

MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
STAFF REPORT **#10**

CASE NUMBER: PD 09-319 **L.U.C.B. MEETING:** August 13, 2009

DEVELOPMENT NAME: Linden and Fourth Planned Development

LOCATION: Southeast corner Linden Avenue and Fourth Street

COUNCIL DISTRICT: 7

SUPER DISTRICT: 8

OWNER OF RECORD: Pentecostal Temple Church of God in Christ (J.O. Patterson)

APPLICANT: Royal Phoenix Development (Marlon Phoenix)

REPRESENTATIVE: ETI Corporation

REQUEST: An 11 story, hotel with future ground floor retail uses.

AREA: 2.79 Acres

EXISTING LAND USE & ZONING: A parking lot and vacant land in the Sports & Entertainment (SE) District

SURROUNDING LAND USES AND ZONING:

North: A Basketball Arena (Federal Express Forum) in the Sports and Entertainment (SE) District, Church Park in the Multiple Dwelling Residential (R-MH) District, and a church (Pentecostal Temple CoGIC) in the Sports and Entertainment (SE) District

East: Institutional uses (oriented medical treatment and rehabilitation services) in the Sports and Entertainment SE) and South Downtown Residential (R-SD) Districts

South: Primarily vacant land in the South Downtown Residential (R-SD) District

West: East side of Fourth Street - A duplex dwelling and a restaurant in the Sports and Entertainment (SE) District. West side of Fourth St - Church (ST. Patrick's) or church related uses (Thirteenth Episcopal District) in the Sports and Entertainment (SE) and South Downtown Residential (R-SD) Districts

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION:

APPROVAL WITH CONDITIONS

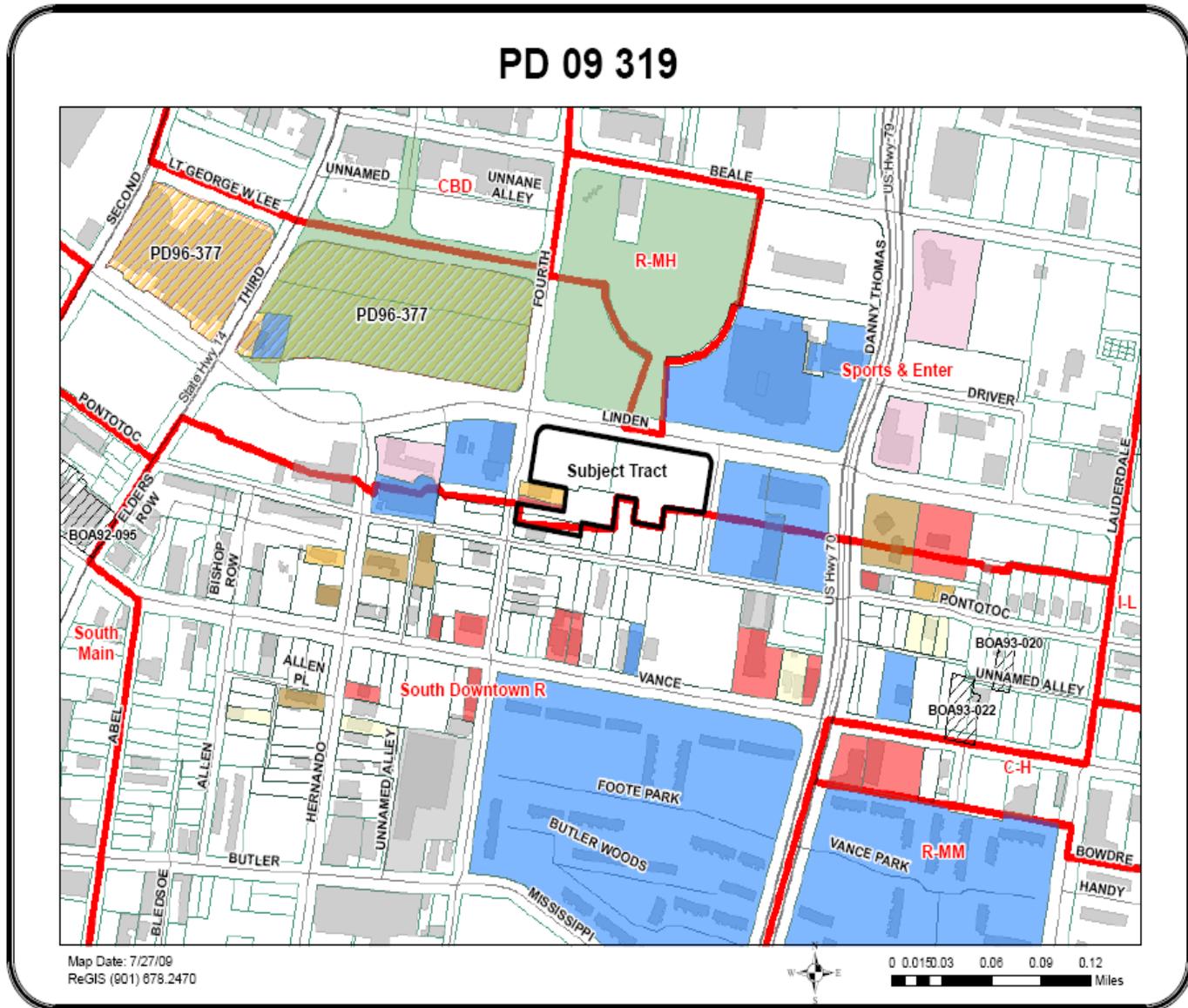
Staff: Don Jones

E-Mail: john.jones@memphistn.gov

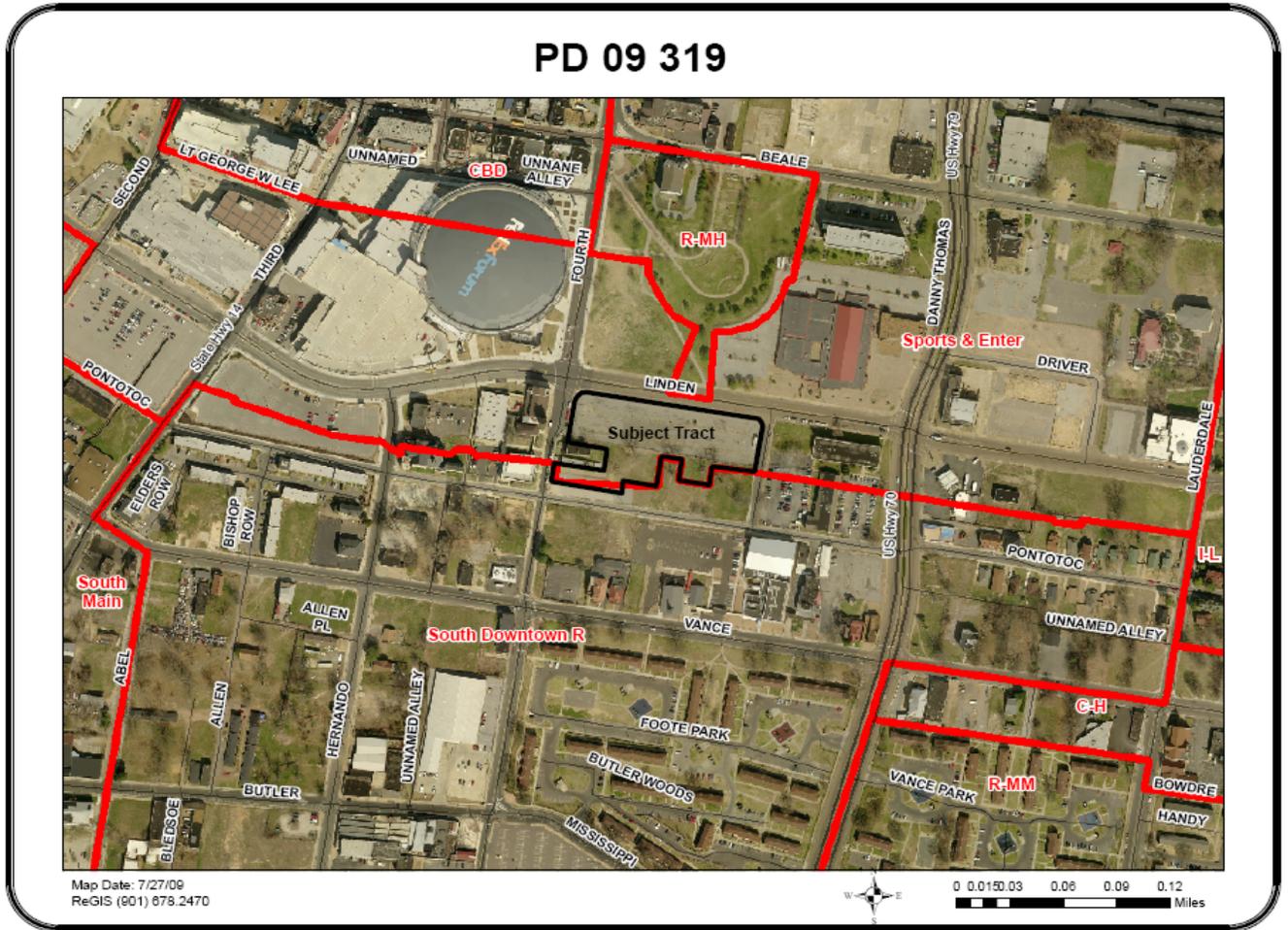
CONCLUSIONS

1. The purpose of the district is to permit a mixture of uses and activities that will compliment the sports and entertainment facilities that are located in this area. The district sets out a list of permitted residential uses and a list of additional uses that are permitted. New construction in this district requires Site Plan Review by the Office of Planning and Development. Surface parking lots are discouraged and structured parking is required to provide ground floor commercial uses or public space.
2. The applicant's request is to develop an 11-story, upscale, 4-star, hotel with future ground floor retail uses.
3. The height of the proposed hotel and the finishing out of the ground floor parking spaces to retail are important elements in this review.
4. At 125 feet this building will be one of the tallest in this area of downtown, second only to the Forum which has a height of 139 feet. The Sports and Entertainment District Regulations recommend a maximum height of 90 feet or 8 stories.
5. There is an existing residential structure which abuts this use. Unfortunately the applicant does not control the land adjacent to the corner of Turley Street and Pontotoc Avenue that would allow this building to be flipped to the east.
6. The applicant has provided photo-simulations that illustrate how this use would fit into this area.
7. The staff is supportive of the applicant's request to put emphasis on the hotel and the accessory parking in an attractive structure, but we find that it is important to make accommodations on the Plan and in the building that support the ground floor commercial look and feel. Therefore, we are recommending that the Outline Plan be revised to show a "Future Commercial Area" and that the applicant file a correspondence application to show the changes in the building elevations (windows, doors, sidewalk) when they are ready to make the conversion of the ground floor of the parking garage to retail.

Land Use and Zoning



Aerial with Site Identified



View of site



Looking east from Fourth

Looking south from Linden



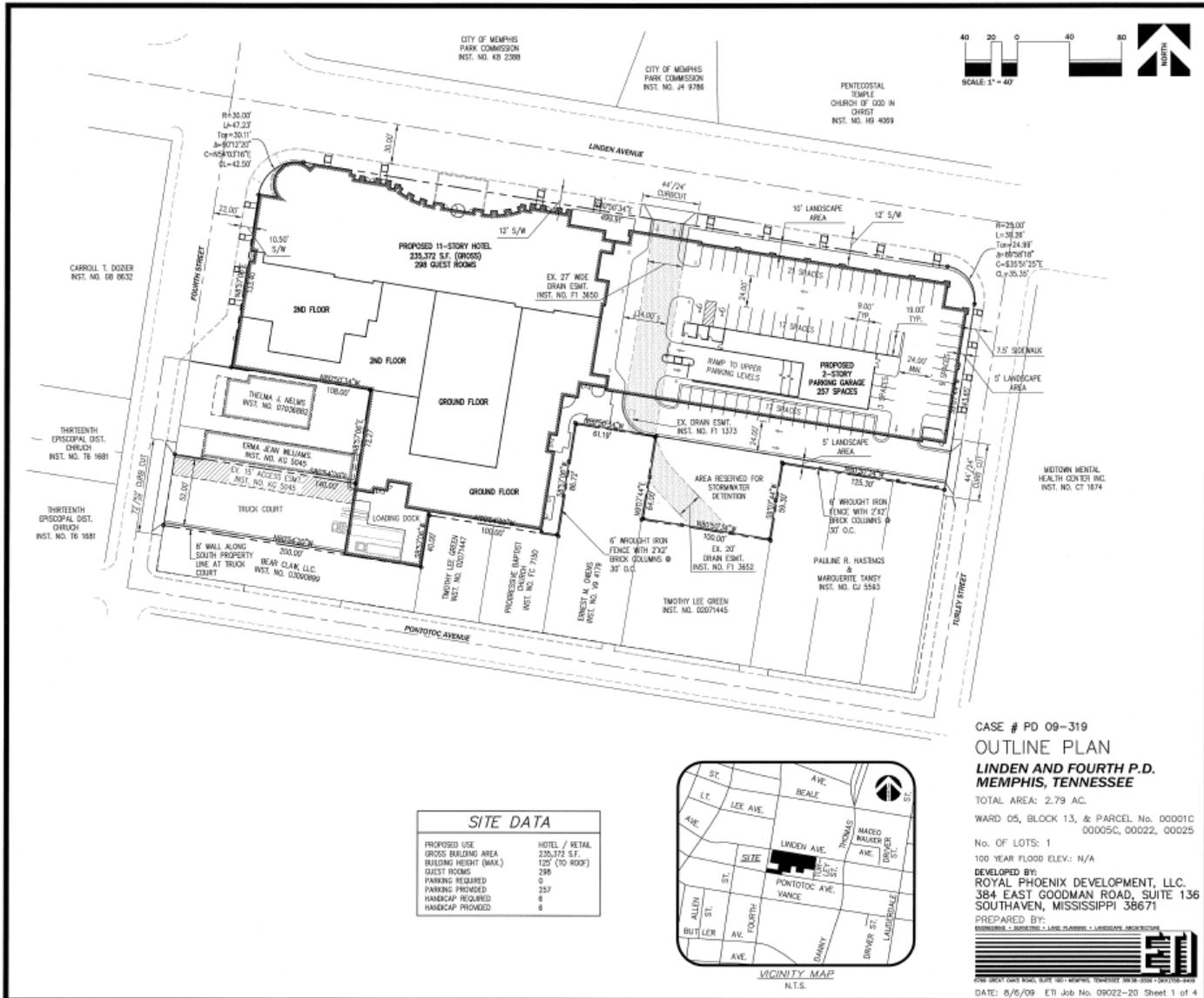
Looking west along Linden

**Looking north from Pontotoc
back of existing residential and
restaurant in foreground**



Looking north from Pontotoc toward site

Outline Plan

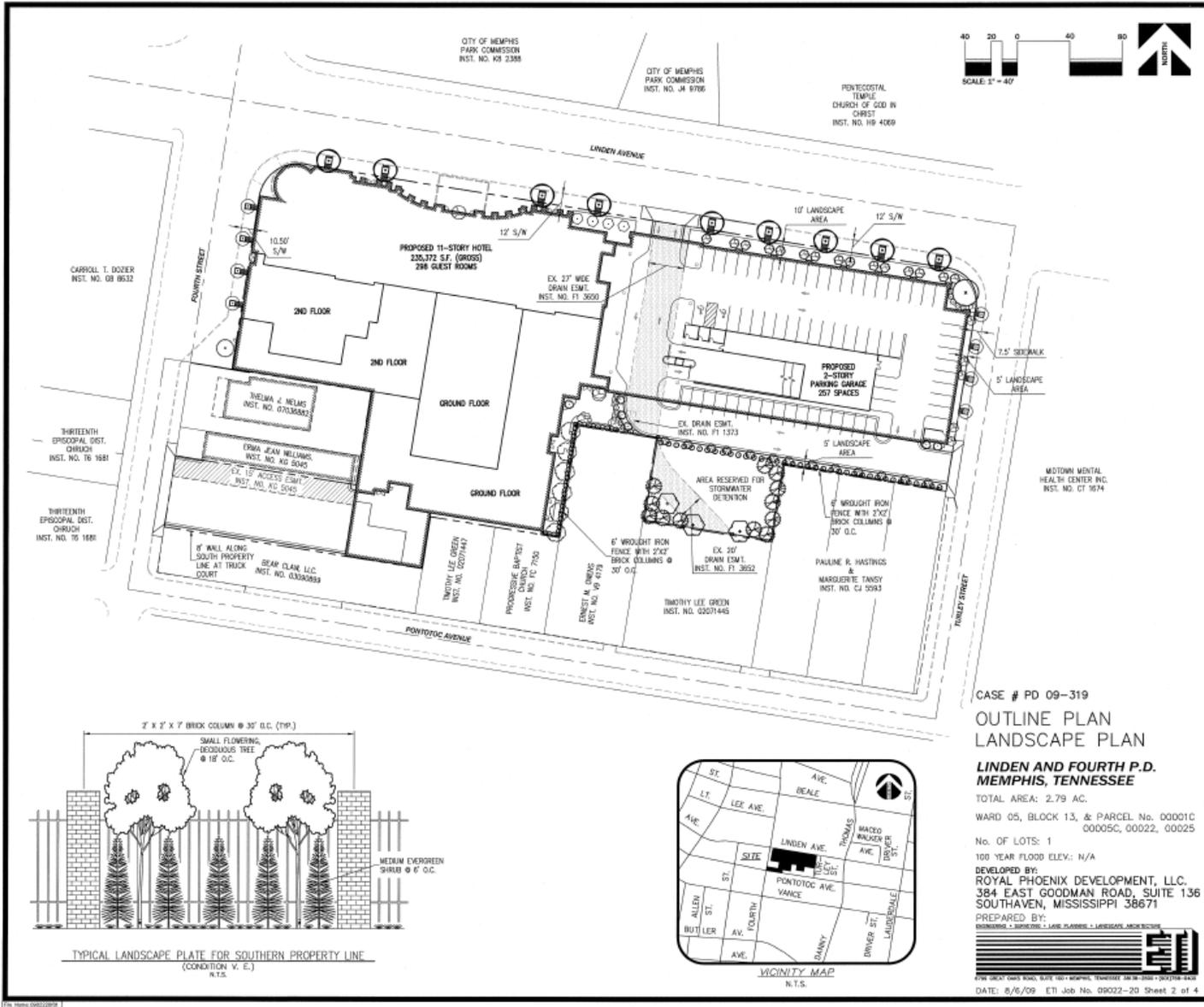


SITE DATA	
PROPOSED USE	HOTEL / RETAIL
GROSS BUILDING AREA	235,372 S.F.
BUILDING HEIGHT (MAX.)	120' (TO ROOF)
GUEST ROOMS	298
PARKING REQUIRED	0
PARKING PROVIDED	257
HANDICAP REQUIRED	6
HANDICAP PROVIDED	6

CASE # PD 09-319
OUTLINE PLAN
LINDEN AND FOURTH P.D.
MEMPHIS, TENNESSEE
 TOTAL AREA: 2.79 AC.
 WARD 05, BLOCK 13, & PARCEL No. 00001C
 00005C, 00022, 00025
 No. of LOTS: 1
 100 YEAR FLOOD ELEV.: N/A
 DEVELOPED BY:
ROYAL PHOENIX DEVELOPMENT, LLC.
 384 EAST GOODMAN ROAD, SUITE 136
 SOUTHAVEN, MISSISSIPPI 38671
 PREPARED BY:
 ENGINEERING - SURVEYING - LAND PLANNING - LANDSCAPE ARCHITECTURE

 DATE: 8/6/09 ETI Job No. 09022-20 Sheet 1 of 4

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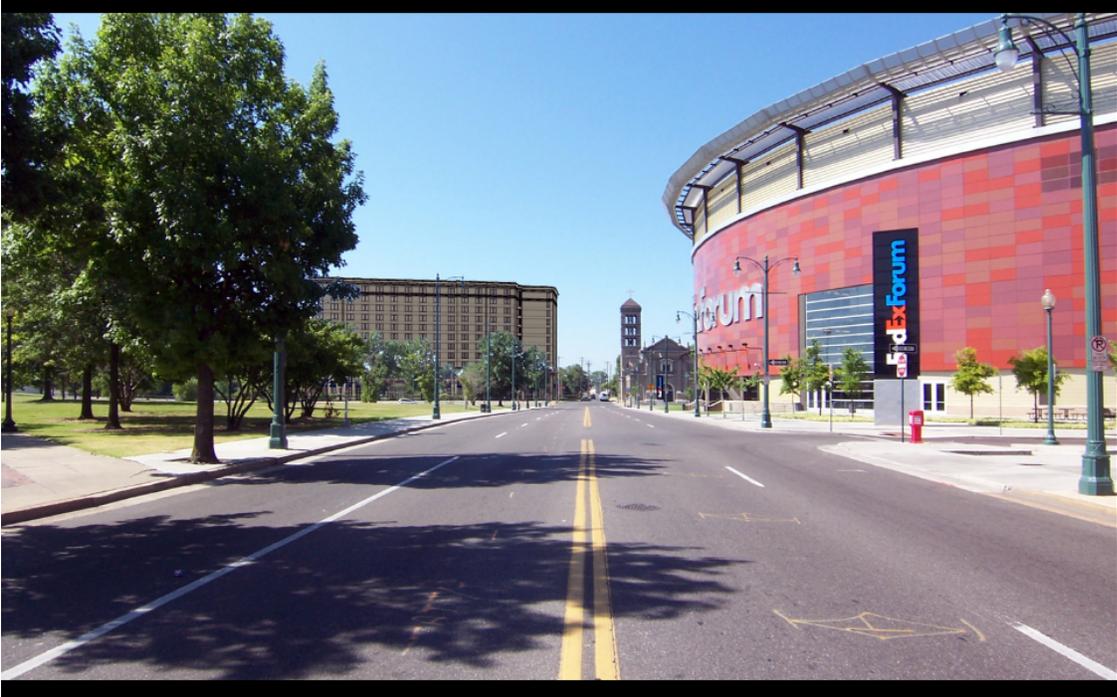


Outline Plan with proposed Landscape Plan

Photo Simulations
Looking north on Fourth Street toward Linden Avenue



Looking east along Linden Avenue, Fed Ex Forum on the right

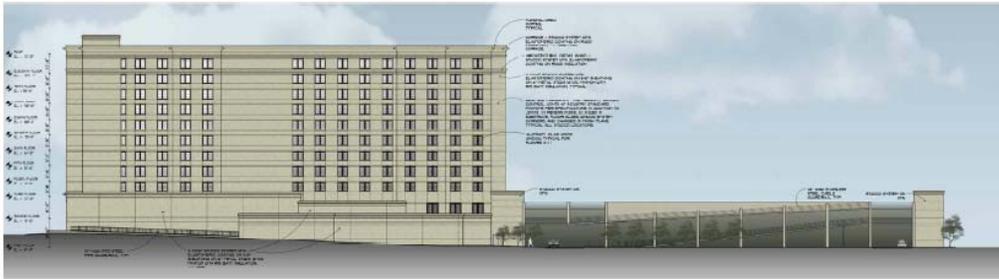


Looking South along Fourth Street toward Linden Avenue

ELEVATIONS

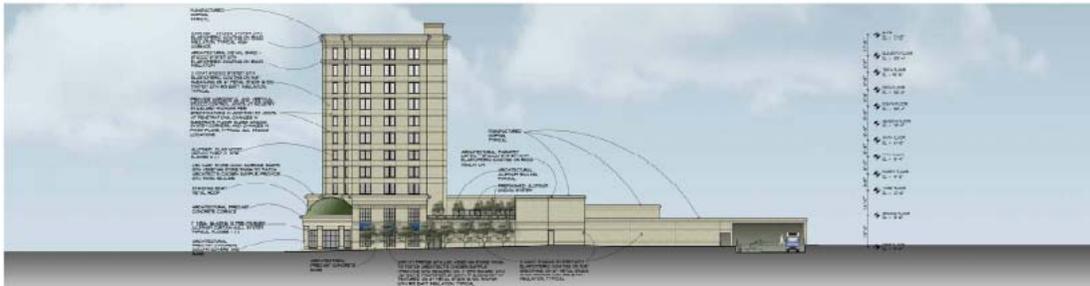


LINDEN AVE. ELEVATION



PONTIAC AVE. ELEVATION

CASE #



FOURTH ST. ELEVATION



TUBLEY ST. ELEVATION

CASE #

Examples of What the Future Retail on the Ground Floor should Look Like



The Peabody along Third Street

Hampton Inn and Suites – South side of Peabody Place



STAFF ANALYSIS:

General Location and Site Characteristics:

The subject property is located in the southern portion of Downtown Memphis, also known as the South Central Business Improvement District (SCBID). More particularly, the site includes the entire road frontage on the south side of Linden Avenue between Fourth Street and Turley Street, and most of the road frontage along the east side of Fourth Street with the exception of three parcels; a residential structure, a restaurant and a vacant parcel at the corner of Fourth Street and Pontotoc Avenue.

The portion of the site that abuts Linden contains a paved parking facility which would serve the current property owner Pentecostal Temple Church of God in Christ which is located on the opposite side of Linden Avenue. The balance of the land associated with this request is vacant with some mature vegetation. .

Landmark buildings and uses in the area include St. Patrick Church at the southeast corner of Fourth Street and Linden Avenue; the Fed Ex Forum Basketball Arena at the northwest corner of Linden and Fourth, and the Robert Church Park located at the northeast corner of Fourth Street and Linden Avenue.

Sports and Entertainment District:

The Sports and Entertainment District is one of seven special districts designated by the South Central Business Improvement District Plan and Zoning Regulations. The Plan and Zoning Districts were approved by the Memphis City Council in 2002, to provide direction for the anticipated redevelopment of the South Downtown Area generally depicted as Madison Avenue to Crump Boulevard and Riverside Drive to Danny Thomas Blvd/Lauderdale Street.

The purpose of the district is to permit a mixture of uses and activities that will compliment the sports and entertainment facilities that are located in this area. The district sets out a list of permitted residential uses and a list of additional uses that are permitted.

New construction in this district requires Site Plan Review by the Office of Planning and Development. Surface parking lots are discourage and structured parking is required to provide ground floor commercial uses or public space.

Request:

The applicant's request is to develop an 11-story, upscale, 4-star, hotel with future ground floor retail uses.

The applicant's letter of intent describes the project as follows: "The hotel will be nearly 125 feet in height and contain 298 guest rooms, with a vast array of amenities (such as, but not limited to, a ballroom, pool, fitness area, restaurant, conference rooms and offices), along with future retail space on the ground floor. The proposed two-story attached parking garage will provide adequate parking for the development and will also encourage pedestrian oriented functions due to its proximity to the FED Ex Forum and other areas of interest in the Sports and Entertainment District. A total of 257 parking spaces are provided as depicted on the Outline Plan. The north side of first level of the parking structure is being configured to allow it to be converted to retail space in the future, contingent upon the market supporting that use.

Review of Request

The staff sees this hotel space as an important addition to the South Downtown Area. Some new hotels have been built in close proximity to the Fed Ex Forum, but there remains a need for additional space for Memphis to compete in the Tourism and Conventions Market.

The height of the proposed hotel and the finishing out of the ground floor parking spaces to retail are important elements in this review.

Building Heights:

At 125 feet this building will be one of the tallest in this area of downtown, second only to the Forum which has a height of 139 feet. The Sports and Entertainment District Regulations recommend a maximum height of 90 feet or 8 stories.

A new well designed building can be a positive addition to the downtown skyline, as long as it does not impede view corridors to important vistas such as the view of the Mississippi River or cast long shadows that impede the use of residential properties.

In this instance, there is one residential property in close proximity to the proposed hotel. This is the duplex structure that abuts the west property line of the site on Fourth Street. With its proximity to the site it will not be any more impacted by an 11 story building than it would have been by the 8 story that is permitted in the district. The only option to further minimize the height impact on this residential use, would be to flip this building to the opposite corner (Linden and Turley). Unfortunately, the applicant does not control the same amount of area along Turley Avenue to make this flip possible.

The applicant has provided some photo simulations that show the new hotel and parking garage inserted into this environment.

Future Commercial Use on the Ground Floor:

Mixed uses to include ground floor retail or office, and upper story residential and hotel are a key component to the SCBID plan. Mixed use buildings not only make the best use of a finite resource (land) but they also create the 24 hour – 7 day week atmosphere that leads to a vibrant sports and entertainment district and meets the needs of the local residents and the tourism industry.

The staff is supportive of the applicant's request to put emphasis on the hotel and the accessory parking in an attractive structure, but we find that it is important to make accommodations on the Plan and in the building that support the ground floor commercial look and feel. There fore, we are recommending that the Outline Plan be altered to identify the future retail space in the ground floor of the parking garage. We are also recommending that the applicant file a correspondence item with a revised building elevation (windows, doors, sidewalk) once they are ready to convert the ground floor of the parking garage to retail.

RECOMMENDATION: APPROVAL WITH CONDITONS

OUTLINE PLAN CONDITIONS

Linden Avenue & Fourth Street Planned Development
P.D. 09-319

I. USES PERMITTED

- A. Any use listed under the headings Permitted Uses (Residential) and/or (Additional Uses Permitted) in the Sports and Entertainment (SE) District of the South Central Business Improvement District (SCBID) Plan including a hotel. Drive through windows shall not be permitted.
- B. Accessory uses typically associated with the principal use shall be permitted subject to the review and approval of the OPD.
- C. The Outline Plan shall include an area designated as “future retail space.” It is understood that this space will be used in the interim as parking space until retail is developed.
 - 1. The ground floor height of the retail space shall be 20 feet.
 - 2. The applicant shall file a correspondence application showing a revised building elevation on Linden with windows, doors and sidewalks when the ground floor of the garage is ready to be converted to retail uses.

II. BULK REGULATIONS:

- A. The building setbacks and lot coverage shall be as shown on the approved Outline Plan.
- B. The maximum permitted height shall be 125 feet to the roof.

III. ACCESS, PARKING AND CIRCULATION

- A. One additional curb cut on Linden Avenue shall be permitted as depicted on the Outline Plan.
- B. One curb cut shall be permitted on Turley Street; the location is generally depicted on the Outline Plan.
- C. One curb cut shall be permitted on Fourth Street as generally depicted on the Outline Plan.

- D. The City Engineer shall approve the design and location of curb cuts.
- E. Any existing nonconforming curb cuts shall be modified to meet current City standards or closed with curb, gutter, and sidewalk.
- F. Dedicate from centerline along the east side of Fourth Street at the Truck Court/Loading Dock to match existing R.O.W. line in widened section of Linden near Fourth Street in accordance with Subdivision Regulations.
- G. Clear Sight Areas shall be provided on the final plat and engineering plans at the intersections of Linden/Fourth and Linden/Turley in accordance with the Subdivision Regulations. The required note regarding Clear Sight Areas shall be placed on the final plat.
- H. 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,

IV. SIGNAGE – Signage shall be in accordance with the South Central Business Improvement District (SCBID) Sign Regulations

V. LANDSCAPING AND SCREENING

- A. A minimum 12-foot wide sidewalk shall be provided along Linden Avenue and shall contain street trees in grates as generally depicted on the Outline Plan.
- B. A minimum 10-foot wide landscape area shall be provided from the back of the sidewalk along the garage area facing Linden Avenue. If the first level of the garage is redeveloped with retail/office uses the grass strip may be used as a sidewalk.
- C. A minimum 10 foot wide sidewalk with street trees planted in grates shall be provided along Turley Street as generally shown on the Outline Plan.
- D. A minimum 10 foot sidewalk and street trees with grates shall be provided along Fourth Street as generally shown on the Outline Plan.
- E. A minimum five-foot wide landscape area with wrought iron fencing and brick columns shall be provided along the south property line and entrance to the parking garage. A solid six-foot high wall may be substituted in certain locations for the five-foot wide landscape area. Landscape screen around the hotel and parking garage shall be as shown on the Outline Plan.

- F. An eight-foot high wall shall be provided along the south property line of the loading area.
- G. Equivalent landscaping may be substituted for that required above subject to the approval of the Office of Planning and Development.
- H. All required landscaped areas shall be irrigated.
- I. Refuse containers shall be completely screened from view of public roads.
- J. Air conditioning, heating, ventilation or other mechanical equipment including that located on roofs, shall be screened using architectural features or landscaping.
- K. Utility features such as electrical wiring, conduit and meters shall also be screened using architectural features or landscaping.

VI. DRAINAGE

- A. An overall drainage plan for the entire site shall be submitted to the City Engineer prior to approval of the final plat.
- B. All drainage plans shall be submitted to the City Engineer's Office for review.
- C. Drainage improvements, including possible on-site detention, shall be provided under contract in accordance with the Subdivision Regulations and the City of Memphis Drainage Design Manual.
- D. The project must be evaluated by the Tennessee Department of Health and Environment regarding their jurisdiction over the watercourses on this site in accordance with the Water Quality Control Act of 1977 as amended (TCA 69-03-101 et seq).
- E. The developer shall be aware of his obligation under 40 CFR 122.26 (B) (14) and TCA 69-03-101 et seq. to submit a Notice of Intent (NOI) to the Tennessee Division of Water Pollution Control to address the discharge of the stormwater associated with the clearing and grading activity on this site.
- G. Proper erosion control measures must be in place once clearing starts and regularly maintained to satisfaction of the City Engineer and the Tennessee Department of Environment and Conservation. Applicant shall use "best management practices" to control the run off and stream siltation that occurs when land has been cleared prior to development.

VII. OTHER

- A. The Office of Planning & Development may modify the building setbacks up to five percent of that shown on the Outline Plan and may modify the landscaping, parking and sign requirements if equivalent alternatives are presented.
- B. A Final plat shall be filed within five (5) years of the approval of the Outline Plan by the City Council. Upon the request of the applicant the Land Use Control Board may grant extensions, subject to additional conditions and standards if any. A request for a time extension shall be filed a minimum of 35 days prior to the expiration date

VIII. FINAL PLAT REQUIREMENTS

Any final plat shall include the following:

- A. The Outline Plan Conditions
- B. A standard subdivision contract as defined by the Subdivision Regulations.
- 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 areas to a homeowners' or property owners' association, or other 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 Engineer. The storm water detention systems located in these areas, except for those parts located on 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 Engineering 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: Linden Avenue+/- 499 Feet
Fourth Street+/- 185 Feet
Turley Street+/- 144 Feet

Planning District: Downtown-Medical Center

Census Tract: 41.00

Zoning Atlas Page: 2025

Parcel ID: 005013 00025, 005013 00001C, 005013 00022

Zoning History: The Sports and Entertainment (SE) District and South Downtown Residential (R-SD) Districts are part of the South Central Business Improvement District Plan and Zoning Regulations approved by the Memphis City Council in November 2002.

DEPARTMENTAL COMMENTS

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

City Engineer:

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

Sewers:

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

Roads:

3. Dedicate from centerline along the east side of Fourth Street at the Truck Court/Loading Dock to match existing R.O.W. line in widened section of Linden near Fourth Street in accordance with Subdivision Regulations.
4. Clear Sight Areas shall be provided on the final plat and engineering plans at the intersections of Linden/Fourth and Linden/Turley in accordance with the Subdivision Regulations. The required note regarding Clear Sight Areas shall be placed on the final plat.
5. The loading/unloading area on Linden as shown on the outline plan is not permitted.

Curb Cuts/Access:

6. The City Engineer shall approve the design, number and location of curb cuts.
7. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
8. 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,
9. One curb cut along the each frontage (Linden, Fourth, and Turley) will be permitted.

Drainage:

10. 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.
11. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.
12. The developer should be aware of his obligation under 40 CFR 122.26(b)(14) and TCA 69-3-101 et. seq. to submit a Notice of Intent (NOI) to the Tennessee Division of Water Pollution Control to address the discharge of storm water associated with the clearing and grading activity on this site.

Site Plan Notes:

13. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.

General Notes:

14. The width of all existing off-street sewer easements shall be widened to meet current city standards.
15. 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.
16. Required landscaping shall not be placed on sewer or drainage easements.

City Fire Division:

Major project requiring full sprinkler protection and additional fire warning and suppression considerations: IFC 2003 as amended.

City Real Estate: None.

City/County Health Department:

1. If any monitoring wells were installed as part of an environmental site assessment they must be filled as outlined in Section 6 of the Shelby County Well Construction Code.
2. If any abandoned water wells are present on this site they must be properly filled and abandoned as outlined in Section 9 of the Shelby County Well Construction Code.
3. Since this is a Planned Development that could require the demolition of a structure or structures at this site before starting any demolition the developer will need to fill out the attached questionnaire.
4. If a Demolition Permit will be required after filling out the questionnaire then the owner, developer, or contractor must contact the Asbestos Branch in the Air Pollution Control Section at (901) 544-7349 in order to secure the appropriate permit.

City Board of Education:

The subject property does not appear to be adjacent to any property which has been identified as belonging to Memphis City Schools (MCS). No identifiable impact on MCS' school-aged population nor MCS' property interests.

Construction Code Enforcement: No comments received.

Center City Commission: No comments received.

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 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 commercial developers must contact MLGW's Builder Services line at 367-3343 to initiate the utility installation 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.

AT& T: No comments received.

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

OPD-Regional Services: No comments.

OPD-Comprehensive Planning: No comments received

Memphis Park Commission: No comments received.

Neighborhood Associations: No comments received

Downtown Neighborhood Association:

Downtown Medical Center:

South Main Historic District Assn.: