

CITY OF MEMPHIS
COUNCIL AGENDA CHECK OFF SHEET

ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS

Planning & Development
DIVISION

Planning & Zoning COMMITTEE:

DATE

PUBLIC SESSION:

DATE

ITEM (CHECK ONE)

ORDINANCE _____ CONDEMNATIONS _____ GRANT ACCEPTANCE / AMENDMENT _____
 RESOLUTION _____ GRANT APPLICATION REQUEST FOR PUBLIC HEARING _____
 OTHER: _____

ITEM DESCRIPTION: A resolution approving a planned development. The following item was heard and a recommendation made by the Land Use Control Board.

CASE NUMBER: PD 12-309 CASE NAME: Frankie's (a.k.a. 2506 Poplar) Planned Development

LOCATION: North side of Poplar Avenue; +/-92.18 feet west of Merton Street

APPLICANT: Southbay Properties, LLC (David Andrews)

REPRESENTATIVE: SR Consulting, LLC (Cindy Reaves)

EXISTING ZONING: Commercial Mixed Use-1 (CMU-1) District

REQUEST: Used auto sales

AREA: 1.39 Acres

RECOMMENDATION: Office of Planning and Development: Approval with Conditions
 Land Use Control Board: Approval with Conditions

RECOMMENDED COUNCIL ACTION: No opposition at LUCB, Public Notice Not Required
 Set date for public hearing. Suggest July 3, 2012

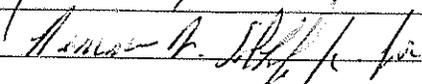
PRIOR ACTION ON ITEM:

(1) _____ APPROVAL - (1) APPROVED (2) DENIED
 June 14, 2012 DATE
 (1) Land Use Control Board ORGANIZATION - (1) BOARD / COMMISSION
 (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE

FUNDING:

(2) _____ REQUIRES CITY EXPENDITURE - (1) YES (2) NO
 \$ _____ AMOUNT OF EXPENDITURE
 \$ _____ REVENUE TO BE RECEIVED
 SOURCE AND AMOUNT OF FUNDS
 \$ _____ OPERATING BUDGET
 \$ _____ CIP PROJECT
 # _____
 \$ _____ FEDERAL/STATE/OTHER

ADMINISTRATIVE APPROVAL:

ADMINISTRATIVE APPROVAL:	DATE	POSITION
	6-26-12	Principal Planner
	06-26-12	DIRECTOR
_____	_____	DIRECTOR (JOINT APPROVAL)
_____	_____	COMPTROLLER
_____	_____	FINANCE DIRECTOR
_____	_____	CITY ATTORNEY
_____	_____	CHIEF ADMINISTRATIVE OFFICER
_____	_____	COMMITTEE CHAIRMAN



Memphis City Council Summary Sheet

Resolution approving a planned development (PD 12-309) for Used Auto Sales.

1. Resolution to approve a planned development for Southbay Properties, LLC to permit Used Auto Sales to be located North side of Poplar Avenue; +/-92.18 feet west of Merton Street.
2. The Memphis and Shelby County Land Use Control Board held a public hearing on June 14, 2012 and recommended approving the planned development as recommended by the Office of Planning and Development.
3. Approval of this planned development will be reflected on the Memphis and Shelby County Zoning Atlas.
4. No contracts are affected by this item.
5. No expenditure of funds/budget amendments are required by this item.

LAND USE CONTROL BOARD RECOMMENDATION

CASE #: PD 12-309

At its regular meeting of June 14, 2012, the Memphis and Shelby County Land Use Control Board held a public hearing on the application of Southbay Properties LLC, David Andrews, requesting a planned development on the property described as follows:

LOCATION: North side of Poplar Avenue; +/-92.18 feet west of Merton Street

OWNER OF RECORD/APPLICANT: Southbay Properties, LLC (David Andrews)

REPRESENTATIVE: SR Consulting, LLC (Cindy Reaves)

REQUEST: Used auto sales

AREA: 1.39 Acres

EXISTING LAND USE & ZONING: A vacant lot (former used car sales lot) in the Commercial Mixed Use -1 (CMU-1) District

OPD Presentation: Don Jones for OPD. Mr. Jones explained that based on the discussion that had taken place at the LUCB Executive Session, OPD has reconsidered its position with respect to certain site improvements and is offering friendly amendments to the conditions for: access, landscaping and screening.

The following spoke in support of the application:

Cindy Reaves
S R Consulting
5909 Shelby Oaks Drive, STE 200
Memphis, TN 38134

Ms. Reaves indicated that she was in agreement with the staff on the friendly amendments and asked the Board to consider one more change which deals with the use of the existing light poles and fixtures. She asked for relief from the requirement to make the amount of light cast from these light poles conform to the requirements of the Unified Development Code (photometric analysis).

No one spoke in opposition of the application:

The Land Use Control Board reviewed the application of Southbay Properties LLC, requesting a planned development and the report of the staff, and the friendly amendments proposed by Staff. A motion was made and seconded to approve the additional request from the applicant.

Page Two
LUCB Recommendation
P.D. 12-309

Motion by Pritchard, second by Colvett.

The amendment passed with a unanimous voice vote.

The Board then considered the amended motion.

Motion by Pritchard, second by Wilbanks

The motion passed by a unanimous voice vote.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John D. Jones", written in a cursive style.

John D. (Don) Jones Principal Planner
Land Use Controls Section

See Minutes attached below

Item 8: CASE #: P.D. 12-309

FRANKIE'S PLANNED DEVELOPMENT

Request for a Used Auto Sales/Service.

Staff's Recommendation: Approval with conditions

Chairman McCreery asked if the applicant was present, in agreement with staff's recommendation and if there were any opposition. There was no opposition. Chairman McCreery stated that staff and representative for the applicant (Cindy Reaves, SR Consulting) were charged with working on friendly amendments in the Executive Session to present.

Don Jones stated that staff met with Ms. Reaves and implemented friendly amendments but there was one he wanted Ms. Reaves to present to the board for approval. Don read for the record the following that staff and Ms. Reaves agreed upon.

(page 11)

(IV, F) – include language, “The existing gate is permitted at its current location”.

(V, A) – keep current language and add, “The existing chain-linked fence is permitted and maybe electrified but shall not include barb-wire. Signs indicating the fence is electrified shall be attached to the fence at 50ft. intervals.

(page 12)

(Condition 1) – include language, “Landscaping in the form of Holly shrubs shall be maintained at 6ft. in height and spaced 5ft. on center”. This applies to the North and East perimeter beyond the primary display area.

(Condition 2, #B and #D) – strike the language entirely from the report.

(#E) – keep #2

(#A) – reword statement with language, “Planters located on either side of the door of the building may be substituted for the required planting at the base of the sign subject to the review and approval of OPD.

(page 13)

(3#) – keep the first sentence only and strike the remainder.

Chairman McCreery asked for a motion. Board Member Pritchard made a motion to approved case **P.D. 12-309** as amended. The motion was seconded by Board Member Wilbanks. Chairman McCreery then asked Ms. Reaves to come forward and present her amendment for consideration.

Cindy Reaves approached and stated her name and address as 5909 Shelby Oaks Dr., Ste. 200. She stated that she would like to get the condition of providing a Photo Metrics Plan removed entirely due to the additional cost and let the existing lighting remain.

Chairman McCreery asked for a motion. Board Member Pritchard made a motion to approve or omit on page 12, D-1 and G-2 & 3 as requested by applicant. The motion was seconded by Board Member Colvett. The motion passed unanimously.

Chairman McCreery then asked for a vote on the original motion with the amendments. The motion passed unanimously.

MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
STAFF REPORT **#8**

CASE NUMBER: PD 12-309 **L.U.C.B. MEETING:** June 14, 2012

DEVELOPMENT NAME: Frankie's Planned Development

LOCATION: North side of Poplar Avenue; +/-92.18 feet west of Merton Street

COUNCIL DISTRICT: 5

SUPER DISTRICT: 9

OWNER OF RECORD/APPLICANT: Southbay Properties, LLC (David Andrews)

REPRESENTATIVE: SR Consulting, LLC (Cindy Reaves)

REQUEST: Used Auto Sales

AREA: 1.39 Acres

EXISTING LAND USE & ZONING: A vacant auto sales lot in the Commercial Mixed Use-1 (CMU-1) District

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION

APPROVAL WITH CONDITIONS

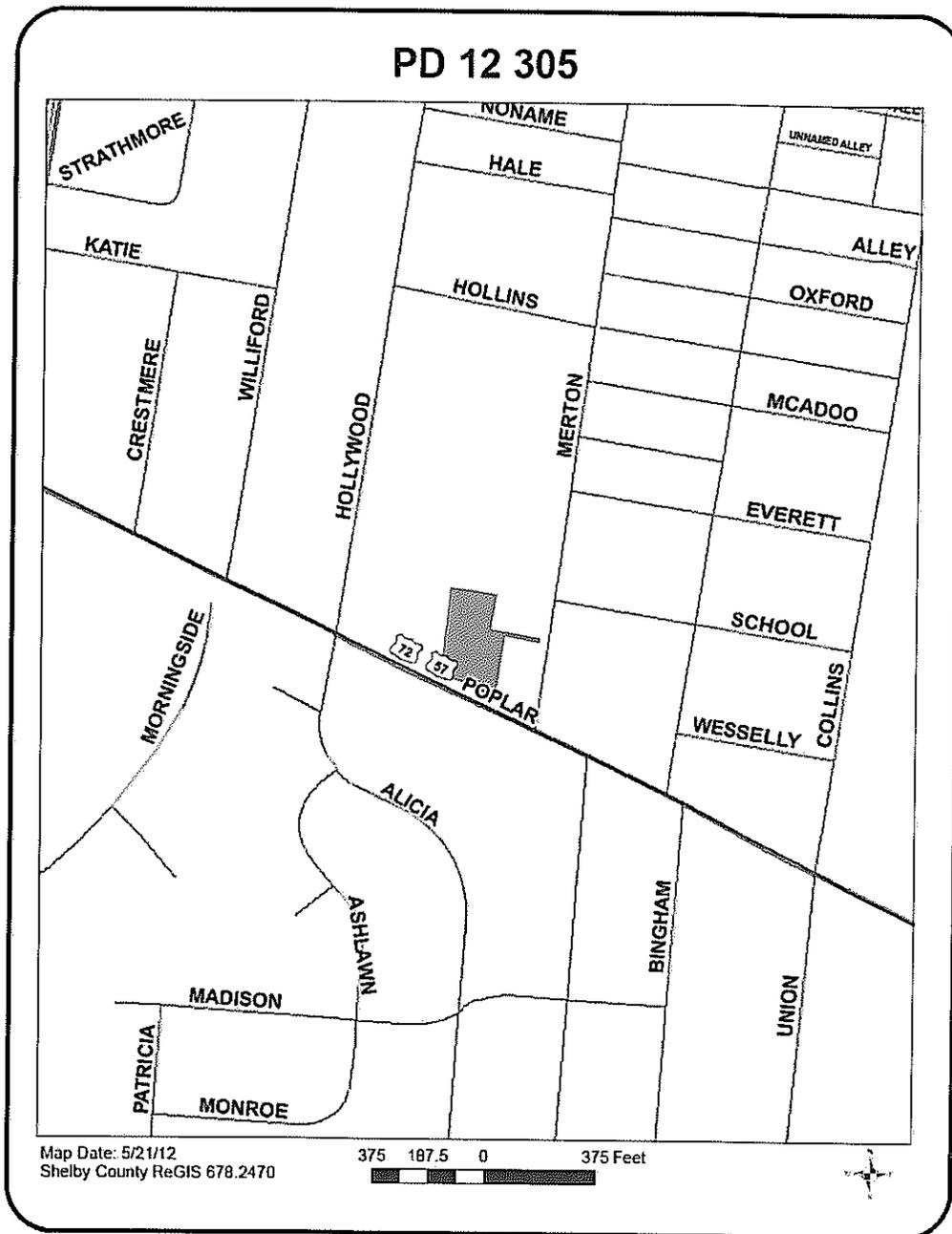
Staff: Don Jones

E-Mail: john.jones@memphistn.gov

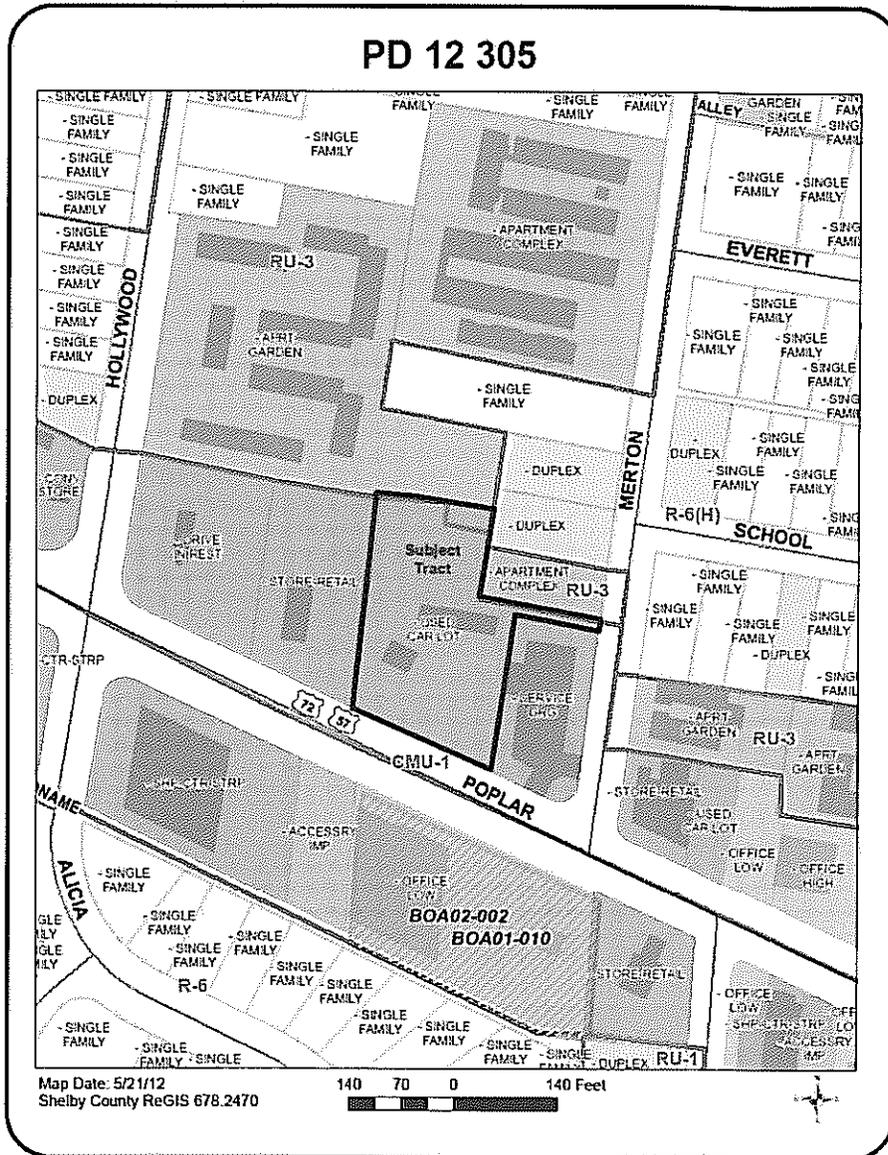
CONCLUSIONS

1. Automobile Sales and Service is not considered a typical use in the CMU-1 District. The District Intent Statement for CMU-1 states that such a use is not appropriate, however, they are permitted with an approved Special Use Permit and subject to Use Standards.
2. One such Use Standard requires that the Display and Sale of Automobiles for Sale or Lease must be conducted within an enclosed building.
3. This site's history as a car lot and surrounding uses that are automobile oriented, suggest that a Planned Development that addresses site development issues could result in a use that is compatible with the surrounding area.
4. Staff has added conditions to address compatibility issues.

GENERAL LOCATION MAP



LAND USE AND ZONING MAP



SURROUNDING LAND USES AND ZONING:

North: Apartment units in the Residential Urban -3 (RU-3) District

East: An auto service use in the Commercial Mixed Use -1 (CMU-1) District

South: Retail commercial and a group shelter (Service Over Self) in the Commercial Mixed Use-1 District

West: Retail sales and Fast Food in the Commercial Mixed Use -1 District.

PD 12 305



Map Date: 5/21/12
Shelby County ReGIS 678.2470

140 70 0 140 Feet





Existing Site on north side of Poplar Avenue





View of Access Strip from Merton Street

STAFF ANALYSIS

General Location and Site Characteristics

The subject site is a 1.3 acre parcel that is located on the north side of Poplar Avenue between Hollywood Street on the west and Merton Street on the east. This site has just under 200 feet of frontage on Poplar and extends northward a distance of 211 feet. This site also has an access strip that connects the rear of the site to Merton Street. This strip is used to deliver cars to the site where they are stored until they are moved to the front area for display and sale.

Uses abutting this site include a flower and gift shop to the west, a tire installation and repair shop to the east, and multi-family units to the north. On the opposite side of Poplar Avenue from the subject site, is an institutional use (Service Over Self) which is a religious based facility that houses teenagers and young adults who are engaged in community service during spring, summer, and winter school break periods.

The most recent use of this site was for used car sales. The front area of the site includes landscaping, paved display and parking area and a small office building, approximately 1,200 square feet in area. The back of the property is partially paved and includes some mature vegetation and chain link fencing.

Request and Letter of Intent:

The request is to re-use this site for Automobile Sales and Service.

The application for the Planned Development is needed because one of the Use Standards for Automobile Sales and Service in the CMU-1, CBD, or Designated Frontages requires that the Sale, or Lease and Display of Vehicles must be limited to an enclosed building.

“This site is owned by Southbay Properties and has been used for auto sales for many years. The site has been vacant for over 12 months and cannot be grandfathered in as a legal nonconforming use. The use has been part of the neighborhood and seems to be compatible with the surrounding area.”

Review of Request:

The 1980 Zoning Code and the UDC – The subject site is zoned Commercial Mixed Use -1 (CMU-1). Both the CMU-1 and its predecessor Local Commercial (C-L) allow Automobile Sales and Service with an approved Special Use Permit. The UDC added a list of Use Standards to be applied in evaluating a request for a Special Permit. One Use Standard, which is applied to properties zoned Commercial Mixed Use -1, Central Business District or where there is a designated frontage, limits the display of automobiles for sale or lease to within an enclosed

building.

In the Central Business District and on Designated Frontages where properties are smaller or where a certain design aesthetic is being promoted, this requirement seems reasonable.

The District Intent Statement for the Commercial Mixed Use -1 District indicates that the uses within this district are expected to be small in scale and neighborhood serving. The Intent Statement discourages automobile oriented uses. This would explain the requirement for limiting the display area to an enclosed facility.

Neighborhood Context – The sentence in the District Intent Statement discouraging automobile oriented uses makes a good case to support the rezoning of this block of Poplar Avenue between Hollywood Street and Merton Street from CMU-1 to CMU-2. At least two of the existing four parcels; the Sonic Drive In Restaurant at the corner of Hollywood Street and Poplar Avenue, and the tire store at Poplar Avenue and Merton Street are automobile oriented uses. A third use on this section of Poplar Avenue, Rachel's Flowers and Gifts, includes a significant amount of outdoor storage for lawn statues. Outdoor storage and auto related uses are more consistent with the CMU-2 and CMU-3 Districts.

Given the site's proximity to existing residential uses, a Planned Development with the option of placing greater restrictions on the property than what might be required under zoning was deemed a better choice. The applicant has indicated in the Letter of Intent, that this site has been in use for an Automobile Sales lot for some time. The site, which is less than two acres in area, if updated to include some revisions to the streetscapes and screening, should continue to be a compatible use of land at this location.

Review of the Site Plan:

There are four areas of concern with regard to the site plan; streetscape, landscaping and screening, signs and site lighting. Much of these concerns are the result of the site's prior development. But, as this is a planned development requesting relief from the Use Standards associated with Automobile Sales and Display in the CMU-1, the approved site plan should demonstrate conformance with the site development standards and an overall improvement to the aesthetics of the site.

Streetscape – The planting of trees in close proximity to auto display can be problematic. Trees attract birds, and bird droppings can play havoc on automobile finishes. Thus, the applicant is reluctant to add trees, even Crepe Myrtles to the Poplar Avenue Streetscape. Staff is agreeable to working with the applicant to add some vertical plantings even if such plantings fall more under the category of shrubs than trees.

Landscaping and Screening: A Class III buffer is required whenever a commercial use abuts residential zoning or residential uses. The subject property includes an electrified, chain-link fence with barbed wire at the top of the fence along the north, west, and east property lines where the site abuts multi-family zoning and uses. This combination of fencing is not permitted under the UDC. Staff is agreeable to vinyl coated chain link with landscaping as required by the Class III Buffer without the barbed wire or the electrification component.

Detached Sign: The detached sign for this project makes use of the existing sign on the property and updates it with a new sign face. The sign is located in the paved area just to the north of the drive apron. As such, it does not contain the required landscaping at the base of the sign. Based on information provided to the staff, the overall height and size of the detached sign is within the requirements for detached signs in this area of the County and this zoning designation. Removing asphalt to provide the required two times the size of the sign face with irrigated landscaping may be a very tough requirement on this would-be operator. As an alternative, staff recommends a similar treatment that was used by the owner/operator of the spirits store located at the southwest corner of Poplar Avenue and Belvedere Street, Joe's Liquors. A planter constructed of stone or brick material and planted with small shrubs was constructed at the base of the Sputnik sign.

In this instance, the Frankie's sign is protected by metal poles and bars to keep cars away from the sign. These same poles and bars can form the perimeter of a new planter. This site improvement will mirror the reinvestment that was made to the site on the opposite side of Poplar Avenue and demonstrate some reinvestment into the site.

Site Lighting: The free standing light poles for this site are pre-existing. It is not altogether clear whether or not the height of the poles, and even more important, the fixture atop the poles is within the requirements of the UDC for Outdoor Site Lighting. Rather than requiring the poles to be removed, staff is requiring that the fixtures be revised to meet the requirements of the UDC and that photometric analysis be provided on the Final Plat that demonstrates that the light emissions for both the front display area and the back storage area to a level that is no greater than the emission levels of an MLGW Street Light.

RECOMMENDATION: APROVAL WITH CONDITIONS

OUTLINE PLAN CONDITIONS
Frankie's Planned Development
P.D. 12-309

I. USES PERMITTED

- A. Any use permitted by right in the Commercial Mixed Use -1 Zoning District and Used Car Sales with Outdoor Display, Storage and Service.
- B. Service for these cars shall be limited to washing and vacuuming.

II. SPECIAL PROVISIONS FOR AN AUTO SALES AND SERVICE USE:

- A. Only operable vehicles may be parked on-site. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right of way.
- B. There shall be no dismantling of vehicles for salvage.
- C. The storage of impounded vehicles shall not be permitted.
- D. Car display shall not be artificially elevated above the general topography of the site.
- E. No banners, flags, streamers, balloons, or similar advertising devices, temporary or portable signs, reader board signs, roof-mounted signs (building or automobile) or tents shall be permitted.
- F. No outside speaker systems shall be permitted and automobile service doors shall be closed except for entry and exit of automobiles.
- G. If the automobile dealership ceases to operate, all attached and detached signs depicting the dealership shall be removed from the property.
- H. If the automobile dealership ceases to operate, all parking lot light poles shall be removed. The poles may be reinstalled when another permitted use occupies the property.

III. BUILDING ENVELOPE AND SITE DEVELOPMENT REQUIREMENTS:

- A. The Building Envelope Standards for the Commercial Mixed Use -1 District shall apply to this site.
- B. The existing drive aisle providing access to the rear lot of the site from Merton Street shall be permitted as it currently exists, but shall be subject to review for landscaping, ADA compliance and curb cut compliance.

IV. ACCESS, CIRCULATION, AND PARKING:

- A. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
- B. Dedicate 46 feet from centerline of Poplar Avenue, if necessary. No improvements required, except as otherwise noted herein.
- C. 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,
- D. The existing curb cuts at Poplar Avenue and Merton Street shall be permitted as they exist, no additional curb cuts shall be granted.
- E. Any existing curb cuts that are not in use, shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
- F. Adequate queuing between the right of way and any proposed gate, guardhouse or shall be demonstrated on the Final Plat.
- G. Adequate maneuvering room shall be provided between gate, guard house or card reader and the right of way to allow exit from the site in a forward motion.
- H. The applicant may provide a gravel surface for use in the storage area subject to the review and approval of the Fire Marshall.

V. LANDSCAPING , SCREENING, LIGHTING, AND SIGNS:

- A. A Class III buffer shall be established along any side yard or rear yard of the property adjacent to a residential use or residential zoning, provided such barrier or screen shall not restrict clear sight at any intersection or driveway.

1. A brick wall or vinyl coated chain link shall be provided at the north, east, and west perimeters of the property beyond the primary display area.
 2. Said fencing shall not include barbed wire or electrification.
- B. Streetscape Planting along the Poplar Avenue frontage shall be in conformance with the S 8 – 11 Plates, or an alternative that is approved by the Office of Planning and Development.
- C. Streetscape Planting along the Merton Street frontage shall be in conformance with the S 12 Plate, or an alternative that is approved by the Office of Planning and Development.
- D. The lighting of this site shall be regulated by Chapter 4.8 of the Unified Development Code and the following additional conditions.
1. A lighting plan as discussed in Section 4.8.3 of the Unified Development Code shall be attached to the Final Plat.
 2. The lighting plan shall demonstrate that foot candle levels at the property lines is no higher than that of an MLGW Street Light.
- E. Attached and detached signs are regulated by Chapter 4.10 of the Unified Development Code and further conditioned below.
1. No advertising signs shall be permitted along the Merton Street frontage. Only directional or way finding signage shall be permitted. Any signage proposed for this frontage (Merton Street) shall be shown on the Final Plat and subject to approval by the Office of Planning and Development.
 2. The existing sign shall be permitted at its current location.
 - a. Landscaping at the base is required and may be limited to the area within the perimeter formed by the existing guard rails that protect the existing sign.
 - b. This planting area may contain a planter constructed of brick, stone, or masonry materials and shall include a miniature species of holly.
- D. All required landscaping shall be irrigated, or, in lieu of this requirement, include a 5-year warranty that said landscaping shall remain alive and will be replaced in kind and height if it dies.
- E. The existing free standing light poles shall remain in their current locations.

1. No floodlights shall be permitted.
2. The light fixtures shall be modified to meet the design requirements of the UDC, Section 4.84 and 4.85.
3. A photometric plan shall be provided. The plan shall demonstrate that the foot candle levels experienced at the property lines are equal to and do not exceed the foot candle level of a MLGW Street Light.

VI. DRAINAGE:

- A. Drainage improvements, including possible on-site detention, shall be provided under a Standard Subdivision contract in accordance with Subdivision Regulations and the City of Memphis Drainage Design Manual.
 - B. 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.
 - C. The width of all existing off-street sewer easements shall be widened to meet current city standards.
 - D. Required landscaping shall not be placed on sewer or drainage easements.
- VII. The Land Use Control Board may modify the bulk, access, parking, landscaping, loading, screening, signage, 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 (10) days of such action file a written appeal to the director of the Office of Planning and Development, to have such action reviewed by the Appropriate Governing Bodies.

- VIII. A final plan shall be filed within five (5) years of the approval of the general plan. The Land Use Control Board may grant extensions at the request of the applicant.
- IX. Any final plan is subject to the administrative approval of the Office of Planning and Development and shall include the following:
- A. The Outline Plan conditions.
 - B. The location and dimensions, including height of all buildings or buildable areas, pedestrian and utility easements, service drives, parking areas, trash receptacles, loading facilities, and required landscaping and screening areas.
 - C. The location and ownership, whether public or privates of any easement.
 - D. 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 and/or County Engineer. 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 and/or 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.

GENERAL INFORMATION

Street Frontage: Poplar Avenue +/- 195.71'
Merton Street +/- 14.03'

Planning District: Midtown

Census Tract: 27.00

Zoning Atlas Page: 2035

Parcel ID: 033012 00028C

Zoning History: A commercial designation on this property dates back to 1954.

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.

Roads:

3. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
4. Dedicate 46 feet from centerline of Poplar Avenue, if necessary. No improvements required, except as otherwise noted herein.
5. 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,

Curb Cuts/Access:

6. The City Engineer shall approve the design, number and location of curb cuts.

7. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
8. No new curb cuts will be permitted.

Drainage:

9. Drainage improvements, including possible on-site detention, shall be provided under a Standard Subdivision contract in accordance with Subdivision Regulations and the City of Memphis Drainage Design Manual.
10. 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.

General Notes:

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

City Fire Division:	No comments received.
City Real Estate:	No comments received.
City/County Health Department:	No comments by the Water Quality Branch & Septic Tank Program.
City Board of Education:	No comments received.
Construction Code Enforcement:	No comments received.
Memphis Light, Gas and Water:	No comments received.
Bell South:	No comments received.
Memphis Area Transit Authority (MATA):	No comments received.
OPD-Regional Services:	No comments received.

OPD-Comprehensive Planning: No comments received.

Memphis Park Services: No comments received.

Neighborhood Associations:

Binghampton/Lester Community Organization: No comments received

The New Olivet Baptist Church: No comments received

East Parkway Association: No comments received

Memphis Midtown Development Corporation: No comments received

31st Ward Civic Club: No comments received

Green Meadows – Poplar Glen Neighborhood Association: See Below

From: "Dulaney, John T" <jdulaney@uthsc.edu>

Date: June 4, 2012 2:09:01 PM CDT

To: Cindy Reaves <cindy.reaves@srce-memphis.com>

Subject: RE: 2506 Poplar Avenue SUP

Dear Ms. Reaves:

Thank you for your email. Our Green Meadows-Poplar Glen Neighborhood Association has no problem with the proposed PD and its continued use for auto sales.

Again, thanks for checking in with us.

John T. Dulaney
2428 Madison Avenue
Memphis, TN 38112
Registered Agent
Green Meadows – Poplar Glen
Neighborhood Association

RESOLUTION

WHEREAS, Chapter 4.11 and Chapter 9.6 of the Unified Development Code for Memphis and Shelby County, being a section of the Joint Ordinance-Resolution No. 5367, dated August 10, 2010 authorizes the Council of the City of Memphis to grant a planned development for certain stated purposes in the various zoning districts; and,

WHEREAS, Application has been made for a planned development for property located on North side of Poplar Avenue; +/-92.18 feet west of Merton Street, known as **Frankies (a.k.a. 2506 Poplar Avenue) Planned Development, Case Number P.D. 12-309**); and

WHEREAS, The Office of Planning and Development has received and reviewed the application in accordance with procedures, objectives and standards for planned developments as set forth in Chapter 9.6 with regard to the proposed development's impacts upon surrounding properties, availability of public facilities, both external and internal circulation, land use compatibility, and that the design and amenities are consistent with the public interest; and has submitted its findings and recommendation concerning the above considerations to the Land Use Control Board; and

WHEREAS, A public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on June 14, 2012 and said Board reported its recommendation to the City Council regarding the objectives, standards and criteria, and the effect of granting the planned development upon the character of the neighborhood and other matters pertaining to the public safety and general welfare; and

WHEREAS, The Council of the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the Office of Planning and Development; and

WHEREAS, The Council of the City of Memphis has held a public hearing on the planned development and has determined that the planned development meets the objectives, standards and criteria for a planned development, and said development is consistent with the public interests.

NOW, THEREFORE BE IT RESOLVED By the Council of the City of Memphis that the planned development is hereby granted for *Use Car Sales* in accordance with the outline plan incorporated in the application, and subject to the attached conditions.

BE IT FURTHER RESOLVED That the requirements of said aforementioned section of the Zoning Ordinance-Regulations shall be deemed to have been complied with; that the outline plan shall bind the applicant, owner, mortgagee, if any, and the legislative body with respect to the contents of said plan; and the applicant and/or owner may file a final plan of development in accordance with said outline plan and the provisions of Section 14 of the Zoning Ordinance-Regulations.

cc: Office of Construction Code Enforcement
 City Engineer
 OPD – LUC
 OPD – LUC (East)

P.D. 12-309

OUTLINE PLAN CONDITIONS

Frankie's Planned Development

(a.k.a. 2506 Poplar Avenue PD)

P.D. 12-309

I. USES PERMITTED

- A. Any use permitted by right in the Commercial Mixed Use -1 Zoning District and Used Car Sales with Outdoor Display, Storage and Service.
- B. Service for these cars shall be limited to washing and vacuuming.

II. SPECIAL PROVISIONS FOR AN AUTO SALES AND SERVICE USE:

- A. Only operable vehicles may be parked on-site. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right of way.
- B. There shall be no dismantling of vehicles for salvage.
- C. The storage of impounded vehicles shall not be permitted.
- D. Car display shall not be artificially elevated above the general topography of the site.
- E. No banners, flags, streamers, balloons, or similar advertising devices, temporary or portable signs, reader board signs, roof-mounted signs (building or automobile) or tents shall be permitted.
- F. No outside speaker systems shall be permitted and automobile service doors shall be closed except for entry and exit of automobiles.
- G. If the automobile dealership ceases to operate, all attached and detached signs depicting the dealership shall be removed from the property.
- H. If the automobile dealership ceases to operate, all parking lot light poles shall be removed. The poles may be reinstalled when another permitted use occupies the property.

III. BUILDING ENVELOPE AND SITE DEVELOPMENT REQUIREMENTS:

- A. The Building Envelope Standards for the Commercial Mixed Use -1 District shall apply to this site.

- B. The existing drive aisle providing access to the rear lot of the site from Merton Street shall be permitted as it currently exists, but shall be subject to review for landscaping, ADA compliance and curb cut compliance.

IV. ACCESS, CIRCULATION, AND PARKING:

- A. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
- B. Dedicate 46 feet from centerline of Poplar Avenue, if necessary. No improvements required, except as otherwise noted herein.
- C. 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.
- D. The existing curb cuts at Poplar Avenue and Merton Street shall be permitted as they exist, no additional curb cuts shall be granted.
- E. Any existing curb cuts that are not in use, shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
- F. The existing gate is permitted at its current location and setback.
- G. Adequate maneuvering room shall be provided between gate, guard house or card reader and the right of way to allow exit from the site in a forward motion.
- H. The applicant may provide a gravel surface for use in the storage area subject to the review and approval of the Fire Marshall.

V. LANDSCAPING , SCREENING, LIGHTING, AND SIGNS:

- A. A Class III buffer shall be established along any side yard or rear yard of the property adjacent to a residential use or residential zoning, provided such barrier or screen shall not restrict clear sight at any intersection or driveway. The existing chain link fence is permitted and may include electrification (at the upper levels of the fence) but not barbed wire. Signage indicating that the fence is electrified shall be attached to the fence in 50 foot intervals.

1. Landscaping in the form of an Evergreen (a species of Holly) Shrub shall be maintained at 6 –feet in height, 5-feet on center at the north and east (but not including that section along the east perimeter that abuts the non-residential use) perimeters.
- B. Streetscape Planting along the Poplar Avenue frontage shall be in conformance with the S 8 – 11 Plates, or an alternative that is approved by the Office of Planning and Development.
- C. Streetscape Planting along the Merton Street frontage shall be in conformance with the S 12 Plate, or an alternative that is approved by the Office of Planning and Development.
- D. Attached and detached signs are regulated by Chapter 4.10 of the Unified Development Code and further conditioned below.
 1. No advertising signs shall be permitted along the Merton Street frontage. Only directional or way finding signage shall be permitted. Any signage proposed for this frontage (Merton Street) shall be shown on the Final Plat and subject to approval by the Office of Planning and Development.
 2. The existing sign shall be permitted at its current location.
 - a. Planters located on either side of the door of the building may be substituted for the required planting at the base of the sign, subject to the review and approval of the OPD.
- E. All required landscaping shall be irrigated, or, in lieu of this requirement, include a 5-year warranty that said landscaping shall remain alive and will be replaced in kind and height if it dies.
- F. The existing free standing light poles shall remain in their current locations.
 1. No floodlights shall be permitted.

VI. DRAINAGE:

- A. Drainage improvements, including possible on-site detention, shall be provided under a Standard Subdivision contract in accordance with Subdivision Regulations and the City of Memphis Drainage Design Manual.
- B. 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.
- C. The width of all existing off-street sewer easements shall be widened to meet current city standards.
- D. Required landscaping shall not be placed on sewer or drainage easements.

VII. The Land Use Control Board may modify the bulk, access, parking, landscaping, loading, screening, signage, 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 (10) days of such action file a written appeal to the director of the Office of Planning and Development, to have such action reviewed by the Appropriate Governing Bodies.

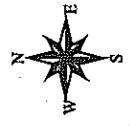
VIII. A final plan shall be filed within five (5) years of the approval of the general plan. The Land Use Control Board may grant extensions at the request of the applicant.

IX. Any final plan is subject to the administrative approval of the Office of Planning and Development and shall include the following:

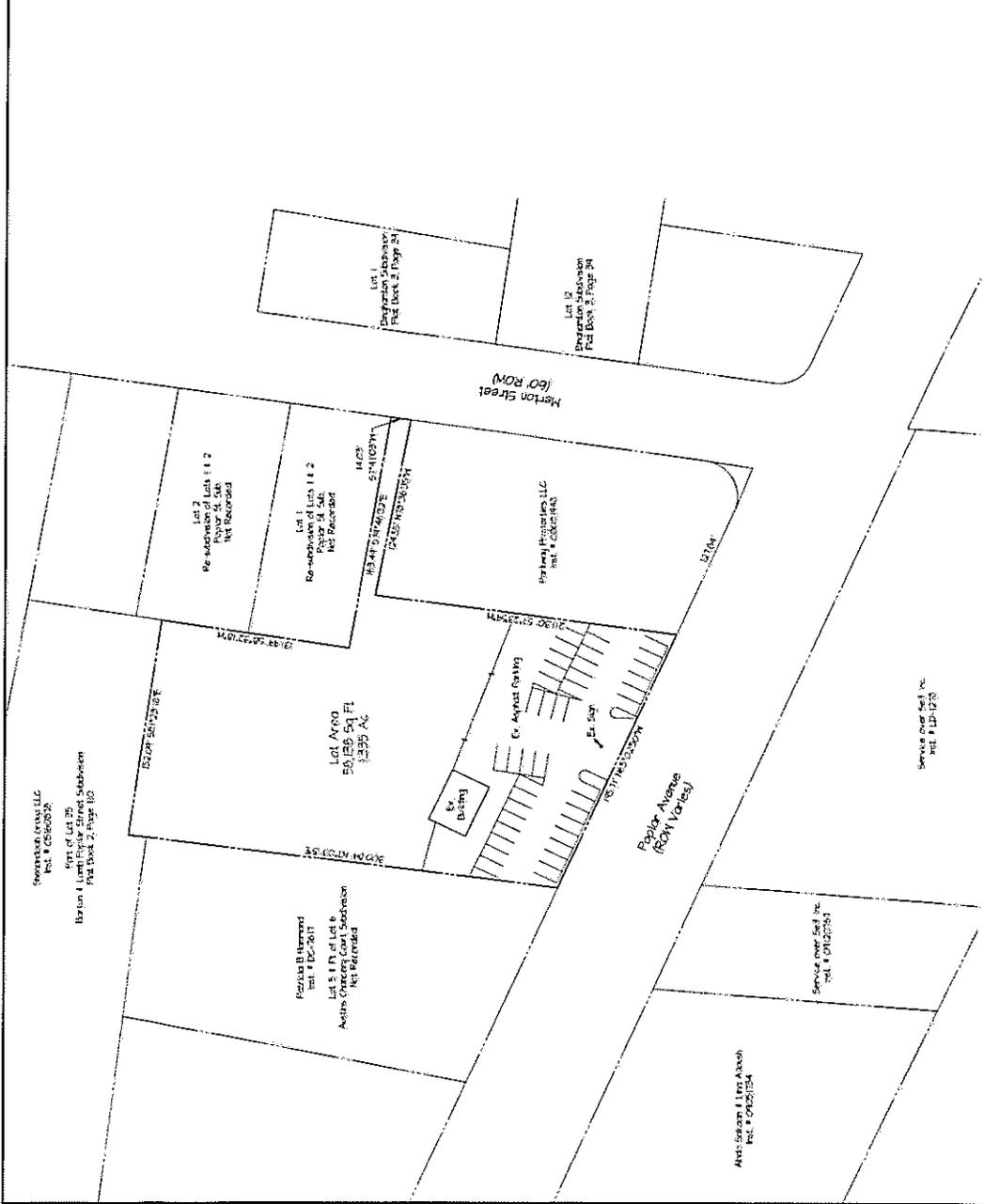
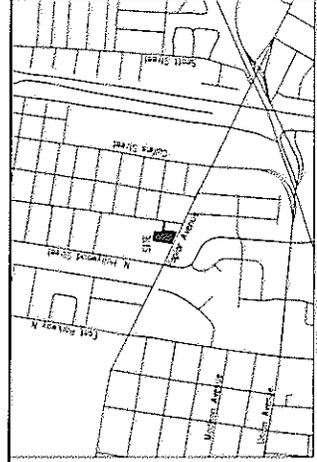
- A. The Outline Plan conditions.
- B. The location and dimensions, including height of all buildings or buildable areas, pedestrian and utility easements, service drives, parking areas, trash receptacles, loading facilities, and required landscaping and screening areas.

- C. The location and ownership, whether public or privates of any easement.
- D. 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 and/or County Engineer. 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 and/or 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.

Vicinity Map



Date: 04/30/12
 Prepared By:
 Property Research Data
 PRD Job #12-025



Legal Description

Being the Southern Properties LLC property as recorded in Instrument Number 02030426 at the Public's Office in Memphis, Tennessee and being more particularly described as follows:

Beginning at a point in the north line of Poplar Avenue, 177.84 feet west of the west line of Herton Street (60' ROW), and proceeding along the north line of Poplar Avenue, 177.84 feet to a point in the southeast corner of the Parcel B, Herton Property, or 300.04 feet to a point in the south line of the subdivision of Lot 11, 2 of Poplar Street (60' ROW), thence S 89° 23' 00" W, 111.60 feet to a point in the west line of Lot 2 of the subdivision of Lot 11, 2 of Poplar Street (60' ROW), thence S 89° 23' 00" W, 111.60 feet to a point in the southwest corner of Lot 1 of said subdivision, thence S 89° 23' 00" W, 111.60 feet to a point in the west line of Herton Street (60' ROW), thence S 89° 23' 00" W, 111.60 feet to a point in the southeast corner of the said property, thence S 89° 23' 00" W, 111.60 feet to a point in the west line of the said property, thence S 89° 23' 00" W, 111.60 feet to the point of beginning and containing 30.00 square feet or 0.0007 acres of land more or less.

PLOT PLAN
2506 POPLAR AVENUE PD
 OWNER/DEVELOPER: SOUTHEY PROPERTIES LLC
 1.335 ACRES
 WARD 33, BLOCK 12, PARCEL 28C
 ZONING: CMU-1
 MEMPHIS, TENNESSEE
 MAY 2012
 SHEET 1 OF 1

ENGINEERING - PLANNING
SPRC CONSULTING, LLC
 2000 GARDEN DRIVE
 SUITE 200
 MEMPHIS TN 38134
 (901) 373-0270
 www.SPRC-memphis.com