

MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
STAFF REPORT **#22**

CASE NUMBER: U.V. 08-03 **L.U.C.B. MEETING:** March 13, 2008

LOCATION: Southeast corner of Summer Avenue and Waring Road

OWNER OF RECORD / APPLICANT: Car Wash USA

REPRESENTATIVE: Michael J. Fahy

REQUEST: The request for a use variation to allow a portion of a car wash operation to operate in the Single Family Residential (R-S6) District.

AREA: 36, 154 square feet or .83 Acre

EXISTING LAND USE & ZONING: Vacant car wash ~ Highway Commercial (C-H) District

SURROUNDING USES AND ZONING:

North: Retail commercial uses ~ Highway Commercial (C-H) District

East: Retail commercial uses ~ Highway Commercial (C-H) District

South: Single family dwellings ~ Single Family Residential (R-S6) District

West: Retail commercial uses ~ Highway Commercial (C-H) District

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION

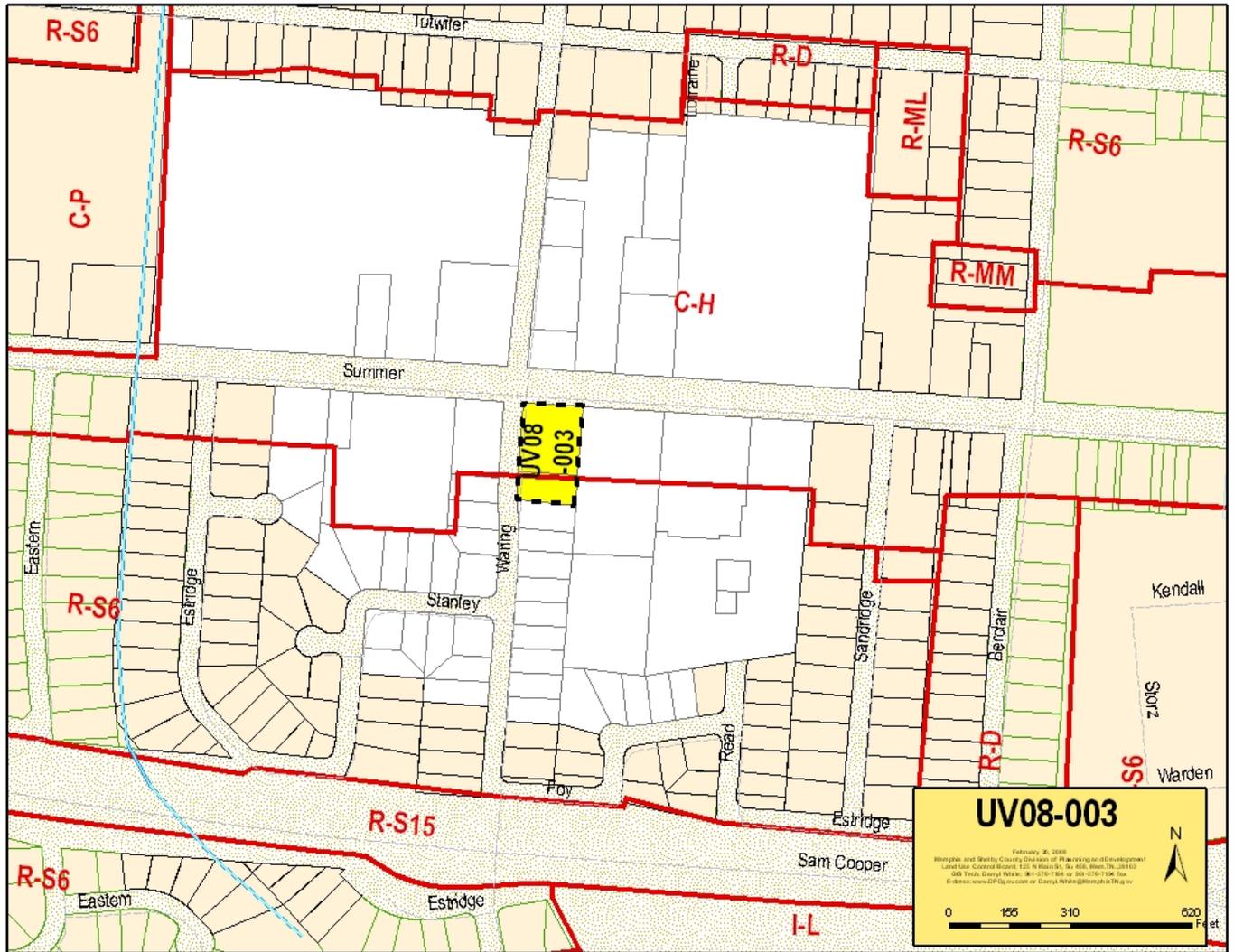
Approval with Conditions

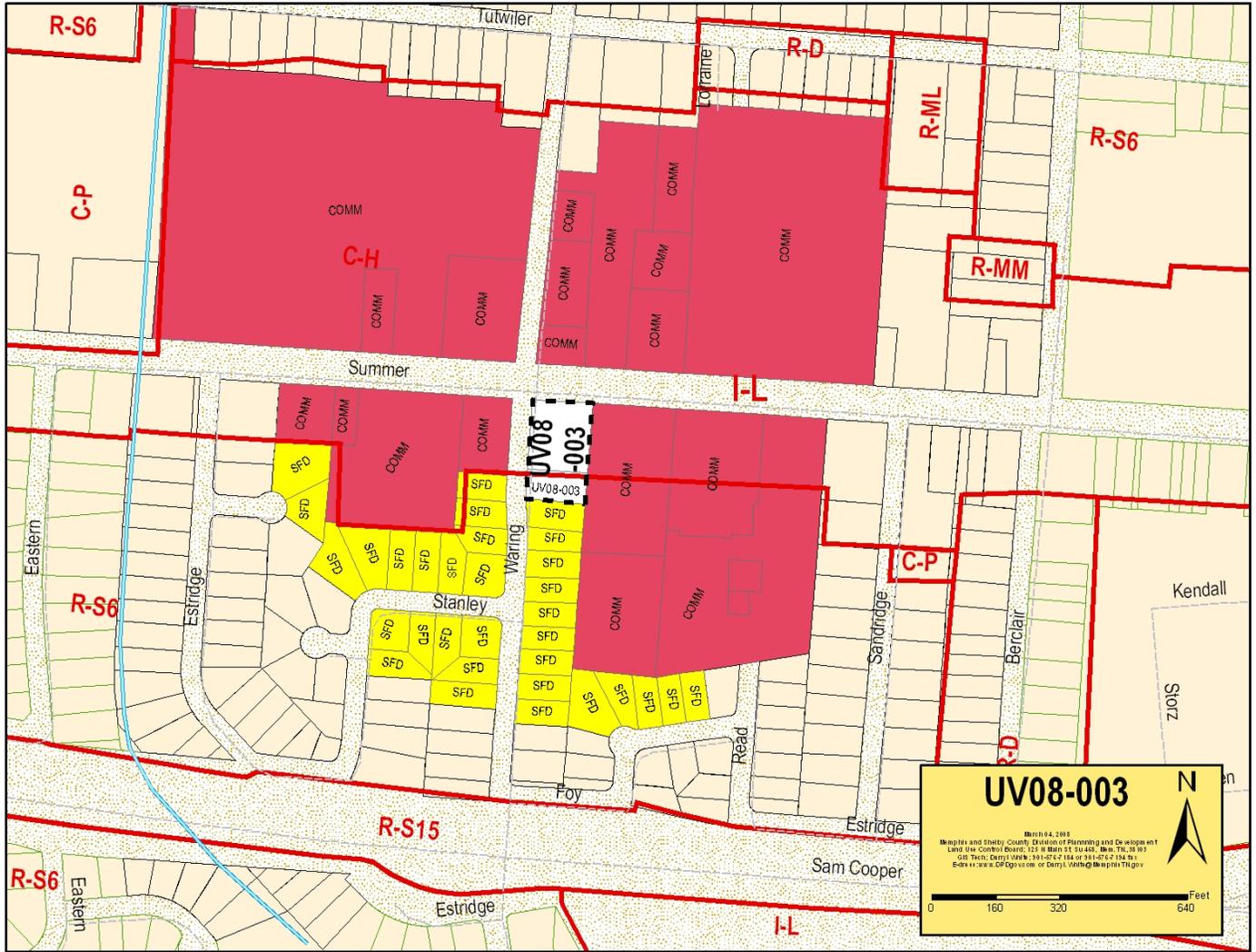
Staff Writer: Carlos B. McCloud

E-mail Address: carlos.mccloud@memphistn.gov

CONCLUSIONS

1. This site contains an existing off premise sign (billboard). It will be removed as well as the single family dwelling located on the lot to the rear of the car wash facility.
2. The request for a use variation to allow a portion of a car wash operation to operate in the Single Family Residential (R-S6) District is recommended for approval.
3. This property has unusual circumstances peculiar to the property; because it is adjacent to intensive commercial development without benefit of a screen . Adjacent to this site to the east are commercial uses (restatraunt, bank and mini-storage facility) on several parcels that are zoned in the Single Family Residential (R-S6) District. This request will not be will not be unduly detrimental to other properties and will be in reasonable harmony with the character of the area where the property is located.



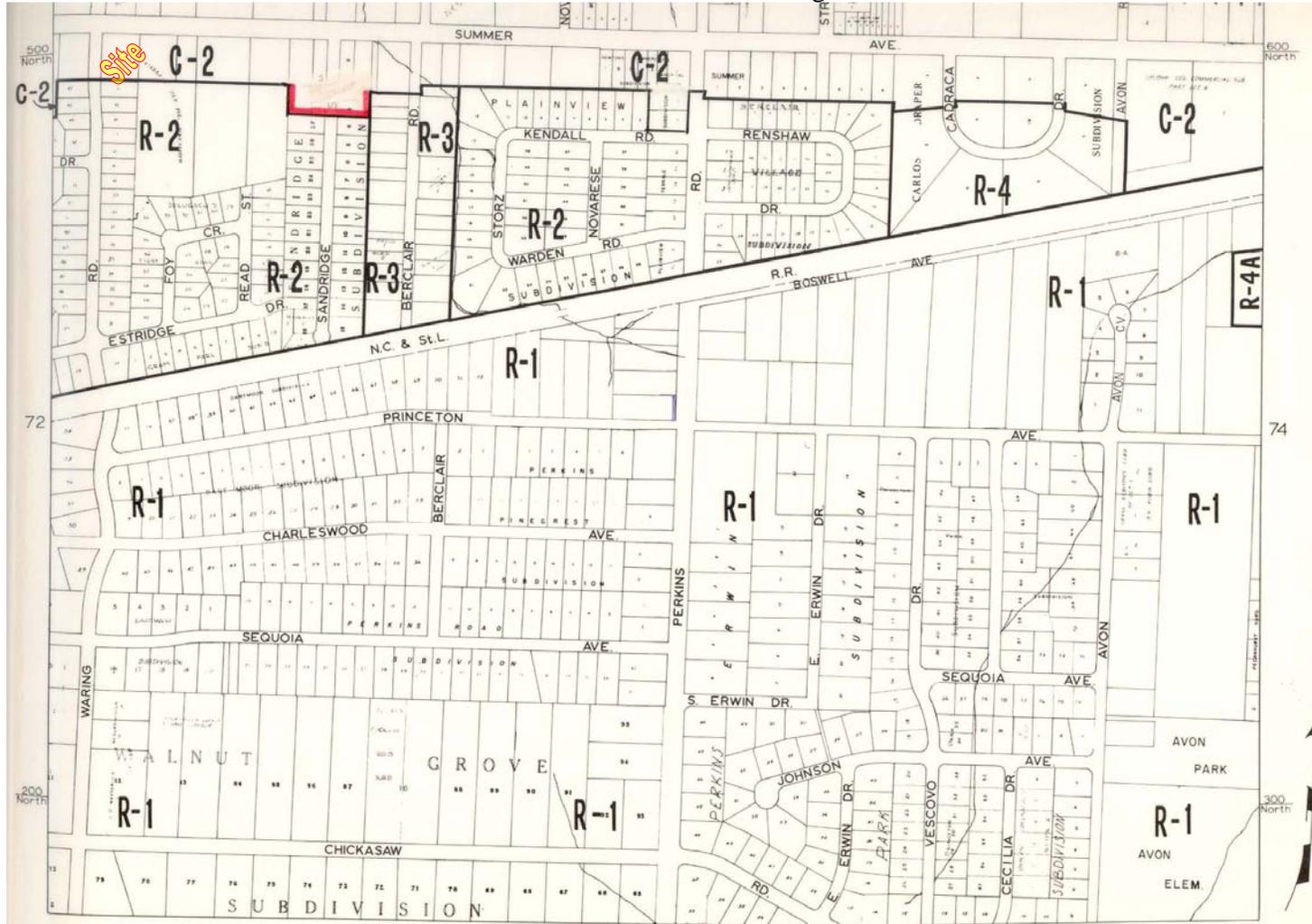


UV08-003

March 04, 2008
Memphis and Shelby County Division of Planning and Development
Land Use Control Board, 125 N. Main St., 3rd Floor, Memphis, TN 38103
GIS Tech: Darryl White, 901-672-1844 or 901-672-1844 fax
Email: dwhite@dp.gov or dwhite@shelbytn.gov

0 160 320 640 Feet

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PREPARED BY
MEMPHIS & SHELBY COUNTY
PLANNING COMMISSION
161 ADAMS AVENUE
MEMPHIS, TENNESSEE

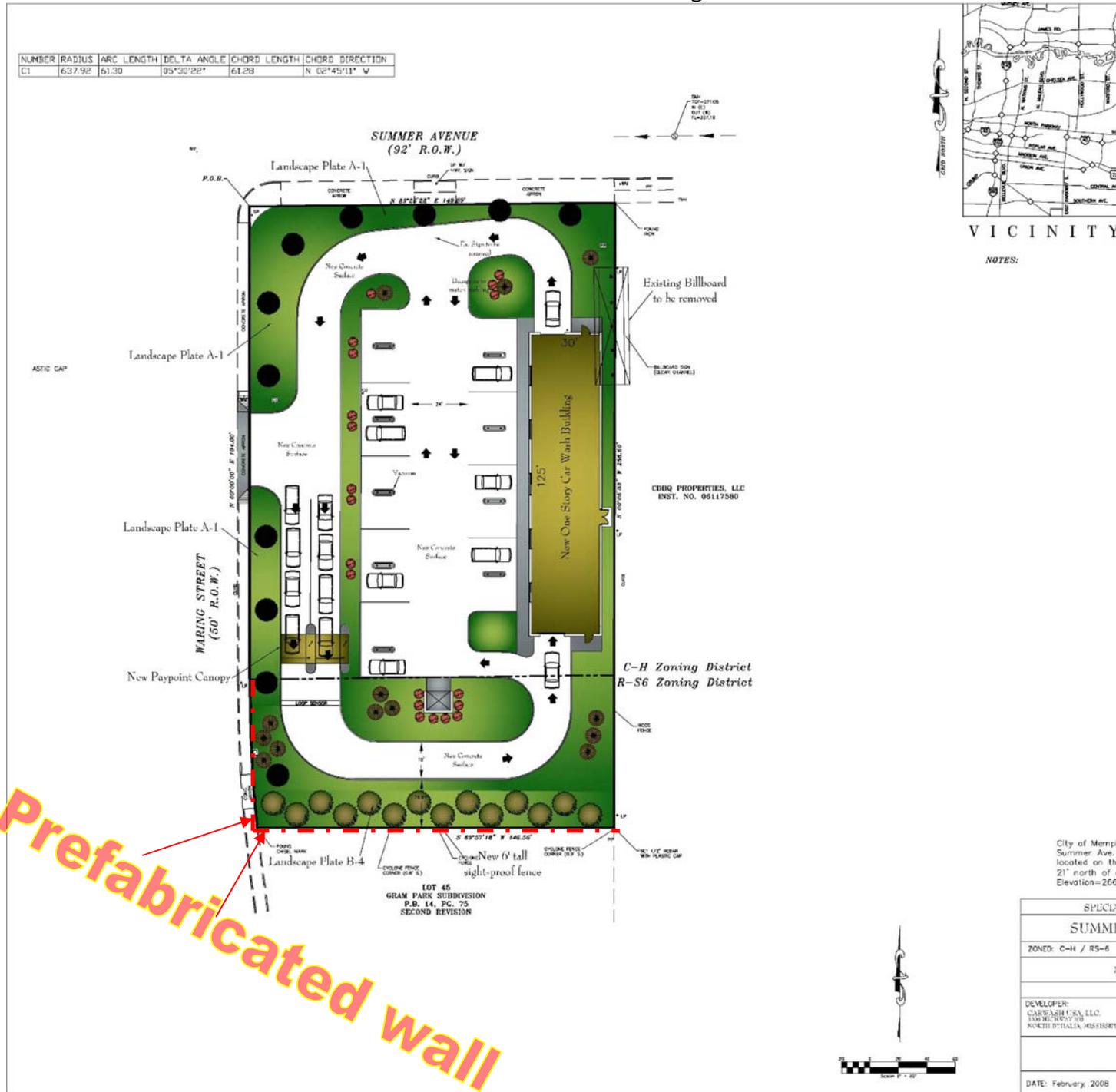
REVISION	DATE
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MEMPHIS
ZONING DISTRICT MAP
SECTION

1968 Zoning Map

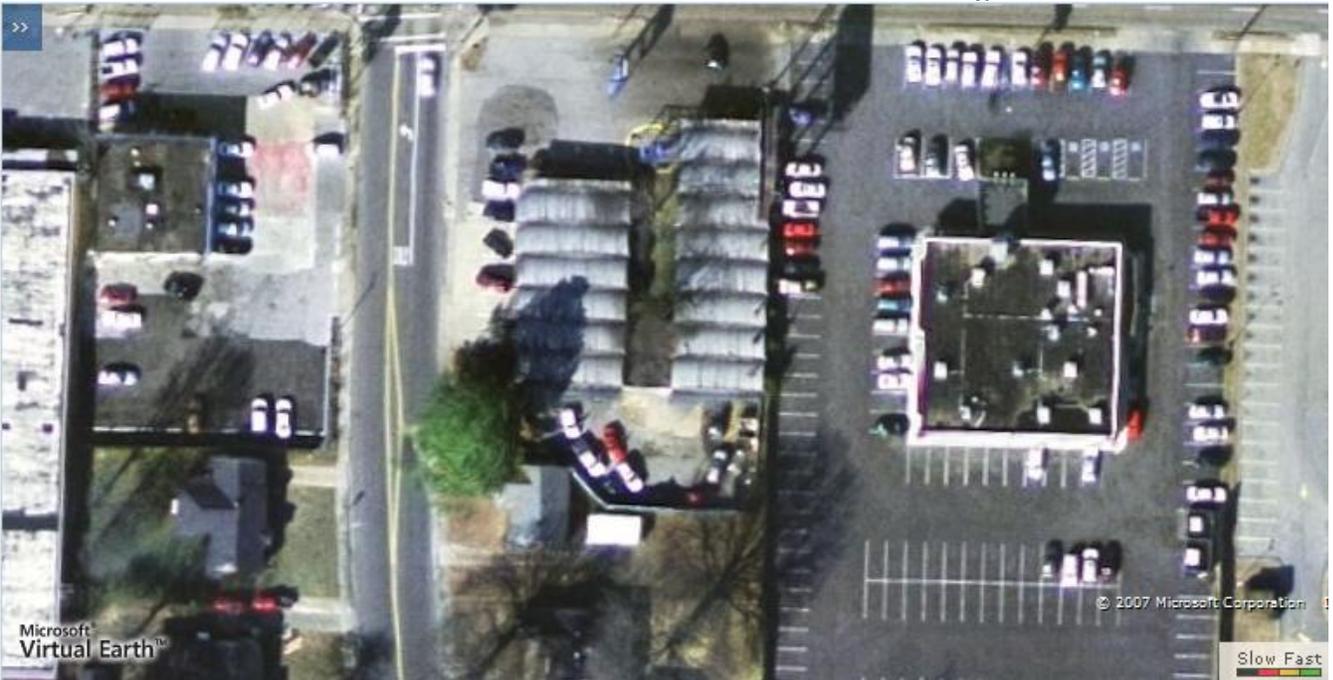
NUMBER	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD LENGTH	CHORD DIRECTION
C1	637.92	61.39	95°30'22"	61.28	N 02°45'11" W











STAFF ANALYSIS

Area Description:

The subject property is located in the Walnut Grove Planning District, on the southeast corner of Summer Avenue and Waring Road. This site is zoned in both the Highway Commercial (C-H) District and Single Family Residential (R-S6) District. The area located to the south of this site contains single family dwellings zoned in the Single Family Residential (R-S6) District. The area located north of this site along the north side of Summer Avenue has retail commercial uses zoned in the Highway Commercial (C-H) District.

These commercial uses are located in shopping centers containing various retail, restaurant and offices uses. Adjacent to this site to the east are commercial uses (restaurant, bank and mini-storage facility) on several parcels that are zoned in the Single Family Residential (R-S6) District.

Site Description:

This site is a corner lot with one hundred and forty nine (149') feet of frontage along Summer Avenue and approximately two hundred and fifty five (255') feet of frontage along Waring Road. According to *Footnote 7 of the Memphis and Shelby County Zoning Ordinance ~ Regulations* a corner lot used for non-single family purposes shall have two front yards, one side yard and one rear yard. This site was previously used as an automatic vehicle wash facility. The structure was built in 1964 containing approximately four thousand two hundred and ninety six (4,396) square feet. Access to this site is currently obtained from both Summer Avenue and Waring Road. The lot to the rear of the car wash facility; which is included as part of in this application request contains a single family dwelling which was erected in 1950. This dwelling has eight hundred and fifty (850) square feet of building area. A portion of this lot contains pavement for queuing to enter the former automatic car wash facility. It is unknown how and when the residential lot was included as part of the car wash site; apparently without any land use approval or permit.

Request:

The request for a use variation to allow a portion of a car wash operation to operate in the Single Family Residential (R-S6) District.

Site Plan Review:

This site contains an existing off premise sign (billboard). It will be removed as well as the single family dwelling located on the lot to the rear of the car wash facility. The new one story building will contain three thousand seven hundred and fifty (3,750) square feet of building area. It has a front yard setback from Summer Avenue of approximately fifty (50') feet and a front yard setback from Waring Road of over one hundred (100'+) feet. The applicant is proposing to eliminate the access from Summer Avenue. Primary access will be obtained from Waring Road. The internal drive isle width varies from fifteen (15' – 24') to twenty four feet. A Landscape Plate A-1 is shown along the Summer Avenue and the Waring Road frontages. A nineteen (19') foot landscape screen (Landscape Plate B-4) with a six (6') foot sight proof fence is shown along the rear to screen this nonresidential use from the residential uses located to the south.

Analysis of Use Variation Request:

According to *Section 10 E.(1.) Use Variations* no use variation shall be granted unless the applicant establishes that the regulations generally applicable in the zoning classification for the property for which a use variation is requested impose unnecessary hardships which are unusual for the property and are not self-created. The applicant must also show that the use variations requested will not be unduly detrimental to and will be in reasonable harmony with the character of the area where the property is located. Additionally, to satisfy the requirement outlined in *Section 10 E.(1.)* for the granting of a use variation, an applicant shall establish the existence of the following:

a. Unnecessary Hardship

The property for which a variation is requested cannot yield a reasonable return if used for any of the purposes permitted or allowed in the zoning classification for the property (*R-S6 District*). Such inability to realize a reasonable return must be supported by specific facts. The applicant must present facts, not its unsubstantiated opinion, that the property cannot yield a reasonable return under the existing regulations. Proof that the property cannot be used for its highest and best use and that it could be used more profitably for another use will not alone be sufficient to establish that the property cannot yield a reasonable return as classified.

b. Unusual Characteristics of the Subject Property

The inability to yield a reasonable return must result from unusual circumstances peculiar to the property itself, including its narrowness, shallowness, and shape or topographic conditions, not the personal situation of the applicant.

Conclusions:

The request for a use variation to allow a portion of a car wash operation to operate in the Single Family Residential (R-S6) District is recommended for approval. This property has unusual circumstances peculiar to the property; because it is adjacent to intensive commercial development without benefit of any screening. Adjacent to this site to the east are commercial uses (restaurant, bank and mini-storage facility) on several parcels that are zoned in the Single Family Residential (R-S6) District. This request will not be will not be unduly detrimental to other properties and will be in reasonable harmony with the character of the area where the property is located.

USE VARIANCE CONDITIONS

A Use Variance is hereby authorized to Car Wash USA to allow a Car Wash on the property located at Southeast corner of Summer Avenue and Waring Road in accordance with the approved site plan and the following supplemental conditions:

1. Dedicate a 3 centered corner radius at the intersection of Waring Road and Summer Avenue in accordance with the Subdivision Regulations.
2. The developer shall be solely responsible for the repair and/or reconstruction of any damage to the signalized intersection, including, but not limited to, traffic signal loops, conduit, or pull boxes.
3. The developer shall repair or replace any curb, gutter and sidewalk that are damaged adjacent to this project site.
4. The developer shall install an ADA compliant curb ramp at the intersection of Summer Avenue and Waring Road in accordance with city standards.
5. The City Engineer shall approve the design, number and location of curb cuts.
6. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
7. Access to Summer Avenue via private drive or driveway is prohibited. Convey right of access to City of Memphis.
8. 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.
9. Required landscaping shall not be placed on sewer or drainage easements.
10. Provide a planting screen along the south boundary of the site consisting of a nineteen (19') foot wide area planted in accordance with the Landscape B-4 screen.
11. A six (6') foot high site proof wood fence shall be constructed along the south property beginning at the east property line and extending to the thirty (30') foot building setback line. A permanent prefabricated wall shall be extended from that point to within ten (10') feet of the right-of-way. The permanent prefabricated wall shall be extended north for sixty (60') feet to provide screening of the single family dwelling on the west side of Waring Road.

GENERAL INFORMATION

Street Frontage:	149' ~ Summer Avenue 255' ~ Waring Road
Planning District:	Walnut Grove
Census Tract:	86
Annexation Reserve Area:	Memphis City Limits
Zoning Atlas Page:	2040
Zoning History:	This site has been zoned for both commercial and residential uses for over fifty (50) years.

DEPARTMENTAL COMMENTS

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

City Engineer:

12. Standard Subdivision Contract as required in Section 500 of Subdivision Regulations.

Sewers:

13. City sanitary sewers are available at developer's expense.

14. The developer shall extend sanitary sewers through the site to serve upstream properties.

Roads:

15. Summer and Waring are both designated as a major arterial roadways on the MPO Major Road Plan.

16. Dedicate 42 feet from centerline of Waring in accordance with Subdivision Regulations.

17. Urban improvements are required on Priority Two/Three Major Roads if they are reclassified as Priority One at the time of final plat submittal.

18. Dedicate a 3 centered corner radius at the intersection of Waring and Summer in accordance with the Subdivision Regulations.

19. The developer shall be solely responsible for the repair and/or reconstruction of any damage to the signalized intersection, including, but not limited to, traffic signal loops, conduit, or pull boxes.

20. The developer shall repair or replace any curb, gutter and sidewalk that is damaged adjacent to this project site.
21. The developer shall install an ADA compliant curb ramp at the intersection of Summer and Waring in accordance with city standards.

Curb Cuts/Access:

22. The City Engineer shall approve the design, number and location of curb cuts.
23. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
24. Access to Summer Avenue via private drive or driveway is prohibited. Convey right of access to City of Memphis.
25. 1curb cut along the Waring Road frontage will be permitted, and shall be located a minimum of 300 feet from the centerline of Summer Avenue.

Drainage:

26. 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.
27. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.
28. 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:

29. The width of all existing off-street sewer easements shall be widened to meet current city standards.
30. No other utilities or services may occupy sanitary sewer easements in private drives and yards except for crossings.
31. All connections to the sewer shall be at manholes only.
32. 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.
33. Required landscaping shall not be placed on sewer or drainage easements.

City Fire Division:	No comments.
City Real Estate:	None.
City/County Health Department- Pollution Control:	The Water Quality Branch has no comments.
Environmental Sanitation:	No objections.
City Board of Education:	No comments received.
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:

- **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.
- Any proposed structures must comply with the **National Electric Safety Code (NESC)** and maintain minimum horizontal/vertical clearances from existing overhead electric facilities.
- **Landscaping is 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).
- **It is the responsibility of the owner/applicant** to contact the appropriate MLGW engineering area to determine if system improvements may be required and any related cost:
 - MLGW Engineering - **Residential Development:** 528-4858
 - MLGW Engineering - **Commercial Development:** 367-3343
- **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: No comments received.

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

OPD-Regional Services: No comments received.

OPD-Plans Development: No comments.

Memphis Park Commission: No comments received.

Neighborhood Associations: None contacted.

SW: CMc