

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

**10**

**CASE NUMBER:** UV 10-07    **L.U.C.B. MEETING:** June 10, 2010

**LOCATION:** Southwest corner of Broad Avenue & Tillman Street

**COUNCIL DISTRICT:** 5

**SUPER DISTRICT:** 9

**OWNER OF RECORD:** Pirtle Properties (Tawanda Pirtle)

**APPLICANT:** Binghampton Development Corporation (Nathan Cook & Robert Montague)

**REPRESENTATIVE:** Nathan Cook & Robert Montague

**REQUEST:** Farmers Market    **AREA:** 1.10 Acres

**EXISTING LAND USE & ZONING:** Vacant land (former Convenience store with gasoline sales) in the Neighborhood Commercial (C-N) Districts

**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION**  
**APPROVAL WITH CONDITIONS**

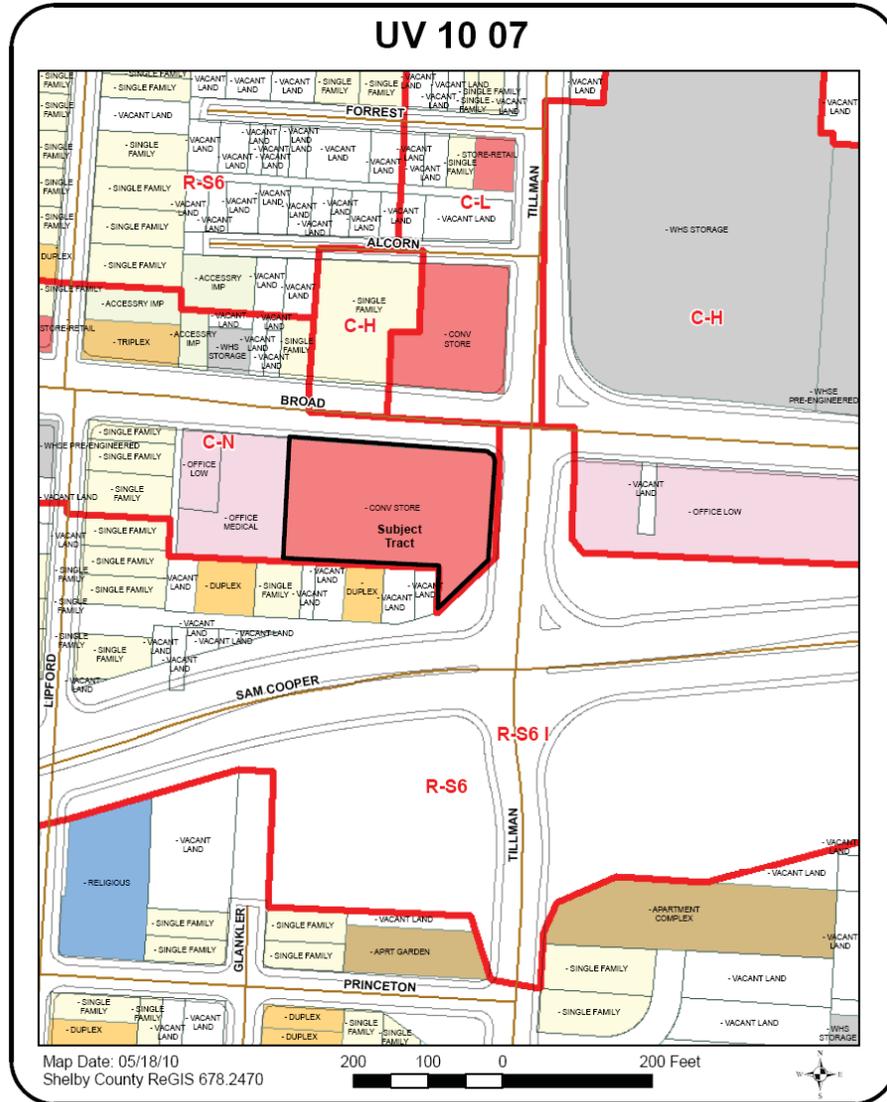
**CONCLUSIONS**

1. The recommended land use plan for this area (The Broad Avenue Initiative) supports a Farmers Market although at a location west of the subject site.
2. The redevelopment of this former convenience store could prove to be a catalyst for future redevelopment along Broad Avenue, and its redevelopment will address the blighted conditions of this site.
3. The site is well situated to accommodate the requested use.
4. This Use Variance responds to an unintended limitation of the underlying zoning which does not permit a outdoor retail sales even as a Special Use Permit.

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**LAND USE & ZONING MAP**



**SURROUNDING USES AND ZONING:**

- North:** A convenience store with gasoline sales in the Local Commercial (C-L) District, and a single family dwelling in the Highway Commercial (C-H) District
- East:** A contractors office with outdoor storage in the Highway Commercial (C-H) District
- South:** A duplex, a single family dwelling and vacant land in the Single Family Residential Infill (R-S6I) District
- West:** A former medical office in the Neighborhood Commercial (C-N) District



**Aerial centered on Tillman Street and Broad Avenue**

**View of Site along Broad Avenue – Facing South**



**View of Site along Tillman Street – Facing West**





## **STAFF ANALYSIS**

### Comprehensive Plans – Broad Avenue Initiative -

The subject site is on the eastern edge of the study area for the Broad Avenue Initiative. This long term community based plan was originally brought forward to test some of the key concepts of the Unified Development Code. The UDC is now planned for introduction to the Memphis City Council and Shelby County Board of Commissioners during the Summer of 2010.

The subject site lies within recommendation area 6 of the Broad Avenue Initiative. The plan recommends the future development of this corner as a mixed use commercial/residential site with the buildings being pulled close to the sidewalk. Recommendation area 4, which addresses Broad Avenue from Hollywood Street to approximately Collins Street, recommends the establishment of a Farmers Market to serve as a focal point for a re-envisioned town center.

### Character of Surrounding Area:

The Broad Avenue Initiative describes the area and land use east of Tillman as Industrial in character and that is an apt description. North of the site along Tillman, the use of land is retail oriented along the west side of Tillman Street and industrial in nature on the east side of Tillman Street.

Broad Avenue contains retail commercial uses at the intersection with Tillman Street. Moving west from that intersection, uses of land run the range from single and multiple dwelling residential, to office, institutional, and warehouse related uses.

### Request for a Use Variance

Generally, a request for a Use Variation is based on an assertion that the zoning of the site or physical characteristics of the land impose an unnecessary hardship which are unusual for the property and are not self created.

In this instance, the hardship is not self –imposed and is related to the current Neighborhood Commercial Zoning classification. The requested use for this site is a Farmers Market which is a use that is growing in popularity as part of a nationwide movement to bring locally grown fruits and vegetables closer to the inner-city market.

The Farmers Market closely resembles another use in Chart I of the Zoning Ordinance which is known as Outdoor Retail Sales. Outdoor Retail Sales requires a Special Use Permit in most of the Commercial Zoning Districts with the exception of the Neighborhood Commercial. This oversight in the drafting of the Neighborhood Commercial District will be corrected with the adoption of the Unified Development, but in the mean time the applicant is left with a good site, a former retails sales site, but no way of implementing his request. His options are to request a rezoning or file for a Planned Development. The former is unlikely since the C-N which is to be

converted to Commercial Mixed Use in the Unified Development Code is in line with the recommended plan for the area. The latter option is expensive in both money and time and would in all likelihood miss the majority of the growing season and agricultural products sales period.

Review of Request:

Even though the Broad Avenue Initiative recommends a different location for a Farmers Market, this location has many points to recommend it. This site will have good visibility from Sam Cooper Boulevard, Broad Avenue, and Tillman Street. Due to its prior development as a retail store, it can accommodate off-street parking, and provide a good vehicle circulation. At the eastern edge of the neighborhood, it can serve as a catalyst for continued re-development of Broad Avenue Corridor. And this proposal will clean up a blighted site. Replacing boarded windows and chipped paint with a fresh new use for the property.

**RECOMMENDATION:            APPROVAL WITH CONDITIONS**

## **USE VARIANCE CONDITIONS**

A Use Variance is hereby authorized to Binghamton Development Corporation to allow a Farmers Market on the property located at the Southwest corner of Broad Avenue & Tillman Street in accordance with the approved site plan and the following supplemental conditions:

1. A minimum of 50 percent of the sales area shall be devoted to the sale of fresh fruit and vegetables.
2. Hours of Operation
  - a. 6 a.m. to 8 p.m. Monday – Friday
  - b. 8 a.m. to 8 p.m. Saturday and Sunday
  - c. No music or other forms of entertainment shall begin before 9 a.m. or continue past 8 p.m.
3. All vendor sales (fresh fruit, vegetables, arts and crafts) shall be limited to the area underneath the canopy as indicated on the site plan. Other ancillary activities (entertainment, cooked food vending, or education facility may be located under the canopy, within a building, or on site but shall not block the drive aisles. No curb side sales shall be permitted).
4. The location of vendor parking, customer parking, restrooms, vehicular access shall be as indicated on the approved site plan.
5. Signs shall be as permitted by the C-N District
6. The trash dumpster shall be screened from public view and the vending area shall be maintained in a clean and orderly fashion. The stacking of inventory shall not exceed five feet in height.
7. All outdoor retail vending facilities shall display in a manner legible and visible to its clientele the name and phone number of the vendor operating the facility.

**GENERAL INFORMATION**

**Street Frontage:** Broad Avenue .....+/- 260 Feet  
Tillman Street.....+/- 190 Feet  
Sam Cooper Boulevard...+/- 98 Feet

**Planning District:** University

**Census Tract:** 28

**Zoning Atlas Page:** 2035

**Parcel ID:** 037039 00004C, 037039 00010, 037039 00009

**Zoning History:** The current Neighborhood Commercial (C-N) dates to December 2, 2003 when the Memphis City Council approved the down zoning of this site from Highway Commercial (C-H) as part of the Midtown Corridor East/Binghampton Comprehensive Rezoning

**DEPARTMENTAL COMMENTS**

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

**City Engineer:** ers:

1. City sanitary sewers are available at developer's expense.
2. The City Engineer shall approve the design, number and location of curb cuts.
3. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
4. 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,

**City Fire Division:** No comment.

**City Real Estate:** None.

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

**Environmental Sanitation:** No objections.

**City Board of Education:** No comment received.

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

**Memphis Light, Gas and Water:**

MLGW has no object to this Use Variance request.

**AT&T/Bell South:** AT&T has no comment.

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

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

**OPD-Comprehensive Planning:**

A Farmers Market is a recommendation of the Broad Avenue Corridor Planning Initiative. The plan recommended a site that would be centrally located in the neighborhood. This proposal is not a central location and is in an area designated as Mixed Use Gateway Building in the plan. The uses envisioned for this site/building are ground floor commercial and upper story office /residential. Although this proposal is for a market at a different location, it is consistent with the intent of the plan.

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

Neighborhood Associations Contacted

**Binghampton/Lester Community Organization:** No comment received

**Masjid-Al Noor Housing Development Corporation:** No comments received

**Northeast Neighborhood Association:** No comments received