

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

#11

CASE NUMBER: U.V. 09-06 **L.U.C.B. MEETING:** October 8, 2009

LOCATION: South side of Faxon Avenue; +/-472.60 feet east of National Street

COUNCIL DISTRICT: 5

SUPER DISTRICT: 9

OWNER OF RECORD: Tim E. Dacus

APPLICANT: Mid-South Outlet – Dee Bradford/Terry
Neuenschwander

REPRESENTATIVE: Bill Fuller

REQUEST: A use variance for a new parking lot

AREA: 0.239 Acres

EXISTING LAND USE & ZONING: A residential dwelling unit in the Duplex
Residential (R-D) District

SURROUNDING USES AND ZONING:

North: Predominately Single Family dwellings in the Duplex Residential (R-D)
District

East: Single Family, Duplex and Church related uses in the Duplex Residential
(R-D) District

South: Retail commercial uses including an antique mall and outlet stores in the
Highway Commercial (C-H) District

West: Single Family dwellings and vacant land in the Duplex Residential (R-D)
District

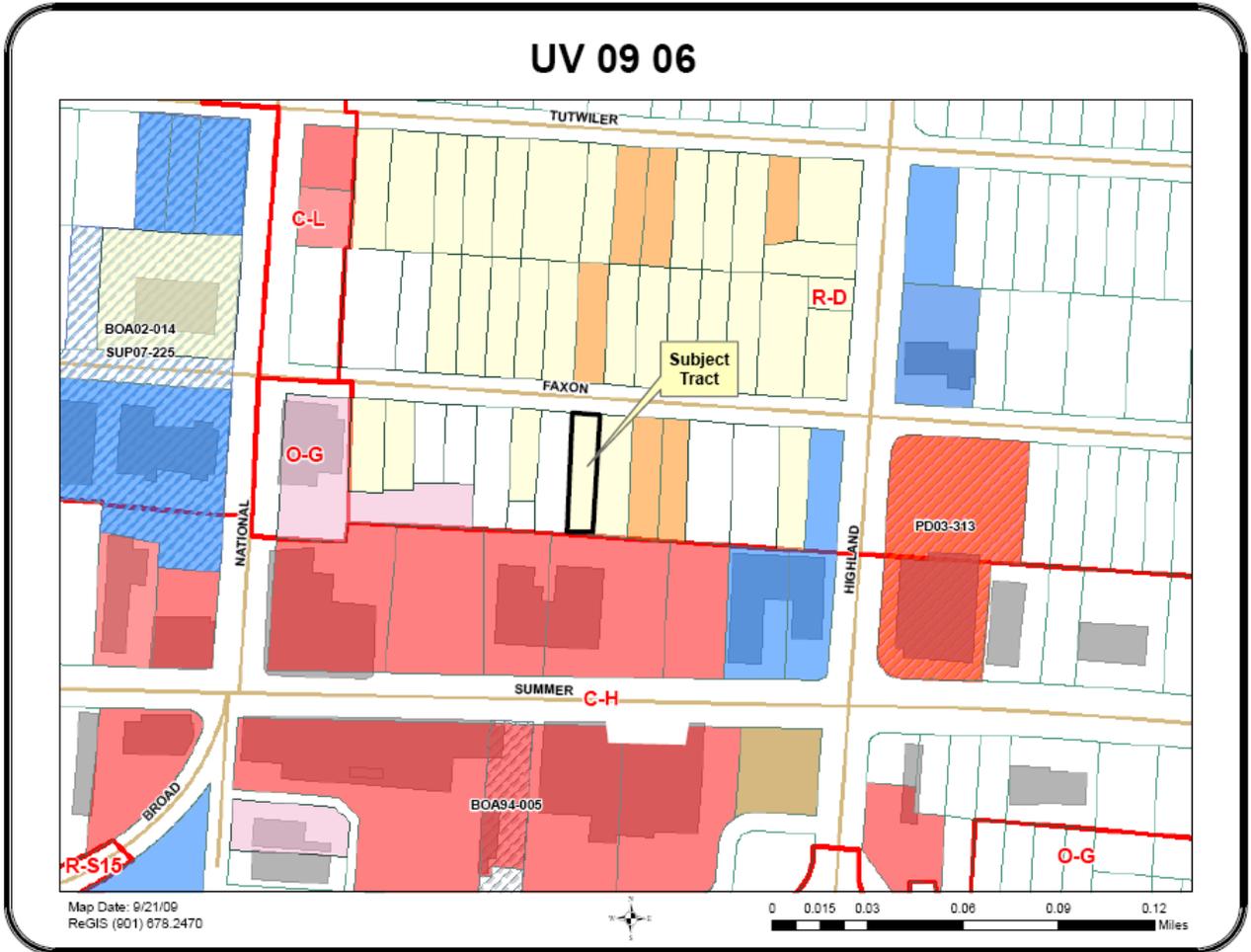
**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION
REJECTION**

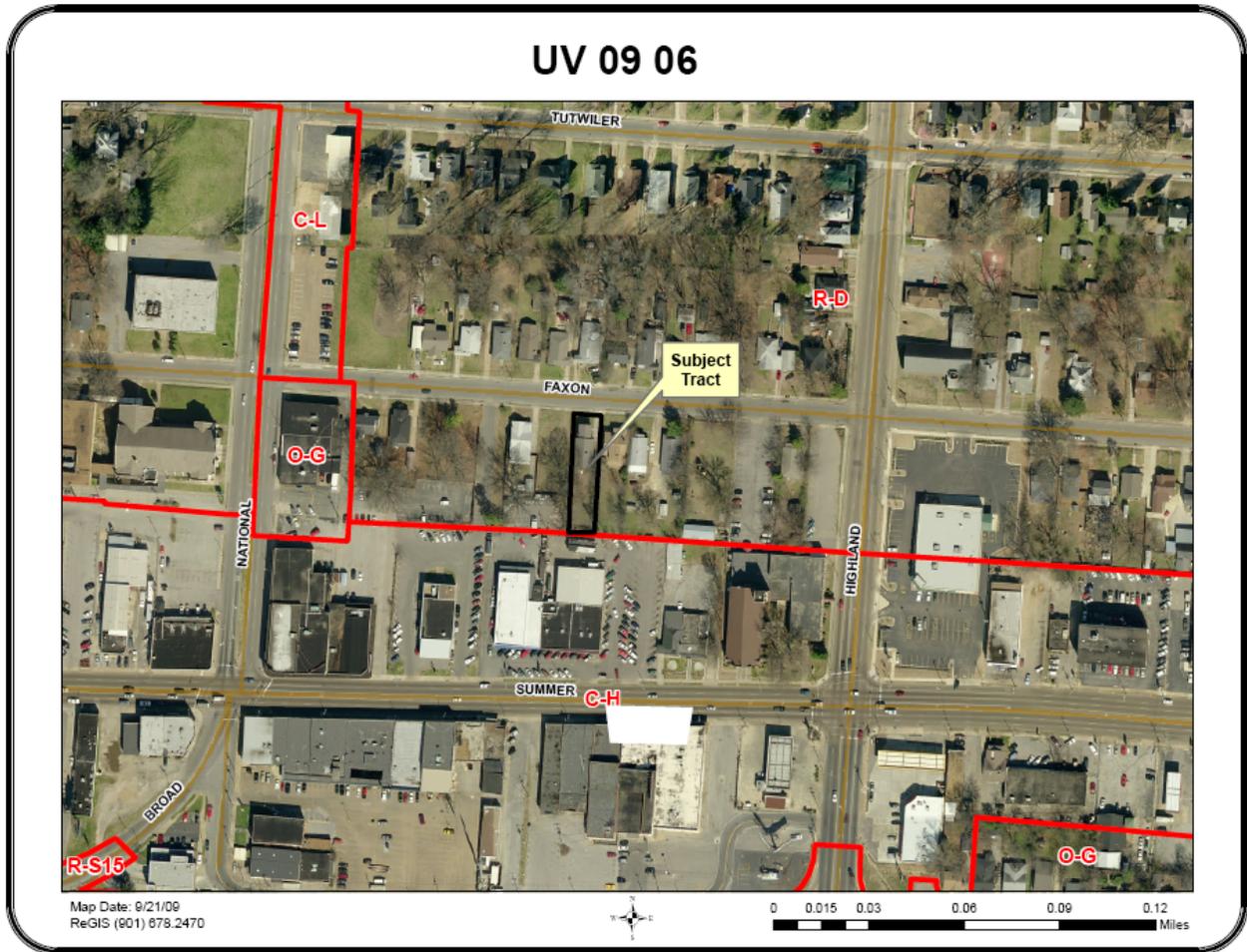
Staff: Don Jones

E-Mail: john.jones@memphistn.gov

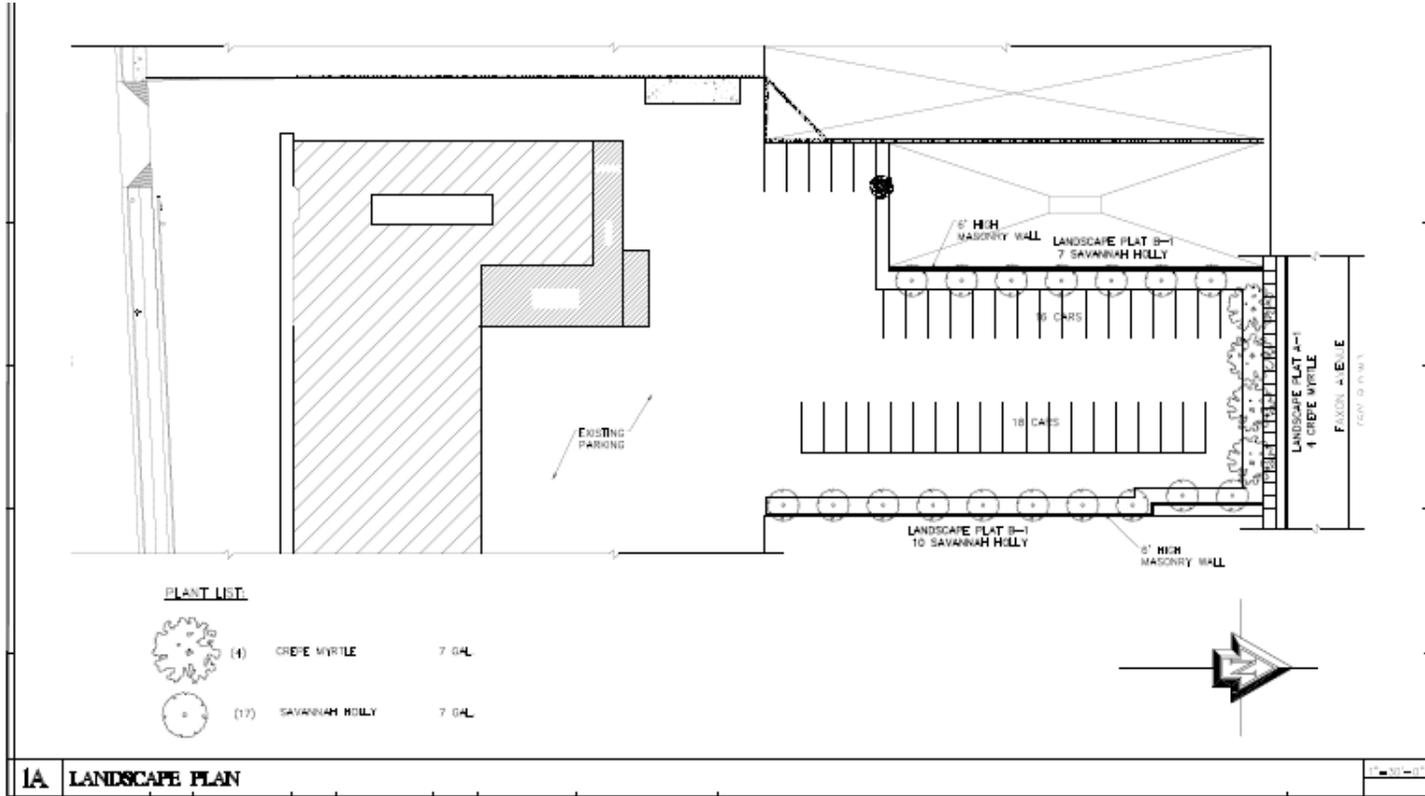
CONCLUSIONS

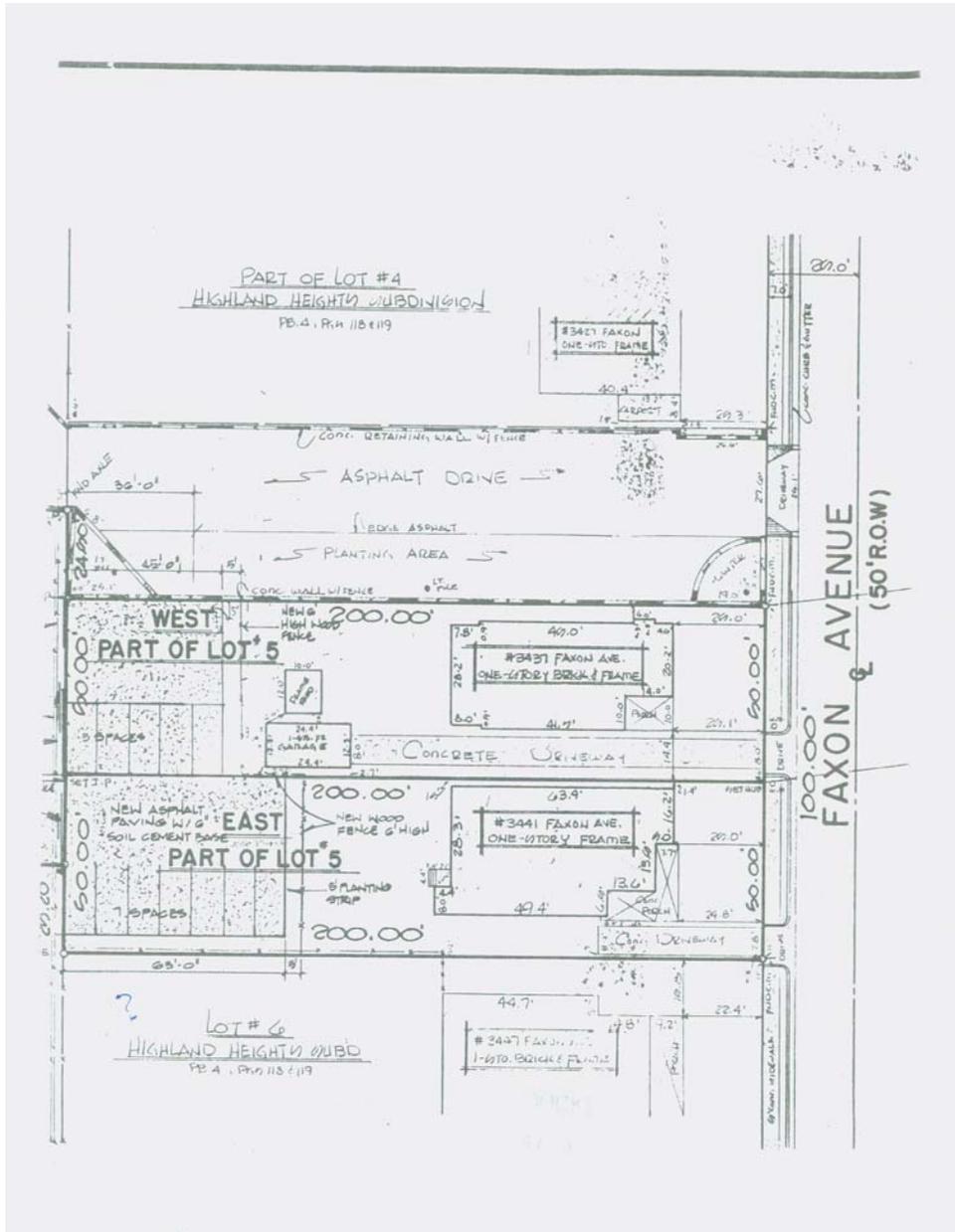
1. The use of land on both sides of Faxon Avenue is predominately single family in nature with some duplex residential sprinkled in. There are some vacant parcels on both sides and there have been some encroachments of nonresidential uses to the east and west of the subject site.
2. An application requesting a Use Variance includes a requirement to demonstrate that there is a hardship based on the physical characteristics of the land and that the land cannot otherwise be put to use under its current zoning. The staff has also considered properties that contain unique buildings as meeting this requirement. The subject property is a typical residential lot for the area with a Single Family structure, there does not appear to be any extenuating circumstances to warrant this request other than the desire to add parking to serve the commercial use on Summer Avenue.
3. This application applies only to 3447 Faxon Avenue even though the attached site plan appears to include the property immediately to the west. The application is signed by the owners of 3447 and does not contain a signature for any other owner of property.
4. This application cannot be supported despite any other encroachments that presently exist. To develop this site as proposed, an existing single family residence will have to be razed, taking a property out of the residential inventory.
5. A parking lot, no matter how well it is landscaped, is not an example of a positive addition into a residential area. If anything, the approval of such a request will serve as a disincentive for the current property owners to re-invest in the maintenance and upkeep of their properties.





Landscaping Plan





1990 BOA Approval (southern portion of the two lots immediately west of this Subject Site)



Subject Site



Lot to the west (sign was placed here by mistake)



Next lot to the west – next to vacant lot previous picture



Houses on the north side of Faxon opposite site

STAFF ANALYSIS:

Location and Site Characteristics:

The subject property is located on the south side of Faxon Avenue midway between National Street on the west and N. Highland Street on the east. This property is identified as the west 50 feet of Lot 6 of the Highland Heights Subdivision., Block 17 which is a lot of record found in the Shelby County Registers Office at Plat Book 4, Page 118.

The site measures 50 feet in width by just under 200 feet in depth or 9,975.25 square feet. The property contains a 1 story single family dwelling.

Request:

The applicant is the Mid-South Outlet store which is located at 3432 Summer Avenue. The Outlet store is located directly to the south of the subject property. The Vicinity Map shows the Outlet Store as owned by the Disabled American Veterans, Chapter 70.

The applicant has submitted a plot plan which describes the site with the dimensions indicated above. Also included is a Site Plan and a Landscaping/Screening Plan.

These plans show a new parking lot which appears to include not only the subject site but the vacant site to the west of the subject. By the plan, the parking lot will accommodate two rows of parking spaces (34 spaces) with a 25 foot wide drive aisle.

The landscaping includes 4 crepe myrtles across the Faxon Avenue frontage, Savannah Hollies (7 on the west property line and 10 on the east property line) and a six foot tall Masonry Wall.

Review of Request:

Character of Surrounding Area: The use of land on both sides of Faxon Avenue is predominately single family in nature with some duplex residential sprinkled in. There are some vacant parcels on both sides and there have been some encroachments of nonresidential uses to the east and west of the subject site.

East of the subject site and near the intersection of Faxon Avenue and Highland Street, three parcels are used for parking and a play area to serve the Church at the northwest corner of Summer Avenue and Highland Street.

Located three parcels to the west of the subject property is a drive way that connects to the rear of a parcel that has frontage on Summer Avenue. This site is the former Shoe Outlet and is currently under going a redevelopment effort.

Approved Variations - In March of 1990 the Memphis and Shelby County Board of Adjustment approved a variance to allow the expansion of parking into the rear yards of 3437 and 3441 Faxon Avenue. This expansion included 45 feet into the rear yard of 3437 Faxon Avenue and 63 feet into the rear yard of 3441 Faxon Avenue.

The property at 3441 Faxon Avenue is immediately to the west of the subject property and is currently vacant. The property at 3437 Faxon Avenue is one parcel to the west of 3441 Faxon Avenue and developed with a Single Family Residence.

Review of Encroachments: With respect to any of the current encroachments, we can only speculate on how and why a driveway was permitted to extend from the commercial use on Summer Avenue to Faxon Avenue.

Parking and play area for the church is explained by the fact that a church is a permitted use in the Duplex District so parking as an accessory use can be permitted.

The BOA approval includes an approved site plan which limits the encroachment to part of the rear yard and still leaves a useable site for residential use.

Application Requirements: An application requesting a Use Variance includes a requirement to demonstrate that there is a hardship based on the physical characteristics of the land and that the land cannot otherwise be put to use under its current zoning. The staff has also considered properties that contain unique buildings as meeting this requirement. The subject property is a typical residential lot for the area with a Single Family structure, there does not appear to be any extenuating circumstances to warrant this request other than the desire to add parking to serve the commercial use on Summer Avenue.

This application applies only to 3447 Faxon Avenue even though the attached site plan appears to include the property immediately to the west. The application is signed by the owners of 3447 and does not contain a signature for any other owner of property.

Site Plan/Landscape Plan – Along the east and west property lines, the landscape plan provides a B-1 Plate with a sight proof wall and evergreen shrubs. Detail of the proposed wall is needed.

Along the Faxon Avenue frontage, the plan calls for the equivalent of an A-1 Plate. With the exposure of this use to the residential units across the street, a more intensive plate would be necessary. An A-2 or A-3 with trees, shrubs and fencing that would include a knee wall and wrought iron would be more appropriate.

Conclusions:

This application cannot be supported despite any other encroachments that presently exist. To

develop this site as proposed, an existing single family residence will have to be razed, taking a property out of the residential inventory. Further, despite the discrepancies between the application and the site plan, this plan would also require the removal of a perfectly good residential lot which is currently vacant to be used for a parking lot.

A parking lot, no matter how well it is landscaped, is not an example of a positive addition into a residential area. If anything, the approval of such a request will serve as a disincentive for the current property owners to re-invest in the maintenance and upkeep of their properties.

RECOMMENDATION: REJECTION

USE VARIANCE CONDITIONS

A Use Variance is hereby authorized to Mid-South Outlet to allow a parking lot on the property located at 3447 Faxon Avenue (Parcel I.D. 03803700010) as an accessory use for 3432 Summer Avenue .in accordance with the approved site plan and the following supplemental conditions:

1. Landscaping as shown on the approved plan.
2. Access to Faxon Avenue via private drive or driveway is prohibited. Convey right of access to City of Memphis.
3. 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,
4. 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.
5. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.
6. Required landscaping shall not be placed on sewer or drainage easements.

GENERAL INFORMATION

Street Frontage: Faxon Avenue – 50 Feet
Planning District: Jackson
Census Tract: 13
Zoning Atlas Page: 2040
Parcel ID: 03803700010
Zoning History: The current R-D or its predecessor, R-3, dates to 1954.

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.

Curb Cuts/Access:

2. Access to Faxon Avenue via private drive or driveway is prohibited. Convey right of access to City of Memphis.
3. 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,

Drainage:

4. 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.
5. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.
6. 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.

General Notes:

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

8. Required landscaping shall not be placed on sewer or drainage easements.

City Fire Division: No comments.

City Real Estate: None.

**City/County Health Department-
Pollution Control:** No objections.

Environmental Sanitation: No objections.

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: MLGW has reviewed the referenced application, and has no objection.

AT& T: No comments received.

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

OPD-Regional Services: No comments received.

OPD-Comprehensive Planning:

No comments received

Memphis Park Commission:

No comments received.

Neighborhood Associations:

No comments received

Grahamwood Neighborhood Assn.:

Faxon Avenue Neighborhood Watch:

See Letter of Opposition - Attached

September 30, 2009

Memphis & Shelby County
Office of Planning & Development
125 N. Main St., Room 468
Memphis, TN 38103

Attn: Mr. John Jones

Re: Case # U.V. 09-06 – 3447 Faxon Ave.

Dear Mr. Jones:

This letter is written to express my opposition to the referenced property re-zoning to accommodate a parking lot for Mid-South Outlet at 3432 Summer Ave., located directly behind said referenced property.

I live at 3451 Faxon Ave. directly next door to 3447 Faxon. Our street is residential and while there are several vacant rental houses left neglected with grass waist high, I do not want to see further deterioration by having a parking lot with razor wire around it next door to my house. This will not only reduce the value of my home & others on the street, but also the possibility of responsible home buyers/renters moving into the area.

3447 Faxon is boarded up due to Tim Dacus, the owner, renting to drug/gang activity tenants who vandalized the house.

My neighborhood is important to me & I do not want a noisy parking lot next door to my house just for the benefit of Mid-South Outlet or Tim Dacus, both of whom are only interested in the money they can make from this proposed venture & who do not have the neighborhood's best interests at heart.

I respectfully request that the City send someone out to investigate our neighborhood further & the negative impact a parking lot would have. I also respectfully request the City's help in restoring the area rather than making it worse. Just because we're in a depressed area doesn't mean that we don't care about our neighborhood.

I plan to be at the Public Hearing to further express my opposition to this proposed zoning/use variance change.

Respectfully submitted,


Barbara Sax
3451 Faxon Ave.
Memphis, TN 38122