

**MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
ADDENDUM TO STAFF REPORT #1A**

CASE NUMBER: S.U.P. 09-214 **L.U.C.B. MEETING:** October 8, 2009

LOCATION: West side of Third Street, ±506 ft. N of Walker Ave.

COUNCIL DISTRICT - REGULAR: #6
COUNCIL SUPER DISTRICT: #8

OWNER/APPLICANT: Pyramid Used Cars, Inc.

REPRESENTATIVE: SR Consulting, LLC

REQUEST: Motor Vehicle Sales – Used Cars

AREA: 0.62 Acres

EXISTING LAND USE & ZONING: Two lots: A) Used car sales lot in operation; and
B) vacant, commercial building; both in the Local
Commercial (C-L) District

SURROUNDING USES AND ZONING:

- North:** Restaurant (formerly a night club) in the C-L District.
- East:** Across Third Street, Pyramid Used Car lots & motor vehicle repair in C-L District
- South:** In Light Industrial (I-L) District, wholesaling / distribution of scaffolding equipment.
- West:** West of a dedicated alleyway, in the I-L District, the manufacture of urethane products.

**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION
Rejection**

CONCLUSIONS

- 1. The proposed application involves a business operating ostensibly out of compliance with the zoning regulations using property on both sides of Third Street. However the application deals only with the compliance issues (and proposed expansion) on the west side of the street.**
- 2. Staff understands that the applicant intends to eliminate the alleyway from the proposed site plan and stipulate that, irrespective of the presence of a multi-billboard structure, there will no off-premise advertising. Therefore these issues are no longer relevant.**
- 3. OPD staff believes that that the current concentration of Pyramid Used Cars lots around the intersection of Third Street and Lucerne Avenue is an adverse pattern in terms of safety, neighborhood impact and the quality of the business environment at this gateway to downtown Memphis.**

Analysis

With business operations on both sides of Third Street and both sides of Lucerne Avenue, approval of this request by Pyramid Used Cars would continue and perpetuate the safety hazard that is created by the pedestrian traffic it generates between the respective sites. Of particular concern is pedestrian traffic crossing a heavily travelled major thoroughfare --- South Third Street, also known as US Highway 51.

Furthermore, the addition of the extra square footage of motor vehicle sales would concentrate and intensify this use in a commercial area that was downzoned to Local Commercial so as to encourage uses that are neighborhood-friendly. The practice of appropriating display spaces by using the off-street parking space on Lucerne Avenue is a primary example of how this multi-lot development has an intrusive effect upon the neighborhood.

In fact the subject property, on the west side of Third Street, is a substantially better location than the east side properties, in terms of neighborhood impact. If the applicant gave up the use of the east side lots and used only the subject property, the nearby neighborhood would benefit from such a move.

RECOMMENDATION: Rejection

SITE PLAN CONDITIONS

Used Car Sales at 945 – 953 South Third Street

S.U.P. 09-214

Offered by OPD Staff for Discussion Purposes Only

October 8, 2009

A Special Use Permit is hereby authorized to allow Motor Vehicle Sales on the property at the above address and as specified in deeds of record] in accordance with the approved site plan and the following supplemental conditions:

Building and parking layout

1. The building and parking layout shall be as shown on the submitted site plan.

Landscaping and Screening

2. An A-3 Plate, or an equivalent that is suitable to the Office of Planning and Development, shall be required along the Third Street frontage.

3. The sidewalk shall be kept clear of obstructions at all times, and the parking of display vehicles there is not permitted.
4. Along the rear property line, a sight-proof fence, eight (8) feet in height shall be provided. Existing healthy trees shall be retained, where possible. Supplemental evergreen trees at twenty (20) feet on center shall be provided in areas void of existing trees.
5. A six foot tall wrought iron fence shall be provided along the Austin Peay Highway frontage. The wrought iron fence shall be continued along the north and south property lines to a point that is even with the front of the building. From that point to the west, a 6 foot tall, black, vinyl-coated, chain link fence shall be provided extending to the west property line.

Signage

6. All signs shall be regulated by the C-L District and a rendering of the detached sign shall be shown on the Final Plan.
7. All detached signs shall be set back a minimum of 15 feet from the right of way provided however, that until the highway is widened 35 feet or more, the sign may be placed may be placed at the right of way.

Access

8. The number, design and location of curb cuts shall be subject to the review and approval of the City Engineer.
9. Any existing nonconforming curb cut shall be modified to meet current City Standards or closed with curb, gutter, and sidewalk.
10. Adequate maneuvering room shall be provided between the right-of-way and the proposed fence for vehicles to exit by forward motion.

Drainage

11. Drainage data for assessment of on-site detention shall be submitted to and approved by the City Engineer.

Final Plan

12. A Final Plan shall be submitted for approval by City Engineering and OPD staff.

AGENCY COMMENTS

City Engineering:

(Omitted from September staff report)

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. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.

Drainage:

5. 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.
6. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.

General Notes:

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

**MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
STAFF REPORT #14**

CASE NUMBER: S.U.P. 09-214 **L.U.C.B. MEETING:** September 10, 2009
LOCATION: West side of Third Street, ±506 ft. N of Walker Ave.
COUNCIL DISTRICT - REGULAR: #6
COUNCIL SUPER DISTRICT: #8
OWNER/APPLICANT: Pyramid Used Cars, Inc.
REPRESENTATIVE: SR Consulting, LLC
REQUEST: Motor Vehicle Sales – Used Cars
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OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION

Hold

CONCLUSIONS

1. **The proposed application involves a business operating ostensibly out of compliance with the zoning regulations using property on both sides of Third Street. However the application deals only with the compliance issues (and proposed expansion) on the west side of the street.**
2. **The application package does not include information establishing ownership or the existence of an encroachment agreement for certain property incorporated in the site plan (an alleyway)**
3. **OPD staff believes that a revised application is needed, which remedies these deficiencies.**

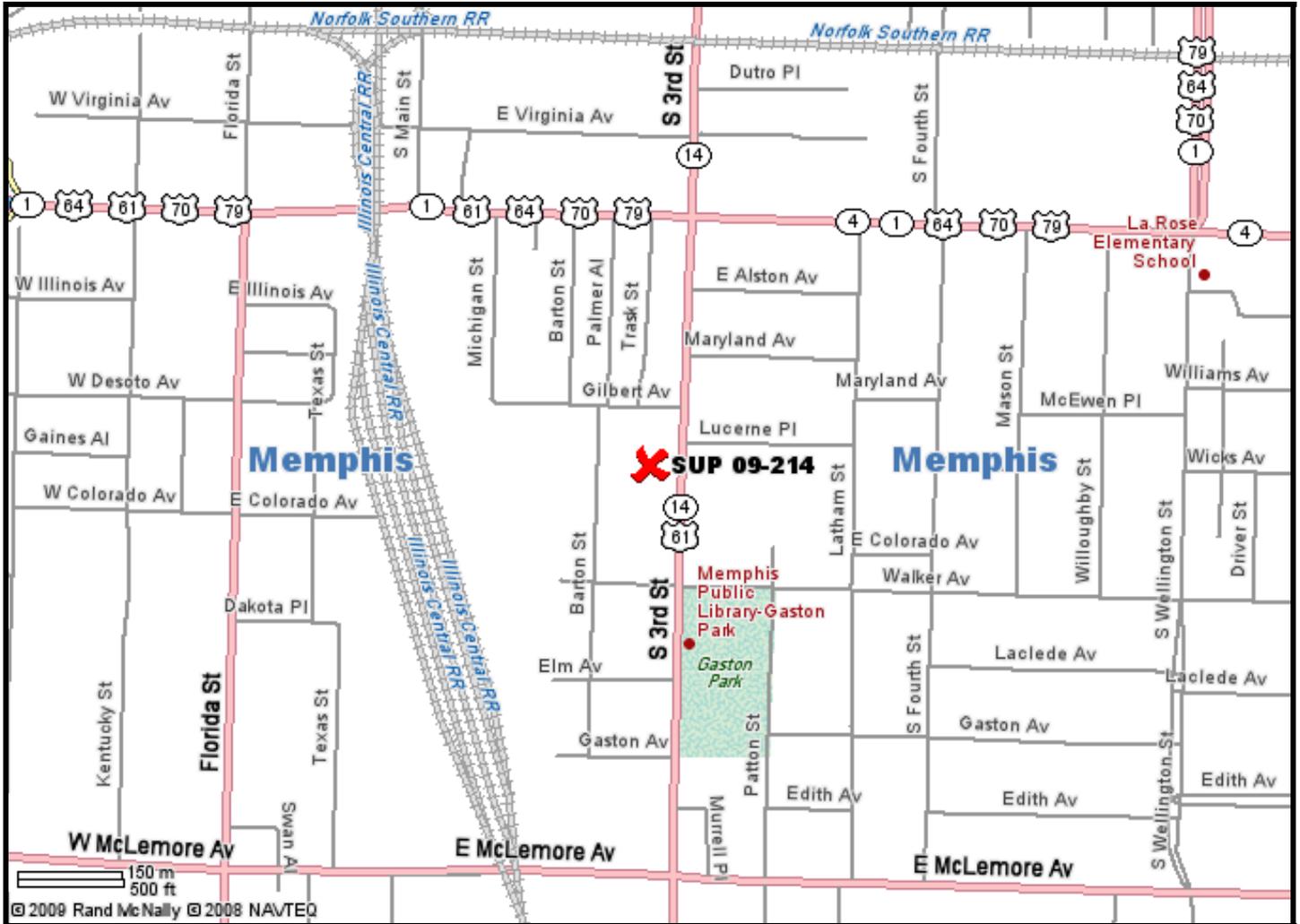


Figure 1: Location Map
[©Rand McNally Corp. Licensed for limited distribution]

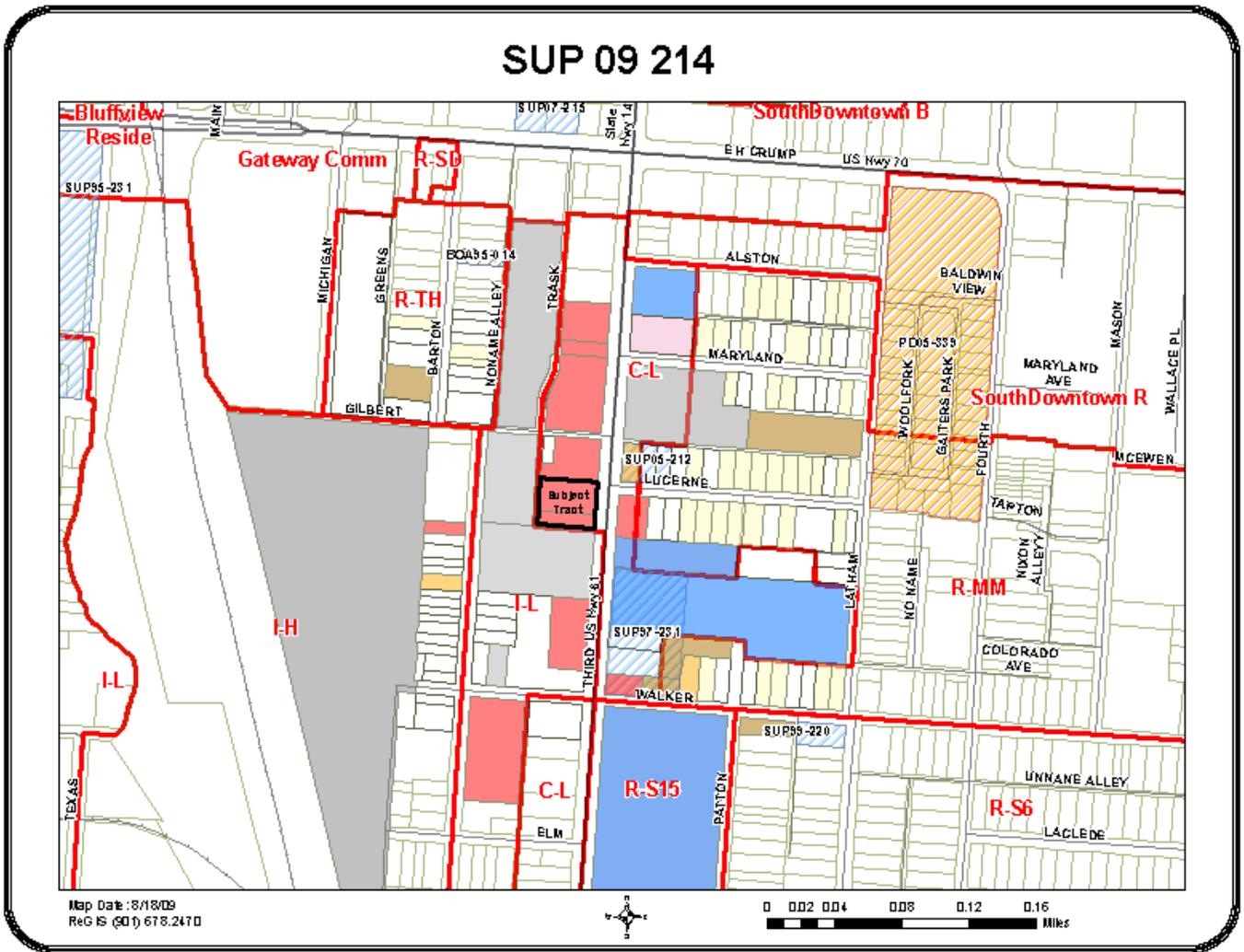


Figure 2: Zoning and Land Use in Vicinity of Subject Property

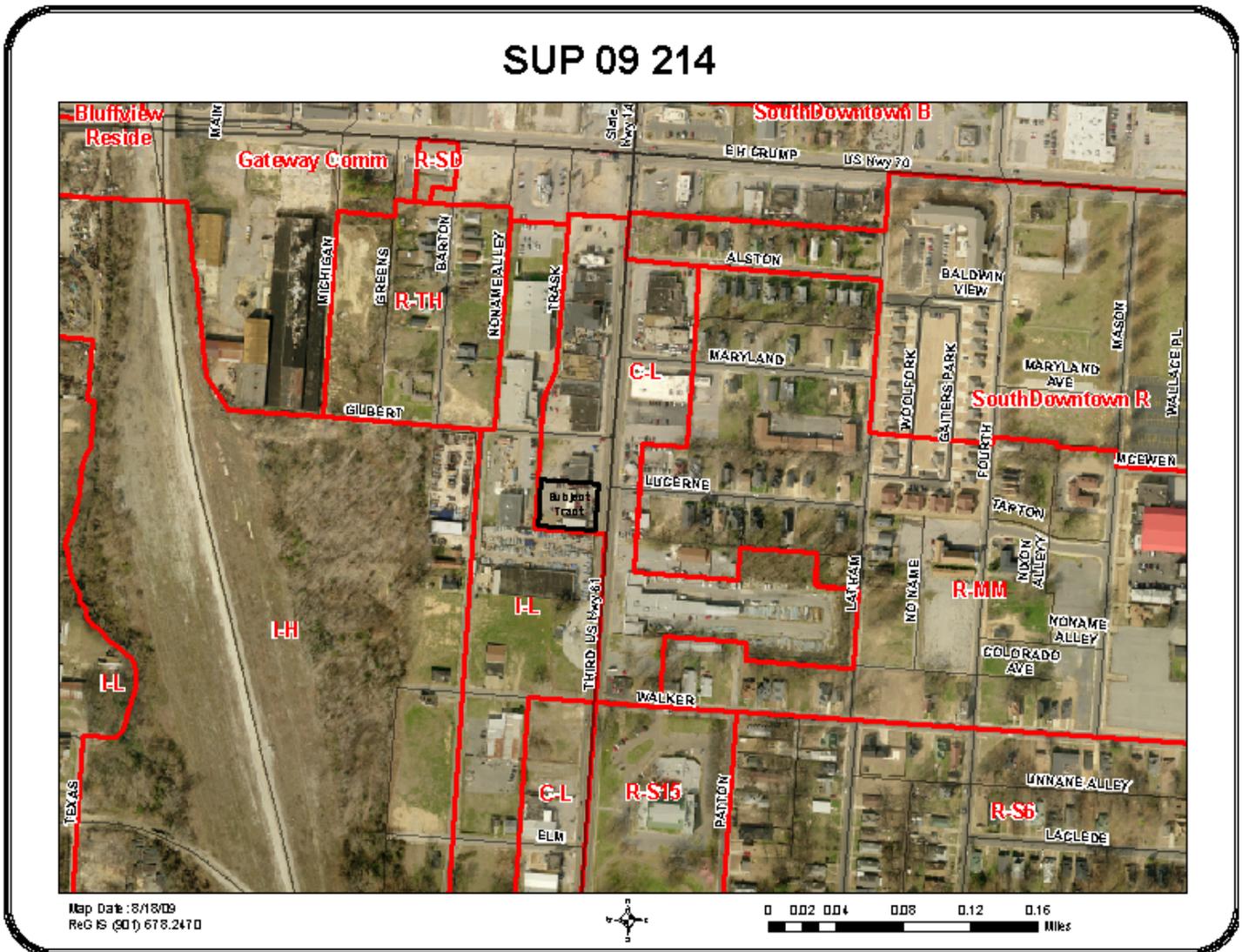


Figure 3: Zoning and Overhead View in Vicinity of the Subject Property



Figure 5: Overhead Detail for Subject Properties

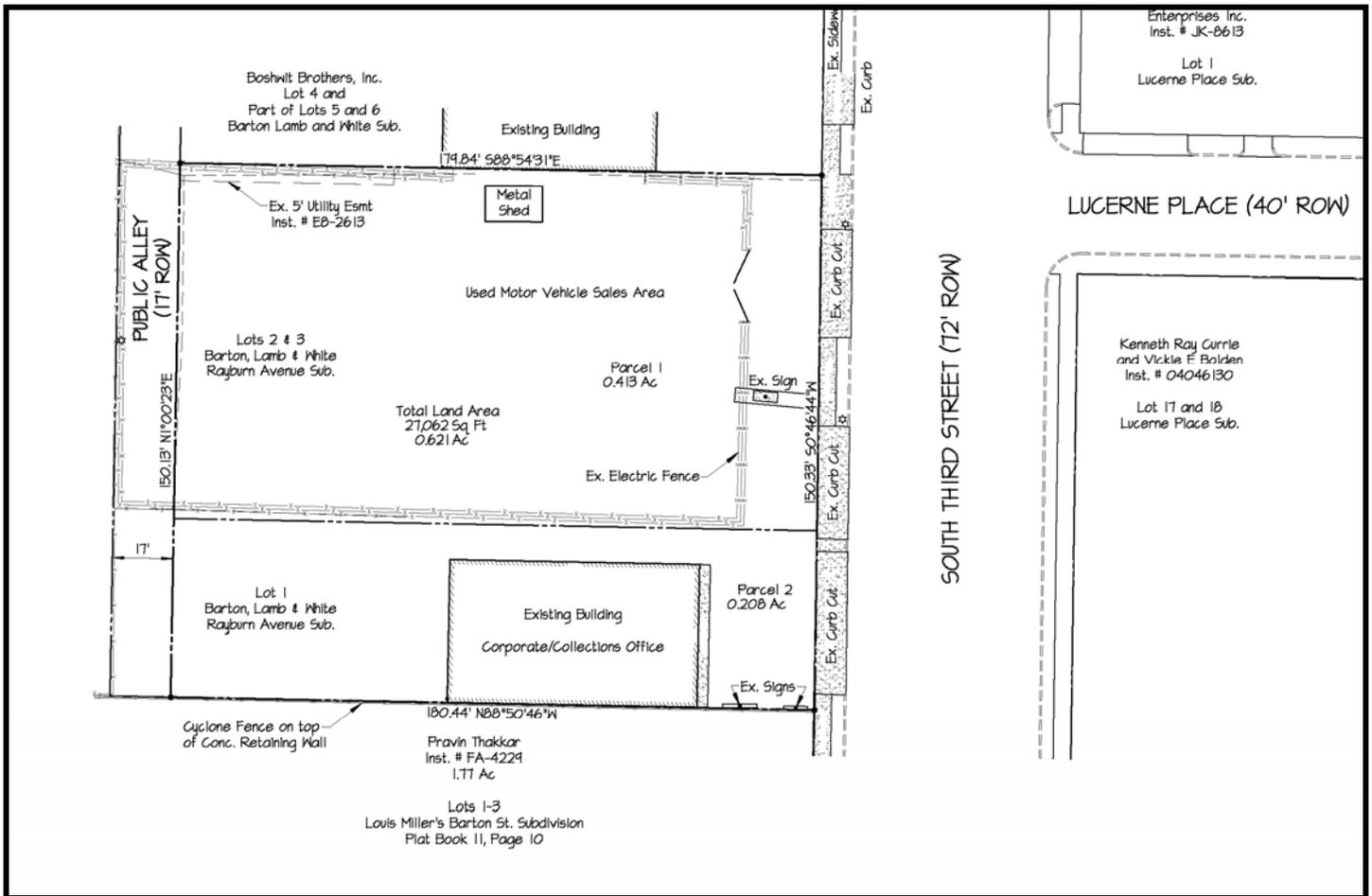


Figure 5: Plot Plan in lieu of Site Plan





Figure 6: Used car sales are already underway on Parcel 1 of the subject property at 945 S Third Street. Most of the property is enclosed with a chain link protected by electrified barbed wire. A 25' unfenced strip along the sidewalk is used for vehicle display during business hours.



Figure 7: This adjoining commercial building at 953 S Third Street of Parcle 2 is proposed for use as a headquarters / sales facility for this multi-site used car dealer .



Figure 8: Immediately south of the subject property is this fenced manufacturing facility which keeps the address of 973 S Third Street, even though it appears to be accessible only from Barton Street, which is parallel to and one block west of Third.



Figure 9: Adjoining the subject property on the north side is this restaurant at 931 S Third.



Figure 10: The applicant operates another used car sales lot on leased property at 936 S Third Street, just across the street from the subject property at the northeast corner of Third Street and Lucerne Avenue. This picture was taken after business hours, during which time the on-street parking along Lucerne is ordinarily used to display autos from the adjoining lots.



Figure 11: On the east side of Third Street, beyond the nearest six cars in the parking lot of a printing plant, may be seen the Pyramid Used Car lot at 939 S Third, (northeast corner of 3rd & Lucerne) as well as the space that Pyramid leases at the southeast corner of 3rd and Lucerne.



Figure 12: As the view continues southward along Third Street, opposite the subject property, one sees the small Pyramid Used Car Lot, an auto repair facility, the Calvary Rescue Mission (set back 150 feet, out of this view) and the City of Memphis traffic signal shop in a former grocery supermarket building at 980 S Third.

STAFF ANALYSIS

Site and Location

The subject property is a 27,066 sq. ft. (0.62 acre) site, a rectangular in shape. It consists of three 50-foot lots with a total of 150 feet of frontage along South Third Street, and an average depth of 180 feet. The lots were created as part of the unrecorded (Barton Lamb and White) Rayburn Avenue subdivision. Some title research will be necessary to verify that this unrecorded tract of land is legally non-conforming under the subdivision regulations.

In addition to the platted lots, the site plan shows a fence enclosing the portion of a 17' public alleyway at the rear of the northern 100 feet of this tract, which is already in use as proposed in this application. This enclosure renders inaccessible the southernmost 50 feet of the alleyway, which terminates at the property line which divides the subject property from the neighboring property.

Third Street is one of the major arterial road corridors that radiate from the Downtown Memphis. Third Street heads straight south from downtown, passing through the heart of the South Memphis community, and then bends slightly westward, passing through the Levi and Lakeview neighborhoods on a southwesterly course through the delta country of Northwestern Mississippi. The highway famously associated with that route is US 61, which follows Third Street south of EH Crump Boulevard.

Third Street, south of E H Crump Boulevard, is thus a gateway to South Memphis. On the other hand the subject property, located only 1/5 mile south of Crump Boulevard, is an area that must be considered a gateway to Downtown Memphis, which has had considerable recent development in the South Downtown area, less than one mile from the subject property.

Proposed Development

This request marks a milestone in the growth of the applicant's used car sales business, which has been in operation for a number of years on the opposite side of Third Street on the northeast and southeast corners of Third Street and Lucerne Place.

The applicant had also purchased the northern 100 feet of the subject property, the site of a self-service car wash at 945 South Third Street, and converted it for use as another used car lot. Very recently, the applicant acquired the adjacent 50 feet at the south end of the subject property and wishes to use the existing building there (953 S Third) as an office / headquarters for the combined used car sales operation.

Site plan approval for the enclosure would require the cooperation of the City of Memphis through an encroachment agreement (not referenced in the site plan) or a street and alley closure, which would place half of the alleyway at the disposal of the property owner on the west side of the alley.

Neighborhood Context

The subject property is part of a old commercial / industrial corridor extending along Third Street southward from E H Crump Boulevard with front yard parking and building setbacks on the order of 30 feet (or less). At Walker Avenue, there is a break in the character of the street, with Gaston Park on the east side, with its library / community center in the middle of the 10 acre site, and vacant commercial frontage on the west side. The subject property is bordered on the west and south by substantial industrial uses. On the opposite site of the street, Lucerne Place passes between the two car lots --- with lines of display vehicles during the daytime in the on-street parking spots --- into a modest residential neighbor. Farther east is a large area with a few major institutions, like Mason Temple, and considerable area cleared for redevelopment of new homes among those that still remain.

Planning Issues

In 1999, a comprehensive rezoning converted must of the abundant Highway Commercial (C-H) zoning in this area of South Memphis was downzoned to the Local Commercial District as a means of encouraging commercial uses that would be more compatible with stable residential neighborhoods. This change meant that motor vehicle sales would no longer be permitted by right. Any future establishments of this use were subject to being denied, and could only be approved with agreement upon a site plan and operating conditions that would protect existing residents and encourage attractive residential redevelopment.

In 2005, there was a special use permit application (SUP 05-212) to legitimize the existing motor vehicle sales operation on the north east corner of Third and Lucerne. There was also a companion zoning case that would have permitted the expansion of the motor vehicle sales site at the southeast corner of Third and Lucerne (Z 05-118). OPD staff received at least one letter of opposition. Apparently there was a request for these cases to be held. OPD staff has not found a record of any zoning transactions that would have approved the current operation.

The application currently under consideration involves property on the opposite side of Third Street, but is really part of the same business operation. Therefore, OPD staff recommends that this case be held pending the submittal of a revised application to include all of the Pyramid Used Car Sales operations on both sides of Third Street within 300 feet of the intersection of Third and Lucerne.

Other issues also need to be resolved as part of this application:

1. If the applicant elects not to file a Street and Alley Closure application, the site plan review process must include negotiations for an encroachment agreement to cover use of the alleyway, and the City Engineer must be agreeable to entering into negotiations for such use.
2. The southern 100 feet of the subject property (953 S Third) is encumbered by a pair of off-premise advertising signs. The site plan indicates that those would remain and the zoning ordinance considers them a principal. If the applicant is able to remove those signs, they pose no difficulty for the application; however, in order

for the signs to remain, this application must be accompanied by a companion Board of Adjustment or a subdivision application.,

RECOMMENDATION: Hold

SITE PLAN CONDITIONS

Used Car Sales at 945 – 953 South Third Street

S.U.P. 09-214

**As Recommended by OPD Staff for the
September 10, 2009 Meeting.**

Specific conditions will be prepared, based on the final details of the application coverage and a revised site plan.

GENERAL INFORMATION

Coordinates: 35° 07' 17"N, 90° 02' 38"W

Parcel Number: 013008 00007C, -09

Street Address: 945 & 953 S Third Street, 38106

Street Frontage: S Third Street (US Hwy 61): 121 feet on this major thoroughfare (72' ROW; 5 lanes).

Planning District: South Memphis

Census Tract: 51

Annexation Status: Annexed in 1899

Zoning Atlas Page: 2025

Zoning History: 1931 – Commercial 'C' District.
1955 – Commercial "C-2" District.
1981 – Converted to Highway Commercial (C-H) in the current ordinance.
1999 – Comprehensively downzoned to Local Commercial (C-L) in

connection with the South Memphis comprehensive plan

DEPARTMENTAL COMMENTS

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

City Engineer: No comments received

DPD-REGIONAL SERVICES

According to the Memphis Urban Area 2030 Long-Range Transportation Plan (LRTP), [Third Street in] this section ... is classified as an "Urban Minor Arterial" on the "Functional Classification" map. The "Existing Plus Committed Network" and "Congested Roadway Network" illustrates that there is no congestion, and no improvements programmed. The "Future Transportation Network" includes projects identified through the public participation process. As part of the public participation process stakeholders provided a needs assessment that determines the transportation desires of the community for future roadway improvements. No funding source was identified for these roadway recommendations. This section of Third Avenue was recommended for future widening improvements. The Bicycle and Pedestrian Plan has no recommendations for future facilities.

CITY FIRE DIVISION: No comment.

**City/County Health Department-
Water Quality Branch:** No comments received.
Environmental Sanitation: No objections.

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 residential developers must contact MLGW's Residential Engineer at 528-4855 for application of utility services.
 - 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 / BELL SOUTH:

No comment

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.

OPD-Plans Development:

No comments received.

Memphis Area Transit Authority (MATA):

No comments received.

Memphis Park Commission:

No comments received.

Neighborhood Associations:

No comments received.

South Memphis Neighborhood Inc.
South Memphis City Beautiful Club
New Pathways
Downtown N.A