

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

CASE NUMBER: PD 11-313 CC

L.U.C.B. MEETING: September 8, 2011

DEVELOPMENT NAME: Eco2 Development Recycling Center Planned Development

LOCATION: West side of Benjestown Road; +/-272 feet west of Carrolton Road

COUNCIL DISTRICT: 7 **SUPER DISTRICT** 8

OWNER OF RECORD: Jimmy T. Woods, Inc

APPLICANT: Eco2 Development Recycling Center (Marvin Frick)

REPRESENTATIVE: Homer Branan

REQUEST: Demolition Landfill

AREA: 34 Acres

EXISTING LAND USE & ZONING: Primarily vacant land in the Employment (EMP). Employment Floodplain (EMP[FP]) and Conservation Agricultural Floodplain (CA[FP]) Districts

**OFFICE OF PLANNING AND DEVELOPMENT
RECOMMENDATION**

APPROVAL WITH CONDITIONS

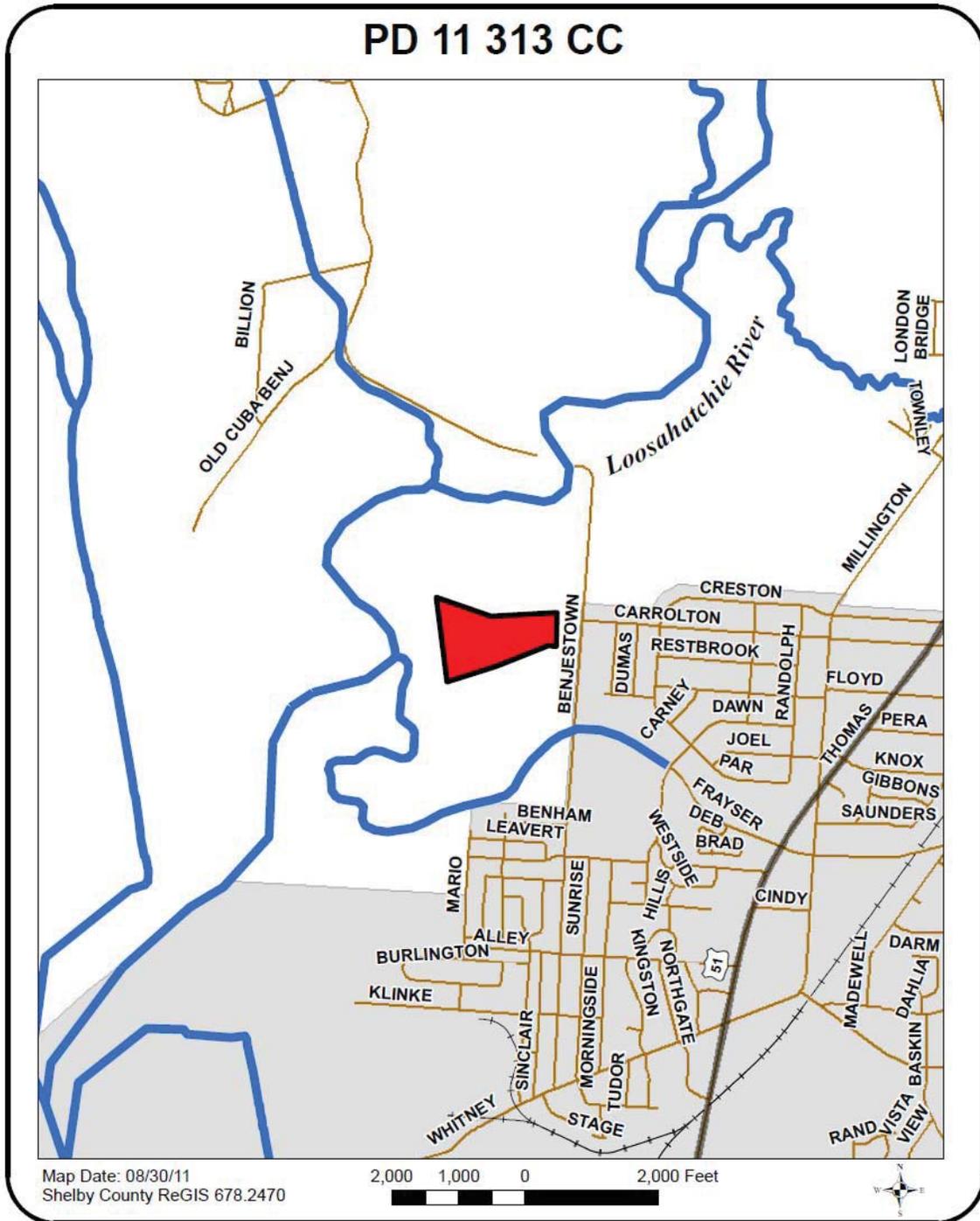
Staff: Don Jones

E-Mail: john.jones@memphistn.gov

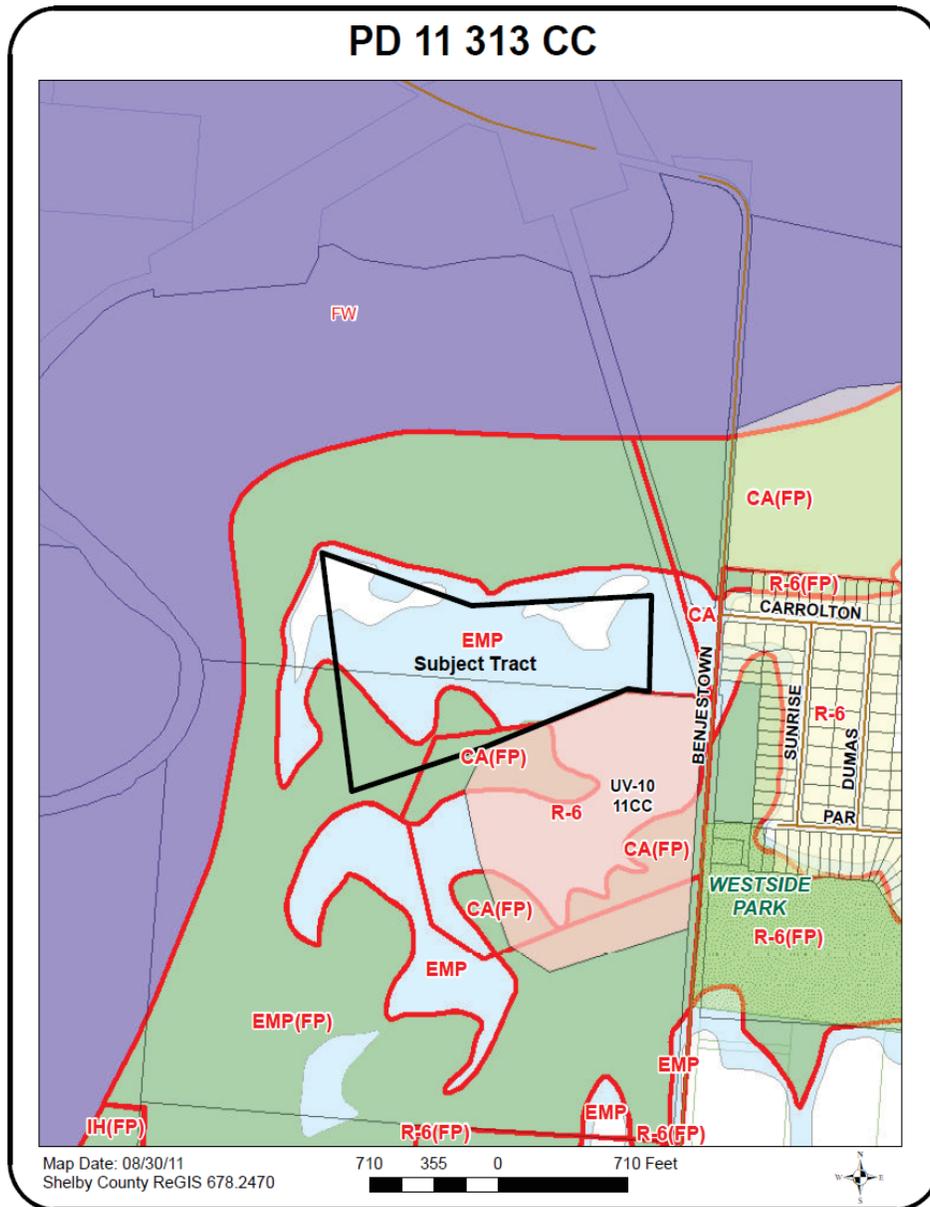
CONCLUSIONS

1. Under this request, conditions can be added to address the general requirements to protect the character of the nearby residential neighbors and the specific requirements for the development of a demolition landfill without rezoning this site to a higher zoning designation.
2. The site's location is somewhat isolated which further limits any potential negative impacts and the proposed conditions limit the access to the existing internal access easement which follows the path currently in use by the Jimmy T. Wood and Fullen Dock facilities.

General Location Map



LAND USE AND ZONING MAP

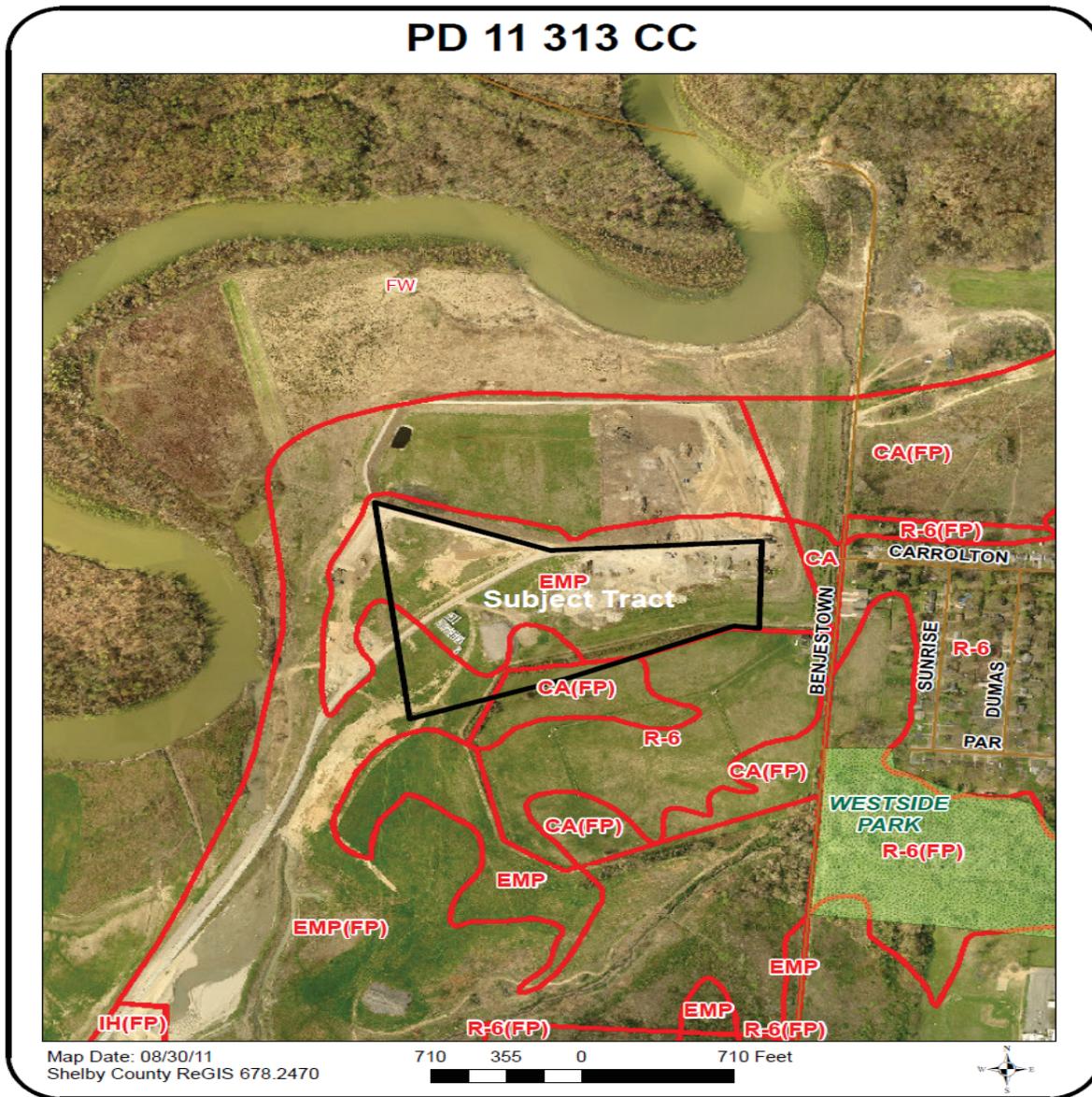


SURROUNDING LAND USES AND ZONING:

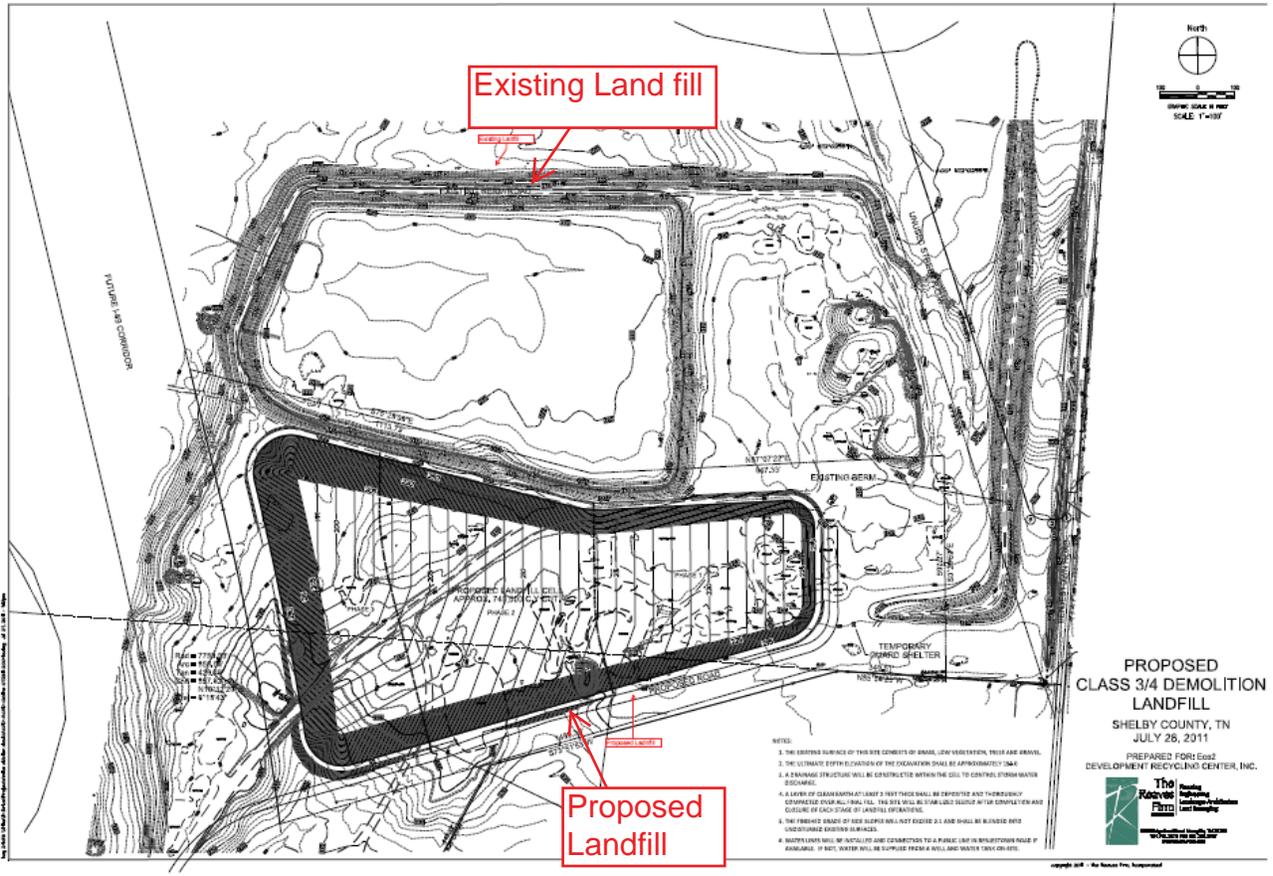
North and West: Industrial uses associate with the existing demolition landfill operation in the Employment Floodplain (Emp [FP])

East: Vacant land in the Conservation Agricultural (CA) District and residential dwellings in the Residential Single Family – 6 (R-6) District

South: Communication towers with an equipment building approved under Use Variance U.V. 10-11CC



Site Plan Showing Boundaries of Existing and Proposed Demolition Landfills



STAFF ANALYSIS:

The subject property is a primarily vacant, 34 acre site, that is carved out of an approximately 200 acre industrial development owned by Jimmy T. Wood. Associated with this development is the Fullen Dock facility which includes warehousing activity located in the former International Harvester Plant, and a port facility that receives materials from barges some of which are processed on site and others are stored and then transported from this site by truck or by rail. Also in operation on the +/- 200 acre site is an active Class III/IV Demolition Landfill which is estimated to be approaching the end of its useful life in the next 2-3 years.

The subject tract is located in the north center of the site. At this location, its nearest neighbor is a property to the southeast which is owned by Clear Channel Radio of Memphis. This site is in use for communication towers that are in excess of 400 feet in height and small equipment building. The nearest residential use is located on the opposite side of Benjestown Road some 300 feet from the east perimeter of this project site and some 700 feet from the actual limits of the landfill operation.

Request:

Unified Development Code (UDC) limits all landfills (sanitary and demolition/construction) to the Heavy Industrial District and then only with an approved Special Use Permit. Thus a Planned Development is being filed to permit the use subject to conditions.

The application and proposed conditions have been crafted to allow any use permitted by right in the Employment (former Light Industrial) District and the demolition landfill. The application includes most of the provisions found in the Use Standards for Landfills in the Unified Development Code.

One of the key proposed conditions is that no access will be permitted to existing Benjestown Road. Access to and from the actual landfill site will be gained via an internal access easement. The easement links the landfill site to the main entry for the Fullen Dock facility at the western terminus of Klinke Road. From there, trucks head east to Harvester Road, turn to the south, and then turn either west onto Whitney Road to Highway 51 or east to Second Street.

Review of Request:

Planned Developments - As indicated above, the requested P.D. seeks the zoning entitlement for a demolition landfill. Leaving aside the issues of location and access for the moment, this is a reasonable request. Under the UDC, the applicant would be required to rezone this site to Heavy Industrial and then file a companion S.U.P. application. The requirements for the S.U.P and the Use Standards for Landfills can be addressed through the Planned Development review process. The current Employment Zoning District is a more appropriate zoning district on this site than Heavy Industrial.

The site's particular location is at the westernmost end of the county abutting the confluence of the Mississippi River and the Loosahatchie River. This site is isolated from its nearest residential neighbors on the opposite side of Benjestown Road. Between the easternmost edge of the landfill pod and existing Benjestown Road is 8-10 foot berm which was constructed with the existing demolition landfill pod.

East of the berm, between the berm and the existing Benjestown Road are approximately 3 rows of Pine Trees and evergreen material.

Access to the site will be via an internal access easement that runs north-south within this industrial facility and links to the main entry of the Fullen Dock facility. Trucks entering and exiting the Fullen Dock facility and the existing landfill, use a combination of Klinke Road, Harvester Road, and Whitney or Second Street. The proposed conditions of the P.D. prohibit access from Benjestown Road .

Frayser Futures – Chapter 1.9 of the UDC lists the Frayser Futures Comprehensive Plan as a plan to be reviewed with respect for any zoning or development proposals located within its boundaries. The subject property falls within the area identified as Westside. The plan recognizes the existing industrial areas and suggest that these areas will be strengthened with the future extension of I-69 through the area.

Requested variations from the Use Standards - This request for a demolition landfill is consistent with the Use Standards that apply to demolition landfills with three exceptions. Under the General Provisions, letter b. states “No fill shall be located within the 100 year floodplain and no excavation except as expressly authorized by the appropriate legislative bodies shall be located within the 100 year floodplain”. A relatively small portion of the site in the southwest corner of the site is zoned Floodplain. In response, the applicant offers that this requirement is more applicable to sanitary landfills than to demolition landfills, and that this a small amount of excavation and fill. The applicant has submitted a Groundwater Sampling Report from the wells on the existing demolition landfill to the north, the Executive Summary to the Report states “No Volatile Organics were detected in groundwater samples, and no parameters were detected above regulatory limits. The staff agrees with the contention of the applicant.

Letter e. of the Use Standards requires a chain link, woven or wire fence with landscaping to secure the landfill site. The applicant is providing landscaping between the site and the public street to screen view of the project. With respect to security, the applicant proposes a security guard to be on the premises 24 hours a day, 7 days a week. This is an acceptable variation from the requirements.

Numbers 3 and 4 under this section require the posting of a bond to insure the restoration, and regrading of the site, and that a portion of that bond reside with the building official and/or city or county engineer. Since this aspect of the landfill operation is typically performed by the State of Tennessee, these conditions will require that copies of bonding information provided to the State and evidence that the State has released the bond will be provided to the OPD and the building official.

Other changes to the submitted Site Plan - Information regarding the actual right of way width for I-69 has only recently been received. That information indicates that the Tennessee Department of Transportation will require a 350 foot wide right of way for I-69 rather than the 300 feet shown on the site plan and supporting documents. The site plan shall be revised to reflect that change and the resulting change to the landfill area prior to the presentation of this application to the Land Use Control Board.

RECOMMENDATION: Approval with Conditions

OUTLINE PLAN CONDITIONS

Eco2 Development Recycling Center Planned Development
P.D. 11- 313 CC

- I. Permitted Uses:
 - A. Any use permitted by right in the EMP Industrial District with the following exceptions:
 - 1. Adult entertainment
 - 2. Drive-in theaters
 - 3. Pawn shop
 - 4. Sheet metal shop
 - 5. Tavern, cocktail lounge, night club
 - B. The following additional uses to the EMP Industrial District shall also be permitted:
 - 1. Class 3/4 Construction and Demolition Landfill subject to the conditions contained herein
- II. Bulk Regulations:
 - A. Bulk Regulations of the EMP District shall apply with the additional condition(s) listed below:
 - 1. The approved site plan for the landfill shall show the limits of the landfill operation and shall substitute for the regulatory setbacks. Condition VII will describe in detail other setback and development standards.
- III. Access, Circulation and Parking:
 - A. No curb cut will be allowed to Benjestown Road. All access shall be provided by private road access easement as shown on the site plan.
 - B. The design of any new curb cuts shall be subject to the approval by the City or County Engineer.
 - C. Parking shall be provided in accordance with the Unified Development Code (UDC).
 - D. 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 thirty feet (30).
 - E. The site plan shall show the required right of way for I-69.

- F. The site plan shall demonstrate the approved location for the access easement through the I-69 right of way. Documentation from the State of Tennessee may be required at Final Plat Review.

IV. Landscaping and Screening:

- A. All landscaping requirements and improvements shall meet or exceed the minimum standards specified by the Unified Development Code (UDC).
- B. The existing hedge row, pine tree buffer and berm shall remain between Benjestown Road and the landfill operation. Ordinary maintenance shall be allowed.
- C. Supplemental screening shall be installed as shown on the Site Plan. Additional screening to fill in gaps along the Benjestown Road frontage may be required. The planting materials shall be an evergreen material that maintains its lower limbs such as a Cypress or similar material.
- D. All approved landscaping elements, including individual plants and plant species, shall be indicated in plan view on the final plan.
- E. Refuse containers shall be screened from view from adjacent property and from the public roads.
- F. Any landscaping or berm that is currently located in the unused, Shelby County owned, right-of-way of Benjestown Road, shall, at the decision of Shelby County Government, be removed and replaced in kind to land owned by this applicant/property owner to a location outside of the right-of-way where said landscaping and berm continue to provide the required buffer for the residential properties on the opposite side of Benjestown Road.

V. Signs: Signs shall be permitted in accordance with the EMP District, however no detached signs advertising the Landfill Operation shall be permitted along the Benjestown Road frontage.

- A. Attached signage shall be in conformance with the EMP District.
- B. No temporary or portable signs shall be permitted.
- C. "NO DUMPING" signs shall be installed along frontage of Benjestown Road. The minimum number of signs shall be four (4).

VI. Drainage and Sewer Service:

- A. All drainage plans shall be submitted to the City and County Engineer for review.
- B. All drainage emanating on-site shall be private. Easements will not be accepted.
- C. Drainage improvements to be provided under contract in accordance with Subdivision Regulations, and the City of Memphis Drainage Design Manual including possible on-site detention.
- D. The 100 year floodplain boundary line and elevation shall be reflected on the final plat and engineering plans.
- E. Landfill Operation: Provisions shall be made for the proper drainage of stormwater on or crossing the site at all times during and after completion of the operations. The operation shall not obstruct the normal flow of any public drain, or abrogate the riparian rights of any other party to a stream or drain.
- F. If a sanitary sewer extension is deemed necessary for the use of this site, the following conditions shall apply:
 - 1. The developer shall extend sanitary sewers through the site to serve upstream properties.
 - 2. An overall sewer plan for the entire site shall be submitted to the City Engineer prior to approval of the first final plat.
 - 3. This site is located within the area served by the Loosahatchie Interceptor Special Sewer Service Area. The developer must agree to pay all surcharges assessed upon his project as a part of the Special Sewer Service Area regulations

VII. Class 3/4 Construction and Demolition Landfill Requirements:

- A. The hours of operation shall be limited to daylight hours Monday through Saturday unless requested by the City or County government in cases of a natural disaster.
- B. The depth of excavation and the materials to be used for fill shall not have any adverse effect on the supply, quality, or purity of ground water or wells.
- C. A layer of clean earth at least two (2) feet thick shall be deposited and thoroughly compacted over all final fill to bring the surface to the finished surface grade as shown on the topographic plan filed with the application. The final fill and finished grade shall be stabilized, seeded, sodded or appropriately planted after completion in accordance with the requirements of the TDEC Permit.

1. The finished grade of side slopes of excavation and fills shall not exceed one foot vertical to two feet horizontal and shall be blended into undisturbed existing surfaces.
- D. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or candescence to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site. Dusty conditions shall be corrected by sprinkling with water or by use of calcium chloride or some other approved method. No fires shall be permitted. A water truck should be available for use during filling operations.
- E. A water well and water storage tank shall be provided on-site for the purpose of providing water for dust control and fire protection. The water well shall subject to the approval of the Shelby County Health Department.
- F. Access to the site shall be from Klinke Road. The access road from the site to the public street shall be shown on the Final Plat documents.
- G. Except for protective fences, no building or structure, other than a scale and entry gatehouse erected in connection with the operation, shall be located in any required front yard/side yard/rear yard' or closer than one hundred (100) feet from any property line. A temporary guardhouse shall be located on site.
- H A security gate shall be provided at the main entrance which shall remain locked at all times when active operations are not taking place.
- I. No excavation or demolition fill shall be permitted within 100 feet of any adjacent property , or within 500 feet of any building used for residential purposes, or within 100 feet of any public street right-of-way.
- J. Equipment used in the landfill operation shall be operated in such a manner that noise and vibration are prevented, to the extent possible, from emanating beyond the boundaries of the site.
- K. All soil borings performed at this site to determine the geologic formation must be permitted by the Shelby County Health Department.
- L. Before the start up of the demolition land fill operation at this location a series of monitoring wells shall be installed, at the discretion of the Shelby County Health Department, around the property boundaries and samples collected to be analyzed for priority metals in order to determine the groundwater quality at the site prior to commencement of the demolition land fill operation.
- M. Sample analysis shall, at the discretion of the Shelby County Health Department, then be done annually from the monitoring wells in order to determine what effect, if any, this operation could have on the groundwater quality at this location in the future.

- N. Any active monitoring well at the site will be assessed an annual fee of twenty (\$20.00) per well as outlined in the Shelby County Well Construction Code, Section 4.03 I. If any abandoned water wells are present on this site they must be properly filled and abandoned as outlined in Section 9, Shelby County Well Construction Code.
- O. If a water well will be used at this site it must meet all siting criteria as outlined in the Shelby County Well Construction Code and be subject to an annual permit as well as annual sampling of the well.
- P. The applicant shall provide the OPD and the Building Official with all a copy of all bonding information required by the appropriate department of the State of Tennessee Government.
- Q. Upon the closing of the landfill, and the State's release of the bond, the applicant shall provide the OPD and the Building Official with documentation that the State's requirements have been met.

VIII. Site Plan Review Except for Landfill Operations

- A. For the development of this site in a use other than the landfill, the developer shall file an application for a revision (major or minor to be determined by the Planning Director) with full zoning notice and notice to abutting neighborhood associations. If determined to be a minor revision, the approval of the site plan shall be with the Land Use Control Board. If determined to be major, the final approval will reside with the Memphis City Council and the Shelby County Board of Commissioners..
- B. Any Site Plan shall include the following information:
 - 1. The location, dimensions, floor area and height of all buildings, structures, signs, lighting and parking areas.
 - 2. Specific plans for additional internal and perimeter landscaping and screening including plant material names and sizes shall be provided at time of installation.
 - 3. Illustrations of the design, materials and colors of any proposed signs.
 - 4. A grading plan of the site including any retention or detention areas.
 - 5. Any outdoor storage shall not be located less than 350 feet from Benjestown Road and shall be screened from view of adjacent properties.
- C. The Site Plan shall be reviewed based upon the following criteria:
 - 1. Conformance with the Outline Plan and Conditions.
 - 2. Landscaping and adequacy of screening from residential areas including the preservation of trees.
 - 3. Building orientation and setback.
 - 4. Access and circulation providing a unified and continuous circulation pattern on the site and between phases.
 - 5. Parking spaces and design.

6. Compatibility with adjacent properties as judged from the final elements of the site development including landscaping, screening and circulation.
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- IX. The Land Use Control Board may modify the bulk, access, parking, landscaping, loading, screening, signs, and other site requirements if equivalent alternatives are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board hereunder may, within ten days of such action file a written appeal to the Director of Office of Planning and Development, to have such action reviewed by the legislative bodies.
 - X. A Final Plat shall be recorded within five years of the date that this application shall have been approved by the appropriate legislative body(s). The Land Use Control Board may grant time extensions after filing a correspondence application with notice to abutting property owners and the associations identified in VIII above.
 - XI. Any final plan shall include the following:
 - A. The Outline Plan conditions.
 - B. A standard subdivision contract as defined by the Subdivision Regulations for any needed public improvements.
 - C. The exact location and dimensions including height, parking areas, drives, and identification of plant materials in required landscaping.
 - D. The number of parking spaces.
 - E. The location and ownership, whether public or private of any easement.
 - F. The Floodway District boundary, the 100-year flood elevation and any wetlands.
 - G. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City or County Engineer, as applicable. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City/County Engineer's Office. Such maintenance shall include, but not be limited to: removal of sedimentation, fallen objects, debris and trash; mowing; outlet cleaning; and repair of drainage structures.
 - H. 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.

GENERAL INFORMATION

Street Frontage:	New Benjestown Road+/- 597.27'
Planning District:	Frayser
Census Tract:	99.01
Zoning Atlas Page:	1730
Parcel ID:	D0144 00234 and D0154 00034

DEPARTMENTAL COMMENTS

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.
4. A sewer extension will be required to serve this development.
5. An overall sewer plan for the entire site shall be submitted to the City Engineer prior to approval of the first final plat.
6. No City sewers are currently available to serve this site.
7. The Memphis and Shelby County Health Department shall approve private septic tanks for each lot.
8. This site is located within the area served by the Loosahatchie Interceptor Special Sewer Service Area. The developer must agree to pay all surcharges assessed upon his project as a part of the Special Sewer Service Area regulations.

Private Drives:

9. 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 thirty-six feet (36).

Curb Cuts/Access:

10. The developer must remain sensitive to the future right of way acquisition and construction. The city cannot guarantee the access to this site across the interstate right of way during construction of the new roadway.
11. If the developer loses access to the site via the interstate right of way, there needs to be a secondary point of access. What is proposed for this possibility?
12. What is the prospective life span of this development?
13. The County Engineer shall approve the design, number and location of curb cuts.

Drainage:

14. This site is prone to flooding from the Loosahatchie River.
15. An overall drainage plan for the entire site shall be submitted to the City/County Engineers prior to approval of the first final plan.
16. 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.
17. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.
18. 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.
19. This project must be evaluated by the Tennessee Department of Environment and Conservation regarding their jurisdiction over the watercourses on site, in accordance with the Water Quality Control Act of 1977 as amended (TCA 69-3-101 et seq.).
20. Part of this site is located within the 100-Year floodplain of # according to the FEMA maps. Appropriate flood protection measures must be taken to prevent flood damage. The 100 year floodplain boundary line and elevation shall be reflected on the final plat and engineering plans.

Site Plan Notes:

21. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.
22. 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.
23. Adequate maneuvering room shall be provided between the right-of-way and the

gate/guardhouse/card reader for vehicles to exit by forward motion.

24. 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.

25. Required landscaping shall not be placed on sewer or drainage easements.

County Engineer: No comments received.

City Fire Division: No comments received.

County Fire Department: No comments received.

City Real Estate: No comments received.

County Real Estate: No comments received.

City/County Health Department:

1. All soil borings performed at this site to determine the geologic formation must be permitted by the Shelby County Health Department.
2. Before the start up of the demolition land fill operation at this location a series of monitoring wells could be installed around the property boundaries and samples collected to be analyzed for priority metals in order to determine the groundwater quality at the site prior to commencement of the demolition land fill operation.
3. Sample analysis could then be done annually from the monitoring wells in order to determine what effect, if any, this operation could have on the groundwater quality at this location in the future.
4. Any active monitoring well at the site will be assessed an annual fee of twenty (\$20.00) per well as outlined in the *Shelby County Well Construction Code, Section 4.03 I*
5. If any abandoned water wells are present on this site they must be properly filled and abandoned as outlined in *Section 9, Shelby County Well Construction Code*.
6. If a water well will be used at this site it must meet all siting criteria as outlined in the *Shelby County Well Construction Code* and be subject to an annual permit as well as annual sampling of the well.

City Board of Education:

The subject property is located in the Memphis Reserve Area, as are the Shelby County schools that will serve this student population. Since the school structure themselves are located in the Memphis Reserve Area, staff will defer to the Shelby County Schools District.

County Board of Education: No comments received.

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water: No comments received.

AT& T :	No comments received.
Memphis Area Transit Authority (MATA):	No comments received.
OPD-Regional Services:	No comments received.
OPD-Comprehensive Planning:	No comments received.
Division of Park Services:	No comments received.
County Conservation Board:	No comments received.
Neighborhood Associations:	
Westside Neighborhood Association:	No comments received
Frayser CDC:	No comments received
Frayser Community Association:	No comments received
Frayser Environmental Committee:	I have no objections.

City of Memphis – Public Works - Solid Waste Management

Rick/Josh

I understand North Memphis Landfill will be coming before the Land Use Control Board soon to expand the landfill on adjacent property. So you will know we (Solid Waste Management) have had ongoing contracts with North Memphis LF for many years for the disposal of class III/IV landfill waste which includes yard debris, construction and demolition material. Other divisions also utilize our agreement with North Memphis LF for disposal as well. Located on Klinke Road, it is especially convenient to operations out of our Bellevue facility and saves us on haul time and fuel expense because of its proximity to collections. If we loose this access in the next few years when the current facility runs out of space, we will be forced to drive to landfills in Millington, Collierville or perhaps to BFI South Shelby landfill on the Mississippi state line, thus increasing costs and haul time, which is critical in our business. Additionally, North Memphis Landfill has been very flexible with operating hours when there are storms and other events which require us to operate late or on weekends. Although I don't know the principals of this landfill personally, I can say professionally we have a good working relationship with the management.

Your consideration is appreciated. Please call me if there are any questions.

Andy Ashford
Deputy Director of Public Works
Solid Waste Management
City of Memphis
576-6868