

STAFF REPORT

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CASE NUMBER: U.V. 07-08 **L.U.C.B. MEETING:** October 11, 2007

LOCATION: **South side of Rhodes Avenue; +/-203.68 feet east of Getwell Road**

OWNER/APPLICANT: **New Century Properties & Investment, LLC**

REPRESENTATIVE: **Prime Development Group, Inc.**

REQUEST: **Use variation to allow a retail/gasoline sales building**

AREA: **0.25 Acre(10,890 sq. ft.)**

EXISTING LAND USE & ZONING: **Vacant land formerly a medical office building in Single Family Residential(R-S6) District.**

SURROUNDING USES AND ZONING:

North: Small restaurant ‘Top’s BBQ’ building in Local Commercial(C-L) District, single family homes in W. D. Jemison & Sons Subdivision in Single Family Residential(R-S6) District, Fire Station #38 and University of Memphis Billy Murphy Athletic Complex in Single Family Residential(R-S10) District.

East: Single family homes in Park Meadows Subdivision in the Single Family Residential(R-S6) District.

South: Retail/gasoline sales, two eight(8) unit apartment buildings and ornamental door sales in Local Commercial(C-L) District and single family homes in W. D. Jemison & Sons Subdivision in Single Family Residential(R-S6) District.

West: Walgreen’s store and retail shops in Cross Rhodes Center in Local Commercial(C-L) District.

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION:

Approval with Conditions

Staff: *Brian Bacchus*

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CONCLUSIONS:

- 1. The property is located in Single Family Residential(R-S6) District zoning at the eastern edge of Local Commercial(C-L) District zoning and the southeast corner of two(2) major roads, Getwell Road and Rhodes Avenue. The site was once occupied by a one-story medical office building recently demolished and located on a 0.25 acre(10,890 sq. ft.) lot with curb, gutter and sidewalk at the street.**
- 2. The request is for a use variation to allow a retail/gasoline sales building to be partly located in the Single Family Residential(R-S6) District with the balance on four(4) contiguous lots in Local Commercial(C-L) District zoning totaling 1.37 acres.**
- 3. The combination of five(5) contiguous lots to accomplish corner lot status under one ownership at a major road intersection supports the use variation for the construction of a new retail/gasoline sales building.**
- 4. The zoning alignment of this lot coincides with the separation of land uses directly across the street and supports the redevelopment plan to allow for a sufficient amount of buildable area and an adequate landscape buffer.**

STAFF ANALYSIS:

Site Description

The subject property is a vacant lot at the south side of Rhodes Avenue, +/-150 east of Getwell Road in Quince Planning District in the W. D. Jemison & Sons Subdivision. The property is located in Single Family Residential(R-S6) District zoning at the eastern edge of Local Commercial(C-L) District zoning and the southeast corner of two(2) major roads, Getwell Road and Rhodes Avenue. The site was once occupied by a one-story medical office building recently demolished and located on a 0.25 acre(10,890 sq. ft.) lot with curb, gutter and sidewalk at the street. The entire southeast corner of the major roads are vacant properties available for redevelopment.

Area Overview

An area located north of the I-240 beltway and along two(2) major roads is primarily neighborhood service land uses along the west side of Getwell Road in 'Cross Rhodes Center' with retail shops and services. There are also neighborhood service uses in 'Getwell Plaza' shops south along the east side of Getwell Road all in Local Commercial(C-L) District zoning. The land use at the northwest corner is motor vehicle tire sales and service and an upholstery shop all in the C-L District.

A fire station and the 'U of M Billy Murphy Athletic Complex' at the northeast corner in the Single Family Residential(R-S10) District zoning. The land use immediately across the street is a small restaurant building in Local Commercial(C-L) District zoning with the east parking lot in the Single Family Residential(R-S6) District approved by a use variation(U.V. 03-06). The land use south consist of two(2) apartment buildings in the Local Commercial(C-L) District. The land use adjacent and to the east are single family homes in Park Meadows Subdivision in Single Family Residential(R-S6) District zoning.

Buildable Area vs. Contiguous Lots

The request is for a use variation to allow a retail/gasoline sales building to be partly located in the Single Family Residential(R-S6) District zoning with the remaining four(4) contiguous lots in Local Commercial(C-L) District zoning totaling 1.37 acres. The physical conditions of the lot exist because the former use was a medical office building in a residential structure. Since that time, the medical office building has been demolished with the applicant's desire to include this lot in a redevelopment plan.

The combination of five(5) contiguous lots to accomplish corner lot status under one ownership at a major road intersection supports the use variation for the construction of a new retail/gasoline sales building. The zoning alignment of this lot coincides with the separation of land uses directly across the street and supports the redevelopment plan to allow for a sufficient amount of buildable area and an adequate landscape buffer.

RECOMMENDATION: ***Approval with Conditions***

SITE PLAN CONDITIONS:

A Use Variation is hereby authorized to *'New Century Properties & Investment, LLC'* to allow a *'retail/gasoline sales building'* on property located at *'3977 Rhodes Avenue'* at the *'south side of Rhodes Avenue; +/-203.68 feet east of Getwell Road'* in accordance with an *'approved site plan'* and the following supplemental conditions:

1. A retail/gasoline sales building shall be permitted with associated accessory structures and uses.
2. The building shall be located forty(40') feet from Getwell Road and Rhodes Avenue right-of-way lines.
3. All access to this site shall meet Americans w/ Disabilities Act(ADA) guidelines. Access and circulation shall be illustrated on the site plan.
4. The City Engineer shall approve the design, number and location of curb cuts. All existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalks.
5. The parking shall be provided in accordance with the Zoning Ordinance-Regulations, including handicap accessibility and an adequate trash facility.
6. A Landscape Plate 'A-1' shall be installed along Getwell Road an Rhodes Avenue. The plant materials shall be as illustrated on the Site and Landscape Plan, including internal landscaping.
7. A Landscape Plate 'B-4' shall be installed along the east property line. The plant materials shall be as illustrated on the Site and Landscape Plan, including the south property line and all internal landscaping.
8. All required landscaping shall not be placed on sewer or drainage easements.
9. One detached sign shall be permitted a maximum of thirty-five(35) square feet in area. Attached signs and banners shall not be permitted. No advertising device shall be permitted to emit or broadcast any sound, noise or outcry.
10. A retail/gasoline sales building shall be allowed for the above mentioned user if maintained in accordance with site plan conditions, including no zoning or code violations.

GENERAL INFORMATION:

Street Frontage: Rhodes Avenue-----+/-64.55 curvilinear feet.

Planning District: Quince

Zoning Atlas Page: 2140

Zoning History: The Single Family Residential(R-S6) District zoning of the site date to the adoption of the 1980 zoning map amendments.

DEPARTMENTAL COMMENTS:

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

City Engineer:

1. City sanitary sewers are available at developer's expense.
2. Clear Sight Areas shall be provided on the final plat and engineering plans at the intersection of Rhodes and Getwell in accordance with the Subdivision Regulations. The required note regarding Clear Sight Areas shall be placed on the final plat.

Curb Cuts/Access:

3. The design of the right-in, right-out curb cuts near the intersection do not meet standards and shall be redesigned to the satisfaction of the City Engineer prior to construction thereof.
4. The City Engineer shall approve the design, number and location of curb cuts.
5. All existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.

Drainage:

6. 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.
7. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.
8. 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.

Site Plan Notes:

9. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.

General Notes:

10. The width of all existing off-street sewer easements shall be widened to meet current city standards.
11. All connections to the sewer shall be at manholes only.
12. Required landscaping shall not be placed on sewer or drainage easements.

City Fire Division: No comments.

City Real Estate: None.

Memphis & Shelby County Health Department:

Pollution Control: No objections.

Environmental Sanitation: No objections.

Memphis Board of Education: This case does not have a significant impact on Memphis City Schools.

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 comments:

- 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.
- 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.
- **Landscaping prohibited** within any MLGW utility easement. No trees, shrubs or permanent structures will be allowed within any MLGW utility easements.
- 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).

- To determine if system improvements may be required, please contact the appropriate MLGW engineering area:
 - MLGW Engineering - **Residential Development:** 528.4858
 - MLGW Engineering - **Commercial Development:** 367.3343
- The owner/applicant will be responsible for 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 received.

OPD-Regional Services:

This application was reviewed by the MPO staff/Department of Regional Services on September 27, 2007. Rhodes Avenue and Getwell Roads are existing major roads consisting of 80 feet of right of way, 60 feet of pavement, and no proposed improvements.

For convenience stores, ITE Trip Generation rates estimate approximately 756 trips per 1,000 square feet (ITE #851). For shopping centers less than 1,000 square feet, ITE Trip Generation rates estimate 83.43 trips per 1,000 square feet (ITE #820,821). Therefore if this development contains 1,000 sq. ft as a convenience store and 7,000 sq. ft. as a shopping center, then this development will generate approximately 1,340 trips per day

OPD-Plans Development:

The applicant requests a use variance for the property located at the intersection of Getwell Road and Rhodes Avenue. The subject site is currently vacant and zoned R-S6. The adjacent property has been a service/gas station in the recent past. The applicant requests a use variance to combine the subject site with the adjacent property to expand the retail sales operation.

It is anticipated that the proposed use of the subject site will not adversely affect the surrounding properties, which are similar in character (commercial). The subject site will be buffered with trees and a 6 ft. wooden and cyclone fence to reduce the visual impact of the adjacent residential area and it will have adequate vehicular access due to the number and location of curb cuts. Policy 43A of the Memphis 2000 Policy Plan states that commercial developments should be considered for approval if it is located by at least a collector and a major road. The subject site will be served by Rhodes Avenue (collector) and Getwell Road(major). Policy 43C states that the site must have sufficient land to provide for at least 2,500 square feet of retail space. The subject site has been a retail sales operation previously, it is anticipated that a similar use will have minimal impact on the surrounding area.

A development of this nature fits well with the diverse character of the surrounding area, therefore it is recommended that this application for a use variance be approved.

Memphis Park Services:

No comments received.

Neighborhood Associations/Organizations:

None registered.

Staff: bb