

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

CASE NUMBER: P.D. 09-308

L.U.C.B. MEETING: May 14, 2009

DEVELOPMENT NAME:

NATURAL LEARNING PLANNED DEVELOPMENT

LOCATION:

North side of Nelson Avenue; ±550 feet west of Tanglewood

COUNCIL DISTRICTS:

Regular: 4 Super: 8

OWNER:

David S Early

APPLICANT:

Natural Learning School; Dalila Early, Director

REQUEST:

Group day care home in two existing houses

AREA:

0.31 acres

EXISTING LAND USE & ZONING:

Two single-family residential buildings in the Single Family Residential (R-S6) District --- one occupied by a family day care home

SURROUNDING USES AND ZONING:

- North:** Single-family residences in the R-S6 District
- East:** Single-family residences in the R-S6 District
- South:** Across Nelson Avenue, single-family residences in the R-S6 District
- West:** Single-family residences in the R-S6 District

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION

Approval, with Conditions

CONCLUSIONS

1. An existing family day care home, allowable in the R-S6 District, is seeking to expand.
2. The accessibility does not meet the criteria for consideration of a special use permit for this larger category --- group day care home; but the actual neighborhood impact should be manageable.
3. The application hopes to grow the business before move to another more permanent neighborhood site.
4. OPD staff understands that this establishment is considered an asset by the Cooper-Young community.

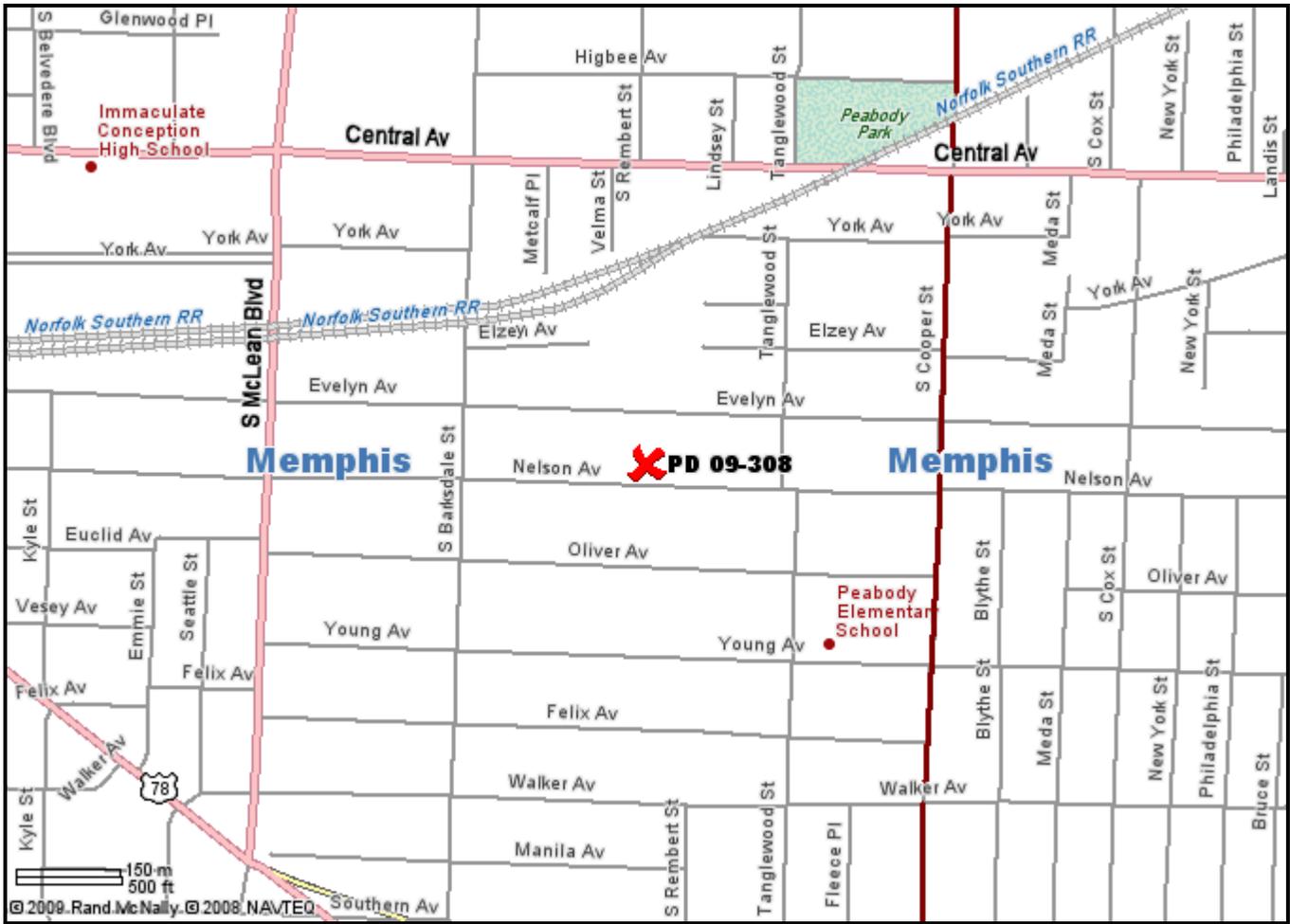
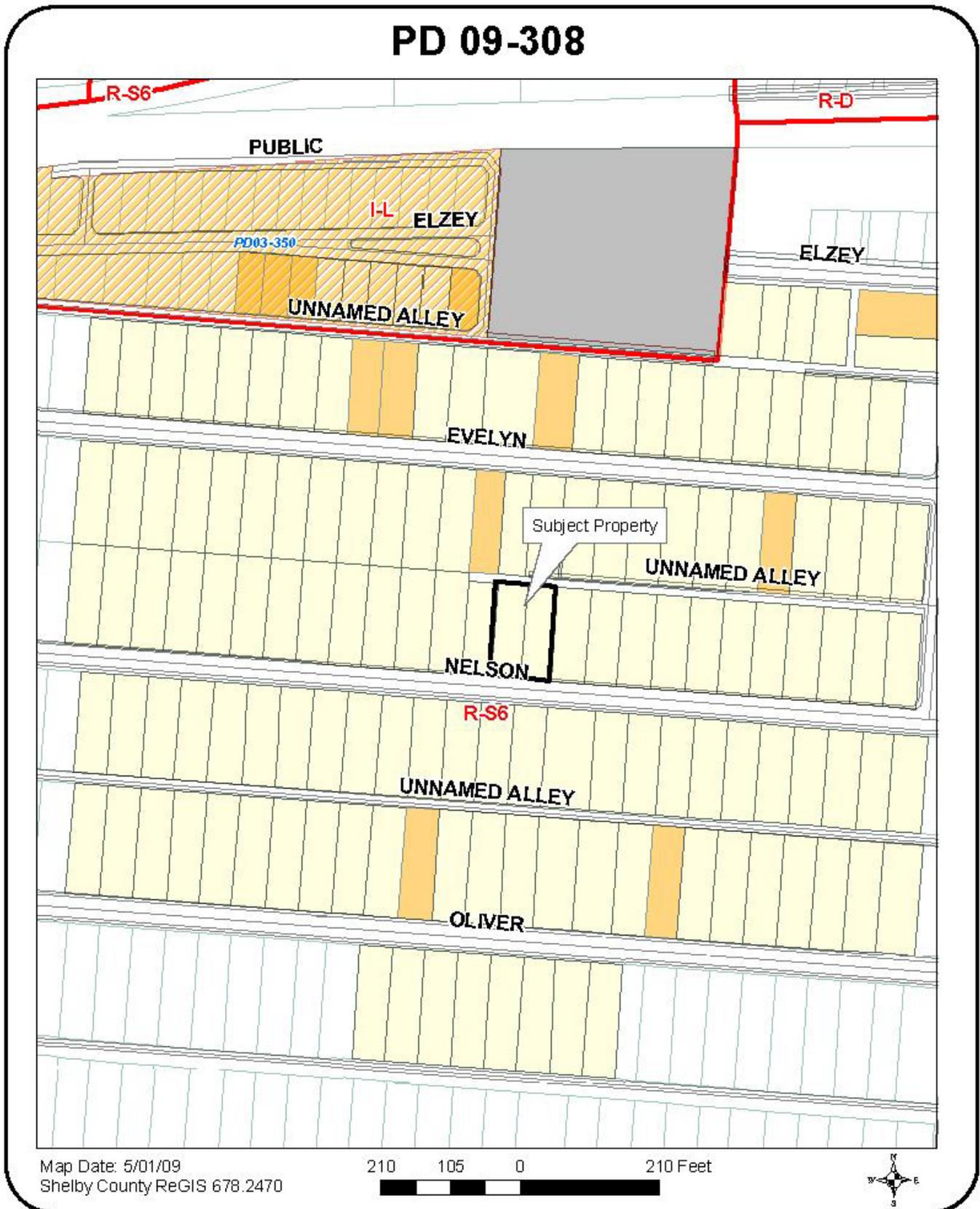


Figure 1: Location Map



Map Date: 5/01/09
Shelby County ReGIS 678.2470

210 105 0 210 Feet



Figure 2: Zoning and Land Use in the Vicinity of the Subject Property

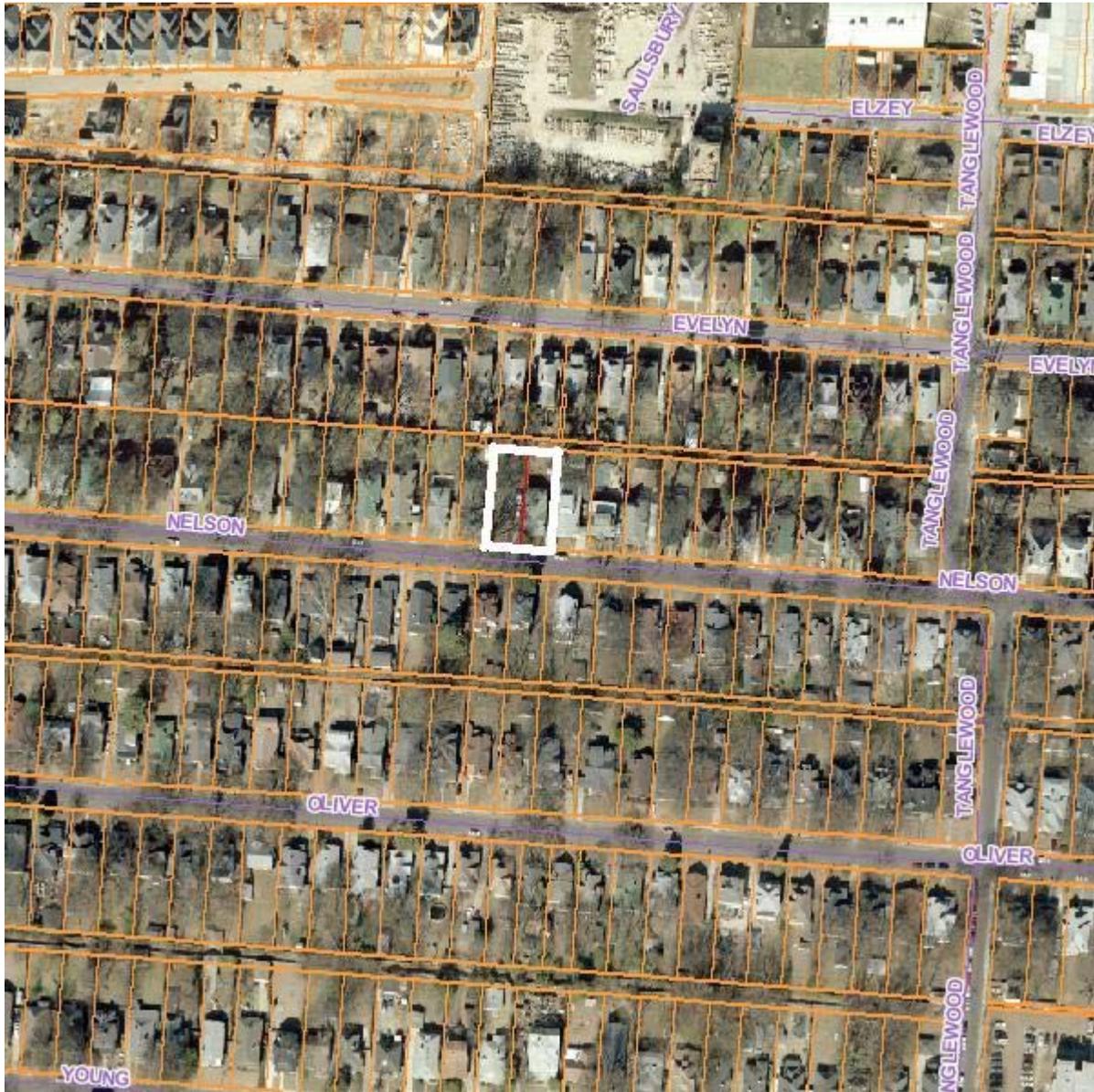


Figure 3: Overhead view of vicinity



Figure 4: Overhead view of subject property



Figure 6: This house at 1992 Nelson represents the west half of the proposed group day care home facility.



Figure 7: This house at 1996 Nelson would be the east half of the proposed group day care home facility.



Figure 8: This adjoining single-family residence at 2008 Nelson would be the most affected property.



Figure 9: A view of Nelson Avenue looking eastward from the subject property



Figure 10: These two houses are across the on the south side of Nelson Avenue.

STAFF ANALYSIS

Site and Location

The subject property consists of two adjacent single-family residential parcels that are comprised of Lots 79 and 80 in the Edmundson and Cummings Subdivision (platted in 1919). Each parcel has a frontage of 45 feet on Nelson Avenue. With a depth of 144 feet, the properties together comprise a site of 12,900 sq. ft (At the rear, the properties are bordered by a right-of-way --- apparently a virtually unused cul-de-sac alleyway, which ends about 45 feet west of the subject property. The total area of the property is approximately 12,960 sq. ft (0.30 acre). The two parcels are each occupied by single-family residences built in 1930 in a single-story bungalow-type design with each having about 1,400 sq. ft. in building area.

The subject property is located on Nelson Avenue in the heart of the Cooper-Young neighborhood. Nelson Avenue is a local street which begins at Roland Street in the Rozelle-Annesdale neighborhood, crosses and the major streets McLean and Cooper and extends to South Parkway, where it terminates opposite the fairgrounds. On Nelson, the subject property is located in a ¼ long block, about 550 west of Tanglewood Street, and about 830 feet east of Barksdale, which is major local

Proposed Development

The applicant is a corporation with the name Natural Learning School and Home School Resource Center, whose director is Dalila Early. (The property owner is listed as David S Early, whose address is another house that he owns immediately west of the subject property.) Currently this enterprise is utilizing the house at 1892 Nelson to operate a “family day care home”, a use category that involves day care services for no more than seven unrelated children. The applicant now wishes to expand this operation to twelve children by using the adjacent house at 1896 Nelson. This would change the use classification to a “group day care home.”

Planning Issues

Day care homes in a residential district are one of the potential uses of land that are normally decided upon through the special use permit process. The zoning ordinance specifies three specific standards that must be met for approval of a group day care center in a residential district^a The subject property does not qualify according to the accessibility standard, since

^a

- i. The property shall be located: (a) on a collector street; (b) on a major road; (c) on a minor street or private drive that serves only nonresidential uses or zoning districts; or (d) on a minor street within one hundred (100) feet of an intersecting major street.
- ii. Screening of the play and parking areas from adjacent properties may be required.
- iii. The maximum number of children to be accommodated on site shall be specified. Children who are related to the

it is on a minor residential without the mitigating factor of being with 100 feet (two lot width) of a major road (like Central Avenue).

Therefore this application was filed as a planned development, which is a type of development which allows land uses types to be mixed and allow deviations from the regulations the normal development to be waived so as to permit projects which are somewhat innovative in design or character or that have some particular reason for setting aside certain rules and standard that may apply in typical land developments. This process of stepping outside the normal rules requires a somewhat closer review and a greater scrutiny of the details of a project at every stage of the development process. For this particular situation, the focus should be on access and parking, as well as compatibility within the neighborhood and with respect to the adjoining uses.

Nelson Avenue is a local street with a 50-foot wide right-of-way, which includes sidewalks, tree lawns, curbs and gutters. The actual pavement of Nelson Avenue is 30 feet wide, and on-street parking is permitted on both sides of the street. When two cars (or larger vehicles) are parked abreast on opposite sides of the street, there is clearly a potential for congestion of two-way traffic. When, added to this situation are vehicles stopping in the street to let off or pick children at a day care home, the potential for congestion could approach a level that would tend to be a significant inconvenience and even a safety hazard.

Neighborhood Impacts

The proposed school operation will have a noticeable traffic impact with respect to congestion of the street during the times when children arrive and depart. This would be somewhat mitigated by the fact that proposed hours of operation do not have much overlap with the daily rush hour traffic peaks. The maximum traffic potential traffic would be 12 vehicles twice a day. In some instances this might be reduced by carpooling and walking to school.

The traffic and noise associated with this operation may be considered an inconvenience affecting particularly the owner-occupied residence immediately east of the subject property and to a lesser degree, the residences across the street.

Analysis

child care provider(s) by blood or marriage and are kept at the facility shall be counted for purposes of determining enrollment and facility compliance with these standards. There shall be provided a minimum of thirty (30) square feet of usable indoor play area per child, exclusive of restrooms, hallways, kitchen or office space; a minimum of thirty (30) square feet of floor area per child within the nap room and a minimum of fifty (50) square feet of usable outdoor play area per child, to be computed based upon the total number of children enrolled. State and local health, education, and/or fire regulations may reduce but shall not increase the number of students permitted to be enrolled.

The proposed day care home is supported by the neighborhood association and the proposed increase over the current level of activity is an incremental one. Also this expansion is apparently intended to be just an interim stage in the growth of a business that plans to expand further at another location in the neighborhood. Under these circumstances, and if there is no strong opposition for the immediate from the immediate neighbors, OPD staff can support approval of this request, for a limited, but reasonable, length of time.

RECOMMENDATION:

Approval, with Conditions

OUTLINE PLAN CONDITIONS
Natural Learning Group Day Care Home
P.D. 09-308
As Recommended by OPD Staff for the
May 14, 2009 Meeting.

A planned development is hereby approved for the operation of a group day care home on the property consisting of two lots identified as 1992 and 1996 Nelson Avenue, (*Instruments # CE7844 & JG0394 at Shelby County Register's office*), subject to an approved and recorded final plan including the following outline plan. conditions:

A. Permitted Uses

1. A group day care home (maximum 12 children) shall be permitted in the two existing single family homes, subject to the following restrictions:
 - a. The use is approved is approved on a temporary basis, and this will expire five years after adoption of this resolution by the Memphis City Council
 - b. The property shall revert back to single-family residential use when the school moves to its new planned location.
 - c. The group day care home hours of operation shall be from 9am - 3pm on Mondays through Fridays.
 - d. The operation of this group day care home shall at all time be in conformance with the regulations of the State of Tennessee.

B. Bulk Regulations

1. No changes will be made to the exterior appearance of the buildings.
2. Interior changes shall be limited to those changes required to comply with fire codes.

C. Access and Parking

1. Access and parking shall use existing curb cuts and driveways.
2. A member of the day care home staff shall be present at the curb to oversee all arrivals and departures of children from the site.
3. All vehicles with children or departing from the site shall operate only in the westbound direction i.e. from the direction of Tanglewood Street and toward the direction of Barksdale Street. It shall be the responsibility of the day care home staff to enforce this rule.

4. The number of off-street parking spaces shall be determined by Section 28 of the zoning ordinance, as amended, based on the number of staff at the day care home.

D. Landscaping

- All existing trees and landscaping shall indicated in the site plan and shall be preserved and maintained.
- A six-foot site proof fence shall be erected to screen the backyard area from

E. Signage

1. There will be no signs posted anywhere on the property.

F. Drainage

- No changes will be made to drainage

G. Other requirements

1. The site plan shall identify a useable outdoor area of at least 600 square feet in size
2. Architectural plans for the interior of the building, as submitted to the Office of Construction Code Enforcement shall be in compliance with all applicable state and local regulations.

GENERAL INFORMATION

Coordinates:	35° 07' 20"N, 89° 59' 44"W
Parcel Number:	031129 00041, -42
Street Address:	1992 & 1996 Nelson Avenue, 38104
Street Frontage:	<i>Nelson Avenue: ----- 90 feet</i> on this local street (50' ROW).
Planning District:	Midtown
Census Tract:	63
Annexation Status:	Annexed in 1929
Zoning Atlas Page:	1899

DEPARTMENTAL COMMENTS

City Engineer: No comment

Memphis Light, Gas and Water:

MLGW has reviewed the referenced application, and has no objection, subject to the following conditions:

- **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 without prior approval. It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance - Landscape and Screening Regulations.
- **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 MLGW engineering 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.

TOM WORD
Utility Coordinator

City/County Health Department: No comments from the Water Quality Branch *Greg Parker*

AT&T: AT&T Tennessee has no comment
Jim Casey

City Fire Division: No comments.

OPD-Plans Development: No comments received.

Memphis City Schools: No comments received.

Memphis Area Transit Authority (MATA):
OPD-Regional Services:
Construction Code Enforcement:

No comments received.
No comments received.
No comments received.

Neighborhood Associations:

Cooper Young Community Association

The Board of Directors of the Cooper Young Community Association met on Tuesday April 21. This topic was discussed. There was no opposition from the Board, nor any submitted from the community about the Natural Learning School raising its license from 7 children to 12 children. As always, we appreciate that you keep us informed of changes in our community.

Maggie Cardwell
Community Director

31 st Ward Civic Club	No comments received
Orange Mound Concerned Citizens	No comments received
Edwin Circle Association	No comments received
The New Olivet Baptist Church	No comments received



March 21, 2009

Mary Baker, Deputy Director
Land Use and Control
Office of Planning and development
125 N. Main Street
Memphis, TN 38103

Re: Natural Learning School
1992 & 1996 Nelson Ave.

Dear Ms. Baker:

Attached is an Application for Planned Development requesting the change of use for the above addresses. Presently 1992 Nelson Ave is used as a Family Day Home Center, the Natural Learning School, licensed by the DHS, serving 7 children. The 1996 Nelson Ave is used as a residence.

The Natural Learning School plans to raise it's license from 7 to 12 children becoming a Group Child Care Home using the two proprieties. The only changes to the proprieties will be made in its interior with the goal of complying with fire codes.

Our hours of operation are Monday through Friday, from 9am - 3pm. We will never extend our care passing 6pm or offer care on the weekends or holidays. We do not intend to become an around the clock center, since our vision is to function as a school and not as a Day Care Center.

We request that in the moment our School moves to it's planned new location, the two proprieties be reverted back to residential use.

Natural Learning School - 1992 Nelson Ave. Memphis, TN 38104 phone: 901-725-9467

The Natural Learning School has a very good relationship with all its neighbors with many of them sending their children and working at our school. The neighbors see the benefit of having a quality preschool in Cy and a daytime presence in the street while most of them are away. The school is also recognized by all neighborhood entities (CYCA, CYDC and our local Neighborhood Association) as an important member of our community.

We are currently working with the Cooper-Young Developing Corporation to develop a site within the CY to become our school's future home.

The Natural Learning School's Director has approached most of our neighbors with the proposed plans and the response has been positive in so much that many of them volunteer to write a letter in approval of it (see letters attached). NLS is confident that raising the number of students from 7 to 12 children will have a positive impact in the Cooper-young area, since we have a waiting list of many families from our neighborhood, wanting to join us.

We respectfully request your favorable recommendation, and if you have any question, please do not hesitate to contact me at 901-355-5034 or at dalila@naturalearningschool.com.

Sincerely,

Dalila Early
Founder - Director
Natural Learning School &
Homeschool Resource Center
1992 Nelson Ave
Memphis, TN 38104
www.naturalearningschool.com
dalila@naturalearningschool.com
Cell: 901-355-5034
School: 901-725-9467

Natural Learning School - 1992 Nelson Ave. Memphis, TN 38104 phone: 901-725-9467

SENT: Mon 5/4/2009 3:39 PM

TO: dga for Land Use Control Board

FROM: Emily Duke

I want you to know I fully support the Cooper-Young school that is being run by Dahlia Early. This kind of positive growth in our midtown community is inspiring. Please consider allowing her to increase her enrollment to 12 students. I really feel this is a positive opportunity for children in our area.

Ms. Early and her staff are being very considerate of the neighbors and their concerns. The Natural Learning School is just the kind of new business I like to see in our area. It supports families and positive growth.

Thank you so much for your consideration. If you have questions, please feel free to contact me with the information below.

Emily Duke
1765 Eastmoreland
Memphis, TN 38104

EXHIBIT B: EMAIL IN SUPPORT

**(See also – statement in support from Cooper Young Community Association –
p.16**

SENT: Mon 5/4/2009 3:39 PM

TO: dga for Land Use Control Board

FROM: Teresea Hicks

As I am unable to attend the public hearing Thursday, May 14th, I am submitting this e-mail to reflect my opposition to the variance request submitted by the Natural School Planned Development, Case Number PD 09-308.

I have lived in the same house on Oliver for over 30 years. In that time I have seen the neighborhood work hard and diligently to transition to the community that it is today. It took many years for the neighborhood to get to this point. In doing so, there was a great effort to create a neighborhood where the number of rental properties were converted back to single family; in turn bringing back a neighborhood where there was pride in ownership. This pride is reflected in the increased property values that we see today. In my opinion, a day care located on two lots in the middle of a single family residential street constitutes a commercial use of the property. The variance would set a precedence for others who would like to do the same, which in my opinion would negatively impact the neighborhood as a whole. Also, when considering this variance, there is also the issue with parking and traffic flow. The streets are narrow and parking is currently at a minimum. Many residence already park on both sides of the street. Where would the people using the facility park when letting out their children? I think it would just create additional traffic issues. I don't live on either side of these properties, but I can only imagine how I would feel if this was being considered by my neighbors.

I hope that my opinions will be genuinely considered when the approval process is being decided.

Sincerely,

Teresea Hicks
Commercial Closing Manager
AutoZone, Inc.
123 S. Front Street, 3rd Floor
Memphis, TN 38103
Direct Dial: (901) 495-8923
Facsimile: (901) 495-8969
teresea.hicks@autozone.com

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EXHIBIT C: EMAIL IN OPPOSITION