# CITY OF MEMPHIS COUNCIL AGENDA CHECK OFF SHEET

Planning & Development ONE ORIGINAL ONLY STAPLED | **DIVISION |TO DOCUMENTS| Planning & Zoning** COMMITTEE: 11/12/2024 DATE **PUBLIC SESSION:** 11/26/2024 DATE ITEM (CHECK ONE) \_\_\_ REQUEST FOR PUBLIC HEARING X RESOLUTION ORDINANCE ITEM DESCRIPTION: Resolution pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code approving a planned development at the subject property located at 1145 East Brooks Road, known as case number PD 2024-011 **CASE NUMBER:** PD 2024-011 **DEVELOPMENT:** Brooks Hernando Planned Development LOCATION: 1145 East Brooks Road District 6 and Super District 8 – Positions 1, 2, and 3 **COUNCIL DISTRICTS: OWNER/APPLICANT:** Russ Rudolph, LG Investments, LLC **REPRESENTATIVE:** Mark Jobe, Glankler Brown, PLLC Add land to existing commercial Brooks Hernando Planned Development **REQUEST:** +/-7.06 acres AREA: The Division of Planning and Development recommended Approval with revisions to outline plan conditions RECOMMENDATION: The Land Use Control Board recommended Approval with revisions to outline plan conditions RECOMMENDED COUNCIL ACTION: Public Hearing Not Required Hearing – November 26, 2024 **PRIOR ACTION ON ITEM:** APPROVAL - (1) APPROVED (2) DENIED 10/10/2024 DATE (1) Land Use Control Board ORGANIZATION - (1) BOARD / COMMISSION (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE **FUNDING:** 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> **POSITION** PLANNER II DEPUTY ADMINISTRATOR **ADMINISTRATOR** DIRECTOR (JOINT APPROVAL) **COMPTROLLER** FINANCE DIRECTOR **CITY ATTORNEY** 

CHIEF ADMINISTRATIVE OFFICER

**COMMITTEE CHAIRMAN** 



# Memphis City Council Summary Sheet

## PD 24-11

RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A PLANNED DEVELOPMENT AT THE SUBJECT PROPERTY LOCATED AT 1145 EAST BROOKS ROAD, KNOWN AS CASE NUMBER PD 24-11

- This item is a resolution with conditions to allow a add land to existing commercial Brooks Hernando Planned Development; and
- This resolution, if approved with conditions, will supersede the existing zoning for this property; and
- The item may require future public improvement contracts.

# LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on *Thursday, October 10, 2024*, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: PD 24-11

**DEVELOPMENT:** Brooks Hernando Planned Development

**LOCATION:** 1145 East Brooks Road

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

OWNER/APPLICANT: Russ Rudolph, LG Investments, LLC

**REPRESENTATIVE:** Mark Jobe, Glankler Brown, PLLC

**REQUEST:** Add land to existing commercial Brooks Hernando Planned

Development

**EXISTING ZONING:** Commercial Mixed Use – 3 (CMU-3)

**AREA:** +/-1.56 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 revisions to the outline plan conditions.

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

Respectfully,

**Alexis Longstreet** 

Planner II

Land Use and Development Services
Division of Planning and Development

Cc: Committee Members

Alexis Longstreet

File

# PD 24-11 CONDITIONS

# **Outline/General Plan Conditions**

#### I. Uses Permitted

A. Any use permitted by right or administrative site plan review in the highway commercial (C-H) CMU-3 district, and outdoor storage, except for adult entertainment places, taverns, night clubs and cocktail lounges, and liquor stores.

B. Existing dwellings may remain in use, subject to the regulations on nonconforming uses and structures, Section 30.

#### II. Bulk Requirements

A. The bulk regulations of the CMU-3 district shall apply, except that a 30-foot setback is permitted when the front yard setback is landscaped and/or not devoted to parking area,

## III. Access, Parking, and Circulation

- A. The number, location and design of curb cuts shall be determined as part of the final Plan review and is subject to the approval of the city engineer.
- B. Hernando Road shall be dedicated to 34 feet from the centerline. Improvements not required, IV. Landscaping
  - A. The west property line shall be screened with Plate H, (20 feet Wide), and a minimum six-foothigh chain link fence with barbed wire on top substituted for the sight-proof wooden fence.
  - B. The Hernando Road frontage shall be landscaped with Plate Y.
  - C. Light standards within 100 feet of the west property line shall not exceed 10 feet in height.
  - D. Existing vegetation within 10 feet of the east line of Parcel VI where it abuts the Nonconnah Baptist Church property shall be retained.
  - E. Equivalent landscaping may be substituted for that required above subject to the approval of the office of planning and development.
  - F. Lighting shall be directed so as to not glare onto residential property,
  - G. Refuse containers shall] be completely screened from view from adjacent 'Properties,

#### V. Signage

- A. Detached and attached signs shall be governed by CMU-3 district regulations.
- B. Advertising signs (billboards) are prohibited.

# VI. Drainage

A. All drainage plans shall be submitted to the city engineer for review.

VII. The land use control board may modify the building setback and height, access, parking, landscaping and signage requirements if equivalent alternatives are presented.

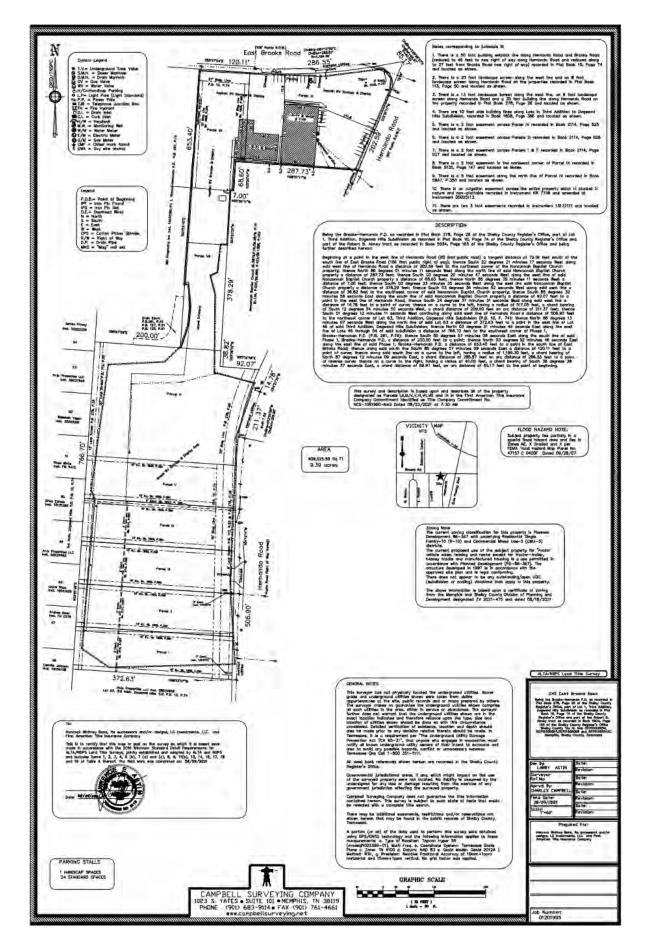
VIII. A final plan shall be filed within five years of approval of the outline plan. the land use control! board may grant extensions, at the request of the applicant

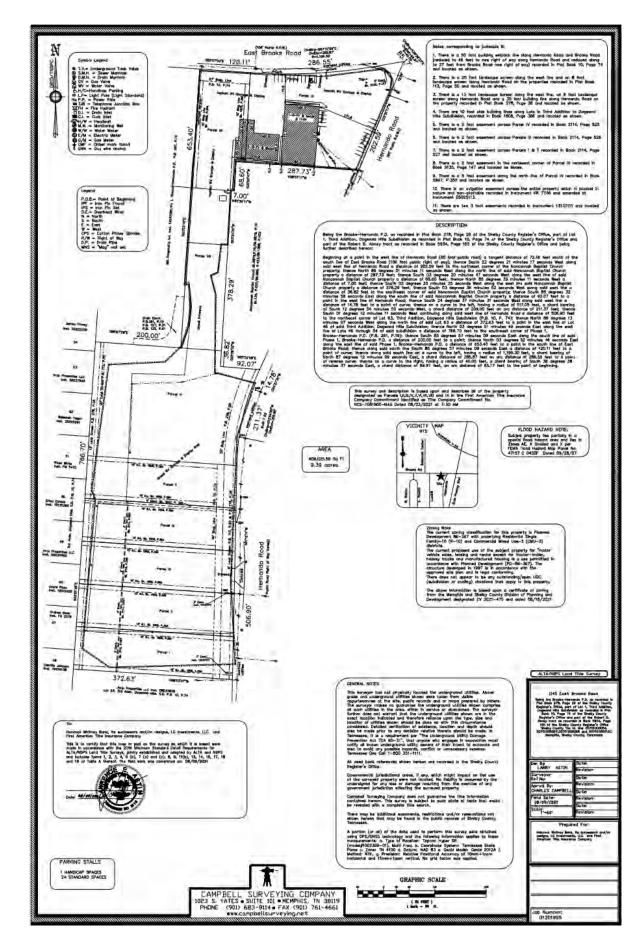
IX. Any final plan shall include the following.

- A. The outline plan conditions;
- B. A standard subdivision contract as defined by the subdivision regulations;
- C. The exact location and dimensions, including height, of all buildings or buildable areas, parking areas, drives, required landscaping;
- D. The number of parking spaces;
- E. The location and ownership, whether public or private of any easement:
- F. A statement conveying all common facilities and areas to a property owners' association, or other entity, for ownership and maintenance purposes,

7. Current or subsequent owners of property within this planned development may request amendments to the plan without the consent of notification of the other owners area of the proposed amendments shall extend from the boundary of the entire development.		

# CONCEPT PLAN





RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A PLANNED DEVELOPMENT AT THE SUBJECT PROPERTY LOCATED AT 1145 EAST BROOKS ROAD, KNOWN AS CASE NUMBER PD 24-11

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

**WHEREAS**, Russ Rudolph, LG Investments, LLC filed an application with the Memphis and Shelby County Division of Planning and Development to add land to existing commercial Brooks Hernando Planned Development; and

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

WHEREAS, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on October 10, 2024, and said Board has submitted its findings and recommendation subject to outline plan conditions concerning the above considerations to the Council of the City of Memphis; and

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

**WHEREAS,** the Council of the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the 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 planned development is hereby granted in accordance with the attached revised outline plan conditions.

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

#### **OUTLINE PLAN CONDITIONS**

#### I. Uses Permitted

- A. Any use permitted by right or administrative site plan review in the highway commercial (C-
- H) CMU-3 district, and outdoor storage, except for adult entertainment places, taverns, night clubs and cocktail lounges, and liquor stores.
- B. Existing dwellings may remain in use, subject to the regulations on nonconforming uses and structures, Section 30.

# II. Bulk Requirements

A. The bulk regulations of the CMU-3 district shall apply, except that a 30-foot setback is permitted when the front yard setback is landscaped and/or not devoted to parking area,

# III. Access, Parking, and Circulation

- A. The number, location and design of curb cuts shall be determined as part of the final Plan review and is subject to the approval of the city engineer.
- B. Hernando Road shall be dedicated to 34 feet from the centerline. Improvements not required,

# IV. Landscaping

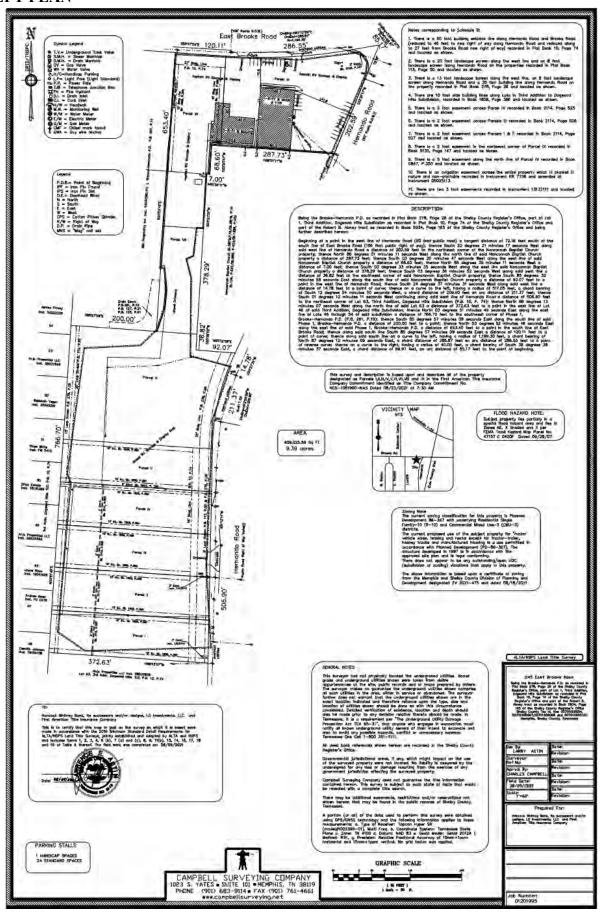
- A. The west property line shall be screened with Plate H, (20 feet Wide), and a minimum six-foothigh chain link fence with barbed wire on top substituted for the sight-proof wooden fence.
- B. The Hernando Road frontage shall be landscaped with Plate Y.
- C. Light standards within 100 feet of the west property line shall not exceed 10 feet in height.
- D. Existing vegetation within 10 feet of the east line of Parcel VI where it abuts the Nonconnah Baptist Church property shall be retained.
- E. Equivalent landscaping may be substituted for that required above subject to the approval of the office of planning and development.
- F. Lighting shall be directed so as to not glare onto residential property,
- G. Refuse containers shall] be completely screened from view from adjacent 'Properties,

# V. Signage

- A. Detached and attached signs shall be governed by CMU-3 district regulations.
- B. Advertising signs (billboards) are prohibited.

#### VI. Drainage

- A. All drainage plans shall be submitted to the city engineer for review.
- VII. The land use control board may modify the building setback and height, access, parking, landscaping and signage requirements if equivalent alternatives are presented.
- VIII. A final plan shall be filed within five years of approval of the outline plan. the land use control! board may grant extensions, at the request of the applicant
- IX. Any final plan shall include the following.
  - A. The outline plan conditions;
  - B. A standard subdivision contract as defined by the subdivision regulations;
  - C. The exact location and dimensions, including height, of all buildings or buildable areas, parking areas, drives, required landscaping;
  - D. The number of parking spaces;
  - E. The location and ownership, whether public or private of any easement:
  - F. A statement conveying all common facilities and areas to a property owners' association, or other entity, for ownership and maintenance purposes,
- 7. Current or subsequent owners of property within this planned development may request amendments to the plan without the consent of notification of the other owners area of the proposed amendments shall extend from the boundary of the entire development.



ATTEST:

Division of Planning and Development

– Land Use and Development Services

– Office of Construction Enforcement CC:

# dpd STAFF REPORT

AGENDA ITEM: 4 L.U.C.B. MEETING: October 10, 2024

**CASE NUMBER:** PD 2024-011 (CORRES PD 1986-367)

**DEVELOPMENT:** Brooks Hernando PD

**LOCATION:** 1145 East Brooks Road

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

**OWNER/APPLICANT:** Russ Rudolph, LG Investments, LLC

**REPRESENTATIVE:** Mark Jobe, Glankler Brown, PLLC

**REQUEST:** Add land to existing commercial Brooks Hernando Planned Development

**EXISTING ZONING:** Commercial Mixed Use – 3 (CMU-3)

# **CONCLUSIONS**

1. The subject property is noted as Parcel IV of the Brooks Hernando Planned Development.

- 2. PD 1986-367 is comprised of three parcels all addressed 0 East Brooks Road (077010 00067, 077010 00068, and 077010 00012C).
- 3. The applicant is not proposing a new use at this time and would be operating uses originally approved in the outline plan conditions for "motor vehicle sales, leasing and rental except for tractor-trailer, heavy trucks and manufactured housing."
- 4. 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.

### **CONSISTENCY WITH MEMPHIS 3.0**

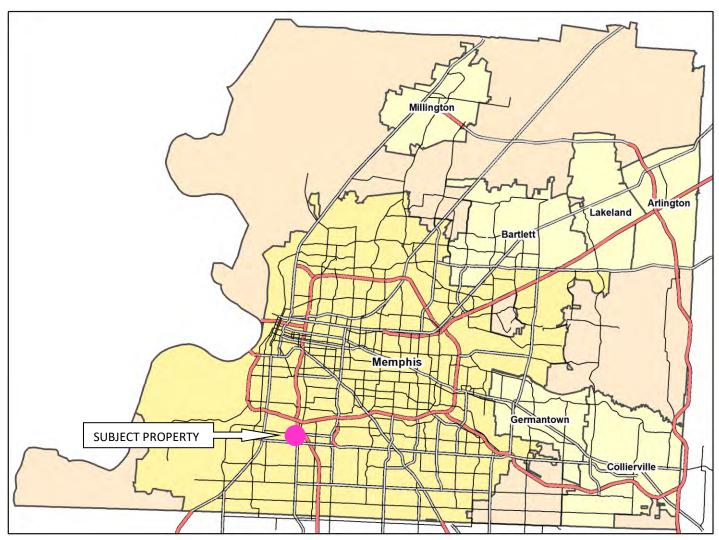
This proposal is consistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on pages 23 – 25 of this report.

#### **RECOMMENDATION:**

Approval with conditions

Staff Writer: Alexis Longstreet E-mail: alexis.longstreet@memphistn.gov

# **LOCATION MAP**



Subject property located within the pink circle

#### **PUBLIC NOTICE VICINITY MAP**

Subject property highlighted in yellow

#### **PUBLIC NOTICE DETAILS**

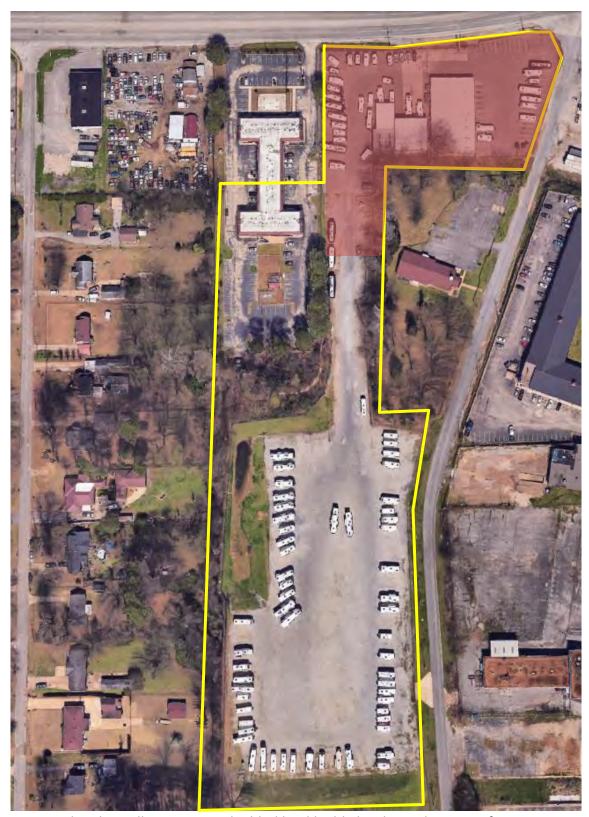
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signage posted. A total of 27 notices were mailed July 11, 2024, see pages 26 – 27 of this report for a copy of said notice. Additionally, two signs were posted at the subject property, see page 29 of this report for a copy of the sign affidavit.

#### **NEIGHBORHOOD MEETING**

The meeting was held at 4:00 PM on Tuesday, August 27, 2024, at Great American RV Dealership at 1145 East Brooks Road.



# **AERIAL**



Subject property outlined in yellow, Proposed added land highlighted in red imagery from 2024

# **ZONING MAP**



Subject property highlighted in yellow

# **FEMA MAP**



Subject property outlined in yellow

# **LAND USE MAP**



Subject property indicated by a pink star

# **SITE PHOTOS**



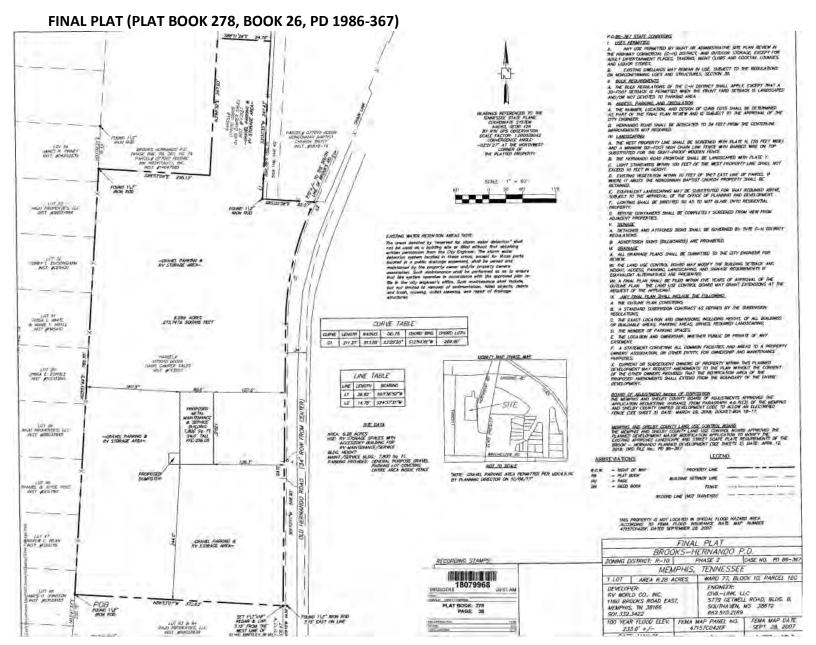
View of subject property from East Brooks looking southwest.



View of subject property from East Brooks looking southeast.



View of subject property from Old Hernando looking north.



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OFFICE OF PLANHING AND DEVELOPMENT	
ENGINEER'S CERTIFICATE	
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COMMISSIONE AT A FORM IVE THOU RID AT THE NORTHWEST CORNER OF LOT AS, DOUBTOOK HELS SUBDIVISION, ADDITION NO. 3, RECORDED IN BOOK 12, PAGE AN IN NEW SHELLY COMPIT PROSESSES STITLE, SHE IN HIGH ALSO BROWN THE FORM OF THE HEREN RESORDED TRACT, RESNET NORTH OS STORING TO THE CONTROL OF THE PAGE AND DOUBTON HELD SUBDIVISION. ADDITION NO. 3, THENCE SOUTH AS ECONEST OF HAVING'S OF SCOOL AST, TASK IT THE CONTROL OF THE PAGES, RECORDED TRACT, RESNET NORTH AS ECONEST OF A SHE DOUBTON HELD SUBDIVISION. ADDITION NO. 3, THENCE SOUTH AS ECONEST OF HAVING'S OF SCOOL AST, TASK IT THE TO A FORM THE PAGES, RECORDED AND THE SOUTH AS ECONEST OF A CHAIN LINK FRANCE, THENCE SOUTH AS ECONEST SEE MINISTES OF SCOOL AST, TASK IT THE TO A SET L'Y-ME RESULT AND C'ALL OF AN ONLY THE PAGE AND THE SOUTH AS ECONEST SEE MINISTES OF SCOOL AST, TASK IT TO A SET L'Y-ME RESULT AND C'ALL OF AN ONLY THE PAGE AND T

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B. Major Modification Conditions (04-12-18)	
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The western property line of the subject site shall be screened in accordance with Modified Plate H-1 as shown on the site plan.	
The eastern property line abusting not fronting Hernando Road and currently adjacent to a place of worship sha rite plan.	all be screened in accordance with Modified Plate H-2 as shown
The subject site frontage along Hernando Road shall be landscaped in accordance with Modified Plate Y as shown on the site plan.	
Chain-link fencing with barbed wire on top shall be allowed on the boundary of the subject site except when rough three require a different fencing type, thus, in those instances chain-link fencing with barbed wire on top shall not be permitted	re the strictscape or landscape plate referenced in site conditions
Any required landscaping that falls within the existing detection pond area shall be subject to approval by the modified in this area subject to review and approval by the Office of Planning and Development.	
All outline plan conditions remain applicable unless modified by site conditions one through four.	
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The Board of Adjustment Approval Conditions B.O.A. 18-17 Conditions (03-28-18)

Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.
 A site plan shall be submitted for administrative review and approval by the Memphis and Shelly County Office of Planning and Development to reflect the approves conditions.

The electrified fence shall be permitted along the border of the subject property. The maximum height of the electrified fence shall be 10 feet.

feet.

A Regarding the northern portion of the site, the street frontage fencing shall be constructed of high quality materials, such as wrought iron, powder coated aluminum, etc. and this quality of fencing shall extend into the subject property the respective distances on each street to match the distance that the principal structure is settack (14-10 feet feet from Brooks Road and 4-100 feet from Old Hernando Road.

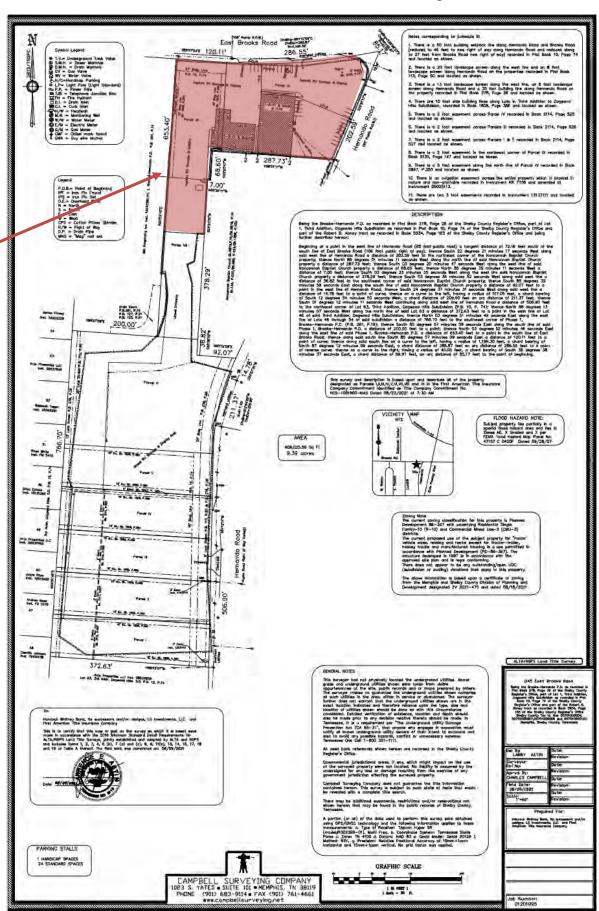
5. Regarding the western property line of the subject property which is adjacent to single-family residential a site-proof wooden fence shall be installed with a minimum height of six feet.

6. A fandosope plain shall be submitted for administrative review and approval by the Memphis and Shelby County Office of Planning and Development for any portion of the subject property not within the conganism cases for the Brooks - Hernando Planned Development, PD 65-367. Correspondence. The intent of this condition is that all street frontage funcing shall be part of an evergreen landscape screening system or equivalent.

RECORDING STAMPS	BROOKS-HERNANDO P.D.
RECURDING STAMPS	ZONING DISTRICT: R-10 PHASE 2 CASE NO. PD 86-36;
HANDON CHICKETO HAN M	MEMPHIS, TENNESSEE
18079968	1 LOT AREA 6.28 ACRES WARD 77, BLOCK 10, PARCEL 12C
08:00(2)018	DEVELOPER:  RY WORLD CO, INC.  1160 BROOKS ROAD EAST, MEMPHS, IN 38166  901.323.422  662.510.2169
PRICOSONG FEE 15.00 DP FEE 2.00 TOTAL SMICHAEL 11.00	100 YEAR FLOOD ELEV. FEMA MAP PANEL NO. FEMA MAP DATE 233.9' +/- 47157C0420F SEPT. 28, 2007
TOM LEATHERWOOD  ADDRESS: OF DECISION OF BUT OCCUPY TO REGISTER.	DATE: MAY 25, SCALE: 1* = 50' SHEET 2 OF 3

# **OUTLINE PLAN**

Proposed land to be added to existing planned development



#### **CASE REVIEW**

#### **Request**

The request is to add land to existing commercial Brooks Hernando Planned Development

# **Applicability**

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

# 4.10.2 Applicability

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

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

#### **General Provisions**

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

#### 4.10.3 General Provisions

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

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

# **Commercial or Industrial Criteria**

Staff agrees the additional planned commercial or industrial development criteria as set out in Section 4.10.5 of the Unified Development Code are or will be met.

#### 4.10.5 Planned Commercial or Industrial Developments

Approval of a planned commercial or industrial development may be issued by the governing bodies for buildings or premises to be used for the retail sale of merchandise and services, parking areas, office buildings, hotels and motels and similar facilities ordinarily accepted as commercial center uses and those industrial uses which can be reasonably be expected to function in a compatible manner with the other permitted uses in the area. In addition to the applicable standards and criteria set forth in Section 4.10.3, planned commercial or industrial developments shall comply with the following standards:

#### A. Screening

When commercial or industrial structures or uses in a planned commercial or industrial development abut a residential district or permitted residential buildings in the same development, screening may be required by the governing bodies.

# B. Display of Merchandise

All business, manufacturing and processing shall be conducted, and all merchandise and materials shall be displayed and stored, within a completely enclosed building or within an open area which is completely screened from the view of adjacent properties and public rights-of-way, provided, however, that when an automobile service station or gasoline sales are permitted in a planned

October 10, 2024 Page 16

commercial development, gasoline may be sold from pumps outside of a structure.

# C. Accessibility

The site shall be accessible from the proposed street network in the vicinity which will be adequate to carry the anticipated traffic of the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the enterprises located in the proposed development.

## D. Landscaping

Landscaping shall be required to provide screening of objectionable views of uses and the reduction of noise. High-rise buildings shall be located within the development in such a way as to minimize any adverse impact on adjoining low-rise buildings.

# **Approval Criteria**

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

## 9.6.9 Approval Criteria

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

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

Staff Report PD 2024-011 October 10, 2024 Page 17

# **Site Details**

Address:

1145 East Brooks Road

Parcel ID:

077010 00054

Area:

+/-1.56 acres

# Description:

The subject property is known as Lot 14 of the Ford Subdivision and Lot IX of the Brooks-Hernando Planned Development (PD 1986-367) and governed by Commercial Mixed Use -3 uses for any regulation not stated within the PD. Per the Assessor's website, the principal structure on the site was built in 1997 and currently is currently operated as a auto dealer with building square footage of +/-12,560 square feet. The surrounding land uses are a mixture of commercial, industrial and single family uses land designations. Additionally, this lot has two street frontages.

# **Site Zoning History**

On February 05, 1987, the Memphis and Shelby County Land Use Control Board recommended approval of a Planned Development application to allow highway commercial and outdoor storage uses covering an area +/-8.89 acres.

On April 07, 1987, the City of Memphis City Council approved the Planned Development application to allow highway commercial and outdoor storage uses covering an area +/- 8.89 acres.

#### **Concept Plan Review**

- There is a one-story structure setback +/-70 feet from East Brooks Road and +/-141 feet from Hernando Road.
- There are two curb cuts along East Brooks Road that provide access to the subject property.
- There is a 20-foot landscape screen along the west property line and a 8 foot landscape screen along Hernando Road.
- All structures are exiting.
- There is a sign located in the northeast corner of the subject property.
- There is designated RV storage and display noted.

# **Analysis**

The applicant is proposing to include the existing lot and its uses that serve the established planned development within the Brooks-Hernando (PD 86-367). The subject property will be governed by previously approved outline plan conditions and CMU-3 uses and bulk regulations.

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.

#### RECOMMENDATION

Staff recommends approval with revisions to the outline plan conditions.

# **Outline Plan Conditions – Revisions**

Proposed language is indicated in **bold**, **underline**; deletions are indicated in **bold strikethrough** 

#### **Outline Plan Conditions**

#### L Uses Permitted

- A. Any use permitted by right or administrative site plan review in the highway commercial (C-H) CMU-
- <u>3</u> district, and outdoor storage, except for adult entertainment places, taverns, night clubs and cocktail lounges, and liquor stores.
- B. Existing dwellings may remain in use, subject to the regulations on nonconforming uses and structures, Section 30.

#### II. Bulk Requirements

A. The bulk regulations of the CMU-3 district shall apply, except that a 30-foot setback is permitted when the front yard setback is landscaped and/or not devoted to parking area,

# III. Access, Parking, and Circulation

- A. The number, location and design of curb cuts shall be determined as part of the final Plan review and is subject to the approval of the city engineer.
- B. Hernando Road shall be dedicated to 34 feet from the centerline. Improvements not required,

#### IV. Landscaping

- A. The west property line shall be screened with Plate H, (20 feet Wide), and a minimum six-foot-high chain link fence with barbed wire on top substituted for the sight-proof wooden fence.
- B. The Hernando Road frontage shall be landscaped with Plate Y.
- C. Light standards within 100 feet of the west property line shall not exceed 10 feet in height.
- D. Existing vegetation within 10 feet of the east line of Parcel VI where it abuts the Nonconnah Baptist Church property shall be retained.
- E. Equivalent landscaping may be substituted for that required above subject to the approval of the office of planning and development.
- F. Lighting shall be directed so as to not glare onto residential property,
- G. Refuse containers shall] be completely screened from view from adjacent 'Properties,

# V. Signage

- A. Detached and attached signs shall be governed by CMU-3 district regulations.
- B. Advertising signs (billboards) are prohibited.

#### VI. Drainage

A. All drainage plans shall be submitted to the city engineer for review.

VII. The land use control board may modify the building setback and height, access, parking, landscaping and signage requirements if equivalent alternatives are presented.

VIII. A final plan shall be filed within five years of approval of the outline plan. the land use control! board may grant extensions, at the request of the applicant

# IX. Any final plan shall include the following.

- A. The outline plan conditions;
- B. A standard subdivision contract as defined by the subdivision regulations;
- C. The exact location and dimensions, including height, of all buildings or buildable areas, parking areas, drives, required landscaping;

Staff Report PD 2024-011 October 10, 2024 Page 19

- D. The number of parking spaces;
- E. The location and ownership, whether public or private of any easement:
- F. A statement conveying all common facilities and areas to a property owners' association, or other entity, for ownership and maintenance purposes,
- 7. Current or subsequent owners of property within this planned development may request amendments to the plan without the consent of notification of the other owners area of the proposed amendments shall extend from the boundary of the entire development.

#### **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. The sewer capacity will not be determined until the developer provide the proposed discharge to the Engineering Div/Sewer Design Dept. to check the capacity of the existing system.

#### <u>Roads:</u>

- 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

October 10, 2024 Page 21

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. Development is greater than 1 acre and requires detention.
- 16. No other utilities or services may occupy sanitary sewer easements in private drives and yards except for crossings.
- 17. All connections to the sewer shall be at manholes only.
- 18. 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.
- 19. 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.

**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 pages 23 – 25.

# **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: PD 2024-011 Whitehaven

Site Address/Location: 1145 E BROOKS RD (Parcel ID: 077010 00054, 077010 00067, 077010 00068, 077010 00012C)

Overlay District/Historic District/Flood Zone: Located in a Floodplain, but not in an Overlay District, or Historic District Future Land Use Designation: High Intensity Commercial & Services (CSH)

Street Type: N/A

The applicant is requesting to incorporate multiple parcels within the proposed Planned Development site.

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.

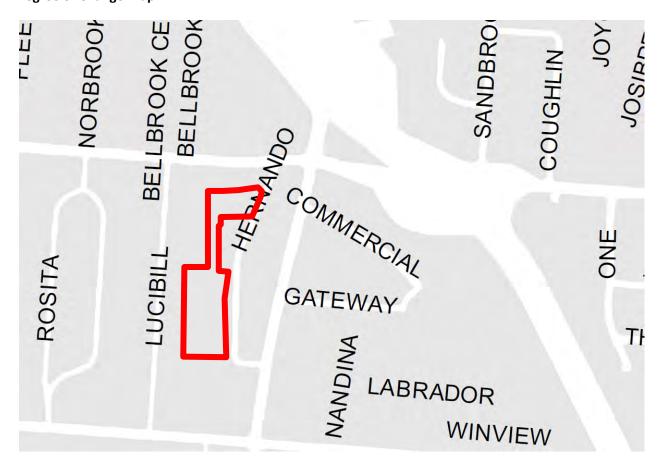
#### **Existing, Adjacent Land Use and Zoning**

Existing Land Use and Zoning: Commercial and Vacant, R-10 and CMU-3

Adjacent Land Use and Zoning: Commercial, Institutional, Single-Family, Office, Industrial; CMU-3, R-10, RU-4, CMU-1 and EMP

**Overall Compatibility:** This requested use is compatible with the future land use description/intent, form & location characteristics, zoning notes, and existing, adjacent land use and zoning.

# **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 requesting to incorporate multiple parcels within the proposed Planned Development site.

This requested use is compatible with the future land use description/intent, form & location characteristics, zoning notes, and existing, adjacent land use and zoning.

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

Summary Compiled by: Romana Haque Suravi, Comprehensive Planning.

### MAILED PUBLIC NOTICE

27 Notices Mailed on 07/13/2024.

# MEMPHIS AND DIVISION OF PLANNING SHELBY COUNTY AND DEVELOPMENT

City Hall - 125 N, Main Street, Suite 468 - Memphis, Tennessee 38103

### NOTICE OF PUBLIC HEARING

You have received this notice because you own or reside on a property that is near the site of a land use application filed with the Division of Planning and Development. The MEMPHIS & SHELBY COUNTY LAND USE CONTROL BOARD will hold a Public Hearing on the following application, pursuant to Sub-Section 9.3.4A of the Memphis & Shelby County Unified Development Code:

CASE NUMBER: PD 2024 – 011
LOCATION: 1145 East Brooks

(SEE SITE PLAN ON REVERSE SIDE)

APPLICANT: Russ Rudolph, LG Investments, LLC

REQUEST: Add land to existing commercial Brooks Hernando Planned Development

### THE LAND USE CONTROL BOARD PUBLIC MEETING WILL BE HELD:

DATE: Thursday, August 8, 2024

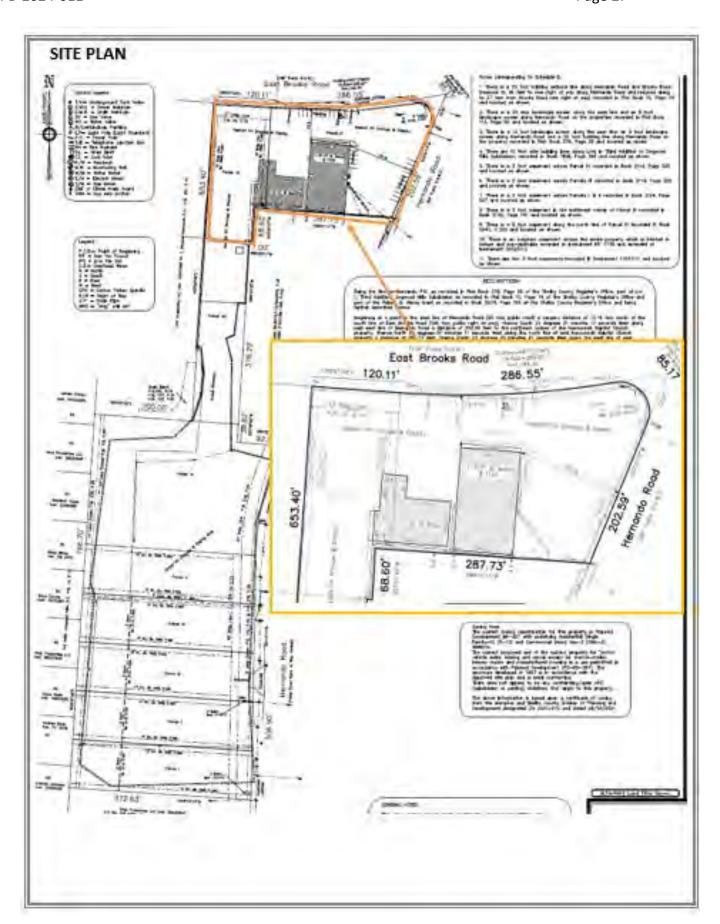
TIME: 9:00 AM

LOCATION: Council Chambers on the First Floor of City Hall, 125 N. Main Street

During the public hearing, the Board may recommend the approval or rejection of this item or hold the item for a public hearing at a subsequent Board meeting. For this case, the Board will make a *recommendation* to the legislative body; the legislative body will take final action at a later date.

Please note the Board may place this item on the <u>Consent Agenda</u>, which is considered at the beginning of the Board meeting. No individual public hearing will be held, nor will the Board debate items on the Consent Agenda unless a member of the audience, staff or Board requests that the item be removed from the Consent Agenda.

You are not required to attend this hearing, although you are welcome to do so if you wish to speak for or against this application. You may also contact Alexis Longstreet via e-mail at <a href="mailto:alexis.longstreet@memphistn.gov">alexis.longstreet@memphistn.gov</a> or call (901) 636-7120 to learn more about the proposal and/or to submit a letter of support or opposition no later than Wednesday, July 31, 2024 at 8 AM. Note, comments sent to anyone other than the staff planner will not be recognized or included in the staff report.



### **SIGN AFFIDAVIT**

### **AFFIDAVIT**

the to Case No. Proceed at 1149 E Brown Road Newton TN (Committee RV).  providing notice of a Public Hearing before the * Land Use Control Board, * Men City Council, Shelby County Board of Commissioners for consideration of a prop Land Use Action (* Planned Development, Special Use Permit, Zo. District Map Amendment, Street and/or Alley Closure), a photograph of said sign(s) to attached hereon and a copy of the sign purchase receipt or rental contract attached hereto.    War   Public   Planned Development   Public Notice   Planned Development   Public   Planned Development   Planned D			om, depose and say i	rigit di soos	
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### APPLICATION



# Memphis and Shelby County Division of Planning and Development

East Service Center: 6465 Mullins Station Rd; Memphis,

Tennessee 38134

Downtown Service Center: 125 N. Main Street:

Memphis, Tennessee 38103

website: www.develop901.com

### Record Summary for Planned Development

Record Detail Information

Record Type: Planned Development

Record Status: Processing Opened Date: April 1, 2024

Record Number: PD 2024-011

Expiration Date:

Record Name: Major Modification to Brooks-Hernando P.D.

Description of Work: The Applicant submits this proposed Major Modification to the Brooks-Hernando P.D. for the purpose of incorporating the properties at 1145 E. Brooks Road (Parcel ID 077010 00054) and 0 E. Brooks Road (Parcel ID 077010 00067) into the Brooks-Hernando P.D. recorded at Plat Book 278, Page 26, which is currently comprised of the properties at 0 E. Brooks Road (Parcel ID 077010 00068) and 0 E. Brooks Road (Parcel ID 077010 00012C).

In addition to incorporating the above referenced properties, the Applicant desires to amend the Uses Permitted to bring them in line with the provisions of the UDC and otherwise modify the Brooks-Hernando P.D. as provided in this Application. Currently, all of the above referenced parcels operate collectively as the RV Dealership.

The Brooks-Hernando PD provides generally for C-H uses, which is the historical equivalent to CMU-3. The Applicant desires to modify the Planned Development to incorporate the current terminology of CMU-3, such that the "Uses Permitted" would read as follows:

A. ANY USE PERMITTED BY RIGHT OR ADMINISTRATIVE SITE PLAN REVIEW IN THE CMU-3 DISTRICT AND OUTDOOR STORAGE, EXCEPT FOR ADULT ENTERTAINMENT PLACES, TAVERNS, NIGHT CLUBS AND COCKTAIL LOUNGES AND LIQUOR STORES.

Parent Record Number: MJR 2024-035

### Address:

1145 E BROOKS RD, MEMPHIS 38116

### Owner Information

Primary Owner Name

Y LG INVESTMENTS LLC

Owner Address 407 SAINTT TAMMANY ST, MADISONVILLE, LA 70447 Owner Phone

2255674424

Page 1 of 4

PD 2024-011

### Parcel Information

077010 00054

### Data Fields

PREAPPLICATION MEETING

Name of DPD Planner
Date of Meeting
Pre-application Meeting Type
GENERAL PROJECT INFORMATION

Planned Development Type Previous Docket / Case Number

Medical Overlay / Uptown
If this development is located in unincorporated
Shelby County, is the tract at least three acres?
(Note a tract of less than three acres is not
eligible for a planned development in
unincorporated Shelby County)

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

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

APPROVAL CRITERIA

UDC Sub-Section 9.6.9A
UDC Sub-Section 9.6.9B
UDC Sub-Section 9.6.9C
UDC Sub-Section 9.6.9D
UDC Sub-Section 9.6.9E
UDC Sub-Section 9.6.9F

UDC Sub-Section 4.10.3A

water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development C) The location and arrangement of the structures, parking and loading areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for such facilities shall be landscaped or otherwise improved except where natural features are such as to justify preservation D) Any modification of the district standards that would otherwise be applicable to the site are

warranted by the design of the outline plan and

B) An approved water supply, community waste

Lucas Skinner 02/28/2024 In Person

Amendment to Existing PD

No N/A

Yes

ZV 21-475

See Letter of Intent See Letter of Intent

See Letter of Intent See Letter of Intent

See Letter of Intent

See Letter of Intent

PD 2024-011

### **GENERAL PROVISIONS**

the amenities incorporated therein, and are not inconsistent with the public interest

E) Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common

elements

F) Lots of record are created with the recording

of a planned development final plan

GIS INFORMATION

Case Layer Central Business Improvement District

Class Downtown Fire District

Historic District Land Use

Municipality Overlay/Special Purpose District

Zoning State Route Lot

Subdivision Planned Development District

Wellhead Protection Overlay District

Contact Information

Name RUSS RUDOLPH

Address

Phone

Name CHARLES CAMPBELL

Address

Phone (901)683-9114

Name HUNTER HUMPHREYS

Address

Phone (901)676-1744

See Letter of Intent

See Letter of Intent

No

No

No

Contact Type

APPLICANT

Contact Type

ARCHITECT / ENGINEER / SURVEYOR

Contact Type

REPRESENTATIVE

PD 2024-011 Page 3 of 4

Fee Inform	mation					
Invoice #	Fee item	Quantity	Fees	Status	Balance	Date Assessed
1577318	Credit Card Use Fee (.026 x fee)	1	39.00	INVOICED	39.00	07/10/2024
1577318	Planned Development - 5 acres or less	1.	1,500.00	INVOICED	1,500.00	07/10/2024

Total Fee Invoiced: \$1,539.00

Total Balance: \$1,539.00

Page 4 of 4 PD 2024-011

### **OWNER AFFIDAVIT**



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

### Property Owner's Affidavit

Memphis and Shelby County Unified Development Code Section 12.3.1

OWNER: Includes the holder of legal title as well as holders of any equitable interest, such as trust beneficiaries, contract purchasers, option holders, lessees under leases having an unexpired term of at 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, Russ Rudolph, Authorized Officer of LG Investments, LLC, 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, quardian or lessee (and have included documentation with this affidavit) of the property located at 1145 and 0 E. Brooks Road, Memphis, TN and further identified by Assessor's Parcel Numbers 077010 00054, Parcel ID 077010 00067, Parcel ID 077010 00068 and Parcel ID 077010 00012C, for which an application is being made to the Division of Planning and Development. LG INVESTMENTS, LLC By: Russ Rudolph, Authorized Officer Subscribed and worn to (or affirmed) before me this in the year of 2024. Signature of Notary Public My Commission Expires

### LETTER OF INTENT



Moto Popie Avenue, ILITE 800 Methoris, Inninesyes 36119 F 901 025 1327 F 901 025 2389 We've glonker com

> Mark T. Jobe, Jr. 901.576.1853 miobe@glankler.com

June 28, 2024

Memphis and Shelby County Division of Planning and Development 125 N. Main Street #468 Memphis, TN 38103

> Re: Major Modification to Brooks-Hernando P.D. (Plat Book 278, Page 26)

Ladies and Gentlemen:

This firm represents LG Investments LLC, the owner of 1145 E. Brooks Road (Parcel ID 077010 00054), 0 E. Brooks Road (Parcel ID 077010 00067), 0 E. Brooks Road (Parcel ID 077010 00068) and 0 E. Brooks Road (Parcel ID 077010 00012C).

This proposed Major Modification to the Brooks-Hernando P.D. is submitted for the purposes of (i) incorporating the properties at 1145 E. Brooks Road (Parcel ID 077010 00054) and 0 E. Brooks Road (Parcel ID 077010 00067) into the Brooks-Hernando P.D. recorded at Plat Book 278, Page 26 (the "Planned Development"), which is currently comprised of the properties at 0 E. Brooks Road (Parcel ID 077010 00068) and 0 E. Brooks Road (Parcel ID 077010 00012C), and (ii) to modify the Planned Development to replace the outdated terminology of the "Commercial Highway – CH District" to incorporate the current terminology of CMU-3, such that the "Uses Permitted" would read as follows:

A. ANY USE PERMITTED BY RIGHT OR ADMINISTRATIVE SITE PLAN REVIEW IN THE CMU-3 DISTRICT, AND OUTDOOR STORAGE, EXCEPT FOR ADULT ENTERTAINMENT PLACES, TAVERNS, NIGHT CLUBS AND COCKTAIL LOUNGES AND LIQUOR STORES.

We believe that bringing the above referenced tax parcels owned by LG Investments LLC into one planned development and using the updated terminology will make the property more attractive to potential investors, purchasers and tenants because the zoning entitlements will be unified throughout the planned development and easier to understand. If approved, we would request all four (4) tax parcels are consolidated into one (1) tax parcel going forward. Currently, the two parcels that are not presently in the planned development are zoned CMU-3.

In the meantime, the subject properties will continue to operate as Great American RV Superstores - Memphis.

4874-1015-6986, v. 1

Please let us know if you have any questions or concerns regarding this application.

Very best regards,

GLANKLER BROWN, PLLC

Merk Tilden John Jr... Scioossipprocess. Mark T. Jobe, Jr. Staff Report PD 2024-011 October 10, 2024 Page 35

### **LETTERS RECEIVED**

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



# Memphis and Shelby County Division of Planning and Development

East Service Center: 6465 Mullins Station Rd; Memphis,

Tennessee 38134

Downtown Service Center: 125 N. Main Street;

Memphis, Tennessee 38103

website: www.develop901.com

### **Record Summary for Planned Development**

**Record Detail Information** 

Record Type: Planned Development Record Status: Processing

Opened Date: April 1, 2024

Record Number: PD 2024-011 Expiration Date:

Record Name: Major Modification to Brooks-Hernando P.D.

Description of Work: The Applicant submits this proposed Major Modification to the Brooks-Hernando P.D. for the purpose of incorporating the properties at 1145 E. Brooks Road (Parcel ID 077010 00054) and 0 E. Brooks Road (Parcel ID 077010 00067) into the Brooks-Hernando P.D. recorded at Plat Book 278, Page 26, which is currently comprised of the properties at 0 E. Brooks Road (Parcel ID 077010 00068) and 0 E. Brooks Road (Parcel ID 077010 00012C).

In addition to incorporating the above referenced properties, the Applicant desires to amend the Uses Permitted to bring them in line with the provisions of the UDC and otherwise modify the Brooks-Hernando P.D. as provided in this Application. Currently, all of the above referenced parcels operate collectively as the RV Dealership.

The Brooks-Hernando PD provides generally for C-H uses, which is the historical equivalent to CMU-3. The Applicant desires to modify the Planned Development to incorporate the current terminology of CMU-3, such that the "Uses Permitted" would read as follows:

A. ANY USE PERMITTED BY RIGHT OR ADMINISTRATIVE SITE PLAN REVIEW IN THE CMU-3 DISTRICT AND OUTDOOR STORAGE, EXCEPT FOR ADULT ENTERTAINMENT PLACES, TAVERNS, NIGHT CLUBS AND COCKTAIL LOUNGES AND LIQUOR STORES.

Parent Record Number: MJR 2024-035

### Address:

1145 E BROOKS RD, MEMPHIS 38116

### **Owner Information**

Primary Owner Name

Y LG INVESTMENTS LLC

Owner Address

407 SAINTT TAMMANY ST, MADISONVILLE, LA 70447

2255674424

Page 1 of 4 PD 2024-011

### **Data Fields**

DREADD	LICATION	MEETING

Name of DPD Planner

Date of Meeting

Pre-application Meeting Type

Lucas Skinner
02/28/2024

In Person

GENERAL PROJECT INFORMATION

Planned Development Type Amendment to Existing PD

Previous Docket / Case Number Medical Overlay / Uptown No
If this development is located in unincorporated N/A

Shelby County, is the tract at least three acres? (Note a tract of less than three acres is not eligible for a planned development in unincorporated Shelby County)

Is this application in response to a citation, stop

Yes

work order, or zoning letter

If yes, please provide a copy of the citation, stop ZV 21-475 work order, and/or zoning letter along with any

other relevant information

APPROVAL CRITERIA

UDC Sub-Section 9.6.9ASee Letter of IntentUDC Sub-Section 9.6.9BSee Letter of IntentUDC Sub-Section 9.6.9CSee Letter of IntentUDC Sub-Section 9.6.9DSee Letter of IntentUDC Sub-Section 9.6.9ESee Letter of IntentUDC Sub-Section 9.6.9FSee Letter of Intent

**GENERAL PROVISIONS** 

UDC Sub-Section 4.10.3A See Letter of Intent

B) An approved water supply, community waste See Letter of Intent

B) An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development

C) The location and arrangement of the structures, parking and loading areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for such facilities shall be landscaped or otherwise improved except where natural features are such as to justify preservation

warranted by the design of the outline plan and

D) Any modification of the district standards that See Letter of Intent would otherwise be applicable to the site are

Page 2 of 4 PD 2024-011

See Letter of Intent

### **GENERAL PROVISIONS**

the amenities incorporated therein, and are not inconsistent with the public interest

E) Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements

See Letter of Intent

F) Lots of record are created with the recording of a planned development final plan

GIS INFORMATION

See Letter of Intent

No

No

Case Layer

Central Business Improvement District Class

**Downtown Fire District Historic District** Land Use Municipality Overlay/Special Purpose District Zoning

State Route Lot Subdivision

Planned Development District Wellhead Protection Overlay District No

**Contact Information** 

**Contact Type** Name **RUSS RUDOLPH** 

**APPLICANT** 

**Address** 

**Phone** 

Name **Contact Type** CHARLES CAMPBELL

ARCHITECT / ENGINEER /

SURVEYOR **Address** 

**Phone** (901)683-9114

**Contact Type** 

**HUNTER HUMPHREYS** REPRESENTATIVE

**Address** 

Phone

(901)576-1744

PD 2024-011 Page 3 of 4

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

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I, Russ Rudolph, Authorized Officer of LG Investments, LLC, 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 1145 and 0 E. Brooks Road, Memphis, TN and further identified by Assessor's Parcel
Numbers 077010 00054, Parcel ID 077010 00067, Parcel ID 077010 00068 and Parcel ID 077010 00012C, for which
an application is being made to the Division of Planning and Development.
LG INVESTMENTS, LLC
By: ZuZ
Russ Rudolph, Authorized Officer
Subscribed and sworn to (or affirmed) before me this day of in the year of 2024.
Joan Death
Signature of Notary Public My Commission Expires

หรับรู้บริษัท ดิสาการเรียนตุกกกกั

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Mark T. Jobe, Jr. 901.576.1853 miobe@glankler.com

June 28, 2024

Memphis and Shelby County Division of Planning and Development 125 N. Main Street #468 Memphis, TN 38103

Re: Major Modification to Brooks-Hernando P.D.

(Plat Book 278, Page 26)

### Ladies and Gentlemen:

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In the meantime, the subject properties will continue to operate as Great American RV Superstores – Memphis.

Please let us know if you have any questions or concerns regarding this application.

Very best regards,

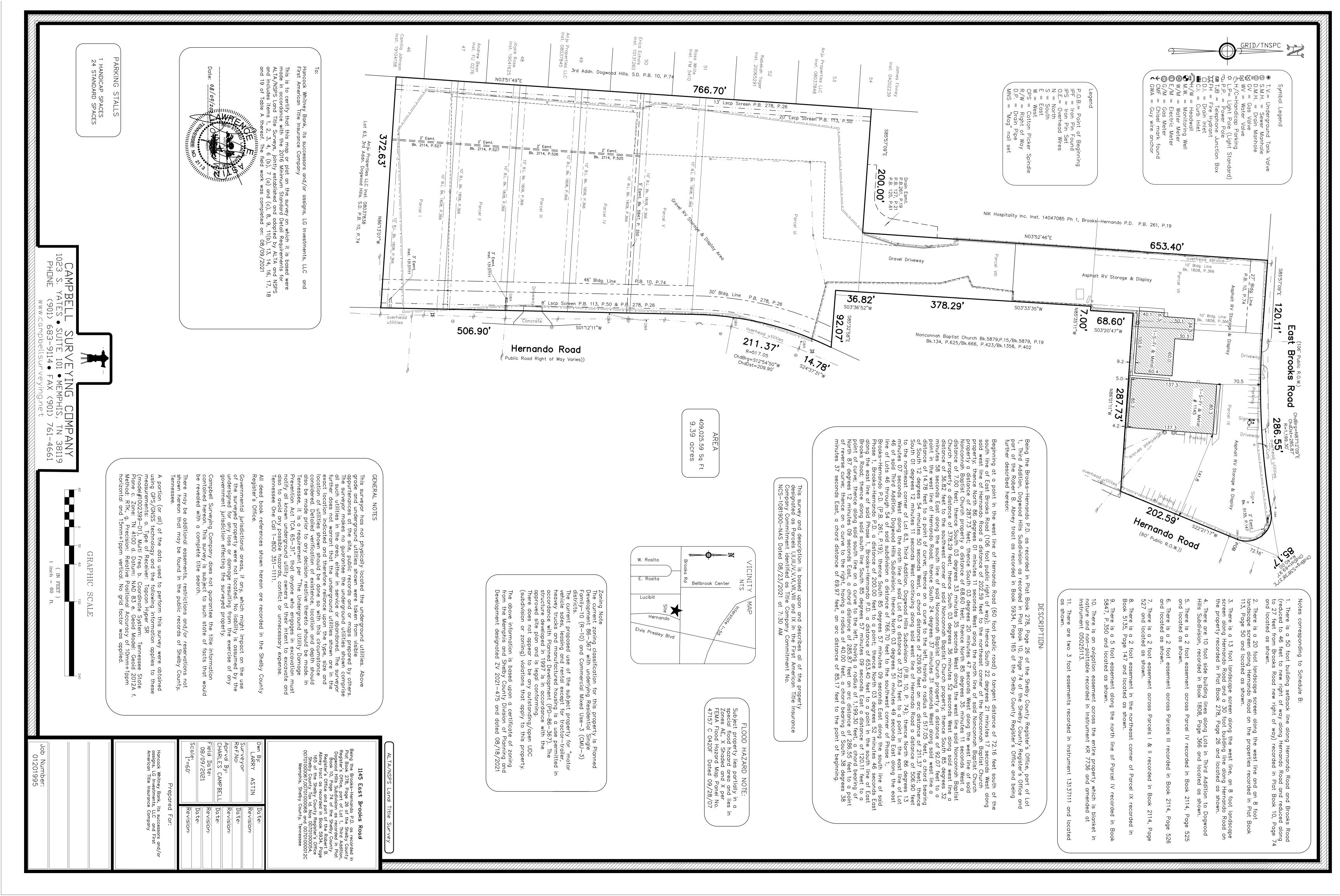
GLANKLER BROWN, PLLC

Docusigned by:

Mark Tilden Jobe Jr.

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Mark T. Jobe, Jr.

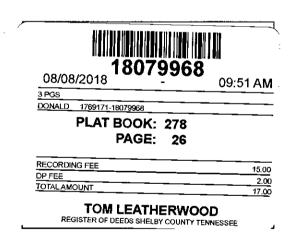


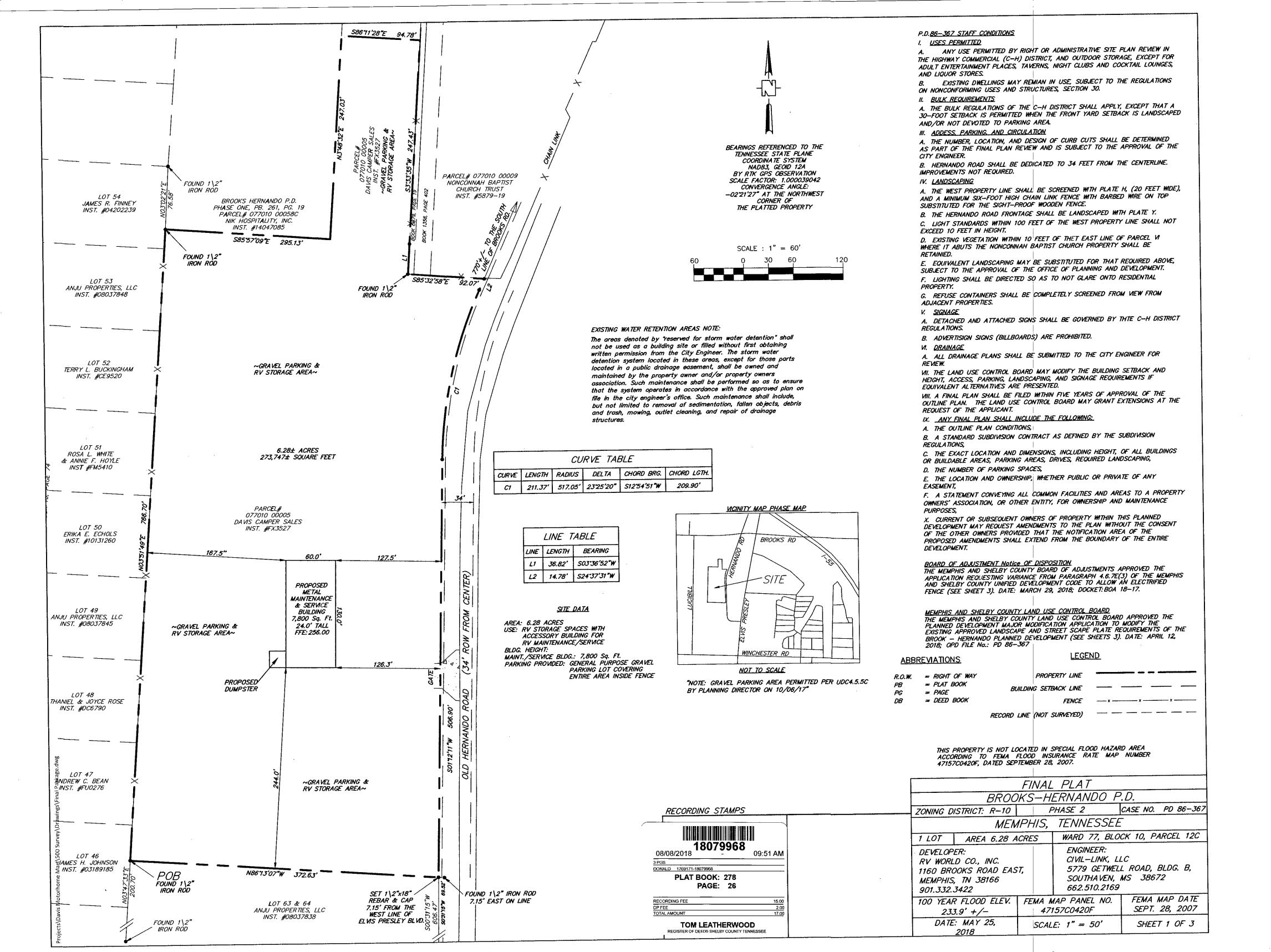


# Tom Leatherwood

**Shelby County Register** 

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





OFFICE OF PLANNING AND DEVELOPMENT CERTIFICATE	
THIS FINAL PLAT CONFORMS WITH THE PLANNED DEVELOP	MENT ACTED ON RY THE LAND USE CONTROL BOARD ON
02-05-87, AND APPROVED BY THE MEMPHIS CITY COUN	CIL ON 04-07-87.
BY	DATE 7-26-18
DIRECTOR OF PLANNING AND DEVELOPMENT	
\$ 7.24.17	
CITY ENGINEER	
NRS 07/26/18	
OFFICE OF PLANNING AND DEVELOPMENT	
WITHOU OF PENNING AND DEVELOPMENT	
NGINEER'S CERTIFICATE	
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SEAL VALUE OF THE PROPERTY OF	No. 2313
NER'S CERTIFICATE	OF TENNE SHIP
, DAVID DAVIS, THE UNDERSIGNED OWNER OF THE PROPER	RTY SHOWN, HEREBY MINIS PLAT AS OUR PLAN OF
EVELOPMENT, AND DEDICATE THE STREETS, RIGHT—OF—WAY, ESCRIBED TO PUBLIC USE FOREVER. WE CERTIFY THAT WE , OLY AUTHORIZED TO ACT, AND THAT SAID PROPERTY IS NO OLE AND PAYABLE.	, AND GRANT THE EASEMENTS AS SHOWN AND/OR
()	
VID DAVIS, OWNER, DAVIS CAMPER SALES, INC. & RV WOR	PLD CO., INC.
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FORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FO	OR THE SAID STATE AND COUNTY AT MEMPHIS DULY
MMISSIONED AND QUALIFIED, PERSONALLY APPEARED PERSONALLY ACQUAINTED, AND WHO UPON HIS OATH AC	LAVID DAVIS WITH WHITH I
FOR ARC	CORPORATION OWNER OF THE PROPERTY THE WITHIN
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COMMISSION EXPIRES SEPT 22, 2020	JAMES BLANTON JONES
•	Commission Expires
	Sept. 22, 2020
RTGAGEE'S CERTIFICATE	·:010.000
	THE UNDERFOUND HORSE
OWN, HEREBY CONSENT AND ASPEE TO THE PLAN OF DEVA	
	OWNER OF THE PROPERTY.
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OFFITA DECOMPTS:	3
<u>OPERTY DESCRIPTION</u>	

A 6.28 ACRE, MORE OR LESS, PARCEL OF LAND BEING KNOWN AS PARCEL 12C, WARD 77, BLOCK 10, IN THE CITY OF MEMPHIS, SHELBY COUNTY, TENNESSEE, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 1\2" IRON ROD AT THE NORTHWEST CORNER OF LOT 63, DOGWOOD HILLS SUBDIVISION, ADDITION NO. 3, RECORDED IN BOOK 1D, PAGE 74 IN THE SHELBY COUNTY REGISTER'S OFFICE, SAID 1\2" IRON ROD ALSO BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT; THENCE NORTH 03 DEGREES 51 MINUTES 49 SECONDS EAST, 766.70 FEET TO A FOUND 1\2" IRON ROD ON THE EAST LINE OF LOT 54, OF SAID DOGWOOD HILLS SUBDIVISION, ADDITION NO. 3; THENCE SOUTH 85 DEGREES 57 MINUTES 09 SECONDS EAST, 295.13 FEET TO A SET 1\2"x18" REBAR AND CAP ON THE WEST LINE OF THE NONCONNAH BAPTIST CHURCH TRUST PARCEL RECORDED IN BOOK 5879, PAGE 19; THENCE ALONG SAID WEST LINE, SOUTH 03 DEGREES 36 MINUTES 52 SECONDS WEST, 36.82 FEET TO A FOUND 1\2" IRON ROD AT THE CORNER OF A CHAIN LINK FENCE; THENCE SOUTH 85 DEGREES 32 MINUTES 58 SECONDS EAST, 92.07 FEET TO A SET 1\2"x18" REBAR AND CAP ON THE WEST RIGHT OF WAY LINE OF OLD HERNANDO ROAD (34—FOOT RIGHT OF WAY FROM CENTER); THENCE ALONG SAID WEST RIGHT OF WAY LINE, SOUTH 24 DEGREES 37 MINUTES 31 SECONDS WEST, 14.78 FEET TO A SET 1\2"x18" REBAR AND CAP; THENCE CONTINUING ALONG SAID WEST RIGHT OF WAY LINE, A CURVE TO THE LEFT HAVING THE FOLLOWING ATTRIBUTES: RADIUS — 517.05', ARC LENGTH — 211.37 FEET, DELTA — 23 DEGREES 25 MINUTES 20 SECONDS, CHORD BEARING — SOUTH 12 DEGREES 54 MINUTES 51 SECONDS WEST, CHORD LENGTH — 209.90 FEET TO A SET 1\2"x18" REBAR AND CAP; THENCE CONTINUING ALONG SAID WEST RIGHT OF WAY LINE, SOUTH 01 DEGREE 12 MINUTES 11 SECONDS WEST, 506.90 FEET TO SET 1\2"x18" REBAR AND CAP, SAID REBAR AND CAP BEING NORTH 86 DEGREES 13 MINUTES 07 SECONDS WEST, 7.15 FEET FROM A FOUND 1\2" IRON ROD; THENCE NORTH 86 DEGREES 13 MINUTES 07 SECONDS WEST, 7.15 FEET FROM A FOUND 1\2" IRON ROD; THENCE NORTH 86 DEGREES 13 MINUTES 07 SECONDS WEST, 7.15 FEET FROM A FOUND 1\2" IRON ROD; THENCE NORTH 86 DEGREES 13 MINUTES 07 SECONDS WEST, 7.15 FEET FROM A FOUND 1\2" IRON ROD; THENCE NORTH 86 DEGREES 13 MINUTES 07 SECONDS WEST, 7.15 FEET FROM A FOUND 1\2" IRON ROD; THENCE NORTH 86 DEGREES 13 MINUTES 07 SE

### L.U.C.B. Major Modification Conditions (04-12-18)

### Site Conditions

- 1. The western property line of the subject site shall be screened in accordance with Modified Plate H-1 as shown on the site plan.
- 2. The eastern property line abutting not fronting Hernando Road and currently adjacent to a place of worship shall be screened in accordance with Modified Plate H-2 as shown on the site plan.
- 3. The subject site frontage along Hernando Road shall be landscaped in accordance with Modified Plate Y as shown on the site plan.
- 4. Chain-link fencing with barbed wire on top shall be allowed on the boundary of the subject site except where the streetscape or landscape plate referenced in site conditions one through three require a different fencing type, thus, in those instances chain-link fencing with barbed wire on top shall not be permitted.
- 5. Any required landscaping that falls within the existing detention pond area shall be subject to approval by the City Engineer. If deemed necessary by the City Engineer, the plate may be modified in this area subject to review and approval by the Office of Planning and Development.
- 6. All outline plan conditions remain applicable unless modified by site conditions one through four.

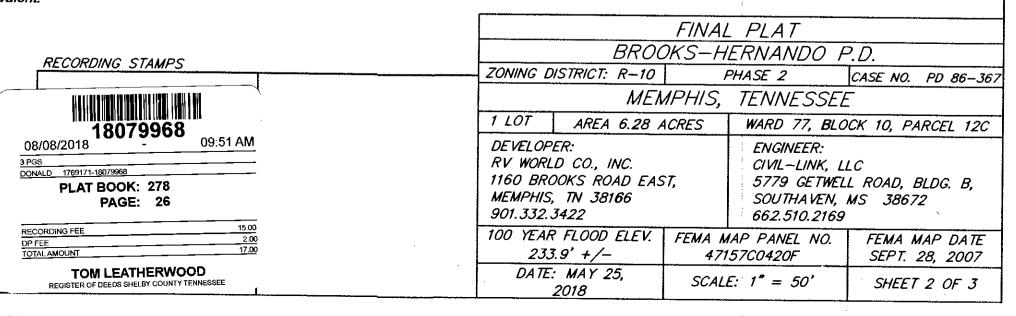
### **Outline Plan Conditions**

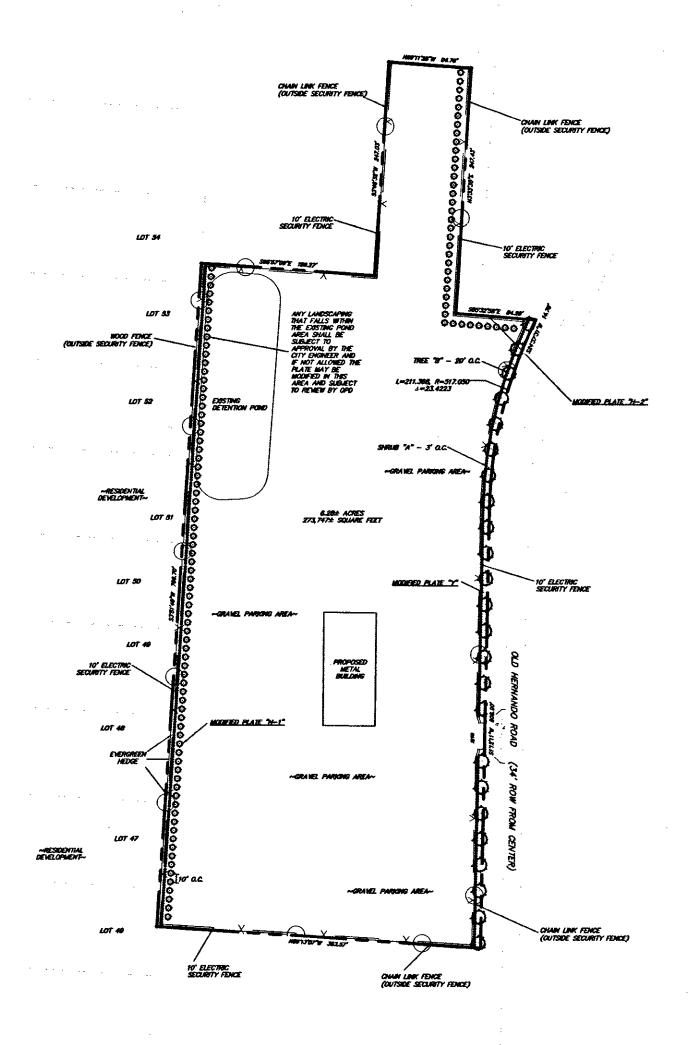
- I. Uses Permitted
- A. Any use permitted by right or administrative site plan review in the highway commercial (C-H) district, and outdoor storage, except for adult entertainment places, taverns, night clubs and cocktail lounges, and liquor stores
- B. Existing dwellings may remain in use, subject to the regulations on nonconforming uses and structures, Section 30.
- II. Bulk Requirements
- A. the bulk regulations of the C-H district shall apply, except that a 30-foot setback is permitted when the front yard setback is landscaped and/or not devoted to parking area.
- III. Access, Parking, and Circulation
- A. The number, location and design of curb cuts shall be determined as part of the final plan review and is subject to the approval of the city engineer.
- B. Hernando Road shall be dedicated to 34 feet from the centerline. Improvements not required,
- IV. Landscaping
- A. The west property line shall be screened with Plate H, (20 feet wide), and a minimum six-foot-high chain link fence with barbed wire on top substituted for the sight-proof wooden fence.
- B. The Hernando Road frontage shall be landscaped with Plate Y.
- C. Light standards within 100 feet of the west property line shall not exceed 10 feet in height.
- D. Existing vegetation within 10 feet of the east line of Parcel VI where it abuts the Nonconnah Baptist Church property shall be retained.
- E. Equivalent landscaping may be substituted for that required above subject to the approval of the office of planning and development.
- F. Lighting shall be directed so as to not glare onto residential property.
- G. Refuse containers shall be completely screened from view from adjacent properties.
- V. Signage
- A. Detached and attached signs shall be governed by the C-H district regulations.
- B. Advertising signs (billboards) are prohibited.
- VI. Drainage
- A. All drainage plans shall be submitted to the city engineer for review.
- The land use control board may modify the building setback and height, access, parking, landscaping and signage requirements if equivalent alternatives are presented.
- VIII. A final plan shall be filed within five years of approval of the outline plan. the land use control board may grant extensions, at the request of the applicant.
- IX. Any final plan shall include the following.
- A. The outline plan conditions;
- B. A standard subdivision contract as defined by the subdivision regulations;
- C. The exact location and dimensions, including height, of all buildings or buildable areas, parking areas, drives, required landscaping;
- D. The number of parking spaces;
- E. The location and ownership, whether public or private of any easement;
- F. A statement conveying all common facilities and areas to a property owners' association, or other entity, for ownership and maintenance purposes,
- 7. Current or subsequent owners of property within this planned development may request amendments to the plan without the consent of the other owners provided that the notification area of the proposed amendments shall extend from the boundary of the entire development

# The Board of Adjustment Approval Conditions

### B.O.A. 18-17 Conditions (03-28-18)

- 1. Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.
- 2. A site plan shall be submitted for administrative review and approval by the Memphis and Shelby County Office of Planning and Development to reflect the approves conditions.
- 3. The electrified fence shall be permitted along the border of the subject property. The maximum height of the electrified fence shall be 10 feet.
- 4. Regarding the northern portion of the site, the street frontage fencing shall be constructed of high quality materials, such as wrought iron, powder coated aluminum, etc. and this quality of fencing shall extend into the subject property the respective distances on each street to match the distance that the principal structure is setback (+/-80 feet deep from Brooks Road and +/-100 feet from Old Hernando Road.
- 5. Regarding the western property line of the subject property which is adjacent to single-family residential a site-proof wooden fence shall be installed with a minimum height of six feet.
- 6. A landscape plan shall be submitted for administrative review and approval by the Memphis and Shelby County Office of Planning and Development for any portion of the subject property not within the companion case for the Brooks Hernando Planned Development, PD 86-367 Correspondence. The intent of this condition is that all street frontage fencing shall be part of an evergreen landscape screening system or equivalent.

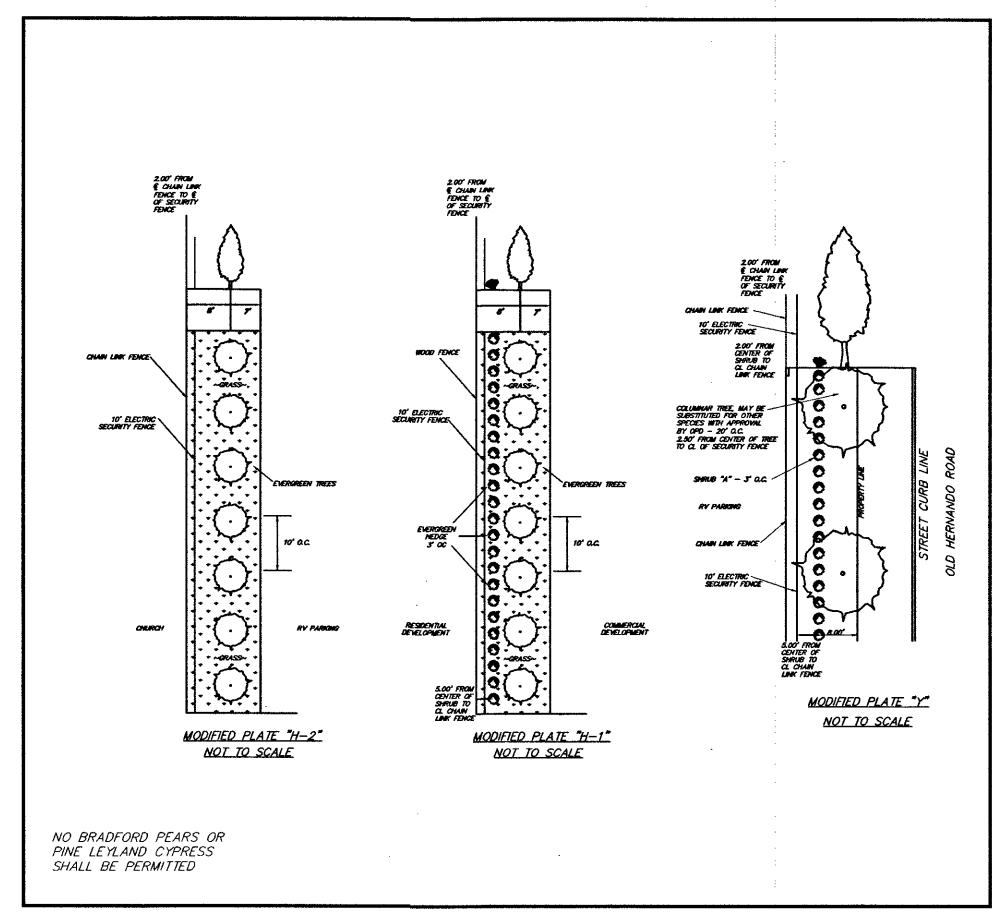




# FENCING TYPE NOTE:

SIGHT-PROOF WOODEN FENCE IS ONLY REQUIRED ALONG THE WEST PROPERTY LINE ABUTTING A PORTION OF LOT 46, LOT 54 AND ALL OF LOTS 47 THRU 53.

CHAIN-LINK FENCING WITH BARBED WIRE ON TOP IS ALLOWED AT ALL OTHER PERIMETER FENCING LOCATIONS.



# LANDSCAPE PLATE

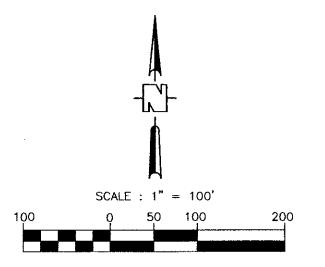
# LANDSCAPE SANITARY SEWER NOTE

No treas, strutes, permanent structures, or other utilities (except for crossings) will be allowed with sanitary sewer easement. No other utilities or services may occupy senitary sewer easements to private drives and yeards except for crossings.

The City of Memphis shall have ingress/Egress rights to use private drives and yards for to

he City of Memphis shell have urpose of maintaining all public sen ald private drives and yards.

BEARINGS REFERENCED TO THE
TENNESSEE STATE PLANE
COORDINATE SYSTEM
NADB3, GEOID 12A
BY RTK GPS OBSERVATION
SCALE FACTOR: 1.000039042
CONVERGENCE ANGLE:
-02"21"27" AT THE NORTHWEST
CORNER OF
THE PLATTED PROPERTY



# LANDSCAPE APPROVAL

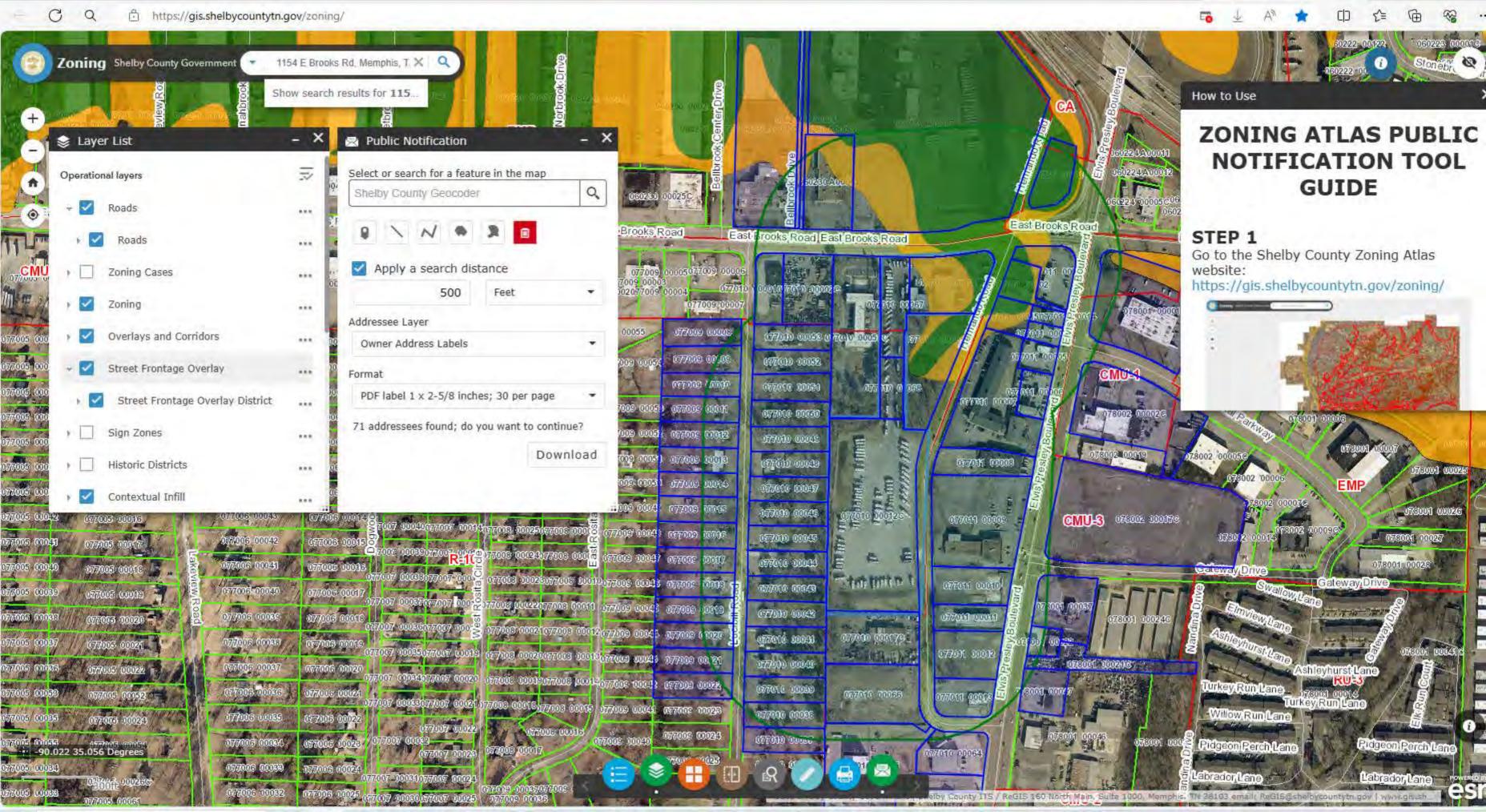
BOARD OF ADJUSTMENT Notice OF DISPOSITION
THE MEMPHIS AND SHELBY COUNTY BOARD OF ADJUSTMENT APPROVED THE
APPLICATION REQUESTING VARIANCE FROM PARAGRAPH 4.6. TE(3) OF THE MEMPHIS
AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE TO ALLOW AN ELECTRIFIED
FENCE. DATE: MARCH 29, 2018; DOCKET: BOA 18-17.

MEMPHIS AND SHELBY COUNTY LAND USE CONTROL BOARD
THE MEMPHIS AND SHELBY COUNTY LAND USE CONTROL BOARD APPROVED THE
PLANNED DEVELOPMENT MAJOR MODIFICATION APPLICATION TO MODIFY THE
EXISTING APPROVED LANDSCAPE AND STREET SCAPE PLATE REQUIREMENTS OF THE
BROOK — HERNANDO PLANNED DEVELOPMENT. DATE: APRIL 12, 2018; OPD FILE
No.: PD 86-367

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# ## 18079968 08/08/2018 09:51 AM 3 PGS DONALD 1769171-18079968 PLAT BOOK: 278 PAGE: 26 RECORDING FEE 15.00 DP FEE 2.00 TOTAL AMOUNT 17.00 TOM LEATHERWOOD REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

FINAL PLAT BROOKS-HERNANDO P.D. ZONING DISTRICT: R-10 PHASE 2 CASE NO. PD 86-367 MEMPHIS, TENNESSEE WARD 77, BLOCK 10, PARCEL 12C 1 LOT AREA 6.28 ACRES **ENGINEER:** DEVELOPER: CIVIL-LINK, LLC RV WORLD CO., INC. 1160 BROOKS ROAD EAST, 5779 GETWELL ROAD, BLDG. B, MEMPHIS, TN 38166 SOUTHAVEN, MS 38672 662.510.2169 901.332.3422 100 YEAR FLOOD ELEV. FEMA MAP PANEL NO. FEMA MAP DATE 233.9' +/-47157C0420F SEPT. 28, 2007 DATE: MAY 25, SCALE: 1" = 50' SHEET 3 OF 3 2018



- 078001 00001 SHUGAA YAAQOB A
- 078001 00021C NGUYEN DANH AND NGUYET T NGUYEN
- 078001 00022 TIPTON ELRUDIA
- 078001 00037 KAY L D & LENORE D BLEADON TR
- 078001 00047 SANDERS JOHNNY W AND MELINDA SANDERS
- 078002 00002C NELSON WILL J SR
- 078002 00017C ANJU HOTELS LLC
- 060228 00001 YORK PROPERTIES LLC
- 060230 A00002 OLYMBEC BELLBROOK LLC
- 060230 A00004 OLYMBEC BELLBROOK LLC
- 060230 A00005 OLYMBEC BELLBROOK LLC
- 060230 A00006 OLYMBEC BELLBROOK LLC
- 060230 A00007 YORK PROPERTIES LLC
- 077009 00008 AMISANO ROSEMARIE AND DOROTHY L AMISANO
- 077009 00009 MCCLAIN MARK T AND SHAWN T KIRKPATRICK
- 077009 00010 COSTA WILMA
- 077009 00011 GREEN BOBBY C
- 077009 00012 MOORE FREDRICK M
- 077009 00013 HILL CHARLIE F & CHERYL D
- 077009 00014 MIMS CLARK H & DONNA
- 077009 00015 MURPHY-WALKER DEBORAH D & WILLIE B JR
- 077009 00016 STERLING PROPERTY INVESTMENTS LLC
- 077009 00017 BADGER BOUND TN LLC
- 077009 00018 GORDON BRADY
- 077009 00019 SOUGOU NDEYE F AND FOUNDATION CHEIKH

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077009 00020 - BROWN JOSHUA L
077009 00021 - 3359 LUCIBILL LLC
077009 00022 - LEWIS GILDA G
077010 00001 - WILLIAMS JOHN L
077010 00002C - WILLIAMS DEWAYNE
077010 00009 - NONCONNAH BAPTIST CHURCH TR
077010 00012C - LG INVESTMENTS LLC
077010 00017C - ANJU PROPERTIES LLC
077010 00037 - ANJU PROPERTIES LLC
077010 00038 - AUSTIN TAMMIE L
077010 00039 - HARRIS JAMES E
077010 00040 - BROWN CHARLES E AND CAPRICE S BRATCHER
077010 00041 - ROBINSON ALYASHA K AND MILDRED MUHAMMAD
077010 00042 - MID SOUTH HOME BUYERS GP
077010 00043 - BEAN ANDREW C
077010 00044 - ROSE NATHANIEL & JOYCE M
077010 00045 - ANJU PROPERTIES LLC
077010 00046 - HARRIS JEREMIAH & ASHLIEY I
077010 00047 - WHITE ROSA L AND ANNIE F HOYLE
077010 00048 - YAGER REBEKAH AND MAURICO NICHOLS
077010 00049 - ANJU PROPERTIES LLC
077010 00050 - FINNEY JAMES R & VIRGINIA M (LE ) AND
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077010 00051 - NICHOLS MAURICO & REBEKAH

077010 00052 - ROCHE MELVIN A

077010 00053 - ROCHE MELVIN A

- 077010 00054 LG INVESTMENTS LLC
- 077010 00058C NIK HOSPITALITY INC
- 077010 00064 VENTURA FD LLC
- 077010 00065 NEW YORK INVESTMENT GROUP LLC
- 077010 00066 PATEL SANDIP
- 077010 00067 LG INVESTMENTS LLC
- 077010 00068 LG INVESTMENTS LLC
- 077011 00001 MEMPHIS CONVENTION AND VISTORS BUREAU
- 077011 00002 WATSON KENNETH D
- 077011 00004 BLU RIVER LLC
- 077011 00005 GIBBS ALVIN
- 077011 00006 ANJU PROPERTIES LLC
- 077011 00007 OM SHIVAYA NAMAH INC
- 077011 00008 STOTTS GREGORY
- 077011 00009 SHIVA PROPERTIES LLC
- 077011 00010 ANJU PROPERTIES LLC
- 077011 00011 GRAY JANICE L & EDDIE W JR
- 077011 00012 NERO HOLDINGS LLC
- 077011 00013 EXLINE WALTER L JR LIVING TRUST
- 077011 00014 BLU RIVER LLC
- 077011 00015 BLU RIVER LLC

AMISANO ROSEMARIE AND DOROTHY L AMISANO	GORDON BRADY	ANJU PROPERTIES LLC
3229 LUCIBILL RD #	3331 LUCIBILL LN #	8720 SOMERSET LN #
MEMPHIS TN 38116	MEMPHIS TN 38116	GERMANTOWN TN 38138
MCCLAIN MARK T AND SHAWN T KIRKPATRICK	SOUGOU NDEYE F AND FOUNDATION CHEIKH	AUSTIN TAMMIE L
3237 LUCIBILL RD #	21500 SCHOOLCRAFT #	3378 LUCIBILL RD #
MEMPHIS TN 38116	DETROIT MI 48223	MEMPHIS TN 38116
COSTA WILMA 11781 MAGNOLIA PARK CT # LAS VEGAS NV 89141		HARRIS JAMES E 3370 LUCIBILL RD # MEMPHIS TN 38116
GREEN BOBBY C	3359 LUCIBILL LLC	BROWN CHARLES E AND CAPRICE S BRATCHER
209 NAPOLEON #	3225 MCLEOD DR #	3360 LUCIBILL RD #
MEMPHIS TN 38106	LAS VEGAS NV 89121	MEMPHIS TN 38116
MOORE FREDRICK M	LEWIS GILDA G	ROBINSON ALYASHA K AND MILDRED MUHAMMAD
3269 LUCIBILL RD #	3369 LUCIBILL RD #	3350 LUCIBILL RD #
MEMPHIS TN 38116	MEMPHIS TN 38116	MEMPHIS TN 38116
HILL CHARLIE F & CHERYL D	WILLIAMS JOHN L	MID SOUTH HOME BUYERS GP
3279 LUCIBILL RD #	1085 E BROOKS RD #	46 FLICKER ST #
MEMPHIS TN 38116	MEMPHIS TN 38116	MEMPHIS TN 38116
MIMS CLARK H & DONNA	WILLIAMS DEWAYNE	BEAN ANDREW C
3289 LUCIBILL RD #	1091 BROOKS RD #	3330 LUCIBILL RD #
MEMPHIS TN 38116	MEMPHIS TN 38116	MEMPHIS TN 38116
MURPHY-WALKER DEBORAH D & WILLIE B JR	NONCONNAH BAPTIST CHURCH TR	ROSE NATHANIEL & JOYCE M
3299 LUCIBILL RD #	3257 HERNANDO RD #	3320 LUCIBILL RD #
MEMPHIS TN 38116	MEMPHIS TN 38116	MEMPHIS TN 38116
STERLING PROPERTY INVESTMENTS LLC	LG INVESTMENTS LLC	ANJU PROPERTIES LLC
662 ANTEBELLUM CV #	407 SAINTT TAMMANY ST #	8720 SOMERSET LN #
COLLIERVILLE TN 38017	MADISONVILLE LA 70447	GERMANTOWN TN 38138
BADGER BOUND TN LLC  191 BROOME ST #	ANJU PROPERTIES LLC 8720 SOMERSET LN #	HARRIS JEREMIAH & ASHLIEY I 7580 OCTOBER ROSE DR #

**GERMANTOWN TN 38138** 

MEMPHIS TN 38119

SUN PRAIRIE WI 53590

WHITE ROSA L AND ANNIE F HOYLE NEW YORK INVESTMENT GROUP LLC STOTTS GREGORY 102 COLONY WAY # 1357 FARROW RD # 3286 LUCIBILL RD # MEMPHIS TN 38116 BRANDON MS 39047 MEMPHIS TN 38116 PATEL SANDIP YAGER REBEKAH AND MAURICO NICHOLS SHIVA PROPERTIES LLC 9639 GRAYS MEADOW DR # 3356 W ROSITA CIR # 3311 ELVIS PRESLEY BLVD # MEMPHIS TN 38116 CORDOVA TN 38018 MEMPHIS TN 38116 ANJU PROPERTIES LLC 8720 SOMERSET LN # GERMANTOWN TN 38138 LG INVESTMENTS LLC 407 SAINTT TAMMANY ST # MADISONVILLE LA 70447 ANJU PROPERTIES LLC 8720 SOMERSET LN # **GERMANTOWN TN 38138** FINNEY JAMES R & VIRGINIA M (LE ) AND LG INVESTMENTS LLC
3256 LUCIBILL RD # 407 SAINTT TAMMANY ST # MEMPHIS TN 38116 MADISONVILLE LA 70447 GRAY JANICE L & EDDIE W JR 3341 ELVIS PRESLEY BLVD # MEMPHIS TN 38116 NICHOLS MAURICO & REBEKAH MEMPHIS CONVENTION AND VISTORS BUREAU NERO HOLDINGS LLC 1991 CORPORATE AVE # 3278 LUCIBILL RD # 47 UNION AVE # MEMPHIS TN 38116 MEMPHIS TN 38103 MEMPHIS TN 38132 ROCHE MELVIN A WATSON KENNETH D EXLINE WALTER L JR LIVING TRUST 3228 LUCIBILL RD # 8909 GEORGIAN DR # 5 RIVERWALK DR # MEMPHIS TN 38116 AUSTIN TX 78753 NEW SMYRNA BEACH FL 32169 BLU RIVER LLC ROCHE MELVIN A BLU RIVER LLC 3228 LUCIBILL RD # 119 S MAIN ST # 119 S MAIN ST # MEMPHIS TN 38103 MEMPHIS TN 38116 MEMPHIS TN 38103 LG INVESTMENTS LLC 407 SAINTT TAMMANY ST # GIBBS ALVIN BLU RIVER LLC 3661 SUMMER SHADE CV # 119 S MAIN ST # MADISONVILLE LA 70447 MEMPHIS TN 38116 MEMPHIS TN 38103 NIK HOSPITALITY INC ANJU PROPERTIES LLC SHUGAA YAAQOB A 8720 SOMERSET LN # GERMANTOWN TN 38138 1117 E BROOKS RD # 547 VANCE AVE # MEMPHIS TN 38126 MEMPHIS TN 38116 VENTURA FD LLC OM SHIVAYA NAMAH INC NGUYEN DANH AND NGUYET T NGUYEN 1401 QUAIL ST # 3265 ELVIS PRESLEY BLVD #

NEWPORT BEACH CA 92660 MEMPHIS TN 38116

3360 ELVIS PRESLEY BLVD #

MEMPHIS TN 38116

TIPTON ELRUDIA 3800 MASONWOOD LN # MEMPHIS TN 38116 YORK PROPERTIES LLC 3100 BELLBROOK DR # MEMPHIS TN 38116

KAY L D & LENORE D BLEADON TR 919 E MAIN ST 14TH FL # RICHMOND VA 23219

SANDERS JOHNNY W AND MELINDA SANDERS 1656 SYCAMORE VIEW RD # MEMPHIS TN 38134

NELSON WILL J SR 465 TENNESSEE ST # MEMPHIS TN 38103

ANJU HOTELS LLC 8720 SOMERSET LN # GERMANTOWN TN 38138

YORK PROPERTIES LLC 3100 BELLBROOK DR # MEMPHIS TN 38116

OLYMBEC BELLBROOK LLC 1004 E BROOKS RD # MEMPHIS TN 38116

OLYMBEC BELLBROOK LLC 1004 E BROOKS RD # MEMPHIS TN 38116

OLYMBEC BELLBROOK LLC 1004 E BROOKS RD # MEMPHIS TN 38116

OLYMBEC BELLBROOK LLC 1004 E BROOKS RD # MEMPHIS TN 38116



ZV 2021-475

August 18, 2021

Denna Sanders dsanders@bradley.com

RE:	Certificate of Zoning	Parcel ID No.
	1145 E Brooks Road	077010 00054
	0 E Brooks Road	077010 00067
	0 E Brooks Road	077010 00068
	0 Brooks Road	077010 000120

Dear Applicant,

The Tennessee Motor Vehicle Commission requires that in order to obtain a new or used motor vehicle dealer (new recreational vehicles, franchise motor vehicle or motorcycle dealer), used motor vehicle dealer, motor vehicle auction, dismantler or recycler's license or to change the address of an existing firm (relocation) that you must obtain "written approval from the local zoning/land-use authority indicating local zoning compliance for the firm's business address."

We have examined the City of Memphis and Shelby County zoning atlas (Panel #2330) and the Unified Development Code (zoning ordinance) and make the following findings:

### • The current zoning classification for the subject property is:

Planned Development 86-367 with underlying Residential Single Family - 10 (R-10) and Commercial Mixed-Use - 3 (CMU-3) District.

### • Is the subject property located within an Overlay District?

No, it is not within an Overlay District.

### Information regarding variances, special permits/exceptions, ordinances or conditions.

The following apply to the subject property:

A variance (Docket #BOA 1968-95 CO) approved by the Memphis and Shelby County Board of Adjustment on November 14, 1968. See enclosed Notice of Disposition. This variance approved campers to be displayed in the required front yard.

A variance (Docket #BOA 2018-17) approved by the Memphis and Shelby County Board of Adjustment on March 28, 2018. See enclosed Notice of Disposition. This variance approved an electric fence on the site.

A planned development (Docket #PD 86-367) approved by the Memphis City Council on April 7, 1987. See enclosed final plat.

• The current / proposed use of the subject property for "motor vehicle sales, leasing and rental except for tractor-trailer, heavy trucks and manufactured housing" is a:

Use permitted in accordance with the above planned development outline plan conditions (Paragraph I.D) and Table 2.5 – Permitted Use Table of the Joint Memphis and Shelby County Unified Development Code (UDC).

In those instances where a Certificate of Occupancy is to be obtained (UDC Section 9.19.3) the property is subject to the following additional use standards in accordance with the provisions of UDC Sub-Section 2.6.3.P unless over-ridden by the approved Special Use Permit conditions:

- P. Vehicle Sales, Service, and Repair
  - 1. General Provisions
    - a. A Class III buffer (see Section 4.6.5) shall be established along any side yard and rear yard of the property adjacent to a residential use, provided such barrier or screen shall not restrict clear sight at any intersection or driveway.
    - b. The outdoor overnight storage of vehicles may be permitted in accordance with Chapter 4.8, Outdoor Storage and Display. Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.
    - c. There shall be no dismantling of vehicles for salvage.
    - d. The storage of impounded vehicles shall not be permitted.
    - e. All outdoor lighting shall be directed downward to the extent possible and shall not glare onto residential property. Outdoor lighting must meet the requirements of Chapter 4.7, Outdoor Site Lighting.
    - f. The maximum foot-candle for outdoor lighting shall be 60.
    - g. No banners, flags, steamers, balloons or similar advertising devices, temporary or portable signs, reader board signs, roof-mounted signs or tents shall be permitted.
    - h. When located within 300 feet of a residential district, no outside speaker system shall be permitted and automobile service doors shall be closed except for entry and exit of automobiles.
  - 2. CBD, Designated Frontage
    - a. The sales and leasing of motor vehicles shall be conducted within a fully-enclosed building. The outdoor display and storage of vehicles for sale or rental shall not be permitted.
    - b. All repair or service operations shall be conducted entirely within a fully-enclosed building. The term fully-enclosed building shall not be construed to limit open bay doors during hours of operation. Service and repair activity may be conducted outside to the rear the building provided activity shall be fully screened from view from adjacent property and public right-of-way.
    - c. A maximum of two service bay doors no more than 24 feet in width each shall be permitted. No more than one bay door shall be permitted on each side of the building.
  - 3. Provisions Related Specifically to Vehicle Sales and Leasing
    - a. Road testing of vehicles may be restricted to non-residential areas.

b. New car display shall not be artificially elevated above the general topography of the site.

- c. If the automobile dealership ceases to operate, all attached and detached signs depicting the dealership shall be removed from the property.
- d. Any vehicle sales, rental or leasing facility located in the CMU-3 zoning established after February 10, 2015, or reactivated after one year of discontinuance, shall require the issuance of a Special Use Permit.
- e. A minimum of 288 square feet of office space shall be provided.
- f. Functioning restroom facilities, in accordance with the Building Code, shall be provided.
- g. For sites utilized for vehicle sales, there shall be room for 15 spaces for overnight service or repair storage, or on-going vehicle sales display and three dedicated spaces for customer parking. All spaces shall be clearly delineated.
- h. Any vehicle sales facility that both requires the issuance of a Special Use Permit under this Code and is primarily or solely engaged in the sales of used vehicles shall require a major modification if the controlling interest of its ownership changes. During its review of the major modification request, the Land Use Control Board shall review whether the original conditions of approval, as well as the use standards contained in this Code, are being met. Furthermore, the Land Use Control Board may amend the conditions to ensure the approval criteria for special use permits contained in Section 9.6.9 of this Code are met. For the purpose of this section, the term "primarily or solely engaged in the sales of used vehicles" shall be defined as any car sales facility where the sales of used vehicles constitute 50% or more of its annual sales, measured by the most recent calendar year available.
- Is the site in conformance with the Unified Development Code or if constructed prior to 2011, in compliance with a previous zoning code or approved Planned Development?

The structure was developed in 1997 and is:

In accordance with the approved site plan and is legal conforming to the approved site plan. If any nonconforming issues exist with respect to current zoning requirements; the subject property would be considered legal non-conforming.

In the event of casualty, in whole or in part, the structure(s) located on the subject property:

May be rebuilt in its present form (i.e. no loss of square footage, same footprint, with drive through(s), if applicable.

Are there any Unified Development Code (UDC) violations?

There do NOT appear to be any outstanding / open UDC (subdivision or zoning) violations that apply to the subject property.

The above information contained herein was researched on August 18, 2021. It is believed to be accurate and is based upon, or relates to, the information supplied by the requestor. No guarantees as to the accuracy of the data and information provided above are expressed or implied. This office is not responsible for any loss of profit, indirect, incidental, special, or consequential damages arising out of the use of the information provided above and assumes no liability for error and/or omission associated with this determination. All of the information contained herein was obtained from public records, which may be inspected during regular business hours.

Further information pertaining to the Unified Development Code may be obtained by visiting <a href="https://www.develop901.com/landuse-developmentservices">https://www.develop901.com/landuse-developmentservices</a> or by contacting staff in the Land Use and Development Services Section of the Memphis and Shelby County Division of Planning and Development.

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

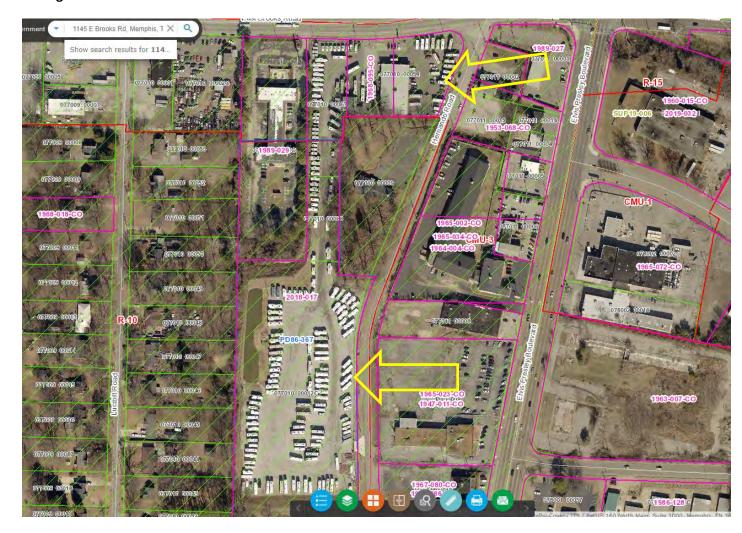
Respectfully,

Lucas Skinner Municipal Planner

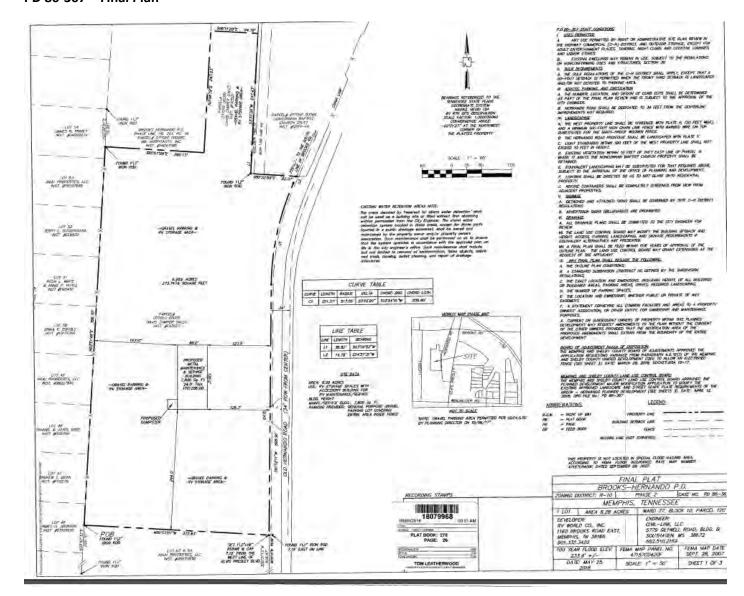
Land Use & Development Services

Lucus Shin

## **Zoning Atlas**



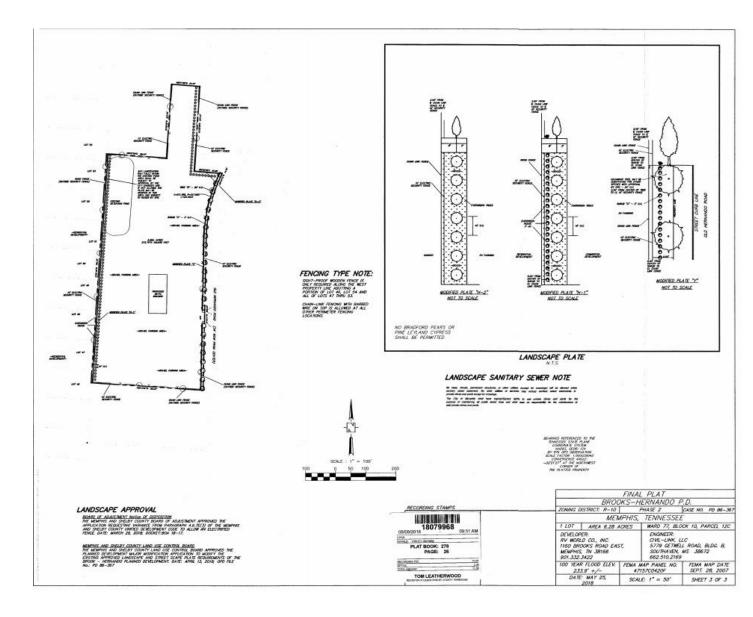
### PD 86-367 - Final Plan



August 18, 2021 ZV 2021-475

	The second secon				
		ECP Minutes and Company			
		Li.C.B. Major Madification Conditions (84-12-18) Site Conditions			
OFFICE OF PLANNING AND DEVELOPMENT CENTRYCATE		The western property line of the subject site shall be accounted in accordance with Modified Place H. I as shown i	or the old adva		
THIS FROM PLAT CONFORMED WITH THE PLANNED GENELOPHIENT ACTED ON 02-05-87, AND APPROVED BY THE MEMPHYS CITY COUNCIL ON DATAST-	Y BY THE LAND USE CONTROL BOARD ON 2	The eastern property line abotting not fronting Hermando Road and currently influence to a place the sile place.	of worship shall be accessed in ac	continue with Modified	Plate H-2 as shown
or tille		The subject site frontege along Hernando Road shall be landscaped in accordance with Modified Plate Y as show			
DIRECTOR OF PLANNING AND DEVELOPMENT	4	Chair-link fineing with barbed wire on too shall be allowed on the boundary of the mation	also assessed authors also controlled		
\$ 7.24.17					
ary enances , ,	. <u>.</u>	Any required landscaping that falls within the aximing detention pond area shall be subject to ten may be modified in this area subject to review and approval by the Office of Planning and Development.	approval by the City Engineer. If	deemed occurry by #	le City Engineer, the
OTICE OF PLANNING IND DESECURBLE	6	A contract of the contract of			
The second of the second		Patilier Plan Conditions			
		L. Uses Permitted			
ENGINEER'S CERTIFICATE		A. Any are permitted by right or administrative site plan curiow to the highway commercial (C-H) district, and outde clobs and cocktail lungus, and liquor stores	or storage, except for adult extensionness pi	lacus, arrorms, might	
		II. Existing dwellings may recoun in our, subject to the regulations on nonconforming uses and structures. Section is	,		
IT IS HORERY CONTINED THAT THIS PLAT IS TRUE AND COMPECT, IS IN CON- REQUIREMENTS OF THE ZONING OFDINANCE, THE SUBDIVISION REGULATIONS OF THIS DEPOSITIONALLY, AND THRES INTO ACCOUND ALL APPLICABLE PEDEN AND REGULATIONS.	FORMANCE WITH THE DESIGN	III. Balk Requirements			
ON THIS DEVELOPMENT, AND TAKES INTO ACCIDING ALL APPLICABLE PEDERS AND REGULATIONS.	AL, STATE AND LOCAL BUILDING LAWS	A. the bulk regulations of the C-H district shall apply, axoup that a 30-foot setback is permitted when the front yard. III. Access Particles and Circulation	enthack in landscaped and/or not devoted to j	nacking area.	
er eticholas Kreusen		<ol> <li>A Oriena, Parting, and Carcalation</li> <li>The member, toxation and design of curb cuts abail be determined as part of the final plan review and is subject to</li> </ol>			
TOWNESSEE CERTICATE MUNICIP. (197285	COLAS ACCU	<ol> <li>Hernando Road shall be dedicated to 34 feet from the centerline, Improvements not required.</li> </ol>	the approval of the city engineer.		
- 1	3.4.4	IV. Landscaping			
1	ONTHE CALL	A. The west property line shall be screened with Plate II, (30 feet wide), and a minimum six-feet-high chain link feet wooden feete.	a with bushed wise on top substituted for the	s night-proof	
es E	A THE SECTION AND AND ADDRESS OF THE PARTY ADDRESS OF THE PARTY AND ADD	B. The Hernando Road frantage shall be landscaped with Plate Y.			
*	103 103 103 103 103 103 103 103 103 103	C. Light standards within 100 feet of the west property line shall not exceed 10 feet in beints.			
SAFIETOR'S CERTIFICATE	Manager of the Control of the Contro	D. Existing vegetation within 10 feet of the east time of Pascel VI where it about the Monocomula Reserve Character and	rty shall be retained.		
IT IS HEREBY CONTROLD THAT THIS IS A CLASSSURVEY AND THAT	THE PRECISION OF THE UNADJUSTED	E. Esperialized landscaping way be substituted for that required above subject to the approval of the office of planning. F. Lighting shall be diverted so as so not glare anto residential property.	and development.		
IT IS NOTION CONTINUED THAT THIS IS A CLASS.  SURFEY IS I FACILITY OF REPAIRS. THAT THIS FEAT HAS BEEN PREFINED BY SUFFERENCE AND CONSISTENCE WITH APPLICABLE STATE LAND AND CONSISTENCE. ZO REGILATIONS AND SPECIFIC CONSTRONS APPOSED ON THIS DEVELOPMENT IS	F ME OR UNDER MT INDIVIDUAL. NING_OBSERVACES, SUBDIVISION	G. Reflure containers shall be completely screened from view from adjacent properties.			
PEDITATIONS AND SPECIAL CONGULORS NO DESCRIPTION OF THIS DEVELOPMENT IN		V. Signage			
RINNESSEE CERTORICATE MUNICIPE DATE S	Same Same	A. Detected and attached signs shall be governed by the C-H district regulations.			
12/2		B. Advertising algos (hillhowth) are prohibited.  VI. Denisator			
A. de		A. All drainage plans shall be subscitted to the city auginour for review.			
sea 'Sal		VII. The land use control board may modify the building setback and bright, access, parking, landscaping and s	laterate statisticaments if environment observation		
DIMER'S CERTIFICATE		<ol> <li>A titue pain was be time within tive years of approval of the dutine plan, the land size control bound may.</li> </ol>	print extensions, at the request of the applies	ant.	
HE DAVID DAVIS, THE UNDERSONED OWNER OF THE PROPERTY SHOWN, NEW	Street, and the street, and th	IX. Any final plus shall isolade the following.  4. The outline plus canditions:			
DESCRIBED TO PUBLIC USE FOREYER, MEDITOR THAT ME ARE THE OWNER, AND CHART TO DESCRIBED TO PUBLIC USE FOREYER, WE CERTIFY THAT WE ARE THE OWNER DOLY AUTHORISED TO ACT, AND SHAT SHID PROPERTY IS NOT ENCAMBERED DIE AND PAYABLE.	E EASEMENTS AS SHOWN AND/OR	8. A standard subdivision contract as defined by the subdivision regulations;			
DULY AUTHORIZED TO ACT, AND THAT SHID PROPERTY IS NOT ENCLARGENED DUE AND PAYABLE.		The exact location and dimensions, including beight, of all buildings or buildable areas, parking areas, drives, requ	incl landeraning		
DIE AND MANAGE O .	L.	2. The number of purking spaces;	-		
DAND DANS OWNER DANS CHAPTER SALES, INC. & RV WORLD CO., INC.		E. The location and ownership, whether public or private of any easement;			
STATE OF TRANSPORT NIGHT STATE	, n	7. A statement conveying all common facilities and areas to a property owners' association, or other acting, for owner Convert or subrequent owners of property widels this planned development may request account factors are of the proposed and reduces and a factor area of the proposed and reduces the factor area of the proposed and reduces the factor area of the proposed areas for the proposed and reduces the factor and factor the boundary of the resident development.	thip and ensistenance purposes,		
COUNTY OF GIRBY THEYOUTO		ification area of the proposed amendments shall extend from the boundary of the entire development	ens to the plan without and coases	f of the other measure	provided that the
BOTORE ME THE UNDERSIDED, A HOTARY PUBLIC IN AND FOR THE SAID STA COMMISSIONED MAD GUALIFIED, PERSONALLY APPEARED ————————————————————————————————————	ATT AND COUNTY AT MEMBERS DULY PAULS WITH WHOM I				
AN PERSONALLY ACQUAINTED, AND MHO UPON HIS GATH ACKNOWLEDGED HIS CONTRACTOR AND CORPORATION.	USELF TO BE OWNER OF THE PROPERTY THE MITTHEN	The Board of Adjustment Approval Conditions			
NAMED BANGAMER, AND THAT HE EXECUTED THE POREGOING INSTRUMENT PE	OR THE PURPOSE THEREIN CONTAINED	B.O.A. 18-17 Conditions (03-28-18)			
MOTHER MEETING THE TENTON	MI SE	<ol> <li>Any change or deviation from the site plan upon the determination of for minus and account a education to the plan upon the determination of</li> </ol>	the Planning Director shall be	submitted to the Bi	part of Adjustment
$\bigcirc$	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	for review and approval or administrative review and approval by the Office of Planning a	nd Development.		
WY COMMISSION DIMERS SERT 22, 2020	JAMES SLANTON JONES	<ol><li>A site plan shall be submitted for administrative review and approx Development to reflect the approves conditions.</li></ol>			
·	Commission Espirar / Sept. 23, 2009 A	<ol> <li>The electrified fence shall be permitted along the border of the subjected.</li> </ol>	t property. The maximum heigh	t of the electrified	fence shall be 10
- WORTHWOLLD CERTIFICATE	976 600	4. Regarding the northern portion of the site, the street frontage fencing is	their he constructed of tiet a		
					on each street to
ME. SHOWN, HEREBY CONSENT AND MARKE TO THE PLAN OF DEVELOPMENT AS SU	NED MONTGAGEE OF THE PROPERTY ISMATTED BY	тот в отнить в тип это ретиграт выполня на велия ( т-до вым дамер тот вноска на	iad and +/-100 feet from Old Hernan	ndo Road.	
OMICE OF	THE PROPERTY.	<ol><li>Regarding the western property line of the subject property which is be installed with a minimum height of six feet.</li></ol>	edjacent to single-family residen	tial a site-proof wo	oden fence shall
MS YOU MONTH SIGNATURE					
Sharing		<ol> <li>A landscape plan shall be submitted for administrative review and ago Development for any portion of the subject property not within the computer of the computer property.</li> </ol>			
PROPERTY DESCRIPTION	7	86-367 Correspondence. The Intent of this condition is that all street from system or equivalent.	ntage fancing shall be part of	f an evergreen lan	idscape screening
A 8.28 AGRE, MORE OR LESS, PARCEL OF LAND BEING PRIORIN AS PARCEL I. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS	SC. WARD 77, BLOCK IG, IN THE CITY OF MEMPINS, SHELBY COUNTY, TENNE:		C/I	VAL PLAT	
				HERNANDO I	0.0
COMMENCING AT A FOUND 1\2" IRON ROD AT THE HORTHMEST CORNER OF L	OT 63, DOGWOOD HILLS SUBSTRISION, ADOTHON NO. 3, RECORDED IN BOOK 10	R PAGE RECORDING STAMPS	ZOWING DISTRICT: R-10		CASE NO. PD 88-38
CAMBERCHIO AT A FOUND 1/2" WITH MOD AT THE MORTHMEST CORNER OF C 74 IN THE SHELBY COUNTY REDISTRYS OFFICE, SAID 1/2" MON ROD ALSO B DESPRES ST MINUTES AN SECONDS EAST, 786.70 FEST TO A FOUND 1/2" MO ADDITION NO. 2: THENCE SOUTH AS DECREES ST MINUTES ON SECONDS FAST	ON THE EAST LINE OF LOT 54, OF SAID DOGWOOD HILLS SUBDIVISION	DEN AS MILES PROPERTY AND ASSESSMENT OF THE PARTY OF THE		IS, TENNESSE	
ADDITION NO. 2: DRINGS NO SCOUNT BY DEFINESS OF MINISTERS OF SECONDS EAST, MAN ADDITION NO. 2: DRINGS COUNT BY DEFINESS OF MINISTERS OF SECONDS EAST, MAN ADDITION BAPTIST CHARCH PRINTS PARCEL RECORDED IN BOOK 5819, MAN MEST, MAR THE CORREST OF A CHARM FRENCH TO A CHARM FRENCH A BETT OF A SET 1/2 "AND REDARD AND OFF ON THE MEST MONT OF MAY LIKE FRENCH CHARM AND OFF ON THE MEST MONT OF MAY LIKE	; 295.13 FEET TO A SET 11,2"HIS" REBAR AND CAP ON THE MEST LINE OF IE 18; THENCE ALONG SAID MEST LINE, SOUTH OS DEGREES 36 MINUTES RO	THE SECONDS 18079968	1 LOT AREA 6.28 ACRES		OCK 10, PARCEL 12C
MEST, 38.82 FEET TO A FOUND 1/2" MON ROD AT THE CORNER OF A CHAIN FEET TO A SET 1/2"XIS" RESIAR AND CAP ON THE MEST MONT OF MAY LINE	LINK FENCE, THENCE SOUTH BS DECREES 32 MINUTES 58 SECONDS EAST, (	82.07 09:08:2018 09:51 AM	DEVELOPER:	ENGINEER:	
SAID WEST RIGHT OF WAY LINE, SOUTH 24 DEGREES 37 MINUTES 31 SECONDS SAID WEST RIGHT OF WAY LINE, A CURVE TO THE LEFT HAVING THE FEW COM-	S MEST, 14.78 FEET TO A SET 1/2" UB" REBAR AND CAP, THENCE CONTINUE	NO ALONG COMAIL CONTINUES	RV WORLD CO., INC. 1160 BROOKS ROAD EAST.	GIVIL-LINK, L	LLC
DECRETE OF MANUFEC OF COLUMN CHANGE OF THE PARTY OF COLUMN	NO ATOMBUTES: KADIUS = 517.05°, ARC LENGTH - 211.37 FEET, DELTA = 2.	FLAT BOOK: 278	MEMPHIS, TN 38166	SOUTHAVEN	LL ROAD, BLDG. B. MS 38672
MERIA AND CAP, THENCE CONTINUING ALONG SAID WEST REALT OF BAY LINE REDIAR AND CAP, SAID REDIAR AND CAP BEING NORTH 80 DECREES 13 MINUT DECREES 13 MINUTES 07 SECONDS WEST, 372.63 FEET TO THE POINT OF BEE	94 MINUTES SI SECONOS MEST, CHOMO LENGTH — 200,90 FEET TO A SET TY. E. SOUTH OI DESTREE 12 MINUTES IT SECONOS MEST, 506,90 FEET TO SET TY. TES OF SECONOS MEST, Z.15 FEET FROM A FORMO 112° BOON FROD. DIFFIELD I	2'418'	901.332.3422	662.510.2169	
DEGREES 13 MINUTES 07 SECONDS MEST, 372.63 FEET TO THE POINT OF BELL	UNING, AND CONTAINING & 28 ACRES, MONE OR LESS.	(87 PM 120 PM 12	100 YEAR FLOOD ELEV. FEW 233.9' +/-	M MAP PANEL NO. 47157C0420F	FEMA MAP DATE
		TOM LEATHERWOOD	D. W. 11111 DE	CALE: 1" = 50"	SEPT. 28, 2007 SHEET 2 OF 3
		MODELER CACCESSOS ID-61 DA COCKESTA COCKESTA COCKESTA	2018	water 1 = 30	SMEET 2 OF 3

RECORDING STAMPS	DAU	MS-MEKNANDU I	P.D.
RECORDING STANDS	ZONING DISTRICT: R-10	PHASE 2	CASE NO. PD 88-38
MINISTRACTION OF THE PERSON OF	MEN	APHIS, TENNESSE.	
G0:03:2018 09:51 AM  17:8. 09:51 AM	1 LOT AREA 6.28 /	ICRES WARD 77, BLO	OCK 10, PARCEL 12C
	DEVELOPER: RV WRSLD CO., INC. 1160 BROOKS ROAD EAST, MEMPRS, IN 38166 SOUTHARR, MS. 38572 901.312.3422 662.510.3169		LL ROAD, BLDG. B, MS 38672
100 100 100 100 100 100 100 100 100 100	100 YEAR FLOOD ELEV. 233.9' +/-	FEMA MAP PANEL NO. 47157C0420F	FEMA MAP DATE SEPT. 28, 2007
TOM LEATHERWOOD MOUNTE OF CRISC SHAPE SCHOOL SCHOOL MOUNTE OF CRISC SHAPE SCHOOL MOUNTE SCHOOL SHAPE SCHOOL MOUNTE SCHOOL SHAPE SCHOOL SHAPE SCHOOL SHAPE SCHOOL MOUNTE SCHOOL SHAPE SCHOOL SHAPE SCHOOL SHAPE SCHOOL MOUNTE SCHOOL SHAPE SCH	DATE: MAY 25, 2018	SCALE: 1" = 50"	SHEET 2 OF 3



# **BOA 1968-95 CO Notice of Disposition**

CITY HA	LL * 125 N. MAIN STREET * MEMPHIS, TENNESSEE 38103
	NOTICE OF DISPOSITION
	Date: November 15, 1968 68-95 County
	Re Docket: 1145 E. Brooks Road. (146 feet
	Location: west of Hernando Road)
George L. Rice, Ja	., Attorney
701 Home Federal	Building
Memphis, Tennessee	
ar Sir:	
OnNov	rember 14, 1968 , the Board
campers in the require	lers are to be parked in such a manner that
campers in the require	d front yard, subject to the following condition:
1. The camper traithey do not blothe premises.  All appeals and applications GRA uested or other order within one (1)	lers are to be parked in ck the view of motorists

## **BOA 2018-17 Notice of Disposition**



## BOARD OF ADJUSTMENT NOTICE OF DISPOSITION

TO: Applicant David Davis DATE: March 29, 2018 DOCKET: BOA 18-17 3305 Old Hernando Road

Sent via electronic mail to: daviddavis140@gmail.com

On March 28, 2018, the Memphis and Shelby County Board of Adjustment <u>approved</u> your application requesting variance from Paragraph 4.6.7E(3) of the Memphis and Shelby County Unified Development Code to allow an electrified fence, subject to the following conditions:

- Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.
- A site plan shall be submitted for administrative review and approval by the Memphis and Shelby County Office of Planning and Development to reflect the approved conditions.
- The electrified fence shall be permitted along the border of the subject property. The maximum height of the electrified fence shall be 10 feet.
- 4. Regarding the northern portion of the site, the street frontage fencing shall be constructed of high quality materials, such as wrought iron, powder coated aluminum, etc. and this quality of fencing shall extend into the subject property the respective distances on each street to match the distance that the principal structure is setback (+/-80 feet deep from Brooks Road and +/-100 feet from Old Hernando Road.
- Regarding the western property line of the subject property which is adjacent to single-family residential a site-proof wooden fence shall be installed with a minimum height of six feet.
- 6. A landscape plan shall be submitted for administrative review and approval by the Memphis and Shelby County Office of Planning and Development for any portion of the subject property not within the companion case for the Brooks – Hernando Planned Development, PD 86-367 Correspondence. The intent of this condition is that all street frontage fencing shall be part of an evergreen landscape screening system or equivalent.

All appeals and applications granted are expressly conditioned upon the applicant obtaining the permit requested or other order within two years from the date of the decision of the Board of Adjustment, unless the Board explicitly provided a different time frame in its approval.

Note this case is a companion case to PD 86-367CC Correspondence and any portion of this approval located within the Brooks-Hernando Planned Development must be included on the final plan and recorded with the Shelby County Register.

Submit any required plan(s) as part of this approval to the Office of Planning and Development Land Use Controls East Office for review and approval.

Respectfully,

Jeffrey Penzes Municipal Planner for Josh Whitehead Secretary

Cc: Ted Illsley – Office of Construction Code Enforcement Burk Renner – Office of Planning and Development Nick Kreunen – Civil-Link Cindy Williams – Electric Guard Dog LLC Donald McLellan – Electric Guard Dog LLC



# Shelby County Tennessee

# Shelandra Y Ford

Shelby County Register

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

#### 22017873

02/16/2022 - 08:06:30 AM	
10 PGS	
BRIAN 2383959-22017873	
VALUE	10.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	50.00
DP FEE	2.00
REGISTER'S FEE	0.00
EFILE FEE	2.00
TOTAL AMOUNT	54.00

SHELANDRA Y FORD

REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

# Tennessee Certification of Electronic Document

	I, Jake Watson, do hereby make oath that I am a licensed attorney and/or the
	custodian of the original version of the electronic document tendered for registration herewith
	and that this electronic document is a true and exact copy of the original document executed and
	authenticated according to law on August 31, 2001 (date of document).
	Affiant Signature
	$\frac{02/10/2022}{Date}$
	State of Alabama
	County of Jefferson
THIII WARRANTINIA	Sworn to and subscribed before me this 10th day of February, 2022.  White THOM  Notary's Signature  MY COMMISSION EXPIRES: R/20/2023

ADDRESS NEW OWNER:	MAP/PARCEL	SEND TAX BILLS TO:
LG Investments, LLC 407 St. Tammany St. Madisonville, Louisiana 70447	077-010-00012C 077-010-00054 077-010-00067 077-010-00068	Same Address as New Owner
This instrument prepared by: Bradley Arant Boult Cummings LLP (WCB) One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203		

## SPECIAL WARRANTY DEED

FOR AND IN CONSIDERATION of the sum of TEN and NO/100 DOLLARS (\$10.00) cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, R. V. WORLD CO., INC., a Tennessee corporation (the "Grantor"), has bargained and sold, and by these presents does transfer and convey to LG INVESTMENTS, LLC, a Louisiana limited liability company (the "Grantee"), Grantee's heirs, successors and assigns, certain land in Shelby County, State of Tennessee, being more particularly described in Exhibit A, which is attached hereto and incorporated herein by this reference (the "Property").

This conveyance of the Property, and all covenants and warranties contained herein, are made expressly subject to those Permitted Encumbrances set forth on Exhibit B, attached hereto and incorporated herein by reference (the "Permitted Encumbrances").

This is improved property located at 1145 E. Brooks Road, Memphis, Tennessee 38116 and 3331 Old Hernando Road, Memphis, Tennessee 38116.

TO HAVE AND TO HOLD the Property with all appurtenances, estate, title, and interest thereto belonging or in any wise appertaining to the Grantee, Grantee's heirs, successors, and assigns, in fee simple forever.

Grantor covenants with the Grantee that the Property is free from all encumbrances made or suffered by Grantor, except to the extent otherwise set forth herein.

Grantor covenants and binds itself and its successors and assigns, to warrant and forever defend the title to the Property to the Grantee, Grantee's heirs, successors and assigns against the lawful claims of all persons whomsoever claiming by, through or under Grantor, except (i) claims arising under or by

STATE OF TENNESKU	
COUNTY OF Shallon	
The actual consideration or value, whichever is greater, for this transfer is \$1,850,000.00.	
) . )	
Affiant EX S CHAA	
Affiant  Subscribed and sworn to before me this 3 day of August, 2021.  STATE	6
— MALAM STATE TO	′જ્ર/
TEANIECOEC   TEANIECOEC	1
My Commission Expires: 1.12 \ NOTARY	/
POBLIC	
TO SY COUNTY	

virtue of the Permitted Encumbrances, and (ii) Grantor makes no warranty as to the amount of acreage in the Property.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Grantor has executed this Special Warranty Deed this 31st day of August, 2021.

**GRANTOR:** R. V. WORLD CO., INC., a Tennessee corporation By: Name: STATE OF TENKESSE COUNTY OF <u></u> Many Chambers a Notary Public in and for the State and Before me, the undersigned, \_ County aforesaid, personally appeared David David \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the Product of R. V. World Co., Inc., the within named bargainor, a Tennessee corporation, and that as such Product, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the R. V. World Co., Inc., by himself/herself as such \_\_\_\_Persidual WITNESS my hand and seal at office in \_\_\_\_ My Commission Expires: [123 OF TENNESSEE NOTARY

## EXHIBIT A

## Property

## PARCEL I

LOT 62, THIRD ADDITION, CARRINGTON JONES' DOGWOOD HILLS SUBDIVISION, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 10, PAGE 74, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, TO WHICH PLAT REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION OF SAID PROPERTY.

ALSO BEING THE SAME PROPERTY AS PARCEL I, BROOKS-HERNANDO P.D. AS RECORDED IN THE SHELBY COUNTY REGISTER'S OFFICE IN PLAT BOOK 113, PAGE 50, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF HERNANDO ROAD, SAID POINT BEING THE NORTHEAST CORNER OF THE PROPERTY HEREIN DESCRIBED AND IN THE SOUTH LINE OF PARCEL II, BROOKS-HERNANDO P.D.; THENCE ALONG SAID WEST LINE OF HERNANDO ROAD SOUTH 01 DEGREES 41 MINUTES 16 SECONDS EAST A DISTANCE OF 100.09 FEET; THENCE NORTH 88 DEGREES 51 MINUTES 51 SECONDS WEST A DISTANCE OF 372.60 FEET; THENCE NORTH 00 DEGREES 57 MINUTES 00 SECONDS EAST A DISTANCE OF 100.0 FEET; THENCE SOUTH 88 DEGREES 50 MINUTES 55 SECONDS EAST A DISTANCE OF 367.99 FEET TO THE POINT OF BEGINNING.

## PARCEL II

LOT 61, THIRD ADDITION, CARRINGTON JONES' DOGWOOD HILLS SUBDIVISION, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 10, PAGE 74, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, TO WHICH PLAT REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION OF SAID PROPERTY.

ALSO BEING THE SAME PROPERTY AS PARCEL II, BROOKS-HERNANDO P.D. AS RECORDED IN THE SHELBY COUNTY REGISTER'S OFFICE IN PLAT BOOK 113, PAGE 50, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF HERNANDO ROAD, SAID POINT BEING THE NORTHEAST CORNER OF THE PROPERTY HEREIN DESCRIBED AND BEING THE SOUTH LINE OF PARCEL III, BROOKS-HERNANDO P.D.; THENCE ALONG SAID WEST LINE OF HERNANDO ROAD SOUTH 01 DEGREES 41 MINUTES 16 SECONDS EAST A DISTANCE OF 100.09 FEET; THENCE NORTH 88 DEGREES 50 MINUTES 55 SECONDS WEST A DISTANCE OF 363.39 FEET; THENCE NORTH 00 DEGREES 57 MINUTES 00 SECONDS EAT A DISTANCE OF 100.0 FEET; THENCE SOUTH 88 DEGREES 50 MINUTES 01 SECONDS EAST A DISTANCE OF 358.79 FEET TO THE POINT OF BEGINNING.

## PARCEL III

PARCEL III IN BROOKS-HERNANDO P.D. AS RECORDED IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, IN PLAT BOOK 113, PAGE 50, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF HERNANDO ROAD, SAID POINT BEING

THE SOUTHEAST CORNER OF THE PROPERTY HEREIN DESCRIBED AND BEING IN THE NORTH LINE OF PARCEL II, BROOKS-HERNANDO P.D.; THENCE NORTH 88 DEGREES 50 MINUTES 01 SECONDS WEST A DISTANCE OF 363.39 FEET; THENCE NORTH 00 DEGREES 57 MINUTES 00 SECONDS EAST A DISTANCE OF 100.0 FEET; THENCE SOUTH 88 DEGREES 49 MINUTES 45 SECONDS EAST A DISTANCE OF 358.79 FEET TO A POINT IN THE WEST LINE OF HERNANDO ROAD; THENCE SOUTH 01 DEGREES 41 MINUTES 16 SECONDS EAST A DISTANCE OF 100.09 FEET TO THE POINT OF BEGINNING.

## PARCEL IV

PARCEL IV, BROOKS-HERNANDO P.D. AS RECORDED IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, IN PLAT BOOK 113, PAGE 50, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF HERNANDO ROAD, SAID POINT BEING THE NORTHEAST CORNER OF THE PROPERTY HEREIN DESCRIBED AND BEING IN THE SOUTH LINE OF PARCEL V OF BROOKS-HERNANDO P.D.; THENCE ALONG SAID WEST LINE OF HERNANDO ROAD SOUTH 01 DEGREES 41 MINUTES 16 SECONDS EAST A DISTANCE OF 100.09 FEET; THENCE NORTH 88 DEGREES 49 MINUTES 45 SECONDS WEST A DISTANCE OF 358.79 FEET; THENCE NORTH 00 DEGREES 57 MINUTES 00 SECONDS EAST A DISTANCE OF 100.0 FEET; THENCE SOUTH 88 DEGREES 49 MINUTES 31 SECONDS EAST A DISTANCE OF 354.18 FEET TO THE POINT OF THE BEGINNING.

## PARCEL V

PARCEL V IN BROOKS-HERNANDO P.D. AS RECORDED IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, IN PLAT BOOK 113, PAGE 50, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF HERNANDO ROAD, SAID POINT BEING THE SOUTHEAST CORNER OF THE PROPERTY HEREIN DESCRIBED AND BEING IN THE NORTH LINE OF PARCEL IV, BROOKS-HERNANDO P.D.; THENCE NORTH 88 DEGREES 49 MINUTES 31 SECONDS HEREIN DESCRIBED AND BEING IN THE NORTH LINE OF PARCEL IV, BROOKS-HERNANDO P.D. (THIS CALL IS ERRONEOUSLY DESCRIBED); THENCE NORTH 88 DEGREES 49 MINUTES 31 SECONDS WEST A DISTANCE OF 354.18 FEET TO A POINT IN THE WEST LINE OF HERNANDO ROAD; THENCE NORTH 00 DEGREES 57 MINUTES 00 SECONDS EAST A DISTANCE OF 100.00 FEET; THENCE SOUTH 88 DEGREES 48 MINUTES 21 SECONDS EAST A DISTANCE OF 349.58 FEET TO A POINT IN THE WEST LINE OF HERNANDO ROAD; THENCE ALONG SAID WEST LINE SOUTH 01 DEGREES 41 MINUTES 16 SECONDS EAST A DISTANCE OF 100.01 FEET TO THE POINT OF BEGINNING.

## PARCEL VI

PART OF PARCEL VI, BROOKS-HERNANDO P.D. AS RECORDED IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, IN PLAT BOOK 113, PAGE 50, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF HERNANDO ROAD, SAID POINT BEING THE SOUTHEAST CORNER OF THE PROPERTY HEREIN DESCRIBED AND BEING IN THE NORTH LINE OF PARCEL V, BROOKS-HERNANDO P.D.; THENCE NORTH 88 DEGREES 48

MINUTES 21 SECONDS WEST A DISTANCE OF 349.58 FEET; THENCE NORTH 00 DEGREES 57 MINUTES 00 SECONDS EAST A DISTANCE OF 266.81 FEET; THENCE SOUTH 88 DEGREES 51 MINUTES 58 SECONDS EAST A DISTANCE OF 302.39 FEET; THENCE SOUTH 00 DEGREES 34 MINUTES 42 SECONDS WEST A DISTANCE OF 37.07 FEET; THENCE SOUTH 88 DEGREES 52 MINUTES 18 SECONDS EAST A DISTANCE OF 88.99 FEET, TO A POINT IN THE WEST LINE OF HERNANDO ROAD; THENCE SOUTH 21 DEGREES 42 MINUTES 42 SECONDS WEST A DISTANCE OF 26.18 FEET; THENCE SOUTHWARDLY ALONG SAID WEST LINE A DISTANCE OF 209.68 FEET TO THE POINT OF BEGINNING.

PARCELS I THROUGH VI - BEING THE SAME PROPERTY CONVEYED TO RV WORLD CO., INC., A TENNESSEE CORPORATION, BY WARRANTY DEED FROM SOUTHERN REAL ESTATE HOLDINGS, LLC, A TENNESSEE LIMITED LIABILITY COMPANY, OF RECORD IN INSTRUMENT NO. 08013614 RE-RECORDED IN INSTRUMENT NO. 08043988, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE.

## PARCEL VII

LOT 1, DOGWOOD HILLS SUBDIVISION, THIRD ADDITION, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 10, PAGE 74, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, LESS THAT PORTION CONVEYED TO THE COUNTY OF SHELBY BY INSTRUMENT OF RECORD IN BOOK 5624, PAGE 125, IN SAID REGISTER'S OFFICE.

#### PARCEL VIII

PART OF PARCEL VI, BROOKS-HERNANDO P.D. AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 113, PAGE 50 IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1, DOGWOOD HILLS SUBDIVISION, THIRD ADDITION, AS SHOWN IN PLAT BOOK 10, PAGE 74 OF THE REGISTER'S OFFICE; THENCE SOUTH 00 DEGREES 57 MINUTES WEST APPROXIMATELY 376 FEET ALONG THE EAST LINE OF THE MOTEL 6 PROPERTY AS DEEDED IN INSTRUMENT NO. AV 9779 IN THE REGISTER'S OFFICE TO AN IRON PIN WHICH IS IN THE SOUTHEAST CORNER OF SAID MOTEL 6 PROPERTY; THENCE EASTWARDLY ALONG THE EXTENSION OF THE SOUTH LINE OF THE SAID MOTEL T PROPERTY A DISTANCE OF APPROXIMATELY 98 FEET TO A POINT IN THE WEST LINE OF THE NONCONNAH BAPTIST CHURCH PROPERTY AS SET FORTH IN BOOK 5878, PAGE 19 IN SAID REGISTER'S OFFICE; THENCE NORTH APPROXIMATELY 46.93 FEET ALONG SAID WEST LINE OF THE NONCONNAH BAPTIST CHURCH PROPERTY: THENCE WEST APPROXIMATELY 7 FEET TO A POINT IN THE WEST LINE OF THE NONCONNAH BAPTIST CHURCH PROPERTY; THENCE NORTH ALONG SAID WEST LINE OF THE NONCONNAH BAPTIST CHURCH PROPERTY A DISTANCE OF APPROXIMATELY 329.47 FEET TO A POINT IN THE NORTH LINE OF LOT 1, DOGWOOD HILLS SUBDIVISION, THIRD ADDITION; THENCE WEST 92.95 FEET TO THE POINT OF BEGINNING.

PARCELS VII AND VIII - BEING THE SAME PROPERTY CONVEYED TO DAVIS CAMPER SALES, INC., A TENNESSEE CORPORATION, BY WARRANTY DEED FROM WILLIAM R. CARRINGTON JONES AND LUCY CARRINGTON JONES, OF RECORD IN INSTRUMENT NO. FX 3527, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE. DAVIS CAMPER SALES, INC. MERGED WITH AND INTO R.V. WORLD CO., INC., A TENNESSEE CORPORATION BY ARTICLES OF MERGER OF RECORD IN INSTRUMENT NO. 06007714,

## IN SAID REGISTER'S OFFICE.

ALSO ABOVE DESCRIBED PARCELS I, II, III, IV, V, VI AND VIII BEING ALSO DESCRIBED AS FINAL PLAT BROOKS-HERNANDO P.D., PHASE 2, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 278, PAGE 26, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE.

#### PARCEL IX

BEGINNING AT THE INTERSECTION OF THE PRESENT SOUTH LINE OF BROOKS ROAD (53 FEET FROM THE CENTERLINE), WITH THE EAST LINE OF LOT 1, THIRD ADDITION TO DOGWOOD HILLS SUBDIVISION, SAID BEGINNING POINT BEING 635 FEET EAST OF THE EAST LINE OF LUCIBILL ROAD AS MEASURED ALONG THE PRESENT SOUTH LINE OF BROOKS ROAD; AND RUNNING THENCE EASTWARDLY WITH THE PRESENT SOUTH LINE OF BROOKS ROAD BY A CURVE TO THE LEFT HAVING A RADIUS OF 1199.3 FEET A DISTANCE OF 286.55 FEET AS MEASURED ALONG THE ARC OF SAID CURVE TO A POINT OF REVERSE CURVE; THENCE SOUTH EASTWARDLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 40 FEET A DISTANCE OF 85.68 FEET AS MEASURED ALONG THE ARC OF SAID CURVE TO A POINT ON THE WEST LINE OF HERNANDO ROAD; THENCE SOUTH 14 DEGREES 22 MINUTES WEST ALONG THE WEST LINE OF HERNANDO ROAD 204.07 FEET TO THE NORTHEAST CORNER OF A CHURCH PROPERTY; THENCE SOUTH 85 DEGREES 22 MINUTES WEST ALONG THE NORTH LINE OF THE CHURCH PROPERTY 261.98 FEET TO A POINT; THENCE NORTH 5 DEGREES 16 MINUTES WEST A DISTANCE OF 208.6 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THOSE CERTAIN PORTIONS OF THE ABOVE DESCRIBED PROPERTY CONVEYED TO THE COUNTY OF SHELBY BY WARRANTY DEEDS OF RECORD IN BOOK 4726, PAGE 108 AND BOOK 5673, PAGE 91, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE.

BEING THE SAME PROPERTY CONVEYED TO DAVID DAVIS BY WARRANTY DEED FROM BILLY C. DAVIS (SAME AS BILLY CARLTON DAVIS) OF RECORD IN INSTRUMENT NO. 05026034 AND BY CORRECTION QUIT CLAIM DEED FROM DANNY DAVIS AND DAVID DAVIS OF RECORD IN INSTRUMENT NO. 22011760, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE.

THE ABOVE REFERENCED PROPERTY BEING THE SAME PROPERTY DESCRIBED AS FOLLOWS:

Being the Brooks-Hernando P.D. as recorded in Plat Book 278, Page 26 of the Shelby County Register's Office, part of Lot 1, Third Addition, Dogwood Hills Subdivision as recorded in Plat Book 10, Page 74 of the Shelby County Register's Office and part of the Robert B. Abney tract as recorded in Book 5934, Page 165 of the Shelby County Register's Office and being further described hereon:

Beginning at a point in the west line of Hernando Road (60 foot public road) a tangent distance of 72.16 feet south of the south line of East Brooks Road (106 foot public right of way); thence South 22 degrees 21 minutes 17 seconds West along said west line of Hernando Road a distance of 202.59 feet to the northeast corner of the Nonconnah Baptist Church property; thence North 86 degrees 01 minutes 11 seconds West along the north line of said Nonconnah Baptist Church property a distance of 287.73 feet; thence South 03 degrees 20 minutes 47 seconds West along the west line of said Nonconnah Baptist Church property a distance of 68.60 feet; thence North 85 degrees 35 minutes 11 seconds West a distance of 7.00 feet; thence South 03 degrees 33 minutes 35 seconds West along the west line said Nonconnah

Baptist Church property a distance of 378.29 feet; thence South 03 degrees 36 minutes 52 seconds West along said west line a distance of 36.82 feet to the southwest corner of said Nonconnah Baptist Church property; thence South 85 degrees 32 minutes 58 seconds East along the south line of said Nonconnah Baptist Church property a distance of 92.07 feet to a point in the west line of Hernando Road; thence South 24 degrees 37 minutes 31 seconds West along said west line a distance of 14.78 feet to a point of curve; thence on a curve to the left, having a radius of 517.05 feet, a chord bearing of South 12 degrees 54 minutes 50 seconds West, a chord distance of 209.90 feet an arc distance of 211.37 feet; thence South 01 degrees 12 minutes 11 seconds West continuing along said west line of Hernando Road a distance of 506.90 feet to the northeast corner of Lot 63, Third Addition, Dogwood Hills Subdivision (P.B. 10, P. 74); thence North 86 degrees 13 minutes 07 seconds West along the north line of said Lot 63 a distance of 372.63 feet to a point in the east line of Lot 46 of said Third Addition, Dogwood Hills Subdivision; thence North 03 degrees 51 minutes 49 seconds East along the east line of Lots 46 through 54 of said subdivision a distance of 766.70 feet to the southwest corner of Phase 1, Brooks-Hernando P.D. (P.B. 261, P.19); thence South 85 degrees 57 minutes 09 seconds East along the south line of said Phase 1, Brooks-Hernando P.D. a distance of 200.00 feet to a point; thence North 03 degrees 52 minutes 46 seconds East along the east line of said Phase 1, Brooks-Hernando P.D. a distance of 653.40 feet to a point in the south line of East Brooks Road; thence along said south line South 85 degrees 57 minutes 09 seconds East a distance of 120.11 feet to a point of curve; thence along said south line on a curve to the left, having a radius of 1,199.30 feet, a chord bearing of North 87 degrees 12 minutes 09 seconds East, a chord distance of 285.87 feet an arc distance of 286.55 feet to a point of reverse curve; thence on a curve to the right, having a radius of 40.00 feet, a chord bearing of South 38 degrees 38 minutes 37 seconds East, a chord distance of 69.97 feet, an arc distance of 85.17 feet to the point of beginning.

# EXHIBIT B

# **Permitted Encumbrances**

- All taxes for 2021 and subsequent years, which are a lien not yet payable. All matters of record. 1.
- 2.



# Shelby County Tennessee

# Shelandra Y Ford

Shelby County Register

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

#### 22023077

03/01/2022 - 09:10:30	AM
28 PGS	
LAKECIA 2390978-22023077	
VALUE	1850000.00
MORTGAGE TAX	2125.20
TRANSFER TAX	0.00
RECORDING FEE	145.00
DP FEE	2.00
REGISTER'S FEE	1.00
EFILE FEE	2.00
TOTAL AMOUNT	2275.20

SHELANDRA Y FORD

REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

# Tennessee Certification of Electronic Document

I, Jake Watson,	do hereby make oath that I am a licensed attorney and/or the
custodian of the original version of	the electronic document tendered for registration herewith
and that this electronic document is	a true and exact copy of the original document executed and
authenticated according to law on _	August 31, 2021 (date of document).
	Affiant Signature
	$\frac{02/10/2022}{Date}$
State of Alabama	
County of Jefferson	~~ <del>~~</del>
Sworn to and subscribed before me	this 10th day of February, 2022.
WOALEE THOMASSION EL ROMASSION	Lynda Lu Shamas Notary's Signature
MY C	COMMISSION EXPIRES: $R/20/3023$

This Instrument was Prepared By William C. Byrd, II Bradley Arant Boult Cummings LLP 1819 Fifth Avenue, Birmingham, Alabama 35203 (205) 521-8000

The maximum principal indebtedness for Tennessee recording tax purposes is \$1,850,000.00

# DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, FIXTURE FILING AND SECURITY AGREEMENT

THIS INSTRUMENT SECURES OBLIGATORY ADVANCES AND IS MADE FOR COMMERCIAL PURPOSES.

THIS INSTRUMENT IS ALSO A UNIFORM COMMERCIAL CODE FINANCING STATEMENT WHICH IS BEING FILED AS A FIXTURE FILING IN THE REAL ESTATE RECORDS IN ACCORDANCE WITH TENNESSEE CODE ANNOTATED.

PURSUANT TO T.C.A. § 47-28-104(B), NOTICE IS HEREBY GIVEN THAT THIS DEED OF TRUST SECURES FUTURE ADVANCES WHICH ARE OBLIGATORY FOR THE PURPOSES OF SUCH STATUTE, AND WHICH ARE MADE FOR COMMERCIAL PURPOSES.

PURSUANT TO T.C.A. § 47-9-502(C), FILING OF THIS DEED OF TRUST CONSTITUTES A FIXTURE FILING.

THE BENEFICIARY EXPRESSLY OBJECTS TO THE PRIORITY OF ANY MECHANICS' OR MATERIALMEN'S LIENS IMPOSED SUBSEQUENT TO THE DATE OF THE RECORDATION OF THIS DEED OF TRUST AS SUCH PRIORITY WOULD OTHERWISE BE ALLOWED PURSUANT TO THE TERMS OF T.C.A. § 66-11-108.

THIS DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, FIXTURE FILING AND SECURITY AGREEMENT (the "Deed of Trust") dated August 31, 2021, by and between LG INVESTMENTS, LLC, a Louisiana limited liability company, whose business address is 407 St. Tammany Street, Madisonville, Louisiana 70447, Attention: Gregory A. Lala (the "Grantor"), MATTHEW FOSTER, an individual, trustee, a resident of Williamson County, Tennessee (the "Trustee"), whose address is 611 Commerce Street, Suite 3101, Nashville, Tennessee 37203 and HANCOCK WHITNEY BANK, a Mississippi state chartered bank, whose address is Post Office Box 61260, New Orleans, Louisiana 70161-9967 ("Beneficiary").

## WITNESETH:

For and in consideration of the above premises, Grantor grants and conveys to the Trustee IN TRUST WITH POWER OF SALE for the benefit of Beneficiary the following

described land, real estate, buildings, improvements, fixtures, furniture, and other personal property (which together with any additional such property hereafter acquired by the Grantor and subject to the lien of this Deed of Trust, or intended to be so, as the same may be from time to time constituted is hereinafter sometimes referred to as the "Property") to-wit:

- (a) All estate, right, title and interest of Grantor in, to and under or derived from the real property described in <u>Exhibit A</u> (the "Land") and any interest Grantor presently has or acquires hereafter in any of the Mortgaged Property as defined herein.
- (b) All buildings, structures, and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures, machinery, equipment, furniture and furnishings and personal property of every nature whatsoever now or hereafter owned by Grantor and located in, on, or used or intended to be used in connection with or with the operation of said property, buildings, structures or other improvements, including all extensions, additions, improvements, betterments, renewals and replacements to any of the foregoing.
- (c) All building materials, equipment, fixtures, fittings and personal property of every kind or character now owned or hereafter acquired by Grantor for the purpose of being used or useful in connection with the improvements located or to be located on the real estate described herein, whether such materials, equipment, fixtures, fittings and personal property are actually located on or adjacent to said real estate or not, and whether in storage or otherwise, wheresoever the same may be located, including, but without limitation, all lumber and lumber products, bricks, building stones and building blocks, sand and cement, roofing material, paint, doors, windows, hardware, nails, wires and wiring, plumbing and plumbing fixtures, heating and air conditioning equipment and appliances, electrical and gas equipment and appliances, pipes and piping, ornamental and decorative fixtures, furniture, ranges, refrigerators, dishwashers, disposal, and in general all building materials and equipment of every kind and character used or useful in connection with said improvements (the "Personalty").

TOGETHER with all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the property hereinabove described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Grantor, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Grantor of, in and to the same, including but not limited to:

- (d) All rents, profits, issues and revenues of the Property from time to time accruing, whether under leases or tenancies now existing or hereafter created, reserving to Grantor, however, so long as Grantor is not in default hereunder, the right to receive and retain the rents, issues and profits thereof; and
- (e) All judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the premises or any part

thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the premises or the improvements thereon or any part thereof, or to any rights appurtenant thereto, including any award for change of grade or streets.

IN TRUST WITH POWER OF SALE TO SECURE TO BENEFICIARY, its successors and assigns as holder of the Promissory Note described herein, (a) the payment of the Commercial Note in the principal sum of One Million Eight Hundred Fifty Thousand and 00/100 Dollars (\$1,850,000.00) of even date herewith, plus interest at the rate specified in said Note, said principal and interest being payable monthly as provided in said Note, maturing on August 31, 2026, as the same may be extended pursuant to the terms of the Note or Commercial Business Loan Agreement for Term loans and Lines of Credit, said Note being payable to the order of Beneficiary, at the offices of Beneficiary, Post Office Box 61260, New Orleans, Louisiana 70161-9967, or at such other place as the Beneficiary may designate in writing, being executed and delivered by Grantor to Beneficiary for value (said Promissory Note, as the same may hereafter be modified, amended, extended or renewed, being herein called the "Note" and being incorporated herein by reference as fully and particularly as if set out herein verbatim), (b) performance by Grantor of its obligations under this instrument, the Note, that certain Loan Agreement, dated of even date herewith, between Grantor and Beneficiary, as may be amended or modified (all of which are herein referred to as the "Loan Documents"), and (c) the Letter of Credit Documentation (the "Obligations").

AND FURTHER IN TRUST to secure all other sums which may be advanced by Beneficiary or are owed to Beneficiary or Trustee pursuant to the terms hereof. Beneficiary is authorized (but is not obligated) to take such actions and advance such sums as it, in its reasonable discretion, after demand, deems necessary for the protection and preservation of the Property, including, but not limited to, payment for insurance premiums and real estate taxes. All sums so advanced are secured hereby, shall bear interest at a rate equal to the greater of (i) 2% in excess of the interest rate then in effect or (ii) 2% in excess of the Base Rate quoted by Beneficiary from time to time.

AND Grantor hereby covenants and agrees as follows:

## ARTICLE 2

Article 1.1 Performance of Note and Deed of Trust. Grantor will perform, observe and comply with all provisions hereof and of the Note secured hereby and will duly and punctually pay to Beneficiary the sum of money expressed in the Note with interest thereon and all other sums required to be paid by Grantor pursuant to the provisions of this Deed of Trust, all without any deductions or credit for taxes or other similar charges paid by Grantor.

Article 1.2 <u>Warranty of Title</u>. Grantor is lawfully seized of an indefeasible estate in fee simple in the land and real property described herein and has good and absolute title to all existing personal property described herein and has good right, full power and lawful authority to sell and convey the same in the manner and form aforesaid; that, except as otherwise set forth in the policy of title insurance delivered to and approved by Lender, the same is free and clear of all liens, charges, and encumbrances whatsoever, including, as to the personal property and fixtures, conditional sales contracts, chattel

mortgages, security agreements, financing statements, and anything of a similar nature, and that Grantor shall and will warrant and forever defend the title thereto unto the Trustee, his successors and assigns, against the lawful claims of all persons whomsoever.

Article 1.3 Monthly Tax Deposits. If required by Beneficiary, at any time from and after an Event of Default, Grantor will pay to Beneficiary each month on scheduled monthly payment dates as set forth in the Note together with and in addition to the regular installment of principal and interest, until the Note is fully paid, an amount equal to one-twelfth (1/12) of the yearly taxes and assessments as estimated by Beneficiary to be sufficient to enable Beneficiary to pay, at least thirty (30) days before they become delinquent, all taxes, assessments, and other similar charges against the Property or any part thereof. Such added payments shall be deposited into a money-market account with Lender, with interest to be credited to the account. Upon demand of Beneficiary, Grantor agrees to deliver to Beneficiary such additional moneys as are necessary to make up any deficiencies in the amounts necessary to enable Beneficiary to pay such taxes, assessments and similar charges when they become due. In the event of a default by Grantor in the performance of any of the terms, covenants or conditions in the Note or this Deed of Trust, Beneficiary may apply to the reduction of the sums secured hereby, in such manner as Beneficiary shall determine, any amount under this Section 1.3 remaining to Grantor's credit. Beneficiary shall make all such escrowed funds available to Grantor to pay taxes, or shall pay the same directly, prior to the due date thereof, unless an Event of Default has occurred and is continuing. Grantor agrees that it shall, promptly upon demand of Beneficiary, deliver to Beneficiary receipted invoices or other appropriate documentation evidencing the payment of all taxes or assessments against the Property (unless paid by Beneficiary from escrowed payments).

## Article 1.4 Other Taxes, Utilities and Liens.

- (a) Grantor will pay or cause to be paid promptly, when and as due, and will, upon request of Beneficiary, promptly exhibit to Beneficiary receipts for the payment of, all taxes, assessments, water rates, dues, charges, fines and impositions of every nature whatsoever imposed, levied or assessed or to be imposed, levied or assessed upon or against the Property or any part thereof, or upon the interest of Beneficiary in the Property (other than any of the same for which provision has been made in Section 1.3 hereof), as well as all income taxes, assessments and other governmental charges lawfully levied and imposed by the United States of America or any state, county, municipality, borough or other taxing authority upon Grantor or in respect of the Property or any part thereof, or any other such charge which, if unpaid, would become a lien or charge upon the Property prior to or equal to the lien of this Deed of Trust for any amounts secured hereby or would have priority or equality with this Deed of Trust in distribution of the proceeds of any foreclosure sale of the Property or any part thereof.
- (b) Grantor will promptly pay all charges by utility companies, whether public or private, for electricity, gas, water, sewer or other utilities.
- (c) Grantor shall promptly pay and will not suffer any mechanic's, laborer's, statutory or other lien which might or could be prior to or equal to the lien of this Deed of Trust to be created or to remain outstanding upon any of the Property, provided that

Grantor shall have thirty (30) days after receipt of actual notice of the filing against the Property of any lien, statement of lien, or suit to enforce a lien to either (i) cause the same to be discharged and released as a lien against the Property or (ii) to furnish a good and sufficient bond, surety or other security satisfactory to Beneficiary.

- (d) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of deeds of trust or debts secured thereby or the manner of collecting taxes so as to affect adversely Beneficiary, such taxes or other sums as may then become due shall promptly be paid by Grantor to the fullest extent permitted by law. In the event that the payment of such taxes or other sums by Grantor shall be in any manner limited or prohibited, then either (i) Beneficiary shall pay such tax or other sum and add the amount thereof to the indebtedness secured hereby, or (ii) if not permitted, then the entire balance of the principal sum secured by this Deed of Trust and all interest accrued thereon shall without notice become due and payable forthwith at the option of Beneficiary.
- (e) Grantor shall have the right, after prior notice to Beneficiary, to contest by appropriate legal proceedings diligently conducted in good faith, without cost or expense to Beneficiary, the amount, validity or application of taxes, liens and other charges of the nature referred to in Section 1.4(a), (b), (c) and (d) hereof, provided Grantor (1) furnishes Beneficiary security, satisfactory to Beneficiary, against the maximum amount, as reasonably estimated by Beneficiary, of Grantor's potential ultimate liability, loss or injury by reason of such contest or delay should Grantor be unsuccessful, (2) prosecutes the contest with due diligence, (3) in the case of any utility charges, such service is not interrupted and (4) in the case of any lien or encumbrance, any enforcement against the Property is effectively stayed.
- Article 1.5 <u>Insurance</u>. Grantor will procure for, deliver to, and maintain for the benefit of Beneficiary during the life of this Deed of Trust, all insurance required under Section 4.5 of the Loan Agreement. Upon request of Beneficiary, Grantor shall deliver to Beneficiary receipts evidencing the payment of all such insurance policies and renewals. In the event of the foreclosure of this Deed of Trust or any other transfer of title to the Property in extinguishment of the indebtedness secured hereby, all right, title and interest of Grantor in and to all insurance policies then in force shall pass to the purchaser or grantee.

Beneficiary is hereby authorized and empowered, at its option, to adjust or compromise any loss under any casualty insurance policies on the Property, and to collect and receive the proceeds from any such policy or policies (other than proceeds for loss of rents or business interruption) in excess of first \$250,000 of losses; provided, however, that if no Event of Default shall then exist, Beneficiary shall not adjust or compromise any such loss without the written consent of the Grantor. Each insurance company is hereby authorized and directed to make payment for all such losses, directly to Beneficiary, instead of to Grantor and Beneficiary jointly. Proceeds of insurance will be applied as provided in Section 1.14 hereof (Restoration and Repair of Property Damaged or Taken).

Beneficiary shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure, excluding, however, the gross negligence of willful misconduct of Beneficiary.

After an Event of Default if required by Lender, Grantor will pay to Beneficiary each month on the scheduled monthly payment date as set forth in the Note, together with and in addition to the regular installment of principal and interest and monthly tax deposit (as and if required by Section 1.3 hereof) until the Note is fully paid, an amount equal to one-twelfth (1/12) of the yearly premiums for insurance. Such amount shall be used by Beneficiary (or released to Grantor) to pay such insurance premiums when due. Such added payments shall be deposited into a money-market account with Beneficiary, with interest to be credited to the account. Upon demand of Beneficiary, Grantor agrees to deliver to Beneficiary such additional moneys as are necessary to make up any deficiencies in the amounts necessary to enable Beneficiary to pay such insurance premiums. In the event of a default by Grantor in the performance of any of the terms, covenants and conditions in the Note or this Deed of Trust, Beneficiary may apply to the reduction of the sums secured hereby, in such manner as Beneficiary shall determine, any amount paid in accordance herewith remaining to Grantor's credit.

Article 1.6 <u>Condemnation</u>. If all or any part of the Property shall be damaged or taken through condemnation (which term when used in this Deed of Trust shall include any damage or taking by any governmental authority, and any transfer by private sale in lieu thereof), the proceeds thereof shall be payable directly to Beneficiary, and Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor and is hereby authorized, at its option, to commence, appear in and prosecute, in its own or Grantor's name, any action or proceedings relating to any condemnation, and to settle or compromise any claim in connection therewith; provided, however, that so long as no Event of Default then exists, Beneficiary shall not compromise or settle any such claim without the written consent of Grantor. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by Grantor to Beneficiary and shall be applied as provided in Section 1.14 hereof. Grantor agrees to execute such further assignments of any compensation, awards, damages, claims, rights of action and proceeds as Beneficiary may require.

# Article 1.7 Care of the Property.

- (a) Grantor will preserve and maintain the Property in good condition and repair, will not commit or suffer any waste and will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Property or any part thereof.
- (b) Except as otherwise provided herein or in the Loan Agreement, no buildings, fixtures, personal property, or other part of the Property shall be removed, demolished or substantially altered without the prior written consent of Beneficiary. Grantor may sell or otherwise dispose of, free from the lien of this Deed of Trust, furniture, furnishings, equipment, tools, appliances, machinery, fixtures or appurtenances, subject to the lien hereof, which may become worn out, undesirable, obsolete, disused or unnecessary for use in the operation of the Property, upon replacing the same by, or substituting for the same, other furniture, furnishings, equipment, tools, appliances, machinery, fixtures, or appurtenances not necessarily of the same character, but of at least

equal value or utility to Grantor and costing not less than the amount realized from the property sold or otherwise disposed of, which shall forthwith become, without further action, subject to the lien of this Deed of Trust. Beneficiary and Trustee will execute, at Grantor's request, releases of any property replaced as provided in this Section 1.7(b).

- (c) If the Property or any part thereof is damaged by fire or any other cause, Grantor will give immediate written notice of the same to Beneficiary.
- (d) Beneficiary is hereby authorized to enter upon and inspect the Property at any time during normal business hours, subject to the rights of tenants.
  - (e) Intentionally Deleted.
- (f) Grantor will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Property or any part thereof.
- (g) If all or any part of the Property shall be damaged by fire or other casualty, subject to the terms and conditions of this Deed of Trust and other Loan Documents, Grantor will (provided Beneficiary makes available for such purpose any available insurance proceeds and provided Guarantor does not elect to pay off the Loan) promptly restore the Property to the equivalent of its original condition, regardless of whether or not insurance proceeds therefor are sufficient. If a part of the Property shall be physically damaged through condemnation, Grantor will (provided Beneficiary makes available for such purpose any available condemnation proceeds) promptly restore, repair or alter the remaining property in a manner satisfactory to Beneficiary.
- Article 1.8 Further Assurances; After Acquired Property. At any time, and from time to time, upon request by Beneficiary, Grantor will make, execute and deliver or cause to be made, executed and delivered, to Beneficiary or the Trustee and, where appropriate, to cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Beneficiary any and all such other and further mortgages, instruments of further assurance, certificates and other documents as may, in the reasonable opinion of Beneficiary, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve the obligation of Grantor under the Note and this Deed of Trust and the lien of this Deed of Trust as a first and prior lien upon all of the Property, whether now owned or hereafter acquired by Grantor. Upon any failure by Grantor so to do, Beneficiary may make, execute, and record any and all such mortgages, instruments, certificates, and documents for and in the name of Grantor and Grantor hereby irrevocably appoints Beneficiary the agent and attorney-in-fact of Grantor so to do. The lien hereof will automatically attach, without further act, to all after acquired property attached to and/or used in the operation of the Property or any part thereof.
- Article 1.9 <u>Leases Affecting Property</u>. Grantor will comply with and observe its obligations as landlord under all leases affecting the Property or any part thereof. If requested by Beneficiary, Grantor will furnish Beneficiary with executed copies of all leases now or hereafter created on said premises; and all leases hereafter entered into will

be in compliance with all applicable provisions of the Loan Agreement. Except as permitted in the Assignment of Rents and Leases, Grantor will not accept payment of rent more than one (1) month in advance (other than standard deposits and fees) without the express written consent of Beneficiary. As provided in the Assignment of Rents and Leases executed contemporaneously herewith, Grantor assigns to Beneficiary as additional security all such leases, whether now existing or hereafter created, including, without limitation, all rents, royalties, issues and profits of the premises from time to time accruing, and will not (except in the ordinary course of business) cancel, surrender or modify any lease so assigned without the written consent of Beneficiary.

Article 1.10 Expenses. Grantor will pay or reimburse Beneficiary and the Trustee for all reasonable attorneys' fees, costs and expenses incurred by Beneficiary and the Trustee in any action, proceeding or dispute of any kind (except for matters directly and solely caused by Beneficiary's willful misconduct or gross negligence) in which Beneficiary or the Trustee is made a party, or appears as party plaintiff or defendant, affecting the Note, this Deed of Trust, Grantor or the Property, including but not limited to the foreclosure of this Deed of Trust, any condemnation action involving the Property, or any action to protect the security hereof; and any such amounts paid by Beneficiary or the Trustee shall bear interest at the Default Rate, shall be payable upon demand, and shall be secured by the lien of this Deed of Trust.

Article 1.11 Performance by Beneficiary or the Trustee of Defaults by Grantor. If Grantor shall default (i) in the payment of any tax, lien, assessment or charge levied or assessed against the premises, (ii) in the payment of any utility charge, whether public or private, (iii) in the payment of insurance premiums or the procurement of insurance coverage and the delivery to Beneficiary of the insurance policies required hereunder, or (iv) in the performance or observance of any covenant, condition or term of this Deed of Trust, then Beneficiary or the Trustee, at their option, may perform or observe the same. and all reasonable payments made for costs or incurred by Beneficiary in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by Grantor to Beneficiary or the Trustee, as the case may be, with interest thereon at the Default Rate. Notwithstanding the foregoing, in the event that immediate action is deemed reasonably necessary by Beneficiary in order to preserve or protect the Property or the security of this Deed of Trust, no prior notice to Grantor of any such action shall be required. Beneficiary shall be the sole judge of the legality, validity and priority of any such tax, lien, assessment, charge, claim and premium, of the necessity for any such actions, and of the amount necessary to be paid in satisfaction thereof, all in Beneficiary's reasonable judgment. Subject to the rights of tenants under leases, Beneficiary is hereby empowered to enter and to authorize others to enter upon the premises or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to Grantor or any person in possession holding under Grantor.

Article 1.12 <u>Books and Records</u>. Grantor shall keep and maintain at all times full, true and accurate books of accounts and records, adequate to reflect correctly the results of the operation of the Property.

- Article 1.13 <u>Estoppel Affidavits</u>. Grantor within ten (10) days after written request from Beneficiary shall furnish a written statement, duly acknowledged, setting forth, to the best of its knowledge as its records reflect, the unpaid principal of, and interest on, the Note and whether or not any offsets or defenses exist against such principal and interest.
- Article 1.14 Restoration and Repair of Property Damaged or Taken. Notwithstanding the provisions of Sections 1.5 and 1.6 hereof, Beneficiary agrees that Beneficiary shall make available to Grantor the net proceeds of insurance or condemnation (after payment of costs and expenses pursuant to Sections 1.5 and 1.6) for Grantor's repair or restoration of the Property upon the following terms and subject to Grantor's satisfaction (in its commercially reasonable discretion) of the following conditions:
- (a) At the time of such loss or damage and at all times thereafter while Beneficiary is holding any portion of such proceeds, there shall exist no Event of Default or event which, but for expiration of any applicable grace period, would constitute an Event of Default on the part of Grantor under this instrument or under any other Loan Document.
- (b) The property, buildings, improvements and fixtures for which a loss or damage has resulted shall be capable of being restored to substantially their pre-existing condition and utility with a value equal to or greater than prior to such loss or damage, shall be capable of being completed prior to the maturity of the Note.
- (c) Within thirty (30) days from the date of such loss or damage, Grantor shall have given Beneficiary a written notice electing to have the proceeds applied for such purpose.
- (d) As soon as practicable, but in any event within sixty (60) days following the receipt of applicable insurance or condemnation proceeds, and prior to any proceeds being disbursed to Grantor, Grantor shall have provided to Beneficiary all of the following:
  - (i) complete plans and specifications to the extent required for restoration of the property, buildings, improvements and fixtures damaged or taken to the condition and utility prior to such loss or damage;
  - (ii) if loss or damage exceeds \$250,000, fixed-price or guaranteed maximum cost bonded construction contract for completion of the repair and restoration work in accordance with such plans and specifications;
  - (iii) builder's risk insurance for the full cost of construction with Beneficiary named under a standard mortgagee loss-payable clause;
  - (iv) such additional funds as in Beneficiary's opinion are reasonably necessary to complete the repair and restoration; and

- (v) copies of all permits and licenses necessary to complete the work in accordance with the plans and specifications (or evidence that such permits and licenses have been applied for and will be issued in due course).
- (e) Beneficiary may, at Grantor's expense, retain an independent inspecting engineer to review plans and specifications and completed construction and to certify all requests for disbursement.
- (f) No portion of such proceeds shall be made available by Beneficiary for architectural reviews or for any other purposes which are not directly attributable to the cost of reconstructing those portions of the property for which a loss or damage has occurred.
- (g) Grantor shall use good faith efforts to commence such work within one hundred twenty (120) days of such loss or damage (but not later than 150 days) and shall diligently pursue such work to completion.
- (h) Each disbursement by Beneficiary of such proceeds and deposits shall be funded in accordance with disbursement procedures reasonably satisfactory to Beneficiary.
- (i) Grantor shall grant to Beneficiary a first lien and security interest in all building materials and completed repair and restoration work and in all fixtures and equipment acquired with such proceeds, and Grantor shall execute and deliver such mortgages, security agreements, financing statements and other instruments as Beneficiary shall request to create, evidence, or perfect such lien and security interest.
- (j) In the event and to the extent such proceeds are not required or used for the repair and restoration of the damaged property, buildings, improvements or fixtures, or in the event Grantor fails to timely make such election or having made such election fail to timely comply with the terms and conditions set forth herein, Beneficiary shall, without notice to or consent from Grantor, apply such proceeds or the balance thereof to the full or partial payment or prepayment of the indebtedness under the Note (principal, interest, and prepayment premium, if any).
- (k) Notwithstanding anything to the contrary contained herein, any insurance proceeds received from a builder's risk policy during the Interest Term as defined in the Note shall be applied to restoration of the improvements provided no Default or Event of Default exists.

# **ARTICLE 2**

Article 2.1 <u>Conveyances and Security Interests</u>. In order to secure the prompt payment and performance of the Obligations, including without limitation, any and all renewals, amendments, extensions and modifications thereof, Grantor (a) grants, bargains, sells and conveys the Property unto Trustee in trust for the benefit of Beneficiary, with power of sale, the Property unto Trustee in fee simple forever; provided that Grantor may retain possession of the Property until the occurrence of an Event of

Default; (b) grants to Beneficiary a security interest in the Personalty; (c) assigns to Beneficiary, and grants to Beneficiary a security interest in, all condemnation awards and all insurance proceeds; and (d) assigns to Beneficiary, and grants to Beneficiary a security interest in, all of Grantor's right, title and interest in, but not any of Grantor's obligations or liabilities under, all construction documents.

TO HAVE AND TO HOLD, the foregoing rights, interests, and properties, and all rights, estates, powers and privileges appurtenant thereto, unto the Trustee and Trustee's successors or substitutes in this Trust, and to Trustee's successors and assigns, in trust, in fee simple forever, subject to the terms and provisions set forth herein.

All persons who may have or acquire an interest in all or any part of the Property will be deemed to have notice of, and will be bound by, the terms of the Obligations and each other agreement or instrument made or entered into in connection with each of the Obligations.

Article 2.2 Assignment of Leases and Rents. In consideration of the making of the Loan by Beneficiary to Grantor, the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor absolutely and unconditionally assigns the Leases and Rents to Beneficiary. This assignment is, and is intended to be, an unconditional, absolute and present assignment from Grantor to Beneficiary of all of Grantor's right, title and interest in and to the Leases and the Rents and not an assignment in the nature of a pledge of the Leases and Rents or the mere grant of a security interest therein. So long as no Event of Default shall exist, however, Grantor shall have a license (which license shall terminate automatically and without notice upon the occurrence of an Event of Default) to collect, but not prior to accrual, all Rents. Grantor agrees to collect and hold all Rents in trust for Beneficiary and to use the Rents for the payment of the cost of operating and maintaining the Property and for the payment of the other Obligations before using the Rents for any other purpose.

Article 2.3 Security Agreement, Fixture Filing and Financing Statement. This Deed of Trust creates a security interest in the Personalty, and, to the extent the Personalty is not real property, this Deed of Trust constitutes a security agreement from Grantor to Beneficiary under the Uniform Commercial Code of the State of Tennessee. In addition to all of its other rights under this Deed of Trust and otherwise, Beneficiary shall have all of the rights of a secured party under the Uniform Commercial Code of the State of Tennessee, as in effect from time to time, or under the Uniform Commercial Code in force from time to time in any other state to the extent the same is applicable Law. This Deed of Trust shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Property and is to be filed for record in the real estate records of each county where any part of the Property (including such fixtures) is situated. This Deed of Trust shall also be effective as a financing statement with respect to any other Property as to which a security interest may be perfected by the filing of a financing statement and may be filed as such in any appropriate filing or recording office. The respective mailing addresses of Grantor and Beneficiary are set forth in the opening paragraph of this Deed of Trust. A carbon, photographic or other reproduction of this Deed of Trust or any other financing statement relating to this Deed of Trust shall be sufficient as a financing statement for any of the purposes referred to in this Section.

Grantor hereby irrevocably authorizes Beneficiary at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by applicable Law, reasonably required by Beneficiary to establish or maintain the validity, perfection and priority of the security interests granted in this Deed of Trust.

## ARTICLE 3

- Article 3.1 Events of Default. The terms "Event of Default", wherever used in this Deed of Trust, shall mean the occurrence of any one or more of the following events:
- (a) Failure by Grantor to pay as and when due and payable under the Note, this Deed of Trust or any other Loan Document any installments of principal, interest or escrow deposits, which failure is not cured within ten (10) days of the due date; or
- (b) Failure by Grantor to duly observe any other covenant, condition or agreement of the Note, this Deed of Trust or any other Loan Document, which failure is not cured within thirty (30) days after written notice thereof from Beneficiary to Grantor specifying such default or failure and requiring it to be remedied and stating that such notice is a "notice of default" hereunder; provided that, if such failure shall not be capable of cure within such thirty (30) day period, Beneficiary shall, upon Grantor's written request, permit Grantor an additional period, not to exceed an additional thirty (30) days, within which to cure such failure, and no Event of Default shall exist as long as Grantor (A) commences to cure such failure within the initial thirty (30) day period, (B) prosecutes such cure with due diligence to completion, and (C) cures such default or failure within the additional period allowed by Lender; or
- (c) The occurrence of an "Event of Default" under either the Note or the Loan Agreement; or
- (d) Except as permitted under the Loan Documents, the sale or other transfer of all or any portion of the Property, or any interest therein, without the prior written consent of Beneficiary, which consent may be granted or refused by Beneficiary in its sole discretion; or
- (e) The creation or suffering to exist by Grantor, for a period in excess of thirty (30) days after Grantor is notified by Lender or otherwise of such filing, of any lien or encumbrance on the Property (other than the lien of this Deed of Trust and the lien for ad valorem taxes not then delinquent), which is not removed of record, bonded off, insured over or dismissed, without the prior written consent of Beneficiary, which consent may be granted or refused by Beneficiary in its sole discretion.
- Article 3.2 Acceleration of Maturity. If an Event of Default shall have occurred, then the entire principal amount of the indebtedness secured hereby with interest accrued thereon shall, at the option of Beneficiary, become due and payable without notice or demand (except as otherwise expressly provided in the Loan Documents), time being of

the essence; and any omission on the part of Beneficiary to exercise such option when entitled to do so shall not be considered as a waiver of such right.

# Article 3.3 Right of Beneficiary and Trustee to Enter and Take Possession.

- (a) If an Event of Default shall have occurred and be continuing, Grantor, upon demand of Beneficiary, shall forthwith surrender to Beneficiary, or its agents or representatives, as directed by Beneficiary, the actual possession, and if and to the extent permitted by law, Beneficiary, or its agents or representatives, may enter and take possession, of all the Property, and may exclude Grantor and its agents and employees wholly therefrom.
- (b) Upon every such entering upon or taking of possession, Beneficiary, or its agents or representatives, as the case may be, may hold, store, use, operate, manage and control the Property and conduct the business thereof, and, from time to time:
  - (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property;
    - (ii) insure or keep the Property insured;
  - (iii) manage and operate the Property and exercise all the rights and powers of Grantor in its name or otherwise, with respect to the same;
  - enter into any and all agreements with respect to the exercise by others of any of the powers herein granted Beneficiary, all as Beneficiary, or its agents or representatives, from time to time may determine to be to its best advantage; and Beneficiary, or its agents or representatives, may collect and receive all the income, revenues, rents, issues and profits of the same including those past due as well as those accruing thereafter, and, after deducting (A) all reasonable expenses of taking, holding, managing, and operating the Property (including compensation for the services of all persons employed for such purposes); (B) the reasonable cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions: (C) the reasonable cost of such insurance; (D) such taxes, assessments and other charges prior to the lien of this Deed of Trust as Beneficiary, or its agents or representatives, may determine to pay; (E) other proper charges upon the Property or any part thereof; and (F) the reasonable compensation, expenses and disbursements of the attorneys and agent of Beneficiary, or its agents or representatives; shall apply the remainder of the moneys so received to the payment of accrued interest, to the payment of tax and insurance deposits required in Sections 1.3 and 1.5 hereof, and to the payment of overdue installments of principal, all in such order and priority as Beneficiary may determine.
- (c) Whenever all such Events of Default have been cured and satisfied, Beneficiary, or its agents or representatives, may, at the option of Beneficiary, surrender possession of the Property to Grantor, its successors or assigns. The same right of taking

possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

## Article 3.4 Receiver.

- (a) If an Event of Default shall have occurred and be continuing, Beneficiary, upon application to a court of competent jurisdiction, shall be entitled, without regard to the adequacy of any security for the indebtedness hereby secured or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Property and to collect the rents, profits, issues, and revenues thereof.
- (b) Grantor will pay to Beneficiary and the Trustee upon demand all reasonable expenses, including receiver's fees, attorney's fees, costs and agent's compensation, incurred pursuant to the provisions contained in this Section 2.4; and all such expenses shall be secured by this Deed of Trust.
- Article 3.5 <u>Beneficiary's Power of Enforcement</u>. If an Event of Default shall have occurred and be continuing, Beneficiary and the Trustee may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy, in accordance with applicable Tennessee laws, including notice requirements,
- (a) to enforce payment of the Note or the performance of any term thereof or any other right,
- (b) to foreclose this Deed of Trust and to sell, as an entirety or in separate lots or parcels, the Property, as provided by law, and
- (c) to pursue any other remedy available to it, all as Beneficiary shall deem most effectual for such purposes. Beneficiary and the Trustee shall take action either by such proceedings or by the exercise of the powers herein with respect to entry or taking possession, as Beneficiary may determine.

## Article 3.6 Foreclosure of the Deed of Trust.

(a) The Trustee hereunder, or his agent or successors, at the request of the Beneficiary, or the representatives or assigns of the Beneficiary, after giving notice of the time and place of sale by publication of such at least three (3) different times in some newspaper published in the county in which the Premises are primarily situated, the first of which publications shall be at least twenty (20) days previous to said sale, shall, at the date and time stated in the notice, and at the door of the County Courthouse in said County at which foreclosure sales are customarily held or at the election of Beneficiary at the Premises, proceed to sell the Premises at public auction for cash (or for credit against the Secured Indebtedness if the Beneficiary is the highest bidder) or upon such other terms that are satisfactory to Trustee and Beneficiary, and in bar of the equity of redemption and all other rights of redemption, statutory or otherwise (including, without limitation, those rights of redemption contained in Tennessee Code

Annotated Section 66 8 101 et seq.), homestead, dower, elective share, rights of appraisement or valuation, and all other rights and exemptions of every kind, all of which are hereby waived. Trustee shall apply the proceeds from such sale. First to the payment of all costs and expenses of such sale, including attorney and trustee fees and expenses incurred in connection with the sale and Grantor's default; Second, to the payment of the Secured Indebtedness, including any and all advances made under the terms hereof with interest thereon; Third, the surplus, if any, to the parties legally entitled thereto. In the event the Trustee cannot determine the person or persons to whom the surplus should be paid or a controversy exists with respect to the surplus, the Trustee may pay the surplus into a court of competent jurisdiction in an interpleader action and all expenses of such action, including legal fees incurred by Beneficiary and Trustee, shall be paid from the surplus or, if the surplus is insufficient, by Grantor.

- (b) The foreclosure sale may be adjourned from time to time by Trustee, or his agent or successors, at the place of sale on the date the sale is originally set, or on the date of any adjournment thereof, and may be reset at a later date or dates, by announcement without any additional publication.
- (c) Beneficiary or Beneficiary's designee may purchase the Premises at any sale. In the event Beneficiary purchases the Premises at the Trustee's sale, to the extent Beneficiary's bid price exceeds the Secured Indebtedness, Beneficiary shall pay Trustee cash equal to such excess.
- (d) The Premises or any part thereof may be sold in one parcel, or in such parcels, manner or order as Beneficiary in its sole discretion may elect, and one or more exercises of the power herein granted shall not extinguish or exhaust the power unless the entire Premises are sold or the Secured Indebtedness paid in full.
- (e) Following a Trustee's sale of the Premises, Trustee shall deliver to the purchaser a Trustee's Deed conveying the property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's Deed shall be prima facie evidence of the truth of the statements made therein.
- (f) Grantor further agrees that in case of any sale hereunder, it will at once surrender possession of the Premises, and will from that moment become and be the tenant at will of the purchaser, and removable by process as upon a forcible and unlawful detainer suit, hereby agreeing to pay such purchaser the reasonable rental value of the Premises after such sale plus all expenses, including legal fees, incurred by the purchaser.
- (g) Neither the Beneficiary or the Trustee shall be required to give any notice of the foreclosure sale to the Grantor.
- (h) institute appropriate proceedings of foreclosure in equity or at law. Upon the institution of such proceedings, Trustee shall, upon application therefor, without notice, be entitled to have a receiver appointed to take possession of the Premises, and Trustee or Beneficiary shall be entitled to all of the rents, issues and

profits arising therefrom during the pendency of any such foreclosure proceedings;

Article 3.7 Collection of Rents. Upon the occurrence and during the continuance of an Event of Default, the license granted to Grantor to collect the Rents shall be automatically and immediately revoked, without further notice to or demand upon Grantor. Beneficiary may, but shall not be obligated to, perform any or all obligations of the landlord under any or all of the Leases, and Beneficiary may, but shall not be obligated to, exercise and enforce any or all of Grantor's rights under the Leases. Without limitation to the generality of the foregoing, Beneficiary may notify the tenants under the Leases that all Rents are to be paid to Beneficiary, and following such notice all Rents shall be paid directly to Beneficiary and not to Grantor or any other Person other than as directed by Beneficiary, it being understood that a demand by Beneficiary on any tenant under the Leases for the payment of Rent shall be sufficient to warrant payment by such tenant of Rent to Beneficiary without the necessity of further consent by Grantor, Grantor hereby irrevocably authorizes and directs the tenants under the Lease to pay all Rents to Beneficiary instead of to Grantor, upon receipt of written notice from Beneficiary, without the necessity of any inquiry of Grantor and without the necessity of determining the existence or non-existence of an Event of Default. Grantor hereby appoints Beneficiary as Grantor's attorney-in-fact with full power of substitution, which appointment shall take effect upon the occurrence of an Event of Default and is coupled with an interest and is irrevocable prior to the full and final payment and performance of the Obligations, in Grantor's name or in Beneficiary's name: (a) to endorse all checks and other instruments received in payment of Rents and to deposit the same in any account selected by Beneficiary; (b) to give receipts and releases in relation thereto; (c) to institute, prosecute and/or settle actions for the recovery of Rents; (d) to modify the terms of any Leases including terms relating to the Rents payable thereunder; (e) to cancel any Leases; (f) to enter into new Leases; and (g) to do all other acts and things with respect to the Leases and Rents which Beneficiary may deem necessary or desirable to protect the security for the Obligations. Any Rents received shall be applied first to pay all Expenses and next in reduction of the other Obligations. Grantor shall pay, on demand, to Beneficiary, the amount of any deficiency between (i) the Rents received by Beneficiary, and (ii) all Expenses incurred together with interest thereon as provided in the Loan Agreement and the other Loan Documents.

Article 3.8 <u>Uniform Commercial Code</u>. Beneficiary may proceed under the Uniform Commercial Code as to all or any part of the Personalty, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial Code. Upon the occurrence of any Event of Default, Grantor shall assemble all of the accessories and make the same available within the Improvements. Any notification required by the Uniform Commercial Code shall be deemed reasonably and properly given if sent in accordance with the Notice provisions of this Deed of Trust at least ten (10) days before any sale or other disposition of the Personalty. Disposition of the Personalty shall be deemed commercially reasonable if made pursuant to a public sale advertised at least twice in a newspaper of general circulation in the community where the Property is located. It shall be deemed commercially reasonable for the

Trustee to dispose of the Personalty without giving any warranties as to the Personalty and specifically disclaiming all disposition warranties.

- Article 3.9 <u>Judicial Foreclosure</u>. Trustee and/or Beneficiary may, at its option, institute appropriate proceedings of foreclosure in equity or at law.
- Article 3.10 Attorney-in-Fact. Any legal proceeding, contractual obligation, further assignment or other action taken by Beneficiary in the course of exercising its remedies hereunder may be entered into or initiated by Beneficiary either in its own name as Grantor's assignee or in the name of Grantor. Grantor hereby irrevocably appoints Beneficiary as Grantor's attorney-in-fact for the purpose of taking any such action upon default hereunder.
- Article 3.11 <u>Application of Proceeds</u>. The proceeds of any sale pursuant to Section 2.6 shall be applied as follows, but in any event in accordance with the requirements of Tennessee state law:
- (a) First, to the reasonable expenses of making the sale, including a reasonable attorney's fee for such services as may be necessary in the collection of said indebtedness or the foreclosure of this Deed of Trust:
- (b) Second, to the repayment of any money, with interest thereon at the Default Rate, which Beneficiary or the Trustee may have paid, or become liable to pay, or which it may then be necessary to pay for taxes, insurance, assessments or other charges, liens, or debts as hereinabove provided;
- (c) Third, to the payment and satisfaction of the indebtedness hereby secured with interest to date of sale; and
- (d) Fourth, the balance, if any, shall be paid to the party or parties appearing of record to be the owner of the premises at the time of the sale after deducting any expense of ascertaining who is such owner.
- Article 3.12 <u>Waiver of Exemption</u>. Grantor waives all rights of exemption pertaining to real or personal property as to any indebtedness secured by or that may be secured by this Deed of Trust, and Grantor waives the benefit of any statute regulating the obtaining of a deficiency judgment or requiring that the value of the premises be set off against any part of the indebtedness secured hereby.
- Article 3.13 Suits to Protect the Property. Beneficiary and the Trustee shall have power (a) to institute and maintain such suits and proceedings as they may deem expedient to prevent any impairment of the Property by any acts which may be unlawful or any violation of this Deed of Trust, (b) to preserve or protect their interest in the Property and in the income, revenues, rents and profits arising therefrom, and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with, such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of Beneficiary.

- Article 3.14 <u>Delay or Omission No Waiver</u>. No delay or omission of Beneficiary or the Trustee to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein; and every right, power and remedy given by this Deed of Trust to Beneficiary or the Trustee may be exercised from time to time and as often as may be deemed expedient by Beneficiary or the Trustee, as the case may be.
- Article 3.15 No Waiver of One Default to Affect Another, etc. No waiver of any default hereunder shall extend to or shall affect any subsequent or any other then existing default or shall impair any rights, powers or remedies consequent thereon.

# If Beneficiary or the Trustee:

- (a) grants forbearance or an extension of time for the payment of any sums secured hereby;
  - (b) takes other or additional security for the payment thereof;
  - (c) waives or does not exercise any right granted herein or in the Note;
- (d) releases any part of the Property from the lien of this Deed of Trust or otherwise changes any of the terms of the Note or this Deed of Trust;
  - (e) consents to the filing of any map, plat or replat thereof;
  - (f) consents to the granting of any easement thereon; or
- (g) makes or consents to any agreement subordinating the lien or charge hereof, any such act or omission shall not release, discharge, modify, change, or affect the original liability under the Note, this Deed of Trust or otherwise of Grantor or any subsequent purchaser of the Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor; nor shall any such act or omission preclude Beneficiary and the Trustee from exercising any right, power or privilege herein granted or intended to be granted in the event of any other default then made or of any subsequent default, nor, except as otherwise expressly provided in an instrument or instruments executed by Beneficiary shall the lien of this Deed of Trust be altered thereby.

In the event of the sale or transfer by operation of law or otherwise of all or any part of the Property, Beneficiary, at its option, without notice to any person or corporation is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Property or the indebtedness secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any of the liabilities or undertakings hereunder.

Article 3.16 <u>Discontinuance of Proceedings - Position of Parties Restored.</u> In case Beneficiary or the Trustee shall have proceeded to enforce any right or remedy under this Deed of Trust by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, then and in every such case Grantor,

Beneficiary and the Trustee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Beneficiary and the Trustee shall continue as if no such proceeding had been taken.

Article 3.17 Remedies Cumulative. No right, power, or remedy conferred upon or reserved to Beneficiary or the Trustee by this Deed of Trust is intended to be exclusive of any right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Article 3.18 <u>Defeasance</u>. The conveyance by Grantor to Trustee is made upon this special trust, that if Grantor shall pay or cause to be paid the indebtedness secured hereby in full according to the applicable terms of the Note, this Deed of Trust, the Loan Agreement and the other Loan Documents, and that if Grantor shall pay or cause to be paid all other sums due under this Deed of Trust or secured hereby and shall comply with all of the other terms, covenants and conditions of this Deed of Trust, the Loan Agreement and the other Loan Documents, then this conveyance shall be null and void and shall be cancelled of record. But if at any time there shall occur any Event of Default, then Beneficiary shall be entitled to pursue the remedies set forth in Article III of this Deed of Trust.

Article 3.19 Obligatory Advances. The term "Obligatory Advances," as used herein, has the same meaning as in T.C.A. § 47 28 101.

#### **ARTICLE 4**

Liability of Trustee. Trustee shall have no liability or responsibility for, Article 4.16 and make no warranties in connection with, the validity or enforceability of any of the Loan Documents or the description, value or status of title to the Property. Trustee shall be protected in acting upon any notice, request, consent, demand, statement, note or other paper or document believed by Trustee to be genuine and to have been signed by the party or parties purporting to sign the same. Trustee shall not be liable for any error of judgment, nor for any act done or step taken or omitted, nor for any mistakes of law or fact, nor for anything which Trustee may do or refrain from doing in good faith, nor generally shall Trustee have any accountability hereunder except for willful misconduct or gross negligence. The powers and duties of Trustee hereunder may be exercised through such attorneys, agents or servants as Trustee may appoint, and Trustee shall have no liability or responsibility for any act, failure to act, negligence or willful conduct of such attorney, agent or servant, so long as the selection was made with reasonable care. In addition, Trustee may consult with legal counsel selected by Trustee, and Trustee shall have no liability or responsibility by reason of any act or failure to act in accordance with the opinions of such counsel. Trustee may act hereunder and may sell or otherwise dispose of the Property or any part thereof as herein provided, although Trustee has been, may now be or may hereafter be, an attorney, officer, agent or employee of Beneficiary, in respect of any matter or business whatsoever. Trustee, however, shall have no obligation to sell all or any part of the Property following an Event of Default or to take any other action authorized to be taken by Trustee hereunder except upon the demand of Beneficiary.

Article 4.17 <u>Indemnification of Trustee</u>. Grantor agrees to indemnify Trustee and to hold Trustee harmless from and against any and all Claims and Expenses directly or indirectly arising out of or resulting from any transaction, act, omission, event or circumstance in any way connected with the Property or the Loan, including but not limited to any Claim arising out of or resulting from any assertion or allegation that Trustee is liable for any act or omission of Grantor or any other Person in connection with the ownership, development, financing, operation or sale of the Property; provided, however, that Grantor shall not be obligated to indemnify Trustee with respect to any Claim arising solely from the gross negligence or willful misconduct of Trustee. The agreements and indemnifications contained in this Section shall apply to Claims arising both before and after the repayment of the Loan and shall survive the repayment of the Loan, any foreclosure or deed in lieu thereof and any other action by Trustee to enforce the rights and remedies of Beneficiary or Trustee hereunder or under the other Loan Documents.

Article 4.18 Substitution of Trustee; Multiple Trustees. Beneficiary shall have, and is hereby granted with warranty of further assurances, the irrevocable power to appoint a new or replacement or substitute Trustee. Such power may be exercised at any time without notice, without cause and without specifying any reason therefor, by filing for record in the office where this Deed of Trust is recorded a Substitution of Trustee. The power of appointment of a successor Trustee may be exercised as often as and whenever Beneficiary may choose, and the exercise of the power of appointment, no matter how often, shall not be an exhaustion thereof. Upon the recordation of such Substitution of Trustee, the Trustee so appointed shall thereupon, without any further act or deed of conveyance, become fully vested with identically the same title and estate in and to the Property and with all the rights, powers, trusts and duties of its predecessor in the trust hereunder with like effect as if originally named as Trustee hereunder. Whenever in this Deed of Trust reference is made to Trustee, it shall be construed to mean each Person appointed as Trustee for the time being, whether original or successor in trust. All title, estate, rights, powers, trusts and duties granted to Trustee shall be in each Person appointed as Trustee so that any action hereunder by any person appointed as Trustee shall for all purposes be deemed to be, and as effective as, the action of all Trustees.

#### ARTICLE 5

Article 5.16 Successors and Assigns Included in Parties. Whenever in this Deed of Trust one of the parties hereto is named or referred to, the heirs, administrators, executors, successors and assigns of such party shall be included, and all covenants and agreements contained in this Deed of Trust by or on behalf of Grantor shall bind and inure to the benefit of Beneficiary and the Trustee, their respective heirs, administrators, executors, successors and assigns, whether so expressed or not.

Article 5.17 <u>Headings, etc.</u> The headings of the articles, sections, paragraphs and subdivisions of this Deed of Trust are for convenience of reference only, are not to be considered a part hereof, and shall not limit or otherwise affect any of the terms hereof.

Article 5.18 <u>Invalid Provisions to Affect No Others</u>. In case any one or more of the covenants, agreements, terms or provisions contained in this Deed of Trust or in the Note

shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms and provisions contained herein and in the Note shall be in no way affected, prejudiced or disturbed thereby.

Article 5.19 Successor Trustee. The powers of the Trustee hereunder may be exercised by the Trustee named herein or any successor Trustee or Trustees, and in the event of the resignation, death, incapacity, disability or removal of any Trustee hereunder or in the event Beneficiary for any reason may deem it appropriate, Beneficiary may, by instrument executed, acknowledged and recorded in the same Clerk's Office or Offices as this Deed of Trust is recorded, designate and appoint one (1) or more substitute Trustees in the place and stead of any Trustee, the substituted Trustee or Trustees to thereupon be vested with all the powers, rights, authority and duties vested in his predecessor.

Article 5.20 <u>Trustee Compensation</u>. Trustee shall be entitled to reasonable compensation for all services rendered, whether or not a foreclosure is held hereunder, and shall be reimbursed for all reasonable expenses, charges and attorneys' fees, including fees for legal advice concerning his duties and rights in the Property and title examinations.

Article 5.21 No Assumption or Assignment. No sale, transfer, conveyance or encumbrance of the Property, or any interest therein (other than tenant leases entered into in the ordinary course of business and/or in compliance with the provisions of this Deed of Trust and transfers of membership interests permitted under the terms of the Loan Documents), shall be made or suffered so long as it shall remain subject to the lien of this Deed of Trust without the prior written consent of Beneficiary, it being agreed by Grantor that, except as provided above, payment of the indebtedness secured hereby may not be assumed by any future owners of the Property and that Beneficiary may, at its option, declare all indebtedness secured hereby due and payable in full upon any sale, transfer, conveyance or encumbrance of the Property, or any interest therein. Accordingly, NOTICE - THE DEBT SECURED HEREBY IS SUBJECT TO CALL IN FULL OR THE TERMS THEREOF BEING MODIFIED IN THE EVENT OF SALE, TRANSFER, CONVEYANCE OR ENCUMBRANCE OF THE PROPERTY CONVEYED OR ANY INTEREST THEREIN.

Article 5.22 <u>Security Agreement</u>. This Deed of Trust creates a lien and security interest on the personal property and fixtures owned by Grantor and located on the Property, and it shall constitute a security agreement under the Tennessee Uniform Commercial Code or other law applicable to the creation of liens on personal property. Grantor covenants and agrees to execute, file and refile such financing statements, continuation statements or other documents as the Beneficiary may require by written notice from time to time with respect to such personal property. Upon the occurrence of an Event of Default, the Beneficiary shall have all rights and remedies of a secured party under the Tennessee Uniform Commercial Code.

Article 5.23 <u>Notices</u>. Any and all notices, elections or demands permitted or required to be made under the Loan Documents, or any other agreement executed in connection with or relating to the Note or this Deed of Trust or by applicable law, shall be given and be deemed effective upon being (a) delivered in person, (b) deposited with the U.S. Mail,

certified or registered, postage prepaid, return receipt requested, or (c) sent by Federal Express or overnight U.S. Mail or other national overnight carrier, and addressed in each such case to the parties at their respective addresses set forth in the heading of this instrument or such other single address as either party may designate in a written notice given as herein provided (except that a change of address notice shall not be effective until actual receipt). Beneficiary agrees to provide a copy of any notice to:

Grantor: 407 St. Tammany Street,

Madisonville, Louisiana 70447 Attention: Gregory A. Lala

Article 5.24 Waiver of Jury Trial. Each of Grantor, Beneficiary and the Trustee hereby waive any right to a trial by jury on any claim, counterclaim, setoff, demand, action or cause of action (a) arising out of or in any way pertaining or relating to this Deed of Trust, the Note, any Loan Document, or any other instrument, document or agreement executed or delivered in connection herewith or therewith, or (b) in any way connected with or pertaining or relating to or incidental to any dealings of the parties hereto with respect to this Deed of Trust, the Note, any Loan Document, or any transactions related hereto or thereto or contemplated hereby or thereby, or the exercise of any party's rights and remedies hereunder or thereunder, in all of the foregoing cases whether now existing or hereafter arising, and whether sounding in contract, tort or otherwise. The parties agree that any of them may file a copy of this Section with any court as written evidence of the knowing, voluntary and bargained agreement between the parties irrevocably to waive trial by jury, and that any dispute or controversy whatsoever between them shall instead be tried in a court of competent jurisdiction by a judge sitting without a jury. Grantor hereby certifies that no representative or agent of Beneficiary, including Beneficiary's counsel, has represented, expressly or otherwise, that Beneficiary would not, in the event of such dispute or controversy, seek to enforce the provisions of this Section, and Grantor acknowledges that Beneficiary has, in part, been induced to make the extension of credit evidenced by the Note in reliance on the provisions of this Section

Article 5.25 <u>Future Advances</u>. This Deed of Trust shall secure the payment of any additional amounts advanced, from time to time, by Beneficiary to Grantor under the Note or other documents stating that such advances are secured hereby ("Future Advances").

Article 5.26 <u>Indebtedness Secured Hereby Not Limited by Statement for Tax and Registration Authorities</u>. Any legend appearing on the face hereof and any affidavit that may be submitted to recording authorities herewith pursuant to any requirement of taxation or registration authorities is included for the benefit of such authorities only and does not affect the terms of Beneficiary's agreement with Grantor as provided by this Deed of Trust and by other documents pertaining to the indebtedness secured hereby or the priority of the lien of this Deed of Trust or any advance made hereunder.

[Signature Pages Follow]

IN WITNESS WHEREOF, Grantor has caused this Deed of Trust to be executed as of the day and year first written above,

	GRANTOR:  LG INVESTMENTS, LLC, a Louisiana limited liability company  By: Print Name:  MANAGEMENTS, LLC, a Louisiana limited liability company  By:  Management of the limited liability company		
	Grantor's address:	407 St. Tammany Street, Madisonville, Louisiana 70447	
STATE OF LOUISINAL	)		
Before me, Russey Personally appeared STANDS  personally appeared STANDS  proved to me on the basis of satisfato be MANNEL  LG Investments, LLC, a Louisiana that he as such MANNET therein contained, by signing MANNET.	A CUSE, a Notar of CUSE, with vactory evidence), and vactory evidence, and vactory evidence of the name of the name of the customer.	ry Public of said County and State, whom I am personally acquainted (or who, upon oath, acknowledged himself thorized to execute the instrument) of pany, the within named bargainor, and foregoing instrument for the purposes ne company by himself as its	
Witness my hand and seal, t	his day of Augu  Notary Public	462	
My Commission Expires:			
	Aussell W. Ri	udolph, La. Notary Public	

Aussell W. Rudolph, La. Notary Public 407 St. Tammany, Madisonville, La. 70447 La. Bar No. 19391 / La. Notary No. 36381 Commission Expires at Death

#### Exhibit A

## Legal Description

#### PARCEL I

LOT 62, THIRD ADDITION, CARRINGTON JONES' DOGWOOD HILLS SUBDIVISION, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 10, PAGE 74, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, TO WHICH PLAT REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION OF SAID PROPERTY.

ALSO BEING THE SAME PROPERTY AS PARCEL I, BROOKS-HERNANDO P.D. AS RECORDED IN THE SHELBY COUNTY REGISTER'S OFFICE IN PLAT BOOK 113, PAGE 50, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF HERNANDO ROAD, SAID POINT BEING THE NORTHEAST CORNER OF THE PROPERTY HEREIN DESCRIBED AND IN THE SOUTH LINE OF PARCEL II, BROOKS-HERNANDO P.D.; THENCE ALONG SAID WEST LINE OF HERNANDO ROAD SOUTH 01 DEGREES 41 MINUTES 16 SECONDS EAST A DISTANCE OF 100.09 FEET; THENCE NORTH 88 DEGREES 51 MINUTES 51 SECONDS WEST A DISTANCE OF 372.60 FEET; THENCE NORTH 00 DEGREES 57 MINUTES 00 SECONDS EAST A DISTANCE OF 100.0 FEET; THENCE SOUTH 88 DEGREES 50 MINUTES 55 SECONDS EAST A DISTANCE OF 367.99 FEET TO THE POINT OF BEGINNING.

#### PARCEL II

LOT 61, THIRD ADDITION, CARRINGTON JONES' DOGWOOD HILLS SUBDIVISION, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 10, PAGE 74, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, TO WHICH PLAT REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION OF SAID PROPERTY.

ALSO BEING THE SAME PROPERTY AS PARCEL II, BROOKS-HERNANDO P.D. AS RECORDED IN THE SHELBY COUNTY REGISTER'S OFFICE IN PLAT BOOK 113, PAGE 50, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF HERNANDO ROAD, SAID POINT BEING THE NORTHEAST CORNER OF THE PROPERTY HEREIN DESCRIBED AND BEING THE SOUTH LINE OF PARCEL III, BROOKS-HERNANDO P.D.; THENCE ALONG SAID WEST LINE OF HERNANDO ROAD SOUTH 01 DEGREES 41 MINUTES 16 SECONDS EAST A DISTANCE OF 100.09 FEET; THENCE NORTH 88 DEGREES 50 MINUTES 55 SECONDS WEST A DISTANCE OF 363.39 FEET; THENCE NORTH 00 DEGREES 57 MINUTES 00 SECONDS EAT A DISTANCE OF 100.0 FEET; THENCE SOUTH 88 DEGREES 50 MINUTES 01 SECONDS EAST A DISTANCE OF 358.79 FEET TO THE POINT OF BEGINNING.

#### PARCEL III

PARCEL III IN BROOKS-HERNANDO P.D. AS RECORDED IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, IN PLAT BOOK 113, PAGE 50, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF HERNANDO ROAD, SAID POINT BEING

THE SOUTHEAST CORNER OF THE PROPERTY HEREIN DESCRIBED AND BEING IN THE NORTH LINE OF PARCEL II, BROOKS-HERNANDO P.D.; THENCE NORTH 88 DEGREES 50 MINUTES 01 SECONDS WEST A DISTANCE OF 363.39 FEET; THENCE NORTH 00 DEGREES 57 MINUTES 00 SECONDS EAST A DISTANCE OF 100.0 FEET; THENCE SOUTH 88 DEGREES 49 MINUTES 45 SECONDS EAST A DISTANCE OF 358.79 FEET TO A POINT IN THE WEST LINE OF HERNANDO ROAD; THENCE SOUTH 01 DEGREES 41 MINUTES 16 SECONDS EAST A DISTANCE OF 100.09 FEET TO THE POINT OF BEGINNING.

#### PARCEL IV

PARCEL IV, BROOKS-HERNANDO P.D. AS RECORDED IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, IN PLAT BOOK 113, PAGE 50, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF HERNANDO ROAD, SAID POINT BEING THE NORTHEAST CORNER OF THE PROPERTY HEREIN DESCRIBED AND BEING IN THE SOUTH LINE OF PARCEL V OF BROOKS-HERNANDO P.D.; THENCE ALONG SAID WEST LINE OF HERNANDO ROAD SOUTH 01 DEGREES 41 MINUTES 16 SECONDS EAST A DISTANCE OF 100.09 FEET; THENCE NORTH 88 DEGREES 49 MINUTES 45 SECONDS WEST A DISTANCE OF 358.79 FEET; THENCE NORTH 00 DEGREES 57 MINUTES 00 SECONDS EAST A DISTANCE OF 100.0 FEET; THENCE SOUTH 88 DEGREES 49 MINUTES 31 SECONDS EAST A DISTANCE OF 354.18 FEET TO THE POINT OF THE BEGINNING.

#### PARCEL V

PARCEL V IN BROOKS-HERNANDO P.D. AS RECORDED IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, IN PLAT BOOK 113, PAGE 50, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF HERNANDO ROAD, SAID POINT BEING THE SOUTHEAST CORNER OF THE PROPERTY HEREIN DESCRIBED AND BEING IN THE NORTH LINE OF PARCEL IV, BROOKS-HERNANDO P.D.; THENCE NORTH 88 DEGREES 49 MINUTES 31 SECONDS HEREIN DESCRIBED AND BEING IN THE NORTH LINE OF PARCEL IV, BROOKS-HERNANDO P.D. (THIS CALL IS ERRONEOUSLY DESCRIBED); THENCE NORTH 88 DEGREES 49 MINUTES 31 SECONDS WEST A DISTANCE OF 354.18 FEET TO A POINT IN THE WEST LINE OF HERNANDO ROAD; THENCE NORTH 00 DEGREES 57 MINUTES 00 SECONDS EAST A DISTANCE OF 100.00 FEET; THENCE SOUTH 88 DEGREES 48 MINUTES 21 SECONDS EAST A DISTANCE OF 349.58 FEET TO A POINT IN THE WEST LINE OF HERNANDO ROAD; THENCE ALONG SAID WEST LINE SOUTH 01 DEGREES 41 MINUTES 16 SECONDS EAST A DISTANCE OF 100.01 FEET TO THE POINT OF BEGINNING.

#### PARCEL VI

PART OF PARCEL VI, BROOKS-HERNANDO P.D. AS RECORDED IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, IN PLAT BOOK 113, PAGE 50, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF HERNANDO ROAD, SAID POINT BEING THE SOUTHEAST CORNER OF THE PROPERTY HEREIN DESCRIBED AND BEING IN THE NORTH LINE OF PARCEL V, BROOKS-HERNANDO P.D.; THENCE NORTH 88 DEGREES 48

MINUTES 21 SECONDS WEST A DISTANCE OF 349.58 FEET; THENCE NORTH 00 DEGREES 57 MINUTES 00 SECONDS EAST A DISTANCE OF 266.81 FEET; THENCE SOUTH 88 DEGREES 51 MINUTES 58 SECONDS EAST A DISTANCE OF 302.39 FEET; THENCE SOUTH 00 DEGREES 34 MINUTES 42 SECONDS WEST A DISTANCE OF 37.07 FEET; THENCE SOUTH 88 DEGREES 52 MINUTES 18 SECONDS EAST A DISTANCE OF 88.99 FEET, TO A POINT IN THE WEST LINE OF HERNANDO ROAD; THENCE SOUTH 21 DEGREES 42 MINUTES 42 SECONDS WEST A DISTANCE OF 26.18 FEET; THENCE SOUTHWARDLY ALONG SAID WEST LINE A DISTANCE OF 209.68 FEET TO THE POINT OF BEGINNING.

#### PARCEL VII

LOT 1, DOGWOOD HILLS SUBDIVISION, THIRD ADDITION, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 10, PAGE 74, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, LESS THAT PORTION CONVEYED TO THE COUNTY OF SHELBY BY INSTRUMENT OF RECORD IN BOOK 5624, PAGE 125, IN SAID REGISTER'S OFFICE.

#### PARCEL VIII

PART OF PARCEL VI, BROOKS-HERNANDO P.D. AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 113, PAGE 50 IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1, DOGWOOD HILLS SUBDIVISION, THIRD ADDITION, AS SHOWN IN PLAT BOOK 10, PAGE 74 OF THE REGISTER'S OFFICE; THENCE SOUTH 00 DEGREES 57 MINUTES WEST APPROXIMATELY 376 FEET ALONG THE EAST LINE OF THE MOTEL 6 PROPERTY AS DEEDED IN INSTRUMENT NO. AV 9779 IN THE REGISTER'S OFFICE TO AN IRON PIN WHICH IS IN THE SOUTHEAST CORNER OF SAID MOTEL 6 PROPERTY; THENCE EASTWARDLY ALONG THE EXTENSION OF THE SOUTH LINE OF THE SAID MOTEL T PROPERTY A DISTANCE OF APPROXIMATELY 98 FEET TO A POINT IN THE WEST LINE OF THE NONCONNAH BAPTIST CHURCH PROPERTY AS SET FORTH IN BOOK 5878, PAGE 19 IN SAID REGISTER'S OFFICE; THENCE NORTH APPROXIMATELY 46.93 FEET ALONG SAID WEST LINE OF THE NONCONNAH BAPTIST CHURCH PROPERTY; THENCE WEST APPROXIMATELY 7 FEET TO A POINT IN THE WEST LINE OF THE NONCONNAH BAPTIST CHURCH PROPERTY; THENCE NORTH ALONG SAID WEST LINE OF THE NONCONNAH BAPTIST CHURCH PROPERTY A DISTANCE OF APPROXIMATELY 329.47 FEET TO A POINT IN THE NORTH LINE OF LOT 1, DOGWOOD HILLS SUBDIVISION, THIRD ADDITION; THENCE WEST 92.95 FEET TO THE POINT OF BEGINNING.

ALSO ABOVE DESCRIBED PARCELS I, II, III, IV, V, VI AND VIII BEING ALSO DESCRIBED AS FINAL PLAT BROOKS-HERNANDO P.D., PHASE 2, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 278, PAGE 26, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE.

#### PARCEL IX

BEGINNING AT THE INTERSECTION OF THE PRESENT SOUTH LINE OF BROOKS ROAD (53 FEET FROM THE CENTERLINE), WITH THE EAST LINE OF LOT 1, THIRD ADDITION TO DOGWOOD HILLS SUBDIVISION, SAID BEGINNING POINT BEING 635 FEET EAST OF THE EAST LINE OF LUCIBILL ROAD AS MEASURED ALONG THE PRESENT SOUTH LINE OF BROOKS ROAD; AND RUNNING THENCE EASTWARDLY WITH THE PRESENT SOUTH LINE OF BROOKS ROAD BY A CURVE TO THE LEFT HAVING A RADIUS OF 1199.3 FEET A

DISTANCE OF 286.55 FEET AS MEASURED ALONG THE ARC OF SAID CURVE TO A POINT OF REVERSE CURVE; THENCE SOUTH EASTWARDLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 40 FEET A DISTANCE OF 85.68 FEET AS MEASURED ALONG THE ARC OF SAID CURVE TO A POINT ON THE WEST LINE OF HERNANDO ROAD; THENCE SOUTH 14 DEGREES 22 MINUTES WEST ALONG THE WEST LINE OF HERNANDO ROAD 204.07 FEET TO THE NORTHEAST CORNER OF A CHURCH PROPERTY; THENCE SOUTH 85 DEGREES 22 MINUTES WEST ALONG THE NORTH LINE OF THE CHURCH PROPERTY 261.98 FEET TO A POINT; THENCE NORTH 5 DEGREES 16 MINUTES WEST A DISTANCE OF 208.6 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THOSE CERTAIN PORTIONS OF THE ABOVE DESCRIBED PROPERTY CONVEYED TO THE COUNTY OF SHELBY BY WARRANTY DEEDS OF RECORD IN BOOK 4726, PAGE 108 AND BOOK 5673, PAGE 91, IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE.

PARCELS I THROUGH IX BEING THE SAME PROPERTY CONVEYED TO LG INVESTMENTS, LLC BY SPECIAL WARRANTY DEED FROM R. V. WORLD CO., INC. OF RECORD IN INSTRUMENT NO. 22017873 IN THE REGISTER'S OFFICE OF SHELBY COUNTY, TENNESSEE.



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

October 23, 2024

Russ Rudolph, LG Investments, LLC

Sent via electronic mail to: <a href="mailto:russr@garv.com">russr@garv.com</a>

Brooks-Hernando PD

Case Number: PD 2024-011

LUCB Recommendation: Approval with revisions to the outline plan conditions

Dear applicant,

On Thursday, October 10 2024, the Memphis and Shelby County Land Use Control Board recommended *approval* of your planned development amendment application for the Brooks-Hernando Planned Development, subject to the attached revised outline plan conditions.

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

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

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

If you have questions regarding this matter, please feel free to contact me at (901) 636-6619 or via email at <a href="mailto:alexis.longstreet@memphistn.gov">alexis.longstreet@memphistn.gov</a>.

Respectfully,

Alexis Longstreet

Alexis Longstreet

Planner

Land Use and Development Services
Division of Planning and Development

# Letter to Applicant PD 2024-011

Cc: Mark Jobe, Glankler Brown, PLLC File

# Letter to Applicant PD 2024-011

#### **Outline Plan Conditions – Revisions**

Proposed language is indicated in **bold**, **underline**; deletions are indicated in **bold** strikethrough

#### L Uses Permitted

- A. Any use permitted by right or administrative site plan review in the highway commercial (C-H) CMU-3 district, and outdoor storage, except for adult entertainment places, taverns, night clubs and cocktail lounges, and liquor stores.
- B. Existing dwellings may remain in use, subject to the regulations on nonconforming uses and structures, Section 30.

#### II. Bulk Requirements

A. The bulk regulations of the CMU-3 district shall apply, except that a 30-foot setback is permitted when the front yard setback is landscaped and/or not devoted to parking area,

#### III. Access, Parking, and Circulation

- A. The number, location and design of curb cuts shall be determined as part of the final Plan review and is subject to the approval of the city engineer.
- B. Hernando Road shall be dedicated to 34 feet from the centerline. Improvements not required,

#### IV. Landscaping

- A. The west property line shall be screened with Plate H, (20 feet Wide), and a minimum six-foot-high chain link fence with barbed wire on top substituted for the sight-proof wooden fence.
- B. The Hernando Road frontage shall be landscaped with Plate Y.
- C. Light standards within 100 feet of the west property line shall not exceed 10 feet in height.
- D. Existing vegetation within 10 feet of the east line of Parcel VI where it abuts the Nonconnah Baptist Church property shall be retained.
- E. Equivalent landscaping may be substituted for that required above subject to the approval of the office of planning and development.
- F. Lighting shall be directed so as to not glare onto residential property,
- G. Refuse containers shall] be completely screened from view from adjacent 'Properties,

#### V. Signage

- A. Detached and attached signs shall be governed by CMU-3 district regulations.
- B. Advertising signs (billboards) are prohibited.

#### VI. Drainage

- A. All drainage plans shall be submitted to the city engineer for review.
- VII. The land use control board may modify the building setback and height, access, parking, landscaping and signage requirements if equivalent alternatives are presented.
- VIII. A final plan shall be filed within five years of approval of the outline plan. the land use control! board may grant extensions, at the request of the applicant
- IX. Any final plan shall include the following.
  - A. The outline plan conditions;
  - B. A standard subdivision contract as defined by the subdivision regulations;
  - C. The exact location and dimensions, including height, of all buildings or buildable areas, parking areas, drives, required landscaping;
  - D. The number of parking spaces;
  - E. The location and ownership, whether public or private of any easement:

# Letter to Applicant PD 2024-011

- F. A statement conveying all common facilities and areas to a property owners' association, or other entity, for ownership and maintenance purposes,
- 7. Current or subsequent owners of property within this planned development may request amendments to the plan without the consent of notification of the other owners area of the proposed amendments shall extend from the boundary of the entire development.

# CITY OF MEMPHIS COUNCIL AGENDA CHECK OFF SHEET

Planning & Development ONE ORIGINAL! DIVISION ONLY STAPLED Planning & Zoning COMMITTEE: TO DOCUMENTS 11/12/2024 DATE PUBLIC SESSION: 11/26/2024 DATE ITEM (CHECK ONE) REQUEST FOR PUBLIC HEARING **ORDINANCE** X RESOLUTION 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 888 N Perkins Road, known as case number SUP 2024-036 SUP 2024-036 CASE NUMBER: LOCATION: 888 N Perkins Road District 5 and Super District 9 COUNCIL DISTRICTS: OWNER/APPLICANT: Whitney Watson REPRESENTATIVE: N/A REQUEST: Special Use Permit to establish a Group Day Care Home in the Residential Single-Family – 6 zoning district. AREA: +/- 11,108 sq. ft. (+/- 1/4 acre) 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 If public hearing is not required: Hearing - November 26, 2024 PRIOR ACTION ON ITEM: APPROVAL - (1) APPROVED (2) DENIED 10/10/2024 DATE (1) Land Use Control Board ORGANIZATION - (1) BOARD / COMMISSION (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE FUNDING: 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 DATE **POSITION** 0-18- LTPLANNER II DEPUTY ADMINISTRATOR DMINISTRATOR DIRECTOR (JOINT APPROVAL) COMPTROLLER FINANCE DIRECTOR CITY ATTORNEY CHIEF ADMINISTRATIVE OFFICER COMMITTEE CHAIRMAN



# Memphis City Council Summary Sheet

#### SUP 2024-036

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 888 N PERKINS ROAD, KNOWN AS CASE NUMBER SUP 2024-036

- This item is a resolution with conditions for a special use permit to allow group daycare home at 888 N Perkins Road (the southeast corner of N Perkins Road and Durbin Ave.).
- Because the applicant resides on the subject property, she can care for up to seven children by-right. The approval of this item would increase that limit to twelve.
- Both DPD staff and the Land Use Control Board recommend approval with conditions.
- The item may require future public improvement contracts.

### LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on *Thursday, October 10, 2024*, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: SUP 2024-036

**LOCATION:** 888 N Perkins Road

**COUNCIL DISTRICT(S):** District 5 and Super District 9

OWNER/APPLICANT: Whitney Watson

**REPRESENTATIVE:** N/A

**REQUEST:** To allow a group daycare home in the Residential Single-Family – 6

district.

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

**AREA:** +/- 11,108 sq. ft. (+/- ¼ acre)

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,

Nicholas Wardroup

Planner II

Land Use and Development Services
Division of Planning and Development

Cc: Committee Members

File

# SUP 2024-036 CONDITIONS

- 1. At no time shall more than twelve (12) children younger than nine (9) years of age be located on the premises, regardless of their familial relation to the operator.
- 2. No parking shall be permitted in the front yard. All parking shall occur on the street or on the existing driveway. No improvements shall be made to the property for the purposes of adding parking.
- 3. No signage related to the daycare shall be permitted.
- 4. No more than three individuals not residing on the property may be employed by the daycare.
- 5. Any future improvements to the property (including but not limited to the installation of playground equipment) shall be submitted to the Division of Planning and Development for administrative review and approval. The Zoning Administrator may, at their discretion, impose additional landscaping requirements necessary to appropriately screen such improvements.
- 6. Should the daycare operator cease to reside on the premises, this Special Use Permit shall be rendered null and void.

# 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 888 N PERKINS ROAD, KNOWN AS CASE NUMBER SUP 2024-036

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**, Whitney Watson filed an application with the Memphis and Shelby County Division of Planning and Development to allow a group daycare home at 888 N Perkins Road; 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 October 10, 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. At no time shall more than twelve (12) children younger than nine (9) years of age be located on the premises, regardless of their familial relation to the operator.
- 2. No parking shall be permitted in the front yard. All parking shall occur on the street or on the existing driveway. No improvements shall be made to the property for the purposes of adding parking.
- 3. No signage related to the daycare shall be permitted.
- 4. No more than three individuals not residing on the property may be employed by the daycare.
- 5. Any future improvements to the property (including but not limited to the installation of playground equipment) shall be submitted to the Division of Planning and Development for administrative review and approval. The Zoning Administrator may, at their discretion, impose additional landscaping requirements necessary to appropriately screen such improvements.
- 6. Should the daycare operator cease to reside on the premises, this Special Use Permit shall be rendered null and void.

ATTEST:

Division of Planning and Development

– Land Use and Development Services

– Office of Construction Enforcement CC:

# dpd STAFF REPORT

AGENDA ITEM: 22 L.U.C.B MEETING: October 10, 2024

CASE NUMBER: SUP 2024-036

**LOCATION:** 888 N Perkins Rd.

**COUNCIL DISTRICTS:** District 5 and Super District 9

**OWNER/APPLICANT:** Whitney Watson

**REQUEST:** Special Use Permit to establish a Group Day Care Home in the Residential Single-

Family – 6 zoning district.

**AREA:** +/- 11,108 sq. ft. (+/- ¼ acre)

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

#### **CONCLUSIONS**

1. The applicant can care for up to seven children by-right as a home occupation. The granting of this special use permit would increase that limit to twelve.

- 2. The combination of the applicant's driveway, carport, and on-street parking at the subject property is sufficient for the proposed use even assuming the presence of an outside staff member and associated vehicle.
- 3. The granting of this special use permit will not cause substantial detriment to the public good, nor will it substantially impair the intent and purpose of an adopted plan or the Unified Development Code (UDC), nor will it be injurious to the neighborhood or the general welfare, and it will be in harmony with the purpose and intent of the UDC.

#### **CONSISTENCY WITH MEMPHIS 3.0**

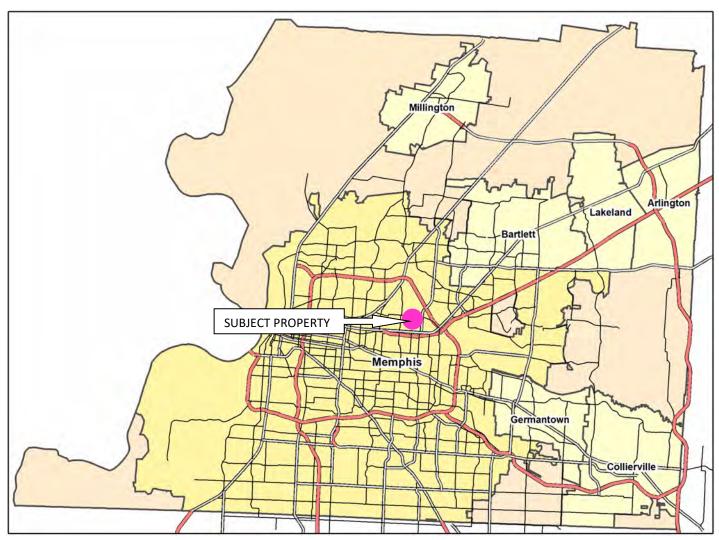
This proposal is *consistent* with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on page 19 of this report.

#### **RECOMMENDATION:**

Approval with conditions

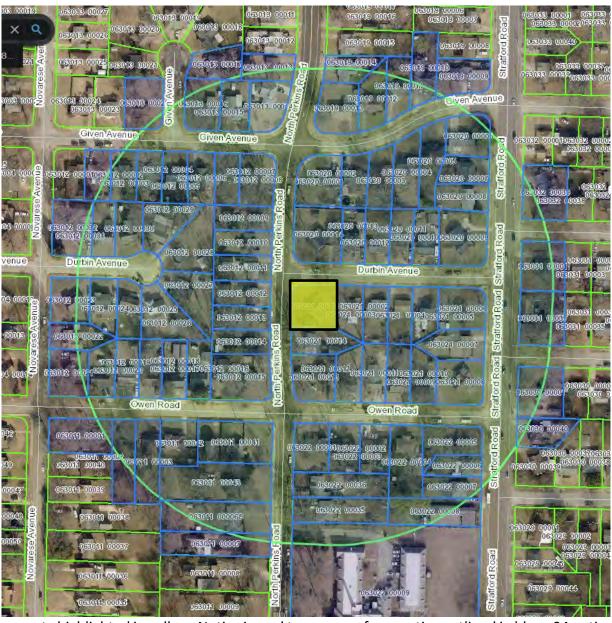
Staff Writer: Nicholas Wardroup E-mail: nicholas.wardroup@memphistn.gov

# **LOCATION MAP**



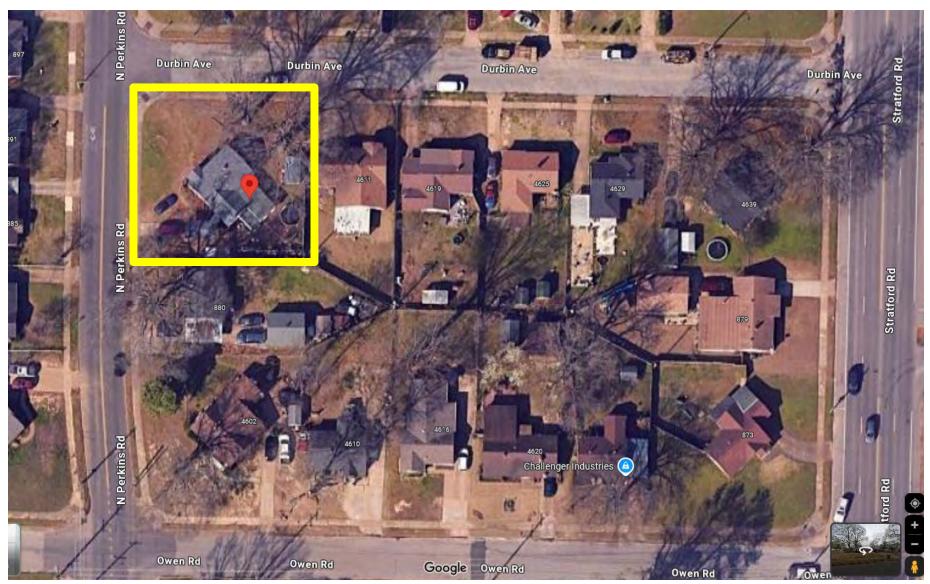
Subject property located within the pink circle

## **VICINITY MAP**



Subject property highlighted in yellow. Notice issued to owners of properties outlined in blue. 94 notices mailed 9/19/2024.

# **AERIAL**

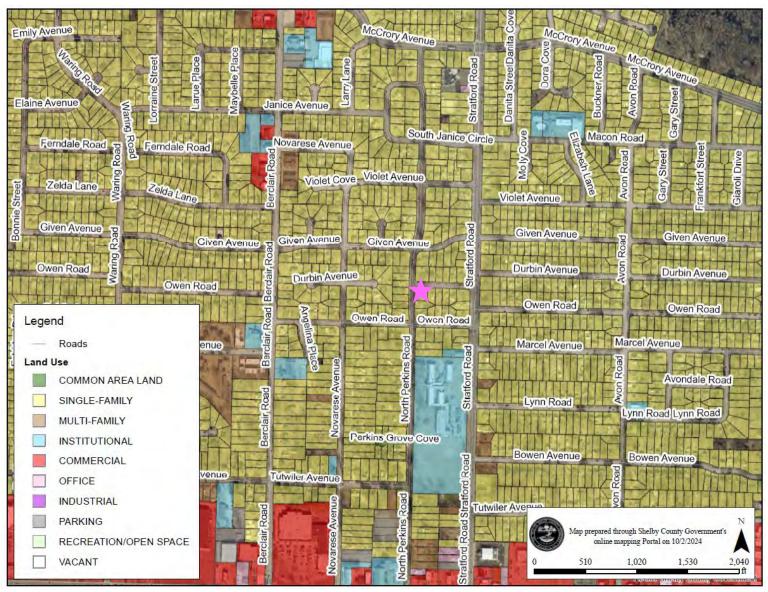


Subject property outlined in yellow

# **ZONING MAP**



#### LAND USE MAP



Subject property location indicated by pink star

# **SITE PHOTOS**



View of subject property from looking south from Durbin Ave.



View of subject property looking east from N Perkins Rd.

# **NEIGHBORHOOD MEETING**

The applicant hosted the required neighborhood meeting on Sept. 30, the sign-in sheet for which is below.

	Adventure Dynasty Neighborhood Meeting 9.30.2024					
	SIGN-IN  Phone # Email Time of arrival					
100	Name	Phone #		2000		
.N.	1850 28 Milliaman	513.388.4 100	Cinquit 21 gahas	com 5:15		
	Yessia treisin	(p15-50p-52104	Herson Hagnan	7. 2-		
	Gyneon Lenton	901-596-2856	rikdenton agmail, a			
	o mou usaron	90-38-1320 an dal 2212		5:35		
	Natalie Middleton	-lehmann 901-613-	allon a gmail			
	MARCHAN CONTROLL OF	Promination for this	9157 Natalie.Lehn	gmail		

# **POSTED NOTICE**

The applicant posted two notice signs on the property, photos of which are below. The next page has an image of the sign affidavit.







#### STAFF ANALYSIS

#### Request

New Special Use Permit to establish a Group Day Care Home in the Residential Single-Family – 6 zoning 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 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 and Staff Analysis**

The subject property is a +/- 11,108 sq. ft. (approx. ¼ acre) lot at the southeast corner of N Perkins Rd. and Durbin Ave. in the Berclair area. It features a single-family residence constructed in 1951 and in which the applicant resides. It is served by a single curb cut and drive on Perkins Rd.

As the applicant resides on the subject property, she would be allowed to care for up to seven children byright as a home occupation (accessory use). The subject application, if approved, would increase that limit to twelve.

When staff has expressed concern on daycare applications, those concerns have tended to involve parking. Proposed daycare locations need to not only meet the minimum parking requirement found in UDC Chapter 4.5 (three spaces in this case), but also feature a site design conducive to safe pick-up and drop-off. Staff finds that this site meets this standard. In addition to the driveway and carport, the abutting section of Durbin Ave. provides some four spaces.

Additionally, staff notes that, as Perkins Rd. is designated as a collector, this site meets the standard of UDC Sub-Section 2.6.2B. Daycare SUP applications often require a companion variance from this provision, but such a variance is not necessary in this case.

The granting of this special use permit will not cause substantial detriment to the public good, nor will it substantially impair the intent and purpose of an adopted plan or the Unified Development Code (UDC), nor will it be injurious to the neighborhood or the general welfare, and it will be in harmony with the purpose and intent of the UDC.

#### **RECOMMENDATION**

Staff recommends approval subject to the following six (6) conditions.

#### **Conditions**

- 1. At no time shall more than twelve (12) children younger than nine (9) years of age be located on the premises, regardless of their familial relation to the operator.
- 2. No parking shall be permitted in the front yard. All parking shall occur on the street or on the existing driveway. No improvements shall be made to the property for the purposes of adding parking.
- 3. No signage related to the daycare shall be permitted.
- 4. No more than three individuals not residing on the property may be employed by the daycare.
- 5. Any future improvements to the property (including but not limited to the installation of playground equipment) shall be submitted to the Division of Planning and Development for administrative review and approval. The Zoning Administrator may, at their discretion, impose additional landscaping requirements necessary to appropriately screen such improvements.
- 6. Should the daycare operator cease to reside on the premises, this Special Use Permit shall be rendered null and void.

#### **DEPARTMENTAL COMMENTS**

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

**City/County Engineer:** See next page.

**City/County Fire Division:** See page 17.

**City Real Estate:** No comments received.

**County Health Department:** No comments received.

**Shelby County Schools:** No comments received.

**Construction Code Enforcement:** No comments received.

Memphis Light, Gas and Water: No comments received.

Office of Sustainability and Resilience: No comments received.

Office of Comprehensive Planning: See page 18.

October 10, 2024 Page 14

#### **CITY ENGINEERING COMMENTS**

CITY ENGINEERING COMMENTS TRC: 26 Sept 24 & LUCB:10 Oct 24 DATE: 24 Sept 2024

CASE 11: SUP-24-036 NAME: 888 North Perkins Road

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

#### Sewers:

- City sanitary sewer capacity is available to serve this development.
- If/when MLGW assigns/upgrades a water meter for this development, a Sewer Development Fee may be required per the City of Memphis Sewer Use Ordinance.
- Payment of applicable sewer development fees per the City of Memphis Sewer Use Ordinance should be paid to the Land Development Office.

# General Notes:

- Residential lots with individual curb cuts to an arterial street must have a minimum 100 feet, a
  minimum lot depth of 150 feet, and provide an on-site turn around area permitting egress by
  forward motion. A note to this effect shall appear on the final plat in accordance with Section
  403.4.A of the Unified Development Code.
- Residential lots with individual curb cuts to a collector street should provide adequate width and front yard depth to provide an on-site turn around area permitting egress by forward motion.
- Provide a continuous, one-way, on-site traffic pattern or a paved, circular turn-around that will provide for exit by forward motion without any on-site backing of vehicles.
- Locate the pick-up/discharge area as far as possible from the entrance as practical to maximize on-site queue space for vehicles between the right-of-way and the pick-up/discharge point.
- Provide a paved and curbed pick-up/discharge area that does not cause children to walk between parked cars or across traffic aisles.
- 10. All parking areas and driving aisles to be paved with asphalt or concrete.

#### FIRE PREVENTION COMMENTS



#### DIVISION OF FIRE SERVICES \* FIRE PREVENTION BUREAU

2668 Avery Avenue - Memphis - Tennessee - 38112 (901) 636-5401 Fax (901) 320-5425

Case Number: SUP 2024 036

Date Reviewed: 10/2/24

Reviewed by: J. Stinson

Address or Site Reference: 888 N Perkins

- 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.

#### OFFICE OF COMPREHENSIVE PLANNING REVIEW

## **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: <u>SUP 2024-036 Jackson</u>

Site Address/Location: 888 N Perkins Road Overlay District/Historic District/Flood Zone: N/A

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

Street Type: Avenue

The applicant is requesting a special use permit to allow an in-home family daycare in a single unit home. 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

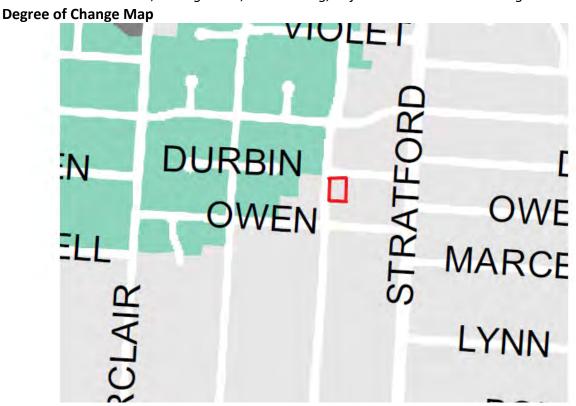
### "NS" Zoning Notes

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: Residential, R-6 Adjacent Land Use and Zoning: Single-Family; R-6

**Overall Compatibility:** This requested use is compatible with the future land use description/intent, form & location characteristics, zoning notes, and existing, adjacent land use and zoning.



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

## **Consistency Analysis Summary**

The applicant is requesting a special use permit to allow an in-home family daycare in a single unit home. This requested use is compatible with the future land use description/intent, form & location characteristics, zoning notes, and existing, adjacent land use and zoning.

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

Summary Compiled by: Nick Wiggins, Comprehensive Planning.

#### **MAILED PUBLIC NOTICE**

# NOTICE OF PUBLIC HEARING

You have received this notice because you own or reside on a property that is near the site of a development application to be considered at an upcoming public hearing of the Memphis and Shelby County Land Use Control Board. You are not required to attend this hearing, but you are invited to do so if you wish to speak for or against this application. You may also submit a letter of comment to the staff planner listed below no later than Wednesday, October 2, 2024 at 8 AM.

CASE NUMBER: SUP 2024-036
ADDRESS: 888 N Perkins Rd.

REQUEST: Special use permit to allow a group daycare home

APPLICANT: Whitney Watson

**Meeting Details** 

Location: Council Chambers Time: 9:00 AM

City Hall 1st Floor

125 N Main St. Date: Thursday, Oct. 10, 2024

To learn more about this proposal, contact the staff planner or use the QR code to view the full application.



# Staff Planner Contact:

Nicholas Wardroup

☑ nicholas.wardroup@memphistn.gov

(901) 636-7398

MEMPHIS AND DIVISION OF PLANNING SHELBY COUNTY AND DEVELOPMENT



VICINITY MAP

04 Nations Mailed 00/10/2024

Staff Report SUP 2024-036 October 10, 2024 Page 20

# **LETTERS RECEIVED**

No letters were received at the time of this report's completion.



# Memphis and Shelby County Division of Planning and Development

East Service Center: 6465 Mullins Station Rd; Memphis,

Tennessee 38134

Downtown Service Center: 125 N. Main Street;

Memphis, Tennessee 38103

website: www.develop901.com

# **Record Summary for Special Use Permit**

**Record Detail Information** 

Record Type: Special Use Permit Record Status: Pending

Opened Date: September 4, 2024

Record Number: SUP 2024-036 Expiration Date:

Record Name: Adventure Dynasty

Description of Work: In Home Family Daycare (learning center) with up to 12 children.

**Parent Record Number:** 

Address:

888 N PERKINS RD, MEMPHIS 38122

**Owner Information** 

Primary Owner Name

Y WATSON WHITNEY

Owner Address Owner Phone

888 N PERKINS RD, MEMPHIS, TN 38122 9015847302

**Parcel Information** 

063021 00001

#### **Data Fields**

PREAPPLICATION MEETING

Name of DPD Planner

Date of Meeting

08/07/2024

Pre-application Meeting Type

Phone

Pre-application Meeting Type
GENERAL PROJECT INFORMATION

Application Type New Special Use Permit (SUP)

List any relevant former Docket / Case -

Number(s) related to previous applications on

riumber(3) related to previous applications on

Is this application in response to a citation, stop

work order, or zoning letter

Page 1 of 3 SUP 2024-036

No

#### **GENERAL PROJECT INFORMATION**

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

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

UDC Sub-Section 9.6.9C

UDC Sub-Section 9.6.9D

UDC Sub-Section 9.6.9E

UDC Sub-Section 9.6.9F

#### **GIS INFORMATION**

Case Layer

Central Business Improvement District

Class

Downtown Fire District

Historic District Land Use

**La** : : : ::

Municipality

Overlay/Special Purpose District

Zoning

State Route

Lot

Subdivision

Planned Development District

Wellhead Protection Overlay District

No adverse effect upon adjacent properties, character of the neighborhood, traffic conditions, parking, utility facilities, or other matters affecting the public health, safety, and general welfare of the neighborhood.

Yes, the project will be 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, the project will be served adequately by essential public facilities and services.

No, the project will not result in the destruction, loss, or damage of any feature determined governing bodies to be of significant natural, scenic, or historic importance.

Yes, the project complies with all additional standards imposed on it by any particular provisions authorizing such use. Facility will follow all state rules and regulations outlined for childcare centers in the state of Tennessee.

No, this request will not adversely affect any plans to be considered pertaining to existing standards for development of adjacent properties.

No
No
No

Page 2 of 3 SUP 2024-036

## **Contact Information**

**Contact Type** Name WHITNEY WATSON APPLICANT

#### **Address**

**Phone** (901)584-7302

Fee Information							
Invoice #	Fee Item	Quantity	Fees	Status	Balance	Date Assessed	
1591036	Child Care Center (8-12 Children)	1	100.00	INVOICED	0.00	09/06/2024	
1591036	Credit Card Use Fee (.026 x fee)	1	2.60	INVOICED	0.00	09/06/2024	

Total Fee Invoiced: \$102.60 Total Balance: \$0.00

# **Payment Information**

**Payment Amount Method of Payment** \$102.60 Credit Card

SUP 2024-036 Page 3 of 3

## **Adventure Dynasty**

#### **Letter of Intent**

What is Adventure Dynasty? Adventure Dynasty is a family child care center dedicated to providing a high level of conceptual learning techniques. Conceptual learning methods usually yield higher standards for teaching material for understanding not memorization. Studies show that 90% of children's brains are developed by 5 years of age. With that concept in mind we must take into consideration what children are being taught and how they are being taught during these critical years of life. Here at Adventure Dynasty inspiring learning through individualized child directed exploration and small group teacher directed learning techniques is our narrative. Deep diving into Sciences, Geography, Music, Art, Physical Fitness exercises with purpose, theater, and imaginative play are key components of the development behind our teaching standards.

Director Watson has been in Education for 10 years, and directly worked with the youth for over 16 years now. She holds a Bachelors of Science in Education, with an emphasis in Youth Services, and is in the last stages of obtaining her State Licensure in Childcare Administration. Additionally, she has thorough background knowledge and experience in Hospitality Management which increases her ability to relate to people of all ages and backgrounds. She is a mother who understands the importance of Education and child development in the earlier years of a child's life. She is one of the two Chief Executive Directors for the local nonprofit organization Moxie Way Incorporated, a youth consulting academy focused on creating safe alternatives for youth and their families to learn, grow, and inspire. She is highly motivated to incorporate a learning environment for families to utilize as a place for their child to explore and thrive. A place where each family finds a home away from home.

The focus age group for our center is children 2-5 years of age. The maximum capacity is set at a total of 12 children. Hours of operation are projected to be between 6:30am and 8:30pm. When serving the maximum number of children there will be a full staff of trained individuals who align with the values and vision of the center. These potential jobs include the Director (50 hours weekly), Assistant Director (20 hours weekly), Flow Teacher (16 hours weekly), Sanitation Monitor (10 hours weekly) and permanent trained senior adult volunteer (as needed). Children of all backgrounds, cultures, socio-economic family types, physical and mental abilities, and parenting styles are welcome to receive services. Adventure Dynasty will be accepting both private pay and State Certificate Program Vouchers. As this is a Family Center the location will consist of both residential living and childcare services aligned with state rules and regulations outlined for childcare centers in the State of Tennessee.

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. 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) Perkins Rd Memphis, TN 38122 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. FIED BERGIN the year of DOY

Subscribed and sworn to (or affirmed) before me this

Signature of Notary Public

May 17, 2026

TENNESSEE NOTARY

My Commission Expires



# Shelby County Register of Deeds

WILLIE F. BROOKS, JR. Register of Deeds

Whitney Watson 888 North Perkins Rd Memphis, TN 38122

September 28, 2022

Dear Whitney:

As your Shelby County Register, I wish to congratulate you on the purchase of your property! This notice is to inform you that your deed has been received and recorded as a permanent record in the office of the Shelby County Register under Instrument #22107292. Your deed has now been returned to the requested return address. You should receive the original soon.

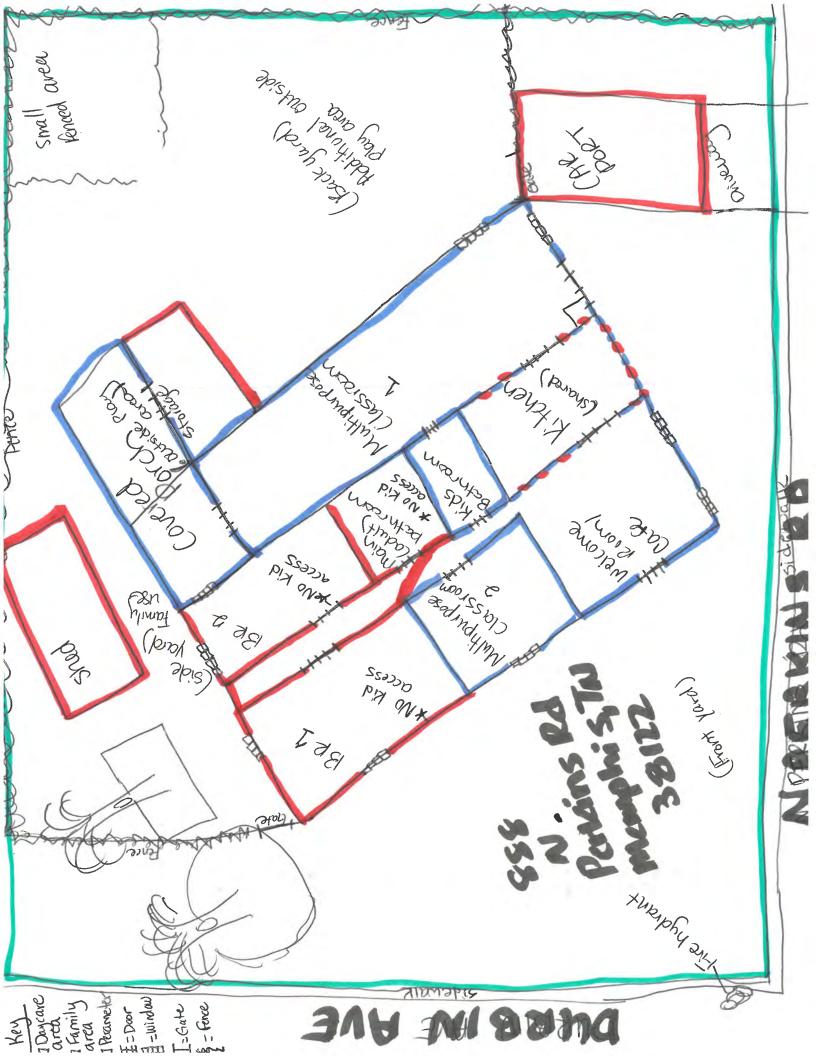
Your deed is now available on our website: <a href="http://register.shelby.tn.us">http://register.shelby.tn.us</a>. Our website offers other items of interest from genealogical information, historical exhibits, detailed geographic information and more.

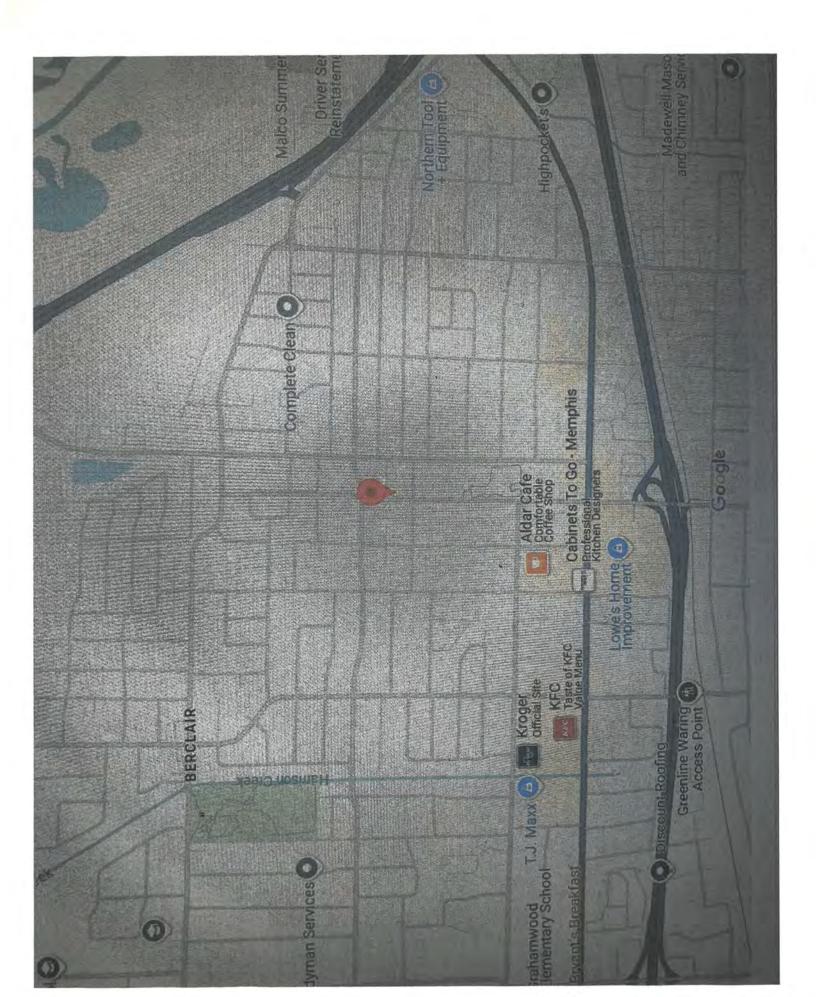
Beware of real estate solicitations. Some companies send mailings to homeowners that look like a government agency, charging up to \$80 for a certified copy. Our website offers a copy of your deed for free. Certified copies are available in our office usually for less than \$5.

If my staff or I may assist you in any way, please do not hesitate to call.

Sincerely,

Willie F. Brooks Jr SHELBY County Register





Adventure Dynasty

- Land			
te 112	ba brottents ba b	notients	
906	Durbin Ave	2.58 2.58 3.78 3.79 3.79 3.79 3.79 3.79 3.79 3.79 3.79	888
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4608	Durbin Ave	200 To 100 To 10	4601 4673
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806	8.855	870	