

STAFF REPORT

23

CASE NUMBER: S.U.P 10-205 **L.U.C.B. MEETING:** February 11, 2010
Held from January 14, 2010

LOCATION: West side of Ramill Road at Twin Lakes Drive

COUNCIL DISTRICT(S): District 1-Super District 9-Positions 1, 2 & 3

OWNERS/APPLICANTS: H & M Carter, Inc.

REPRESENTATIVE: Doveland Engineering Co.(Frank Palumbo, Jr.)

REQUEST: Special use permit to allow a day care center

AREA: 1.30 Acres (56,628 sq. ft.)

EXISTING LAND USE & ZONING: Vacant land in Single Family Residential(R-S8) District

SURROUNDING USES AND ZONING:

North: Church, single family-estate home and single family homes in Twin Lakes' Subdivision in Single Family Residential(R-S8) District.

East: Vacant lot, church and single family homes in 'Raleigh-Hills' Subdivision in Single Family Residential(R-S8) District.

South: Single family homes in 'Raleigh-Hills' Subdivision in Single Family Residential (R-S8) District.

West: Single family homes in 'Twin Lakes' Subdivision in Single Family Residential (R-S8) District.

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION:

Approval with Conditions

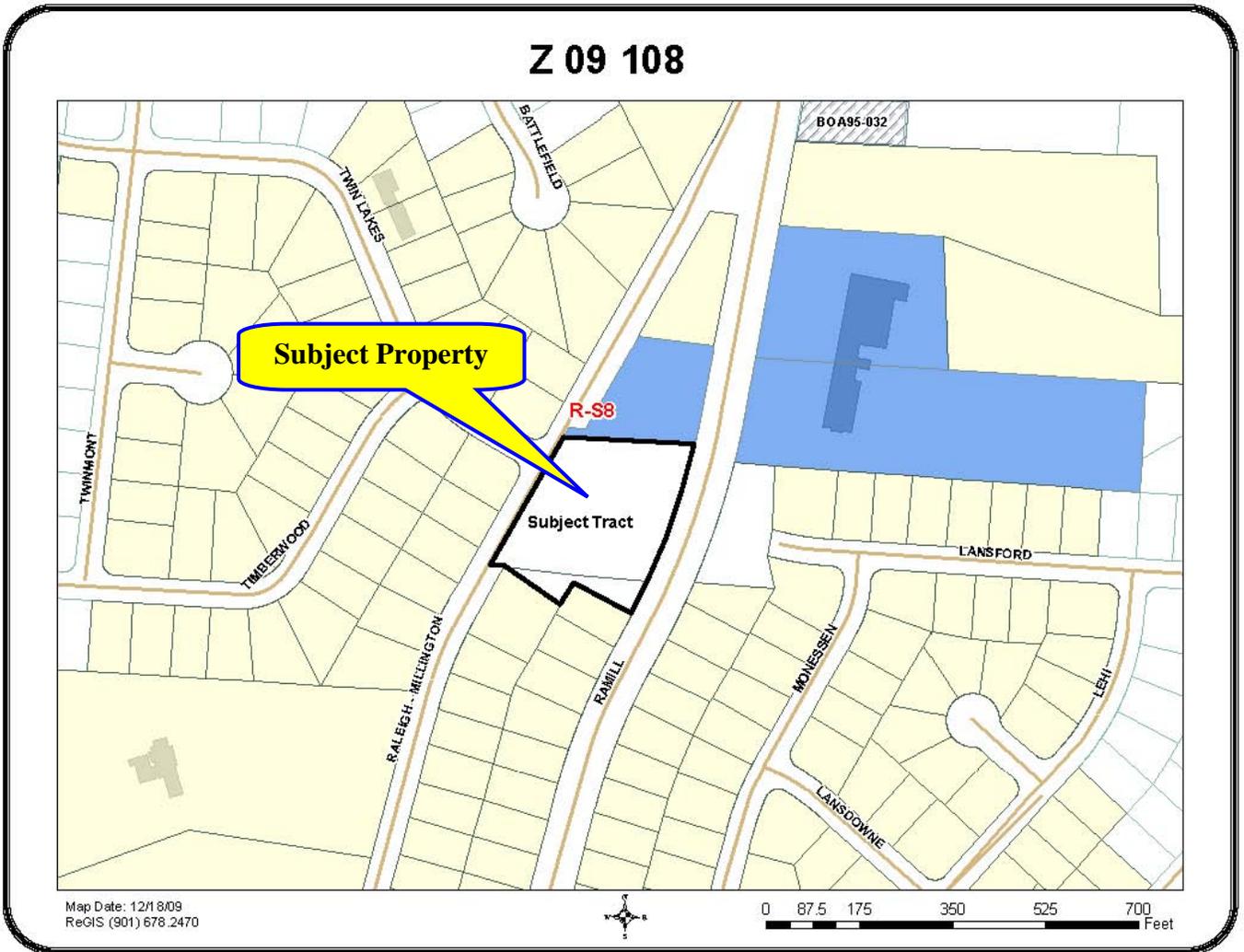
Staff: *Brian Bacchus*

E-mail: brian.bacchus@memphistn.gov

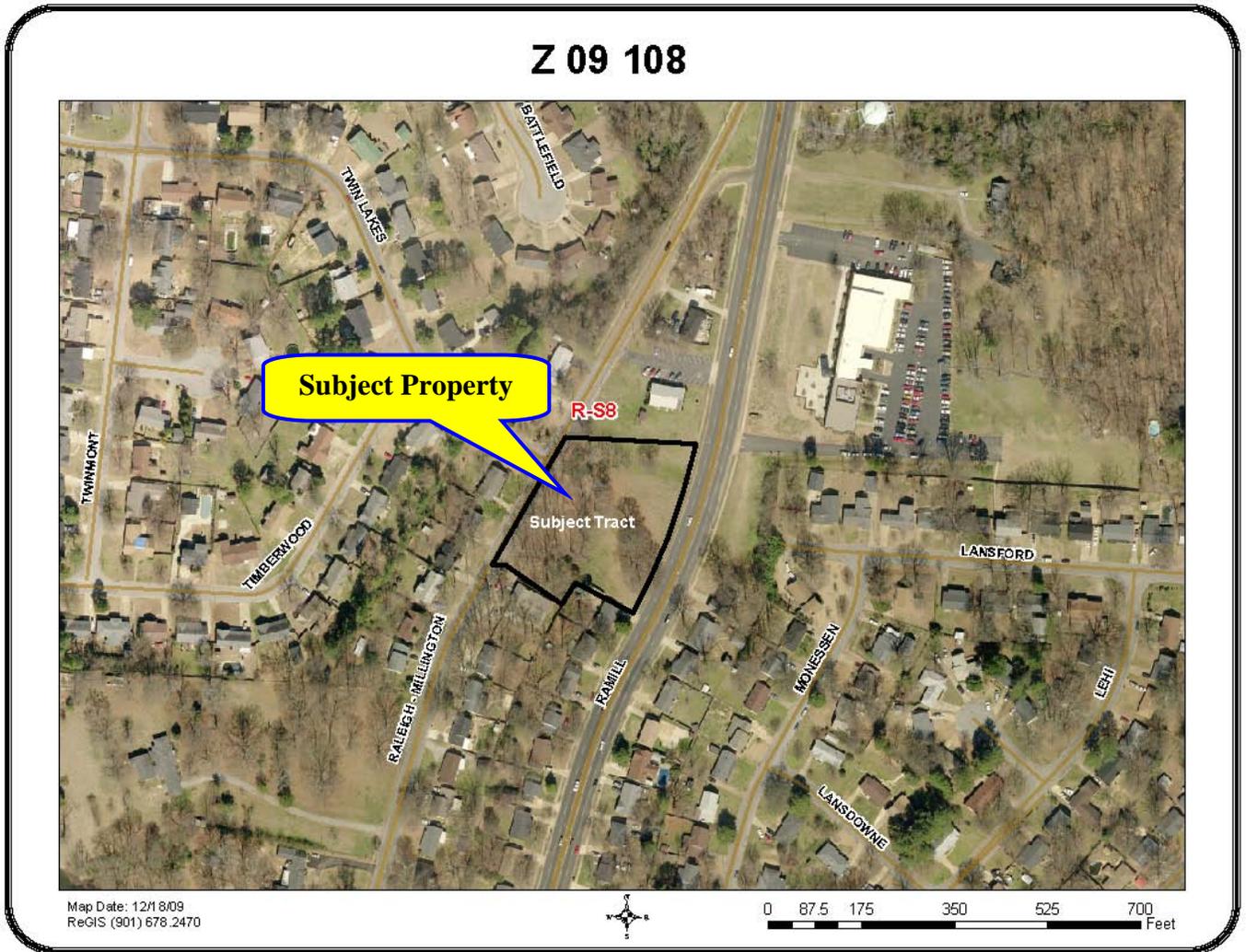
CONCLUSIONS:

- 1. The request was originally for a 1.30 acre parcel in Single Family Residential(R-S8) District to be included in Light Industrial (I-L) District zoning in the Raleigh community between Twin Lakes and Raleigh Hills Subdivisions.**
- 2. This property has been in R-S8 District zoning for over 40 years as vacant surplus residential property that has remained undeveloped. The construction and alignment of Ramill Road split this tract in two separate parcels—companion case(Z 09-109) is a separate zoning application.**
- 3. This property is not limited in buildable area, but located in a residential zoning district that should benefit from current R-S8 District zoning. The land uses permitted in this zoning district by right consist of primarily residential and institutional land uses by special use permit with the benefit of administrative site plan review.**
- 4. The request for a day care center is similar with other institutional land uses in the immediate area and meets the minimum criteria for day care centers allowed in R-S District zoning.**
- 5. The application has been converted to a special permit application with the opportunity to incorporate conditions to ensure compatibility with surrounding property owners. By converting the application, the administrative site plan review process could take precedence over concerns of staff and perhaps surrounding property owners.**

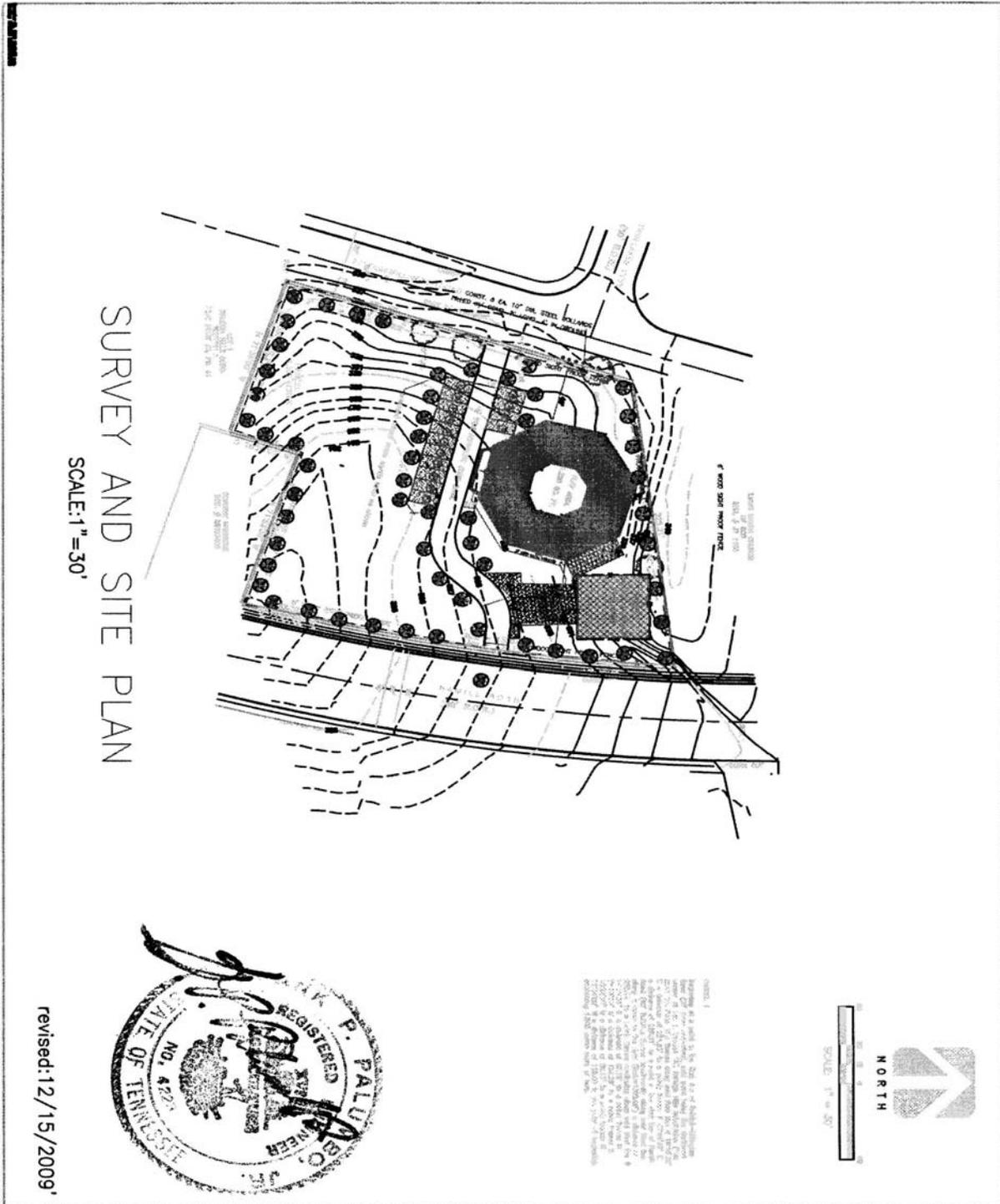
ZONING & LAND USE:



ZONING AERIAL MAP:

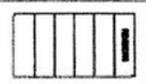


SURVEY/SITE PLAN:

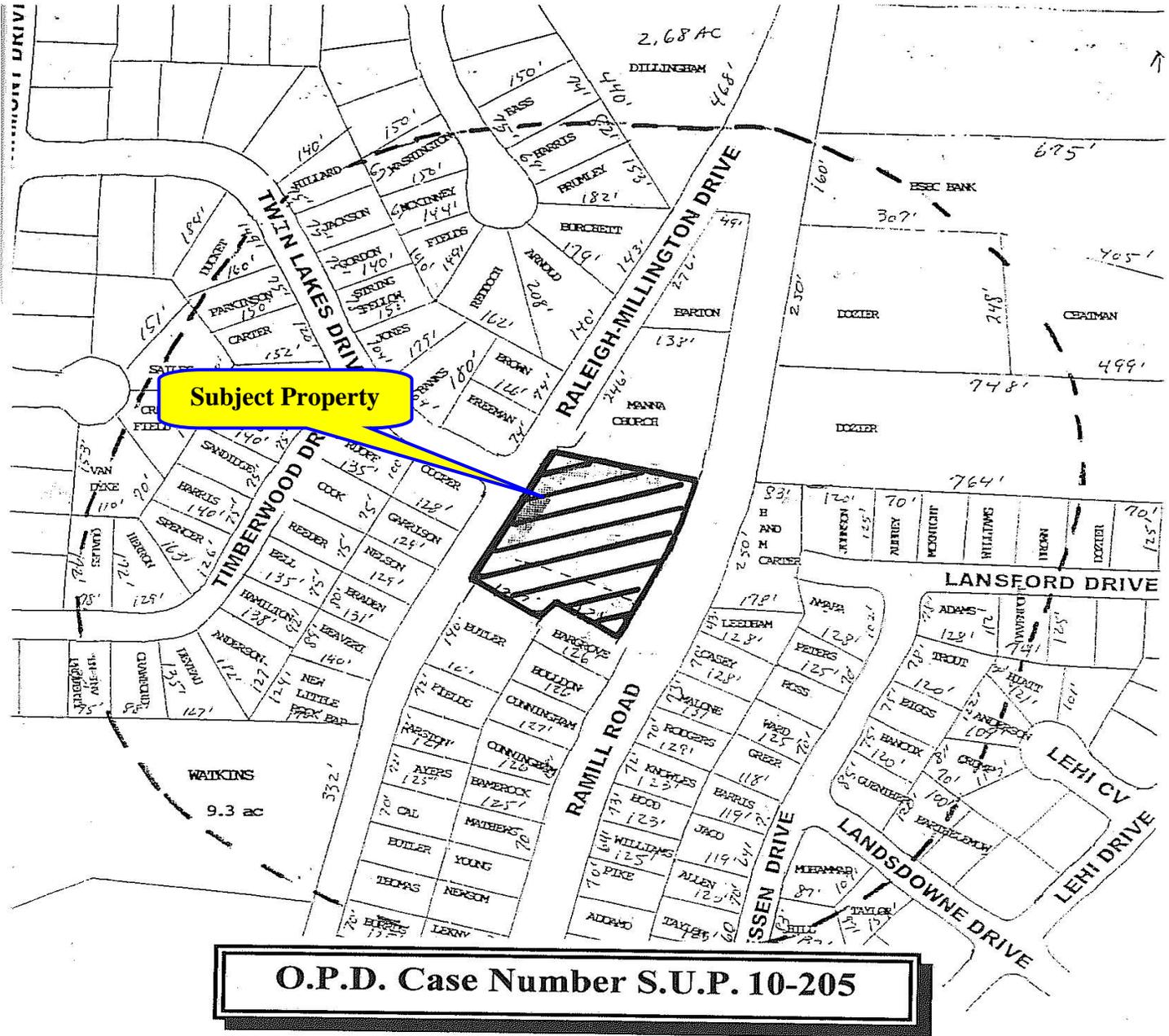


T.E. McCASKILL SURVEY CO.
7620 APPLING CENTER DRIVE
MEMPHIS, TN. 38133

DOVELAND ENGINEERING CO.
5119 SUMMER AVE. STE. 402E
MEMPHIS, TN. 38122



VICINITY & OWNERSHIP MAP:



MAP PREPARED BY
HOLLIS WOOD (753-6232)
FROM RECORDS OF THE
SHELBY COUNTY ACCESSORS
OFFICE.
DATE: 11-30-09
SCALE: 1/2" = 100'
NOTIFICATION AREA:
500'

STAFF ANALYSIS:

Site Description

The subject property is a vacant 1.50 acre parcel(65,557.80 sq. ft.) located at the west side of Ramill Road at Twin Lakes Drive in Raleigh-Bartlett Planning District in the Raleigh community and wedged between a major road, Ramill Road and a minor local street, Raleigh-Millington Road. The property is a double-frontage parcel with curb, gutter and sidewalk along Ramill Road with only curb and gutter along Raleigh-Millington Road. There is no overhead power at either roadway, except to the north on adjacent church and single family-estate parcels. The subject parcel slopes from northwest to southeast with the highest point at the northwest corner of the parcel with mature trees preserved along Raleigh-Millington Road.

Area Overview

The land use and zoning in the immediate area is predominantly single family homes in Twin Lakes and Raleigh Hills Subdivisions to the northwest and southeast in Single Family Residential(R-S8) District zoning. The single family homes in this area of the Raleigh community are primarily one-story brick and wood frame homes ranging in size from 1500 to 1800 square feet in area on lots designed for current R-S8 District zoning standards. The subject property is approximately one-quarter($\frac{1}{4}$) mile south of Raleigh-Millington Road and the St. Elmo Road intersection and north of a neighborhood commercial center with retail establishments at the intersection of Ramill Road and Yale Road.

This parcel is located halfway between commercial districts in well-established Raleigh neighborhoods to the north, south and east as well as several places of worship, including single family homes on estate-sized lots all in R-S8 District zoning. This parcel is somewhat separated from the neighborhood by Ramill Road alignment maintaining major road status along this segment of the roadway. Although the subject property is a double-frontage parcel, any new development should be oriented to Ramill Road thus protecting the privacy of single family homes in Twin Lakes Subdivision that front on Raleigh-Millington Road.

Zoning Change vs. Site Plan Review

The request was originally for a 1.350 acre parcel in Single Family Residential(R-S8) District to be included in Light Industrial (I-L) District zoning in the Raleigh community between Twin Lakes and Raleigh Hills Subdivisions. The applicant agreed to hold the case for thirty (30) days in order to convert the application to a special use permit to allow a day care center. The property has been in R-S8 District zoning for over 40 years as vacant surplus residential property that has remained undeveloped between these two neighborhoods.

The construction and alignment of Ramill Road split this tract in two separate parcels—a companion separate zoning application case number (Z 09-109) is a separate zoning request. The primary access to this property should be from the major road, Ramill Road with careful consideration given to the balance of the property being located directly adjacent to single family homes. The property is not limited in buildable area, but located in a residential zoning district that should benefit from current R-S8 District zoning.

The land uses permitted in this zoning district by right consist of primarily residential and institutional land uses by special use permit with the benefit of administrative site plan review such as group shelter, boarding house, transitional home, including day care and group day care centers, lodge, club or country club, museum and a nursing home. These land uses are institutional in nature and blends with residential environments if mass and scale of buildings coincide with surrounding land use and zoning.

The request for a day care center is similar with other institutional land uses in the immediate area with current land use and zoning for Single Family Residential(R-S8) District zoning. The request meets the minimum criteria for day care centers allowed in R-S District zoning. The former zoning application was to allow intensive industrial land uses totally incompatible with surrounding land use and zoning. The uses permitted by I-L District zoning include contractor's yard and storage, printing and publishing facilities, textile plants, motor freight terminal and service facilities and mini-storage and warehouse development. This request to allow a day care center would promote neighborhood revitalization and support the residential character along this segment of the roadway.

The applicant originally requested a zoning change not knowing a special use permit could be filed for the intended land use for a child care center in Single Family Residential(R-S8) District zoning. The application has been converted to a special permit application with the opportunity to incorporate conditions to ensure compatibility with surrounding property owners. By converting the application, the administrative site plan review process could take precedence over the concerns of staff and perhaps surrounding property owners that could otherwise remain ineffective by a straight zoning request.

The future land use of this property should remain in Single Family Residential(R-S8) District zoning, because of its location to the neighborhood and close proximity to single family homes. The current zoning benefits the neighborhood with greater opportunity for site plan review of the proposed land use for a day care center or any other development of a neighborhood service to promote the concept of sustainable neighborhoods. The zoning in place today promotes this concept by not allowing land uses incompatible with residential neighborhood zoning.

RECOMMENDATION: Approval with Conditions

SITE PLAN CONDITIONS:

A *Special Use Permit* is hereby authorized to '*H & M Carter, Inc.*' to allow a '*Day Care Center*' on property located at '*west side of Ramill Road at Twin Lakes Drive*' in accordance with an approved '*site plan*' and the following supplemental conditions:

- I. Uses Permitted: A day care center with a maximum of sixty (60) children.
- II. Bulk Regulations: The building setbacks shall be in accordance with R-S8 District.
- III. Access & Circulation:
 - A. Any new curb cut shall be subject to review and approval by City Engineer.
 - B. Any new private drives shall be constructed to meet Subdivision Regulations, applicable City Standards and provide a minimum width of twenty-two(22) feet exclusive of curb and gutter.
- IV. Landscaping and Screening:
 - A. A Landscape Plate 'A' shall be provided along Ramill Road.
 - B. A Landscape Plate 'B' shall be provided along the south and north proerty lines.
 - C. The mature tress along Raleigh-Millington Road shall be preserved and maintained.
 - B. Required landscaping shall not be placed on any sewer or drainage easements or under any utility easement.
- V. Signs:
 - A. Any new sign shall be in accordance with the Single Family(R-S) District.
 - B. No temporary or portable signs shall be permitted.
- VI. A day care center for a maximum of sixty (60) children shall be allowed for the above mentioned user and maintained in accordance with site plan conditions subject to administrative site plan review and approval and no zoning violations.

GENERAL INFORMATION:

Street Frontage: Raleigh-Millington Road-----+/-251.03 linear feet.
Ramill Road-----+/-302.86 curvilinear feet.

Planning District: Raleigh-Bartlett

Atlas Page: 1740

Parcel ID: 086038 00004 & 00027

Zoning History: The Single Family Residential(R-S8) District zoning of the site date to the adoption of the 1980 zoning map amendment.

DEPARTMENTAL COMMENTS:

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

City Engineer: Sewers are available at developer's expense.

City Fire Services: No comment.

Memphis & Shelby County Health Department: The Water Quality Branch has no comments.

Memphis Board of Education: No comment.

Construction Code Enforcement: No comment.

Memphis Light, Gas and Water:

MLGW has reviewed referenced application, and has no objection, subject to the following comments:

- **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 contact MLGW-Property Management, Land Rights Specialist @ 901-528-4186 to request a Release Deed for release of easement for any existing MLGW Easement(s) in conflict with the proposed development.
- **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 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 MLGW 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 901-528-4855 for application of utility services.
- All commercial developers must contact MLGW's Builder Services at 901-367-3343 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: No comments.

Memphis Area Transit Authority (MATA): No comments.

OPD-Regional Services: No comments.

OPD-Plans Development:

Industrial uses should not be allowed to encroach on residential areas. While these parcels are currently vacant, they abut residential lots in single family neighborhoods to the west, south and east.

Neighborhood Associations/Organizations:

Raleigh Community Council: No comments as of 1/08/10.
Springhill Community Civic Club: No comments as of 1/08/10.

Staff: *bb*

OPPOSITION LETTER:

From: Carol Leedham [cleedham@transplants.org]
Sent: Thursday, February 04, 2010 11:18 AM
To: Bacchus, Brian
Subject: case # z 09-109 and SUP 10-205 (formerly Z 09-108)

Dear Mr. Bacchus,

Thank you for taking the time to talk with me today regarding these two notices that I received in the mail.

I live at 3632 Ramill Road and would like to point out some of the traffic issues that concern me.

On Friday 01/29/2010, we had a very bad accident which was probably due to the snow/icy roads just north of my home.

Historically we have a car in the yard every 2 to 3 years at either the Leedham, Casey or Rodgers residents where drivers just miss the curve, even though it is a very slight one and come completely off of the road. The last one took out my mail box and trash can. The light pole has been replaced at least once. I hate to imagine what traffic problems would be created with parents exiting just south of this curve when the oncoming traffic is going the normal speed limit of 40 mph. A t-boned car with small children inside will be a real possibility.

Ramill Road is a major route coming in and out of Millington for many people. I know at 3 am there will be someone's car coming past my house within a count of 10. I feel just a little bit safer knowing that all the fire department and police department traffic in the area which can be expected to come past my house.

But whether you want this for a day care center is another matter. I know there are many problems with Coleman Elementary School just a little south on this road and they have 2 crossing guards and lights to slow the traffic down.

Please consider these issues when reviewing the coding request.

Carol D. Leedham
National Foundation for Transplants, Inc.
5350 Poplar Ave, Suite 430
Memphis, TN 38119
Direct 901-684-6681
Office 901-684-1697
Toll-free 800-489-3863
Fax 901-684-1128

OPPOSITION LETTER TO ORIGINAL ZONING:

From: William Rosenberg [williamrosenberg@rocketmail.com]
Sent: Sunday, January 03, 2010 3:49 PM
To: Bacchus, Brian
Subject: Zoning Applications Z-09-108 and Z-09-109

I am writing in opposition to the above captioned zoning application as I will be unable to attend the meetings scheduled for January 14. I am the owner of the residence at 3574 Ramill Road. The area sought to be rezoned Light Industrial is predominantly occupied by churches and residences. Neighborhood commercial uses exist at major intersections, but not in between. While some homes in the neighborhood have deteriorated, others, including mine, have been restored. I believe that it would be in the best interest of the public and Raleigh that this neighborhood survive as a mixed residential and neighborhood retail area.

As major developments, such as the Raleigh Springs Mall failed, neighborhood retail services became providers of daily necessities to support surrounding residences. Industrial use is not consistent with this pattern of development. It would deal a blow to the neighborhood and may spawn a new round of deterioration of existing housing and neighborhood retail. It is difficult to imagine that Light Industrial use is contemplated in this location by the Master Plan. If not, approval of this application would also, it seems, be an improper spot zoning.

Major change to the uses permitted in this neighborhood should be undertaken as part of any area-wide evaluation and, if desired, should be done as part of a rezoning of the entire neighborhood, that takes into consideration the effect of more intensive use on existing facilities and uses, and not on a lot by lot basis. For these reasons I urge the Memphis and Shelby County Land Use Control Board to refuse approval of the application.

Should the Board disagree and approve the application, I would urge it to condition any development with appropriate density, screening, landscaping, traffic, light and noise mitigation restrictions to limit the damage to surrounding uses. Meetings with neighboring landowners should be encouraged to involve all in the planning and assure minimum impact.

Sincerely,

William Rosenberg
(901) 379-9779