

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

**STAFF REPORT**

**# 5**

**CASE NUMBER: PD 12-320**

**LUCB MEETING: March 14, 2013**

**DEVELOPMENT NAME:** Lee's Business Center

**LOCATION:** 964 McLemore; Southeast corner of the intersection of College Road and McLemore Street.

**COUNCIL DISTRICT:** 4

**SUPER DISTRICT:** 8

**OWNER OF RECORD/APPLICANT:** Otha L. Broom

**REPRESENTATIVE:** Delinor Smith

**REQUEST:** Restaurant and Retail sales with gasoline pumps

**AREA:** .333 Acre

**EXISTING LAND USE & ZONING:** CMP-1

**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION**

Approval with Conditions

Staff Writer: Gregory Love

Email: [gregory.love@memphistn.gov](mailto:gregory.love@memphistn.gov)

**CONCLUSIONS**

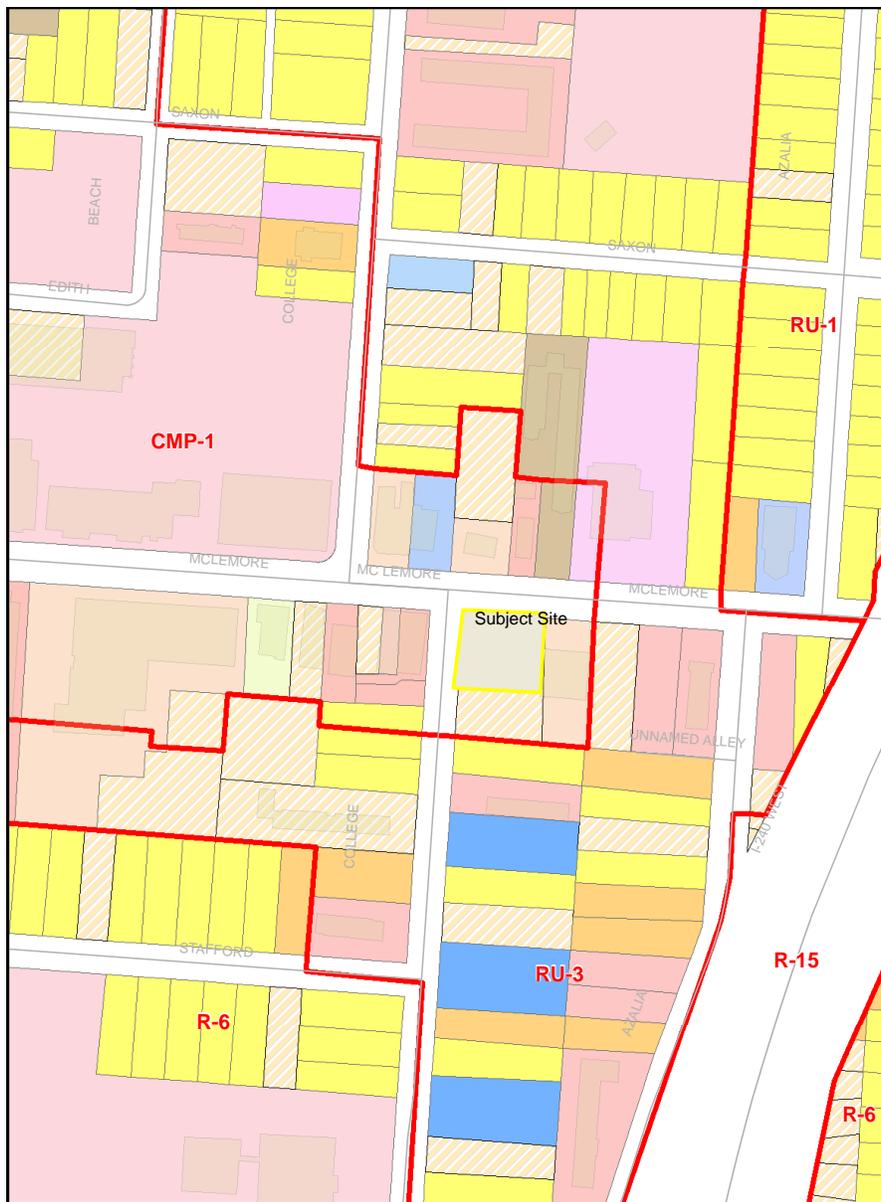
The subject site is currently zoned CMP-1 (Campus Master Plan) which has as its main purpose to guide development so that it is urban, pedestrian-friendly, and primarily offers goods and services that support the local neighborhood and area educational institutions. This district also promotes harmony within building types and their usage. Although the proposed restaurant fits the intent of the zoning district and the area comprehensive plan (South Memphis District Plan-2000) the second phase of development, retail with gasoline sales, does not.

Secondly UDC Item 2.6.3J(1)(f) requires that "any convenience store with gas pumps be located at: the intersection of two arterials, at an arterial and a collector, or at two collectors; the subject site does not meet either of these requirements

The subject site is situated within the South Memphis Planning District; this area has seen a healthy amount of commercial and residential development within the last 5-7 years. STAX, which is a multi-use educational facility that includes a charter school and museum, is just seconds away and the Town Center is also just west of the site.

The first phase of this proposal (restaurant) meets the intent of the district and should be allowed; however, the second phase of the proposal (retail with gasoline sales) does not align with the intent of the district nor the area plan and does not fully correspond to the character and theme of the neighborhood and built environment.

LAND USES AND ZONING MAP



**SURROUNDING LAND USES AND ZONING:**

**North:** Commercial and retail development within the CMP-1 District

**East:** Commercial and retail development within the CMP-1 District

**South:** Commercial and retail development within the CMP-1 District

**West:** Souls Ville community center within the CMP-1 District



Subject site



Subject site





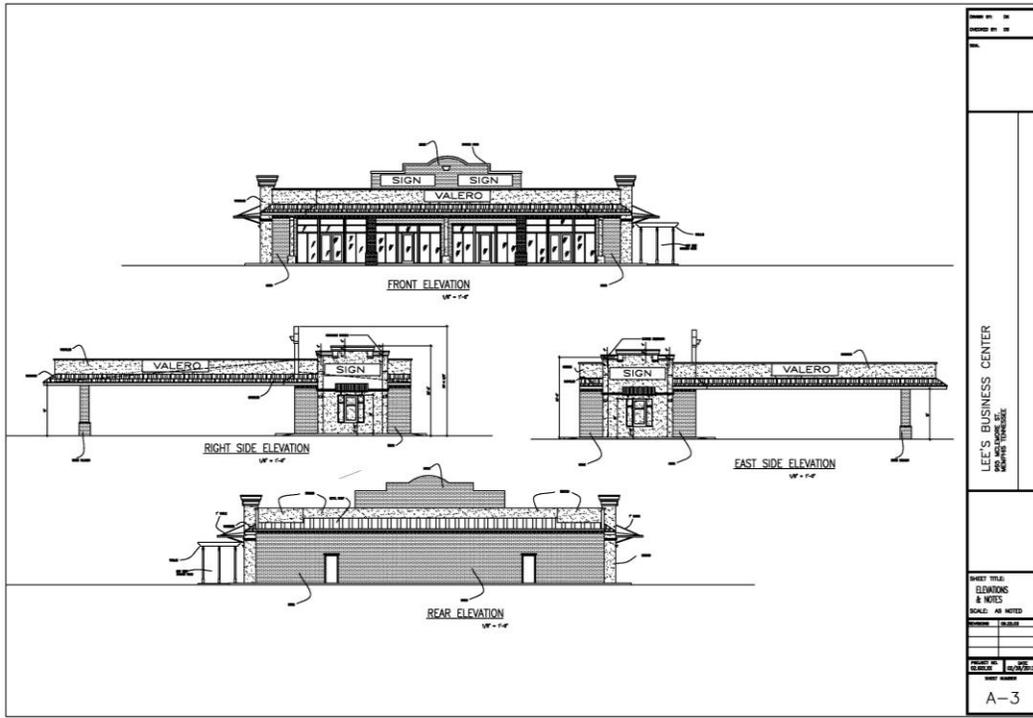
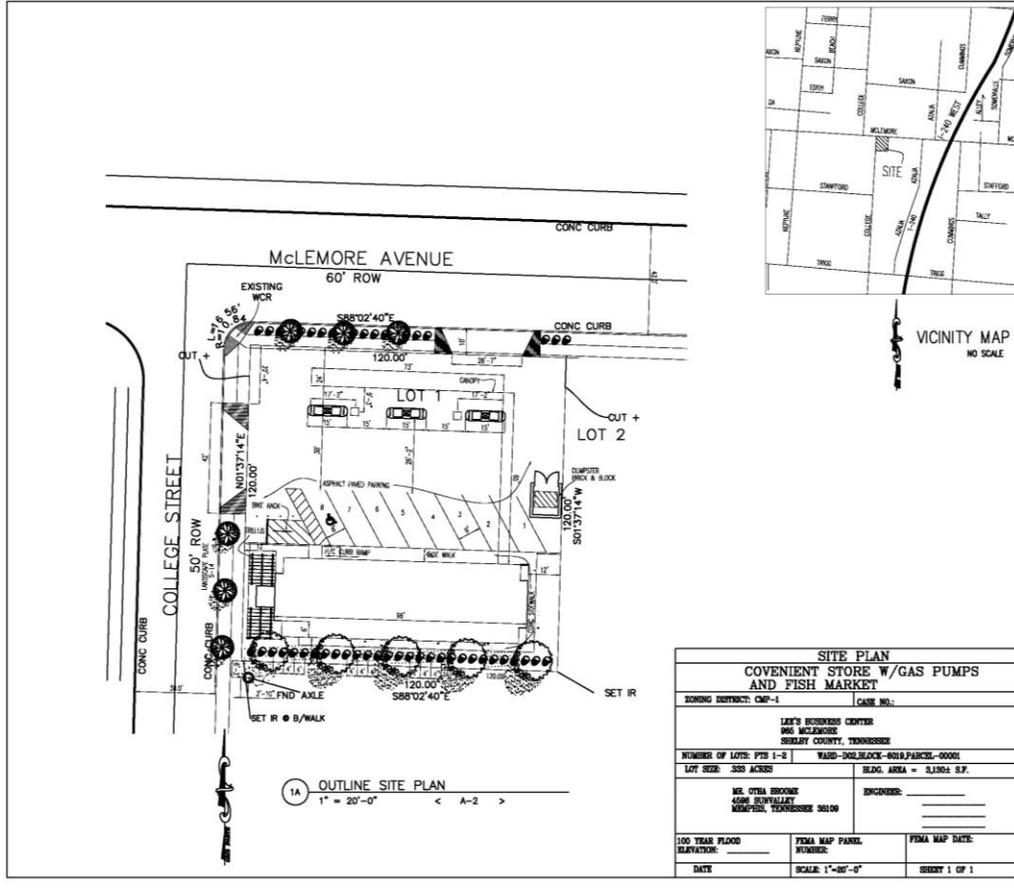


Existing curb-cut along College Street



Existing curb-cut along McLemore Avenue







**Letter of Intent Submitted by Applicant**

LETTER OF INTENT

Mr. Other Broome is proposing a two-phase construction schedule as follows:

1. Phase One - renovate the existing 1,280 sq. ft. structure to be used as a fish market. Fresh raw fish and carryout cooked meals will be sold.
2. Phase Two - construct a 2,775 sq. ft. addition to be used as a convenient store with three gas pumps and storage. The propose construction start date for second phase is scheduled within the 18 month after the opening day of the fish market. The store will operate as a quick stop shop with three gas pumps.

At the rear yard, the proposed 7' wide landscape buffer (Class III-Type A) shall consist of a minimum 6' high masonry fence, 5 trees, and 29 shrubs. At the street side yard, the proposed 31' streetscape plate shall consist of a side yare, three trees, sidewalk, and a grass strip. A bike rack shall also be provided.

This application is a requesting to modify the existing CMP-1 District requirements to allow the above-described uses.



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

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

Date: 11.01.2012

Case #: \_\_\_\_\_

PLEASE TYPE OR PRINT

Name of Development: MR. OTHA L. BROOME

Property Owner of Record: MR. OTHA L. BROOME Phone #: 901.785.2577

Mailing Address: 4596 SUNVALLEY City/State: MEMPHIS TENNESSEE Zip 38109

Property Owner E-Mail Address: olbroome@gmail.com

Applicant: MR. OTHA L. BROOME Phone # 901.785.2577

Mailing Address: 4596 SUNVALLEY City/State: MEMPHIS TENNESSEE Zip 38109

Applicant E- Mail Address: olbroome@gmail.com

Representative: DELINOR D. SMITH Phone #: 901.690.3944

Mailing Address: 3831 LAKEHURST DRIVE City/State: MEMPHIS, TN Zip 38128

Representative E-Mail Address: dsmith920@comcast.net

Engineer/Surveyor: N/A Phone # \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City/State: \_\_\_\_\_ Zip \_\_\_\_\_

Engineer/Surveyor E-Mail Address: \_\_\_\_\_

Street Address Location: 964 MCLEMORE

Distance to nearest intersecting street: AT THE SOUTH EAST CORNER OF THE INTERSECTION OF COLLEGE AND MCLEMORE

	Parcel 1	Parcel 2	Parcel 3
Area in Acres:	<u>.333</u>	_____	_____
Existing Zoning:	<u>CMP-1</u>	_____	_____
Existing Use of Property	<u>VACANT STRUCTURE</u>	_____	_____
Requested Use of Property	<u>RETAIL SALES W/GAS PUMPS</u>	_____	_____

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

1. All outline and final plan amendments shall meet the standards set forth in Chapter 4.10, Planned Development. The following modifications to approved outline and final plans shall be deemed amendments:
  - a. 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 (see Item 9.6.11E(2)(e) below);
  - b. A modification to a conditions that phases the uses, and
  - c. A conversion of public streets, pursuant to Section 5.2.18.

**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.

- 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.
- 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)
- 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.
- Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.
- Lots of records are created with the recording of a planned development final plan.

**Planned Residential Developments**

In addition to the standards and criteria set forth in Section 4.10.3, planned residential developments shall comply with the standards and criteria set forth below:

- **Formal Open Space** – see Sub-section 4.10.4A
- **Accessibility of Site** – see Sub-section 4.10.4B
- **Off-Street Parking** – see Sub-section 4.10.4C
- **Pedestrian Circulation** – see Sub-section 4.10.4D
- **Privacy** – see Sub-section 4.10.4E
- **Distance Requirements** – see Sub-section 4.10.4F

**Planned Commercial or Industrial Developments**

Approval of a planned commercial or industrial development may be issued by the governing bodies for the 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 4.11.3, planned commercial or industrial developments shall comply with the following standards:

- **Screening** – see sub-section 4.10.5A
- **Display of Merchandise** – see Sub-section 4.10.5B
- **Accessibility** – see Sub-section 4.10.5C
- **Landscaping** – see Sub-section 4.10.5D



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

- A. **THE APPLICATION** - Four (4) 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) One (1) original 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, copy of Deed(s).
  - 2) Four (4) sets of copies in the following order: Application, 8.5"x11" Outline and/or Site/Concept Plan, Legal Description, and Vicinity Map, Letter of Intent, 20"x24" Outline and/or Site/Concept Plans.
  - 3) 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) 576-6619.)*
- B. **LETTER OF INTENT** - The letter shall include the following:
- a) A brief narrative statement generally describing the nature, location and extent of the development and the market it is intended to serve.
  - b) A list of any professional consultants associated with the proposed development.
  - c) A written statement generally describing the relationship of the proposed development to the current policies and plans of the City and County. The statement shall include how the proposed development is to be designed, arranged and operated in order to limit impact to neighboring properties.
  - d) A description of the applicant's planning objectives, the approaches to be followed in achieving those objectives.
- C. **OUTLINE PLAN**
- 1) Four (4) copies of an Outline Plan shall be submitted and drawn at a scale of not less 1"=100' for developments of less than 150 acres, 1"=200' for developments between 150 and 1,000 acres, and 1"=300' feet for developments in excess of 1,000 acres. If property is encumbered by easements, show type and location on plot plan.
  - 2) Four (4) copies of legal description shall be attached to plot plan if not shown or described on the plan
- D. **SITE/CONCEPT PLAN** - Four (4) copies of the site/concept plan shall be submitted and depict the following: (a) property boundary lines and dimensions, existing utilities and easements, roadways, rail lines and public rights-of-way, crossing adjacent to the subject property; (b) the proposed height, dimensions and arrangements of buildings on the property; (c) the type and location of proposed landscaping; (d) the location of points of ingress/egress (driveways), parking lots and loading areas on the site; and (e) any proposed substantial re-grading of the site and any significant topographical or physical features of the site including water courses or ponds. Site/Concept plans shall be drawn at a scale of not less 1"=100' for developments of less than 150 acres, 1"=200' for developments between 150 and 1,000 acres, and 1"=300' feet for developments in excess of 1,000 acres.
- E. **VICINITY MAP**
- 1) Four (4) copies showing the subject property (boldly outlined) and all parcels within a 500' radius. If the 500' radius includes less than 25 property owners, the radius shall be extended at 100' intervals to reach a minimum of 25 property owners provided, however, that the maximum total radius is 1,500'. Show for each parcel its dimensions, owner's name (on the vicinity map unless prior approval is given to do otherwise) and the public streets, alleys or private drives that it abuts. In situations where the parcels on the map are so small that the property owner's names are unable to fit and numbered legend is used, every effort should be made to place the legend on the map itself and not a separate sheet.
  - 2) Three (3) copies of vicinity map without the owner's name.
- F. **LIST OF NAMES AND ADDRESSES**
- 1) Two (2) complete lists of names and mailing addresses, including zip codes, of all owners shown on the vicinity map, typewritten on 1"x 2<sup>5/8</sup>" self-adhesive mailing labels and 2 paper sets. Three (3) sets of gummed back mailing labels and paper copies are needed for subject properties located in Shelby County but within five (5) miles of the Memphis City limits.
  - 2) Two (2) self-adhesive mailing labels (1"x 2<sup>5/8</sup>" each for the owner of record, applicant, representative and/or engineer/surveyor.
- G. **FILING FEES** *(All Fees Are Subject To Change without Prior Notice)*
- 1) Planned Development: 5.0 Acres or less=\$1,500. Each additional acre or fraction thereof =\$100, Maximum =\$10,000. Make check payable to "M/SC Office of Planning and Development"

## **STAFF ANALYSIS**

### Site Characteristics

The subject site is a .33 acre parcel situated at the southeast corner of McLemore Avenue and College Street. The site is currently occupied by a one-story brick building comprising approximately 1,400 square feet.

The property is located within the Campus Master Plan District (CMP-1), per the Unified Development Code, Para, 2.2.4D(1) this district has as its primary focus that property be developed with an urban theme and that commercial uses be compatible with the character of the existing neighborhood:

*“The CMP-1 District is intended to accommodate new development where the land-use pattern is predominately urban in character. New development should be urban in character with an emphasis on compact, vertical, pedestrian-oriented, mixed use development that fit seamlessly into the built environment. Landscaping requirements are reduced and buildings are pulled up much closer to the street”.*

Although the proposed site plan and development exemplifies an urban “type” land use, pedestrian attributes and the integration of this primarily auto related use within the built environment and current trend of development is not evident. The description of the CMP-1 District does not describe intense commercial land uses and their accommodating structures, the description of the intended design being compact, vertical, and pedestrian oriented does not fit a typical auto related land use.

The South Memphis area underwent a comprehensive rezoning in 2000 (the South Memphis District Plan) with the adoption of the plan the subject site was rezoned from C-H (Highway Commercial) to CMP-1 (Campus Master Plan). It is reasonable to ascertain that this rezoning was an attempt to support uses that were less intense than what was allowed in the Highway Commercial District. It is also reasonable to assume that this rezoning would promote uses that would serve the local (neighborhood) market and would also promote a higher level of pedestrianism within the community.

The CMP district is also intended to guild development so that it promotes and serves educational institutions, in this case the subject site is within close proximity to LeMoyné-Owen College, a historically black college with history that dates back to at least 1915. The subject site is also just feet away from STAX and Soulsville Charter School Campus which is a multi-use educational institution.

### Request

Restaurant and retail sales with gasoline sales

Conclusion

The subject site is located along the south side of McLemore Avenue which is categorized by the Memphis Planning Organization as a minor arterial street, the subject site also has frontage along College Street which is categorized as a local road.

The Unified Development Code, Item 2.6.3J(1)(f) requires that “any convenience store with gas pumps be located at the intersection of two arterials, an arterial and a collector, or two collectors; the subject site does not meet either of these requirements.

The intent of this requirement as explained in Zoning Text Amendment 12-002, is primarily to avoid potential negative impacts imposed by gas stations upon nearby residential neighborhoods and residential land use. In this case the subject site is within close proximity to single-family residential land use.

The subject site does not adequately align with the intent of the South Memphis Plan. The general intent of the plan is to promote a more pedestrian friendly community and to support commercial uses that serve primarily, the local market of south Memphis and the local educational institutions. Although the proposed use could offer services to the community the location as selected could be somewhat disruptive to the nearby residential area. Furthermore, within the last 8 years there has been a significant effort toward revitalizing the south Memphis area, more specifically the Soulsville community. This community includes the resurgence of the STAX legacy and a Neighborhood Town Center; both of which are within close proximity to the proposed project site. The subject site, the proposed land use and its current site plan do not adequately align with the existing neighborhood fabric.



The CMU-1 District suggests that structures as well as land uses should complement and should embody a similar theme. There is no question that the community may need gasoline but the intent of the South Memphis District, the intent of the Unified Development Code and its recent amendments is to promote intense commercial uses at major roads and not within close proximity to residential land uses.

The initial phase of development of this site as specified in the letter of intent proposes a fish market and restaurant, this use does fit the intent of the South Memphis Plan and aligns with the intent of the district; however, gasoline sales do not.

**Outline Plan Conditions**

Lee's Business Center  
March 14, 2013

I. PERMITTED USES

A. Uses permitted by right in the CMP-1 (Campus Master Plan) District with the following additional uses permitted:

1. Restaurant

II. BULK REGULATIONS

A. Building setbacks shall be in conformance with the CMP-1 (Campus Master Plan) District Regulations.

III. CIRCULATION, ACCESS AND PARKING

A. Parking and/or loading spaces shall be in conformance with the CMP-1 (Campus Master Plan) District Regulations.

B. Pedestrian access shall be provided McLemore Avenue; one handicapped accessible entrance shall be provided.

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

D. 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.

E. 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.

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

G. 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.

- H. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.
  - I. The width of all existing off-street sewer easements shall be widened to meet current city standards.
- IV. LANDSCAPING
- A. Landscaping shall be provided as generally depicted on the Outline/Final plat.
  - B. Landscape Plate A-6 or Plate A-7 shall be required along McLemore Avenue and College Street.
  - C. Required landscaping shall not be placed on sewer or drainage easements
- V. SIGNS
- A. Signage shall be in conformance with regulations established for the O-G (General Office) District as defined in Section 4.9.7. C.
  - B. New or proposed signage shall be illustrated on the final plat.
- VI. The Land Use Control Board may modify the bulk, access, parking, landscaping, loading, screening, signage, 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 (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.
- VII. A final plan shall be filed within five (5) years of the approval of the general plan. The Land Use Control Board may grant extensions at the request of the applicant.
- VIII. Any final plan is subject to the administrative approval of the Office of Planning and Development and shall include the following:
- A. The Outline Plan conditions.
  - B. The location and dimensions, including height of all buildings or buildable areas, pedestrian and utility easements, service drives, parking areas, trash receptacles, loading facilities, and required landscaping and screening areas.

- C. The location and ownership, whether public or private, of any easement.

The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City and/or County Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City and/or County Engineer's Office. Such maintenance shall include, but not be limited to removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.

**GENERAL INFORMATION**

**Street Frontage:** 120 feet

**Planning District:** South Memphis

**Census Tract:** 46

**Zoning Atlas Page:** 2130

**Parcel ID:** 026019 00001

**Zoning History:** CMP-1

**DEPARTMENTAL COMMENTS**

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

**City Engineer:** No comments received.

**County Engineer:** No comments received.

**City Fire Division:** No comments received.

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

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

**City/County Health Department-** *No comments*

**City Board of Education:** No comments received.

**County Board of Education:** No comments received.

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

**Memphis Light, Gas and Water:** MLGW has reviewed the referenced application, and has no objection, subject to the following conditions:

- **STREET NAMES:** It is the responsibility of the owner/applicant to contact MLGW—Address Assignment @ 729-8628 and submit proposed street names for review and approval. Please use the following link to the MLGW Land & Mapping website for **Street Naming Guidelines** and the

**Online Street Name Search:** <http://www.mlgw.com/builders/landandmapping>

- **It is the responsibility of the owner/applicant** to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- **It is the responsibility of the owner/applicant** to contact **TN-1-CALL @ 1.800.351.1111**, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc.
- **It is the responsibility of the owner/applicant** to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- **It is the responsibility of the owner/applicant** to comply with the **National Electric Safety Code (NESC)** and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- **Landscaping is prohibited** within any MLGW easement or dedicated utility easement without prior MLGW approval.
  
- **It is the responsibility of the owner/applicant** to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.
  - All residential developers must contact MLGW's Residential Engineer at Builder Services: (901) 729-8675 to initiate the utility application process.
  - All commercial developers must contact MLGW's Builder Services line at 729-8630 (select option 2) to initiate the utility application process.
- **It is the responsibility of the owner/applicant** to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

<b>Bell South / Millington Telephone:</b>	<a href="#">AT&amp;T Tennessee has no comment.</a>
<b>Memphis Area Transit Authority (MATA):</b>	No comments received.
<b>OPD-Regional Services:</b>	No comments received.
<b>OPD-Plans Development:</b>	No comments received.
<b>Division of Park Services:</b>	No comments received.
<b>County Conservation Board:</b>	No comments received.
<b>County Sheriff:</b>	No comments received.
<b>Neighborhood Associations:</b>	No comments received