



STAFF REPORT

AGENDA ITEM: 5

CASE NUMBER: PD 19-16 CO **L.U.C.B. MEETING:** 9 January 2020
DEVELOPMENT: Holmes and Hacks Cross Planned Development
LOCATION: Southeast corner of the intersection of East Holmes Road and Hacks Cross Road
COMMISSION DISTRICT: District 4
OWNER: Michael A. Lightman, Jr.
APPLICANT: Aman Devji
REPRESENTATIVE: Brenda Solomito Basar of Solomito Land Planning
REQUEST: Planned Development to Permit a Convenience Store with Gas Sales
AREA: 9.4 acres
EXISTING ZONING: Conservation Agriculture

CONCLUSIONS

- The applicant is requesting approval of a planned development to permit a convenience store with gas sales at the southeast corner of East Holmes Road and Hacks Cross Road in unincorporated Shelby County.
- The convenience store would rely on a septic system. As a policy, the City of Memphis no longer extends sewer to this area in order to encourage centralized development.
- This heavily wooded nine-acre site is zoned Conservation Agriculture and is surrounded by land that is also zoned Conservation Agriculture. It is adjacent on three sides to low-density residential uses. Just over 1000 feet to the south of the site are active agricultural uses, suggesting the continued viability of agriculture in this area.
- On the other hand, across the Mississippi state border – just over 3000 feet south of the site – is a complex of distribution warehouses. These warehouses produce a significant amount of truck traffic heading north up Hacks Cross Road. Furthermore, there is a planned widening of Hacks Cross Road.
- The planned widening of Hacks Cross Road, however, is not in itself justification for the commercial rezoning of this land. In fact, the street's expansion and the area's proximity to Mississippi industrial uses indicate the need for heightened zoning protection of this neighborhood's agricultural and natural character.
- Permitting a convenience store in this location would lead to the potential commercialization of the remainder of this street corner – without the guidance of a long-range plan. The resultant sprawl would break down a desirable agricultural buffer between Olive Branch, MS, and urban development in Shelby County.
- The Conservation Agriculture district "is intended to conserve agricultural land and undeveloped natural amenities while preventing the encroachment of incompatible land uses on farmland and other undeveloped areas." This goal remains appropriate in this location.
- This proposal would have an undue adverse impact on the character of the neighborhood, and does not meet the criteria for a planned development.

RECOMMENDATION

Rejection

GENERAL INFORMATION

Street Frontage:	Hacks Cross Road (Urban Minor Arterial)	679 linear feet
	East Holmes Road (Urban Minor Arterial)	380 linear feet

Zoning Atlas Page: 2550

Parcel ID: D0256 00062C

Existing Zoning: Conservation Agriculture

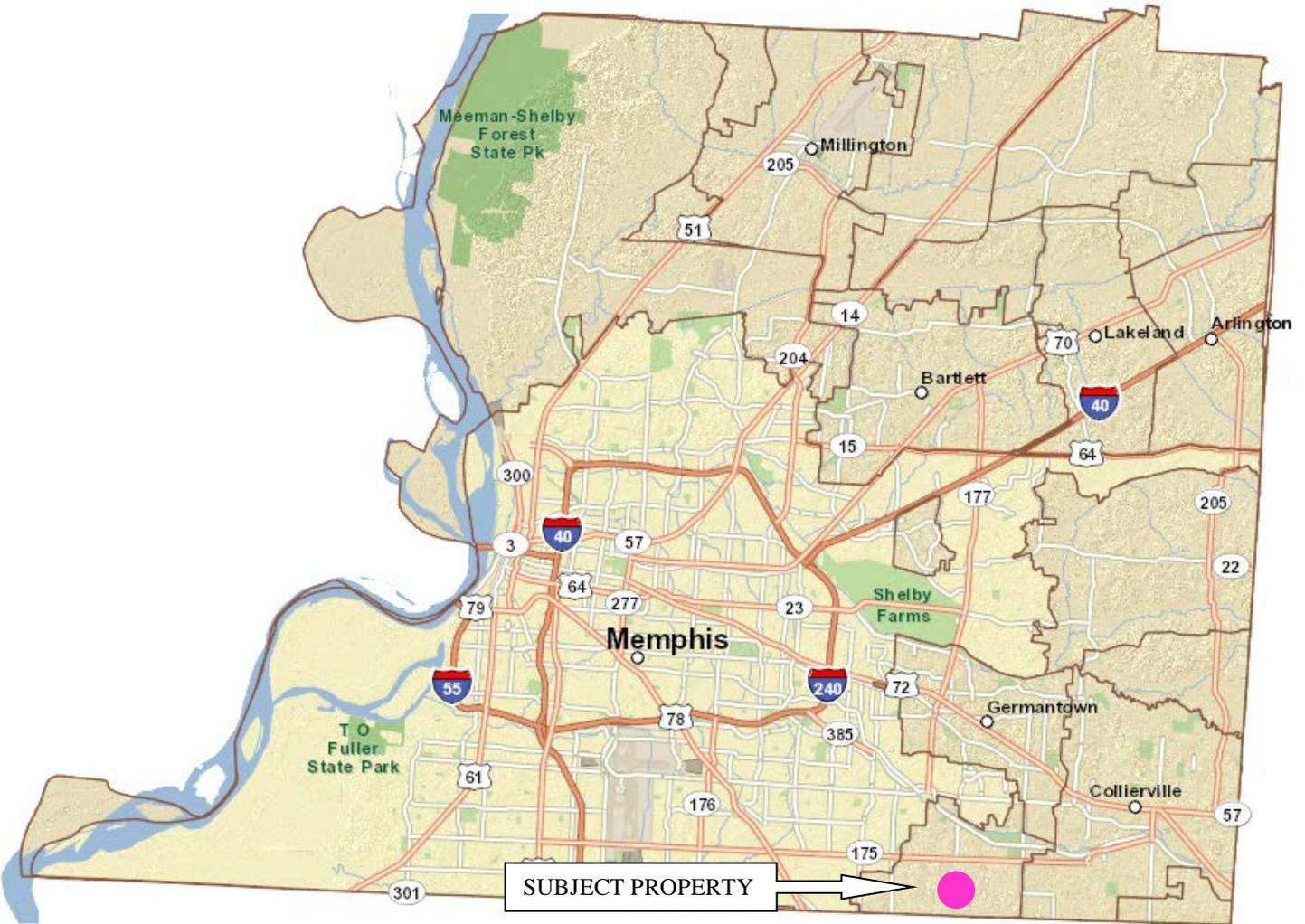
NEIGHBORHOOD MEETING

The required neighborhood meeting was held at 6:00 p.m. on Monday 30 September 2019 on site.

PUBLIC NOTICE

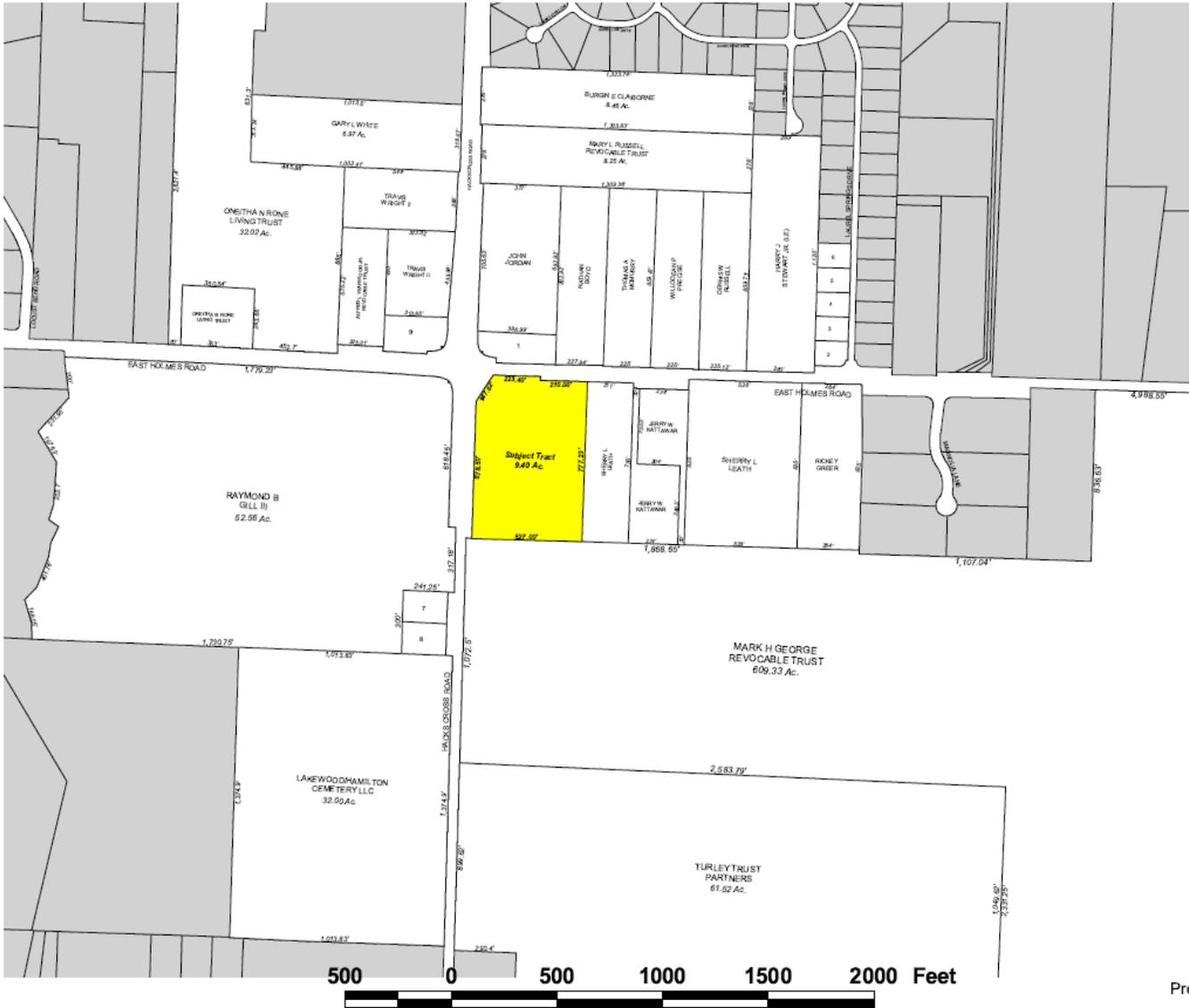
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 29 notices were mailed on 20 December 2019. The required sign affidavit has been attached to this report.

LOCATION MAP



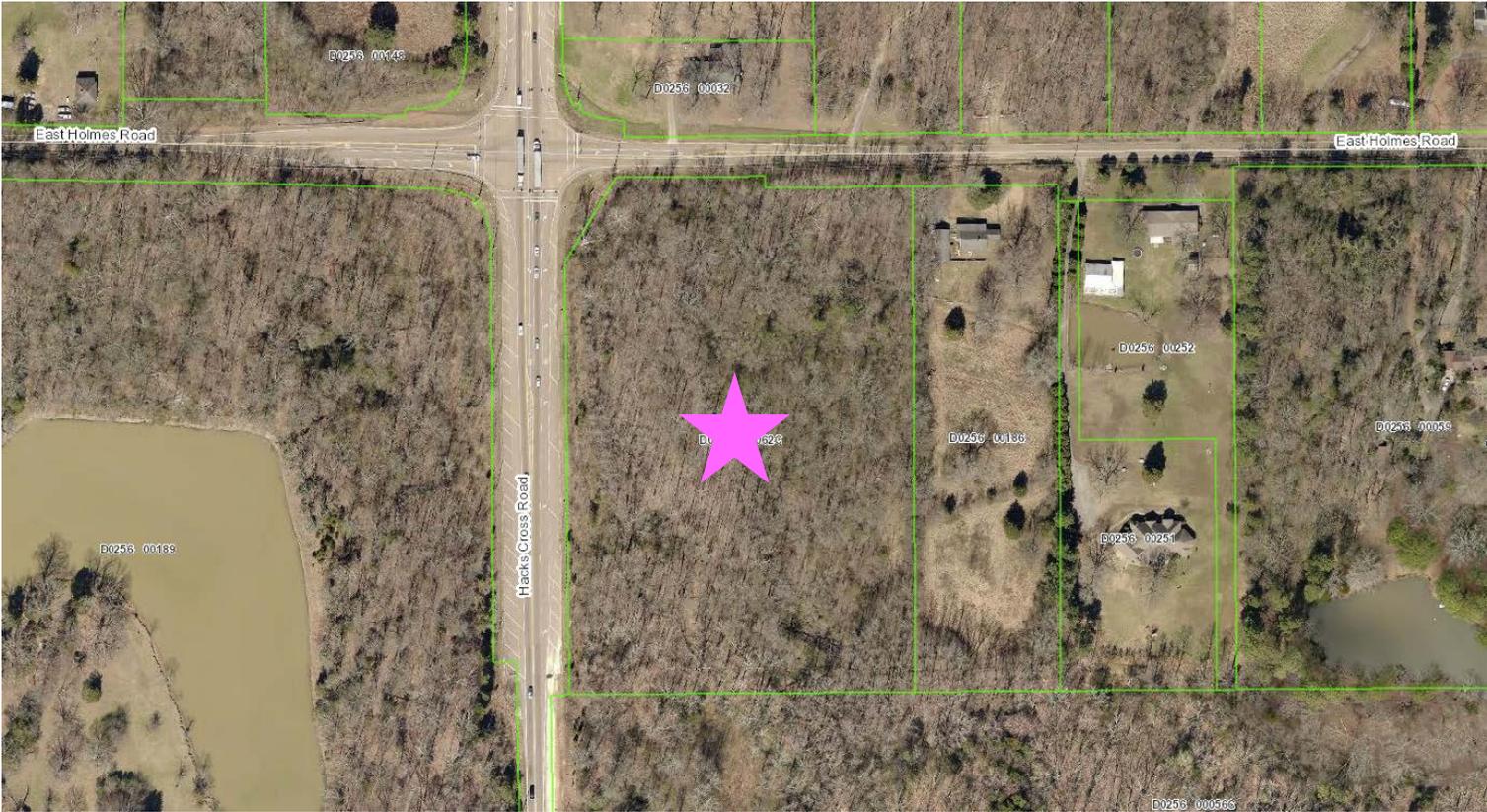
Subject property located within the pink circle, Southeast Shelby County

VICINITY MAP

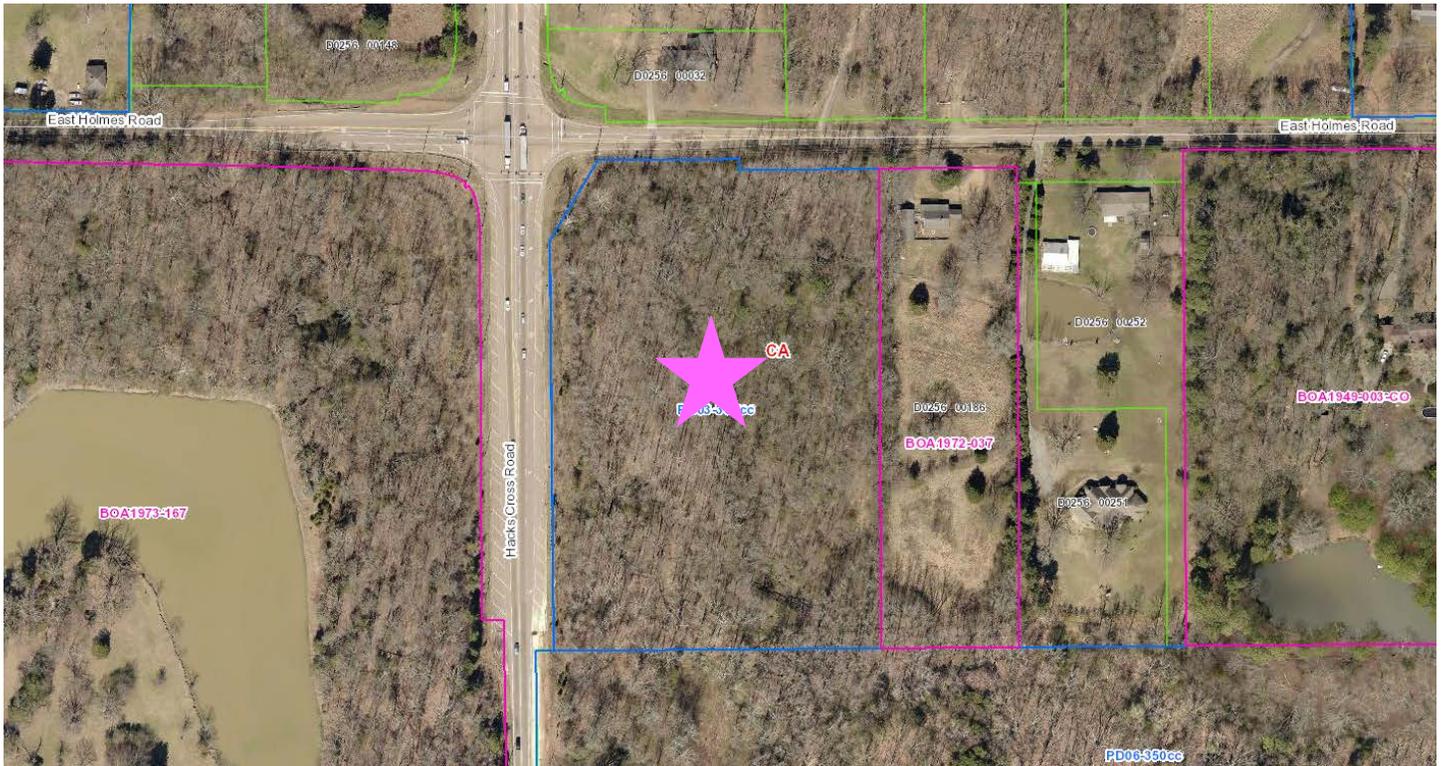


N
W E
S
Date: 09/24/18
Prepared By:
Property Research Data
PRD Job #18-113

AERIAL



ZONING MAP



Existing Zoning: Conservation Agriculture

Surrounding Zoning

North: Conservation Agriculture

East: Conservation Agriculture

South: Conservation Agriculture

West: Conservation Agriculture

All adjacent zoning entitlements appear to have expired.

LAND USE MAP



SITE PHOTOS



View of site from Hacks Cross



View south down Hacks Cross



View north down Hacks Cross



View of corner of Hacks Cross and Holmes



View of site at corner



Alternative view of site at corner



View of site along Holmes

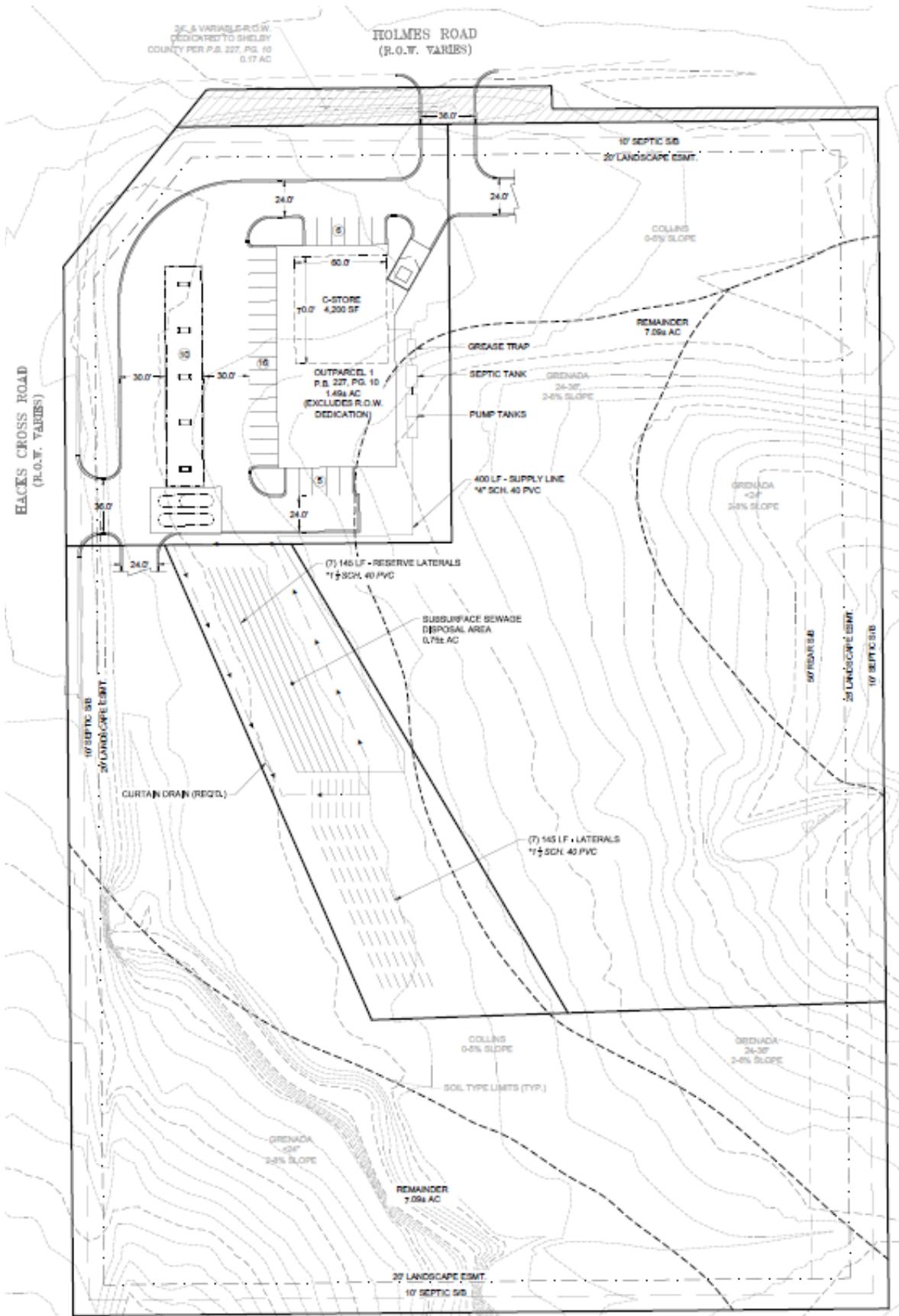


View of house across Holmes from site



View of property adjacent to east of site

SITE PLAN



ELEVATIONS



STAFF ANALYSIS

Request

The request is approval of a planned development to permit a convenience store with gas sales.

The application, letter of intent, response to planned development general provisions, and proposed outline plan conditions have been added to this report.

Applicability

Staff *disagrees* the applicability standards as set out in the Unified Development Code Section 4.10.2 are or will be met.

4.10.2 Applicability

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

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

General Provisions

Staff *disagrees* the general provisions as set out in the Unified Development Code Section 4.10.3 are or will be met.

4.10.3 General Provisions

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

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

- B. *An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development.*
- C. *The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for structures, parking and loading areas or access way shall be landscaped or otherwise improved except where natural features are such as to justify preservation.*
- D. *Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.*
- E. *Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.*
- F. *Lots of record are created with the recording of a planned development final plan.*

Commercial Planned Development Standards

Staff **agrees** the commercial planned development standards as set out in the Unified Development Code Section 4.10.5 are or will be met.

4.10.5 Planned Commercial or Industrial Developments

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

A. Screening

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

B. Display of Merchandise

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

C. Accessibility

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

D. Landscaping

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

Approval Criteria

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

9.6.9 Approval Criteria

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

concerning the application:

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

Site Description

This site is a 9.4-acre unsubdivided lot. It is located in unincorporated Shelby County at the southeast corner of East Holmes and Hacks Cross, a signalized minor arterial intersection. No sidewalks abut the site. Curb and gutter run along the site for much, though not all, of Hacks Cross; there is neither curb nor gutter along Holmes. Overhead utilities run along the site on Holmes but not on Hacks Cross. The site is heavily wooded.

Site Zoning History

In 2003, the Shelby County Commission and Memphis City Council jointly approved a Holmes / Hacks Cross Planned Development, known as PD 03-304 CC. This entitlement permitted the equivalent of Commercial Mixed Use – 2 uses with certain exceptions including gasoline sales. Unlike today, this land was then in the City of Memphis' reserve area and therefore eligible for a city sewer connection. This entitlement has since expired as no final plan was ever recorded.

Consistency with Memphis 3.0

The Memphis 3.0 Comprehensive Plan does not apply to this site, as it is located without the City of Memphis.

Conclusions

The applicant is requesting approval of a planned development to permit a convenience store with gas sales at the southeast corner of East Holmes Road and Hacks Cross Road in unincorporated Shelby County.

The convenience store would rely on a septic system. As a policy, the City of Memphis no longer extends sewer to this area in order to encourage centralized development.

This heavily wooded nine-acre site is zoned Conservation Agriculture and is surrounded by land that is also zoned Conservation Agriculture. It is adjacent on three sides to low-density residential uses. Just over 1000 feet to the south of the site are active agricultural uses, suggesting the continued viability of agriculture in this area.

On the other hand, across the Mississippi state border – just over 3000 feet south of the site – is a complex of distribution warehouses. These warehouses produce a significant amount of truck traffic heading north up Hacks Cross Road. Furthermore, there is a planned widening of Hacks Cross Road.

The planned widening of Hacks Cross Road, however, is not in itself justification for the commercial rezoning of this land. In fact, the street's expansion and the area's proximity to Mississippi industrial uses indicate the need for heightened zoning protection of this neighborhood's agricultural and natural character.

Permitting a convenience store in this location would lead to the potential commercialization of the remainder of this street corner – without the guidance of a long-range plan. The resultant sprawl would break down a desirable agricultural buffer between Olive Branch, MS, and urban development in Shelby County.

The Conservation Agriculture district “is intended to conserve agricultural land and undeveloped natural amenities while preventing the encroachment of incompatible land uses on farmland and other undeveloped areas.” This goal remains appropriate in this location.

This proposal would have an undue adverse impact on the character of the neighborhood, and does not meet the criteria for a planned development.

RECOMMENDATION

Staff recommends *rejection*.

However, if approved, staff recommends the following outline plan conditions:

- I. Permitted Uses
 - A. Area A: Any use permitted by right in the Commercial Mixed Use – 1 (CMU-1) zoning district, with the following exceptions:
 1. Day care.
 2. Drive-thru facilities.
 3. Vehicle service.
 - B. Area B: Any use permitted by right in the Conservation Agriculture (CA) zoning district.
- II. Building Envelope Standards
 - A. The building envelope standards of the CMU-1 zoning district shall apply in Area A, with the following restrictions:
 1. The maximum floor area ratio shall be 0.3.
 2. The eastern setback shall be 50 feet.
 - B. Front, side, and rear elevations shall be composed of brick and/or decorative stone. Roof material shall be a painted standing seam metal roof.
- III. Access Management
 - A. The County Engineer may require the dedication and improvement of East Holmes Road, Hacks Cross Road, and the intersection of East Holmes and Hacks Cross.
 - B. A maximum of one curb cut shall be permitted on East Holmes Road.
 - C. A maximum of one curb cut shall be permitted on Hacks Cross Road.
 - D. Only right-in/right-out driveways shall be permitted within 300 feet of the centerline of the intersection of East Holmes and Hacks Cross.
 - E. The design and location of curb cuts shall be subject to the approval of the County Engineer.
 - F. Shared access easements shall be provided on the final plan in case of multiple phases of development.
 - G. All internal drives shall be a minimum width of 22 feet, exclusive of curb, gutter, and streetscaping.
- IV. General Development Standards
 - A. Existing trees shall be incorporated into required landscaping where possible, subject to administrative review and approval. The Office of Planning and Development may modify landscaping requirements during final plan review.
 - B. All lighting shall be arranged so as to radiate light away from adjacent properties. Development within Area A shall produce a maximum of zero foot-candles of light outside of the Area A boundaries.
 - C. Signs in Area A shall be regulated in accord with CMU-1 standards, with the following restrictions:
 1. All signs shall be monument signs.
 2. No banners, flags, streamers, balloons or similar advertising devices, temporary or portable signs, reader board signs, roof-mounted signs, or tents shall be permitted.
 3. The sign setback shall be a minimum of 15 feet.
- V. A storm water management plan shall be submitted to the County Engineer for review and approval. The County Engineer may require drainage easements.

DEPARTMENTAL COMMENTS

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

County Engineer:

The applicant's request to permit gasoline sales at the southeast corner of E. Holmes and Hacks Cross Road will require a Trip Generation Report. Any future development of this property will have to be aware of the future widening of Hacks Cross Road going through this intersection.

County Fire Division:

No comments received.

County Health Department:

No comments received.

Shelby County Schools:

No comments received.

Construction Code Enforcement:

No comments received.

Memphis Light, Gas, and Water:

No comments received.

Office of Sustainability and Resilience:

No comments received.

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: September 3, 2019

Case #: Formerly PD 03-304CC

PLEASE TYPE OR PRINT

Name of Development: Holmes/Hacks Cross Planned Development

Property Owner of Record: Michael A Lightman Jr and Ainsley P Lightman and Adam P Lightman Phone #: 901-409-0131

Mailing Address: 5100 Poplar Avenue, Suite 2602 City/State: Memphis, TN Zip 38137

Property Owner E-Mail Address: michaeljr@lightmanrelaty.com

Applicant: Aman Devji c/o John Behnke Phone # 901-494-1559

Mailing Address: 2887 South Mendenhall Road, Suite 6 City/State: Memphis, TN Zip 38115

Applicant E- Mail Address: RealEstate@johnbehnke.us

Representative: Brenda Solomito Basar - Solomito Land Planning Phone #: 901-569-0310

Mailing Address: 1779 Kirby Parkway #1-323 City/State: Memphis, TN Zip 38138

Representative E-Mail Address: brenda@solomitolandplanning.com

Engineer/Surveyor: The Reaves Firm - Harvey Marcom/Jim Schumpert Phone # 901-761-2016

Mailing Address: 6800 Poplar Avenue, Suite 101 City/State: Memphis, TN Zip 38138

Engineer/Surveyor E-Mail Address: hmarcom@reavesfirm.com JimS@reavesfirm.com

Street Address Location: 0 Holmes Road

Distance to nearest intersecting street: Southeast corner of East Holmes Road and Hacks Cross Road

	Parcel 1	Parcel 2	Parcel 3
Area in Acres:	9.4 +/- ac		
Existing Zoning:	Planned Development		
Existing Use of Property	Vacant		
Requested Use of Property	Planned Development		

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:

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: 8/28/19 with Chip 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.

Michael Jeffrey (Partner) 9/3/19 Michael Jeffrey 9/3/19
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.)

LETTER OF INTENT



September 3, 2019

Josh Whitehead, AICP
Planning Director/Administrator
Memphis and Shelby County
Office of Planning and Development
City Hall, 125 N. Main St., Ste. 468
Memphis, Tennessee 38103

RE: Application for Planned Development Amendment – Holmes/Hacks Cross PD, Formerly PD 94-367
Shelby County, Tennessee

Dear Josh:

Please accept this application for a Planned Development Amendment on behalf of the property owners, Michael A Lightman Jr and Ainsley P Lightman and Adam P Lightman and the developer, Aman Devji c/o John Behnke. The property is located at the southeast corner of Holmes Road and Hacks Cross Road. Originally approved in 2003, the Planned Development permitted an array of commercial uses that have yet to be developed.

The purpose of this application is to permit gasoline sales at this location. As illustrated on the attached plan set, the proposed convenience store with gasoline sales is ideally located at the intersection of a Major Collector and a Minor collector. The building is designed so to be sensitive to the neighbors and to be compatible with the future development. But for this exclusion in the outline plan conditions, the use would be permitted under the Unified Development Code (UDC).

Most of the 2003 conditions of approval have been maintained including access and circulation, building setbacks and building materials with improvements to the landscape screens and lighting standards.

Thank you for your time and attention to this request. Please do not hesitate to call if you have any questions.

Sincerely,

SOLOMITO LAND PLANNING

Brenda Solomito Basar
Land Planner

SOLOMITO

— LAND PLANNING —

brenda@solomitolandplanning.com | 901.755.7495

RESPONSE TO PLANNED DEVELOPMENT GENERAL PROVISIONS

4.10.3 Planned Development General Provisions

- 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.

This proposal is an amendment to an existing planned development that permitted a variety of commercial uses. All of the design standards have been maintained and this proposal provides for slightly less square footage. Other amenities have been provided to mitigate any changes the new proposal may require.

- 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.

Most public utilities are in place or will be provided at the developer's expense.

- 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)

The site and proposed buildings have been designed to be high quality and sustainable. Lighting will be contained on site and maintain 0 Foot-Candles at the property line.

- 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.

Many of the existing outline plan conditions have been maintained. The proposed sale of gasoline will provide a valuable service for the area and will be a contributing development for the bigger community.

APPLICANT'S PROPOSED OUTLINE PLAN CONDITIONS

- I. Uses Permitted
 - A. Area A – Convenience store with the sale of gasoline. No drive thru is permitted.
 - B. Area B – Septic Field and Open Space.
 - C. All building fronts, rear and sides shall be composed of brick or decorative stone and shall be similar in color. Roof material shall be a painted standing seam metal roof.
- II. Bulk Regulations
 - A. The bulk regulations of Commercial Mixed Use (CMU-1) District shall apply, except the maximum floor area ratio shall be 0.30 F.A.R.
 - B. The rear yard setback for the main building shall be fifty (50') feet from the east property line.
- III. Access, Parking, and Circulation
 - A. Dedicate Holmes Road fifty-four (54') feet from the centerline and improve in accordance with Subdivision Regulations and Shelby County Paving Policy.
 - B. Dedicate Hacks Cross Road fifty-four (54') feet from the centerline and improve in accordance with Subdivision Regulations and Shelby County Paving Policy.
 - C. Dedicate a 3-centered corner radius at the intersection of Holmes and Hacks Cross.
 - D. A maximum number of one (1) curb cut shall be permitted to Holmes Road. Only right-in/right-out curb cuts shall be permitted within 300 feet of the intersection of Holmes Road and Hacks Cross Road.
 - E. A maximum number of one (1) curb cuts shall be permitted to Hacks Cross Road. Only right-in/right-out curb cuts shall be permitted within 300 feet of the intersection of Holmes Road and Hacks Cross Road.
 - F. No full movement curb cuts shall be permitted within 300 feet of the centerline intersection of Holmes Road and Hacks Cross Road.
 - G. The design and location of curb cuts shall be subject to the approval of the County Engineer.
 - H. All private drives to be constructed to meet the Subdivision Regulations, applicable County Standards, and provide a minimum width of twenty-two (22') feet, exclusive of curb and gutter.
 - I. Parking shall be provided in accordance with Unified Development Code. Loading requirements may be reduced for each phase at the time of the site plan review.
- IV. Landscaping
 - A. A landscape screen Type S-10 Plate (modified) twenty (20') feet in width or equivalent landscape plate shall be provided along the street frontages of Holmes Road and Hacks Cross Road.
 - B. A landscape screen Class III Type B Buffer twenty-five (25') feet in width shall be provided and maintained along the east property line as illustrated on the Outline Plan. The fencing shall be adjusted to avoid damage to any of the existing trees. All existing trees within the required twenty-five (25') foot wide landscape screen shall be incorporated into the required landscaping, if possible.
 - C. A landscape screen Class III Type B Buffer (modified) twenty (20') feet in width shall be provided and maintained along the south property line as illustrated on the Outline Plan. All existing trees within the required twenty (20') foot wide landscape screen shall be incorporated into the required landscaping, if possible.
 - D. Internal parking lot landscaping shall be provided at a minimum ratio of 300 square feet of landscaped area and one shade tree (Tree A) of the Landscape Ordinance per every twenty (20) parking spaces or fraction thereof. Landscaped areas shall not be less than 200 square feet in area in any single location.
 - E. Alternative landscaping may be substituted for that required above, subject to the approval of the Office of Planning and Development.
 - F. All required landscaping and screening shall not conflict with any easements.
 - G. Property owners are responsible for the maintenance and replacement of all fences, trees, shrubs, and turf located within the landscape street(s). Dead plants shall be replaced in-kind with live plants. Any

plant species substitutions shall be subject to the approval of the Memphis and Shelby County Office of Planning and Development. Removal of live plants from any landscape screen shall be prohibited.

- H. All lighting used to illuminate any off-street parking areas or buildings shall be so arranged as to reflect the light away from any adjacent residential property. 0 foot-candles shall be maintained at the Area A phase line.
- I. Refuse containers shall be completely screened from view from the public roads and adjacent residentially zoned or used property with materials architecturally compatible to the buildings on the lot.
- J. Air conditioning, heating, ventilation or other mechanical equipment and appurtenances, including rooftop units shall be screened with the use of architectural features of the building or by other means.
- K. The rear elevations shall be constructed of materials similar to the front and side elevations. Metal and concrete block exterior building materials shall be prohibited; provided, however, these elevations may be of split-faced block of the same color as the front and side elevations and on the north side elevation shall wrap around to the rear of the building a distance approved by the Office of Planning and Development at the time of final plan approval.
- L. Utility features such as electrical wiring, conduit and meters shall also be screened using architectural features or landscaping.

V. Signs

- A. Detached signs shall be in accordance with the Commercial Mixed Use (CMU-1) District regulations; provided, however, that all signs shall be monument style with materials consistent with those used in the shopping center and with landscaping at the base of each sign.
- B. No banners, streamers, balloons, portable signs, or temporary signs shall be permitted.

VI. Drainage

- A. Design and construction of the storm water conveyance and management facilities for this project shall be in accordance with the City of Memphis/Shelby County Storm Water Management Manual.
- B. All grading, and drainage plans shall show a minimum one-hundred (100') feet of off-site topography on all sides in order to determine the effect of off-site features on the development under review or its effect on adjacent properties. All drainage plans shall be submitted for review and approval to the County Engineer.
- C. A drainage easement area along the major drainage-way shall be provided consistent with drainage plans approved by the County Engineer and an ARAP permit. The width may be equal to 2-1/2 times the top of bank width, measured from the stream centerline, in order to protect buildings and accessory structures from bank caving and stream meandering if improvement is not permitted.
- D. This project must be evaluated by the Tennessee Department of Environment and Conservation regarding their jurisdiction over the watercourses on this site in accordance with the Water Quality Control Act of 1977 as amended (T.C.A. 69-3-101 to 69-3-131). The Developer shall be aware that if an ARAP permit is required, the Developer is responsible for any design modifications that result from the requirements of said permit. Substantial modifications of the plans resulting there from shall require approval by the Land Use Control Board.

- VII. The Land Use Control Board may modify the bulk, access, circulation, parking, landscaping, signs, and other site design requirements if equivalent alternates are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications by the Land Use Control Board hereunder may, within ten (10) days of such action, file a written appeal to the Director of the Office of Planning and Development to have such action reviewed by the appropriate governing bodies.

- VIII. Time Limit: A final plan shall be filed within five (5) years of approval of the Outline Plan. The Land Use Control Board may grant extensions at the request of the applicant.

SIGN AFFIDAVIT

AFFIDAVIT

Shelby County
State of Tennessee

I, John Behnke, being duly sworn, depose and say that at Noon am/pm on the 27th day of December, 2019, I posted 2 Public Notice Sign(s) pertaining to Case No. PD-16 at SEC of Holmes and Hacks Cross, providing notice of a Public Hearing before the Land Use Control Board, Memphis City Council, Shelby County Board of Commissioners for consideration of a proposed Land Use Action (Planned Development, Special Use Permit, Zoning District Map Amendment, Street and/or Alley Closure), a photograph of said sign(s) being attached hereon and a copy of the sign purchase receipt or rental contract attached hereto.

John Behnke
Owner, Applicant or Representative

12.30.2019
Date

Subscribed and sworn to before me this 30th day of December, 2019.

[Signature]
Notary Public

MY COMMISSION EXPIRES
APRIL 22 2022

My commission expires: _____



LETTERS RECEIVED

Seven letters of opposition were received at the time of completion of this report and have been attached.

From: [Jerry Kattawar](#)
To: [Davis, Brett](#)
Subject: Residential rezoning
Date: Tuesday, October 29, 2019 10:58:39 PM

Dear Brett and Board

I am writing this memo in opposition of the planned gas station/convenience shopping center, on the corner of [Hacks Cross](#) and Holmes Road.

This area is currently a residential/farm type community. There are currently over 1,000 acres of farmland; neighborhoods with beautiful trees and homes; families that purchased these homes, for the residential, and environmental beauty of the area. The trees and foliage keep the surrounding air fresh and clean. This is not a commercial area.

1. No Demand for a Station

There is not a demand for a gas station/store to service the Community. There is currently one such station [7/10](#) of a mile from the proposed site. Another one is [9/10](#) of a mile, and yet another, 1.2 miles from the site. With another one advertised on State Line [8/10](#) of a mile away. That's 4 gas stations with 3.4 miles of the site.

2. Health & Safety

The health and safety threats that a gas station poses are extremely serious, and well documented by the EPA.

A recent analysis published in the American Journal of Epidemiology found an elevated risk of childhood leukemia, among children living near gas stations. Gasoline is produced from petroleum and contains more than 150 chemicals, including benzene, and the toxic chemicals toluene and xylene.

Risk of childhood cancer was examined in relation to residential proximity to other sources of contaminants, including industries reporting under the US Toxic Release Inventory, petrochemical plants, gas stations, repair garages, nuclear power plants, and landfill sites and hazardous waste sites. Increased risk of childhood leukemia was found with residential addresses near gas stations, repair garages, and nuclear power plants. Children whose mothers lived near industries covered under the Toxic Release Inventory during pregnancy were more likely to have brain cancer, especially if the mother lived within 1 mile of a facility with carcinogen emissions.

Studies also found significant relationships between residential proximity to environmental hazards and adverse health outcomes, such as adverse pregnancy outcomes (including increased risks for central nervous system defects, congenital heart defects, oral clefts, renal dysplasia, limb malformations, chromosomal anomalies, preterm births, low birth weight, small-for-gestational-age births, fetal deaths, and infant deaths), childhood cancers (including leukemia, brain cancer, germ-cell tumors, non-Hodgkin's lymphoma, and Burkitt lymphoma), asthma hospitalizations and chronic respiratory symptoms, stroke mortality, PCB toxicity,

[Letter Continued on Next Page]

end-stage renal disease, and diabetes.

Another gas station /convenience store would also
Create pricing pressures on current stations and force
One or two of them to close (there is nothing uglier then a boarded up gas station (the one on Shelby and Hack cross closed for months and it was a terrible eyesore to the community.

Hold ups, fire, fights and explosions are very common at gas stations, and convenience stores, especially in neighborhoods where city, and routine police protections are not constant. (out in the county)

3. Property Values

Property values would plummet. Many of the residence are seniors, that have saved and paid for their homes throughout their working years. They now intend to enjoy their golden years in quiet and safety, while maintaining their property values. No one wants to purchase a home, next door or near to a gas station/convenience store.

Do you want one next door to your home??

Please consider these people/residents citizens, their homes and life and environment are more important than another gas station/convenience store.

Adding another gas station/convenience store on an already overcrowded street going through our neighborhood. The county already has a struggle with the trash, and liter that the current traffic brings.

I invite you to come, and bring your family out, and spend a few minutes with my family. Walk around on our property and see the beautiful surroundings and you will see why we don't want it destroyed.

My family and near neighbors intend to object
To the fullest extent to a gas station/convenience
Store so near our homes..
your help and understanding in this matter is deeply appreciated

Jerry Kattawar Oct. 29, 2019
A concerned citizen and business person in our community.



Www.power express.com
Home of "FasTrac" Expedited
Jerry Kattawar
Chief Operating Officer
jerry.kattawar@gmail.com
cell [901-299-6826](tel:901-299-6826)

From: [Rachel Kattawar](#)
To: [Davis, Brett](#)
Subject: Please save our lives and health
Date: Thursday, October 31, 2019 6:30:01 PM

Dear Mr. Davis

I live at 8123 Holmes road and want to voice my opposition and concern to the proposed gas station/convenience store that is being planned for the corner of Hack Cross and Holmes road. I have an 11 year old son and pets. I am very afraid of the environmental impact on my family and the property values that will result by placing this business in our family residential neighborhood..Please Please don't let this happen. I want to think the planning boards intent is to protect its citizens not to help a business move into residential neighborhood for profit...Please

Rachel Griffin

PROPERTY VALUES IN OUR NEIGHBORHOOD WOULD BE AFFECTED
ALONG WITH SERIOUS HEALTH AND SAFETY ISSUES..SEE BELOW
GAS STATION & CONVENIENCE STORE IMPACTS:

BLIGHTING IMPACT

COMMUNITY CHARACTER IMPACT

CRIME IMPACT

HEALTH EFFECTS.. IT IS NOT SAFE TO LIVE NEAR A GAS

STATION/CONVENIENCE STORE

HISTORIC RESOURCES IMPACT

LIGHT TRESPASS IMPACT

NOISE IMPACT

PREDATORY PRICING IMPACT

PROPERTY VALUE IMPACT

LAKE OR WATER IMPACT

TRAFFIC IMPACT

VISUAL IMPACT

Rachel Griffin
9012884777



Melinda M George <mel@imcc.com>

Davis, Brett

Fri 11/8

Development

Retention Policy 7 Years Delete (7 years)

Expires 11/7/2026

- i** Follow up. Completed on Tuesday, November 12, 2019.
You replied to this message on 11/8/2019 8:57 AM.
We removed extra line breaks from this message.



Dear Brett,

We are writing you to oppose a planned development for the Hacks Cross and Holmes road convenience store. Mark H. George and Melinda M. George both oppose this development. As you know we are large land owners in that area we want to protect a area of Shelby county for green space. Our opposition points are the land has no sewer system for the commercial development, we believe most of the land will not perk.

Secondly, this would be very traumatic for the residential home owners that live close to the area. The land we believe is now zoned agricultural not commercial like the developers are leading neighbors to believe.

Thirdly, there is not a need for a convenience store in this area due to the close proximity of others. We as neighbors do not want our area to be opened up to anymore crime due to the stress already on the local police force. Please consider our desire to maintain a safe, environmentally friendly area of Shelby county.

Thanks

Melinda George

From: [Katie George Hooser](#)
To: [Davis, Brett](#)
Cc: [Andrew Hooser](#)
Subject: Convenience Store Development
Date: Friday, November 08, 2019 9:27:15 AM

Good morning Mr. Davis,

I am writing you about the planned convenience store development on the corner of Hacks Cross Road and Holmes Road. My family lives near this intersection at 5260 Magnolia Lane with our three young children. We are strongly opposed to this development plan.

This section of Holmes Road is a residential area. We believe a convenience station here will bring unwanted traffic and potentially increase crime coming from the Hickory Hill area. In October, there were 113 crimes reported within 1 square mile of the Hacks Cross and 385 exit ramp compared to 18 within a square mile of my home. I believe the proposed convenience store will increase that crime rate.

In addition, this corner is already a high traffic area especially in the afternoons. The convince store will likely lead to a dramatic increase in traffic congestion.

I'd like to ask you to carefully consider whether this proposed convenience store should be permitted and protect the safety of our neighborhoods. We are concerned about our life here changing negatively.

<http://signatures.imcc.com/IMC-email-signature-v3.jpg>



Katie George Hooser, Vice President of Marketing and Public Relations
IMC Companies, LLC
3150 Lenox Park Blvd. Suite 309
Memphis, TN 38115
Phone: (901) 509-4627

From: [Hilary Wesley](#)
To: [Davis, Brett](#)
Subject: neighborhood concern
Date: Friday, November 08, 2019 4:34:53 PM

Brett,

I am writing to address the concerns regarding a proposed development at the corner of Hacks Cross and Holmes Road.

We have enjoyed and continue to enjoy the quiet and less populated area of Holmes road between Hacks Cross and Forrest Hill Irene. The small housing developments and independent land owners are a close knit community that enjoy the tree-lined road and the safe environment. The current zoning of the 9 acre area is agricultural/conservation per Memphis Area Association of Realtors (MAAR data). The current owner, Michael Lightman, has posted a sign stating otherwise.

With the potential development of a convenience store, many of the enjoyable attributes of our area in Shelby County will be disturbed. We are concerned about:

- traffic flow as well as traffic increase
- sewer development
- drainage and sanitation
- hours of operation
- increase of crime
- security
- disturbance of ecology
- disruption of local farm practices

There are several gas stations and stores within a .5 mile radius of the proposed location. Let's be honest. Is there even enough of a population to warrant this development? What kind of studies are required to prove it's need?

I do know of an interested buyer of the property if it was offered at fair market value. Unfortunately, the price quoted was inflated to a ridiculous level.

Please carefully consider how this would impact our neighborhood as well as Shelby County as a whole. Consider the increase of crime and accidents a development on this corner will bring to an already overworked police force. And, carefully consider keeping this beautiful area zoned as agriculture/conservation to protect our ecology and wildlife safe.

Sincerely,



Hilary Wesley

Crye-Leike, REALTORS

From: [Teresa Coffman](#)
To: [Davis, Brett](#)
Subject: Proposed convenience store
Date: Friday, November 08, 2019 6:17:09 PM

I am writing to you in re to the planned convenience store development on the corner of Hacks Cross Rd and Holmes Rd. Our family live in close proximity to this intersection on Magnolia Ln. We are adamantly opposed to this development plan.

The section of Hacks Cross from Shelby Rd to Stateline Rd in Mississippi is a heavily trafficked thoroughfare that backs up with traffic multiple times a day due to the number of warehouses and distribution centers in Mississippi on the same road. Adding another convenience store would only compound this situation making it worse and frustrating the homeowners and drivers who have no choice but to travel through this area.

We also believe the presence of another convenience store would contribute to a rise in crime which we do not want.

We are extremely concerned about how this could negatively impact our lives. Please consider this issue very closely as it impacts many more families than just ours.

Sincerely,
Teresa and Andrew Coffman

From: [Keena Duncan](#)
To: [Davis, Brett](#)
Subject: Fw: Gas Station/Convenience Store Holmes and Hacks Cross
Date: Monday, November 11, 2019 6:42:13 AM

Date: November 11, 2019

To: BRETT.DAVIS@MEMPHISTN.GOV

From: Ulric and Keena Duncan ulduncan@bellsouth.net
5081 LeChateau Cove Memphis TN 38125 (Laplace Subdivision
Homeowner. Laplace is located off Holmes Road between Hacks Cross
and Forest Hill Irene)

**We are in opposition to the GAS STATION/CONVENIENCE STORE
ON THE CORNER OF HACKS CROSS AND HOLMES ROAD. THIS
WOULD BE HUGELY DETRIMENTAL TO OUR HOMES AND THE
NEIGHBORHOOD.
PROPERTY VALUES IN OUR NEIGHBORHOOD WOULD BE
AFFECTED ALONG WITH SERIOUS HEALTH AND SAFETY ISSUES..**

SEE BELOW
GAS STATION & CONVENIENCE STORE IMPACTS:

BLIGHTING IMPACK
COMMUNITY CHARACTER IMPACT
CRIME IMPACT
HEALTH EFFECTS.. IT IS NOT SAFE TO LIVE NEAR A GAS
STATION/CONVENIENCE STORE
HISTORIC RESOURCES IMPACT
LIGHT TRESPASS IMPACT
NOISE IMPACT
PREDATORY PRICING IMPACT
PROPERTY VALUE IMPACT
LAKE OR WATER IMPACT
TRAFFIC IMPACT
VISUAL IMPACT

We want to protect OUR BEAUTIFUL NEIGHBORHOOD.THIS PROPOSAL
WILL NEGATIVLYEFFECTOUR HOMES FOR YEARS
TO COME..ESPECIALLY HEALTH, SAFETY AND PROPERTY VALUES.

Thank you for your attention. *Ulric and Keena Duncan*