

**MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND  
DEVELOPMENT**

**STAFF REPORT #2**

**CASE NUMBER:** S 09-013

**L.U.C.B. MEETING:** 11/12/09

**DEVELOPMENT NAME:** Gaskell Industrial S/D,  
Resubdivision of Lot 3

**LOCATION:** East side of Old Getwell  
Road, 256.57 feet south of  
Premier Avenue

**COUNCIL DISTRICT:** 3

**SUPER DISTRICT:** 9

**OWNER OF RECORD / APPLICANT:** Ronald B. Anglin  
**REPRESENTATIVE:** Construction Engineering  
Services

**REQUEST:** Re-subdivision of Lot 3 of  
the Gaskell Industrial  
Subdivision to create two lots  
for two existing buildings  
addressed as 3849 New  
Getwell Road and 3850 Old  
Getwell Road

**AREA:** 3.73 Acres

**EXISTING LAND USE & ZONING:** Heavy Industrial (I-H)  
District

**SURROUNDING LAND USE & ZONING:**

**North:** Warehouse and office building located in the I-H District

**East:** Warehouse buildings located in the I-H District

**South:** Warehouse building located in the I-H District

**West:** Warehouse buildings located in the Light Industrial (I-L)  
District

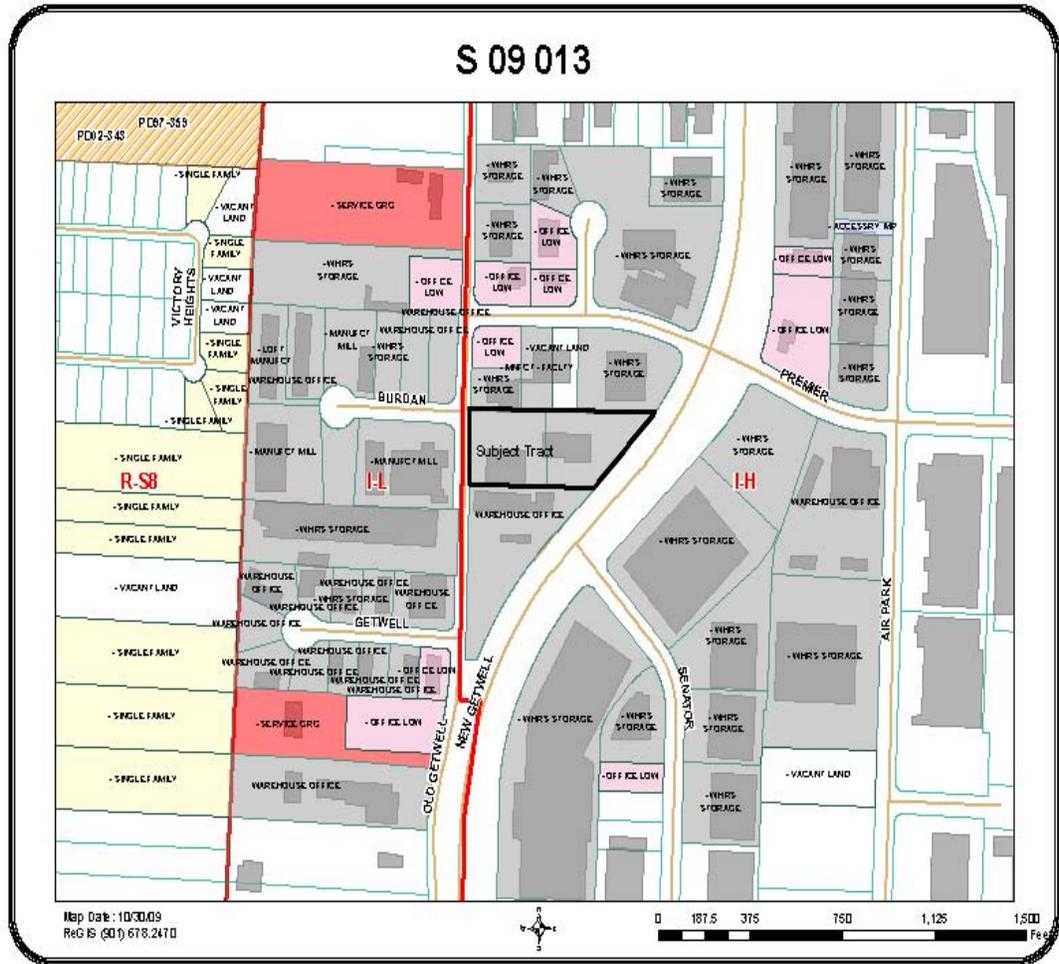
**OPD**

**RECOMMENDATION:** *Approval With  
Conditions; Rejection of Variance Requests*

## **CONCLUSIONS**

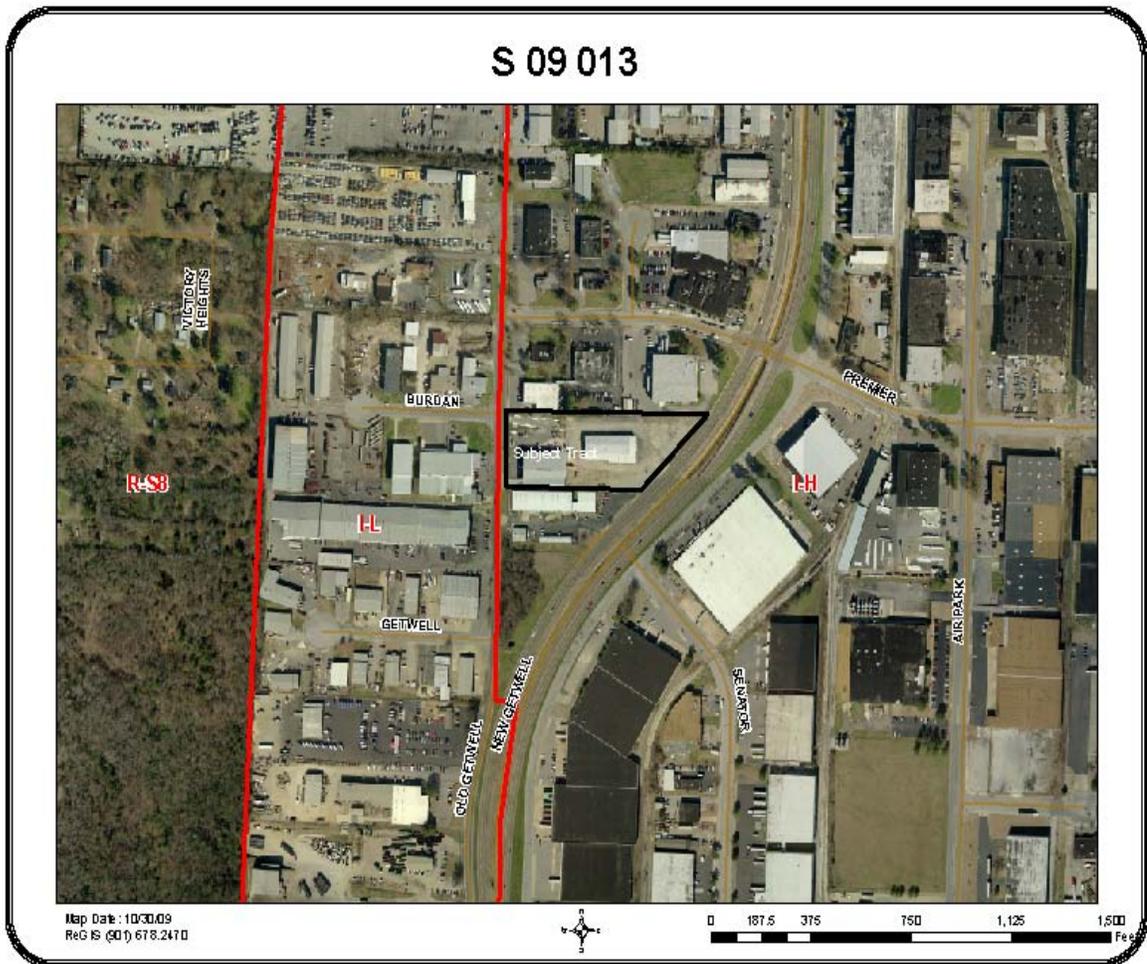
1. The original Lot 3 was recorded in 1971 as part of the Gaskell Industrial Subdivision (Plat Book 46, Page 4). The plat illustrates an existing building on it which appears to be the same building illustrated on proposed Lot 3A of the current re-subdivision request.
2. The Shelby County Assessor's Office information indicates the existing building on proposed Lot 3A was constructed in 1972. A subsequent building was added as illustrated on proposed Lot 3B that was built in 1991.
3. It is unclear how the building on proposed Lot 3B got constructed without benefit of a subdivision. It perhaps was permitted as an accessory structure to the building on proposed Lot 3A. A check of records at the Board of Adjustment can find no action that permitted two principal buildings on one lot at this location.
4. It appears that the structure on proposed Lot 3B may have been permitted a building permit in error. A deed was recorded splitting the original Lot 3 into two separate parcels, but this action did not create two legal lots of record. Only the re-subdivision process can accomplish this.
5. Both street frontages of proposed Lots 3A and 3B lack required urban street improvements. New Getwell Road along Lot 3A has no sidewalks. Old Getwell Road along Lot 3B has no curb, gutter, or sidewalk. The applicant has requested a variance to forego installation of these improvements. The request cannot be supported.
6. The rear of the building on proposed Lot 3B is abutting the proposed rear lot line. A minimum rear yard building setback line of 15 feet is required in the I-H Zoning District. Depending on the type of construction of the building at the rear (floor area, canopy overhang, etc.) this potential setback encroachment may require separate approval of a rear yard setback variation by the Board of Adjustment.

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Vicinity/Zoning Map

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**Aerial Photo**

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**OWNER'S CERTIFICATE**

(1, 16), the undersigned, THE GASKELL CO. INC., owners of the property shown herein, hereby certify that this is the plan of subdivision (and hereinafter the streets, rights-of-way, easements and rights of access as shown and/or described to the public and future), [(1, 16) (law, 1967) as shown and/or described to the public and future, hereby authorized as to act, and that said property is not encumbered by any mortgage or lien which have been paid and payable.

By Thomas Gavor  
Thomas Gavor, V.P.

**WITNEY'S CERTIFICATE**

STATE OF TENNESSEE, COUNTY OF SHELBY

Before me, the undersigned, a notary public, in and for said state and county at Memphis, duly commissioned and qualified, personally appeared Thomas Gavor, with whom I am personally acquainted and who upon oath acknowledged to me the foregoing instrument for the purposes therein contained as his own free act and deed.

Witness my hand and notarial seal this 24 day of Nov, 1971.

My commission expires Oct 23, 1975

Notary Public Ray Murphy

**ENGINEER'S OR SURVEYOR'S CERTIFICATE**

I hereby certify that this plan is true and correct and was prepared in an actual survey of the property made under my supervision.

Ray Murphy  
 REGISTERED PROFESSIONAL SURVEYOR

**CITY'S ACCEPTANCE CERTIFICATE**

CITY:

APPROVED BY THE MEMPHIS AND SHELBY COUNTY PLANNING COMMISSION.

DATE 7 Jul 1971 BY Ray Murphy

I hereby certify that the foregoing is a true copy and that said document was approved by the City Council of the City of Memphis in regular session on Dec 22, 1971.

Ray Murphy  
 COMPTROLLER

**OWNER'S CERTIFICATE**

(1, 16), the undersigned, Subdivisor Development, Inc., owners of lot 23 shown herein dedicate the streets, rights-of-way, easements and rights of access as shown and/or described to the public and future, [(1, 16) (law, 1967) as shown and/or described to the public and future, hereby authorized as to act, and that said property is not encumbered by any mortgage or lien which have been paid and payable.

By Thomas Gavor  
Thomas Gavor, V.P.

**WITNEY'S CERTIFICATE**

STATE OF TENNESSEE, COUNTY OF SHELBY

Before me, the undersigned, a notary public, in and for said state and county at Memphis, duly commissioned and qualified, personally appeared Thomas Gavor, with whom I am personally acquainted and who upon oath acknowledged to me the foregoing instrument for the purposes therein contained as his own free act and deed.

Witness my hand and notarial seal this 24 day of Nov, 1971.

My commission expires Oct 23, 1975

Notary Public Ray Murphy

**CERTIFICATE OF SURVEY AND DESCRIPTION**

Beginning at a point 300.00 feet south of the center line of Pioneer Avenue and the east line of Old Getwell Street 31 feet east of the center line of said street; thence southerly with said east line of Old Getwell Street 300.00 feet to a point; thence southerly with an interior angle of 107° 37' 30" feet to a point; thence southerly with an interior angle of 97° 47' 31.4 feet to a point in the west line of Getwell Street, as established by point 10 feet west of the curb line; thence southerly along the curve of the west line of Getwell Street 750.0 feet to a point; thence westerly along south line of Schindler Investment Corporation 100 feet to the point of beginning, and containing 3.95 acres, more or less.

By Ray Murphy  
 REGISTERED PROFESSIONAL SURVEYOR

APPROVED 20 Dec 1971 DATE

Ray Murphy DIRECTOR  
 MEMPHIS AND SHELBY COUNTY HEALTH DEPT.

**GASKELL INDUSTRIAL SUBDIVISION**  
 ZONED M-3  
 ACRES 6.95  
 ENG. THOMAS GAVOR/MCGASKELL, INC.

**PLAT PLAN**  
 SCALE 1" = 100'

**THE GASKELL COMPANY INC.**  
 855 HARBOR AVENUE MEMPHIS 6, TENNESSEE

no.	revision	date by

A PROPOSED BUILDING 6608-71

For PROCESS & POWER INC.

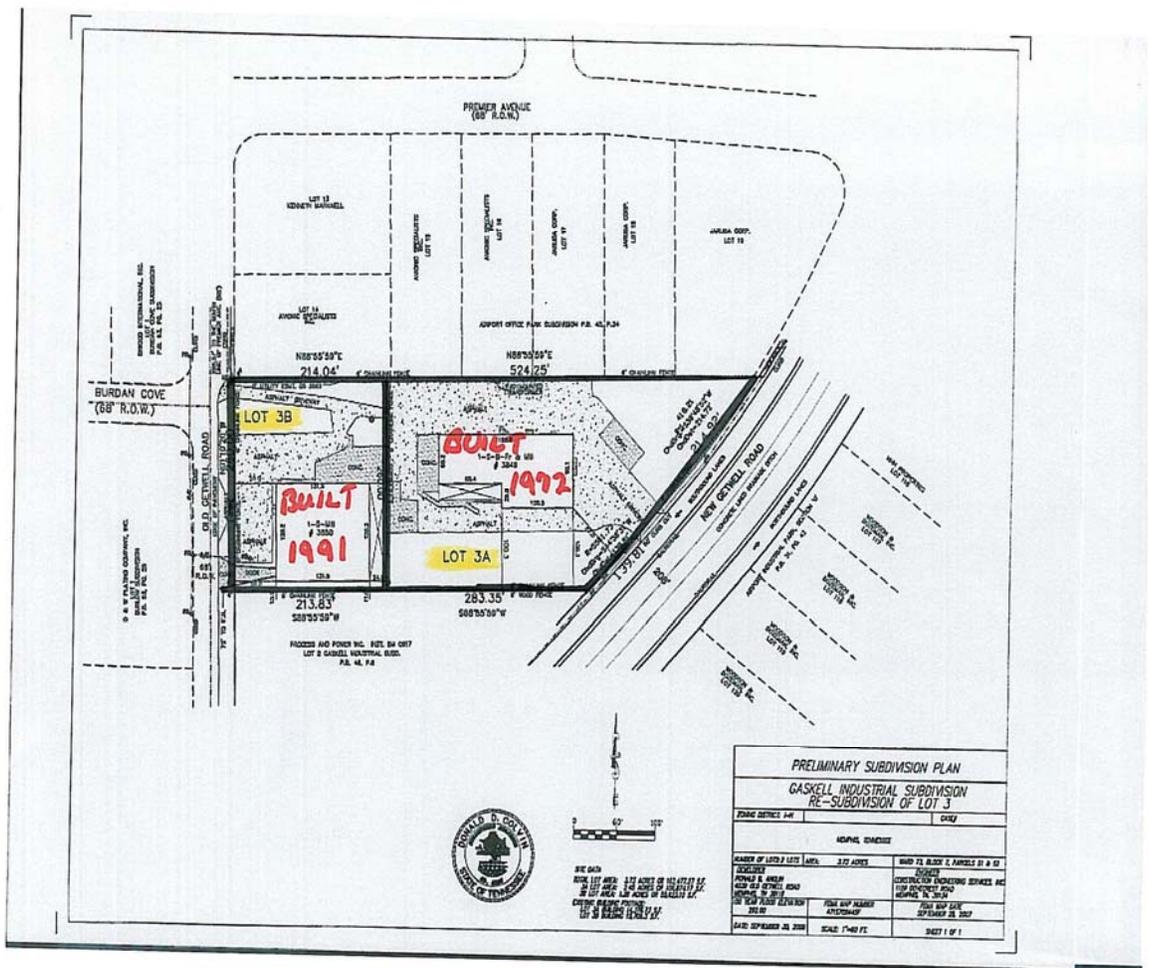
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drawing no.	1

DATE 11-4-71 FROM [initials] APPROVED [initials] NOTED [initials]

This drawing is the property of THE GASKELL COMPANY INC. and shall be returned upon request. It is not to be duplicated or copied in any manner or used by others in any form which would be harmful to the company.

Original Subdivision Plat recorded in 1971 highlighting Lot 3 which is currently proposed for re-subdivision.

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This is the proposed re-subdivision illustrating the two existing buildings and their date of construction.

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**This is the existing building on proposed Lot 3B on Old Getwell Road addressed as 3850 Old Getwell Road.**



**This is the existing, unimproved road frontage along the Old Getwell frontage of proposed Lot 3B.**



**Directly north of and abutting proposed Lot 3B is a developed lot including required curb, gutter, and sidewalk.**



**This is the existing building on proposed Lot 3A along New Getwell Road addressed as 3849 New Getwell Road.**



**The New Getwell Road frontage of proposed Lot 3A contains no sidewalk.**



**Directly north of and abutting proposed Lot 3A is a lot with full urban road improvements including sidewalk.**

## **STAFF ANALYSIS**

While this subdivision application is filed for the sole purpose of creating a lot for each of the two existing buildings on this property of which there is no objection to, it does create several issues concerning road improvements, sidewalk installation, and building setback compliance. Each are discussed below with a recommendation. The applicant has anticipated some of these issues by filing a formal letter with the re-subdivision application requesting variances to the requirement to install street improvements. These cannot be supported as will be elaborated on below.

**Sidewalks on New Getwell Road** - No sidewalks exist along the New Getwell Road frontage of Lot 3A. The subdivision located directly north of Lot 3A was recorded in 1970 and contains sidewalks. Sidewalk installation is currently a standard requirement for any new subdivision proposal. Though required to be installed when a building permit is applied for, the Sidewalk Ordinance also gives the City Engineer the right to request sidewalk installation with a Standard Improvement Contract. Thus, even though no building is being built, sidewalk installation can still be required and is recommended by the City Engineer in this instance. New Getwell Road is a principal arterial and such streets should allow for safe pedestrian use that includes a sidewalk. For these reasons, the variance request of the applicant to forego sidewalk installation is recommended for rejection.

**Urban Road Improvements on Old Getwell Road** – No curb, gutter, or sidewalk exists along the Old Getwell frontage of Lot 3B. The subdivision located directly north of proposed Lot 3b was also recorded in 1970 and contains full urban road improvements. These improvements should be continued onto the proposed frontage of Lot 3B to provide for better traffic control, drainage, and pedestrian safety in this busy industrial area. The variance request of the applicant to forego urban road improvements is recommended for rejection.

**Landscaping** – The current Landscaping Ordinance has been in effect since 1988. The building on proposed Lot 3B was constructed in 1991. No evidence exists at the site of any landscaping installation along Old Getwell Road which should have been installed. In fact, the site is paved to the front property line with no provision of a landscaping strip for tree installation. At a minimum, at least 8 feet of width should have been left directly behind the property line for the installation of shade trees spaced every 40 feet apart. This installation will be required prior to the recording of the final plat.

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It should also be noted that since the building on proposed Lot 3A was constructed prior to the adoption of the Landscaping Ordinance, no landscaping will be required at this time, but any future building or parking addition(s) or will require a proportionate amount of landscaping installation on proposed Lot 3A.

**Rear Yard Setback on Proposed Lot 3B** – A possible rear yard setback violation may be created with the proposed placement of the rear line of proposed Lot 3B. It appears the existing building is abutting the property line. A minimum rear yard building setback of 15 feet is required. If it is determined this is a setback violation, the applicant should re-adjust the rear property line for compliance or file an application with the Board of Adjustment and have the variation approved prior to the recording of the final plat.

**RECOMMENDATION:** Approval of the two-lot subdivision subject to the following conditions:

1. Install a Landscaping Plate A-1 along the Old Getwell Road frontage of Lot 3B.
2. If it is determined that the existing building on proposed Lot 3B is creating a rear yard building setback variation, the applicant shall file an application with the Board of Adjustment for a rear yard setback variation and have it approved by the Board of Adjustment prior to the final plat being recorded.
3. The applicant shall be required to dedicate and improve the Old Getwell Road frontage of proposed Lot 3B with curb, gutter, and sidewalk 34 feet from the centerline. The Standard Improvement Contract covering this work shall also include the installation of a sidewalk along the New Getwell Road frontage of proposed Lot 3A.
4. Both proposed Lots 3A and 3B will be required to comply the provisions of the Landscaping Ordinance. With any future building or parking expansion(s) with the exception that Condition #1 above must be complied with prior to the recording of the plat or release of any performance bond for the road improvements to Old Getwell Road.

**Variance Requests** – Denial of both requests to waive sidewalk installation on New Getwell Road and full street improvements on Old Getwell Road.

## **GENERAL INFORMATION**

**Planning District:** Oakhaven/Parkway Village

**Zoning Atlas Page:** 2340

**Parcel ID:** 073007 00051 & 073007 00052

**Roadway Frontages:** 260 feet on Old Getwell Road; 354 feet on New Getwell Road

## **DEPARTMENTAL COMMENTS**

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

### **City Engineer:**

1. Both corners of Burdan Cove, opposite this site, are fully improved with curb, gutter and sidewalk, as is the adjacent property to the north of the site. Old Getwell Road is narrow, with no curb, gutter, sidewalk or drainage from this site south.
2. The City Engineer will not support a waiver of improvements to Old Getwell Road.
3. Dedicate 34 feet from centerline of Old Getwell Road and improve in accordance with Subdivision Regulations.
4. New Getwell Road has sidewalk immediately north of the site that needs to be extended to the south, through this property. The City Engineer will not support a waiver of sidewalks to New Getwell Road.
5. The City/County Engineer shall approve the design, number and location of curb cuts.

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**City Fire Division:** No comments received.

**City Real Estate:** No comment.

**City/County Health Department:** The Water Quality Branch has no comments.

**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.

**Memphis Light, Gas and Water:** No comments received.

**AT&T/Bell South:** AT&T Tennessee has no comment regarding this development.

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

**OPD-Regional Services:** No comments received.

**OPD-Plans Development:** No comments received.

**Memphis Park Commission:** No comments received.

**Neighborhood Associations:**

Memphis Airport Area Development Corporation: No comments received.

SW-Chip Saliba