



STAFF REPORT

AGENDA ITEM: # 5

CORRESPONDENCE ITEM

CASE NUMBER: S.U.P. 96-250 **L.U.C.B. MEETING:** October 13, 2016
LOCATION: 4444 S Third
COUNCIL DISTRICT(S): District 6; Super District 8-Positions 1, 2 & 3
OWNER/APPLICANT: Rayford White
REPRESENTATIVE: Jerry M. Johnson
REQUEST: Major modification to allow a revised site plan for a flea market
AREA: 4.994± Acres
EXISTING LAND USE & ZONING: Flea market and single-family residence governed by SUP 96-250 and the Commercial Mixed Use-3 (CMU-3) and Single-Family Residential-6 (R-6) zoning districts

CONCLUSIONS

1. Revised site plan will legitimize the current layout of the site.
2. The site plan depicts covered vendor display areas and on-site parking and vehicle maneuvering area that have existed for close to ten years or more.
3. Limited outdoor storage of merchandise or materials in boxes, shipping containers, crates, or similar containers solely for vendor storage shall be allowed, in accordance with Item 4.8.4B (2)(a) of the Unified Development Code and applicable setbacks of the underlying zoning district.
4. Type S-10 Streetscape shall be provided along S Third Street and all parking spaces and travel aisles should be clearly marked to ensure proper on-site traffic circulation.
5. Flea market operations will be limited to the approved, revised site plan and revised conditions.

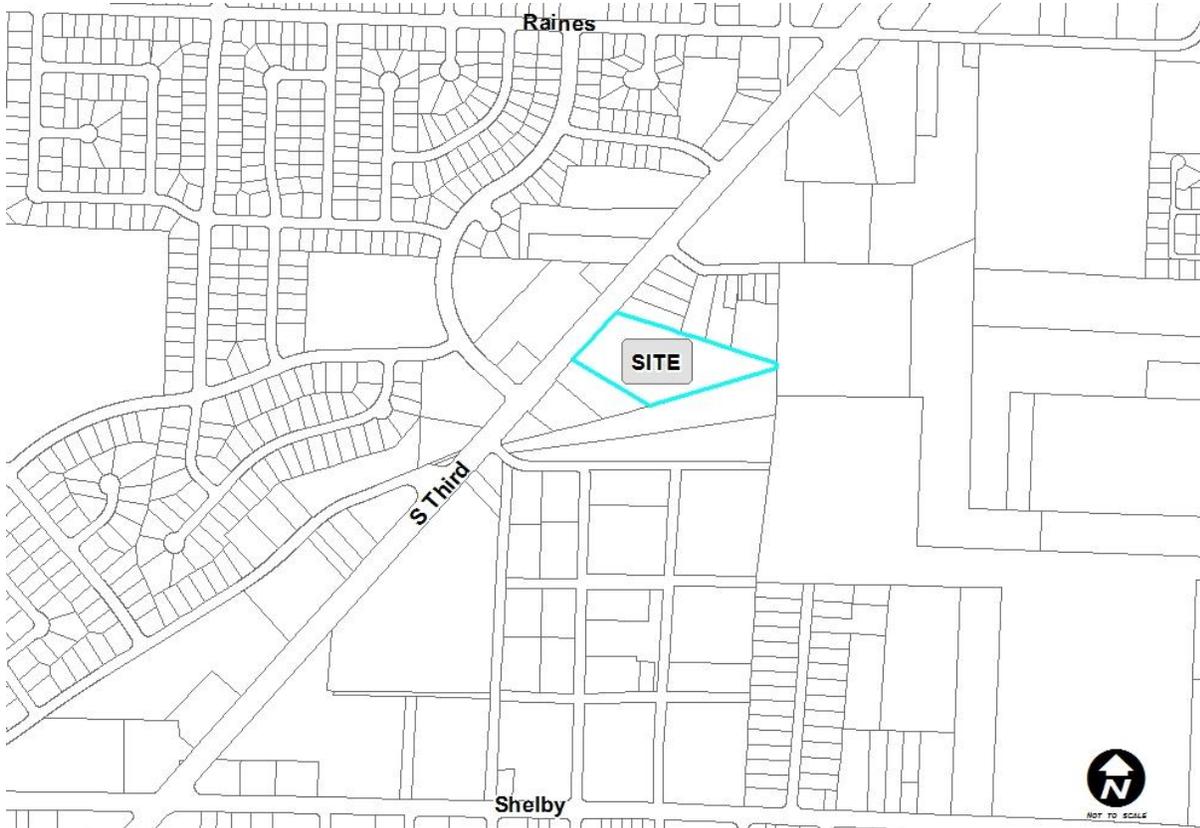
RECOMMENDATION

Approval with Revised Conditions

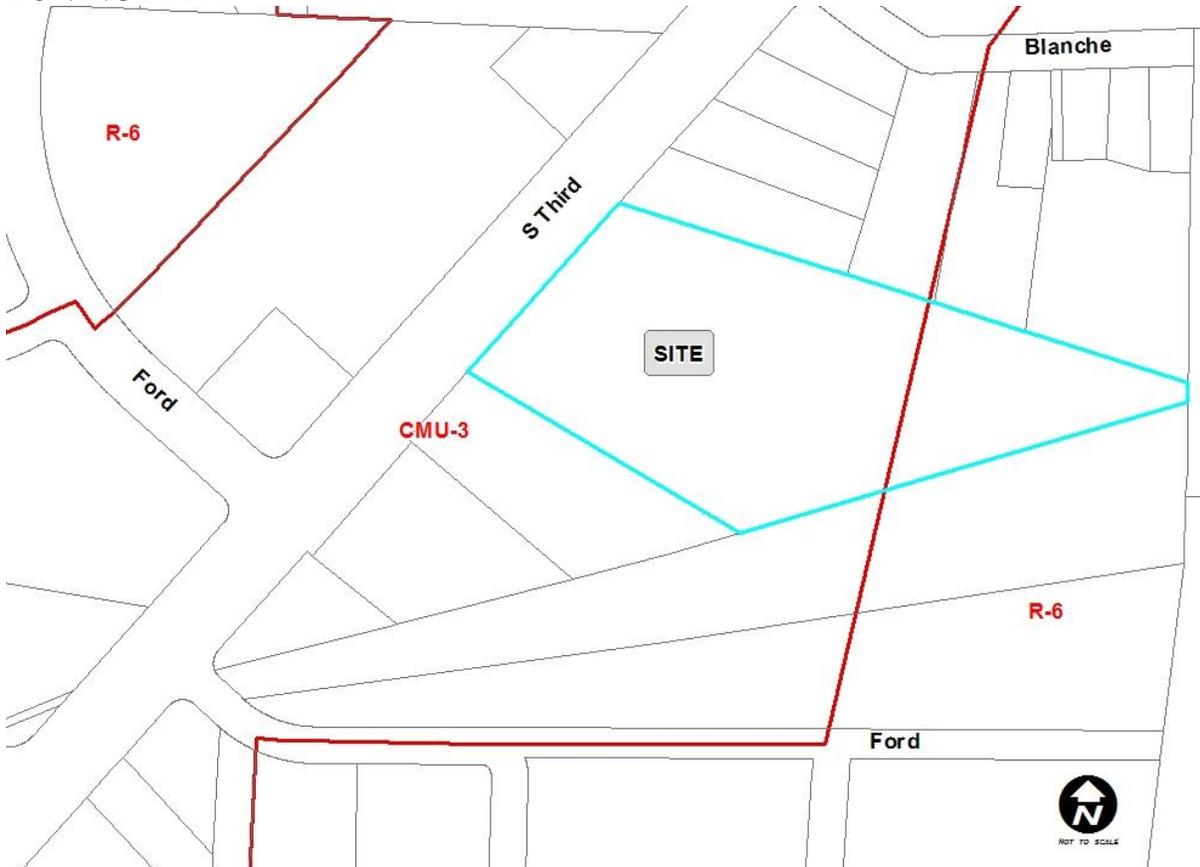
Staff Writer: *Charles "CJ" Finkley*

E-mail: charles.finkley@memphistn.gov

VICINITY MAP



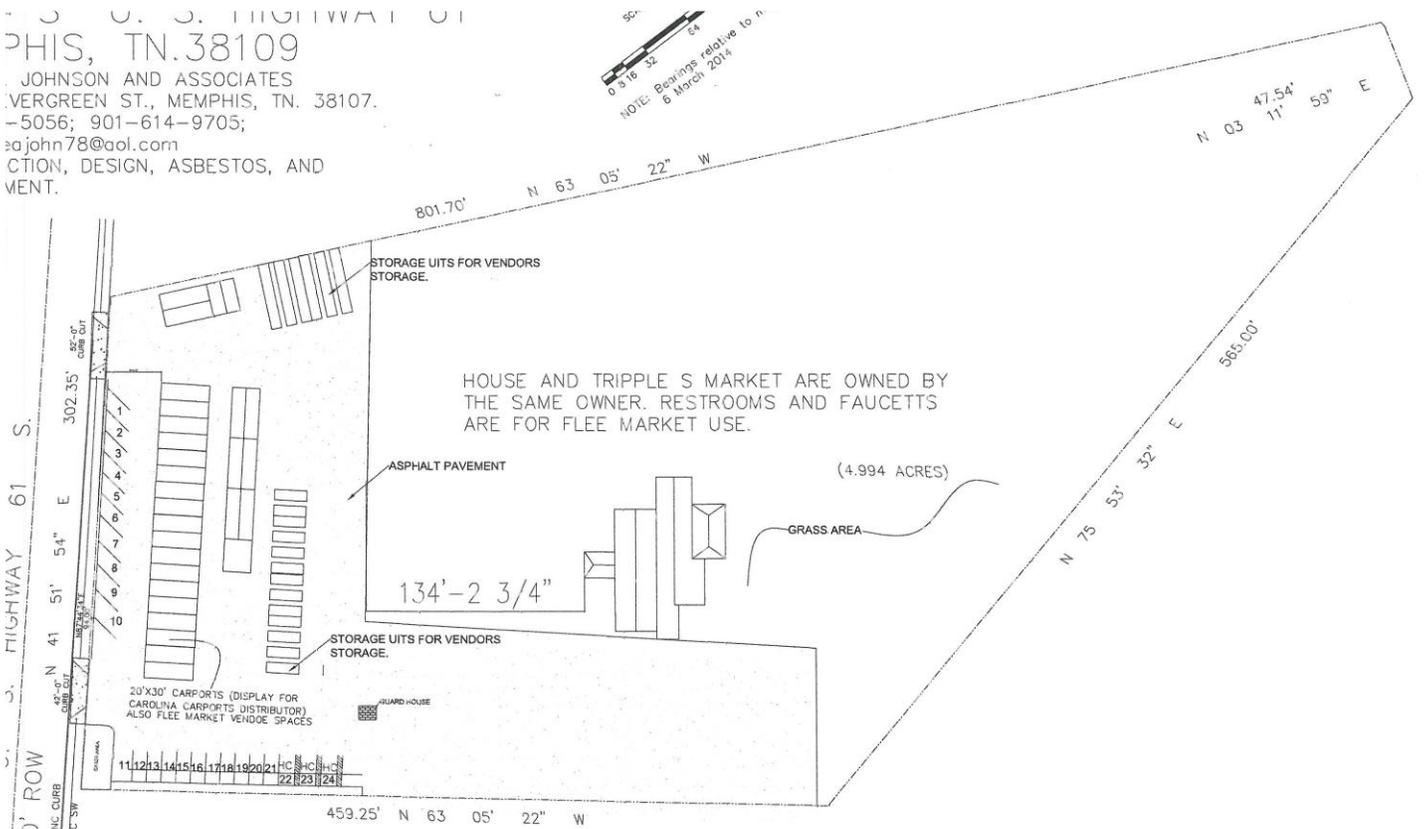
ZONING MAP



AERIAL PHOTO



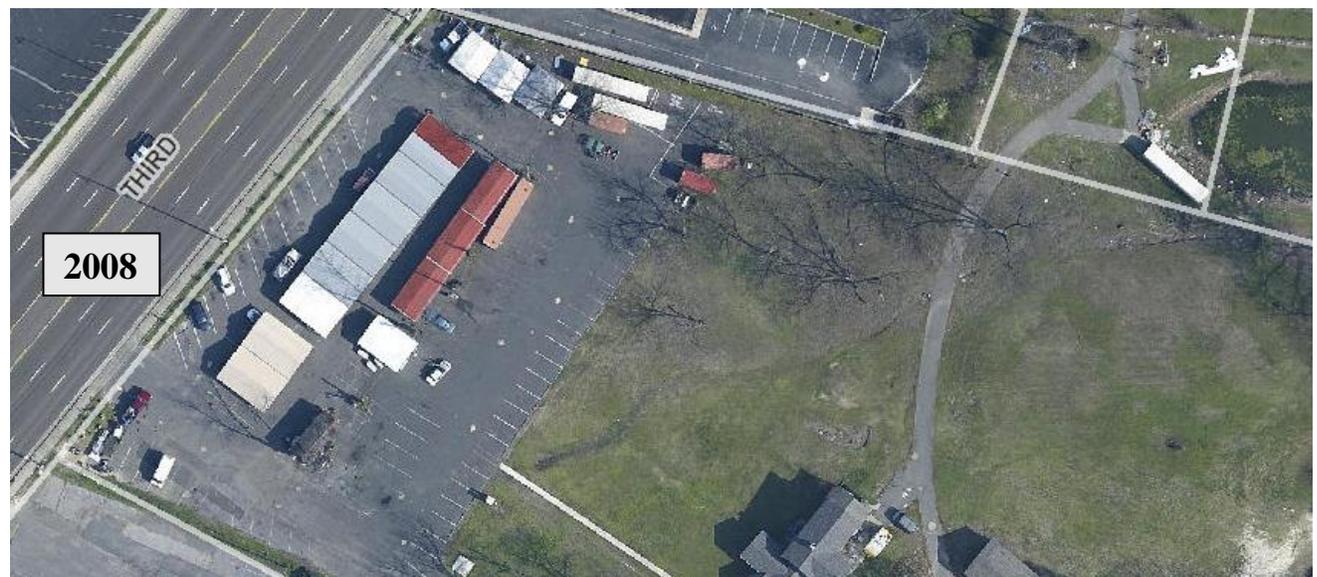
SITE PLAN



EXISTING CONDITIONS



July 2007



2008



July 2016

NEIGHBORHOOD MEETING

No meeting was required.

NOTICE

Ten (10) notices were mailed Friday, September 30, 2016.

STAFF ANALYSIS

The applicant is requesting a major modification of an approved Special Use Permit to allow a revised site plan for an existing flea market that was originally approved by the Memphis City Council in March of 1997 as S.U.P.96-250.

As submitted, it appears that the proposed, revised site plan will legitimize the current layout of the site as the existing Condition #10 of the 1997 approval stated, *Erection of buildings, structures, tents and fences is prohibited*. Said condition will be removed with the approval of this request. As revised, the site plan depicts covered vendor display areas and on-site parking and vehicle maneuvering area that have existed for close to ten years or more, as indicated by the images on the previous page from 2007, 2008, and 2016.

It should be pointed out that there are several shipping containers present on the site, as has been the case since at least 2008, prior to the adoption of the Unified Development Code (UDC). The applicant states that these containers are used to store merchandise for flea market vendors. Per Item 4.8.4B (2)(a) of the UDC, containers that store merchandise or materials can be considered a limited outdoor storage use and should comply with applicable setbacks. All other shipping containers or trailers that are empty and not incidental to the flea market shall be constituted as general outdoor storage – a more intensive use that is not permissible in the CMU-3 district and is only permitted by-right within industrial zoning districts. All containers that are not in compliance with Item 4.8.4B (2)(a) of the UDC shall be removed from the site.

As a part of the revised site plan review, a Type S-10 Streetscape shall be provided along S Third Street and all parking spaces and travel aisles should be clearly marked to ensure proper on-site traffic circulation. Otherwise, it would seem that the revised site plan and current conditions are in line with the original approval for the outdoor retail sales vending facility (flea market). The applicant should be aware that the flea market operations are limited to the approved, revised site plan and revised conditions.

RECOMMEDATION: Approval with Conditions (**Revisions in bold**)

An Outdoor Retail Sales vending Facility (flea Market) shall be permitted at 4444 South Third Street on part of Lots 3 and 4, Lucille Clanton Partition in accordance with the following conditions:

1. Flea market – an open-air market business with short-term or daily rental of stalls, booths or selling spaces to individual persons for display and selling, exchange, or deal in primarily second-hand used and new customer merchandise, antiques, art and craft items, agricultural produce and related products. Resale of merchandise is permitted, but not as a branch or outlet of a business with another location elsewhere outside the market. Ancillary uses permitted include the sale of food and non-liquor drinks intended to be consumed on-site.
2. Vendor stalls shall be setback a minimum of 30 feet from any property line.
3. The applicant of the facility shall provide a written agreement from the property owner to provide the required parking needed for the facility.
4. The site plan shall reflect parking at a ratio of one (1) space for every three hundred (300) square feet of space occupied by outdoor retail display and vending spaces. A minimum of two (2) handicapped parking spaces shall be provided near entrances/exits and shall be marked as such.
5. Traffic access to and from the site shall have separate clearly marked entrances and exits to the site positioned to avoid patrons parking their vehicles on the street right-of-way and to regulate on-site traffic flow. Sight distance triangles shall remain unobstructed.
6. Advertising shall be limited to one (1) attached sign and limited to a maximum of thirty-five (35) square feet and ten (10) feet in height. No advertising device shall be permitted to emit or broadcast any sound, noise or outcry.
7. A vendor shall attend the vending facility at all times. The vendor shall maintain the area around the vending facility in a clean and orderly fashion.
8. Each outdoor retail vending facility shall display in a manner legible and visible to its clientele:
 - a. The name and phone number of the vendor operating the facility.
 - b. The Special Use Permit and Use and Occupancy Certificate issued to the vendor.
9. If this special use permit is discontinued for any two (2) consecutive year period, the permit shall be void. The applicant, at the time of a request for a use and occupancy permit, shall be responsible for providing proof to the Building Official of such continued use.
- ~~10. Erection of buildings, structures, tents and fences is prohibited.~~
11. The site shall be provided with faucets, toilets and be connected to public water and sanitary sewer or have a signed agreement with the owner of the one-site residence or adjacent businesses for use by its patrons.
12. Litter control must be provided by showing the location of dumpsters and waste containers on the site plan. Litter pick-up of the grounds shall occur on a daily basis. Litter clean-up from adjacent neighborhood streets and properties may be required.
13. All refuse dumpsters shall be reasonably screened from view from all adjacent properties and from all public roads.
14. All vendors shall have a valid business tax license. All vendors which prepare or dispense

prepared food shall be approved by the Memphis/Shelby County health Department.

15. Placement of on-site vending machines for sale of snack foods, drinks, and tobacco products is prohibited. The sale, lease or exhibit of live animals is prohibited.
- 16. Landscape screening must be provided along any lot boundary visible from any residential zone and reflected on the site plan. Type S-10 Streetscape shall be provided and maintained along US Highway 61 South (South Third Street) in accordance with the Unified Development code. All required landscaping and screening shall not conflict with any easement including overhead wires.**
17. The sales area shall be limited to specific vendor locations as indicated on the site plan. Said sales area shall be on the existing asphalt dust-proof surface only.
18. A maximum of 720 square feet of selling area for any one individual or vendor shall be permitted, with a minimum stall size of 9'x19' and aisle widths of 15 feet.
- 19. Limited outdoor storage of merchandise or materials in boxes, shipping containers, crates, or similar containers solely for vendor storage shall be allowed, in accordance with Item 4.8.4B (2)(a) of the Unified Development Code and applicable setbacks of the underlying zoning district.**
- 20. General outdoor storage of shipping containers, trailers or similar equipment or material is not allowed.**
21. Hours of operation shall be limited from dawn to dusk.
- 22. The Special Use Permit shall be held in the name of Hermon T. White or Rayford White and is not transferable.**

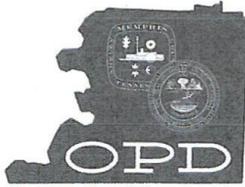
GENERAL INFORMATION

Zoning Atlas Page: 2425
Parcel IDs: 075150 00079C

DEPARTMENTAL COMMENTS

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

City Engineer: City engineering has no comment on this request
City Fire Division: No comments received.
City Real Estate: No comments received.
City/County Health Department: No comments by the Water Quality Branch & Septic Tank Program
Shelby County Schools: No comments received.
Construction Code Enforcement: No comments received.
Memphis Light, Gas and Water: Street name is known as S Third St and US Highway 61 S.
Neighborhood Associations: No comments received.



Memphis and Shelby County
Office of Planning and Development
CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6619

APPLICATION FOR SPECIAL USE PERMIT
MAJOR MODIFICATION APPROVAL
(CORRESPONDENCE CASE)

Date: October 28, 2014

Case #: SUP-96-250

PLEASE TYPE OR PRINT

Property Owner of Record: Rayford White Phone #: 901- 262-0476
Mailing Address: 4311 Whisper Trail City/State: Olive Branch, Mississippi Zip 38654
Property Owner E-Mail Address: raywhite627@yahoo.com
Applicant: Rayford White Phone # 901-438-0141
Mailing Address: 4311 Whisper Trail City/State: Olive Branch, Mississippi Zip 38654
Applicant E- Mail Address: raywhite627@yahoo.com
Representative: Jerry M. Johnson Phone #: 901-502-5056
Mailing Address: 933 N. Evergreen Street City/State: Memphis, Tennessee Zip 38107
Representative E-Mail Address: keajohn78@aol.com
Engineer/Surveyor: Not Applicable Phone # _____
Mailing Address: N/A City/State: N/A Zip N/A
Engineer/Surveyor E-Mail Address: N/A
Street Address Location: N/A
Distance to nearest intersecting street: 362 Feet North to the intersection of S U. S. Highway 61 and Blanche Rd.

| | Parcel 1 | Parcel 2 | Parcel 3 |
|---------------------------|--|----------|----------|
| Area in Acres: | <u>4.994</u> | _____ | _____ |
| Existing Zoning: | <u>MULTIPLE</u> | _____ | _____ |
| Existing Use of Property | <u>FLEE MARKET</u> | _____ | _____ |
| Requested Use of Property | <u>FL. MKT./ STOORAGE</u> <u>& ELEMENT COVERS</u> | _____ | _____ |

Major Modification(s): Time extensions (see Subsection 9.6.14B of the UDC) to and requests to exceed 24-month limitation on discontinuance (see Subsection 9.6.14C) of approved special use permits shall be processed as major modifications, subject to the provisions of Chapter 9.16.

Yes X No _____

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

9.16.3 Finding of Fact

The appropriate authority, pursuant to the individual Chapters of this Article, shall make the following findings in its approval, approval with conditions or rejection of an extension:

- A. Changed conditions of the neighborhood and area in which the time extensions is being made, as compared to conditions present during the original approval.
- B. Changed conditions of the site in which the request is being made, as compared to conditions present during the original approval;
- C. Any administrative or legislative policy, ordinance, regulation or comprehensive neighborhood plan that has been adopted since the time of the original approval; and
- D. The scope of construction, such as the size of the site or building, involved with the original approval.

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

| | | | |
|--------------------------|---------|---------------|---------|
| Rayford White | 9-24-16 | Rayford White | 9-24-16 |
| Property Owner of Record | Date | Applicant | Date |
| Vera White | 9-24-16 | Vera White | 9-24-16 |

REQUIRED MAJOR MODIFICATIONS: The following revisions to existing Special Use Permits shall be processed as Major Modifications. Please note that any revision to the Special Use Permit that varies from any standard of the UDC will require the submission of a variance application to the Board of Adjustment.

- A. Any request for a time extension, provided the Special Use Permit has not expired (see Sub-Section 9.6.12B of the UDC).
- B. A 5% increase in the number of housing units in a development approved by Special Use Permit (see item 9.6.12C(1)(a) of the UDC).
- C. Any revisions to a structure, dedicated street, easement or landscape screen in a Special Use Permit that exceed the following (see item 9.6.12C(1)(b) of the UDC):
 - 1. 25 feet or more for site plans of two or less acres;
 - 2. 50 feet or more for site plans of more than two but less than eight acres;
 - 3. 100 feet or more for site plan of eight acres but less than 20 acres; and
 - 4. 150 feet or more for site plans of 20 acres or more.
- D. Any other revisions to a Special Use Permit site plan that would otherwise require the issuance of a Special Exception, such as increased height of more than 10% (see Section 9.14.1 of the UDC).

the Land Use Control Board, the applicant shall provide an opportunity to discuss the proposal with representatives from neighborhoods adjacent to the development site (Section 9.3.2).

The following documentation shall be provided to OPD to verify compliance with this requirement: A copy of the letter sent to neighborhood associations and abutting property owners and a copy of the mailing list used to send notice.

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

- The project will not have a substantial or undue adverse effects upon adjacent property, it has been in existence for over 20 years. The character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare (UDC sub-section 9.6.9A) will not be adversely affected.

We are seeking a Special Use Permit Amendment (a Special Use Permit Amendment is being sought as is required by the UDC for Flee Market Storage Units and Existing Carport Structures that are part of the Owner's Carolina Carport Dealership which is permitted by right and does not require legislative site plan review.



The units are also used by the Flee Market Vendors which provides one of the most aesthetically pleasing Flee Markets in the City of Memphis. Our lot is zoned Multiple when actually the survey by the State of Tennessee Department of Transportation indicates that it is CM-3. This facility will help generate income for an additional 20 to 50 individuals over the next few years and increase the number of jobs and City of Memphis Tax Revenue as time passes. The project will revive an historic parcel with a metal structure frames that has a unique design and personality in the South U S Highway 61 community that is over 20 years old. Our reviving and renovation of the lot and maintenance of the building will reverse the deterioration of property values in this economically depressed community.



The ingress and egress will not adversely affect the traffic flow because the lot is 4.994 acres with over 300 linear feet of frontage on U S Highway 61 allowing two wide points of ingress and egress that are space to ease congestion. We have designed the space to facilitate an un-congested traffic pattern. We have 4.994 acres of space and have parking that exceeds the UDC requirements by 400%, and SUP 96-250 requirements. We are seeking to keep the storage units because they reduce the peak stocking or packing and unpacking periods caused by vendors having to daily load and unload their goods.



- Our project and facility will help entrepreneurs with space to market their goods without having to lease or purchase a stand alone facility. The Flee Market activity also provides the city with a nice tax revenue income and is a win-win situation for all involved.

- The project is constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations (UDC sub-section 9.6.9B). The commercial compatible use of this primarily commercially zoned property will put it in its highest and best use, create jobs, improve the city's economic base, and strengthen the Unified Development Standards that we are striving to develop in Memphis and Shelby County. Our facility is not environmentally harmful or dangerous.

The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services (UDC sub-section 9.6.9C). The public's health and safety is improved whenever you improve an environment that was dilapidated due to economic financial depletion. The safety of the area is increased through the nighttime site lighting, night and daytime security provided by the site's security and alarm system. Safety is further increased by the added security to the site. The site is currently served by adequate parking, drainage, refuse disposal by disposing of refuse from the immediate and surrounding areas. Our products are fire resistant and pose no incendiary threat. It poses no load on the drainage, sewer or water system. The building on the site is also owned by the applicant and serves as the restroom facility, and water faucet location for the site.

- The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic or historic importance (UDC sub-section 9.6.9D). We have already improved these features and will continue to do so if allowed to by this Governing Body.
- The project complies with and will continue to comply with all standards and/or additional standards imposed on it by any particular provisions authorizing such use (UDC sub-section 9.6.9E). We will comply to any and all standards current and additional of the UDC and necessary or recommended metallurgical standards and practices.
- The request will not adversely affect any plans to be considered (see UDC Chapter 1.9) or violate the character of existing standards for development of the adjacent properties (UDC sub-section 9.6.9F). No plans currently considered by the UDC revealed to us will be affected by our enterprise, if so we would modify or site and operations to be UDC plan compatible to the extent possible.

**JERRY M. JOHNSON and ASSOCIATES : Construction,
Asbestos Contractor/Supervisor, Design, & Development**
933 N. Evergreen St., Memphis, Tn. 38107; 901-502-5056; 901-614-9705;
E-mail: keajohn78@aol.com

LETTER OF INTENT REQUESTING A SPECIAL USE PERMIT
MAJOR MODIFICATION

TO: Memphis and Shelby County Land Use Control Board
125 N. Main Street, Rm. • 517 Memphis, Tennessee 38103

FROM: Mr. Jerry M. Johnson, Authorized Representative of
Rayford White

4444 S. Third St. (S. U. S. HIGHWAY 61)
Memphis, Tennessee 38109

Greetings Most Honorable Board:

We are seeking a Special Use Permit Amendment to SUP96- 96 – 250 in order to continue to use the metal storage containers, and allow the Flee Market Vendors to use the carports that are on display for the Carolina Carport Dealership Display grounds to market their services and goods. This use will continue to allow the Flee Market to provide a very high quality of vendor booth and provides a consistent site appearance that very aesthetically pleasing.

