 26th day of January, 2024.

[Signature]
Notary Public

My commission expires: 06/07/2027



**PREVIOUS RESOLUTION THAT PERMITTED THE OPERATION OF A JUVENILE TRANSITIONAL HOUSING FACILITY
(SUP 2011-209)**

ZONING RESOLUTION

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 subject to standards of general applicability and any additional standards applicable to specific special uses in the various zoning districts within the Memphis City Limits, and

WHEREAS, Application has been made by Tennessee Learning Academy for a special use permit to allow a Juvenile Transitional Housing Facility with respect to the property located at the northwest intersection of Joy Lane and Interstate-240; and

WHEREAS, The Office of Planning and Development has received and reviewed the application in accordance with procedures, objectives and standards for special use permits as set forth in Section 9.6.9 and reported said findings and recommendations to the Land Use Control Board; and

WHEREAS, A public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on July 14, 2011, and said Board has studied and reported its recommendation to the City Council regarding the following potential effects of granting the Special Use Permit:

- 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.

WHEREAS, The Memphis and Shelby County Land Use Control Board and the Memphis and Shelby County Office of Planning and Development has recommended certain conditions be attached to the special use permit to reduce any potential adverse impacts of the proposed building or use on the neighborhood, adjacent properties, public facilities and significant natural, scenic or historic features; and

WHEREAS, The Memphis and Shelby County Land Use Control Board has also determined that the proposed building or use complies with all additional standards imposed on it by the particular provision of Chapter 9.6 authorizing such particular special use.

NOW, THEREFORE, BE IT RESOLVED By the Council of the City of Memphis that a special use permit is hereby granted in accordance with the site plan incorporated in the application, and subject to attached conditions.

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

ATTEST:

cc: Office of Code Enforcement
City Engineer
OPD – LUC ✓
OPD – LUC (East)
County Assessor

SUP 11-209

Juvenile Transitional Housing Facility Special Use Permit

I hereby certify that the foregoing is a true copy
and document was adopted, approved by the
Council of the City of Memphis in regular
session on

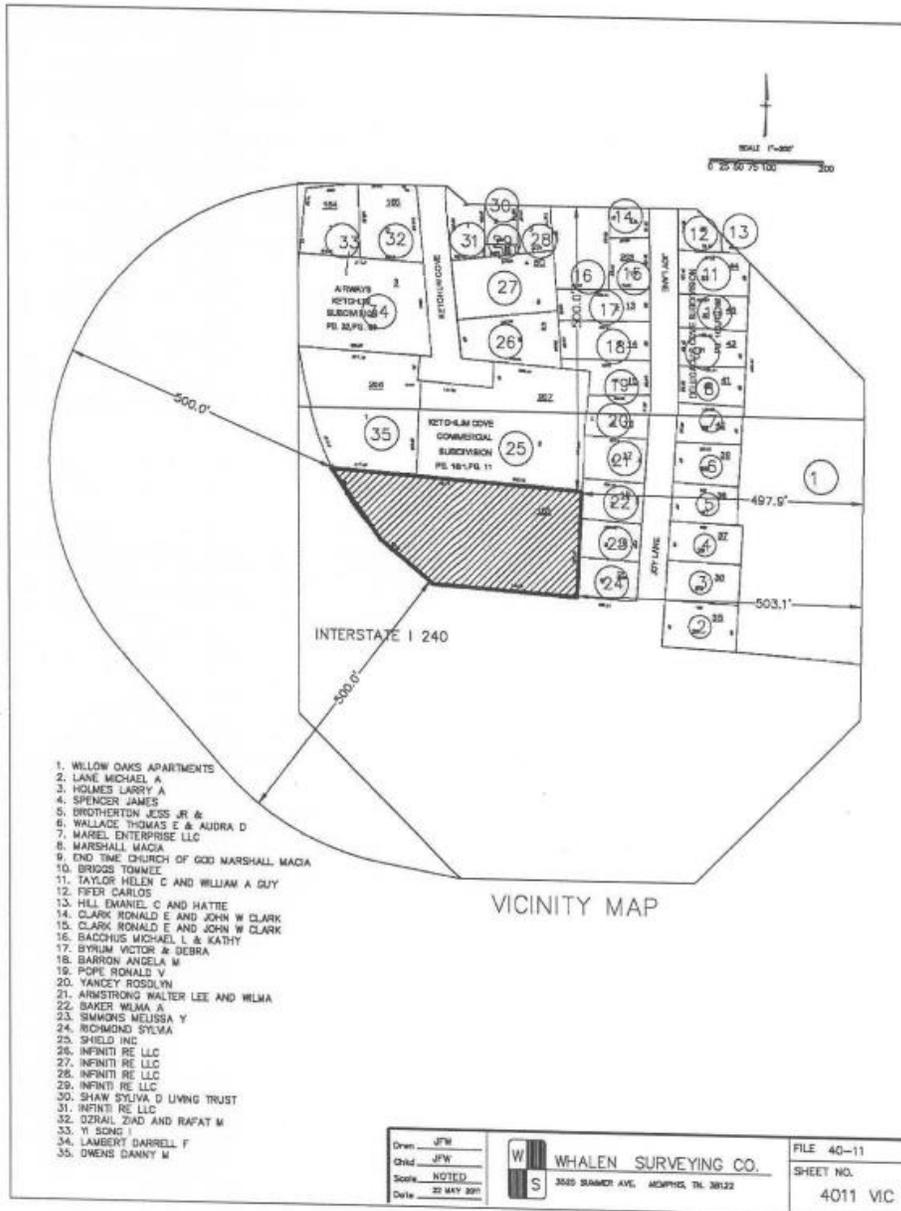
Date SEP 06 2011
Valerie C. Sripes
Deputy Comptroller-Council Records

SUP 11-209
Page 3

SITE PLAN CONDITIONS:

A **Special Use Permit** is hereby authorized to allow a **Juvenile Transitional Housing Facility** on the property located at the **2491 Joy Lane, northwest intersection of Joy Lane and Interstate-240**, in accordance with the approved site plan and the following supplemental conditions:

1. Final SUP site plan approval shall be contingent upon the driveway area shown as the east/west segment of Joy Lane on the Official City Map being acquired and added within the boundaries of the site plan.
2. The proposed site plan with the existing building, parking, and landscape buffering, signage is approved as is. Any changes to the site, parking addition or building expansion shall require the approval of a new site plan in conformance development standards of the Unified Development Code.
3. Signage shall be regulated by the CMU-3 District and no signage facing the residential neighborhood shall be illuminated.
4. Lighting on the site adjacent to the northern and eastern property lines shall be limited to what is customary for a residential site (ie., a motion detector or security light mounted on a MLGW pole).
5. Any refuse dumpster shall be screened from the view of traffic on the adjoining streets and from adjoining properties.
6. A new site plan that reflects the location and type of fencing along the perimeter of the site, the location of existing mature trees and scrubs, existing detached sign (size & height), trash dumpster, entrance gate and driveway width, and number parking space with dimensions shall be submitted for review and approval by OPD prior this application being forwarded to the Memphis City Council for final disposition.
7. The applicant shall submit to OPD verification of meeting all local and state licensing requirements for operation of a Juvenile Transitional Housing Facility prior to the issuance of a final Certificate of Occupancy for this site at 2491 Joy Lane.



POSY 1902
 2/8/24

LETTERS RECEIVED

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



Record Summary for Special Use Permit

Record Detail Information

Record Type: Special Use Permit

Record Status: Processing

Opened Date: November 7, 2023

Record Number: SUP 2023-028

Expiration Date:

Record Name: Esmeralda Apartments

Description of Work: Conversion of an existing abandoned assisted living facility into 80 studio apartments.

Parent Record Number:

Address:

2491 JOY LN, MEMPHIS 38114

Owner Information

Primary Owner Name

Y ESMERALDA APARTMENT LLC

Owner Address

0 PO BOX 20242, CLEVELAND, OH 44120

Owner Phone

8122398734

Parcel Information

060137 00163

Data Fields

PREAPPLICATION MEETING

Name of OPD Planner

brianna

Date of Meeting

11/03/2023

Pre-application Meeting Type

Phone

GENERAL PROJECT INFORMATION

Application Type

New Special Use Permit (SUP)

GENERAL PROJECT INFORMATION

List any relevant former Docket / Case Number(s) related to previous applications on this site -

Is this application in response to a citation, stop work order, or zoning letter 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

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 No building already exist and has been used as a housing facility since its construction in 1970's.

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 Yes.

UDC Sub-Section 9.6.9C Yes this project will be served adequately.
UDC Sub-Section 9.6.9D Yes that is correct - this project will not result in destruction of any kind

UDC Sub-Section 9.6.9E Yes this requirement will be met or exceeded.
UDC Sub-Section 9.6.9F Yes this statement is correct. There will be no adverse effects from this project.

GIS INFORMATION

- Case Layer -
- Central Business Improvement District No
- Class -
- Downtown Fire District No
- Historic District -
- Land Use -
- Municipality -
- Overlay/Special Purpose District -
- Zoning -
- State Route -
- Lot -
- Subdivision -
- Planned Development District -
- Wellhead Protection Overlay District No

Contact Information

Name
ESMERALDA APARTMENT LLC
Address

Contact Type
APPLICANT

Phone

(812)239-8734

Fee Information

Invoice #	Fee Item	Quantity	Fees	Status	Balance	Date Assessed
1516301	Special Use Permit Fee - 5 acres or less (Base Fee)	1	500.00	INVOICED	0.00	11/07/2023
1516301	Credit Card Use Fee (.026 x fee)	1	13.00	INVOICED	0.00	11/07/2023

Total Fee Invoiced: \$513.00

Total Balance: \$0.00

Payment Information

Payment Amount	Method of Payment
\$513.00	Credit Card

Esmeralda Apartment LLC
2491 Joy Lane, Memphis, TN 38114
901-402-4444
11/01/2023

Memphis and Shelby County, Division of Planning and Development
City Hall, 125 N. Main Street, Suite 468, Memphis, TN 38103
901-636-6619

Subject: Letter of Intent for Special Use Permit Application – Residential Building

To whom it may concern,

We express our intent to apply for a Special Use Permit for the development of a former nursing home located at 2491 Joy Lane, Memphis, TN 38114. This Letter of Intent outlines the nature, location, and extent of the proposed development and the market it is intended to serve.

Nature of Development:

Our proposed development is a multi-unit residential apartment building, designed to provide high-quality, sustainable housing options to the residents of Memphis. The building will consist of three stories and include a Laundry Room. The primary objective of this development is to meet the growing demand for high quality residential housing within the Memphis City.

Location:

The Development site is situated at 2491 Joy Lane, Memphis, TN 38114, within the jurisdiction of Memphis and Shelby County. This strategic location was chosen based on various factors, including its proximity to schools, parks, public transportation, hospitals, and the evolving housing needs of the community. Additionally, it is conveniently located just 15 minutes away from Downtown

Memphis. The site is easily accessible from major thoroughfares and is consistent with the long-term land use and zoning goal of the region.

Extent of Development:

The proposed development encompasses an approximate area of 34,029 Sq Ft. and is expected to be completed in multiple phases over a period of three years. We aim to create a sustainable and aesthetically pleasing environment that harmonizes with the local community while meeting the needs of our target market.

Market It is Intended to Serve:

Our primary objective is to address to the housing needs of young professionals, families, or seniors, offering affordable housing that will appeal to the target market. We believe that this development aligns with the growing demand for quality housing options in Memphis. Our project's design and amenities have been carefully considered to meet the needs and preferences of our target market.

In accordance with the requirements of the City of Memphis and Shelby County, we intend to submit a formal application for a Special Use Permit to facilitate this development. We understand the importance of adhering to local regulations and will work closely with the relevant departments to ensure that our project in compliance with all applicable zoning and land use regulations.

Please consider this Letter of Intent as the initial step in our application process for the Special Use Permit. We look forward to initiating the Special Use Permit application process and working closely with your department to address any questions or concerns. Please feel free to contact us if you require any additional information or clarification.

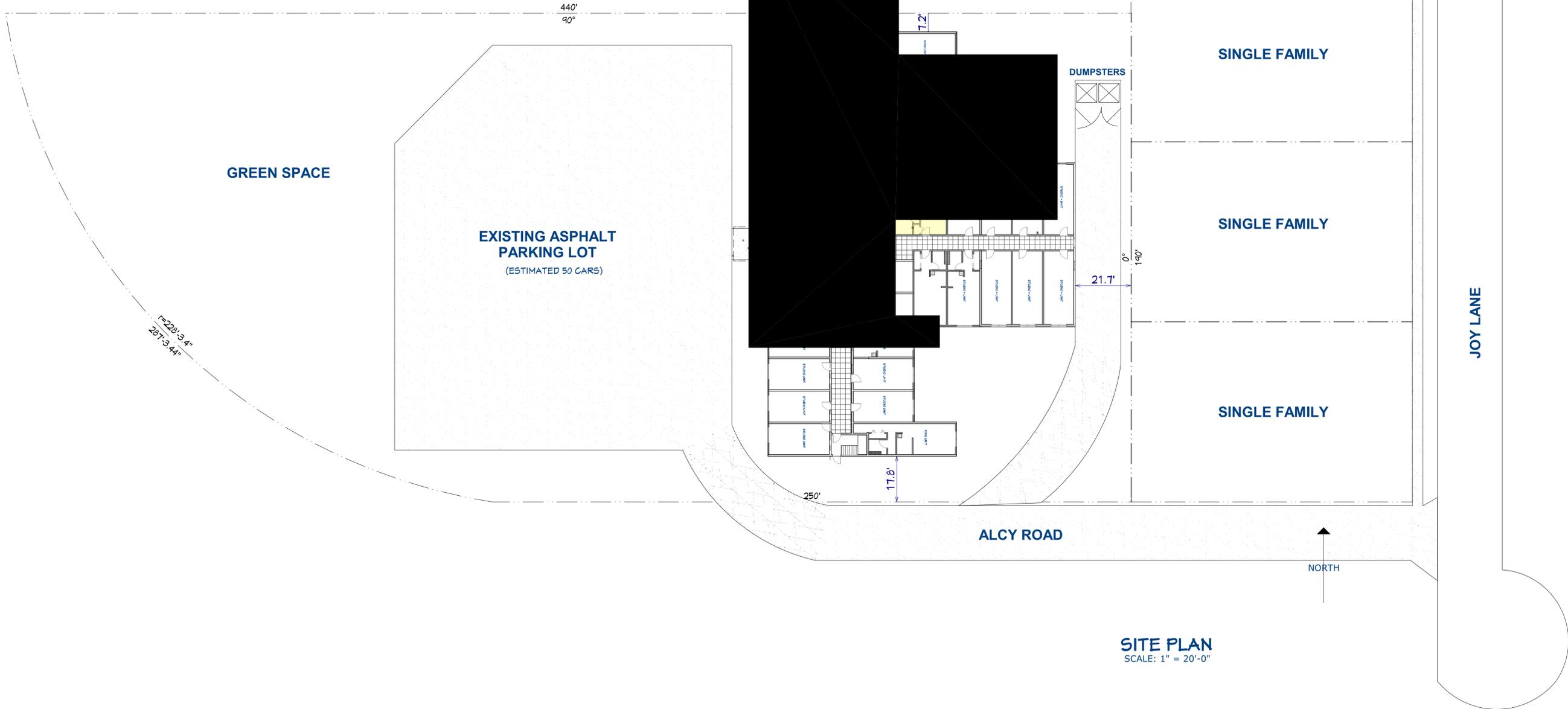
Sincerely,

Esmeralda Apartment LLC.

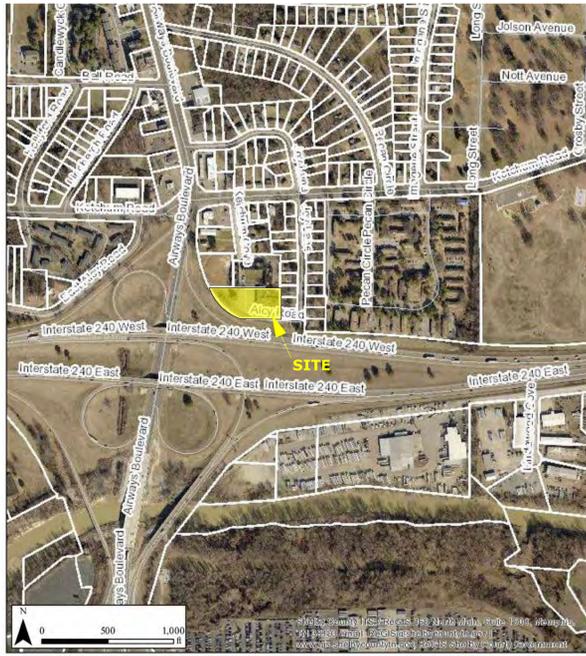


VICINITY MAP

MULTI-FAMILY

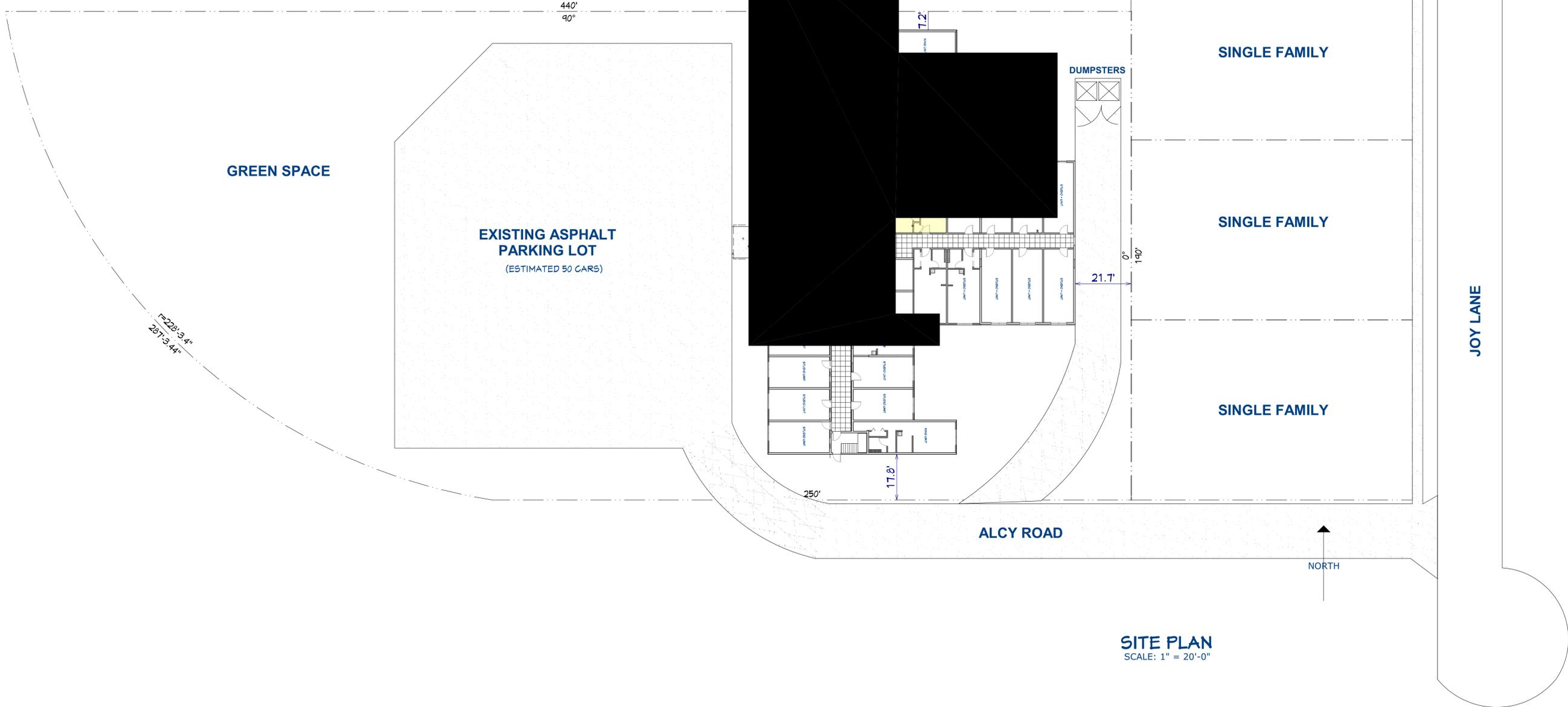


SITE PLAN
SCALE: 1" = 20'-0"



VICINITY MAP

MULTI-FAMILY



SITE PLAN
SCALE: 1" = 20'-0"

APARTMENT CONVERSION ESMERALDA APARTMENTS 2491 JOY LANE - MEMPHIS, TN

2491 JOY LANE - MEMPHIS, TN



UNIT COUNT BY FLOOR

ESMERALDA APARTMENTS							
	NO. OF UNITS	STUDIO UNITS	STUDIO + UNITS	KING UNITS	2BR UNITS	QUEEN UNITS	GROSS SF
GROUND FLOOR	30	16	10	2	2		13,965
SECOND FLOOR	25	22		2		1	9,960
THIRD FLOOR	25	22		2		1	9,960
TOTALS	80	60	10	6	2	2	33,885 SF

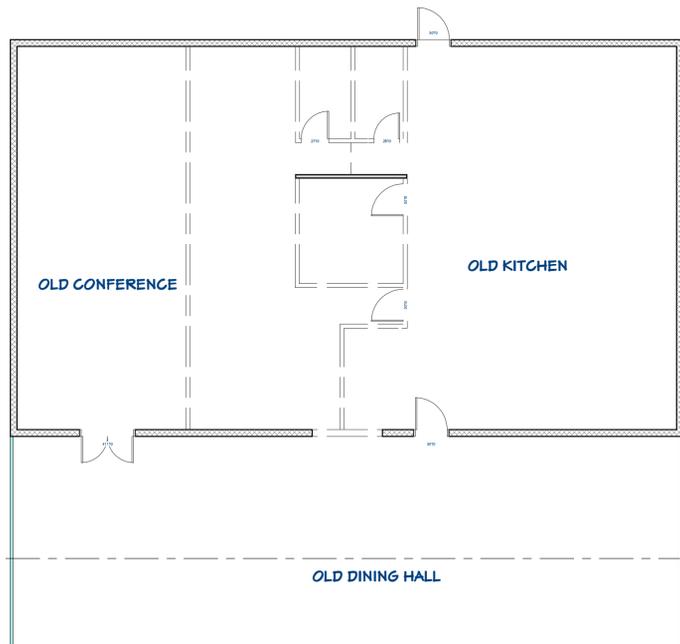
S Berry Jones Architects
1500 Union Avenue - Memphis, TN 38104
Direct Ph. 901-340-1229
berry@sbjarchitects.com

PROJECT DESCRIPTION:
PRELIMINARY OWNER REVIEW SET
APARTMENT CONVERSION
2491 JOY LANE - MEMPHIS, TN
2491 JOY LANE - MEMPHIS, TN

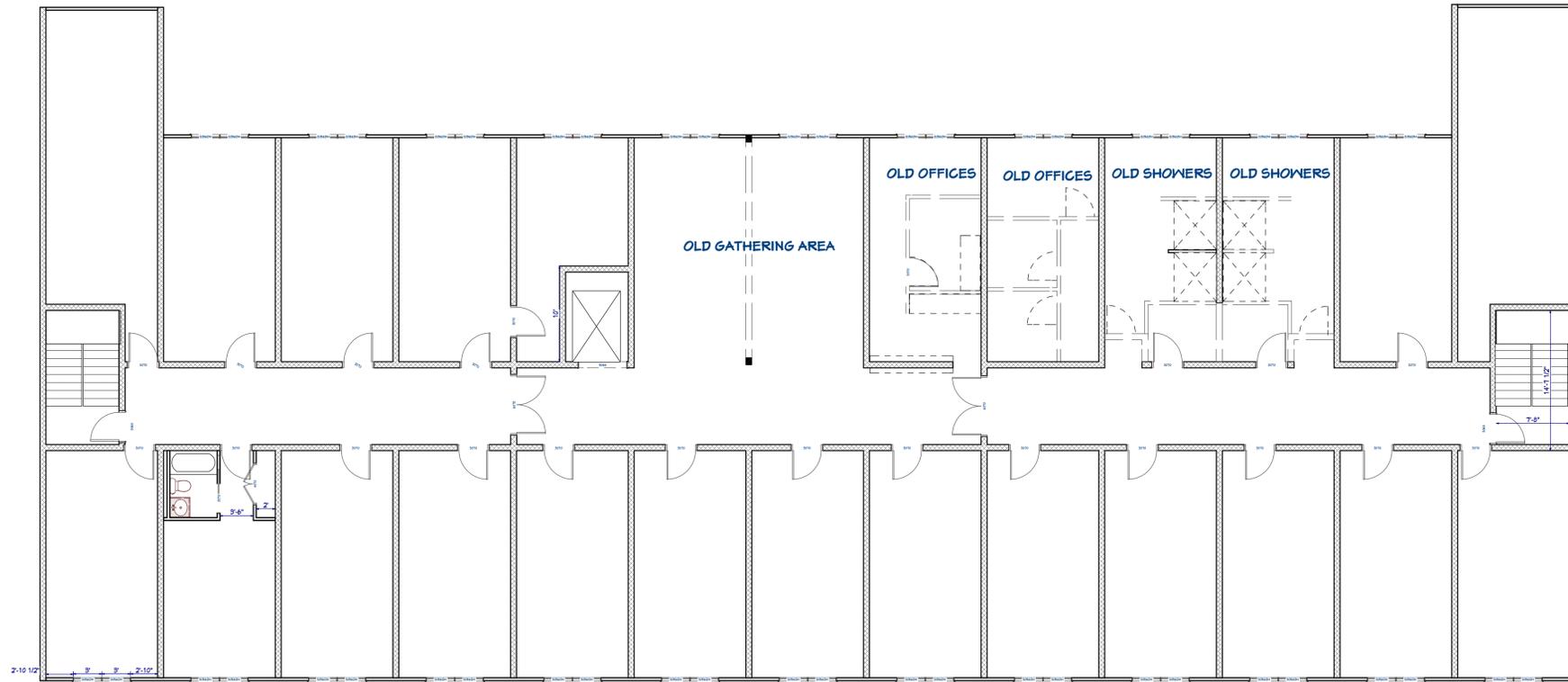
CUSTOMER:
ESMERALDA APARTMENT, LLC

DATE:
NOV. 07, 2023

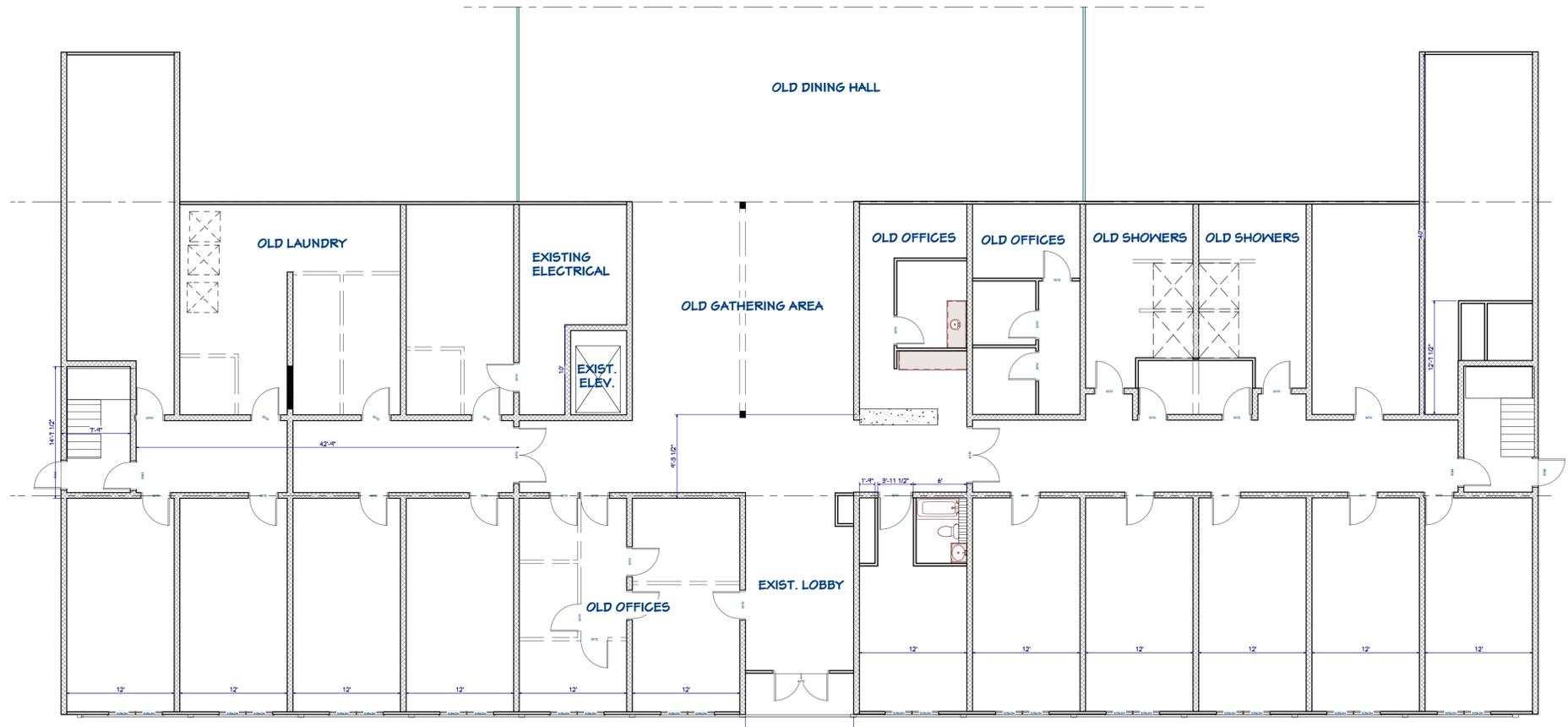
SHEET:



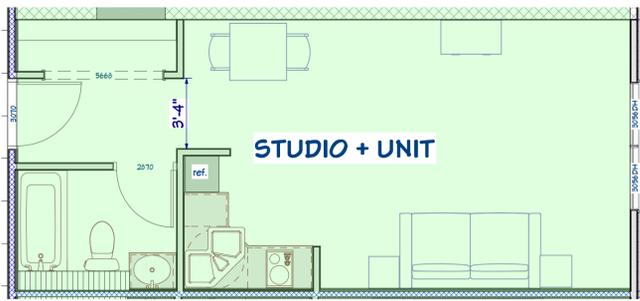
EXISTING GROUND FLOOR - SECTION 2 - DEMOLITION
SCALE: 1/8" = 1'-0"



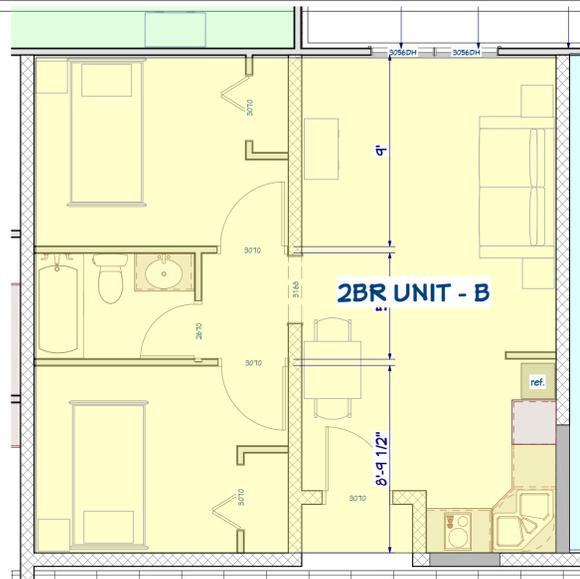
EXISTING 2ND & 3RD FLOORS - DEMOLITION
SCALE: 1/8" = 1'-0"



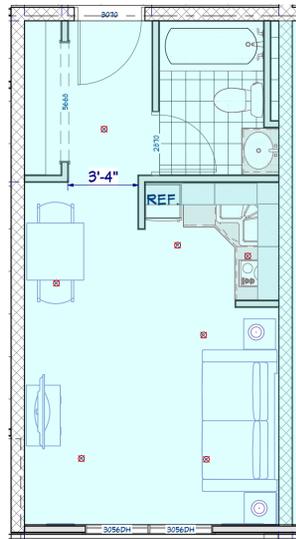
EXISTING GROUND FLOOR - SECTION 1 - DEMOLITION
SCALE: 1/8" = 1'-0"



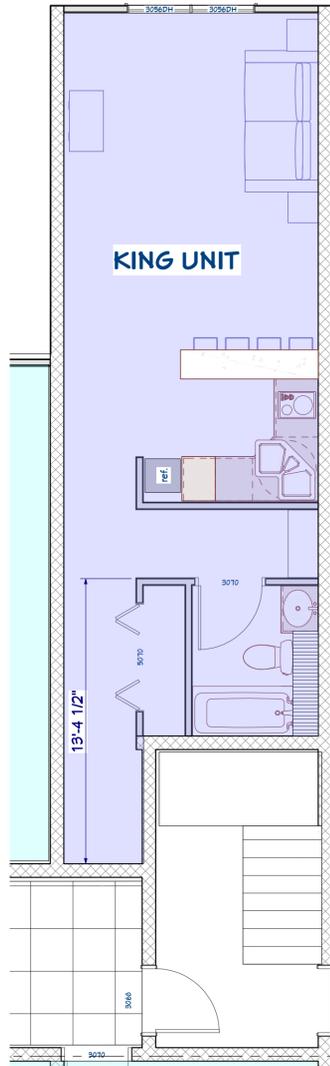
STUDIO + UNIT - 3805F
SCALE: 1/4" = 1'-0"



2BR UNIT B - 6005F
SCALE: 1/4" = 1'-0"



STUDIO UNIT - 3055F
SCALE: 1/4" = 1'-0"



KING UNIT - 4305F
SCALE: 1/4" = 1'-0"



NEW GROUND FLOOR PLAN
SCALE: 1/8" = 1'-0"

UNIT COUNT BY FLOOR

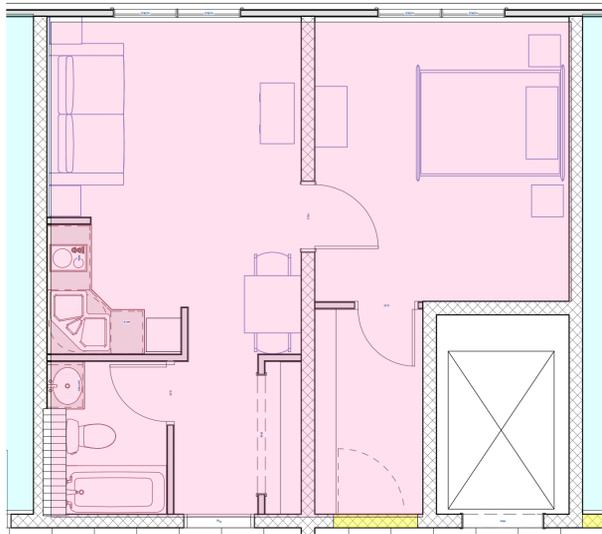
ESMERALDA APARTMENTS							
	NO. OF UNITS	STUDIO UNITS	STUDIO + UNITS	KING UNITS	2BR UNITS	QUEEN UNITS	GROSS SF
GROUND FLOOR	30	16	10	2	2		13,965
SECOND FLOOR	25	22		2		1	9,960
THIRD FLOOR	25	22		2		1	9,960
TOTALS	80	60	10	6	2	2	33,885 SF

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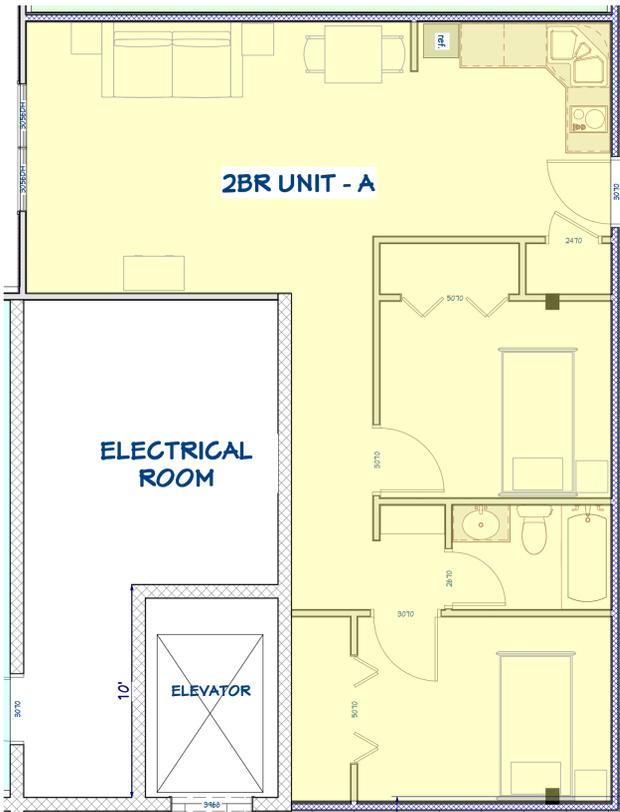
PROJECT DESCRIPTION:
PRELIMINARY OWNER REVIEW SET
APARTMENT CONVERSION
2491 JOY LANE - MEMPHIS, TN
2491 JOY LANE - MEMPHIS, TN

CUSTOMER:
ESMERALDA APARTMENT, LLC

DATE:
NOV. 07, 2023
SHEET:



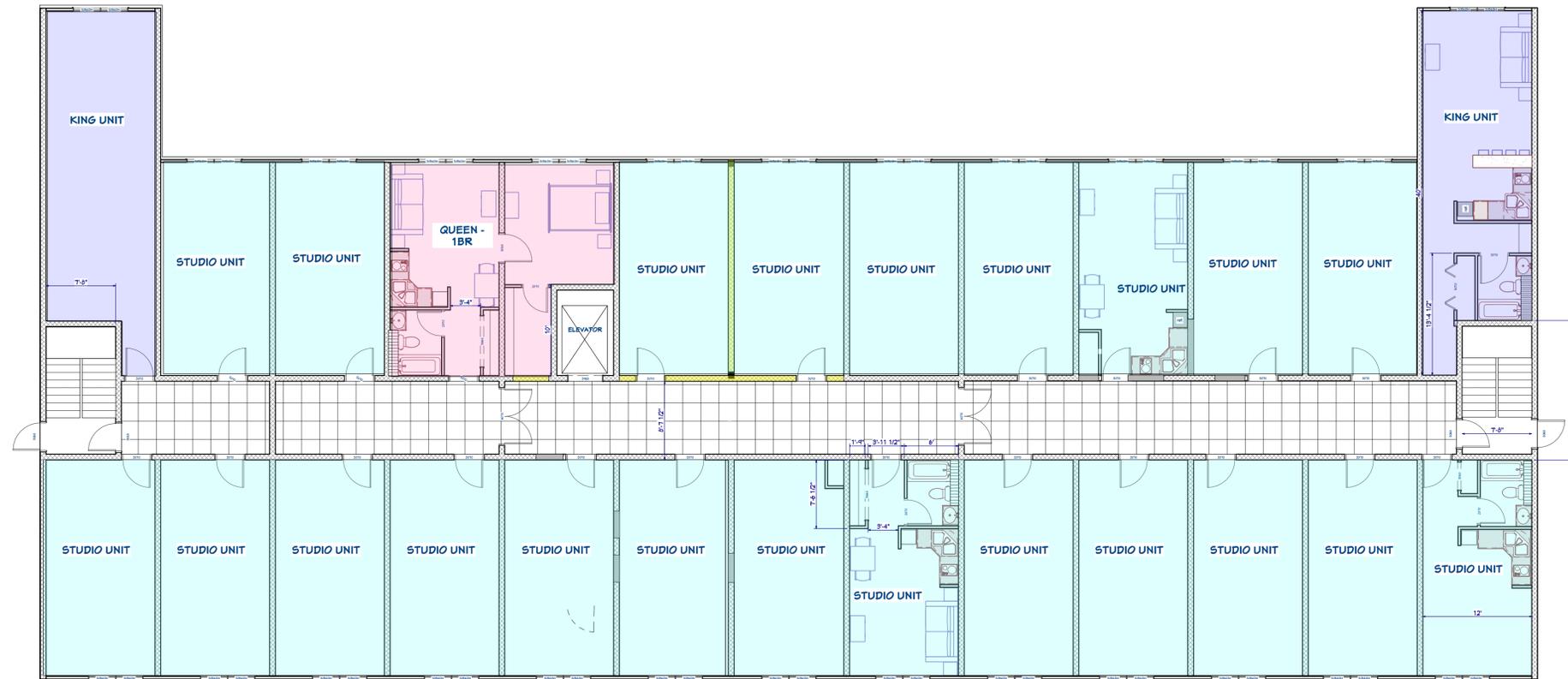
QUEEN UNIT - 480SF
SCALE: 1/4" = 1'-0"



2BR UNIT A - 710SF
SCALE: 1/4" = 1'-0"



NEW 3RD FLOOR PLAN
SCALE: 1/8" = 1'-0"



NEW 2ND FLOOR PLAN
SCALE: 1/8" = 1'-0"

S Berry Jones Architects
1500 Union Avenue - Memphis, TN 38104
Direct Ph. 901-340-1229
berry@sbjarchitects.com

PROJECT DESCRIPTION:
PRELIMINARY OWNER REVIEW SET
APARTMENT CONVERSION
2491 JOY LANE - MEMPHIS, TN
2491 JOY LANE - MEMPHIS, TN

CUSTOMER:
ESMERALDA APARTMENT, LLC

DATE:
NOV. 07, 2023
SHEET:



VIEW TYPICAL UNIT



OVERHEAD VIEW TYPICAL UNIT



VIEW TYPICAL UNIT

S Berry Jones Architects
 1500 Union Avenue - Memphis, TN 38104
 Direct Ph. 901-340-1229
 berry@sbjarchitects.com

PRELIMINARY OWNER REVIEW SET
 APARTMENT CONVERSION
 2491 JOY LANE - MEMPHIS, TN
 2491 JOY LANE - MEMPHIS, TN

ESMERALDA APARTMENT, LLC

DATE:
 NOV. 07, 2023
 SHEET:



Willie F. Brooks, Jr.
Shelby County Register of Deeds

Owner: ESMERALDA APARTMENT LLC

Parcel Address: 2491 JOY LN

Parcel ID: 060137 00163

2023 Appraisal: \$1,353,600

Tax District: MEMPHIS

Year Built:

Lot Number: 0 2

Subdivision: MEACHAM PARTITION

Plat BK & PG: UNKNOWN

Dimensions:

Total Acres: 1.807

Owner Address: PO BOX 20242
CLEVELAND OH
44120 0242

Map prepared on 11/7/2023



This instrument Prepared by and return to:
Griffin Clift Everton & Maschmeyer, PLLC
6489 Quail Hollow #100
Memphis, TN 38120

DEED OF TRUST

This Indenture made and entered into this **10th day of January, 2022**, by and between

Esmeralda Apartment LLC, a Tennessee Limited Liability Company

Party of the first part, and

Glenn D. Everton, Trustee, Party of the second part,

WITNESSETH: That for and in consideration of Five Dollars Cash in hand paid by the party of the second part to the party of the first part, and the debt and trusts hereinafter mentioned, said party of the first part has bargained and sold and does hereby bargain, sell, convey and confirm unto the said party of the second part the following described real estate situated and being in **Shelby**, County, Tennessee, to wit:

THE WILLIAM BOND, INC. PART OF LOT 2, WILLIAM F. MEACHAM SUBDIVISION, OF PART OF LOT 3, OF PEARCE & SUGGS SUBDIVISION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT AN OLD IRON PIN IN THE WEST LINE OF DELUGACH'S PEACH COVE SUBDIVISION, AS RECORDED IN PLAT BOOK 18, PAGE 13, SAID POINT BEING 209.25 FEET SOUTHWARDLY FROM THE NORTHEAST CORNER OF SAID WILLIAM F. MEACHAM SUBDIVISION, AND SAID POINT BEING THE NORTHEAST CORNER OF LOT 2 AND THE SOUTHEAST CORNER OF LOT 1; THENCE SOUTHWARDLY WITH THE WEST LINE OF SAID DELUGACH'S PEACH COVE SUBDIVISION, 177.17 FEET TO THE NORTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY ROUTE 1-240; THENCE WESTWARDLY WITH SAID RIGHT OF WAY LINE 0.6 FEET TO CONCRETE MONUMENT; THENCE SOUTHWARDLY WITH SAID RIGHT OF WAY LINE 21.97 FEET TO THE SOUTH LINE OF LOT 2, WILLIAM F. MEACHAM SUBDIVISION; THENCE WESTWARDLY WITH THE SOUTH LINE OF SAID LOT 2 AND WITH THE NORTH RIGHT OF WAY LINE OF SAID INTERSTATE HIGHWAY 1-240, 144.82 FEET; THENCE NORTHWESTWARDLY WITH SAID RIGHT OF WAY LINE 170.56 FEET TO AN ANGLE IN SAID RIGHT OF WAY LINE; THENCE CONTINUING NORTHWESTWARDLY WITH SAID NORTH RIGHT OF WAY LINE 180.41 FEET TO THE SOUTH LINE OF LOT 1 AND THE NORTH LINE OF LOT 2; THENCE EASTWARDLY 429.21 FEET TO THE POINT OF BEGINNING.

Property Address: 2491 Joy Lane, Memphis, Tennessee

TO HAVE AND TO HOLD, the aforesaid real estate, together with all the hereditaments and appurtenances thereunto belonging or in any wise appertaining unto the said party of the second part, his successors and assigns, in fee simple forever, and the said party of the first part does hereby covenant with the said party of the second part, his successors and assigns, that he is lawfully seized in fee of the aforesaid real estate; that he has a good right to sell and convey the same; that the same is unencumbered, and that the title and quiet possession thereto he will and his heirs and personal representatives shall warrant and forever defend against the lawful claims of all persons.

But this is a Deed of Trust, and is made for the following uses and purposes, and none other; that is to say; the said party of the first part is justly indebted to **Tennessee Learning Academy, a Tennessee Non-Profit Corporation, or the holder of the notes hereinafter mentioned, in the sum of Four Hundred Fifty Thousand and No/100 Dollars (\$450,000.00) evidenced by**

One Promissory Note of even date herewith payable to **Tennessee Learning Academy, a Tennessee Non-Profit Corporation** in the principal sum of **\$450,000.00** with interest thereon on the date hereof. Said principal and interest are due and payable in accordance with the terms of said Note with a maturity date of **June 10, 2021**.

Maximum principal indebtedness for Tennessee recording tax purposes is **\$450,000.00**

The principal balance from time to time outstanding hereunder shall become immediately due and payable at the option of the holder of the note if the mortgagor or any subsequent owner of the mortgaged premises should sell, convey, or further encumber such premises, without prior written consent of the holder. Said option may be exercised at any time after such conveyance without holder's prior approval and the acceptance of one or more monthly installments made by the new owner shall not constitute a waiver of the holder's option. Holder's approval of a transferee or failure to exercise said option shall not be construed as a waiver of the provisions hereof as regards any subsequent owner.

The holder hereof agrees to look solely to this Deed of Trust and any other security now or hereafter given to secure the Note secured by this Deed of Trust, and to the income, rents, profits and issues as may be derived therefrom, for repayment of the indebtedness secured hereby and further agrees that no deficiency judgment shall be sought or obtained against the maker of the Note hereby secured, nor against any of the members or shareholders of the maker if applicable.

The party of the first part desires to secure and make certain the payment of said indebtedness, and of any and all renewals and extensions thereof. Now, therefore, the party of the first part agrees and binds himself that so long as any part of the indebtedness aforesaid shall remain unpaid, he will pay all taxes and assessments against said property promptly when due, and deposit all tax receipts with the holder of the greater portion of the outstanding indebtedness secured hereby; will insure the buildings on said property for not less than the lesser of (1) the insurable value thereof or (2) the total indebtedness secured by mortgages, deeds of trust or other security instruments encumbering the aforescribed real estate against loss or damage by fire and the perils against which insurance is afforded by extended coverage endorsement in some insurance company or companies approved by the holder of the greater portion of the outstanding indebtedness secured hereby, cause said policies to contain a standard mortgage clause in favor of the holder of said indebtedness and deposit said policies with the holder of the greater portion of the outstanding indebtedness secured hereby as further security for the said debt; will protect the improvements on said property by proper repairs and maintain them in good repair and condition; will not do anything or suffer or permit anything to be done whereby the lien of this Deed of Trust might or could be impaired; will pay such expenses and fees as may be necessary in the protection of the property and the maintenance and execution of this trust, including, but not being limited to, expenses incurred by the Trustee in any legal proceeding to which he is made or becomes a party. The net proceeds resulting from the taking of all or any part of the property by eminent domain, or from any sale in lieu thereof, shall be applied upon the indebtedness in inverse order of its maturity; and in the event of the destruction of the improvements by fire or other casualty, the net proceeds of the insurance shall be applied upon the indebtedness secured hereby in inverse order of its maturity, or at the option of the party of the first part, his heirs and assigns, such proceeds may be used to restore the improvements to their former condition.

The owner of any part of the indebtedness aforesaid may, at his discretion, advance and pay such sums as may be proper to satisfy taxes, maintain insurance and repairs, and protect and preserve the property; and such amount so paid shall be held and treated as part of the expense of administering this trust, shall be repaid on demand with

interest at the highest rate legally chargeable on the date of the advance, and shall be secured by lien of this Deed of Trust.

If the said party of the first part shall pay said indebtedness when due, and shall pay such sums as shall be necessary to discharge taxes and maintain insurance and repairs and the costs, fees and expenses of making, enforcing and executing this trust, when that shall severally be due and payable, then this conveyance shall become null and void, and the owner of the indebtedness shall execute proper deed of release or enter marginal satisfaction on the record of this deed of trust, or in the alternative, the Trustee shall reconvey by quit claim deed the property herein described, all at expense of said party of the first part.

But if said party of the first part shall fail to pay any part of said indebtedness, whether principal or interest, promptly when the same becomes due, or shall fail to pay any sum necessary to satisfy and discharge taxes and assessments before they become delinquent, or to maintain insurance or repairs, or the necessary expense of protecting the property and executing this trust, then, or in either event, all of the indebtedness herein secured shall, at the option of the owner of any of said indebtedness and without notice, become immediately due and payable, principal and interest, and the said Trustee is hereby authorized and empowered to enter and take possession of said property, and before or after such entry to advertise the sale of said property for twenty one days by three weekly notices in some newspaper published in Memphis, Tennessee, if the land described in this Deed is situated in Shelby County, Tennessee, or in some newspaper published in the County of Counties in which the land described in this Deed of Trust is situated, of other than Shelby County, Tennessee, and sell the said property for cash to the highest bidder, free from equity or redemption, statutory right of redemption, homestead, dower, and all other rights and exemptions of every kind, all of which are hereby expressly waived, and said Trustee shall execute a conveyance to the purchaser in fee simple, and deliver possession to the purchaser, which the party of the first part binds himself shall be given without obstruction, hindrance or delay.

The owners of any part of the indebtedness hereby secured may become the purchaser at any sale under this conveyance.

If the notes secured hereby are placed in the hands of an attorney for collection, by suit or otherwise, or to enforce their collection by foreclosure or to protect the security for their payment, the party of the first part will pay all costs of collection and litigation, together with an attorney's fee as provided in said notes, or, if none is so provided, a reasonable attorney's fee, and the same shall be a lien on the premises herein conveyed and enforced by a sale of the property and herein provided.

The proceeds of any sale shall be applied as follows: first to the payment of the expenses of making, maintaining and executing this trust, the protection of the property, including the expense of any litigation and attorney's fees, and the usual commissions to the Trustee; second, to the payment of the indebtedness herein secured or intended so to be, without preference or priority of any part over any other part, and any balance of said indebtedness remaining unpaid shall be the subject of immediate suit; and third, should there be any surplus, the Trustee will pay it to the party of the first part, or his assigns. In the event of the death, refusal, or of inability for any cause, on the part of the Trustee named herein, or of any successor trustee, to act hereunder, or for any other reason satisfactory to the owner of the said indebtedness, the owner or owners of the majority of the outstanding indebtedness aforesaid are authorized either in their own name or through an attorney or attorneys in fact appointed for that purpose by written instrument duly register, to name and appoint a successor or successors to execute this trust, such appointment to be evidenced by writing, duly acknowledged and when such writing shall have been registered, the substituted trustee named therein shall thereupon be vested with all the right and title, and clothed with all the power of the Trustee named herein and such like power of substitution shall continue so long as any part of the indebtedness secured hereby remains unpaid. The party of the first part, for himself, his heirs, representatives, successors and assigns, covenants and agrees that at any time after default in payment of any of the indebtedness hereby secured, or upon failure to perform any of the covenants to be kept and performed by him, said Trustee may enter upon and take possession of said property and collect the rents and profits therefrom with payment of such to the Trustee after default being full acquittance to the tenant, by the Trustee shall be required to account only for the net rents received by him; and from and after the conveyance of said

property under this Deed of Trust, the party of the first part, and all persons under him, shall, at the option of the purchaser, be and become the tenants at will of the purchaser, at a reasonable monthly rental, commencing with the date of delivery of the Trustee's Deed.

In the event that more than one Trustee be named herein, any one of such Trustees shall be clothed with full power to act when action hereunder shall be required, and to execute any conveyance of said property. In the event that more than one Trustee be named herein and the substitution of a trustee shall become necessary for any reason, the substitution of one trustee in the place of those or any of those named herein shall be sufficient. The term "Trustee" shall be construed to mean "Trustee" whenever the sense requires. The necessity of the Trustee herein named, or any successor in trust, making oath or giving bond, is expressly waived.

No waiver by the party of the second part or by the holder of the indebtedness secured hereby shall be construed as a waiver of a subsequent similar default or any other default by the party of the first part.

The singular number may be construed as plural, and the plural as singular, and pronouns occurring herein shall be construed according to their proper gender and number, as the context of this instrument may require.

IN WITNESS WHEREOF, the party of the first part has executed, or has caused to be executed, this instrument on the day and year first above written.

Esmeralda Apartment LLC, a Tennessee Limited Liability Company

By: Real Estate Holding 4 LLC, a Wyoming Limited Liability Company, its Sole Member

By: Richel Francis
Richel Francis, Chief Executive Manager

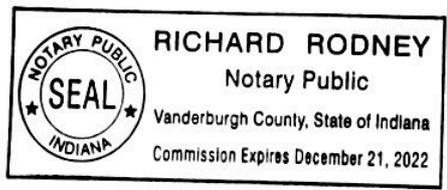
STATE OF Indiana
COUNTY OF Vanderburgh

Before me, a Notary Public in and for said State and County duly commissioned and qualified, personally appeared Richel Francis, with whom I am personally acquainted, the Chief Executive Manager of Real Estate Holding 4 LLC, a Wyoming Limited Liability Company, the Sole Member of Esmeralda Apartment LLC, a Tennessee Limited Liability Company, the within named bargainer, and that he as such Chief Executive Manager authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the company by himself as Chief Executive Manager.

WITNESS my hand and Notarial Seal at office this 10th day of January, 2022.

[Signature]
NOTARY PUBLIC

MY COMMISSION EXPIRES: December 21, 2022



MY UNDERSTANDI WAS MAILING LABELS ARE PROVIDED BY OPD NOW.

OWNER'S AFFIDAVIT WILL BE UPLOADED SHORTLY.

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

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

**Planning & Zoning COMMITTEE: 11/21/2023
DATE
PUBLIC SESSION: 12/19/2023
DATE**

ITEM (CHECK ONE)

ORDINANCE RESOLUTION REQUEST FOR PUBLIC HEARING

ITEM CAPTION: Zoning ordinance amending Ordinance No. 5367 of Code of Ordinance, City of Memphis, Tennessee, adopted on August 10, 2010, as amended, known as the Memphis and Shelby County Unified Development code, to authorize a zoning use district reclassification of land municipally addressed as 3549, 3555, and 3561 Fuller Rd. from the Residential Single-Family – 6 (R-6) Use District and including it in the Employment (EMP) Use District, known as case number Z 2023-013

CASE NUMBER: Z 2023-013

LOCATION: 3549, 3555, and 3561 Fuller Rd.

COUNCIL DISTRICTS: District 3 and Super District 8

OWNER/APPLICANT: Fleet Equipment, LLC

REPRESENTATIVES: Cindy Reaves of SR Consulting, LLC

REQUEST: Rezoning of +/-0.538 acres from Residential Single-Family – 6 (R-6) to Employment (EMP)

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

RECOMMENDED COUNCIL ACTION: **Public Hearing Required**
First reading / Set date for public hearing – November 21, 2023
Second reading – December 5, 2023
Third reading / Public hearing – December 19, 2023

PRIOR ACTION ON ITEM:

(1) _____	APPROVAL - (1) APPROVED (2) DENIED
Nov. 9, 2023	DATE
(1) Land Use Control Board	ORGANIZATION - (1) BOARD / COMMISSION
	(2) GOV'T. ENTITY (3) COUNCIL COMMITTEE

FUNDING:

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

SOURCE AND AMOUNT OF FUNDS

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

ADMINISTRATIVE APPROVAL:

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



Memphis City Council Summary Sheet

Z 2023-013

ZONING ORDINANCE AMENDING ORDINANCE NO. 5367 OF CODE OF ORDINANCE, CITY OF MEMPHIS, TENNESSEE, ADOPTED ON AUGUST 10, 2010, AS AMENDED, KNOWN AS THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE, TO AUTHORIZE A ZONING USE DISTRICT RECLASSIFICATION OF LAND MUNICIPALLY ADDRESSED AS 3549, 3555, AND 3561 FULLER RD. FROM THE RESIDENTIAL SINGLE-FAMILY – 6 (R-6) USE DISTRICT AND INCLUDING IT IN THE EMPLOYMENT (EMP) USE DISTRICT, KNOWN AS CASE NUMBER Z 2023-013

- Approval of this zoning district reclassification will be reflected on the Memphis and Shelby County Zoning Atlas; and
- No contracts are affected by this item; and
- No expenditure of funds/budget amendments are required by this item.

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday, November 9, 2023**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: Z 2023-013
LOCATION: 3549, 3555, and 3561 Fuller Rd.
COUNCIL DISTRICTS: District 3 and Super District 8
OWNER/APPLICANT: Fleet Equipment, LLC
REPRESENTATIVES: Cindy Reaves of SR Consulting, LLC
REQUEST: Rezoning of +/-0.538 acres from Residential Single-Family – 6 (R-6) to Employment (EMP)

The following spoke in support of the application: Cindy Reaves

The following spoke in opposition of the application: None

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

The motion **passed.**

ORDINANCE NO: _____

ZONING ORDINANCE AMENDING ORDINANCE NO. 5367 OF CODE OF ORDINANCE, CITY OF MEMPHIS, TENNESSEE, ADOPTED ON AUGUST 10, 2010, AS AMENDED, KNOWN AS THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE, TO AUTHORIZE A ZONING USE DISTRICT RECLASSIFICATION OF LAND MUNICIPALLY ADDRESSED AS 3549, 3555, AND 3561 FULLER RD. FROM THE RESIDENTIAL SINGLE-FAMILY – 6 (R-6) USE DISTRICT AND INCLUDING IT IN THE EMPLOYMENT (EMP) USE DISTRICT, KNOWN AS CASE NUMBER Z 2023-013

WHEREAS, a proposed amendment to the Memphis and Shelby County Unified Development Code, being Ordinance No. 5367 of the Code of Ordinances, City of Memphis, Tennessee, as amended, has been submitted to the Memphis and Shelby County Land Use Control Board for its recommendation, designated as **Case Number: 2023-013**; and

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

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

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

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

SECTION 1:

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

BY TAKING THE FOLLOWING PROPERTY OUT OF THE RESIDENTIAL SINGLE-FAMILY – 6 (R-6) USE DISTRICT AND INCLUDING IT IN THE EMPLOYMENT (EMP) USE DISTRICT.

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

BOUNDARY

Beginning at a point in the south line of Fuller Road (40' ROW), approximately 319 feet east of the east line of Lamar Avenue; thence S88°22'41"E a distance of 182.07 feet to a point; thence S00°05'01"W a distance of 126.31 feet to a point; thence N89°54'59"W a distance of 182.00 feet to a point; thence N00°05'01"E a distance of 131.20 feet to the point of beginning and containing 0.538 acres of land more or less.

SECTION 2:

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

SECTION 3:

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

AGENDA ITEM: 21

CASE NUMBER: Z 2023-013

L.U.C.B. MEETING: November 9, 2023

LOCATION: 3549, 3555, and 3561 Fuller Rd.

COUNCIL DISTRICT: District 3 and Super District 8

OWNER/APPLICANT: Fleet Equipment, LLC

REPRESENTATIVE: Cindy Reaves of SR Consulting, LLC

REQUEST: Rezone from Residential Single-Family – 6 to Employment

AREA: 0.538 acres

CONCLUSIONS

1. The applicant has requested the rezoning of three properties on Fuller Rd. from Residential Single-Family – 6 to Employment.
2. This request is inconsistent with the Memphis 3.0 Comprehensive Plan.
3. Additionally, it would have a significantly injurious impact on adjacent residential properties, while providing little benefit to the applicant other than legitimizing illegal work and occupancy.
4. For these reasons, staff recommends rejection.

CONSISTENCY WITH MEMPHIS 3.0

This request is *inconsistent* with the Memphis 3.0 Comprehensive Plan, according to the Office of Comprehensive Planning.

RECOMMENDATION

Rejection

GENERAL INFORMATION

Street Frontage: Fuller Rd. 182'
Zoning Atlas Page: 2235
Parcel ID: 073017 00117, 073017 00118, and 073017 00119
Existing Zoning: Residential Single-Family – 6
Requested Zoning: Employment

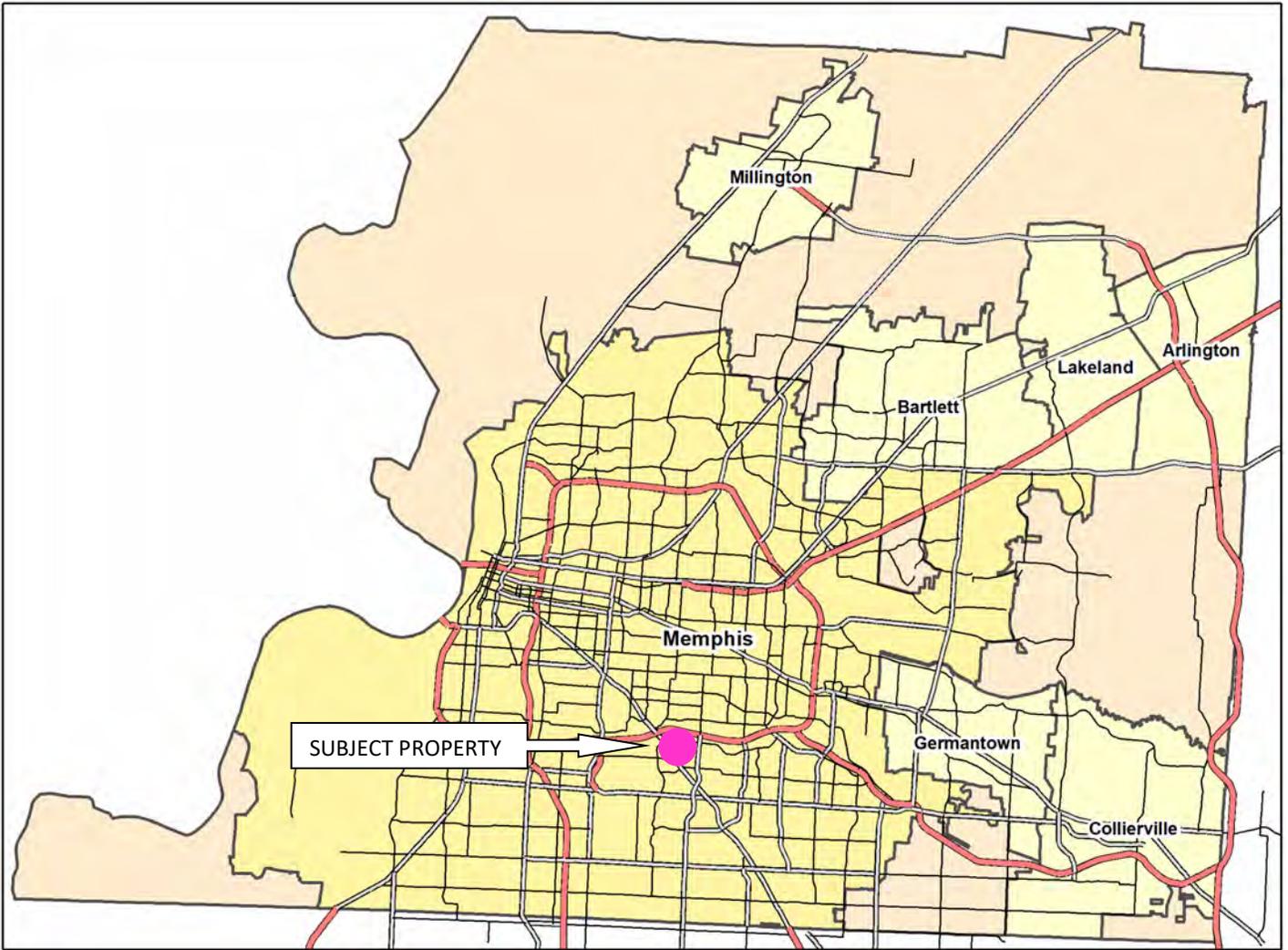
NEIGHBORHOOD MEETING

The required neighborhood meeting was held at 5:30 p.m. at 3549 Fuller Rd. on October 25, 2023.

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. 38 notices were mailed on October 26, 2023, and one sign posted at the subject property. The sign affidavit has been added to this report.

LOCATION MAP



ZONING MAP



Existing Zoning: Residential Single-Family – 6

Surrounding Zoning

North: Residential Single-Family – 6

East: Residential Single-Family – 6

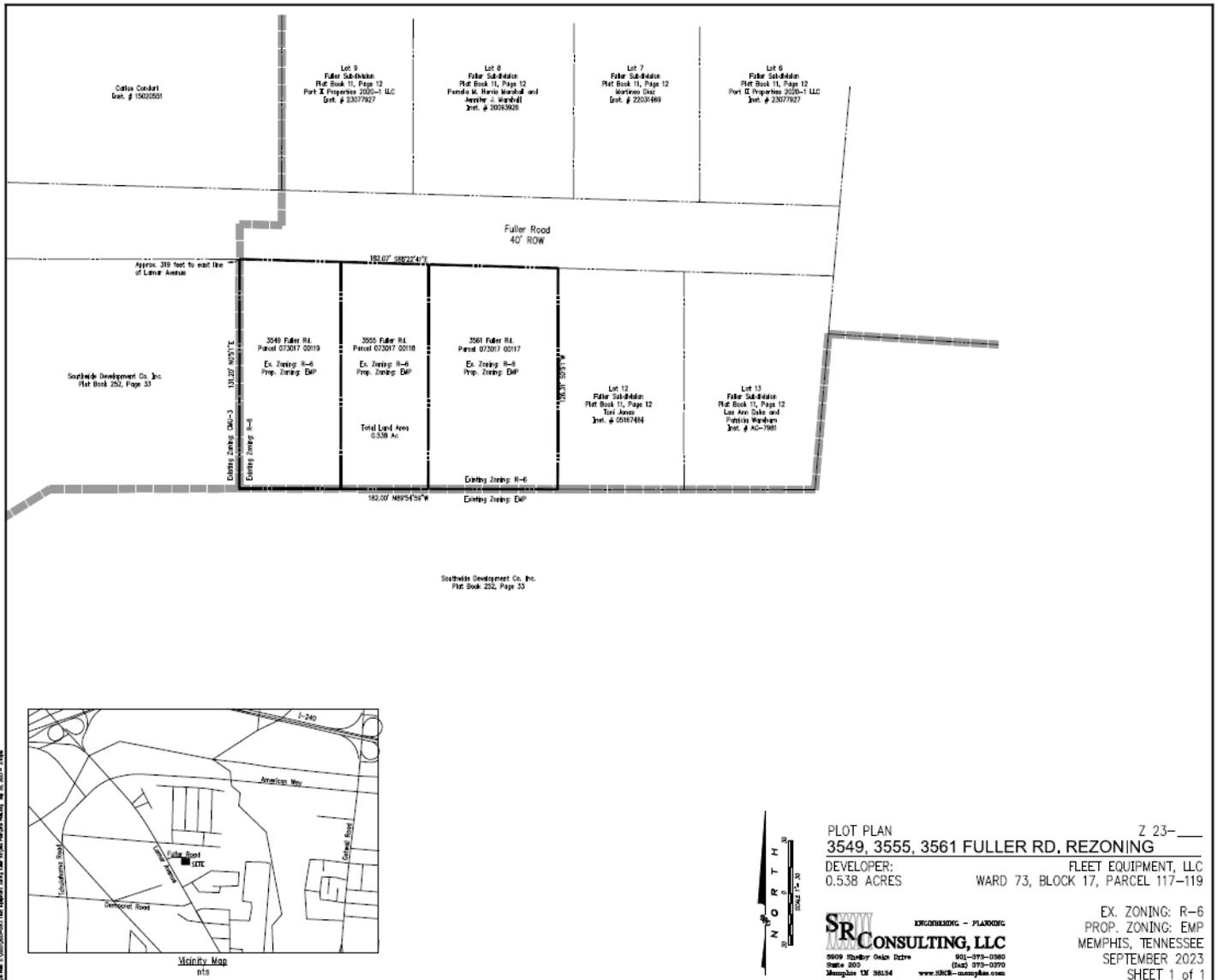
South: Employment

West: Commercial Mixed Use – 3

LAND USE MAP



PLOT PLAN



SITE PHOTOS



3549 Fuller



3555 Fuller



3561 Fuller



View west down Fuller



Adjacent houses

STAFF ANALYSIS

Request

The request is to rezone 0.538 acres from Residential Single-Family – 6 to Employment.

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

Review Criteria

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

9.5.7B Review Criteria

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

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

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

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

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

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

Conclusions

The applicant has requested the rezoning of three properties on Fuller Rd. from Residential Single-Family – 6 to Employment.

This request is inconsistent with the Memphis 3.0 Comprehensive Plan.

Additionally, it would have a significantly injurious impact on adjacent residential properties, while providing little benefit to the applicant other than legitimizing illegal work and occupancy.

For these reasons, staff recommends rejection.

RECOMMENDATION

Staff recommends **rejection**.

DEPARTMENTAL COMMENTS

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

Office of Comprehensive Planning:

Comprehensive Planning Review of Memphis 3.0 Consistency

This summary is being produced in response to the following application to support the Land Use and Development Services department in their recommendation: LUCB Z 23-13: Oakville

Site Address/Location: 3549, 3555, 3561 Fuller Road

Overlay District/Historic District/Flood Zone: N/A

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

Street Type: N/A

The applicant is seeking approval to rezone three parcels located in R-6 zoning district to EMP.

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 site on the Future Land Use Map.

2. Land Use Description/Intent

Primarily Single-Unit Neighborhood (NS) are residential neighborhoods consisting primarily of single-unit houses that are not near a Community Anchor. Graphic portrayal of NS is to the right.



“NS” Form & Location Characteristics

Primarily detached, House scale buildings, Primarily residential, 1 – 3 stories; Beyond ½ mile from a Community Anchor

“NS” Zoning Notes

Generally compatible with the following zone districts: R-E, R-15, R-10, R-8, R-6 in accordance with Form and characteristics listed above.

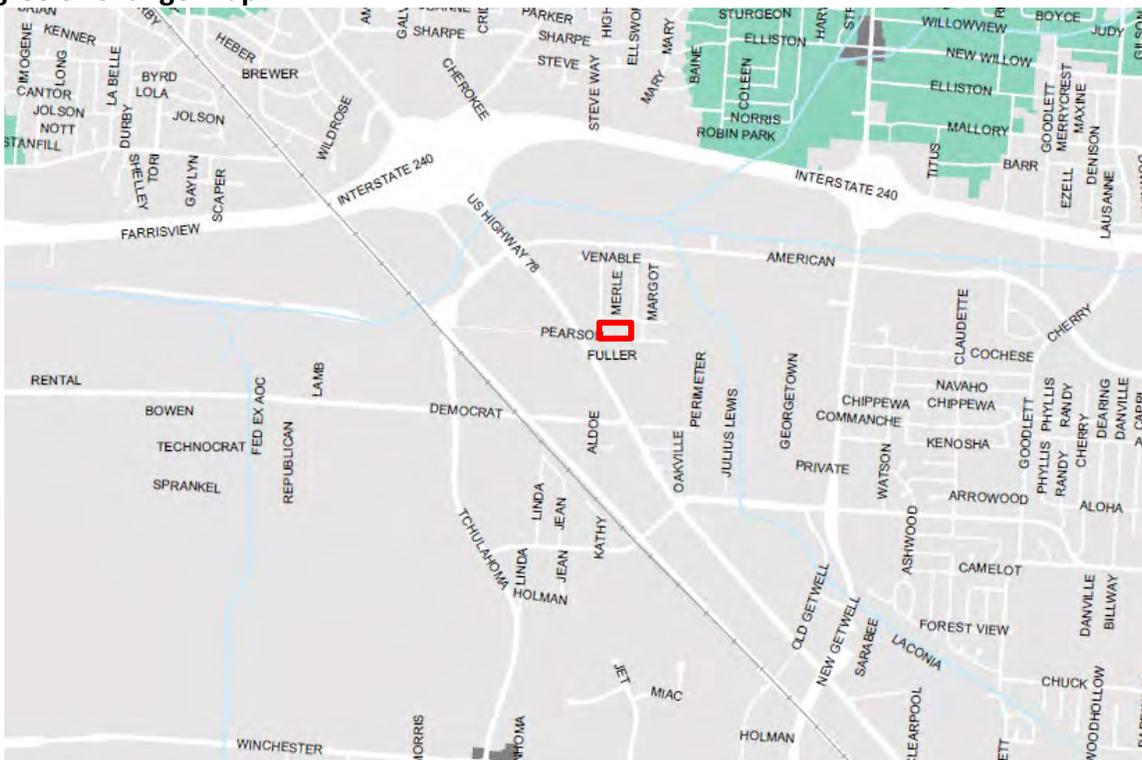
Existing, Adjacent Land Use and Zoning

Existing Land Use and Zoning: Single-Family, R-6

Adjacent Land Use and Zoning: Single-Family, Truck Storage; EMP

Overall Compatibility: *This requested use is not compatible with the land use description/intent, form & location characteristics, zoning notes, and existing, adjacent land use and zoning as the proposed use is not a single-family home.*

Degree of Change Map



Red polygon denotes the proposed site on the Degree of Change Map. There is no Degree of Change.

3. Degree of Change Description N/A

4. Objectives/Actions Consistent with Goal 1, Complete, Cohesive, Communities N/A

5. Pertinent Sections of Memphis 3.0 that Address Land Use Recommendations N/A

Consistency Analysis Summary

The applicant is seeking approval to rezone three parcels located in R-6 zoning district to EMP.

This requested use is not compatible with the land use description/intent, form & location characteristics, zoning notes, and existing, adjacent land use and zoning as the proposed use is not a single-family home.

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

Summary Compiled by: Melanie Batke Olejarczyk, Comprehensive Planning.

City Engineer:

1. Standard Public Improvement Contract or Right-Of-Way Permit as required in Section 5.5.5 of the Unified Development Code.

Sewers:

2. The availability of City sanitary sewer capacity is unknown at this time. Once the developer has submitted proposed sewer discharge rates to the City's Sewer Design Dept, a determination can be made as to available sewer capacity.
3. No further comments from City Engineering.

APPLICATION FORM



Record Summary for Rezoning

Record Detail Information

Record Type: Rezoning

Record Status: Assignment

Opened Date: October 2, 2023

Record Number: Z 2023-013

Expiration Date:

Record Name: 3549, 3555, 3561 Fuller Rd. Rezoning

Description of Work: Rezoning from R-6 to EMP

Parent Record Number:

Address:

3549 FULLER RD, MEMPHIS 38118

Owner Information

Primary Owner Name

Y INTERSTATE DROP YARD LLC

Owner Address

2505 FARRISVIEW BLVD, MEMPHIS, TN 38118

Owner Phone

Parcel Information

073017 00119

Data Fields

PREAPPLICATION MEETING

Name of DPD Planner Chip Saliba

Date of Meeting 09/22/2023

Pre-application Meeting Type -

GENERAL INFORMATION

Is this application in response to a citation from No

GENERAL INFORMATION

Construction Code Enforcement or Zoning Letter?
Have you held a neighborhood meeting? No
If yes, please provide additional information -

GIS INFORMATION

Central Business Improvement District No
Case Layer -
Class -
Downtown Fire District No
Historic District -
Land Use -
Municipality -
Overlay/Special Purpose District -
Zoning -
State Route -
Lot -
Subdivision -
Planned Development District -
Wellhead Protection Overlay District No

Data Tables

ADDRESS AND PARCEL LIST

Property Address: 3549 Fuller Rd.
Property Parcel Number: 073017 00119

Property Address: 3555 Fuller Rd.
Property Parcel Number: 073017 00118

Property Address: 3561 Fuller Rd.
Property Parcel Number: 073017 00117

Contact Information

Name	Contact Type
FLEET EQUIPMENT LLC	APPLICANT
Address	
Phone	
-	

Fee Information

Invoice #	Fee Item	Quantity	Fees	Status	Balance	Date Assessed
1507377	Credit Card Use Fee (.026 x fee)	1	26.00	INVOICED	26.00	10/04/2023
1507377	Non-Residential Rezoning - 5 acres or less	1	1,000.00	INVOICED	1,000.00	10/04/2023
1506407	Credit Card Use Fee (.026 x fee)	1	0.00	INVOICED	0.00	10/02/2023

Total Fee Invoiced: \$1,026.00

Total Balance: \$1,026.00

LETTER OF INTENT



Date: September 25, 2023

To: Division of Planning & Development

From: Cindy Reaves

Re: 3549, 3555, 3561 Fuller Rd. Rezoning

LETTER OF INTENT

We are submitting a rezoning application for property at 3549, 3555, and 3561 Fuller Rd. The property is within the R-6 zoning district. We are requesting a rezoning to EMP to incorporate the property into the adjacent property of Interstate Drop Yard.

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

SIGN AFFIDAVIT

AFFIDAVIT

Shelby County
State of Tennessee

I, Cindy Reaves, being duly sworn, depose and say that at 5:46 pm on the 25th day of October, 2023 I posted one Public Notice Signs pertaining to Case No. Z 2023-013 along the property located 3555 Fuller Road providing notice of a Public Hearing before the November 9, 2023 Land Use Control Board for consideration of a proposed Land Use Action (Subdivision), a photograph of said sign(s) being attached hereon and a copy of the sign purchase receipt or rental contract attached hereto.

Cindy Reaves
Owner, Applicant or Representative

10/26/23
Date

Subscribed and sworn to before me this 26th day of October, 2023

Robert Sweeney
Notary Public
My commission expires: 9/26/2027



LETTERS RECEIVED

No letters received by the comment deadline.