

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

**STAFF REPORT**

**CORRESPONDENCE ITEM # 6**

**CASE NUMBER:** PD 01-306

**L.U.C.B. MEETING:** May 13, 2010

**DEVELOPMENT NAME:** **LOCATION:** North side of of Winchester Road: 295 feet east of County Gate Road

**COUNCIL DISTRICT:** 2

**SUPER DISTRICT:** 9

**OWNER OF RECORD/APPLICANT:** Scoops, LLC, John K. Hardin

**REPRESENTATIVE:** Kevin Hardin

**REQUEST:** Site plan approval for a Checker's Restaurant to replace the current Bruster's Ice Cream Restaurant.

**AREA:** 0.4 Acres

**EXISTING LAND USE & ZONING:** Currently governed by County Gate PD 01-306

**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION:**

**Approval with conditions**

## CONCLUSIONS

1. The subject site is situated on the north side of Winchester Road just west of Hacks Cross Road within the Shelby Farms Germantown Planning District. This site was previously home to Bruster's, which sells ice cream and other quick order food items.
2. This application was submitted to provide a revised site plan illustrating how the site will be redeveloped for a future tenant; Checker's. Checker's, also a quick order food establishment will continue to use the existing building with minor modifications.

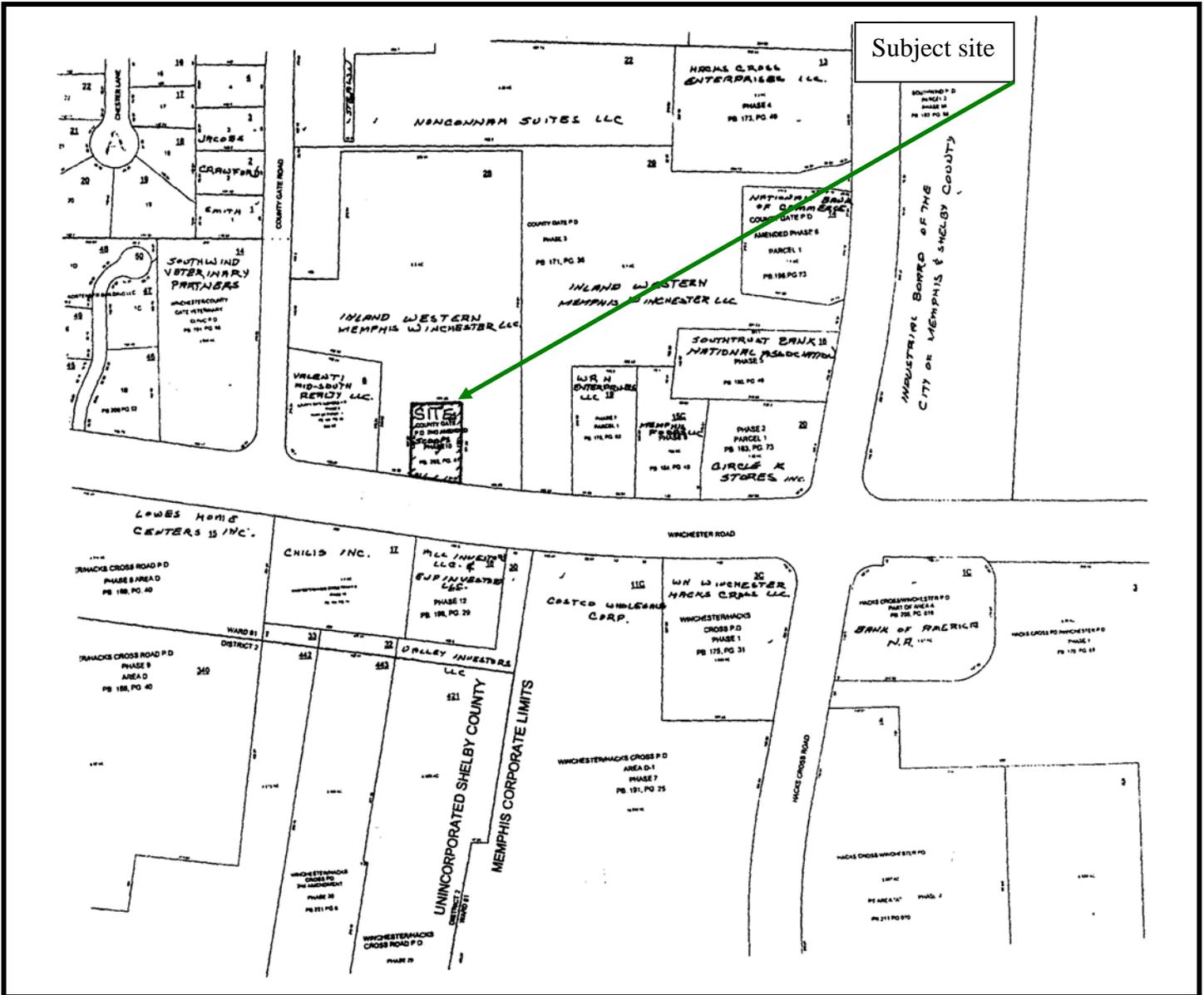
### **Modifications to the existing structure**

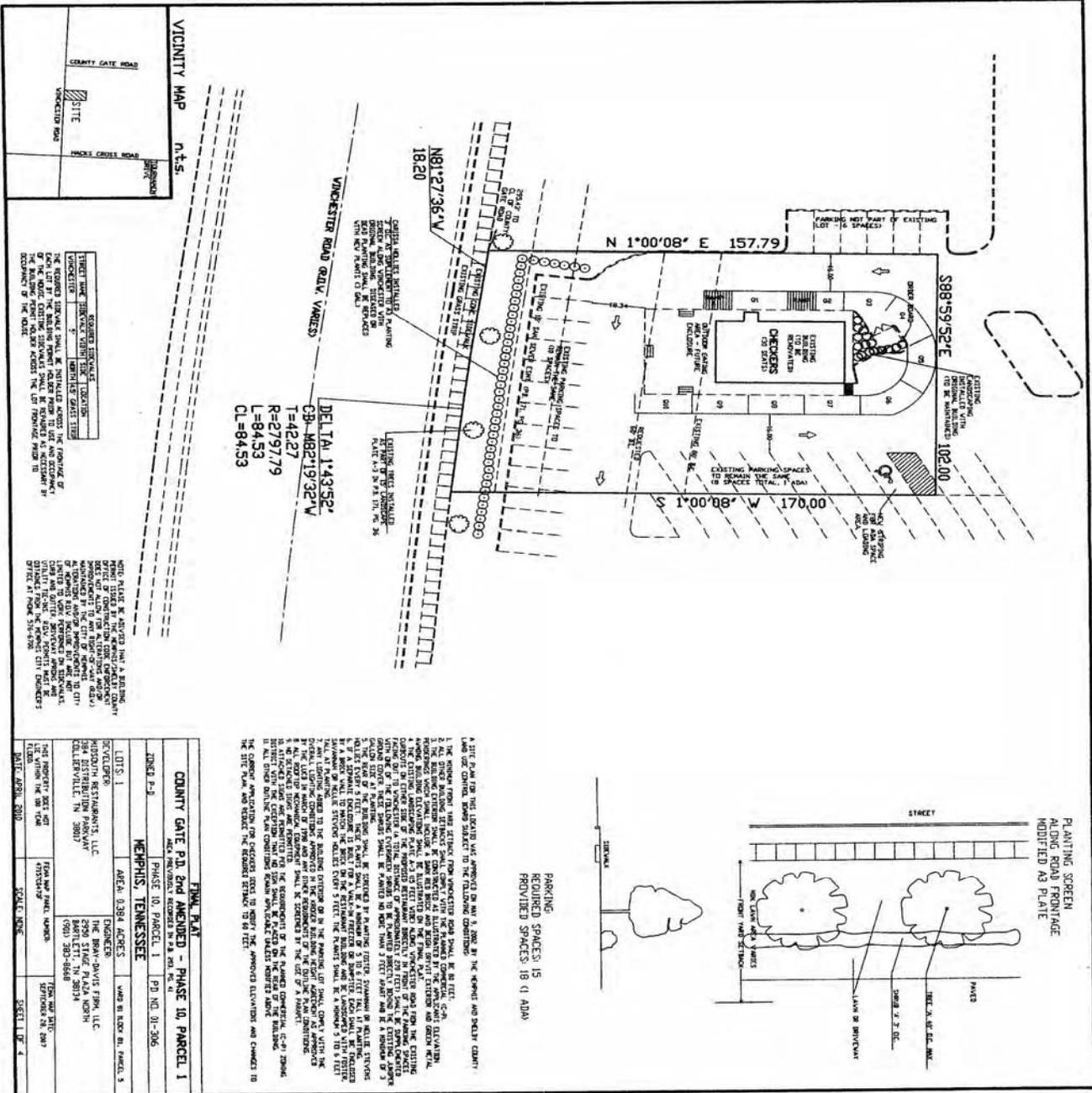
- a. The prospective tenant, Checker's, will use the existing building but will add its' company color scheme and awnings. The exterior will consist of Black and White Gloss 8x8 tile wainscot while the remainder of the building will be painted white. The awnings will be constructed of Stainless Steel and the existing handrails will remain and be painted red.
- b. The existing patio at the front of the site extends 20 feet into the required front yard setback and was permitted by the Land Use Control Board when approving the Bruster's Site Plan. However, the new tenant is considering enclosing the patio at some time in the future which would make the patio a part of the principle structure; as a result warranting a request for a reduction in the required front yard set back from 80 feet to 60 feet.
- c. A drive through isle has also been incorporated into the revised site plan which is allowed as part of a restaurant operation within this planned development.

### **Landscaping**

Only a row of shrubs currently exist along the Hacks Cross Road frontage of the site. On March 12, 1998, the Land Use Control Board approved a request by Kroger to provide for a building height higher than what was permitted as a maximum by the Outline Plan Conditions. As a compromise with area neighbors to achieve the taller building, it was agreed by Kroger that they would install a three-foot tall berm around the perimeter of the planned development that utilized the Landscaping Plate A-3 plant materials within a 15-foot wide area. Subsequently, the site was developed, but the berm was not installed.

Before the Checkers is permitted to open, the landscaping along Winchester Road should match that of the Kroger Fuel Center's frontage along Hacks Cross Road (see Kroger Fuel Center). The Fuel Center's landscaping was bolstered from the original outline plan requirement to supplement for no berm ever being installed along Hacks Cross Road. Checkers should follow suit to help complete this landscaping frontage upgrade.





**VICINITY MAP** n.t.s.

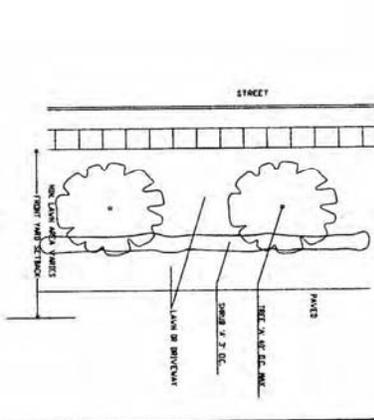
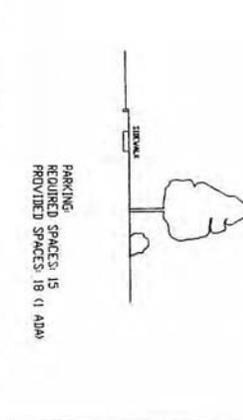
COUNTY GATE ROAD	WINCHESTER ROAD
VANDYKE ROAD	WINCHESTER ROAD
WINCHESTER ROAD	WINCHESTER ROAD

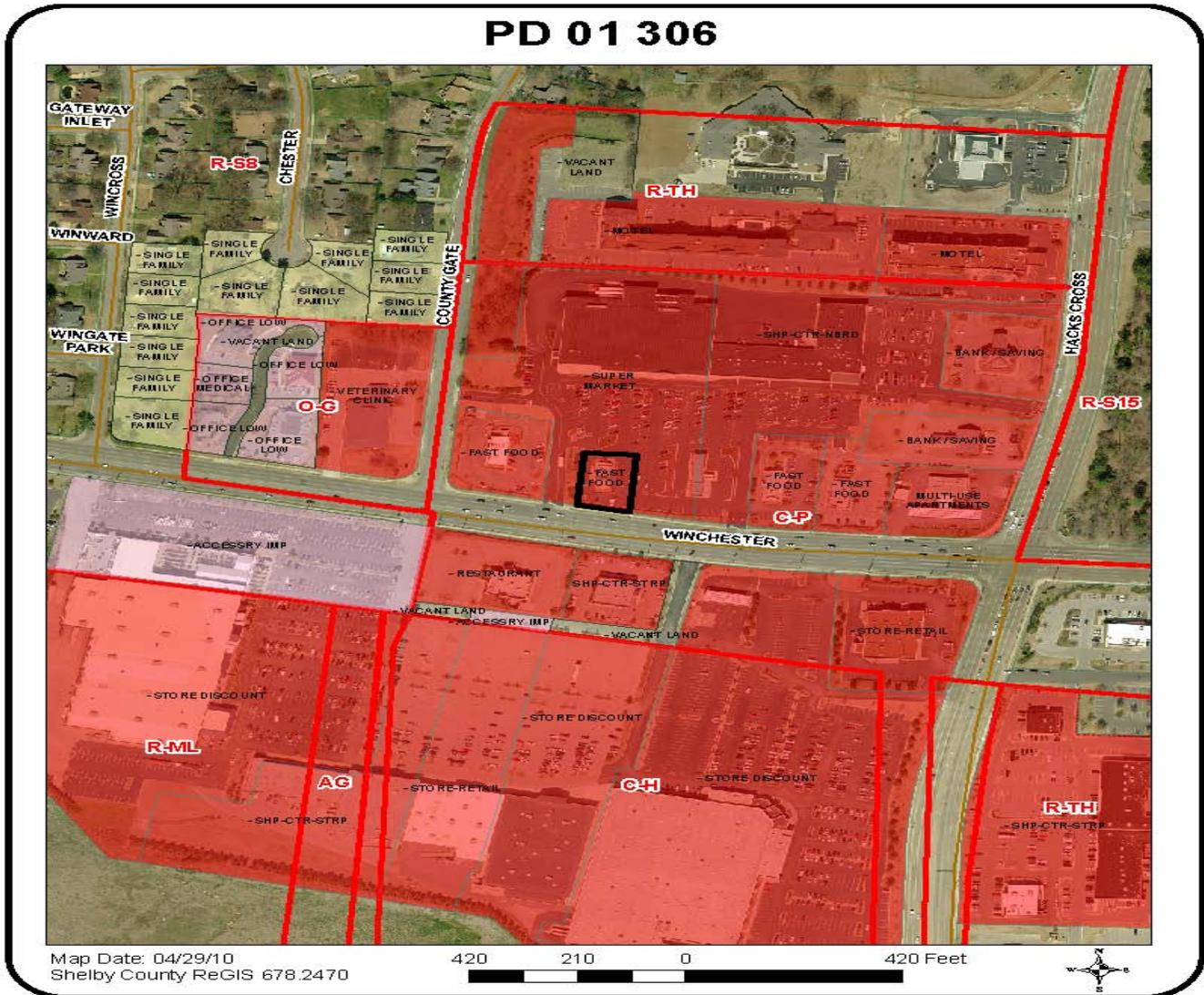
THE REQUIRED SETBACK SHALL BE DETERMINED BY THE ZONING CODE OF THE CITY OF MEMPHIS. THE SETBACK SHALL BE DETERMINED BY THE ZONING CODE OF THE CITY OF MEMPHIS. THE SETBACK SHALL BE DETERMINED BY THE ZONING CODE OF THE CITY OF MEMPHIS.

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<b>FINAL PLAN</b>	
<b>COUNTY GATE P.D. 2nd AMENDED - PHASE 10, PARCEL 1</b>	
OWNER: P-10	PHASE 10, PARCEL 1
MEMPHIS, TENNESSEE	PD NO. 01-306
LOT 15, 1	AREA: 0.384 ACRES
RECIPIENT: MEMPHIS RESTAURANT, LLC	ENGINEER: THE BOY-DAVIS FIRM, LLC
2930 STRIDE PARK NORTH	6001 LITTLETON, TN 38007
DATE: APRIL 2010	SCALE: NONE
SHEET 1 OF 4	

A SITE PLAN FOR THIS LOT TO BE APPROVED BY THE CITY OF MEMPHIS AND THE MEMPHIS POLICE DEPARTMENT. THE SITE PLAN SHALL BE APPROVED BY THE CITY OF MEMPHIS AND THE MEMPHIS POLICE DEPARTMENT. THE SITE PLAN SHALL BE APPROVED BY THE CITY OF MEMPHIS AND THE MEMPHIS POLICE DEPARTMENT.





**SURROUNDING LAND USES AND ZONING:**

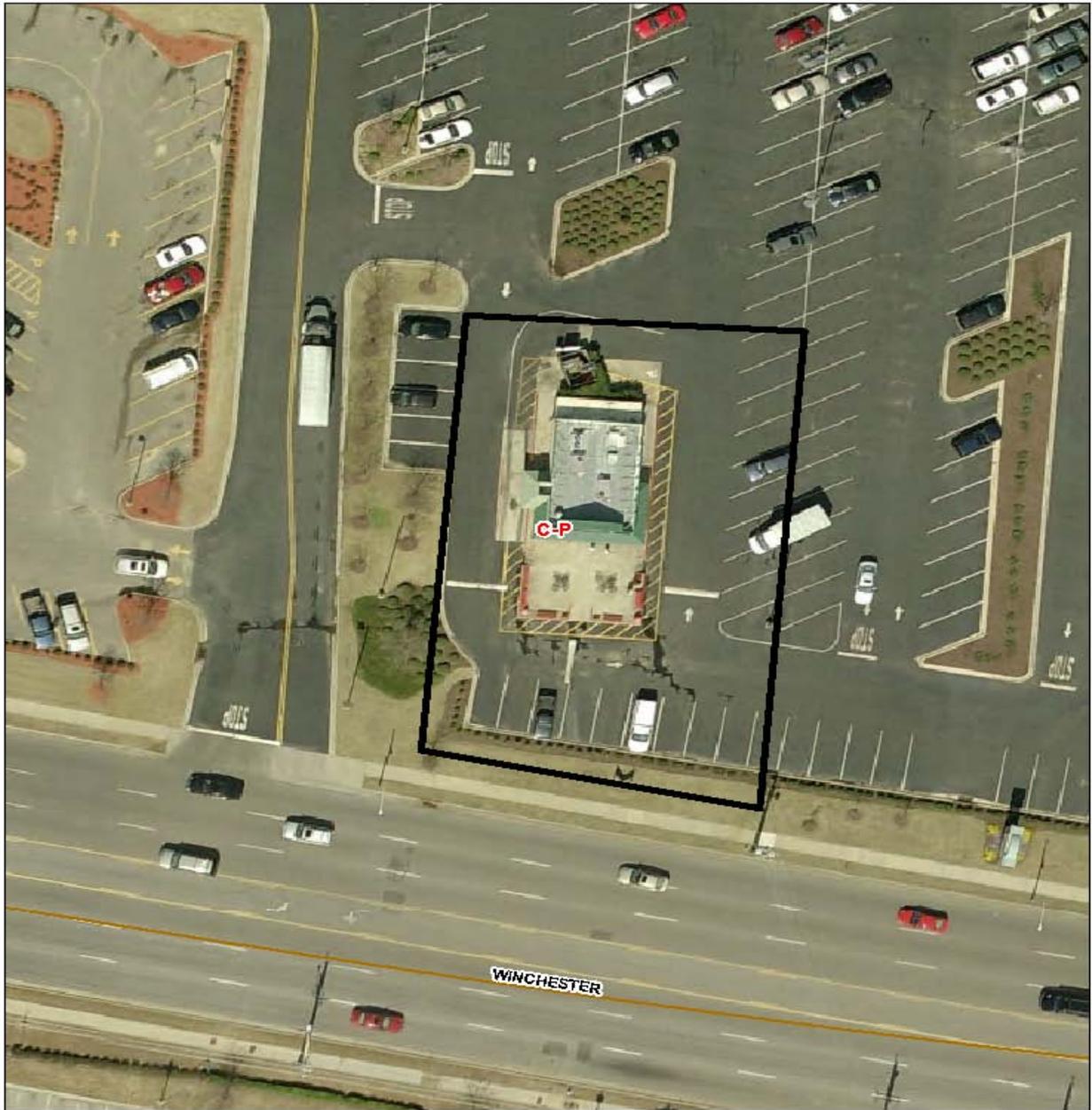
**North:** Commercial within the C-P (Planned Commercial) District

**East:** Commercial within the C-P (Planned Commercial) District

**South:** Commercial within the C-P (Planned Commercial) District

**West:** Commercial and Office within the O-G (General Office) District

# PD 01 306



Map Date: 04/29/10  
Shelby County ReGIS 678.2470

60 30 0 60 Feet







**Principle structure  
is set back 80 feet  
from the right-of-  
way**

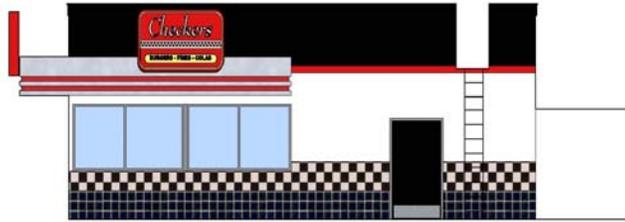
**Currently 60 feet from  
foundation of patio to  
right of way**

**Proposed renovation renderings**

**Checkers Restaurant  
Memphis, TN**



FRONT ELEVATION



RIGHT SIDE ELEVATION

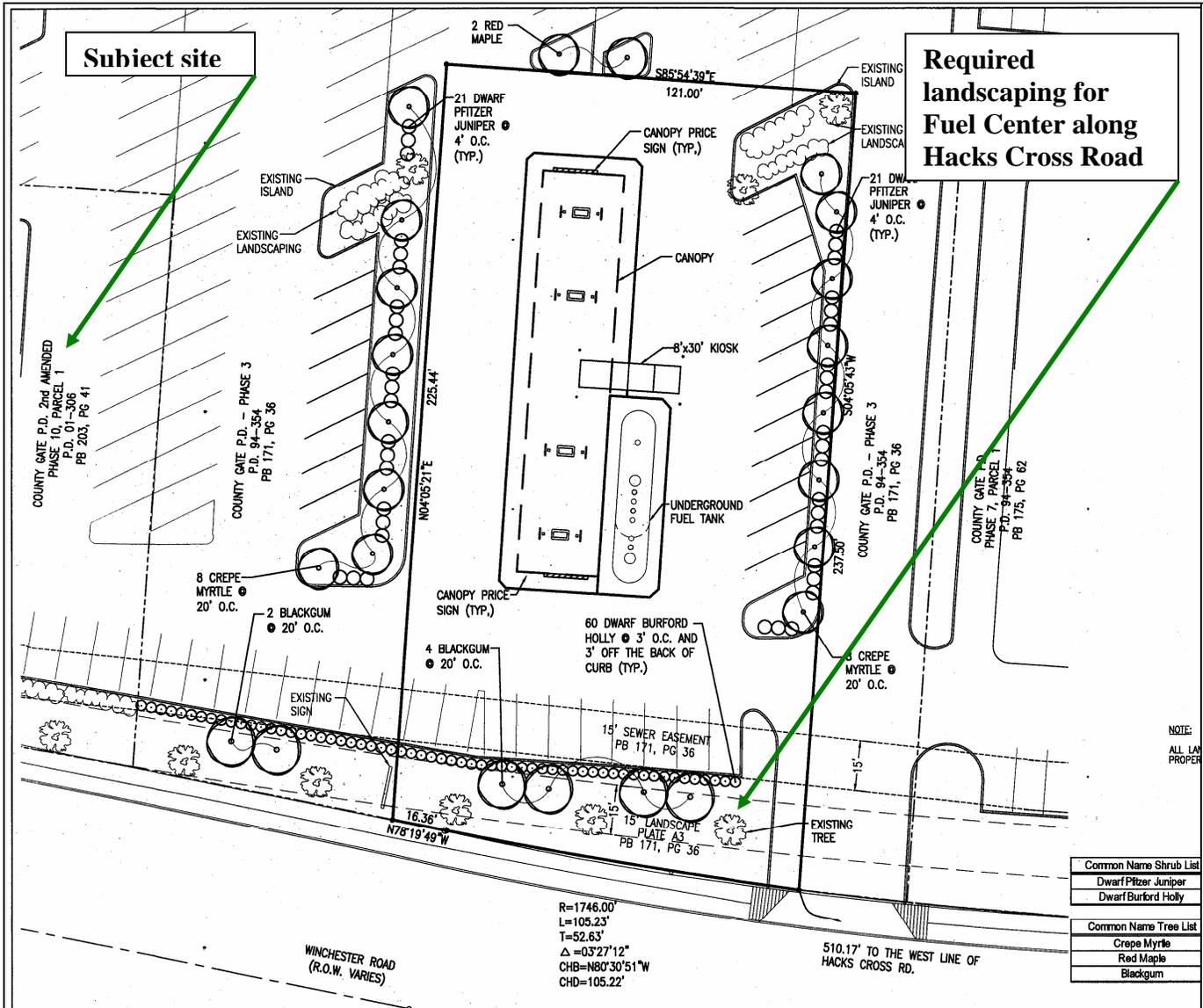


REAR ELEVATION



LEFT SIDE ELEVATION

**Kroger Fuel Center**



Landscaping along the frontage of the subject site should match that of the neighboring properties along Winchester. In this case the Kroger Fuel Center abuts the subject site to the east.

## **STAFF ANALYSIS**

The subject site is situated on the north side of Winchester Road just west of Hacks Cross Road, within the Shelby Farms Germantown Planning District. The site is currently home to Bruster's, a quick order food restaurant. The existing building will be renovated to suit a new tenant; Checkers.

The existing building will be retrofitted with Black and White Gloss 8x8 tile wainscot to match the color scheme and brand of Checkers; the remainder of the building will be painted white. The awnings will be constructed of Stainless Steel and the handrails will be painted red.

The applicant requests for a reduction of the required front yard building setback from 80 feet to 60 feet. Currently the primary structure meets the required 80 foot front yard setback; however the patio extends 20 feet into the front yard. The patio is considered to be an accessory and is allowed to extend into the required front yard but if the patio is enclosed it will then be considered part of the primary structure. The reduction is requested to accommodate future plans to enclose the existing patio.

Finally, landscaping shall be required along the subject site's frontage. The required landscape shall match the landscaping of the abutting property to the east; Kroger Fuel Center. The subject site shall continue the landscaping theme in an effort to provide continuity along the Winchester Corridor.

## **RECOMMENDATION:**

This application should be approved with the following conditions

## CHECKER'S SITE PLAN CONDITIONS

1. Landscaping at the subject site along Winchester Road shall match that of the Kroger Fuel Center's frontage along Hacks Cross Road (see Kroger Fuel Center).
2. Prior to the patio being enclosed, elevations shall be submitted to the Land Use Control Board to assess the enclosure design and associated building material to ensure that the building material and general design of the enclosure are compatible to that of the surrounding properties within the County Gate PD.
3. At such time that the patio is enclosed the applicant shall provide documentation of covenants or agreements illustrating shared parking arrangements to ensure that parking minimums are met. Enclosing the patio will incorporate additional seating which will merit additional parking over and above what is required with the current seating count.
4. The minimum front yard building setback shall be 60 feet
5. All other building setbacks shall comply with the Planned Commercial (C-P) District.
6. The building exterior shall be constructed as illustrated by the applicant's elevation renderings. Building elevations shall be illustrated on the final plat.
7. The rear of the building shall be screened by planting Foster, Savannah, or Nellie Stevens Hollies every 5 feet. These plant shall be a minimum of 5 to 6 feet tall at planting.
8. Any lighting added to the building exterior or in the parking lot shall comply with the overall lighting conditions approved in the Kroger building height agreement as approved by the Land Use Control Board in March of 1998 and any other requirements of the outline plan conditions.
9. All rooftop mechanical equipment shall be screened by use of a parapet
10. No detached signs are permitted.
11. Attached signs are permitted per the requirements of the Planned Commercial (C-P) zoning district with the exception that no sign shall be placed on the rear of the building.
12. All other outline plan conditions remain applicable unless modified above.

## GENERAL INFORMATION

**Street Frontage:** ± 102 feet  
**Planning District:** Shelby Farms Germantown  
**Census Tract:** 213.42  
**Zoning Atlas Page:** 2350  
**Parcel ID:** 081081 00025  
**Zoning History:** AG (Agricultural) to CP (Planned Commercial)

## DEPARTMENTAL COMMENTS

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

**City Engineer:** Required landscaping shall not be placed on sewer or drainage easements.

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

**City Real Estate:** None.

**City/County Health Department:** The Water Quality Branch & Septic Tank Program has no comments.

**City Board of Education:** This is a regional commercial area. Presently, MCS schools are not within close proximity to this site.

**Construction Code Enforcement:** No comments received.

**Center City Commission:** No comments received.

**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 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 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). 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 line 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.

**Bell South:** No comments received.

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

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

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

**Landmarks Commission:** No comments received.

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

**TN Dep't of Environment & Conservation:**

Be advised that it is the responsibility of the individual developer/builder/land owner to obtain the proper permits through the Corps of Engineers or TDEC. As a rule of thumb, if there are no waterways or wetland areas on this property, no ARAP or 404 permits are required. If surface waterways or any areas that stay wet for long periods of time exist on the property, the responsible party should contact this office for a proper determination.

**Southwind Homeowners Association:** No comments received.

**Buckingham Farms Neighborhood Association:** No comments received.

**Southeast Shelby County Coalition:** No comments received.

**Richwood Homeowners Association:** No comments received.