

**MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
STAFF REPORT #13**

CASE NUMBER: Z 09-103 **L.U.C.B. MEETING:** September 10, 2009

LOCATION: Southwest corner of Walnut Street and Tate Avenue

City Council District - Regular: 6

City Council Super District: 8.

OWNER: City of Memphis, Housing & Community Development,

APPLICANT: Urban Construct, LLC

REQUEST: Multiple Dwelling Residential (R-MM) District (entire property)

AREA: 1.29 acres

EXISTING LAND USE & ZONING: Vacant residential buildings in the Highway Commercial (C-H) & Multiple Dwelling Residential (R-MM) Districts

SURROUNDING USES AND ZONING:

North: Across Tate Avenue, single-family residence in the C-H District; apartment building in the R-MM District

East: Across Walnut Street, in the C-H District a warehouse and a grocery store with pumps for gasoline sales.

South: Vacant tract and duplex residences in the C-H District

West: Duplex residence in the R-MM District

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION
Approval

CONCLUSIONS

- 1. Residential uses were allowed in commercial zones when this zoning pattern was established. There is no reason to think that public policy would require demolition of apartment buildings.**
- 2. A mixed residential / commercial land use pattern might still be appropriate along the west side of Walnut, but the zoning district that would allow this will not be available, at least until the proposed revision of the development regulations recommended by the Land Use Control Board.**
- 3. Under the circumstances, it is appropriate to delete the Highway Commercial designation on the subject property to permit the proposed restoration project under a uniformly appropriate zoning classification. At this transitional location, the proposed use seems acceptable.**

Staff Planner: Dave Adams
david.adams@memphistn.gov

E-mail Address:

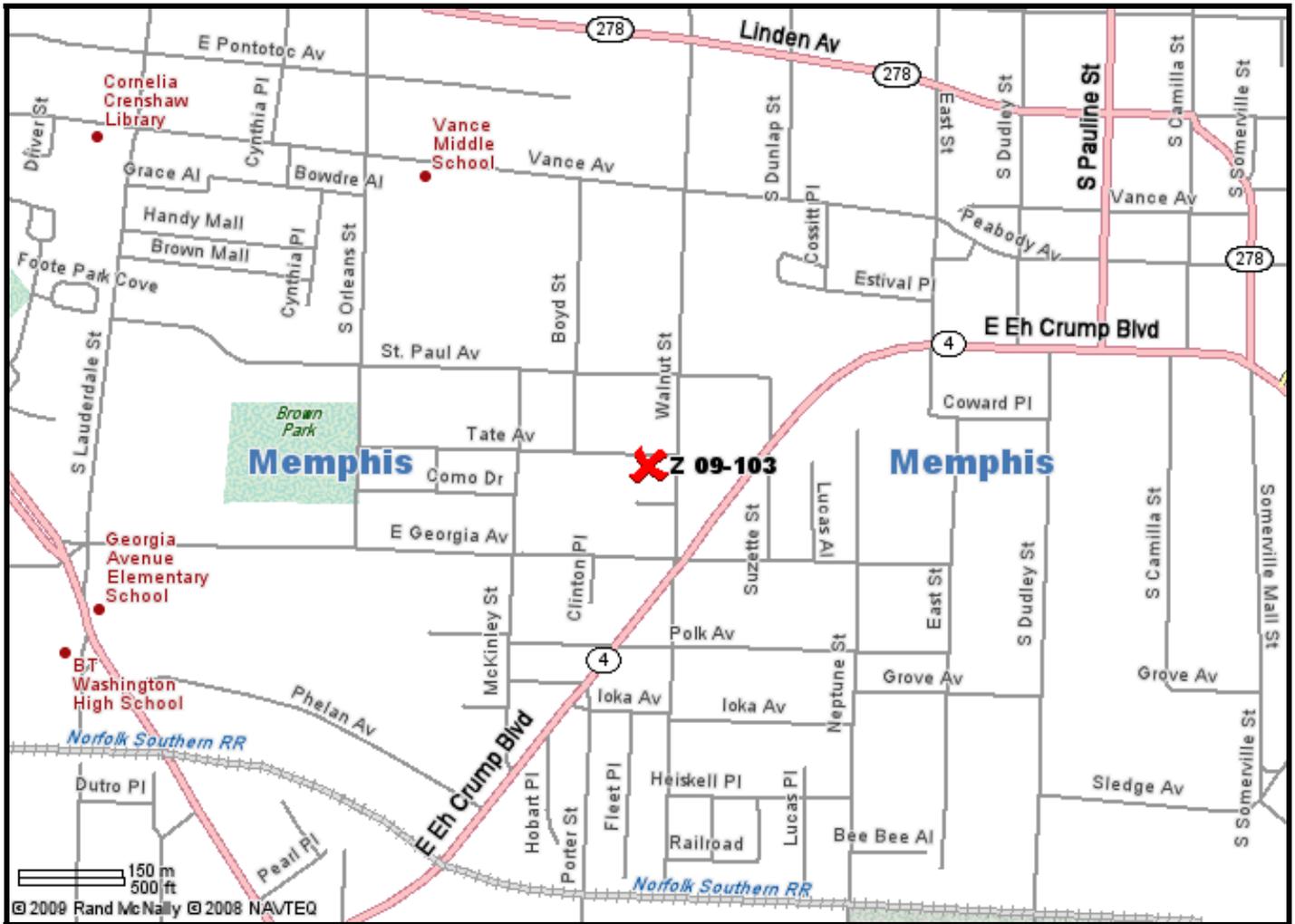


Figure 1: LOCATION OF SUBJECT PROPERTY
[©Rand McNally Corp. Licensed for limited distribution]

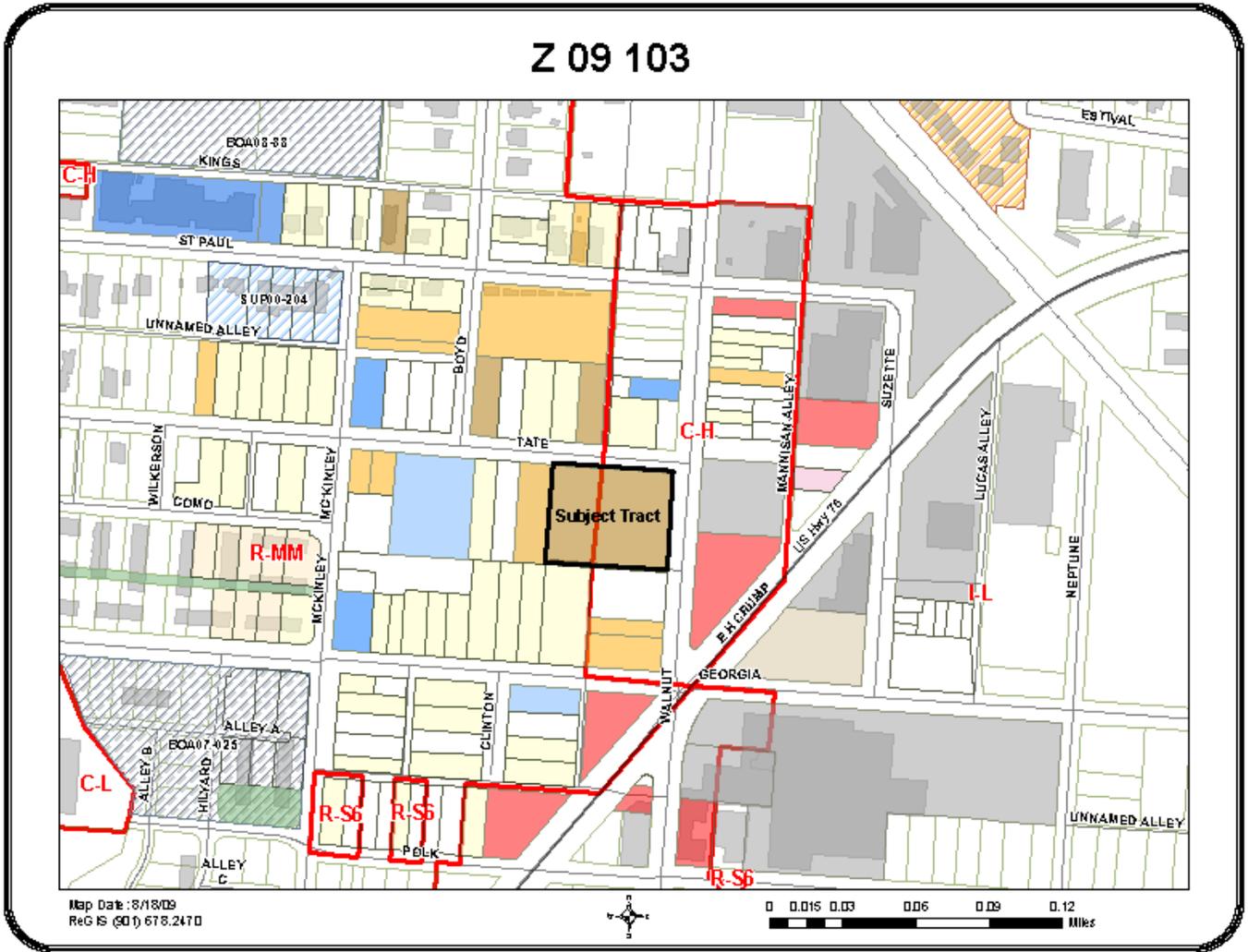


Figure 2:
Zoning and Land Use

Z 09 103



Map Date : 8/18/09
ReG IS (S01) 678.2470



0 0.015 0.03 0.06 0.09 0.12 Miles

Figure 3: Overhead View of Vicinity



Figure 4: Overhead View of Site

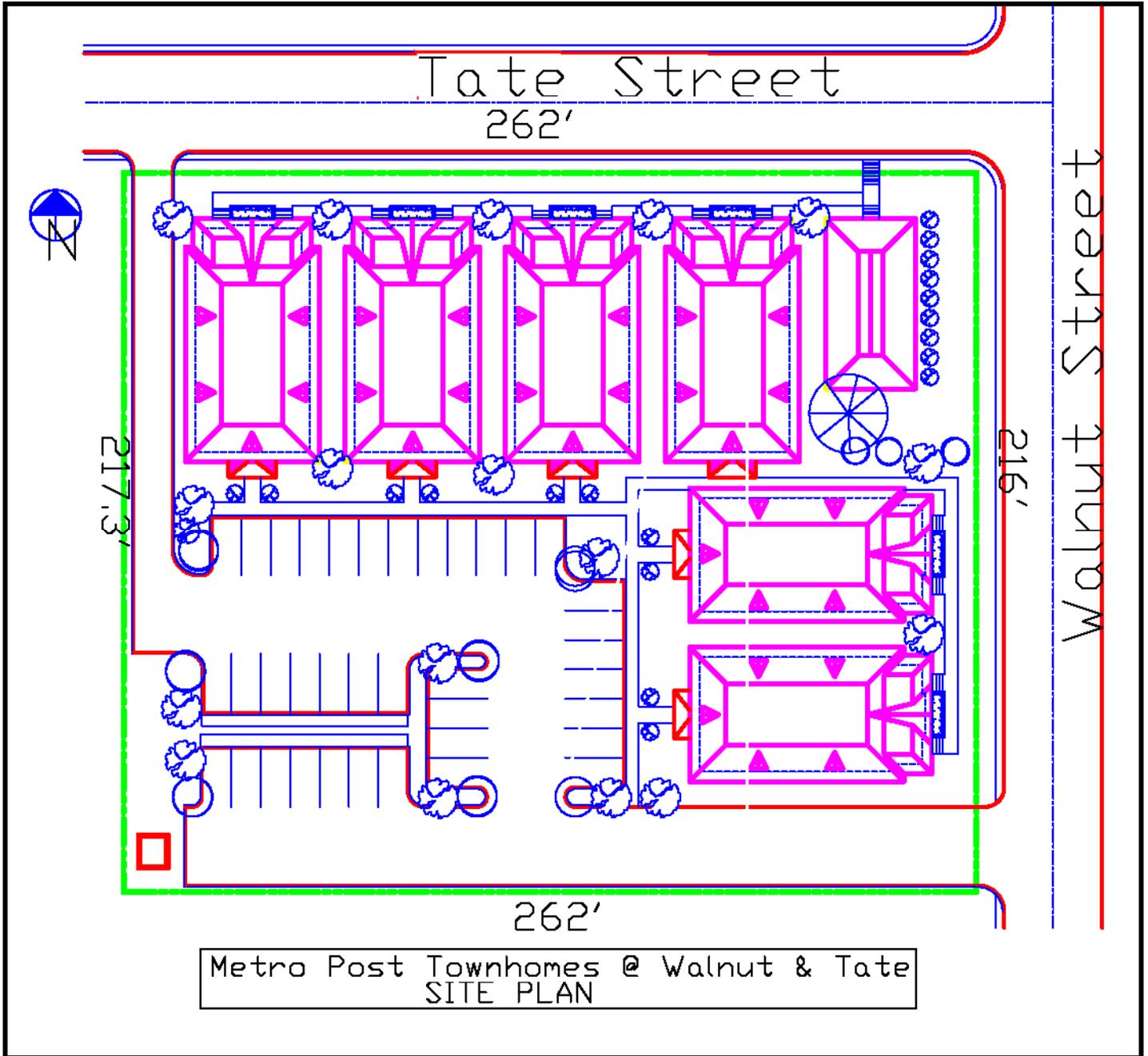


Figure 5: Plot / Site Plan
(Edited by OPD to place in context)



**Figure 6: Subject property – Tate Avenue frontage.
Two of these apartment buildings are in the C-H district and two are in the R-MM District**



**Figure 7: This duplex residence adjoins the subject property at 765 Tate Avenue
in the R-MM District.**



Figure 8: This house is on the opposite side of the street at 782 Tate Avenue in the Highway Commercial (C-H) District.



Figure 9: Subject property --- Walnut Street frontage all in the C-H District



Figure 10: Truck parking lot and warehouse on the east side of Walnut Street, in the C-H District, opposite the subject property



Figure 11: South of the warehouse, the "Corner Grocery" is nearly opposite one of the subject apartment buildings across Walnut Street. This retail property has frontage on E H Crump Blvd, and, to the right of this view, an array of gasoline pumps.

STAFF ANALYSIS

Site Characteristics

The subject property is a 1.30 acre tract of land at the southwest corner of Tate Avenue and Walnut Street. It is currently occupied by nine apartment buildings and one duplex, but it currently lacks off-street parking. According to the Assessor's listing, the 10 residential buildings were constructed, at least partially, in 1928 and contained 38 residential units that were capable of being rented.

The subject property has approximately 262 feet of frontage along Tate Avenue --- a minor local street, only ¼ mile west to Orleans Street. The property also has 216 feet of frontage along Walnut Street, a collector street that connects nearby EH Crump Blvd (and Georgia Avenue) with Union Avenue, 5/8 mile to the north in the (former) Shelby State campus of the SWT community college, where it becomes an extension of the Manassas Avenue thoroughfare coming southward from the North Memphis community and changing the name to Walnut south of Union Avenue.

This property at the rectangular subject tract has been secured with a chain link fence. Currently the subject property is owned by the City of Memphis, presumably forfeited by a previous owner on the basis of unpaid taxes. A prospective buyer seeks the rezoning.

Proposed Development

The applicant is proposing to restore and revitalize multi-family usage of the subject property with a plan that would eliminate at least three of the current buildings in order to provide a sufficient area for off-street parking. Under the current zoning regulations land use approval for the proposed development could be accomplished with an appropriate rezoning of the Highway Commercial (C-H) District that now applies to the eastern 160 feet of the subject property, along the Walnut Street frontage.

A zoning map amendment does not involve the approval of any specific site plan; and there would be no mechanism for holding the applicant accountable for providing any special development features or limits for the sake of compatibility with the existing neighborhood. The application would simply have the general rules and requirements for development with the applicable zoning district.

In the case of the requested R-MM district, the ordinance would limit development to an absolute maximum of 15.8 units per acre. On 1.3 acres, that would amount to a limit of 20 residential units, which would require 25 or 30 off-street parking spaces, depending on the number of bedrooms. Compatibility with nearby development would be supported by enforcement of the landscaping requirements of the zoning regulations.

Community and Neighborhood Context

To the east of Walnut Street, approaching the arc of the E.H. Crump Blvd – Lamar Avenue transition, the land use is almost completely commercial and industrial and would be little affected

by the proposed development. To the west, the neighborhood land uses tend to be predominantly residential, with duplex and single-family uses being the most common. Although the R-MM zoning permits them, apartment buildings are relatively infrequent; on the other hand one must note that there are two apartment buildings on the north side of Tate Avenue, within 500 feet of the subject property.

Analysis

Considering that pattern and the exiting zoning --- and the long existence of the apartment building that occupy the site --- and the transitional character of this site at the edge of the neighborhood , the requested zoning appears to be reasonable as a neighborhood land use decision.

With regard to the broader questions of development policy, it should be noted that residential uses were allowed in commercial zones when this zoning pattern was establish. There is no reason to think that public policy would have required the demolition of the apartment buildings. A mixed residential / commercial land use pattern might still be appropriate along the west side of Walnut, but the zoning district that would allow this will not be available, at least until the proposed revision of the development regulations recommended by the Land Use Control Board.

Conclusion

Under the circumstances, it is appropriate to delete the Highway Commercial designation on the subject property to permit the proposed restoration project under a uniformly appropriate zoning classification.

RECOMMENDATION: Approval

GENERAL INFORMATION:

Coordinates:	35° 07' 49"N, 90° 02' 08"W
Parcel Number:	011031 00008
Street Address:	769 Tate Avenue, 38126
Street Frontage:	<u>Walnut Street</u> – collector street -- 216' of frontage on 60' ROW <u>Tate Drive</u> – local street -- 262' on 50' ROW
Planning District:	Downtown-Medical Center (<i>In the "Triangle Noir" redevelopment area</i>)
Census Tract:	45

Annexation Status: Annexed by Memphis, 1876.

Zoning Atlas Page: 2030

Zoning History: 1931 – Industrial ‘D’ District.
1955 – Commercial “C-2” District. and Multiple Dwelling Residential “R-4” District
1981 – Converted to Highway Commercial (C-H) and Multiple Dwelling Residential (R-MM) in the current ordinance.

DEPARTMENTAL COMMENTS:

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

City Engineering Division:

City sanitary sewers are available at developer’s expense.

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 zoning District Reclassification, on Tate Avenue, could require the demolition of a structure or structures at this site before 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 Fire Division: 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 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.

AT&T/Bell South:	No comments received
City/County Health Department:	No comments received
City Board of Education:	No comments received
Construction Code Enforcement:	No comments received
Memphis Area Transit Authority (MATA):	No comments received
OPD-Regional Services:	No comment
OPD-Comprehensive Planning:	No comments received

Neighborhood Associations:

South Memphis Neighborhood Inc.:	No comments received
Whitehaven Community Development Partners:	No comments received
New Pathways:	No comments received



URBAN CONSTRUCT, LLC.

"constructing ideas, plans, and sustainability"

July 30, 2009

Memphis and Shelby County Office of Planning and Development
City Hall
125 N. Mid America Mall
Memphis, TN 38103

Attached please find the Application for Zoning District Reclassification Approval for the property located at 769 Tate, Parcel ID #011031 00008. The site is currently one contiguous parcel with two zoning classifications of R-MM and C-H. Our objective is to have the site fall completely under the R-MM classification.

Plans for the site are to rehab seven of the ten existing buildings on site into 12- 3 bedroom townhomes with an on-site management office and on-site parking.

If you have any questions regarding this application, our plans, or documents submitted, please do not hesitate to give me a call at 901-590-5923. Thanks for your time and attention.

Sincerely,

Tiena Gwin
Urban Construct, Principal