



STAFF REPORT

ADDENDUM REPORT AGENDA ITEM: # 3

CASE NUMBER: P.D. 18-15
(Formerly S.U.P. 18-03)

L.U.C.B. MEETING: May 10, 2018
(Held from April 12, 2018)

LOCATION: South side of Shelby Oaks Drive; +/- 1,150' east of Summer Ave

COUNCIL DISTRICT(S): District -1 Super District -9 Positions 1, 2 & 3

OWNER: R & D Ventures, LLC and William Thomas

APPLICANT: Blaylock & Brown Construction, Inc. (Norman Brown III)

REPRESENTATIVE: A2H engineers & Norman Brown III

REQUEST: A Planned Development to allow a Construction/Demolition Landfill with future uses permitted in the Employment (EMP) District

AREA: 14.56 Acres

RECOMMENDATION: APPROVAL WITH CONDITONS

CONCLUSIONS

1. The concept of filling a property to level out high peaks and fill low valleys is not uncommon in the development of a site. Areas designated as floodplain require additional steps to be followed which involve City and/or County engineering staffs, and regulating agencies such as TDEC.
2. The subject property has very limited usage as evidenced by the fact that it has been vacant for so many years while properties to the east and west along Shelby Oaks Drive have been developed. To bring it up to a level to where it can be put into productive use under zoning, fill will be required.
3. The applicant offers that this is an acceptable method of filling as compared with filling this site with soil that would be exposed to the flood waters to the west of the site. The suggestion is that a standard soil-based fill would be more subject to erosion than a debris material fill.
4. While there will be some noise, especially during the initial excavation of the site, the more serious concern to staff is the amount of large truck traffic coming to and from the site. Shelby Oaks Road is, for the most part, a rural, two-lane road between the subject property and Summer Avenue.
5. The applicant's representative has mentioned the preparation of a traffic study to consider the impact of the project's traffic on the existing traffic pattern along Shelby Oaks Drive. The study might suggest a cap on the number of daily trips or possibly an alteration to the hours of operation.
6. The Addendum sheet covers some questions and comments from the LUCB Meeting, and some revised conditions.

Staff Writer: John D. (Don) Jones

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ADDENDUM

On April 12, 2018, The Memphis and Shelby County Land Use Control Board held a hearing on P.D. 18-15. Below is a summary of the comments and questions from interested citizens and the board:

How many extra truck trips will be generated if an agreement is reached with the City of Memphis to dump yard waste at this site?

Will this site use grinders or compactors?

What materials are allowed in a Construction/Demolition Landfill? (Asbestos, lead based paint attached to older houses and buildings)

Flooding – how will the filling of this land affect abutting properties?

How will this site be screened from neighbors and neighboring streets?

How will the acquirer be protected?

Status of the study with FEMA/TDEC?

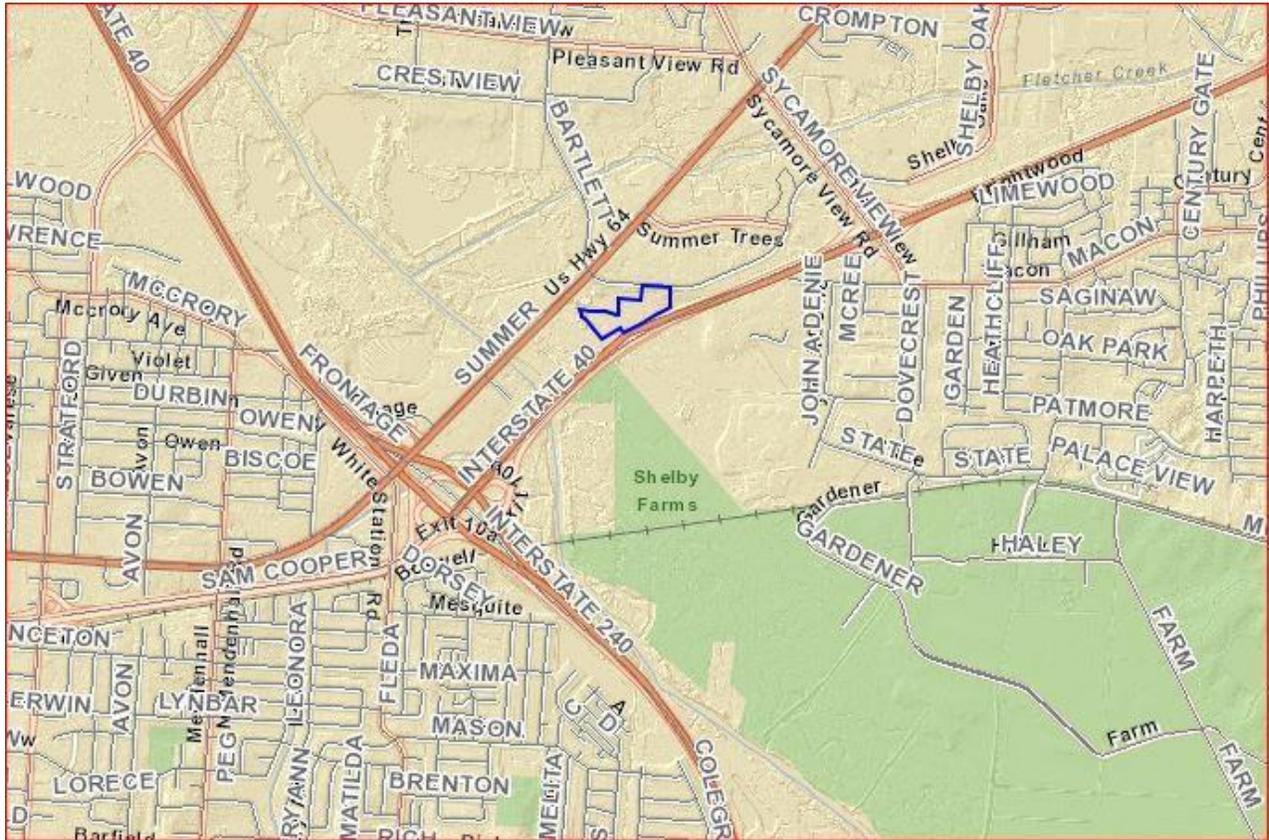
Secondary truck access? (Status)

A set of revised conditions was submitted to the board. The applicant has sent a new set to the staff. The conditions have been revised. The new conditions are found starting on page 16 of this report.

New language is shown in red. Strike throughs indicate a condition or wording is deleted. [] Brackets indicate language added by staff (OPD/City Eng.).

A letter of opposition that was inadvertently omitted from the prior staff report has been added her (see Letter from Continental Construction Co.)

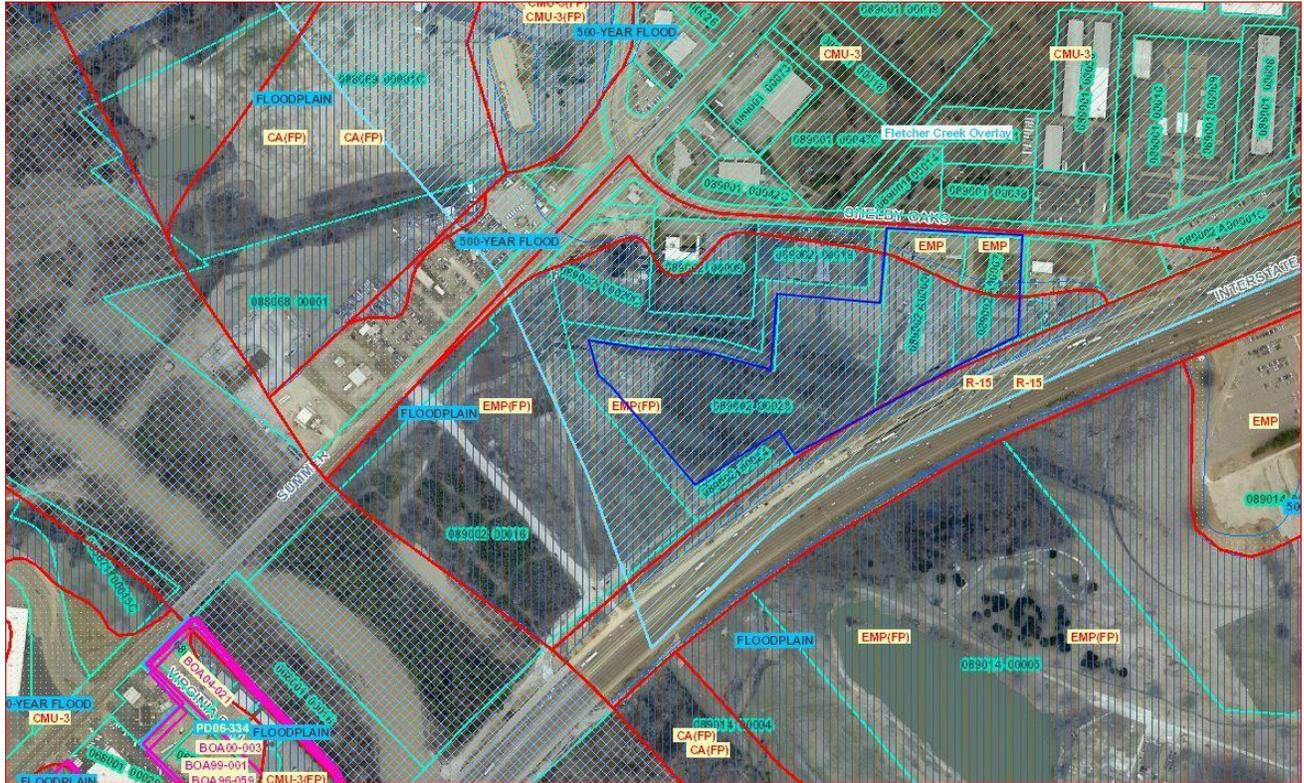
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General Location



Overview



Zoning Map



The subject property outlined in the blue line is zoned Employment with a Floodplain overlay. Although not shown on this graphic, the site also falls within the boundary of the Fletcher Creek Overlay.

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Land Use



Uses of land moving west to east from Summer Avenue:

North side of Shelby Oaks Dr. Vacant land, automobile service, former Jim's Place East (vacant), Office (Continental Engineering), vacant land, shopping center with storage facility

South side of Shelby Oaks Dr. Former auto service building, mulch yard, office (Youth Villages, College (Freed-Hardman), subject site includes vacant land and the former Shelby County Sheriff's Sub-station, Landscaping company.

Vicinity Map

Index #	Parcel ID	Owner Name	Owner Address
1	089002 00024	R & D Ventures LLC	5031 Anchor Cv. Memphis, TN 38117-3404
2	089002 00020C	Edmond T. Brown	11795 Metz Pl. Eads, TN 38028-7000
3	089002 00014Z	Edmond T. Brown	11795 Metz Pl. Eads, TN 38028-7000
4	089001 00040C	George E. & Sherry B. Mangum	5485 Summer Ave. Memphis, TN 38134-7103
5	089002 00009	Youth Villages Inc.	5515 Shelby Oaks Dr. Memphis, TN 38134-7316
6	089002 00019	Freed Hardeman University	158 E. Main St. Henderson, TN 38340
7	089002 400008	William H. Thomas, Jr.	5160 Sanderlin St. Memphis, TN 38117-4352
8	089002 400007	R & D Ventures LLC	5031 Anchor Cv. Memphis, TN 38117-3404
9	089002 400006	R & D Ventures LLC	5031 Anchor Cv. Memphis, TN 38117-3404
10	089002 400005	A & W Lawns, Inc.	PO Box 38749 Germantown, TN 38138
11	089002 400004	Ponderosa LLC	560 Rocky Point Rd. Cordova, TN 38018
12	089002 400001C	Terrapin Memphis Investments LLC	15 W 6th St. Tulsa, OK 74119-5417
13	089001 00058	Tennessee Storage GP	PO Box 157 Arlington, TN 38002
14	089001 00009	Al Chymia Temple	5770 Shelby Oaks Dr. Memphis, TN 38134-7315
14	089001 00010	Al Chymia Temple	5770 Shelby Oaks Dr. Memphis, TN 38134-7315
15	089001 00054	Belz Invesco LP	PO Box 3661 Memphis, TN 38173
16	089001 00057	MKSA Investments LLC	1638 Red Barn Dr. Cordova, TN 38016-6088
17	089001 00038	Continental Construction Co. Inc.	5646 Shelby Oaks Dr. Memphis, TN 38134-7315
17	089001 00014	Continental Construction Co. Inc.	5646 Shelby Oaks Dr. Memphis, TN 38134-7315
17	089001 00051	Continental Construction Co. Inc.	5646 Shelby Oaks Dr. Memphis, TN 38134-7315
18	089001 00036	Belz Invesco LP	PO Box 3661 Memphis, TN 38173
19	089001 00047C	Roberto & Sylvia Leon Cantu	5560 Shelby Oaks Dr. Bartlett, TN 38134-7315
20	089001 00042C	Lisa J. Harris	1792 New Riverdale Rd. Germantown, TN 38138
21	089001 00044	Trans Development LLC	10651 Collierville Rd. Collierville, TN 38017-9409
22	089001 00045	Darren Metz	1037 Vaughn Crest Dr. Franklin, TN 37069-7212
23	089001 00073	Chang & Susie Young	5529 Summer Ave. Memphis, TN 38134-7212
24	088067 00028C	Ahmed Shadi	7854 Clarendale Dr. Bartlett, TN 38133-2083
25	089009 00001C	Greenway Golf Center Inc.	5484 Summer Ave. Memphis, TN 38134-7202
25	088068 00002	Greenway Golf Center Inc.	5484 Summer Ave. Memphis, TN 38134-7202
26	088068 00001	Gary M. and Glenn A. Rutherford	PO Box 171337 Memphis, TN 38187
27	089002 00016	Wolf River Investment Group, Inc.	4561 Millbranch Rd. Memphis, TN 38116-7437
28	089014 00004	Shelby County Penal Farm	160 N. Main St. Memphis, TN 38103-1866
29	089014 00005	United States of America	157 N. Main St. Memphis, TN 38103-1816
30	089014 00008	State of Tennessee	312 8th Ave. N Nashville, TN 37243-0001
31	089001 00018	Julian T. & Anne G. Mullins	5541 Summer Ave. Memphis, TN 38134-7203
32	089001 00019	Belz Invesco LP	PO Box 3661 Memphis, TN 38173
33	088067 00007	Chris & Vickie McCutchen	3400 Glenwood Dr. Nesbit, MS 38651-8809
34	088067 00030	Persepolis LLC	5520 Summer Ave. Memphis, TN 38134
35	088067 00026	James A. Carson	3984 Tutwiler Ave. Memphis, TN 38122

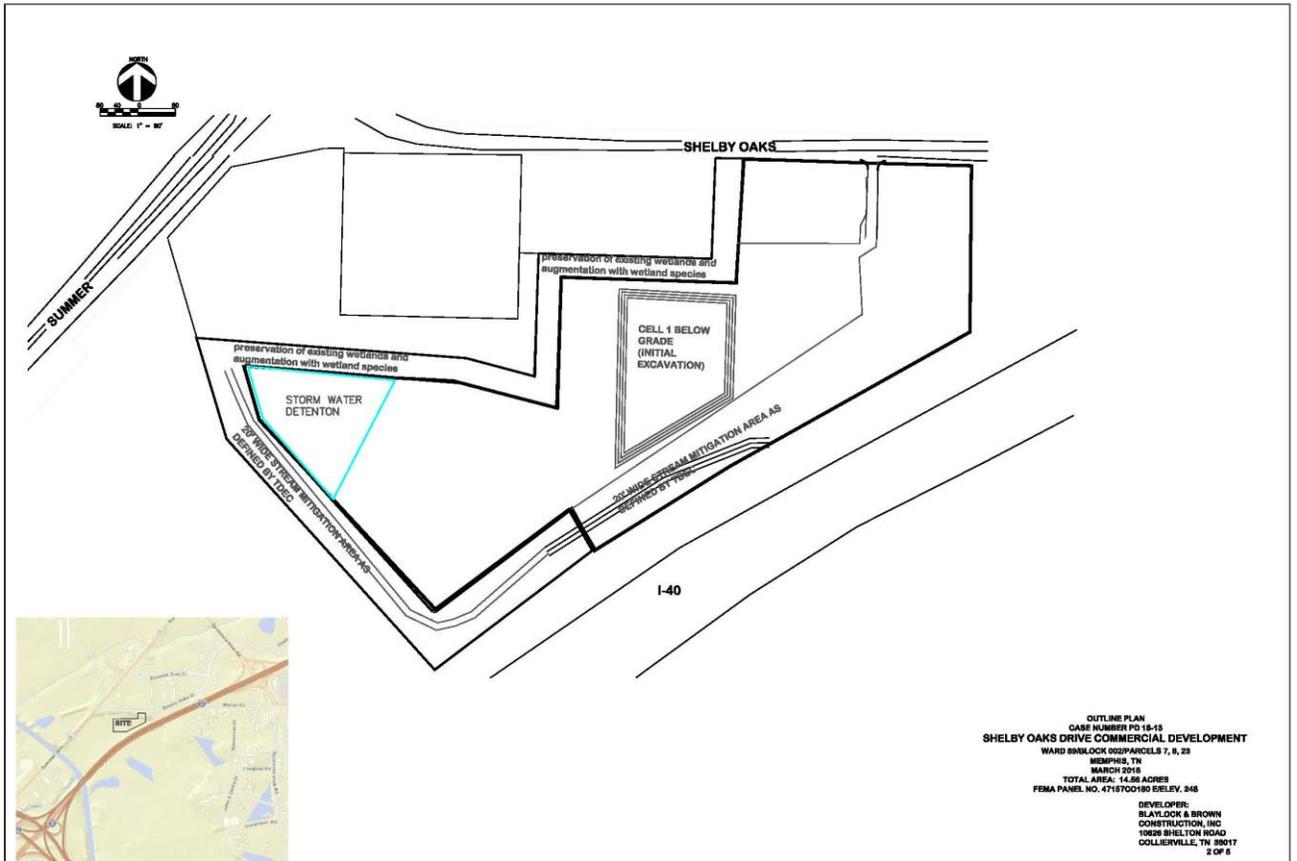


Neighborhood Meeting: March 29, 2018, Topps Bar-B-Que, 6130 Macon Road, 6:00 P.M.

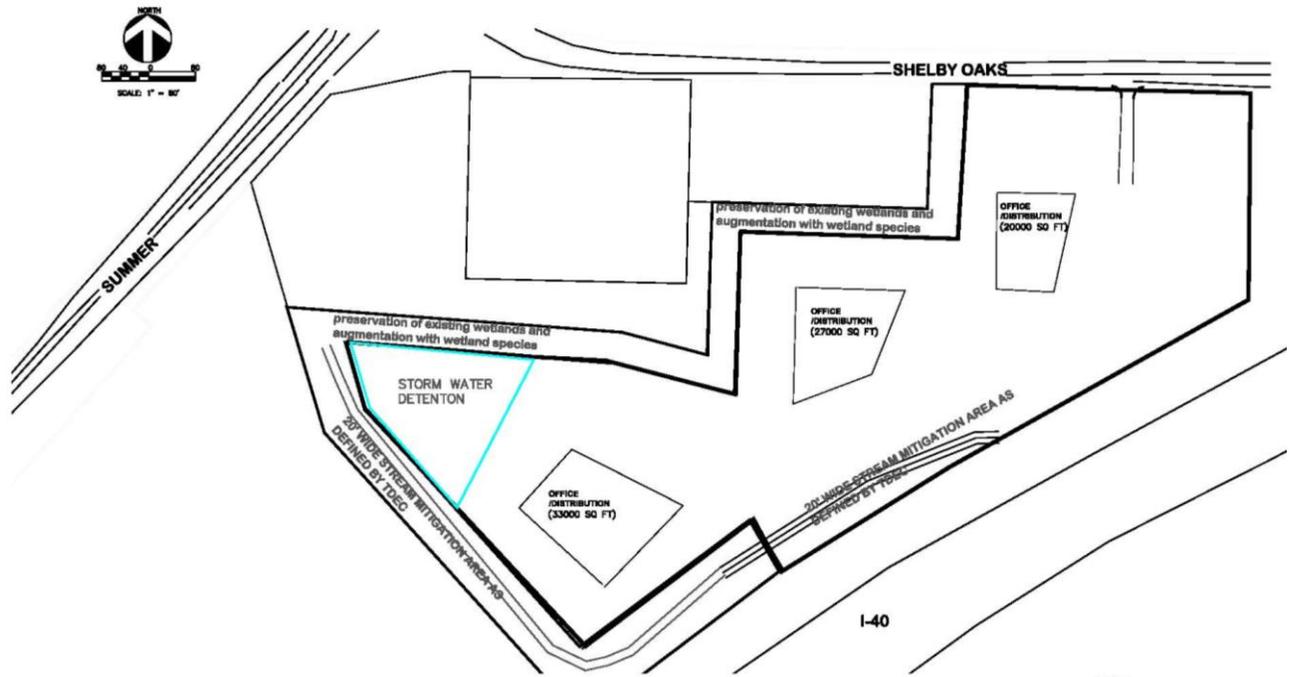
Mailed Public Notice: 43 notices were mailed on March 29, 2018

Public Notice Sign Posted March 24, 2018

Outline Plan (modified to reflect the removal of the public recycling area)



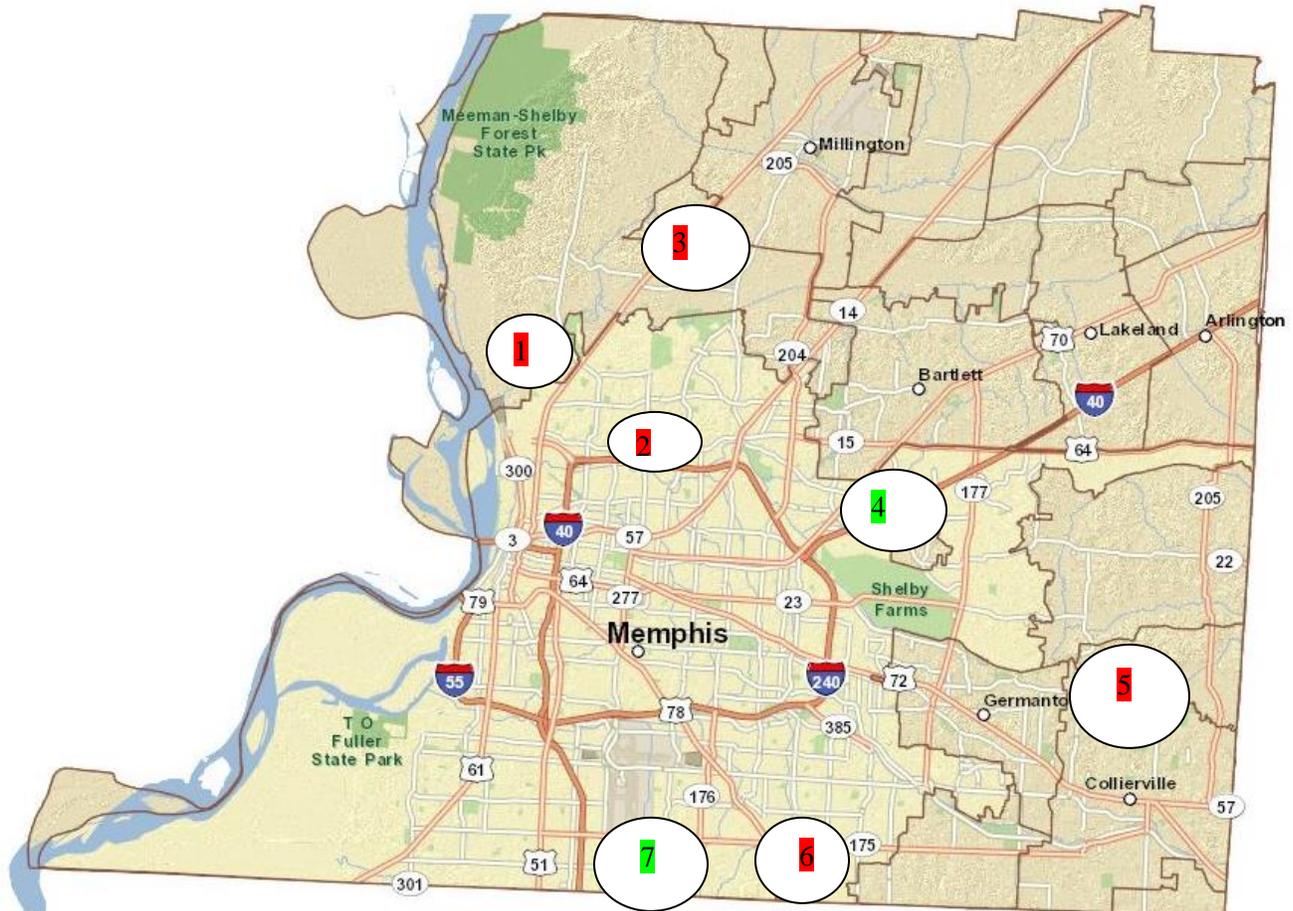
Site Plan/Concept Plan



Class I and III Landfills in Shelby County

Source Tennessee Department of Environment and Conservation (TDEC) web site

<https://www.tn.gov/environment/program-areas/sw-solid-waste.html>



Red = Active Class I or Class III Landfill - Green = Proposed

- 1 – North Memphis Landfill – 382 Klinke Road – Class III
- 2 – Frayser Business Development Center – Class III
- 3 – North Shelby Landfill 7111 Old Millington Road – Class I & III
- 4 – Proposed Landfill – Shelby Oaks Drive – P.D. 18-15 Class III
- 5.- Blaylock & Brown Construction Inc. – 1036 Shelton Road, Collierville – Class III
- 6.- South Shelby Landfill – 5494 Malone Road – Class I
- 7.- Proposed Landfill – Holmes Road at Airways – PD 18-16 – Class III

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STAFF ANALYSIS

Request:

The applicant, Blaylock-Brown Construction Incorporated, has filed an application that includes a Demolition/Construction Landfill, (aka a C&D Landfill) as the first phase of the development proposal which will followed by a permanent use of the site to be regulated by the conditions of the planned development.

Justification and Intent

The applicant has provided the following justification for this application:

Notification of intent to develop a landfill has been submitted to Shelby County Solid Waste Management Board. The need for additional disposal points in Shelby County for construction/demolition wastes is obvious. Only three TDEC permitted sites exist in Shelby County with two of the sites on the extreme western part of the County. One of the two sites is reported to have less than two years remaining. The proposed Planned Development will include a landfill capacity of approximately 5 years for construction/demolition waste. The operation will emphasize recycling of components of the construction/demolition waste. The non-recoverable materials will be landfilled. The market forces driving the implementation of the project are limited landfill capacity within Shelby County and limited recycling opportunities. The increased focus on redevelopment within the City of Memphis is anticipated to increase the need for facilities of this type and a facility in close proximity to the source of the material. Remodeling and construction within the urban area has been on the increase in recent years. The owners of the property are attempting to convert a site which is non-functional or developable into a "shovel ready" site which is part of an established commercial subdivision.

Regulatory Issues

Zoning - The subject property is zoned Employment with a Floodplain Overlay, see page 5 of the staff report. Additionally, the site falls within the boundaries of Fletcher Creek Overlay District. Any new construction within these two overlays will require the filling of the land to a point where the finished grade elevation of the land is above the established flood level. The Fletcher Creek Overlay requires that the finished floor level for a non-residential building must be a minimum of 30 inches above the 100-base year flood elevation.

A Construction and Demolition Landfill requires a Special Use Permit in the Employment District. The Unified Development Code has established a set of Use Standards to guide the review of a request for a Special Use Permit for a C&D landfill. Most of these Use Standards

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were incorporated into the zoning regulations from the state requirements. One requirement stands out, Item 2.6.4.D.(2)(b). This item reads as follows: “no fill shall be located within the 100-year floodplain and no excavation except as expressly authorized by the appropriate legislative bodies shall be located within the 100-year floodplain.”

Because of the construction of that language, the use of the word “shall”, staff advised the applicant that the Special Use Permit could not be processed. The SUP was then withdrawn and replaced with the application for a Planned Development. The former case number was S.U.P. 18-03. The Planned Development application was substituted for the S.U.P. prior to notice being sent out to the public.

Moratorium- During the review of a request to expand an existing C&D landfill in Frayser, comments, attributed to the representatives of that application, indicated that a C&D landfill is permitted by right in the Heavy Industrial zoning district and as such a landfill could be developed by-right in a number of locations outside of the Interstate loop. These comments were intended to rally certain neighbors to support the expansion of the landfill in Frayser.

After rejecting the request for the expansion in Frayser, the Council, in concert with OPD, brought forward a Moratorium Resolution prohibiting the issuance of any building permits from the Office of Construction Code Enforcement for any landfills located in the I-H District. The moratorium is intended to provide a suitable period of time to study what process or additional requirements may be needed revise the UDC so that adequate protections are afforded to abutting properties. The moratorium language does allow for a landfill to be brought forward under a Special Use Permit that is reviewed by the Council. A Planned Development is a form of a Special Use Permit that is reviewed by Council, so the intent of the moratorium is recognized in this request.

Construction and demolition landfills – The process for approval of a C&D landfill begins with the approval of a zoning entitlement from either the Memphis City Council or the Shelby County Board of Commissioners. If approved, the applicant will then petition the Shelby County Solid Waste Management Board, who will then make a recommendation to the Tennessee Department of Environment and Conservation, TDEC.

The applicant will need to file for a 404 permit from the Corps of Engineers to address any disturbance to a wetland and to deal with the re-routing of an existing stream. A Letter of Map Amendment (LOMA) from FEMA will also be required to seek approval to remove this land from the Floodplain.

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Review of the Request

The project - The request is to fill a section of land that lies in the 100-year flood plain and sits below the elevation of the improved properties that abut Shelby Oaks Drive. According to information supplied by the applicant, the site varies from 238 mean sea level to 252 sea level.

The finished site level, after fill material is added, will reach approximately 265.5 feet mean sea level which is consistent with the level of the abutting developed properties. So, the height of the fill will vary from zero to approximately 18 feet.

The applicant proposes to fill the area by trucking in construction and demolition debris from demolition sites. They will be sole customer for this site unless or until they have a contract with the City of Memphis or one of the other Municipal governmental entities in Shelby County.

Sorting will take place on the site to separate materials that can be recycled and material that do not belong in a C& D landfill. Material that can be recycled will be trucked back to the main facility in Collierville. Material that is not appropriate for a C&D landfill, if any, will be shipped to the appropriate category of landfill. All other material will be deposited in the landfill area.

The applicant estimates that this facility will have a life of 5 years. During the life of the landfill the applicant estimates that a maximum of 5-15 large trucks per hour will serve the site. The requested hours of operation are 7 am to 6 pm, Monday thru Friday and 7 am to 2 pm on Saturday. This equates to 55-165 truck trips per day. This does not include City of Memphis Sanitation vehicles if a contract is reached between the applicant and the City of Memphis Public Works Department.

The process of filling with debris material and periodically covering with a layer of dirt will continue until the approved finished level is met. At that time a final cap of dirt is spread and compacted and the site will sit and cure to the satisfaction of TDEC.

Fill material – The concept of filling a property to level out high peaks and fill low valleys is not uncommon in the development of a site. Areas designated as floodplain require additional steps to be followed which involve City and/or County engineering staffs, and regulating agencies such as TDEC. The subject property has very limited usage as evidenced by the fact that it lies vacant for so many years while properties to the east and west along Shelby Oaks Drive have been developed. To bring it up to a level to where it can be put into productive use under zoning, fill will be required. The applicant offers that this is an acceptable method of filling as compared with filling this site with soil that would be exposed to the flood waters to the west of the site. The suggestion is that a standard soil based fill would be more subject to erosion than a debris material fill.

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Impacts - While there will be some noise especially during the initial excavation of the site, the more serious concern to staff is the amount of large truck traffic coming to and from the site. Shelby Oaks Road is for the most part a rural, two-lane road between the subject property and Summer Avenue. Two of the abutting properties to the north and west of the landfill are a college use and an office use. There is a relatively thick stand of mature vegetation between the landfill and the Youth Villages office, but there is no such natural buffer between the Freed-Hardeman building and the landfill. The applicant anticipates that the state will require some wetland mitigation along the north boundary line of the landfill abutting these two uses and some planting of wetland species. The conditions of this P.D. will likewise require planting of an appropriate tree type, however with a 5-year expected fill life, it is understood that any planting in this area will be mostly to interrupt a straight line of site into the landfill. Staff believes that a similar treatment should be required as near the west property line as possible to interrupt the sight line from Summer Avenue.

The applicant's representative has mentioned the preparation of a traffic study to consider the impact of the project's traffic on the existing traffic pattern along Shelby Oaks Drive. The study might suggest a cap on the number of daily trips or possibly an alteration to the hours of operation. While it is unlikely that the study will be ready for review prior to the hearing before the Land Use Control Board reviews this request, it should be available for review by the OPD and the City Engineering staff prior to the consideration of this request by the Memphis City Council.

Unlike a similar proposal for an expansion of an existing C& D landfill recently reviewed and rejected by the Memphis City Council, this project proposes finishing this site in such a manner that can be re-developed under zoning and the conditions of this P.D. once the permitted final elevation is reached. The proposed 4:1 ratio will create a slope that is navigable by automobiles and the finished height of new buildings will not be out of scale with the existing structures.

The proposed conditions have been organized to address both the use of the land as a C&D landfill and the use of the land once the landfill operation ceased.

RECOMMENDATION: APPROVAL WITH CONDITIONS

Outline Plan Conditions
P.D. 18-15
Shelby Oaks Drive Commercial Planned Development

I. Permitted Uses:

A. Any use permitted by right in the EMP District with **the following exceptions:**

1. Group Shelter
2. Transitional Home
3. Motel
4. Adult entertainment/**Adult oriented establishment**
5. Campground or trailer park
6. Drive-in theaters
7. Taxi cab dispatch station
8. Outdoor shooting range
9. Vehicle Impound lots
10. Outdoor storage as a principal use
11. **Blood plasma donation center**
12. **Recreation Field w/lights**
13. **Billboard/off premise signs**
14. **Bar, Tavern, Cocktail Lounge, Night Club**
15. **Payday loans, Title loan and Flexible Loan Plan Establishments**
16. **Vapor shop**
17. **Pawn Shop**
18. **Tattoo, Palmist, Psychic or Medium**
19. **Tractor-trailer and heavy truck**
20. **Contractor's storage**
21. **Mulching operation to include grinding, storage, sale (retail or wholesale)**

B. The following additional uses shall be permitted:

1. Class III, **single-source (user) Landfill** subject to the conditions contained herein and as per state regulations **for a period of 5 years at which time an extension may be filed with appropriate notice and LUCB notice and approval by the Memphis City Council.**
2. Recycling and recovery of materials from construction/demolition debris for the purpose either including in the landfill or transporting off-site. No on-site sale of such material is permitted.
3. Solar farm, wind farm, other alternative energy sources

4. Office
5. Office showroom
6. Mini-storage
7. Warehouse
8. Wholesale establishment
9. Museum
10. Covered Storage Facility, with no outdoor storage

C. The following items may be considered with an approved Major Modification application with required notice to all property owners within 500 feet of the boundaries of the site. Staff will base its recommendation on a detailed site plan that illustrates that the use can be adequately screened from the view of all public streets and the abutting neighbors and fits in with the character of overall development of this area.

- ~~1. The on site storage of for the purpose of sale of~~
 - ~~a. Stone, clay, glass, and concrete products~~
 - ~~b. Landscaping materials (soil, sand, gravel, timber, mulch, stone, etc)~~

2. Automobile sales
3. Boats and other motorized vehicles
4. Truck stop, Tractor trailer (fueling of)
5. Vehicle Service
6. Vehicle Service, Repair, Sales, Rental Leasing

II. Bulk Regulations:

- A. Building setback from Shelby Oaks Drive shall fall within the range of the building setbacks on either side of the property.
- B.
- C. Maximum height of buildings – 50 feet.
- D. Minimum building setback from the north property line – 25 feet.
- E. Minimum building setbacks from south property line – 25 feet.

- F. The minimum building setback from the rear lot line of the existing college (parcel # 08902 00019) and the existing office (parcel # 08902 00009) – 50 feet.

III. Access, Circulation and Parking:

- A. The existing curb cuts shall be permitted on Shelby Oaks Drive with the location as generally indicated on the Subdivision Plan for the Phase One operation of the landfill. This condition shall be re-evaluated with the filing of a Final Plan for the redevelopment of the site.
- B. The City Engineer shall approve the design, number and location of curb cuts, beginning with the first final plat for the re-development of this site.
- C. 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.
- D. 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.~~ The construction or repair necessary to meet City standards shall be a part of the Final Plan for the redevelopment of the site. [However, City Engineering may require an alteration to the existing curb cut(s) to meet the requirements for the type of trucks and heavy equipment that access this site for the landfill use.]
- E. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk
- F. Parking shall be provided in accordance with the Zoning Ordinance
- G. All traffic shall enter from and exit onto Shelby Oaks Drive.

IV. Landscaping and Screening:

- A. All landscaping requirements and improvements shall meet or exceed the minimum standards specified by the Memphis and Shelby County Zoning Ordinance.
- B. All approved landscaping elements, including individual plants and plant species, shall be indicated in plan view on the final plan

- C. Landscaping along Shelby Oaks Drive shall be in accordance with S-10 Plate or an equivalent that is acceptable to the OPD, (post Landfill operation).
 - D. Screening, shall be provided along the north property line and along the south, east, and west property lines subject to the final review and approval of the OPD.
 - E. All refuse containers shall be screened from the view of the public streets and abutting properties.
 - F. Air conditioning, heating, and other mechanical equipment shall be screened using architectural features, planting, fences, or other means.
 - G. Parking lot landscaping for the future use (Concept Plan) shall be in conformance with the UDC4.5.5D.
- V. Signs: Signs shall be permitted in accordance with the Mixed-Use District.
- A. Attached signage shall be in conformance with Commercial CMU-3 District.
 - B. No temporary or portable signs shall be permitted.
- VI. Drainage and Sanitary Sewer:
- A. All drainage plans shall be submitted to the City Engineer for review.
 - B. All drainage emanating on-site shall be private. Easements will not be accepted.
 - C. Drainage improvements to be provided under contract in accordance with Subdivision Regulations, and the City of Memphis Drainage Design Manual including possible on-site detention.
 - D. The following note shall be placed on all final plans. Common open space is reserved for the purpose of the conveyance of storm water in a natural drainage way. This C.O.S. shall not be used as a building site or filled without obtaining the written permission from the City and County Engineer. The drainage way system located with the C.O.S., except for those parts located in a public drainage easement, shall be owned and maintained by the property owners' association. Such maintenance shall be performed so as to assure that the drainage system operates in accordance with the approved plan on file in the City/County Engineer's office. Such maintenance shall include but not be limited to removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.

- E. [The owner will provide to the City a sanitary sewer easement along the common property line with Interstate 40 R.O.W. for the possible installation of a new sewer line to serve the Fletcher Creek basin. The width and exact location of this easement will be dictated by the City.] The potential outfall will be the property of the City of Memphis with construction cost and maintenance the responsibility of the City of Memphis.

VII. Class III Landfill Requirements:

- A. The hours of operation shall be limited to Monday through Friday 7:00 a.m. to 6 p.m. and 7:00 a.m. to 2:00 p.m. on Saturday.
- B. The depth of excavation and the materials to be used for fill shall not have any adverse effect on the supply, quality, or purity of ground water or wells.
- C. Provisions shall be made for the proper drainage of storm water falling on or crossing the site at all times during and after completion of the operations. The operations shall not obstruct the normal flow of any public drain, or abrogate the riparian rights of any of the parties to a stream or drain
- D. The final filled elevation shall be limited to a maximum elevation of 256.5 feet as determined from the datum plane used for the site plan elevations as shown on the landfill grading plan, which shall be recorded as part of the outline and final plan. The final finished grade of side slopes of excavation and fills shall four feet horizontal and shall be blended into undisturbed existing surfaces or as per Tennessee Department of Environment and Conservation requirements.
- E. A layer of clean earth at least two and a half (2.5) feet thick shall be deposited and thoroughly compacted on the sides and a 2.5 foot fill on the top of the final fill to bring the surface to the finished surface grade as shown on the topographic plan filed with the application. The final fill and finished grade shall be stabilized, seeded, sodded or appropriately planted after completion.
- F. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or candescence to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site. Dusty conditions shall be corrected by sprinkling with water or by use of calcium chloride or some other approved method. No fires shall be permitted.

- G. Except for protective fences, no building or structure, other than a scale and entry gatehouse erected in connection with the landfill operation, shall be located in any required front yard/side yard/rear yard or closer than one hundred (100) feet from any property line.
- H. Security gates shall be provided at the vehicular entrance and exit as shown on the Subdivision Plan and which shall remain locked at all times when active operations are closed. Security cameras will also be in place to monitor the property at all times.
- I. The landscaping along Shelby Oaks Drive shall be constructed and planted after the Class III filling on site has been completed. The existing fence on Shelby Oaks Drive and along the adjoining property line to the west will be augmented with fence screening to limit visibility of landfill operations from Shelby Oaks Drive and adjoining property to the west. Consistent with the notes on the Outline Plan/Site Plan, landscaping to interrupt direct views into the landfill from the west (Summer Avenue) and the north the two existing developed parcels may be required. Demonstration that existing mature vegetation is in place will be considered at Final Plat Review. Existing vegetation on the southern portion of the Youth Village property may be sufficient to screen the landfill operation from this facility.
- J. Refuse containers shall be screened from view from adjacent property and from the public roads. Landfill equipment, employee parking, and dumpsters will be stored in the lower area of Lot 8 which is out of the sight line of Shelby Oaks Drive. The existing *structure on the adjacent parcel to the east (formerly a Sheriff's substation) will be demolished and removed from the site within one year of the initiation of the landfill operation.*
- K. A minimum of 50 feet shall be provided between the public right-of-way and the entrance gate or guardhouse to provide adequate queuing spaces and maneuvering room.
- L. To minimize the deposit of materials from the site onto the public road, the wheels of vehicles exiting from the site shall be kept free of gravel, dirt and debris. Wheel washing equipment or equivalent alternative such as bumper strips shall be installed for the cleaning of vehicles exiting the site.

- M. No excavation or demolition fill shall be permitted within 100 feet of any adjacent property or within 500 feet of any building used for residential purposes without the consent of property owners or residences.
- N. Equipment used in the landfill operation shall be operated in such a manner that noise and vibration are prevented, to the extent possible, from emanating beyond the boundaries of the site.
- O. Backup alarms on vehicles and construction equipment shall emit a narrowly directed signal of white noise, as consistent with the latest technology, so as to eliminate the ambient warning noise activity as a significant nuisance for neighbors.
- P. No tires shall be permitted in the landfill or stored on site.
- Q. Until the State of Tennessee has approved the closure of the landfill, no development shall be constructed on site except for the landscaping as depicted on the Outline Plan and as conditioned herein.
- R. A six (6) foot high chain link fence shall be constructed along property lines and the entrance as per requirements of TDEC Class III permits. At end of the landfill construction, the fence will be removed as part of final site landscaping requirements. Existing fence on Shelby Oaks Drive and adjoining property to the west will be augmented with fence screening to restrict view of landfill operation from Shelby Oaks Drive and adjoining property.
- S. The facility shall have clearly visible and legible signs at the point of public access that indicates the hours of operation, the general types of waste materials that either will or will not be accepted, emergency telephone numbers, and any other necessary information.
- T. Trained personnel shall always be present during operation hours to operate the facility.
- U. Security cameras will be present on site and gates can be monitored remotely if needed.
- V. The Office of Planning & Development may require landscaping be replaced or additional landscaping be provided to maintain the integrity of the landscape plan as depicted on the Outline Plan.

- W. The entrance drive shall be asphalted for approximately 100 feet from Shelby Oaks Drive.
- X. An all-weather drive shall be provided from any access road to the deposit area. **To the extent practicable, truck traffic related to the operation of the landfill shall utilize access across parcel 08900200016 to provide direct access to Summer Avenue.**
- Y. A sprinkling system shall be provided on-site and utilized for dust control. Water and/or calcium shall be utilized for dust control.
- Z. Any windblown debris shall be collected daily and deposited in appropriate storage bins.
- AA. Trucks shall approach the subject site **on Shelby Oaks Drive** from Summer Avenue and exit from the site heading west **on Shelby Oaks Drive** to Summer Avenue. No landfill related truck traffic to or from the facility shall be permitted on any other portion of Shelby Oaks Drive or Summer Trees Drive.

VIII. Site Plan Review Except for Landfill Operations

A Site Plan shall be submitted for the review and comment of the Office of Planning and Development (OPD) and appropriate City agencies. If OPD rejects the site plan an appeal may be filed with the Land Use Control Board and notification to the applicant shall be mailed no later than 15 days prior to the Board's meeting.

- A. Any Site Plan shall include the following information:
 - 1. The location, dimensions, floor area and height of all buildings, structures, signs, lighting and parking areas.
 - 2. Specific plans for internal and perimeter landscaping and screening including plant material names and sizes at time of installation.
 - 3. Illustrations of the design, materials and colors of any proposed signs.
 - 4. A grading plan of the site including any retention or detention areas.
 - 5. Finished floor elevations.
 - 6. Any outdoor storage shall not be located less than 100 feet from Shelby Oaks Drive and shall be screened from view of adjacent properties.

- B. The Site Plan shall be reviewed based upon the following criteria:
 - 1. Conformance with the Outline Plan and Conditions.
 - 2. Landscaping and adequacy of screening from residential areas including the preservation of trees.
 - 3. Building orientation and setback.
 - 4. Access and circulation providing a unified and continuous circulation pattern on the site and between phases.
 - 5. Parking spaces and design.
 - 6. Compatibility with adjacent properties as judged from the final elements of the site development including landscaping, screening and architectural design.

- IX. The Land Use Control Board may modify the bulk, access, parking, landscaping, loading, screening, signs, and other site requirements if equivalent alternatives are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder may, within ten days of such action file a written appeal to the Director of Office of Planning and Development, to have such action reviewed by the legislative bodies.

- X. A Final Plat shall be recorded within five years of the date that this application shall have been approved by the appropriate legislative body(s). The Land Use Control Board may grant time extensions after filing a correspondence application with notice to abutting property owners and the associations identified in VIII above.

- XI. Any final plan shall include the following:
 - A. The Outline Plan conditions.
 - B. A standard subdivision contract as defined by the Subdivision Regulations for any needed public improvements.
 - C. The exact location and dimensions including height of all buildings or build-able areas, parking areas, drives, and identification of plant materials in required landscaping as well as a rendering of the appearance of all proposed buildings including labeling of predominant construction materials.
 - D. The number of parking spaces.
 - E. The location and ownership, whether public or private of any easement.

- F. The Floodway District boundary, the 100-year flood elevation and any wetlands.

- G. 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 or County Engineer, as applicable. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners’ association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City/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.

GENERAL INFORMATION

Zoning Atlas Page: 1945

Parcel ID: 089002 00023, 089002 A00007 & 089002 A00008

DEPARTMENTAL COMMENTS

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

City Engineer:

1. Standard Subdivision Contract as required in Section 5.5.5 of the Unified Development Code.

Sewers:

2. City sanitary sewers are available at developer's expense via existing connection in Shelby Oaks Drive.
3. No new sanitary sewer connections are available in the Fletcher Creek and Young drainage basins.
4. The WN-10 sewer basin is currently under study to determine if any excess capacity remains. It is anticipated that results of that study will be available 6 to 12 months from this date.

Curb Cuts/Access:

5. The City Engineer shall approve the design, number and location of curb cuts.
6. 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.
7. 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,
8. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.

Drainage:

9. 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 Drainage Design Manual.
10. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.
11. 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:

12. The width of all existing off-street sewer easements shall be widened to meet current city standards.
13. 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.
14. Required landscaping shall not be placed on sewer or drainage easements.

City Fire Division: No comments received.

City Real Estate: No comments received.

County Health Department:

Water Quality and Septic Tank Program – No comments

Shelby County Schools: No comments received.

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water: No comments received.

Neighborhood Associations: No comments received.

L.U.C. B. Staff Report
P.D. 18-15
May 10, 2018

Letters of Opposition: **See attached**

Appendix

Application

Letter of Intent

Reply to Use Standards 2.6.4

Compliance Affidavit

Neighborhood Meeting Sign IN Sheet

Notes from Meeting

L.U.C. B. Staff Report
P.D. 18-15
May 10, 2018

Letters of Opposition (4)

Don Jones
Municipal Planner
Memphis and Shelby County
Office of Planning and Development
City Hall, 125 N. Main Street, Ste. 468
Memphis, TN 38104

RE: Shelby Oaks Drive Commercial Development Planned Development Permit
(OPD Case #PD 18-13, formerly known as SUP 18-03)

March 22, 2018

Mr. Jones,

I oppose the planned development application (OPD Case #PD 18-13, formerly known as SUP 18-03) filed with the Memphis and Shelby County Office of Planning and Development.

I have owned and operated Nature's Earth, located at 5471 Summer Avenue, for eight years. During five of these eight years, the property for OPD Case #PD 18-13 has been flooded for weeks at a time due to the Wolf River breaching its banks. The most recent case was two weeks ago, when the Mississippi River was close to, and over, flood stage. Multiple feet of water will stand on this property, the properties of Youth Villages, and Freed-Hardeman University and the boundaries of my property, for an extended period of time.

My business inventory consists of natural materials, that do not contaminate the environment. I have worked with several local and state agencies to ensure my products are not negatively affecting the Wolf River once the water on my property recedes. OPD Case #PD 18-13 calls for using non-recycling construction/demolition debris to fill up an area that floods. By allowing materials such as asbestos remnants, glass, fiberglass insulation, concrete, and the like, to be dumped on property that historically floods with Wolf River overflow, this project will create water pollution for a natural resource.

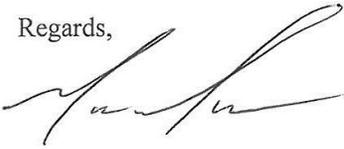
Additionally, the Wolf River Conservancy is planning to construct trails to connect the Greenline on bordering property. The potential of exposing citizens to contaminated water runoff from non-recycling construction/demolition debris, and potential air quality issues from various dusts that will be created, is not viable for the citizens of Memphis and Shelby County.

Over the past eight years, USDA Wildlife officials have trapped and removed beavers from the property that OPD Case #PD 18-13 will border. In documented cases, beavers have created dams on this property. This proves that standing water is an ongoing issue; beavers are not drawn to water that is a few inches in depth. Deer, ducks, racoons, snakes and other wildlife live on this property. My security cameras capture a wide range of wild animals that move to higher ground once flooding occurs.

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I encourage you to reach out to Youth Villages and Freed-Hardeman University to learn more about their flooding problems. I have included pictures showing the level of flooding that occurs around my property almost every year. Thank you for your time.

Regards,

A handwritten signature in black ink, appearing to read 'Matt Marek', with a large, sweeping flourish at the end.

Matt Marek
Owner
Nature's Earth







L.U.C. B. Staff Report
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May 10, 2018



March 28, 2018

Josh Whitehead
Planning Director
Land Use Controls Division
Memphis & Shelby County
Division of Planning and Development
Suite 468
125 North Main Street
Memphis, TN 38103

RE: PD 18-15; (Formerly known as SUP 18-03)

Dear Josh,

We are writing relative to a proposal to allow a landfill operation to be established and operated on approximately 15-20 acres of land along Shelby Oaks Drive. We urge the Planning Department to **reject** this proposed use.

For over 40 years our organization has been the principal developer for the Shelby Oaks Corporate Park and Business Center, which extends from Summer Avenue through to Raleigh Lagrange Road, and onward to Whitten Road. We have further extended this multi-faceted development all the way to Appling Road. We have been careful to establish and maintain a mixed-use environment that promotes high quality office, industrial, and commercial enterprises. The western portion (west of Sycamore View) is principally office and limited commercial activities. The eastern portion (east of Sycamore View) is a mix of office, hotel and light industrial / warehouse activities.

This area of the proposed landfill is the entry portal from I-40 onto the I-240 loop that surrounds the entire City of Memphis. As such it is an extremely busy and visible portion of our city to tens of thousands of workers coming and going daily, a tremendous volume of visitors coming to Memphis for business and recreation, and many others that are passing through our city on the way east or west across our country. The average daily traffic at the proposed location is more than 150,000 cars per day, making this one of, if not the greatest, volume of daily traffic in our community. Our State and Federal governments have only recently completed the largest and most expensive highway project in the history of our community at this very location.

It is inconceivable that we would allow the operation of a construction debris landfill to be created at this spot. It would be an eyesore and embarrassment to every person who will traverse this area for certainly more than a year

The Applicant states that they will be raising the level of this land by 16 feet. This may be true, or not. However, if it is accurate, then it is also not practical in our market place to believe that this property will become anything other than a vacant, former land fill operation. There are simply too many other potential sites available at reasonable prices for any real business to want to deal with the unknowns

The Tower at Peabody Place | 100 Peabody Place Suite 1400 | Memphis, Tennessee 38103
P.O. Box 3661 | Memphis, Tennessee 38173-0661 | 901-767-4700 | 901-260-7272 Fax

Belz Enterprises is a trade name used by various business entities

L.U.C. B. Staff Report
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associated with environmental and structural issues associated with landfills. This is the same song and dance story that was originally stated by the folks in Frayser, which has turned into a dead zone. Our City Council wisely recently rejected their request to build a great mountain of debris in that area of Frayser.

The Applicant refers to trees and landscaping to be placed around the site. This is of minimal effectiveness to the tens of thousands of vehicles daily passing here, as they will be looking down on this mess. The adjoining neighbors will be waiting for decades to have any real effective screening from the planting scheme that has been identified.

As you know the site is located on Shelby Oaks Drive. This is a two-lane road that travels from Summer Avenue to Sycamore View. There are no sidewalks on this portion of Shelby Oaks to provide a safe area for pedestrians. And, the road cannot properly accommodate the heavy truck traffic. The Applicant has said there will be 70 or more trucks using the facility daily (5 – 7 per hour). This doesn't even include the non-commercial traffic that they promote in their application. This would present a problem of unimaginable magnitude to all the businesses in the area. The western portion street, which this proposed project is located, has periods of congestion already. There is no plan to prevent the trucks and other traffic from approaching this facility from the east - using Sycamore View Road and Shelby Oaks Drive. This is an enormously busy area. Introducing this traffic into this mix is reckless, and poor planning. We have major corporate office buildings (Methodist Hospital, ENSAFE, MLGW, numerous insurance and other professional companies – see enclosed pictures) within this portion of Shelby Oaks Business Center. Every one of them will be negatively affected by such a possible outcome.

In addition to these matters, our company and the entire Fletcher Creek Sewer Basin has recently been made aware of the lack of adequate sewer capacity within the approximate 22,000-acre basin. Our City engineering and public works departments have only begun initial studies of the nature and extent of the problem. This will, no doubt, require a new sewer line to connect from the east travelling to the Wolf River Interceptor. Our City's professionals will and should have the benefit of every possible remedy. Now, it appears a possible routing for this remedy may involve going through this property. It would be tragic indeed if the Land Use Control Board and City Council take away any possible route for resolving this enormous problem.

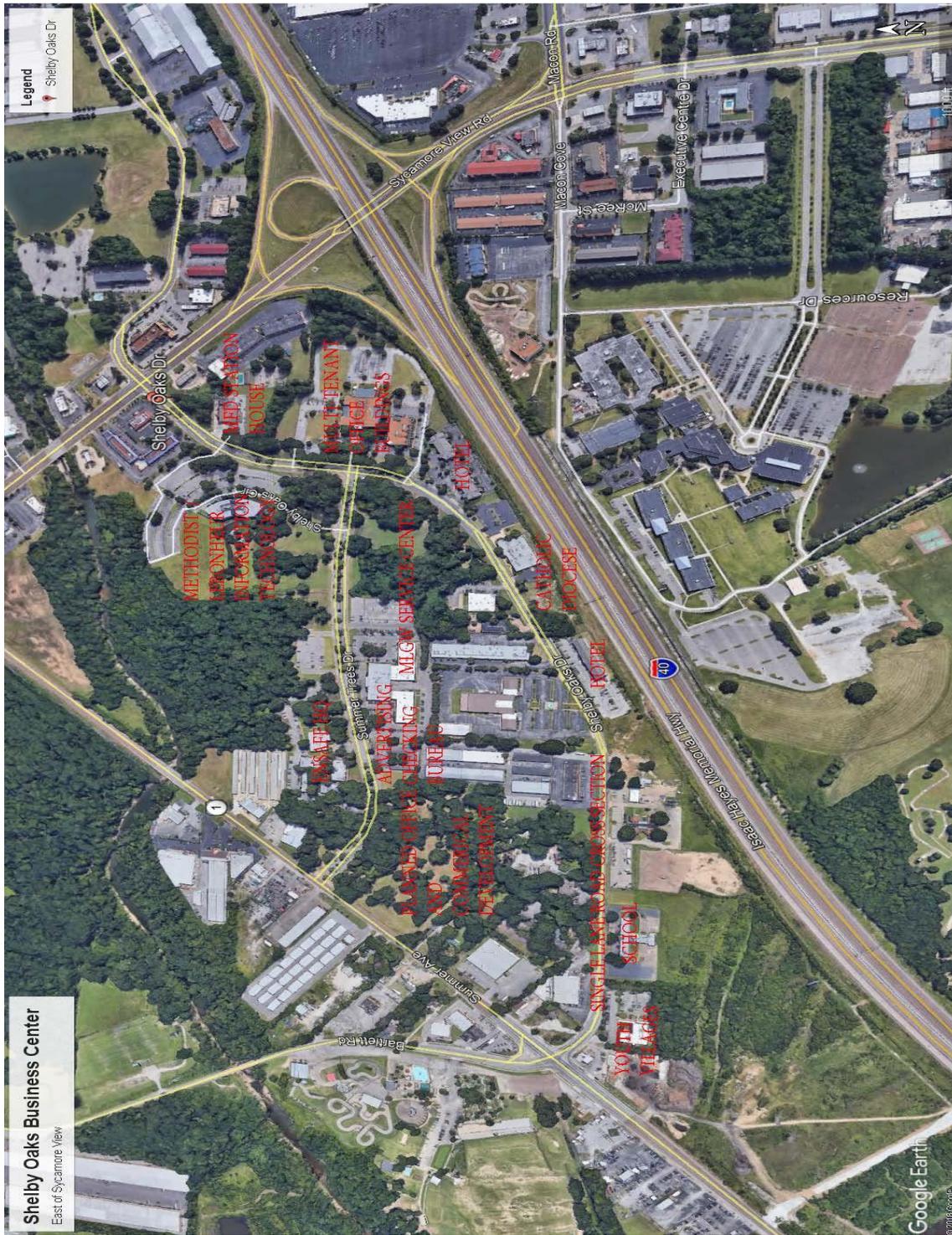
For these and other reasons, we urge you to reject this proposal in its entirety.

Sincerely,
BELZ ENTERPRISES



Ronald A. Belz
President and CEO

Copy: Don Jones



L.U.C. B. Staff Report
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Letter from Freed-Hardeman University



Office of the President

April 2, 2018

Mr. J. Don Jones
Land Use Control
Office of Planning and Development
City Hall, 125 N. Street, Ste. 468
Memphis, TN 38104

RE: PD 18-15, PD 18-13 (formerly known as SUB 18-03)

Dear Mr. Jones:

The purpose of this letter is to voice Freed-Hardeman University's concern with and opposition to the proposed Shelby Oaks Drive Commercial Development at 5559 Shelby Oaks Drive.

Freed-Hardeman University is a private, non-profit institution of higher education with campuses in Henderson, Dickson, and Memphis, TN. Our Memphis campus is located at 5565 Shelby Oaks Drive and is directly adjacent to the property at 5559 Shelby Oaks Drive.

The proposed landfill project is anticipating a six days per week operation for an expected five years. This project is proposed to be approximately 100 feet from our property. Although landscaping and berms are to be built, the noise and dust from crushing equipment, along with the odor and gas from decomposing drywall, insulation, and other construction materials will not be satisfactorily mitigated by these measures. Besides the unpleasant odor, these gases are known causes of health difficulties, including irritation of the eyes, nose, and throat as well as difficulty breathing, nausea, and headaches.

The developer claims the project will be compatible with the immediate vicinity. This is very unlikely as it is not compatible with our mission. The impact of a landfill site directly adjacent to our campus will have a negative impact on our image and property value. We offer courses leading to bachelor's, master's, education specialist's and doctoral degrees at Memphis. In addition, we utilize our building for dual enrollment classes for high school students, and we host events for local Alumni and professional development seminars with Shelby County educators, mental health professionals, and business leaders.

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Mr. Jones

April 2, 2018
Page 2

The proposal states that the development will not adversely impact adjacent properties; however, this will adversely impact our property and our neighbors. By increasing traffic on Shelby Oaks Drive by up to 75 large trucks per day to the already busy street that is only a two-lane road with no curb or sidewalk, the safety, noise, and traffic for entering and leaving our existing properties will be affected. In total, this will be 150 trips of large trucks added to Shelby Oaks Drive every day, during which time, we are working to educate our students.

Another concern of ours is the water run-off and flooding on the proposed site and ours. I'm not convinced that the planned water management strategy will be effective at maintaining or reducing our risk to floods. Not only do we see rising water during heavy rains, but also when the Wolf River is filled from the flooding of the Mississippi River. The water rises and floods that entire plot.

Please consider our concerns. With several properties that are currently available in our subdivision alone, there is no pressing need for expanding development. If this proposal was to elevate the property for commercial use without being used as a landfill, I would be more open to the project. Please do not hesitate to contact me if there are any questions you have about my position on this proposed development.

Sincerely,



David Shannon, President
Freed-Hardeman University

L.U.C. B. Staff Report
P.D. 18-15
May 10, 2018



5646 SHELBY OAKS DRIVE
MEMPHIS, TENNESSEE 38134
PHONE (901) 382-4070
FAX (901) 388-2534
www.continentalconst.com

April 5, 2018

Memphis and Shelby County
Office of Planning and Development
City Hall
125 N Main Street, Suite 468
Memphis, TN 38103

Attention: Mr. Don Jones, Municipal Planner

Re: Case No. P.D. 18-15
Construction Debris Landfill

Gentlemen:

We are opposed to the land use application filed with the Office of Planning and Development for the construction of a Construction Debris Landfill on the south side of Shelby Oaks Drive for the following reasons:

- 1) Increased traffic problems with the expected 70 trucks per day entering and exiting the proposed landfill facility from Shelby Oaks Drive. Has there been a traffic study to determine the impacts of the additional truck traffic?
- 2) Pavement damage caused by the additional truck traffic. Shelby Oaks Drive was finally resurfaced a couple of years ago and is already deteriorating from the existing traffic. Has an analysis been made on the existing pavement to determine if it is adequately designed for the proposed truck traffic?
- 3) Safety of our employees due to the added truck traffic. We already have issues entering and exiting our business onto Shelby Oaks Drive at certain times during the day.
- 4) We oppose the public drop off areas for multiple reasons:
 - Increased traffic on Shelby Oaks Drive
 - Ability to control who enters and dumps at the facility and the materials being dumped
 - Additional trash and debris being introduced into the area and being blown across Shelby Oaks Drive to our property
 - Nails and metals littered onto Shelby Oaks Drive that puncture our employee's tires

L.U.C. B. Staff Report
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Memphis and Shelby County
Office of Planning and Development
Attn: Mr. Don Jones, Municipal Planner
April 5, 2018
Page Two

- 5) Damage to the local environment by the placement of construction debris in an uncontrolled floodway.
- 6) Dust, odor and noise pollution caused by the proposed development.
- 7) Effects to the local wildlife.
- 8) Appearance of the landfill from our business and from I40, which is the main entrance into the city from the east.
- 9) We are concerned that our property value will decrease due to the proposed landfill development.

Again, we strongly oppose the Construction Debris Landfill application filed with the Planning and Development office.

Yours very truly,

CONTINENTAL CONSTRUCTION COMPANY, INC.



Curt McMillin, P.E.
President

CM:lmh

Application



Memphis and Shelby County
Office of Planning and Development

CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

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

Date: March 5, 2018

Case #: PR 18-15 (formerly known as SUP 18-03)

PLEASE TYPE OR PRINT

Name of Development: Shelby Oaks Drive Commercial Development

Property Owner of Record: William H. Thomas, Jr (Parcels 1 & 2); R&D Ventures, LLC (Parcel 3) Phone #: 901 766 9075

Mailing Address: 5160 Sanderlin, Suite 1 City/State: Memphis/TN Zip 38117

Property Owner E-Mail Address: whthomas48@aol.com; rickykbb@aol.com

Applicant: Blaylock & Brown Construction, Inc Phone # 901 581 5977

Mailing Address: 10636 Shelton Road City/State: Collierville/Tn Zip 38017

Applicant E- Mail Address: normanbbrown@comcast.net

Representative: Norman Brown III Phone #: 901 581 5977

Mailing Address: 10636 Shelton road City/State: Collierville/Tn Zip 38017

Representative E-Mail Address: normanbbrown@comcast.net

Engineer/Surveyor: A2H Phone # 901 372 0404

Mailing Address: 3009 Davies Plantation Road City/State: Lakeland Zip 38002

Engineer/Surveyor E-Mail Address: davids@a2h.com

Street Address Location: 5559 Shelby Oaks Drive

Distance to nearest intersecting street: Summer Avenue, 1150 feet to the west

	Parcel 1	Parcel 2	Parcel 3
Area in Acres:	8.95	3.48	2.12
Existing Zoning:	EMP	EMP	EMP
Existing Use of Property	VACANT	VACANT	VACANT
Requested Use of Property	EMP	EMP	EMP

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

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

Number of Residential Units: _____ Bedrooms: _____

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

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

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

4.10.3 Planned Development General Provisions

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

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

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

SEE ATTACHED

- 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.

SEE ATTACHED

- The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses... (see UDC sub-section 4.10.3C)

SEE ATTACHED

- 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.

SEE ATTACHED

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

SEE ATTACHED

- Lots of records are created with the recording of a planned development final plan.

NA

REQUIREMENTS PRIOR TO APPLICATION SUBMISSION

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

Pre-Application Conference held on: 1/3/18 with Norman Saliba

NEIGHBORHOOD MEETING - At least ten (10) days, but not more than 120 days, prior to a hearing before the Land Use Control Board, the applicant shall provide an opportunity to discuss the proposal with representatives from neighborhoods adjacent to the development site (Section 9.3.2).

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

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

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

William A. Thomas *Shylock + Brown Const. LLC*
Property Owner of Record Date Applicant Date

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

- A **THE APPLICATION** - Two (2) collated sets of this application in accordance with the requirements of the Unified Development Code and as outlined below shall be submitted to OPD. The following information is required to be submitted for consideration as a complete application, and except for copies of the Outline and/or Site/Concept Plan, shall be provided on sheets of 8.5"x11" in size. The application with original signatures shall be completed either with legible print or typewritten. Each application set shall be compiled in the following order:
- 1) This application, 8.5"x11" Outline and/or Site/Concept Plan, Legal Description, Vicinity Map, 2-3 sets of gummed-backed Mailing Labels, 2 sets of paper copied Mailing Labels, Letter of Intent, 20"x24" Outline and/or Site/Concept Plan (folded), copy of Deed(s).
 - 2) A compact disc with all submittal documents in "PDF" and any proposed conditions in "WORD".

(For additional information concerning these requirements contact Land Use Control Section at (901) 576-6601.)

L.U.C. B. Staff Report
P.D. 18-15
May 10, 2018

Letter of Intent

BLAYLOCK & BROWN CONSTRUCTION, INC
10636 SHELTON ROAD
COLLIERVILLE, TN 38017

March 17, 2018

J. Don Jones
Land Use Control
Office of Planning and Development
City Hall
125 North Main Street, Suite 468
Memphis, Tn 38103-2084

Mr. Jones:

This letter will serve as our letter of intent to improve the property at 5559 Shelby Oaks Drive under a Planned Development to create a buildable commercial development site. The property will be raised 16 feet above the highest point in the property using construction/demolition debris and will be marketed for commercial investment.

Our intent is to operate a construction/demolition landfill as described in the attached material which will include a drop-off plaza for private citizen access at no cost to the user. The proposed operation will allow recycling of commercial debris as well as material from private citizens while converting vacant property to useable space.

We have retained the firm of Brophy-Heineke & Associates to assist in the management of a small amount of wetlands which exist on the property. Planning and engineering will be provided by the firm of A2H, Inc.

Conversion of the property from a vacant condition to a marketable commercial development is consistent with the slated use of the property (EMP) in the latest version of the UDC. Adjoining property to the east is also classified as EMP. The development will secure the appropriate approvals and permits from the U.S. Corps of Engineers, FEMA, and the Tennessee Department of Environment and Conservation (operating permit for a Class III landfill). Design of the access to the site from Shelby Oaks Drive will be presented to the City of Memphis for the appropriate approvals for an improved entrance on Shelby Oaks Drive

The utilization of construction/demolition debris as fill material to level the site and raise the elevation also provides an outlet for governmental entities and citizens to bring acceptable material for recycling and disposal. Drop off areas for citizen access are limited in the City of Memphis. Recycling and material separation at this facility will allow individuals to participate in the City's recycling activities.

The impact of the proposed operation on the neighboring properties will be minimized by earthen berms and tree screening near the adjacent properties on the East and North. The property South of the site is Interstate 40. Tree planting and landscaping will be work around a mitigation stream in the area between the interstate right-of-way and the project. Intensive tree screening will be developed along the utility right-of-way on the West and North of the site. Site development will begin in the southeastern portion of the property. Landfill operation will proceed to the south and then north.

We look forward to your review of our application for a special use permit to improve the subject property.

Respectfully,


Norman Brown III
Blaylock & Brown Construction, Inc

Reply to UDC 2.6.4 Landfill Requirements

UDC Section 2.6.4 Industrial Use Standards Shelby Oaks Drive Site

D. Landfill

1. Application

The application for a special use permit approval (see also Chapter 9.6) shall show the following:

- a. Contours of not less than two foot intervals (except on extremely steep slopes). Survey is several years old; however, site has been vacant for numerous years and survey is still accurate.
- b. The existing surface of the site and the surrounding properties within 50 feet from its boundaries. Sheets 1&2 have been developed to indicate the three parcels which are included in the planned development and surrounding parcels within 50'. .
- c. The ultimate depth elevations of the area to be excavated or filled. The depth of excavation will be determined after the boring program and TDEC review of the hydrogeologic report. Currently, it is estimated that the excavation will be a maximum of 8 feet.
- d. The ultimate finished surface of the site after all excavation and filling operations are completed. As shown on the plan and profile drawings, the final grade of site will be elevation 256.5 ft msl which is consistent with the elevation of Shelby Oaks Drive. This is subject to change (downward) based on regulatory review and approval.
- e. Cross sections at critical points to illustrate the methods to be employed in the process of excavation and fill. Attached plan and profile drawings (sheets 3&4)
- f. Locations where excavation and filling operations will commence and the procedural sequence of operations. As shown on the attached drawings, the initial landfill development will occur in the southeast area of the site with the excavation of landfill Cell 1. Cell 2 will be excavated after Cell 1 has reached 80% capacity or has six months life to bring it to 4' above natural grade. This development process will continue to limit the amount of disturbed area. Cells which have been filled to slightly above grade will be temporarily stabilized with vegetation until above grade fill is added.
- g. Methods to be employed for surface drainage during and after completion of operations. The natural drainage leaves the site at the Northwest limit. Runoff from undisturbed areas will continue in the natural drainage path. Runoff from active operating areas or disturbed areas will be directed to on-site retention basin. An existing conveyance structure will be re-routed along the interstate right-of-way in a stream mitigation structure and then to the north along the site property line. Drainage modifications will be approved by the U.S. Corps of Engineers and monitored by TDEC.
- h. The volumes of materials to be excavated and filled on the site where operations are to take place and expected duration of landfill operations. Initial estimate of excavation volume is 104,000 cubic yards; however, this will be determined by the geotechnical evaluation of

the site as part of the TDEC permitting process. Excavated soil will be stock piled on site and used for berm construction and cover material. Above grade air volume is estimated at 160,000 cubic yards with the final elevation of the compacted waste material at 254 feet msl (16 feet above natural grade). The final cover required by TDEC is 30 inches. Additional cover will be placed on top of the fill to bring the final elevation to 256.5 feet msl. The additional cover will be added to prepare the site for commercial development.

- i. Improvements such as new roads and pavements to be installed on and off the site to enable the operation to be carried out. The site currently is vacant with access to Shelby Oaks Drive. Site improvements related to the landfill development will be determined in part by final approval by the City Engineer. The anticipated improvements are as follows:
 1. An existing curb cut on Shelby Oaks Drive will be improved to allow truck access to the site. Truck scales are not envisioned for this site.
 2. A drop-off recycling center for general public access (at no cost) will be developed close to the paved entrance. Both the drop-off plaza and the entrance will be paved with asphalt. A gravel internal access road will be constructed from the paved entrance to the landfill area.
 3. Mechanical separation of recyclable materials will occur adjacent to the drop-off plaza initially on a gravel stabilized area.
 4. Additional improvements to the site will consist of berms with landscaping along Shelby Oaks Drive and the northern and eastern property boundaries. Fencing will be installed with the landscaping and berms to provide site security. Truck and trailer parking will be on a gravel improved area west of the drop-off plaza screened by the berms and landscaping.

- j. A statement setting forth the type, location and conditions of such landfill operations including a hydro- geologic evaluation shall be submitted for review. The governing bodies shall require a written assessment of specific environmental issues regarding the proposed landfill operation. The site is currently vacant with a stream crossing the site from a drainage pipe under the interstate and leaving the site in the Northwestern portion of the site. Several areas of wetlands have been identified on the site. The wet land areas have been mitigated under a U.S. Corps of Engineer permit. A portion of the stream will be relocated into a mitigation stream located along the interstate highway right-of-way. The majority of the stream will remain in an undisturbed condition. Prior to site development, soil borings will be obtained and submitted to TDEC as part of a hydrogeologic report which is required for the TDEC Class III solid waste management permit. Analysis of the hydrogeologic data will determine the depth of excavation and geologic buffer requirements. The hydrogeologic data and report will be available to the City upon request. Once the TDEC permit approval has been obtained, water diversion/erosion control techniques will be installed. Site improvements (entrances, drop-off plaza, berms along Shelby Oaks Drive and the

north and east property boundaries, mechanical separation area, truck/trailer parking) will proceed as clearing of Cell 1 area is initiated with spoil moved to storage on Lots 7 and 8 of the subdivision and eventually used to create berms with extra storage in the buffer areas. Once Cell 1 has been excavated to the desired elevation, installation/construction of liner will occur. Landfill operation will begin by placing select fill on bottom of the cell and continue with placing/compaction of c/d debris. Once the landfilling operation has begun, the recycling drop off plaza will be opened, and the separation/recycling operation initiated. Filling of Cell 1 will continue until 80% of the below grade capacity has been reached or the anticipated life remaining is six months. Excavation for Cell 2 will begin following same pattern as Cell 1. Excavation and filling will be continued until footprint is 4 feet above natural grade. Above grade filling will begin with bringing Cell 4 sixteen feet above grade and filling out to the west. Above grade material will be covered as per TDEC permit requirements (side slopes constructed on a 4:1 slope with final cover of 30 inches). The top of the above grade fill be placed on a 20:1 slope to facilitate drainage and stabilized with permanent vegetation.

2. General Provisions

- a. Landfill excavation or filling shall not be located within the approach zones of any airport. The landfill site is not located in the approach zone of an airport.
- b. Landfill excavation or filling shall not be located within a minimum of 500 feet of any building used for residential purposes. It is further provided that such distance restrictions shall also not apply to residential buildings for which construction was begun after the submission to the Tennessee Department of Environment and Conservation of a written request by the applicant for preliminary hydro geologic evaluation of the landfill site. No fill shall be located within the 100 year floodplain and no excavation except as expressly authorized by the appropriate legislative bodies shall be located within the 100 year floodplain. The Shelby Oaks Drive site is in the 100 year flood plan. The proposed excavation and filling plan will be presented to the City of Memphis City Engineer for review and submission to FEMA for removal of the site from the flood plain delineation. The proposed site does not have any residences within 500 feet of the property.
- c. No excavation or filling shall be made within 100 feet of any boundary of the site or within 100 feet of any street right-of-way. The landfill will be developed with a 100 ft buffer (no fill area) around footprint.
- d. The finished grade of side slopes of excavation and fills shall not exceed one foot vertical to two feet horizontal and shall be blended into undisturbed existing surfaces. The finished side slopes will be on less than a 1:4 side slope. Excavation slopes will be on less than a 1:3 slope.
- e. A landscape screen including a chain link, woven wire or similar secure fence shall be installed and maintained around the perimeter of the site. Gates of the same construction as the fence shall be provided, and shall remain locked at all times when active operations are not taking place and shall be properly maintained until all operations are completed. Enhanced landscaping and berms will be constructed along Shelby Oaks Drive and the north common property line with Freed Hardeman University. Enhanced

landscaping will be installed along the remaining property lines with fencing around the property including gates at the entrance.

- f. Provisions shall be made for the proper drainage of stormwater falling on or crossing the site at all times during and after completion of the operations. The operations shall not obstruct the normal flow of any public drain, or abrogate the riparian rights of any other party to a stream or drain. Storm water from undisturbed areas will be diverted around disturbed areas and leave the site as currently. Storm water from disturbed areas will be directed to a retention basin and managed as part of an approved storm water pollution plan.
- g. The depth of excavation and the materials to be used for fill shall not have any adverse effect on the supply, quality or purity of ground water or well. The depth of excavation will be defined by the hydrogeologic study and approved by TDEC. Protection of the ground water resource is a critical element of the TDEC review.
- h. A layer of clean earth at least two feet thick shall be deposited and thoroughly compacted over all final fill to bring the surface to the finished surface grade as shown on the topographic plan filed with the application. The final fill and finished grade shall be stabilized, seeded and sodded or appropriately planted after completion and closure of each stage of landfill operations. The final cap and closure details will be defined by TDEC in the Class III permit. Typically, the final cover (cap) consists of 30 inches of soil. Under current TDEC regulations, the developer is responsible for management of the closed site for a two-year period.
- i. The installation of roads, parking areas, buildings, structures and operational facilities and equipment shall be located on the site so that adjoining properties will not be adversely affected. An internal road will be extended from the truck/trailer parking area to the landfill footprint. Parking of trailers and vehicles will be in the southeastern portion of the site adjacent to the drop-off plaza.
- j. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor or incandescence to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by use of calcium chloride or some other approved method. No fires shall be permitted. Any smoldering flame or spontaneous combustion shall be immediately extinguished. Noise from the landfill operation will be limited to truck traffic entering and leaving site (5 to 7 per hour) and landfill compaction equipment (track type equipment). The operation will not create vibration off of the landfill site. Dust will be controlled as per TDEC requirements. The material received at the landfill is non putrescible and will not create an odor. The operating hours for the landfill do not include after dark operation and therefore the negative effects of lighting will not be a problem.
- k. Except for protective fences, no building or structure, other than a scale and entry gatehouse erected in connection with the operation, shall be located in any required yard or closer than 100 feet from any property line. The landfill operation will not have a structure within 100 feet of any property line.
- l. The site for sanitary landfills shall be a minimum of 100 acres of land that would be approved by all regulatory agencies. The proposed operation is not a sanitary landfill.

- m. The application shall be accompanied by an affidavit by the applicant that the proposed landfill operation will comply with all local, state and federal laws of regulations applicable to such land filling operations and that all required permits and approval have been or will be secured. Furthermore, in any case in which these rules are in conflict with state or federal law or regulation, the more stringent rule, law or regulation, shall take precedence. Affidavit is attached.
 - n. The landfill site shall not obstruct the development of any street proposed in the MPO Long Range Transportation Plan. There are no known improvements with Shelby Oaks Drive that would conflict with the landfill operation.
 - o. The landfill site shall have direct access to a major or connector street. Access to the site shall be located so as to require a minimum of travel on a public way. The landfill operation has direct access to Shelby Oaks Drive.
 - p. All materials delivered to the site shall be deposited and thoroughly compacted in accordance with the rules and regulations of the Tennessee Department of Health and Environment, Division of Solid Waste Disposal. Materials not permitted in landfills by state regulations shall not be permitted as fill material. Each day's deposit, after compaction, shall be covered with a layer of earth at least six inches in thickness after compaction. The face of the fill as well as the horizontal surface shall be covered with a layer of earth to prevent any movement of fill by wind or water erosion. The landfill operation will secure a Class III Construction & Demolition Landfill permit from TDEC and operate under the conditions of the TDEC permit.
 - q. Separation of materials or storage for the salvage thereof on the site shall be conducted within an enclosed building. All unacceptable fill material shall be removed from the premises immediately after delivery. Recycling and recovery of materials from the incoming construction/demolition debris will be accomplished by mechanical separation of material in the inbound trailers. Recovered material will be removed from the site daily or placed in containers for subsequent removal to an off-site processing facility. Drop-off material will be accumulated in containers which will be removed to an off-site processing facility. Non-recoverable material will be taken to the landfill for compaction and burial.
 - r. Water lines shall be installed, connected to a public water supply, or to some other source which by use of pumps will provide water in sufficient quantity to combat fires or settle dust. Access to public water is available on Shelby Oaks Drive.
 - s. The days and hours of landfill operations are subject to the approval of the legislative. The operating hours for the drop-off plaza and the landfill operation will be 7:00 am to 6:00 pm Monday-Friday and 7:00 am to 2:00 pm on Saturday.
 - t. Any other conditions or standards as the legislative body may deem reasonable and appropriate to prevent or minimize any adverse effect of such landfill operation.
- i. Prior to the commencement of landfill operations, the applicant for the special use permit shall submit to the building official a primary reclamation performance bond in the amount of \$3,500 per acre for each acre to be excavated, less the amount of bond held by the state, increasing \$100 per acre per year from the date of adoption of this Article, for landfill operations to insure that the land shall be restored, regraded and resloped as provided in this section when such operations cease. Said bond shall not be released until the work it secures is completed or a substitute serial bond is received by the appropriate government official which shall secure all remaining work under the original bond and all bonds submitted pursuant to this section and shall so state. Such primary reclamation performance bond may be on a serialized basis in five year increments. Such

primary reclamation performance bond shall be released after primary reclamation activities are complete and the condition, grade and drainage of the land are approved in writing by the Building Official and City or County Engineer provided, however, that a proportionate release of not to exceed 60% of said primary reclamation bond may be authorized by the Building Official and City or County Engineer for phased or partial reclamation. The owner/operator will obtain a Class III Construction/Demolition Waste permit from TDEQ. As part of the permit requirements, the owner/operator will be required to establish closure/post closure financial assurance. The closure fund will remain in force until the landfill operation is closed to the satisfaction of TDEC.

4. A final reclamation performance bond in an amount not less than 40% of the primary reclamation performance bond on deposit at the time of closure shall be submitted to the Building Official and retained for a period of five years after release of the primary reclamation bond to ensure restoration of reclaimed areas affected by settling and subsidence of filled land. Such final reclamation performance bond shall be released at the end of said five year period and after final reclamation activities are completed and the condition, grade, and drainage of the land are approved in writing by the Building Official and the City or County Engineer. The owner/operator will obtain a Class III Construction/Demolition Waste permit from TDEQ. As part of the permit requirements, the owner/operator will be required to establish closure/post closure financial assurance. The post-closure fund will remain in force for two years after the closure of the landfill. The owner/operator is required to maintain the condition of the closed landfill to the satisfaction of TDEC.

L.U.C. B. Staff Report
P.D. 18-15
May 10, 2018

Compliance Affidavit

COMPLIANCE AFFIDAVIT

As the Applicant for this Special Use Permit, I, Norman Brown III, representative for Blaylock & Brown Construction, Inc., confirm that the proposed landfill operation will comply with all local, state, and federal laws or regulations applicable to such landfilling operations and that all required permits and approvals have been or will be secured. Furthermore, in any case in which these rules are in conflict with state or federal law or regulation, the more stringent rule, law or regulation, shall take precedence.

EXECUTED this 9th day of March, 2018

BY  Applicant
Norman Brown, III

Attendance List

SHELBY OAKS DRIVE COMMERCIAL DEVELOPMENT NEIGHBORHOOD MEETING			
		29-Mar-18	
PLEASE PROVIDE THE FOLLOWING INFORMATION WHICH WILL CONFIRM YOUR PRESENCE AT THIS MEETING AND WILL ALLOW US TO CONTACT YOU WITH			
ANY ADDITIONAL INFORMATION RELATED TO THIS PROJECT			
NAME	MAILING ADDRESS	E-MAIL ADDRESS (IF ANY)	TELEPHONE CONTACT INFORMATION
John w. Smith	10305 Latting Road, Cordova, Tn 38016	smithjws@bellsouth.net	901.754.1239
Steve Ritter		sritter@fhu.edu	901.270.1692
Curt McMillin		cmcmillin@continentalconst.com	901.382.4070
Shawn Billings		sbillings@continentalconst.com	901.382.4070
Matt Marek		Matt@naturesearchproducts.com	901.687.5298
David Smith		davids@azh.com	901.372.0404
Cindy Reaves		cindy@srce-memphis.com	901.870.7003
Ron Belz		ron.belz@belz.com	901.260.7268
Sharonda Warren		swarren15@southwest.tn.edu	901.333.5143
Norman Brown		Normanbrown@comcast.net	901.581.5977
Gina Brown		Ginalbrown@comcast.net	901.483.0300
Glyn Moore		glynm@eboxplex.com	901.299.4717
Aubrey Smith		AASmith41@aol.com	901.388.5314

L.U.C. B. Staff Report
P.D. 18-15
May 10, 2018

NAME	MAILING ADDRESS	E-MAIL ADDRESS (IF ANY)	TELEPHONE CONTACT INFORMATION
Sam Powers		sam.powers@memphistn.gov	901.636.6784
Ryan Hall		ryanhall@wolfriver.org	901.233.8603
Daphne Thomas		dthomas@southwest.tn.edu	901.333.4368
John Mullins	5544 Summer Ave., Memphis, TN 38134		901.386.9789
Bill Matthews		William.Matthews@youthvillages.org	503.349.9034
Susie Chang & Young Chang		susie@youngstrading.com	901.390.0939
Michael Hooks			
Melvin Cobb			901.287.0068

Notes from Meeting

List of citizens' questions and concerns from the April 29, 2018 Public Meeting concerning the Special Use Application for the proposed Shelby Oaks Landfill.

1. Will the fill at the site include recyclables (household materials)?
2. What will the major fill items consist of (types of materials that will be landfilled)?
3. Will the site produce odor as there had been a history of odor in the past coming from the Collierville complex?
4. If there is odor impacting the community what recourse will the residents have?
5. Will there be any burning of waste at the site?
6. Southwest Community College asked what measures will be taken to keep litter from escaping the landfill; especially on windy days?
7. Will the landfill impact air quality?
8. Will there be buffers around the entire site?
9. Will the site be built up to street level (Shady Oaks; flooding in the past has caused water to enter the buildings on Shelby Oaks).
10. Where will the trucks enter/exit the landfill?
11. What type of trucks are we talking about? And how many trucks a day on an average?
12. Don't want trucks on Shelby Oaks; too much traffic already. Freed Hardeman is not going to like that.
13. Has there been a traffic count study done?

14. Talked to Don Jones in OPD and he stated that the permit will allow Blaylock and Brown to operate just like Memphis Wrecking Company.
15. Why is OPD not at the meeting?
16. Cindy Reeves mentioned that an employee who works for her almost lost his life when he collided with a commercial vehicle and that section of Shelby Oaks is narrow and very dangerous.
17. Ron Belz stated that Shelby Oaks can't handle any more traffic.
18. Ron Belz wanted to know what will be the hours of operation?
19. What type machine will be used to compact debris, how many will be used at the site and do they produce noise?
20. Fred Hardeman will be concerned about the noise, odor and dust; what will be done to control the dust?
21. The majority of us don't want the public drop off center for household recyclables as it might add to the traffic problem.
22. Youth Village concerned about managing storm water as to not create additional drainage and flooding problems caused by the landfill.
23. Wolf River Conservative is concerned about ground water and underground aquifers being contaminated by asbestos and lead being dumped at the landfill.
24. There was a question about the bill board already on the site.
25. What will you see as far as the site is concerned when driving down I-40?
26. Ron Belz stated that he wanted the site closed in 5 years.
27. How many acres is the site?