

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

CASE NUMBER: S.U.P. 09-216

L.U.C.B. MEETING: October 8, 2009

LOCATION:

North side of Raines Rd., ± 330 ft. east of Opportunity Road intersection

**COUNCIL DISTRICT - REGULAR:
COUNCIL SUPER DISTRICT**

**#6
#8**

OWNER/ APPLICANT:

Roy and Doris Heath d/b/a R & D Enterprises

REQUEST:

Cemetery

AREA:

31.80 acres

EXISTING LAND USE & ZONING:

Vacant, wooded tract in the Heavy Industrial (I-H) and Single Family Residential (RS-6) Districts

SURROUNDING USES AND ZONING:

- North:** Vacant, partially wooded tract in the I-H and RS-6 District.
- East:** Railroad right of way and large (typically 15 acre) mostly vacant lots fronting the north side of Raines Road in the I-H District.
- South:** Across Raines Road, an industrial training facility and vacant wooded line in the I-H District
- West:** One single-family residence on a 5-acre lot in the I-H District fronting on Raines Road, and vacant land in the R-S6 District.

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION

Hold for more input

CONCLUSIONS

- 1. The subject property is almost entirely within the Heavy Industrial (I-H) District, where the land use and traffic impacts of the proposed cemetery would be substantially less than many developments permitted by right.**
- 2. This proposed use involves the development of a portion of a 143-acre tract, and the balance of the tract would be landlocked if it were detached from the proposed cemetery.**
- 3. The proposed development would affect the viability of industrial use in a larger area of property zoned I-H zoning north of Raines Road, which should be reevaluated if this development were approved.**

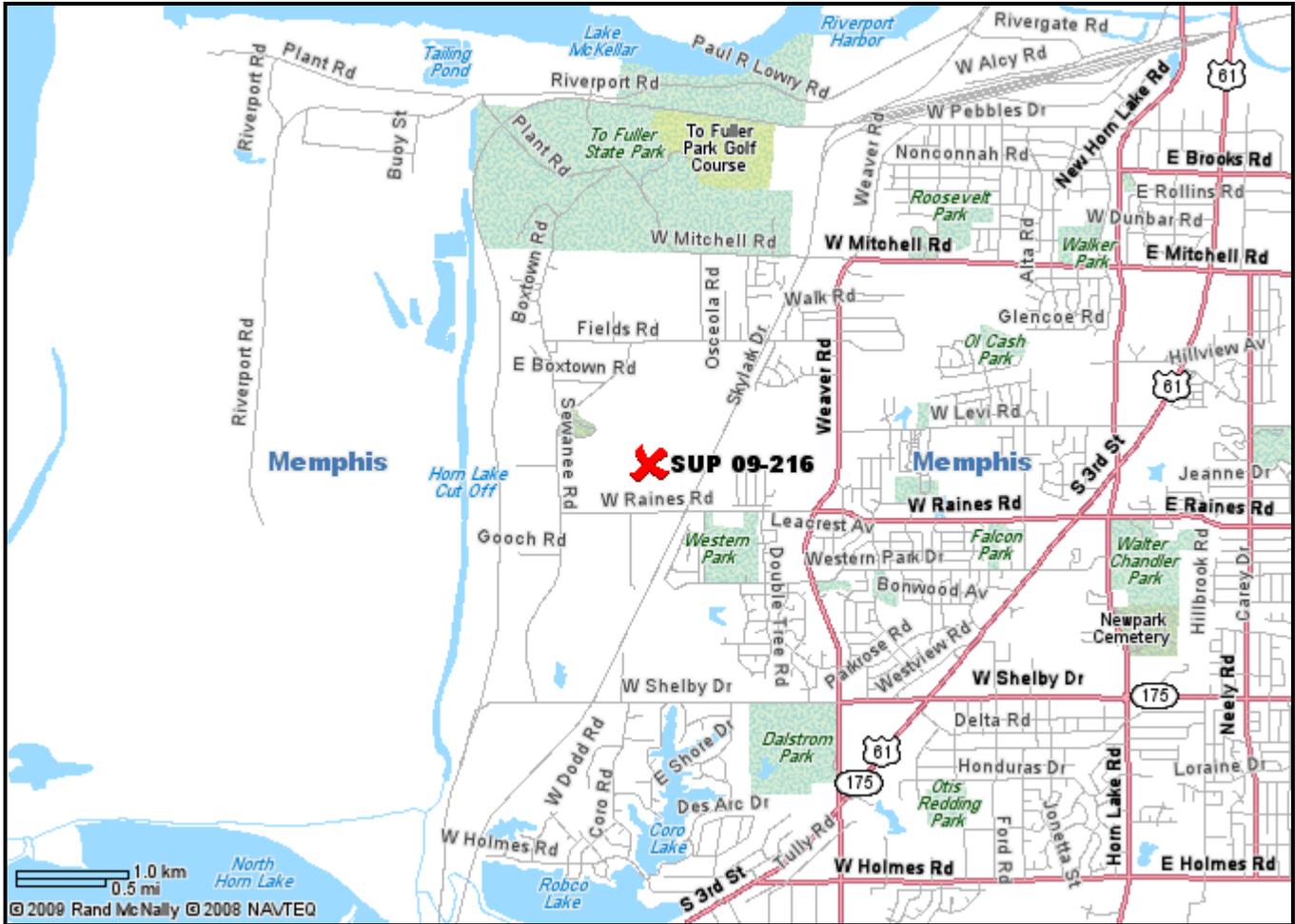


Figure 1: Location Map

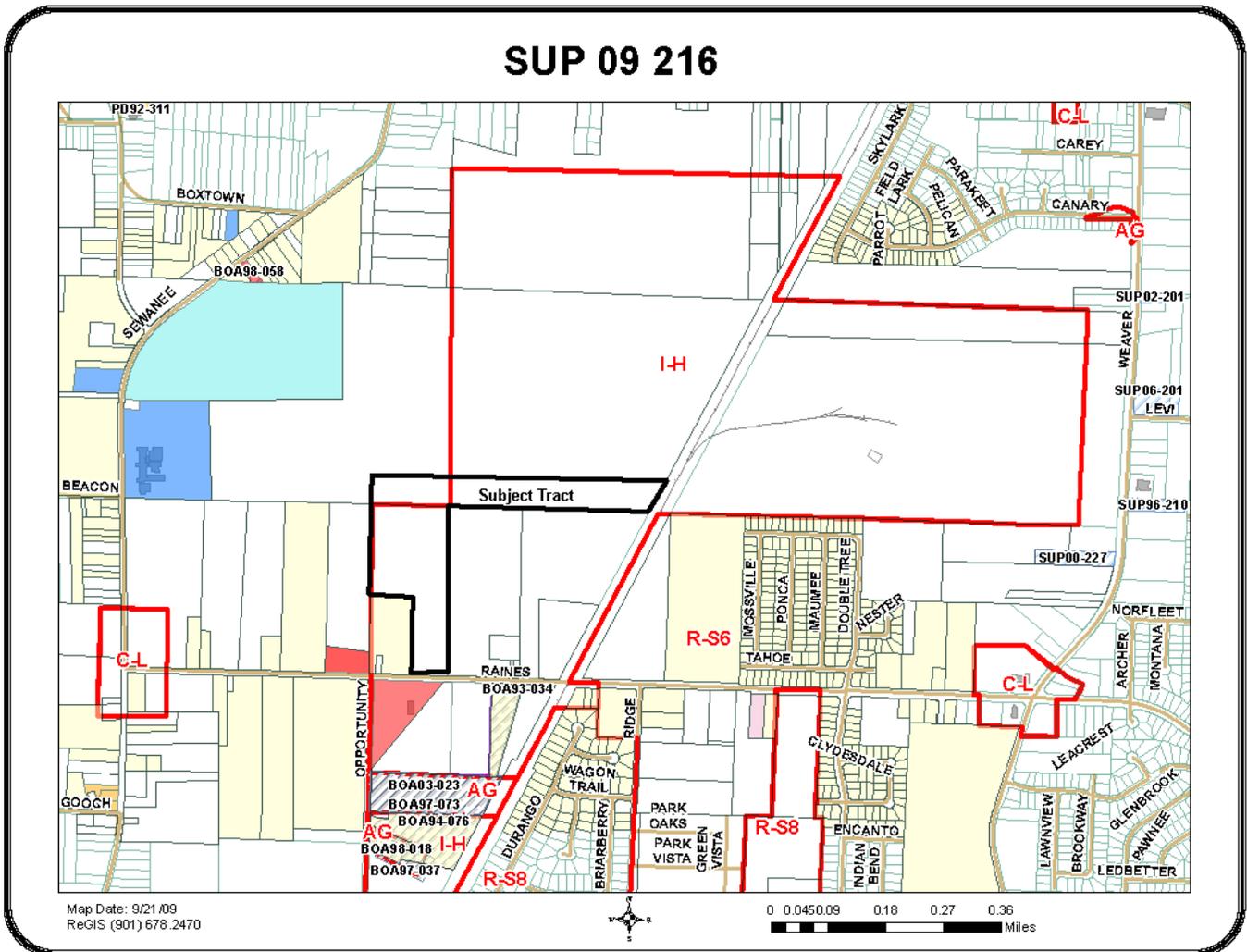


Figure 2: Zoning and Land Use in the Vicinity of the Subject Property

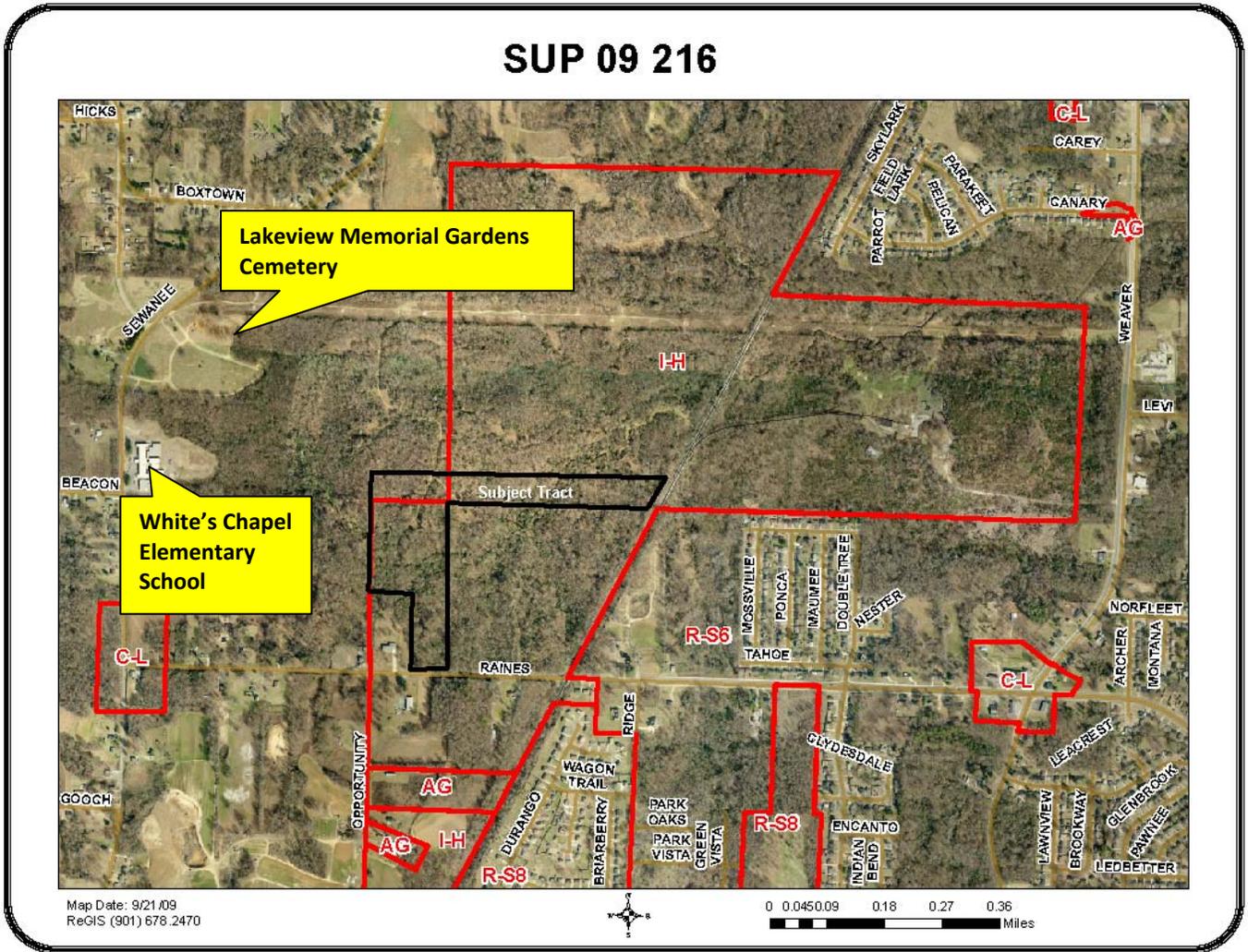


Figure 3: Overhead view of vicinity

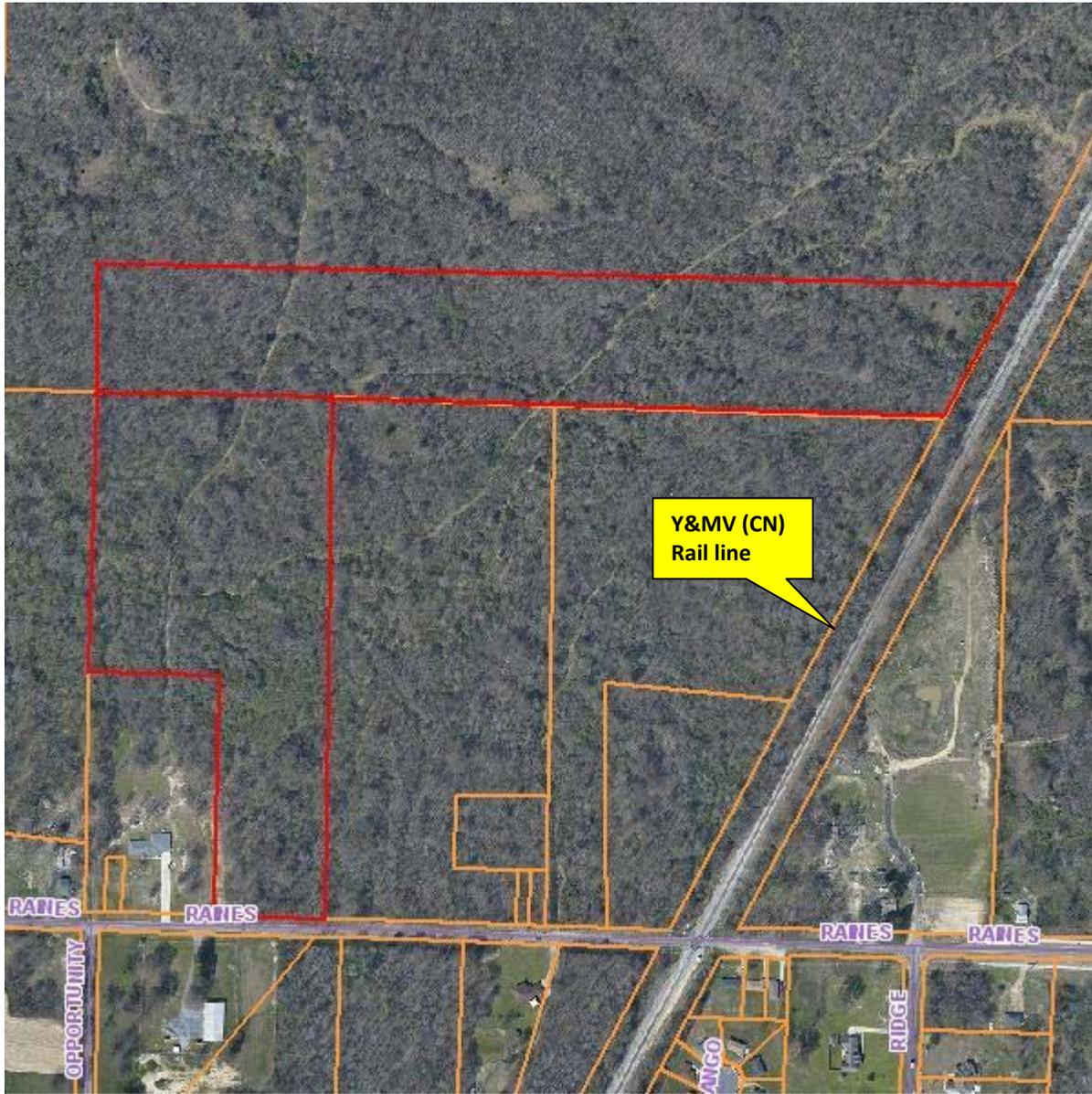


Figure 4: Subject property

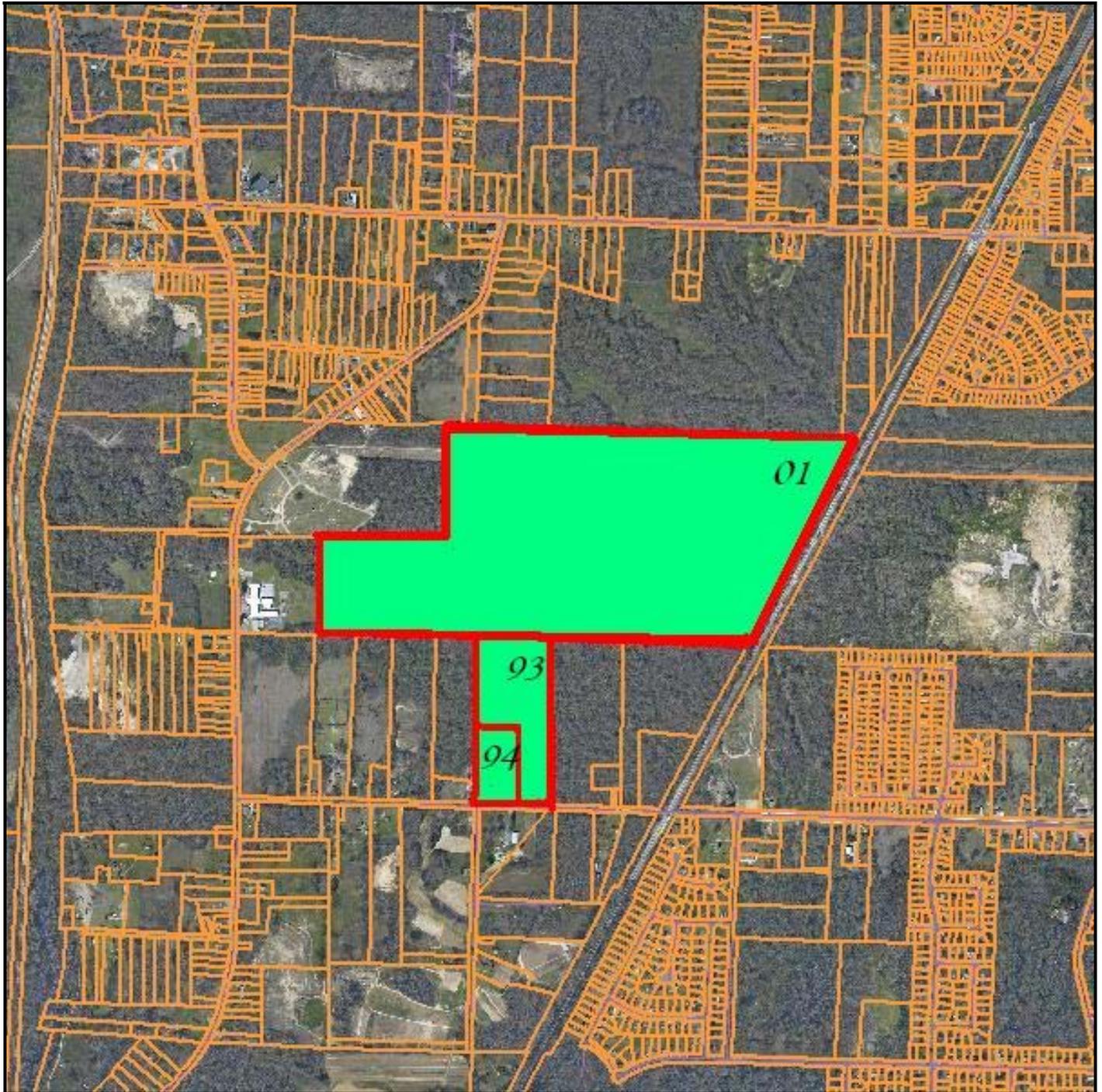


Figure 5: Property holdings of this owner

Proposed cemetery would include Parcel 93 (15.6 acres)
and 16.2 of the 143 acres in Parcel 1
Parcel 93 is a 5-acre tract with single-family residence at 1552 W Raines,
used as an address by the owner.

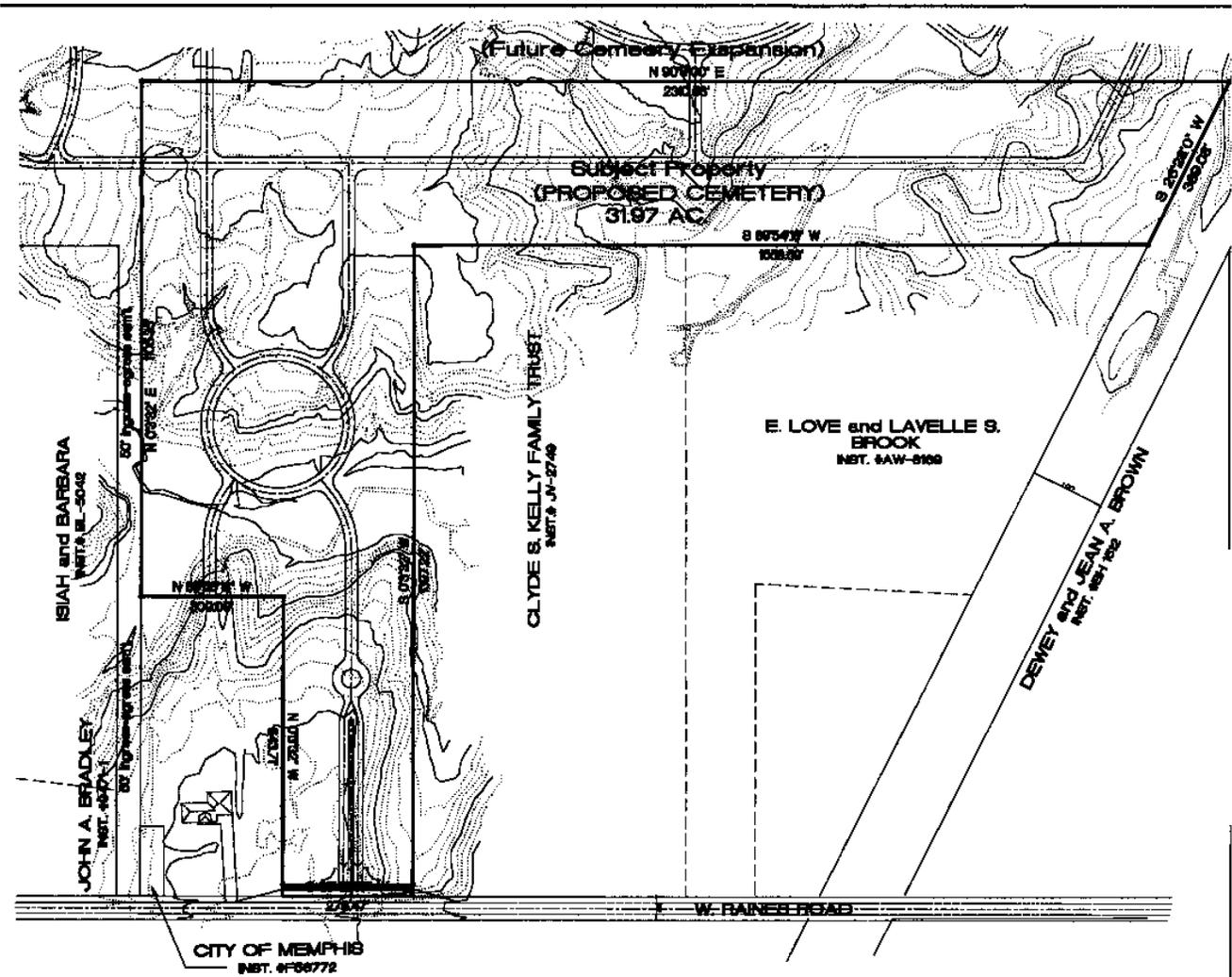


Figure 6: Site Plan Concept



Figure 7: A view along Raines Road looking eastward, with frontage of the subject property on the left.



Figure 8: This house at 1552 West Raines Road is owned by the applicants and abuts the subject property which lies to the east and to the rear. The site plan shows a cemetery drive stubbed out for future extension through this property to Raines Road.



Figure 9: This apparent auto repair operation in the R-S6 district operates in some “utility” buildings on the property west of the residence shown in Figure 8. The site plan shows a 50-foot ingress-egress easement between the two properties leading back to a 134 acre tract that that is available for expansion of the proposed cemetery.



Figure 10: This building opposite the subject property on a 5-acre tract at 1553 West Raines is an apprenticeship training facility.



Figure 11: This residence at 1463 W Raines is the only residence visible on the south side of Raines between the Y&MV rail line and Opportunity Road.



Figure 12. This view along Opportunity Road is looking northward to the T-intersection at Raines Road. The zoning district boundary follows this centerline ---- Industrial (I-H) to the east (left) and Residential (R-S6) on the west side.

STAFF ANALYSIS

Site and Location

The subject property consists of one 15.3 acre parcel and 16 acres of a 143 acre parcel of land, as shown in Figures 5 & 6. The 15.3 acre tract, shown as Parcel 93 in Figure 5 has 276 feet of frontage on Raines Road since a five-acre tract with 300 feet of frontage on Raines (Parcel 94) is imbedded in the southwest corner of the rectangle that encompassed Parcel 93. Based on that rectangle, the main area of Parcel 93 extends to a depth of 1,397 feet --- more than ¼ mile. Added at the rear (north end) of the site is an additional 16-acre section carved out of Lot 1 so as to create an L-shaped site. The extension adds 350 feet of depth and extends approximately 1,750 feet eastward to the right of way line of the Canadian National Railway track historically identified as the Y&MV line (Yazoo and Mississippi Valley).

Raines Road is designated as a Priority 1 Major Road. It is an unimproved country road in the segment extending westward from the above-mentioned railroad to Sewanee Road, which is about 2,360 feet, nearly ½ mile west of the subject property. (Sewanee Road is the last north-south access east of the Mississippi River bottomlands and is a rural main street for the Boxtown neighborhood.) Raines Road, east of the railroad, widens to an improved 5-lane cross section in the Westwood neighborhood, and continuing eastward, it provides a connection with .with various north-south through routes including Horn Lake Road, Third Street (US Highway 61) and Elvis Presley Blvd. (US Highway 51).

The subject property is undeveloped, relatively level, mostly covered by dense woodland vegetation.

Proposed Development

The applicant is seeking to establish a cemetery on the subject property. The site plan in Figure 6 shows the proposed layout, and the applicant's intent to expand the cemetery farther into the 143 acre tract at some point in the future.

Neighborhood Context

The subject property is in an area that is semi-rural with relatively low intensity uses. Residences are scattered and a training facility has been established immediately opposite the subject property. That establishment and the entire subject property except for the northwestern corner are zoned for industrial use. The creation of this I-H District along the west side of the Y&MV (Canadian National) rail line was evidently the result of a plan to encourage the growth of industry in the area. The appropriateness of this pattern in the twenty first century is a larger issue raised by this case.

Raines Road has been left in the cross-section of an unimproved rural road due to the lack of intensive trip-generating development and the hope that future development would be in a way that would defray much of the cost of the road improvement.

The subject property is almost entirely within the Heavy Industrial (I-H) District, where the land use and traffic impacts of the proposed cemetery would be substantially less than many developments permitted by right

Special Use Permit Standards

In the current joint zoning ordinance used by the City of Memphis, cemeteries are permissible in agricultural, residential and industrial zones subject to site plan approval by the Memphis City Council. The zoning ordinance sets forth five general standards of compatibility established for all special use permits¹, and in addition, the zoning ordinance does specify certain standards for cemeteries.² The project and the site appear to conform to both sets of standards.

It should be noted that there are a number of detailed design issues that are not addressed by the conceptual site plan that is currently under consideration. Minor adjustments are to be expected after the project is funded and the detailed architectural design and engineering processes are underway.

1 General standards of applicability

1. That the proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety and general welfare.
2. That the proposed building or use will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not to interfere with the development and use of adjacent property in accordance with the applicable district regulations.
3. That the proposed building or use will be served adequately by essential public facilities and services such as highways, streets, parking spaces, drainage structures, refuse disposal, fire protection, water and sewers; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.
4. That the proposed building or use will not result in the destruction, loss or damage of any feature determined by the legislative body to be of significant natural, scenic or historic importance.
5. That the proposed building or use complies with all additional standards imposed on it by the particular provision of this section authorizing such use.

2 Cemeteries and mausoleums subject to the following additional standards:

- a. Cemeteries shall be located on sites of at least ten (10) acres.
- b. A mausoleum which is not located in a cemetery shall be located on a site of at least two acres.
- c. All structures located in a cemetery of six feet in height or over including, but not limited to, mausoleums, monuments and buildings, and all mausoleums not located in a cemetery and regardless of height shall be set back at least one hundred (100) feet from each lot line and street right-of-way.
- d. All graves or burial lots shall be set back at least thirty (30) feet from each lot line and street right-of-way.
- e. Screening located along the lot lines of the site of the cemetery or mausoleum shall be provided to block such cemetery or mausoleum from view from any other property.
- f. A cemetery site shall not obstruct the development of any major or collector streets proposed in the Memphis Urban Area Transportation Study.

Other Planning Issues

As shown in Figure 5, the proposed cemetery is part of a land holding that includes a 143-acre tract (shown as Parcel 01) which extends as much as 4,000 ft. in an east-west direction. This tract gains its street access through Parcel 93, which is 576 feet wide in its east-west dimension. The site plan shows the entire extent of Parcel 93 being developed for the cemetery use. In addition, the accessible street frontage is reduced to 276 feet by the width of Parcel 94, a five-acre tract occupied by a single-family residence.

Additional access to Parcel 01 is apparently provided by an undeveloped 50-ft. ingress-egress easement lying just to the west of Parcels 93 & 94. This existence of such an easement has yet to be confirmed from the property records. With respect to alternative access for Parcel 01, this easement is a “bird in the bush” until a roadway is actually constructed, or at least until the necessary engineering is done.

In any event, the easement would not meet the access requirement of the Subdivision Regulations. It is not difficult to imagine development scenarios that would lead to a situation where a significant part of the 143 acres was left without any frontage on a road --- i.e. landlocked --- and with no access...

The development of a cemetery is an alienation of property that is very difficult to undo. It seems only reasonable that the applicants, as part of this special use permit application, provide the public with a concept plan showing how the entire land holding may be used and where access to the balance of the property would come from. If an ingress-egress easement has a role in this, the easement needs to be better documented from the plat book records.

RECOMMENDATION: **Hold, for further input**

SITE PLAN CONDITIONS

Cemetery near 1522 West Raines Road

S.U.P. 09-216

**As Recommended by OPD Staff for the
October 8, 2009 Meeting.**

A Special Use Permit is hereby granted for the operation of a cemetery ...

[Note: site plan conditions will be provided for action by the Land Use Control Board based on additional input data requested. Infrastructure issues specified in the Agency Comments section below will be the subject of specific conditions, as will the items listed in footnote 2 on Page 13 and the requirements of the tree removal ordinance.]

GENERAL INFORMATION

Coordinates:	35° 02' 28"N, 90° 06' 55"W
Parcel Number:	082013 00093, -01
Street Address:	approximately 1522 Raines Road, 38109
Street Frontage:	Raines Road -- 275 feet on this designated major thoroughfare, still in a rural cross section (50' ROW).
Planning District:	Whitehaven-Levi
Census Tract:	222.10
Annexation Status:	Annexed December 31, 1972
Zoning Atlas Page:	2320
Zoning History:	1961 – Single-Family Dwelling “R-2” District. <1972 – Comprehensively rezoned to Heavy Industrial “M-3” District (except for northwest corner) 1981 – Converted the Heavy Industrial (I-H) and Single-Family Dwelling (R-S6) Districts.

DEPARTMENTAL COMMENTS

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

City Engineer:

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.

3. The developer shall extend sanitary sewers through the site to serve upstream properties.

Roads:

4. Raines Road is designated as a Priority 1 on the MPO Major Road Plan. Dedicate 54 feet from centerline and improve in accordance with Subdivision Regulations.

Private Drives:

5. Identify the drives as "Private".
6. All private drives/rear service drives shall be constructed to meet pavement requirements of the Subdivision Regulations, applicable City Standards, and provide a minimum width of twenty-two feet (22').

Curb Cuts/Access:

7. The City/County Engineer shall approve the design, number and location of curb cuts.
8. Any existing nonconforming curb cuts shall be modified to meet current City/County Standards or closed with curb, gutter and sidewalk.
9. 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:

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. 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:

12. Adequate queuing spaces in accordance with the current ordinance shall be provided between the street right-of-way line and any proposed gate/guardhouse/card reader.
13. Adequate maneuvering room shall be provided between the right-of-way and the gate/guardhouse/card reader for vehicles to exit by forward motion.

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:

Gates shall be open during "business hours". If a chapel or other bldg for group assembly is provided, fire access shall be provided: 20' access width, adequate roadway strength and accessible private fire hydrant(s).

City/County Health Department:

No comments from the Water Quality Branch.

Memphis Light, Gas and Water:

MLGW has reviewed the referenced application, and has no objection

AT&T:

ATT Tennessee has no comment regarding this new development.

OPD-Regional Services:

No comments

City Board of Education:

No comments received.

Construction Code Enforcement:

No comments received.

Memphis Area Transit Authority (MATA):

No comments received.

OPD-Plans Development:

No comments received.

Memphis Park Commission:

No comments received.

Neighborhood Associations / Organizations:

No comments received.

*Community Uniting Resource & Energies:
South Memphis Neighborhood Inc.:
Westwood Community Awareness Assn.:
Westwood Neighborhood Association, Inc.*