

MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
STAFF REPORT **#3**

CASE NUMBER: SAC 10-606 **L.U.C.B. MEETING:** October 14, 2010
ALLEY NAME: North Third Street - A.W. Willis Avenue Alley
LOCATION: West 173.25 feet of the first 16.5 foot alley north of A.W. Willis Avenue and east of North Third Street and the south 84 feet of the 24.75 foot wide alley east of North Third Street and north of the ALSAC Property north of A.W. Willis Avenue
COUNCIL DISTRICT: 7
SUPER DISTRICT: 8
APPLICANT: Tony Fox
REPRESENTATIVE: Jerry Johnson
REQUEST: Close & Vacate Alley Right-Of-Way
AREA: 4,529 square feet
EXISTING LAND USE & ZONING ADJOINING ALLEY: Doggy Day Care and Gayoso Bayou/Mixed Use (MU) District

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION:

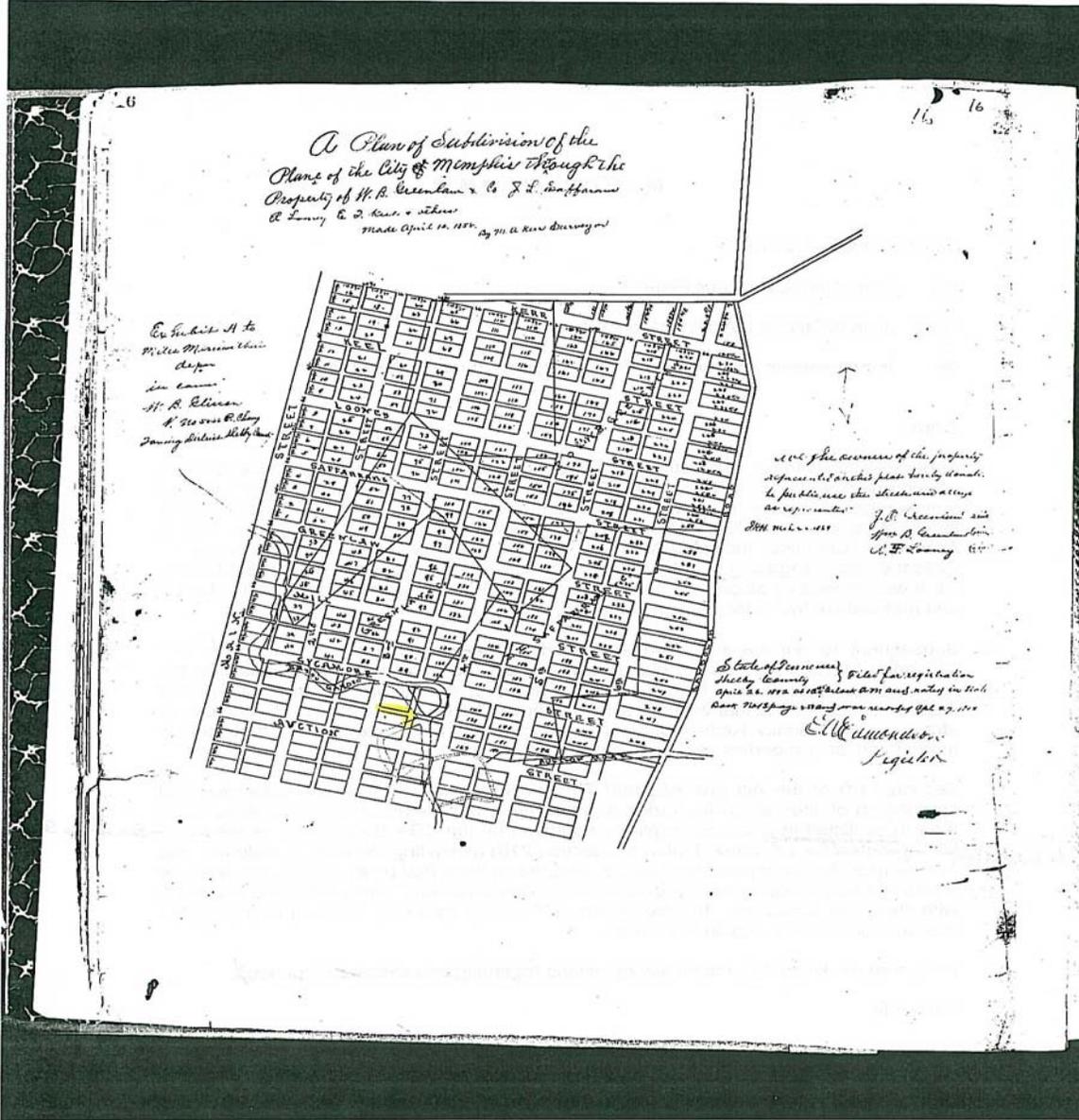
Approval With Conditions

CONCLUSIONS

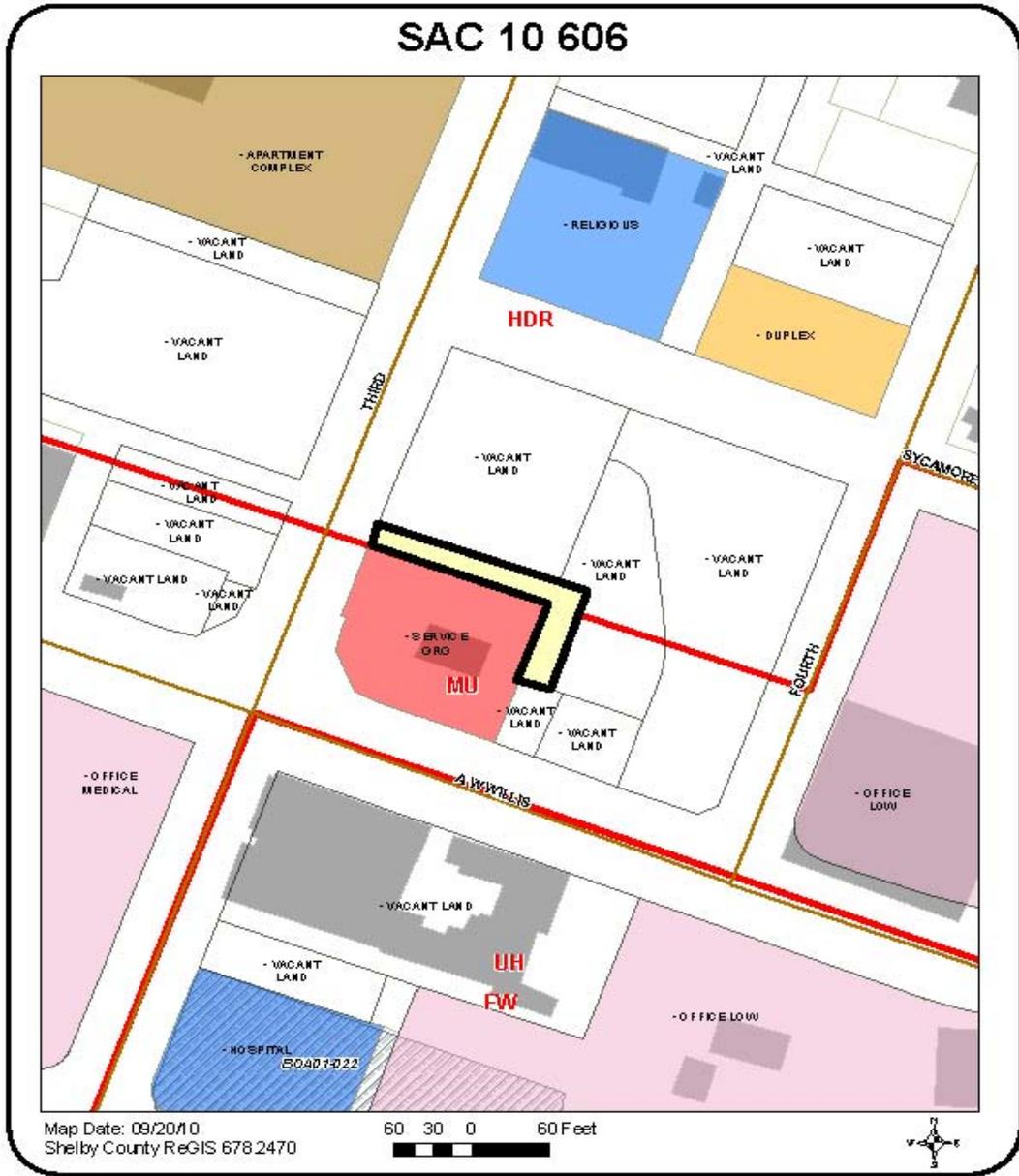
1. This alley was platted in 1856 as part of the original Greenlaw Subdivision. Though platted to connect from Third Street to Fourth Street and from Auction Avenue to Sycamore Street, the only portion of the public alleys left remaining in this block is the portion proposed for closing.
2. The majority of this block contains a substantial drainage basin as part of the Gayoso Bayou. The slope of this basin abuts the alley on its north and east sides.
3. The drainage basin makes any future physical connection to the existing alley difficult in terms of creating a through street pedestrian or vehicular connections.
4. While alleys are integral to the prevailing pattern of development and redevelopment in Uptown, keeping this particular remnant portion of alley appears to be value limited due to its lack of interconnectivity and isolation created by the abutting Gayoso Bayou drainage basin.

Staff Writer: Chip Saliba

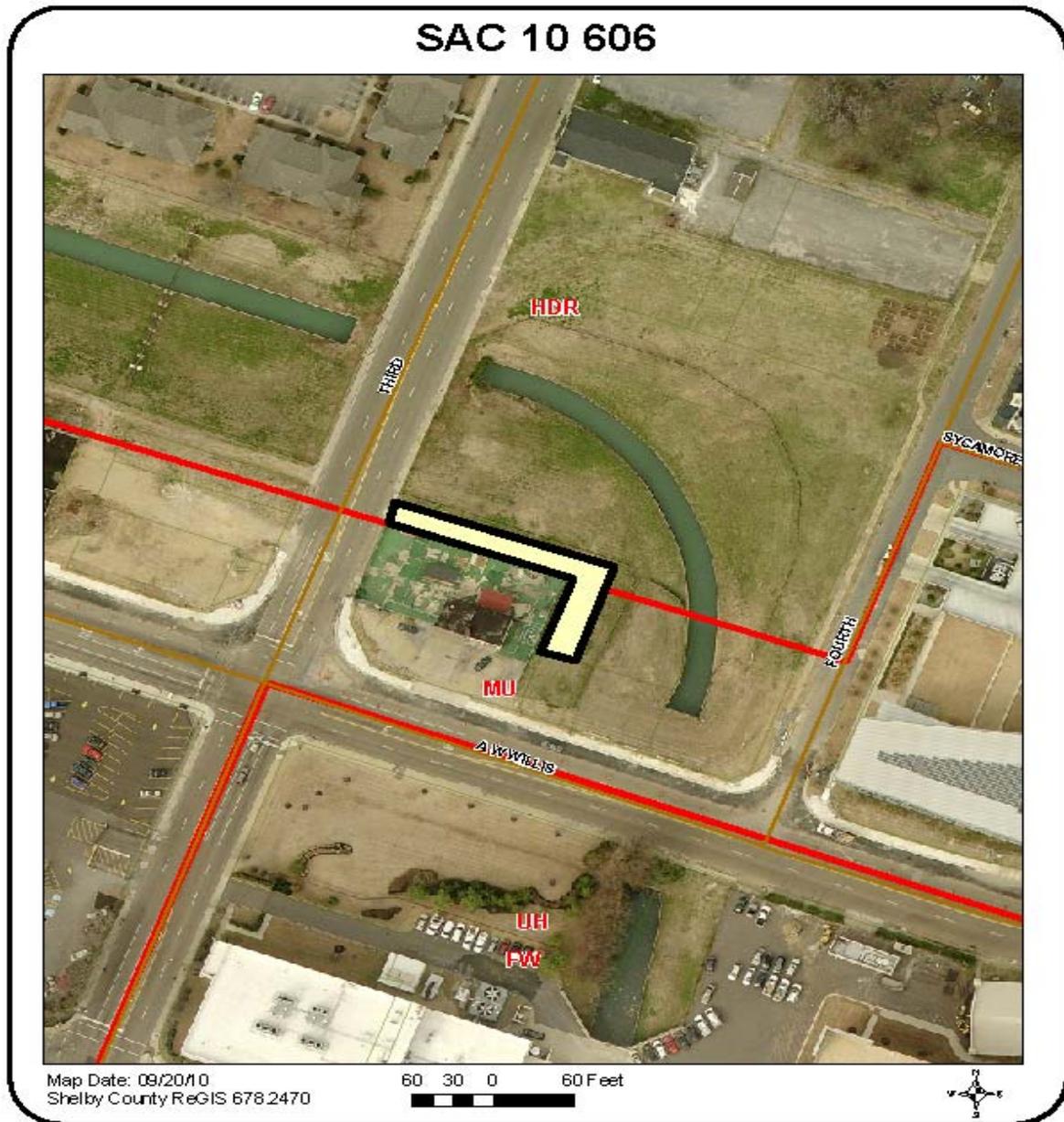
E-Mail: chip.saliba@memphistn.gov



The Original Greenlaw Subdivision Plan dedicated the subject alleys in 1856 (highlighted in yellow).



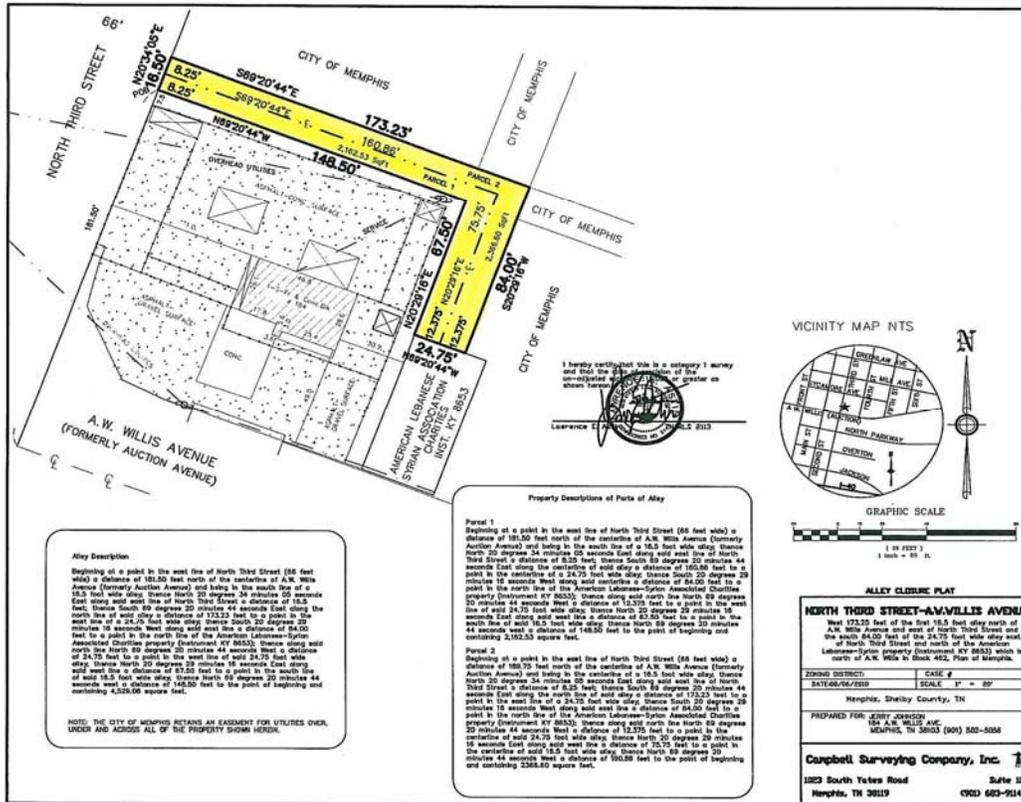
Land Use and Zoning Map. Of the original platted alleys in this block, only a portion of alleyway remains which is the subject of this closing application.



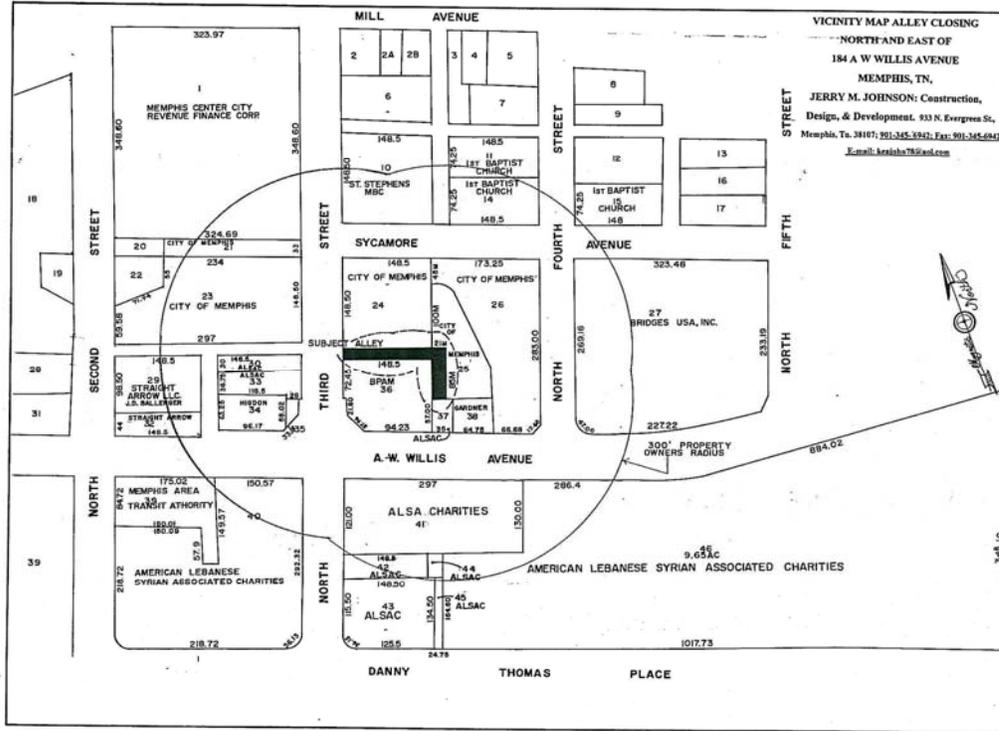
This aerial photo illustrates the Gayoso Bayou drainage basin that abuts the alley on its north and east sides.



Doggy's Daycare currently abuts the alleys.



The proposed closing is highlighted in yellow.



Vicinity Map illustrating adjacent ownership and public notice mailing radius. A public notice sign has also been posted.



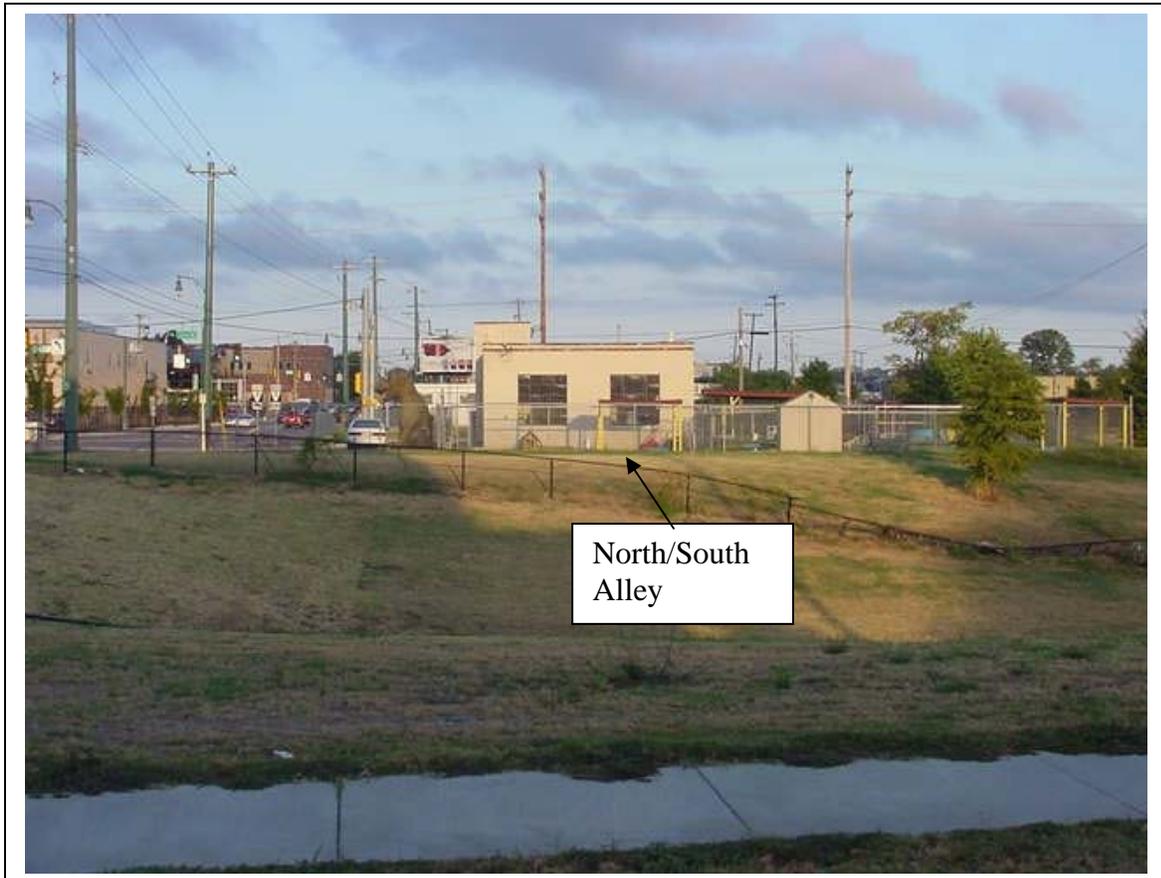
East/West Alley is between the two fences



East/West Alley looking west toward North Third Street. The Gayoso Bayou drainage basin is to the right of the black fence.



East/West Alley looking east from North Third Street. The Gayoso Bayou drainage Basin is on the left side of the photo.



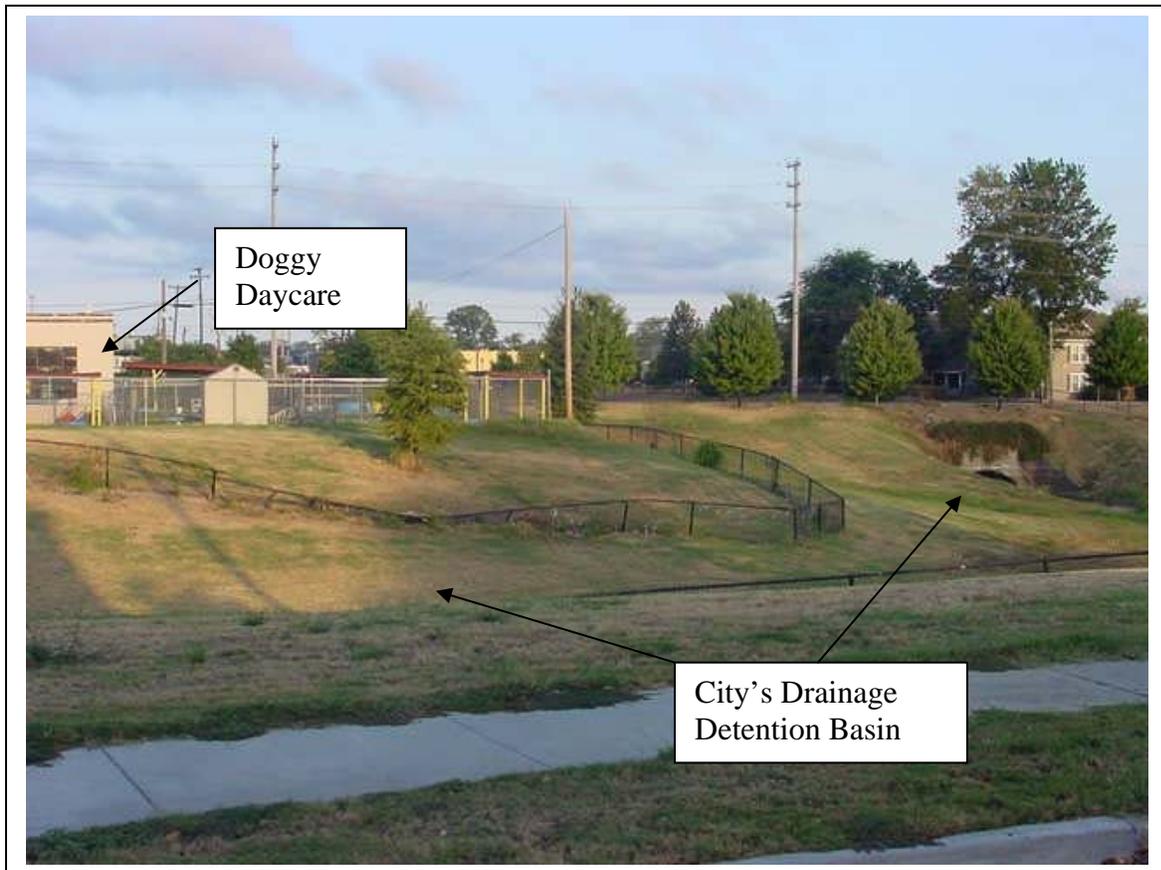
The Gayoso Bayou drainage basin is in the foreground between the building and sidewalk.



North/South Alley looking south to A.W. Willis Avenue



Another view of North/South Alley looking south to A.W. Willis Avenue. The Gayoso Bayou drainage basin is to the left.



The City of Memphis owns property surrounding the alleys in the form of a drainage detention area.

STAFF ANALYSIS

The applicant is requesting to close portions of two unimproved alleys that connect to one another and border an existing building and grounds at the northeast corner of A.W. Willis Street and North Third Street. The existing building operates as a “Doggy’s Daycare”. The applicant is pursuing plans to redevelop this property into a convenience store with gasoline sales and would like the area containing the alleys closed and conveyed to him as part of his redevelopment plan for the property. The applicant’s proposed plan is illustrated on Page 7 of this staff report.

The subject alley remnants were originally established in the platting of the Greenlaw Neighborhood in 1856 (see Page 2 of this staff report). The plat established a grid consisting of a north-south and east-west alley contained within the block bounded by Sycamore Avenue to the north, Auction Avenue (now A.W. Willis Avenue) to the south, Fourth Street to the east, and Third Street to the west. Over the subsequent decades the City of Memphis constructed a drainage basin/detention area abutting the subject alley closing request area for the flood waters of the Gayoso Bayou. This basin exists today as an active flood control depression and has effectively eliminated the original grid alley system established by the 1856 plat. In fact, current property records within this block indicate no alley system remains with the exception of the subject alleys. This is best illustrated by the graphics contained on Pages 3-4, and 6 and 8 of this staff report.

Because of the physical limitations created by the adjoining drainage basin, the remnant alley section is not connected to an existing through alley system and has been isolated. Public right-of-way in the Uptown area including alleys provide a valuable asset in terms of retaining the urban character and development pattern of the original platting and offer varied vehicular and pedestrian options for the public. In this instance though it is difficult to see how retaining the subject alley remnants could be beneficial due to their limited access and lack of connectivity. For these reasons, the alley remnants are recommended for closing.

RECOMMENDATION: Approval subject to the following conditions:

1. Provide easements for existing sanitary sewers, drainage facilities and other utilities or relocate at developer's expense.
2. The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.
3. The applicant shall comply with all conditions of the closure within two years of the conditional approval of the closure by the City Council.
4. Revise the closure plat and legal descriptions accordingly if it is determined by the City Engineer that additional right-of-way is needed for any future improvement of North Third Street.

GENERAL INFORMATION

Planning District: Uptown Memphis

Zoning Atlas Page: 1930

DEPARTMENTAL COMMENTS:

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

City Engineer:

Street Closures:

Provide easements for existing sanitary sewers, drainage facilities and other utilities or relocate at developer's expense.

The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.

The applicant shall comply with all conditions of the closure within 365 days of the conditional approval of the closure by the City Council.

City Fire Division:

No comments.

City Real Estate:

No comments received.

City/County Health Department: Tank

The Water Quality Branch & Septic
Program has no comments.

City Board of Education:

No comments.

Construction Code Enforcement:

No comments received.

Memphis Light, Gas and Water:

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

- **MLGW has existing utility distribution facilities within the present public road right of way.** The City of Memphis shall retain an easement across the proposed street closure, from edge to edge of the road right of way, to accommodate any existing public utilities, including electric, gas, water, CATV, telephone, sewer, drainage, etc
- If it is necessary for MLGW facilities to be installed, removed or relocated, any work performed by MLGW will be done at the expense of the owner/applicant.
- MLGW reserves the right to retain a utility right-of-way within that portion of the existing public road right of way at all times for existing utilities, or the owner/applicant may choose to relocate existing utilities at the expense of the owner/applicant.
- MLGW must be able to access any overhead or underground facilities. Consequently, no permanent structure(s) shall be constructed or erected within that portion of the existing public road right of way including fences, buildings, patios, vehicle parking or paving.

- **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 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 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 528-4855 for application of utility services.
 - All commercial developers must contact MLGW's Builder Services line at 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 / Millington Telephone: No comments received.

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

Center City Commission: Objects to closing. Favor preservation of the alley as public right-of-way to provide additional public space adjacent to the Gayoso Bayou.

OPD-Regional Services: No comments received.

OPD-Plans Development: No comments received.

Park Services Division: No comments received.

North Memphis CDC: No comments received.

Downtown Neighborhood Association: See attached.

Uptown Neighborhood Association: No comments received.

MEMPHIS DOWNTOWN NEIGHBORHOOD ASSOCIATION



O.P.D. CASE NUMBER: SAC 10-606
STREET NAME: A.W. Willis Alley Closure

Comments:

The existing alley does not appear to connect two public streets and thus does not serve as true access around this isolated property in the manner of the other urban Uptown blocks.

Our review presumes that as this site is adjoining the open Gayoso Bayou, that all local, state and federal environmental protection actions will be required to protect this waterway from the operations of a gas station.

While the Downtown Neighborhood Association takes no specific exception to this proposed alley closure in order to facilitate development of a new commercial business in Uptown, we do request that the City take a stronger view on such closures in the future to assure that public land is not squandered on the grounds that it merely appears to be abandoned.

Thank you for the opportunity to comment on this matter.

Kenneth B. Hudson, AIA
President-Elect
Memphis Downtown Neighborhood Association

October 1, 2010