

MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
STAFF REPORT **16**

CASE NUMBER: P.D. 08-320 **L.U.C.B. MEETING:** August 14, 2008

DEVELOPMENT NAME: 1830 Lamar Avenue Planned Development

LOCATION: Northeast corner of Lamar Avenue and McLean Boulevard

OWNER OF RECORD/APPLICANT: Carolyn A. Glover

REPRESENTATIVE: Dedrick Brittenum

REQUEST: A Planned Development to permit two principal uses (an existing billboard and a retail dress shop) on one commercial lot

AREA: 0.25 Acre

EXISTING LAND USE & ZONING: Vacant land and an existing billboard in the Highway Commercial (C-H) District

SURROUNDING LAND USES AND ZONING:

North: Predominately single family dwellings in the Single Family Residential
And East (R-S6) District

South: Land associated with the ramp and flyover that connects McLean Boulevard to Southern Avenue, further south a public park (Glenview) in the Single Family Residential (R-S6) and Single Family Residential Historic Preservation Overlay (R-S6 [HP]) Districts respectively

West: Commercial uses in the Local Commercial -Historic Conservation Overlay (C-L [H-C]) District; and Vacant land and Single Family Dwellings in the Single Family Residential Historic Conservation Overlay (R-S6[HC])

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION:

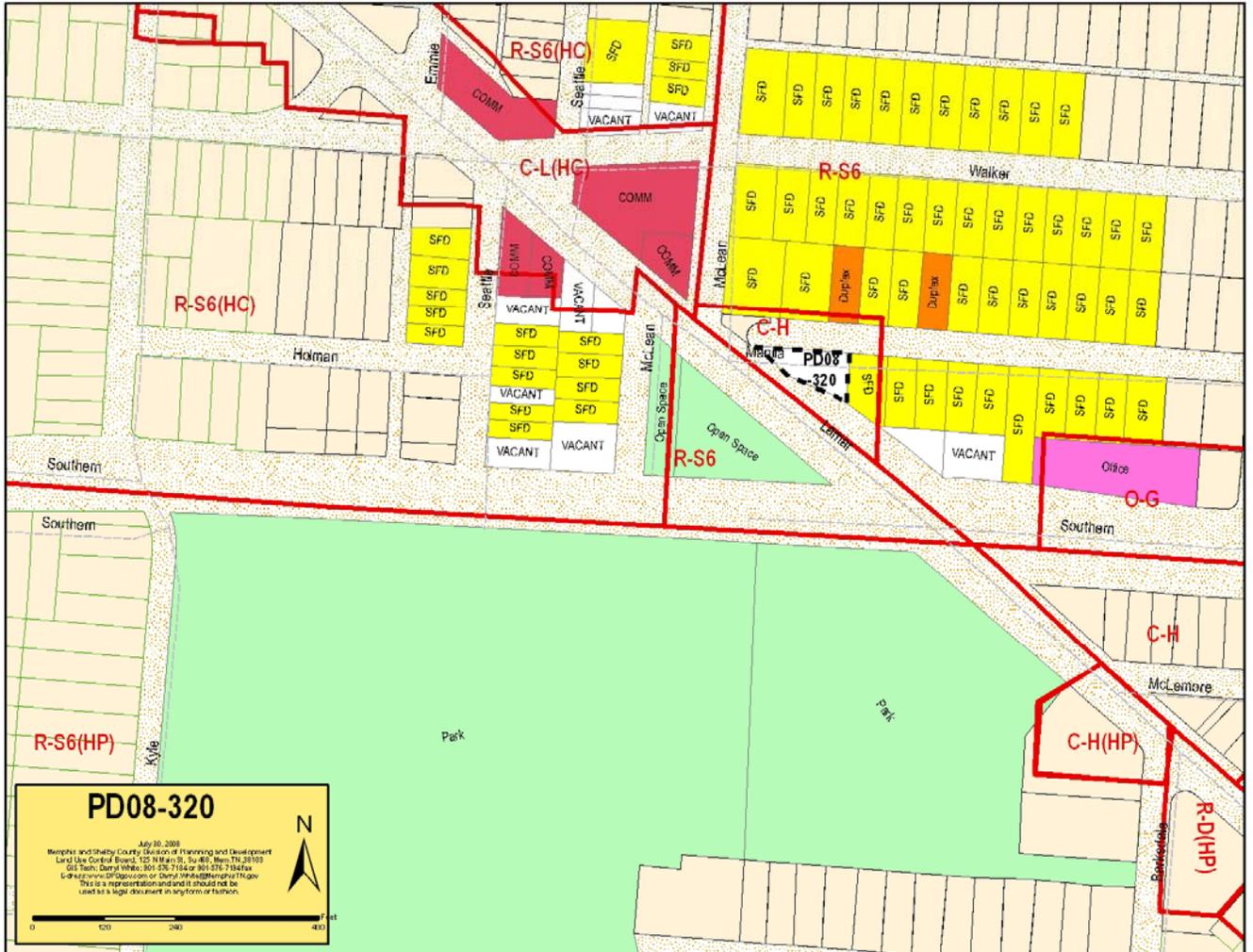
APPROVAL WITH CONDITIONS

Staff: Don Jones

E-Mail: donald.jones@memphisitn.gov

CONCLUSIONS

1. The current site plan is a modification to the original plan submitted for this site. This plan added landscaping along the property's edges and a sight proof fence to bring the site up to modern standards for commercial sites and to provide a transition to the residential uses to the north and east.
2. For her part, the applicant has submitted a rendering of the finished look for the building. This rendering which includes a vinyl skin to be added to the building plus large windows and doors are included as a development requirement.
3. With respect to access, the City Engineer is recommending that the westernmost curb cut be widened and designed for right in- right out use only.
4. All of these requirements taken together; irrigated landscaping, re-design of curb cut, enhanced treatment to the building represent a significant cost to the applicant. The Planning Staff remains concerned that the amount of improvement needed to provide an adequate transition to the abutting properties is extensive and costly.



Zoning and Land Use Map



Aerial showing site in pattern and Lamar, McLean and Southern Overpass and ramp



Facing northeast



Facing northeast – existing building, new fence, and existing billboard



View showing ramp from Southern and Lamar frontages



View from Houses on Manila



Rendering of finished building

STAFF ANALYSIS

Location and History:

The subject property is located on the northeast corner of Lamar Avenue and McLean Boulevard in the Midtown Area of Memphis.

The subject property is Lot 148 of the Lamar Heights Subdivision found on the Registers Web Site at Plat Book 6 Page 95, recorded in 1912. This is a triangular shaped lot whose dimensions differ from the original recorded plat. The reasons for the changes in dimensions are due to the closure of Manila Street and most likely to the intersection improvements to the Lamar Avenue and Southern Avenue flyover.

The subject property which has been vacant for some time is a former commercial site. Today a significant portion of this site is vacant with the exception of the easternmost section of the property which contains a two panel billboard.

Characteristics:

The property is generally level with the grade of Lamar Avenue but sits well below the grade of Manila Avenue to the north. Similarly, the existing billboard sits near the top of a steep slope at the eastern edge of the property. A concrete retaining wall is located along the north, east and west edges of the property.

Street Frontage and Access :

The subject property has approximately 100 feet of street frontage along a ramp that connects Southern Avenue to Lamar Avenue. Traffic along this ramp is heading west to merge onto Lamar Avenue. The remaining approximate 100 feet of the site has frontage along Lamar Avenue. There are two existing curb cuts. The eastern most curb cut serves the access easement for the Billboard. The western most curb cut is located some 60 to 70 feet from the intersection of Lamar Avenue and McLean Boulevard.

History of Request:

This application for a Planned Development is preceded by two applications to the Memphis and Shelby County Board of Adjustment. The request for a variance was to allow two principal structures on one commercial lot. Section 19. b. of the Memphis and Shelby County Zoning Ordinance Regulations restricts the number of principal uses on a zoning lot to one with exceptions made for the Multiple Dwelling Residential District.

The original variance request with a revised site plan was approved in January 2006. The applicant proceeded with making improvements to add the metal building and the sight proof fence. Her permit lapsed and was not renewed since it was subsequently learned that the permit was issued after the one year time frame that is required by the Board of Adjustment.

A second application for a variance on this same site for the same reasons was reviewed by the Board of Adjustment in May of 2008. This request included opposition that was not present at the prior hearing. The appearance of the proposed building (a metal building) and the safety factor associated with the existing curb cut were discussed at length and the Board of Adjustment rejected the application.

The applicant is now seeking approval from the Memphis City Council for this request.

Review of Request:

As noted, this is a small site for a commercial use. The irregular configuration of the site and topography place further limitations on the development of this site. As a result the applicant is proposing a small building of approximately 500 square feet.

Concerns have been expressed in prior public hearings that this small metal building will not make a positive contribution to the aesthetics of this area. Other concerns regarding the access to this site, questioning the safety of the existing curb cut location, have been expressed.

Site Plan

The current site plan is a modification to the original plan submitted for this site. This plan added landscaping along the property's edges and a sight proof fence to bring the site up to modern standards for commercial sites and to provide a transition to the residential uses to the north and east. The proposed conditions for this Planned Development will recognize and accept the building setback as shown on the site plan and require 3 customer spaces and one space for the owner or employee.

For her part, the applicant has submitted a rendering of the finished look for the building. This rendering which includes a vinyl skin to be added to the building plus large windows and doors are included as a development requirement.

Access

With respect to access, the City Engineer is recommending that the westernmost curb cut be widened and designed for right in- right out use only.

All of these requirements taken together; irrigated landscaping, re-design of curb cut, enhanced treatment to the building represent a significant cost to the applicant. The Planning Staff remains

concerned that the amount of improvement needed to provide an adequate transition to the abutting properties is extensive and costly.

RECOMMENDATION: Approval with Conditions

OUTLINE PLAN CONDITIONS
1830 Lamar Avenue Planned Development
P.D. 08-320

- I. Uses Permitted:
 - A. A small retail clothing store or office
 - B. The billboard on this lot is a non-conforming use. The approval of this Planned Development does not change the status of the billboard.
- II. Bulk Regulations: As regulated by the Highway Commercial District with the following exceptions.
 - A. Setbacks shall be as shown on the approved Final Plat..
 - B. Building elevations shall be consistent with the submitted rendering Said rendering shall be made a part of the Final Plat.
- III. Access, Parking, and Circulation:
 - A. The westernmost curb cut shall be designed as right-in, right-out only and is subject to the review and approval of the City Engineer.
 - B. Unless required to remain open by the terms of the ingress/egress easement, the westernmost curb cut shall be closed and replaced with curb, gutter, and sidewalk.
 - C. A minimum of 3 parking spaces shall be provided for customers.
 - 1. One of the three spaces shall be designed for persons with disabilities.
 - 2. A fourth space shall be provided for the owner or employee parking.
 - 3. All spaces shall meet the requirements of the Zoning Ordinance.
- IV. Landscaping and Screening:
 - A. Install a six foot tall shadow box style fence with cap along the north property line. This fence shall be located either directly on top of the existing retaining wall or abutting said wall on the north side. The fence may contain a gate.

- B. An A-1 Plate or an equivalent alternative that is acceptable to the Office of Planning and Development shall be provided along the Lamar Avenue (including the frontage along the ramp) frontage.
 - C. Provide a minimum 5 foot wide planting strip to run parallel to the east-west section of the retaining wall (this is the retaining wall on the north side of the site) on the south side of said retaining wall. Planting strip will run between the two north-south sections of the retaining wall.
 - D. Planting within the strip (C above) shall consist of a mixture of Loblolly Pines and Savannah Hollies, maintained as a Tree. Leland Cypress may be substituted for Loblolly Pines. The Pines or Cypress shall be spaced 20 feet on center. Hollies shall be spaced 10 feet on center. Minimum height of trees at planting is six feet.
 - E. The area to the west (the point of the triangle) shall be landscaped as shown on the plan.
 - F. All required plantings, with the exception of the ground cover between the wood fence and the sidewalk along Manila, shall be irrigated.
- V. Signs as regulated by the Highway Commercial District.
- VI. Drainage:
- A. Drainage improvements, including on-site detention, shall be provided under a Standard Subdivision contract in accordance with Subdivision Regulations and the City of Memphis Drainage Design Manual.
 - B. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.
- VII. The Land Use Control Board may modify the building setback, access, parking, landscaping and sign requirements if equivalent alternatives are presented.
- VIII. A final plan shall be filed within five years of approval of the outline plan. The Land Use Control Board may grant extensions at the request of the applicant.

- IX. Any final plan shall include the following:
- A. The outline plan conditions
 - B. A standard subdivision contract as defined by the Subdivision Regulations for any needed public improvements.
 - C. The exact location and dimensions including height, of all buildings or buildable areas, parking areas, drives, and required landscaping.
 - D. The number of parking spaces.
 - E. The location and ownership, whether public or private, of any easement.
 - F. A statement conveying all common facilities and area to a property owners' association or the entity, for ownership and maintenance purposes.
 - G. The 100 year flood elevation.
 - H. 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 owner's 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

Street Frontage:	Lamar Avenue - +/- 220 Feet
Planning District:	Midtown
Census Tract:	63
Zoning Atlas Page:	2130
Zoning History:	The current Highway Commercial or its equivalent C-3 dates to 1954

DEPARTMENTAL COMMENTS

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

City Engineer:

Location: Lamar Ave., NE c/o, Mclean Blvd.

1. Standard Subdivision Contract as required in Section 500 of Subdivision Regulations.

Sewers:

2. City sanitary sewers are available at developer's expense.

Curb Cuts/Access:

3. The City Engineer shall approve the design, number and location of curb cuts.
4. Both existing nonconforming curb cuts shall be closed with curb, gutter and sidewalk.
5. One (1) new curb cut along the Lamar Ave frontage will be permitted, and will be limited to right in/right out access only by design and operation.

Drainage:

6. Drainage improvements, including on-site detention, shall be provided under a Standard Subdivision contract in accordance with Subdivision Regulations and the City of Memphis Drainage Design Manual.
7. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.

General Notes:

8. The width of all existing off-street sewer easements shall be widened to meet current

city standards.

9. All connections to the sewer shall be at manholes only.
10. 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.
11. Required landscaping shall not be placed on sewer or drainage easements.

City Fire Division:

Label intersecting street on the SW or call a distance to a street on the NE side of Lamar.

City/County Health Department: No comments by the Water Quality Branch.

City 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 comments:

- **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 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 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 utility easement. No trees, shrubs or permanent structures will be allowed within any MLGW 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 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).
- **It is the responsibility of the owner/applicant** to contact the appropriate MLGW engineering area to determine if system improvements may be required and any related cost:

- MLGW Engineering - **Residential Development:** 528-4858
- MLGW Engineering - **Commercial Development:** 367-3343
- **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.

Bell South: No comments received.

Memphis Area Transit Authority (MATA): No comments received.

OPD-Regional Services:

This application was reviewed by the MPO staff/Department of Regional Services on July 24, 2008. Lamar Avenue is an existing major road consisting of 80 feet of right of way and 60 feet of pavement. While no proposed improvements are shown in the 2030 Long Range Transportation Plan's Horizon Year and Vision Year sections, the MPO recommends dedication and improvement of right of way as deemed needed by the City Engineer.

OPD-Comprehensive Planning: No comments.

Orange Mound Concerned: No comments received

31st Ward Civic Club: No comments received

Central Gardens: No comments received

Rozelle-Annesdale **No comments received as 8/07/08**

Cooper-Young: **See Below**

I am writing on behalf of the Cooper-Young Development Corporation in regards to the PUD application for 1826 Lamar Avenue, Carolyn Glover. Please share this email with the members of the Land Use Control Board before the case is heard.

The CYDC is strongly opposed to this development, and we urge the Land Use Control Board to deny this application. Some of our residents have been fighting this development for over a year now, and it is unfortunate that even though the **Board of Adjustments denied a Special Use Permit for this site**, we are still having to fight.

Our first concern is the type of building which Ms. Glover is proposing to erect. There is currently a modular building located on the site. According to the site plans submitted, this will be the "store" after the construction period is completed. This building **has been boarded up for nearly eight months and has only been an eyesore** and detriment to the neighborhood. Even without the boards, this building looks like a **cheaply crafted mobile home**, and is appropriate as a temporary office on a large construction site, **not as a permanent building** that the neighborhood will have to deal with in perpetuity. There

are no other buildings of this type located anywhere along this stretch of Lamar, and it is completely out of character and inappropriate for the neighborhood. No amount of landscaping or tree cover will hide the fact that this is a temporary building being paraded as a permanent one. Additionally, there is **already a billboard on the site** and that is the primary use. Adding a mobile home next to the billboard would be an ugly and offensive to the neighborhood.

Secondly, we are **deeply concerned about the ingress and egress** on this site. At the last Board of Adjustments meeting where Ms. Glover's Special Use Permit was denied, Mr. Stoy Bailey with our partner neighborhood, Rozelle-Annesdale, presented an evaluation done by Dr. Martin Lipinski from The University of Memphis. This evaluation showed that to have a driveway that allows right- and left-hand turns on and off the site is **extremely dangerous**. I ask the **members of the Board to go out and look at this property before this case is heard** and personally see the relationship between the off ramp from Southern and the intersection of Lamar & McLean. To allow a driveway as Ms. Glover has proposed will only be dangerous to pedestrians and vehicles alike. This site is irregular and cannot handle commercial traffic.

The Cooper-Young Development Corporation (CYDC) is **investing over \$1 million** on Seattle Street, located just one block from this site. That redevelopment, a 9-home new construction, single-family homeownership project, was started because the residents in that area of the neighborhood asked us to improve quality of life and quality of housing choice in their "neck of the woods". We have taken empty lots, drug houses, and dilapidated buildings and **transformed a distressed street into one of promise**. We took great care to build those houses to historic standards and **preserve the character of this great neighborhood**. This site, with its cheap, out of character building, is an **insult** to what we are not only trying to **create**, but trying to **preserve**.

Finally, we acknowledge that Ms. Glover did receive a variance last year, but remind you that she was forced to reapply because she had not started construction on the property during the year that she had to start. (We at the CYDC were not made aware of the application, or we would have requested its denial at its original application, as well.) Since receiving the permit last year, I have received (as has my counterpart at the Cooper-Young Community Association) **numerous complaints** about this property and Ms. Glover. Particularly, neighbors located on Manila have contacted me several times. Ms. Glover has felled trees not on her property and **disregarded the concerns of the neighbors time and time again**. I have received well over 20-25 phone calls, emails, and letters asking us to help with this site and Ms. Glover. I've spoken with Mary Baker several times about the site, and have tried to direct our neighbors through the appropriate channels, which includes asking you to deny this application. I am writing this letter on behalf of those neighbors, and my neighborhood as a whole. Please understand that this site is not appropriate for this type of establishment, or anything that requires vehicle ingress and egress.

At the last Board of Adjustments meeting, Ms. Glover's representative, Mr. Brittenum,

likened denying Ms. Glover's permit to denying her American Dream. I ask you to remember the residents of this neighborhood and *their* American Dream to live in a **beautiful and safe** neighborhood.

Please feel free to contact me with any concerns or questions. Thank you for your consideration.

Sutton Mora Hayes

Executive Director
Cooper-Young Development Corporation

Pidgeon Roost Development Corp

See Attached.