

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

CASE NUMBER: SAC 07-617 **L.U.C.B. MEETING:** December 13, 2007

STREET NAME: Leath Street Closure

LOCATION: ±225 feet; south of Gene Logan Drive

APPLICANT: FPC Realty

REPRESENTATIVE: Charles Goforth

REQUEST: Close & Vacate Alley Street Right-Of-Way

AREA OF R.O.W.: **8,090 square feet**

LENGTH X WIDTH: **175' x 46'**

EXISTING LAND USE & ZONING:

SURROUNDING LAND USE & ZONING: Industrial and Residential ~ Light Industrial (I-L)
District and Single Family Residential (R-S6) District

North: Southern Steel Supply Company ~ Light Industrial (I-L) District

East: Southern Steel Supply Company ~ Single Family Residential (R-S6) District

South: Single family dwellings and Southern Steel Supply Company ~ Single Family Residential
(R-S6) District

West: Single family dwellings and Southern Steel Supply Company ~ Single Family Residential
(R-S6) District

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION

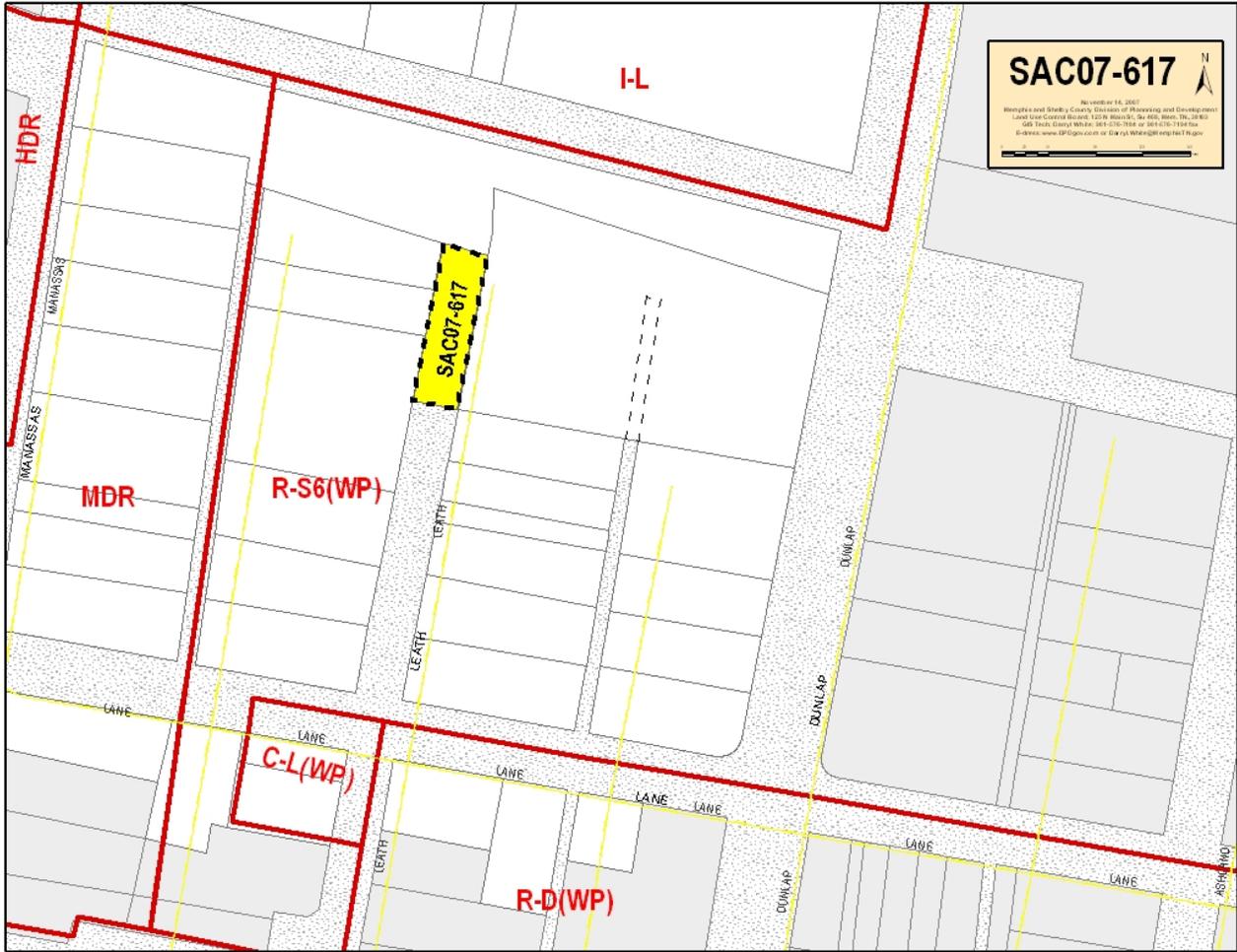
Approval with Conditions

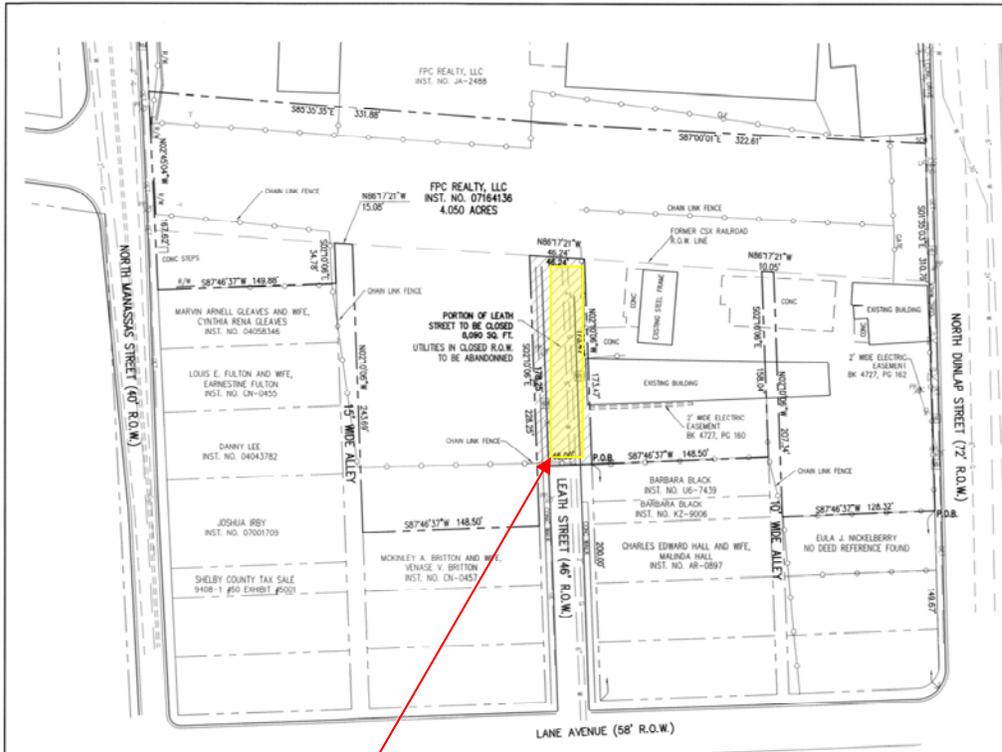
Staff Writer: Carlos B. McCloud

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

CONCLUSIONS

1. The subject right-of-way is located in the Downtown/Medical Center Planning District, approximately two hundred and twenty five (225') feet south of Gene Logan Drive. This area is zoned in the Single Family Residential (R-S6) District. This area was platted for residential use in 1895 as a result of the W.G. Lane's Subdivision. However, over time this site as well as the area to the north converted to nonresidential uses. The last known use of this site was motor vehicle salvage yard. This motor vehicle salvage yard use operated without utilizing the subject right-of way as means for access.
2. The subject right-of-way was dedicated as a street right-of-way containing forty six (46') feet of right-of-way width and three hundred and seventy eight (378') feet in length. However, the request is to close only one hundred and seventy eight (178') feet in length. The total closure area contains eight thousand and ninety (8,090) square feet of area. The closure area has been fenced into the site and two buildings have been constructed over the alley.
3. There are approximately seven (7) residential dwellings located to the south of this closure area that have access to the southern portion of the street which is not being requested for closure. To date, this street right-of-way terminates into the motor vehicle salvage yard. Residents still have access from Lane Street. When the motor vehicle salvage yard was operating a metal fence screened this use from the adjacent residential uses. The adjacent neighbor to the north, Southern Steel Supply Company has purchased the former motor vehicle salvage yard site and has filed an planned development application for site plan approval for the expansion of their facilities.
4. As previously mentioned, Southern Steel Supply Company has recently acquired the former salvage site and has had the salvage automobiles removed. This request is being made for the purpose of property consolidation. Over time streets and alleyways within this area have been closed and consolidated with adjacent lots for redevelopment purposes for larger projects. Some of these streets and alleyways have been maintained by the adjacent property owners. The applicant is the owner of the adjacent lots which currently abut this alley way. There is no physical street within the right-of-way to be closed. To date this street exists as an unimproved alley; it has not been utilized for pedestrian or vehicular traffic for some time.





CERTIFICATE OF SURVEY
I hereby certify that this plat was prepared from an actual survey made on the ground under my supervision and in my professional opinion represents the conditions in the field at the time of the survey. This plat was prepared from a Category 1 Survey with the ratio of precision of the unadjusted traverse being 1:10,000 or greater.



Kenneth E. Francis, Jr.
Tennessee Certificate Number 1567
George Waggoner Sumner & Cannon, Inc.

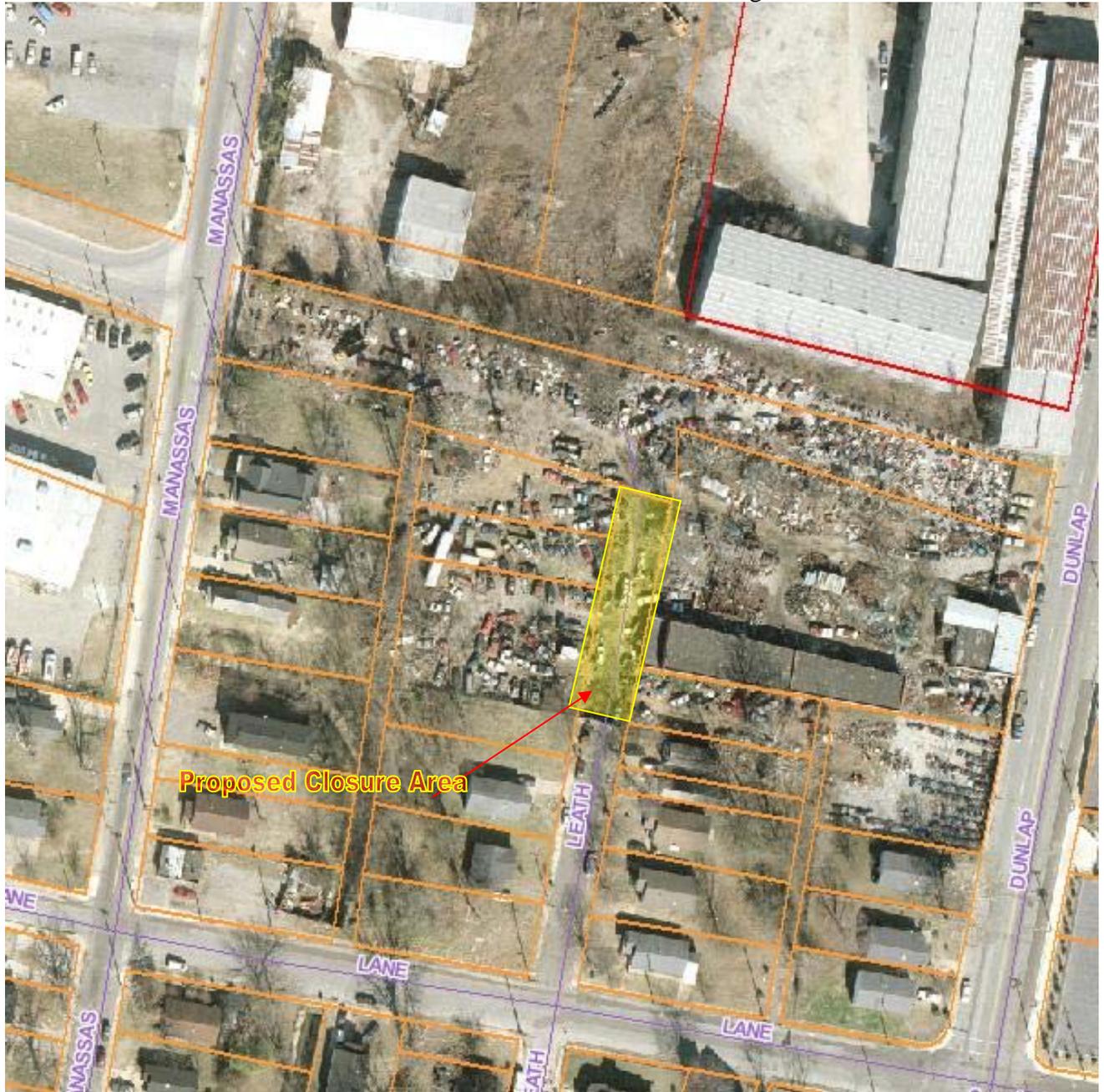
Proposed Closure Area

DESCRIPTION OF FPC REALTY, LLC (INST. NO. 07164136)
BEGINNING at a point in the west line of North Dunlap Street (72' R.O.W.) being 149.67 feet north of the north line of Lane Avenue (58' R.O.W.) and being the northeast corner of the Eula J. Nickelberry property (no deed reference found); thence South 87 degrees 46 minutes 37 seconds West along the north line of said Nickelberry property a distance of 128.52 feet to a point in the east line of a 10 foot wide alley; thence North 02 degrees 10 minutes 06 seconds West along said east line a distance of 207.34 feet to a point; thence North 86 degrees 17 minutes 21 seconds West a distance of 10.05 feet to a point in the west line of said 10 foot wide alley; thence South 02 degrees 10 minutes 06 seconds East along said west line a distance of 158.04 feet to a point being the northeast corner of the Barbara Black property as recorded in Instrument Number US-7439 in said Register's Office; thence South 87 degrees 46 minutes 37 seconds West along the north line of said Black property a distance of 148.50 feet to a point in the east line of Leath Street (46' R.O.W.); thence North 02 degrees 10 minutes 06 seconds West along said east line a distance of 173.47 feet to a point; thence North 86 degrees 17 minutes 21 seconds West a distance of 46.24 feet to a point in the west line of Leath Street; thence South 02 degrees 10 minutes 06 seconds East along said west line a distance of 228.25 feet to a point being the northeast corner of the McKinley A. Britton and wife, Venice V. Britton property as recorded in Instrument Number ON-0457 in said Register's Office; thence South 87 degrees 46 minutes 37 seconds West along the north line of said Britton property a distance of 148.50 feet to a point in the east line of a 15 foot wide alley; thence North 02 degrees 10 minutes 06 seconds West along said east line a distance of 243.69 feet to a point; thence North 86 degrees 17 minutes 21 seconds West a distance of 15.08 feet to a point in the west line of said 15 foot wide alley; thence South 02 degrees 10 minutes 06 seconds East along said west line a distance of 34.78 feet to a point being the northeast corner of the Marvin Arnell Gleaves and wife, Ernestine Fulton property as recorded in Instrument Number 04058346 in said Register's Office; thence South 87 degrees 46 minutes 37 seconds West along the north line of said Gleaves property a distance of 149.88 feet to a point in the east line of North Manassas Street (40' R.O.W. at this point); thence North 02 degrees 10 minutes 06 seconds West along said east line a distance of 167.62 feet to a point; thence South 85 degrees 35 minutes 35 seconds East along said north line a distance of 331.88 feet to a point; thence South 87 degrees 00 minutes 01 seconds East a distance of 322.61 feet to a point in the west line of said North Dunlap Street; thence South 02 degrees 10 minutes 06 seconds East along said west line a distance of 310.79 feet to the POINT OF BEGINNING and containing 4.050 acres of land, more or less.

DESCRIPTION OF RIGHT-OF-WAY AREA TO BE CLOSED
A portion of Leath Street (46' R.O.W.) north of Lane Avenue being more particularly described as follows:
BEGINNING at a point in the east line of Leath Street being 200.00 feet northwardly from the north line of Lane Avenue (58' R.O.W.) and being the northeast corner of the Barbara Black property as recorded in Instrument Number US-7439 in the Shelby County Register's Office; thence South 87 degrees 46 minutes 37 seconds West across the Leath Street right-of-way a distance of 46.00 feet to a point in the west line of Leath Street; thence North 02 degrees 10 minutes 06 seconds West along said west line a distance of 173.25 feet to a point in the south line of the former CSX Railroad right-of-way (now abandoned and owned by FPC Realty, LLC as per Instrument Number 07164436); thence South 86 degrees 17 minutes 21 seconds East along said south line a distance of 46.24 feet to a point in the east line of Leath Street; thence South 02 degrees 10 minutes 06 seconds East along said east line a distance of 173.47 feet to the POINT OF BEGINNING and containing 0.000 square feet of land, more or less.

RIGHT-OF-WAY CLOSURE PLAT
PART OF LEATH STREET
NORTH OF LANE AVENUE
MEMPHIS, SHELBY COUNTY, TENNESSEE
NOVEMBER, 2007

BWSC BARGE WAGGONER SUMNER & CANNON, INC.
ENGINEERS ARCHITECTS PLANNERS SURVEYORS
40 Compton Court, Suite 100, Memphis, Tennessee 38138
Phone (901)755-7166 Fax (901)755-7844





STAFF ANALYSIS

Site Area Description:

The subject right-of-way is located in the Downtown/Medical Center Planning District, approximately two hundred and twenty five (225') feet south of Gene Logan Drive. This area is zoned in the Single Family Residential (R-S6) District. This area was platted for residential use in 1895 as a result of the W.G. Lane's Subdivision. However, over time this site as well as the area to the north converted to nonresidential uses. The last known use of this site was motor vehicle salvage yard. This motor vehicle salvage yard use operated without utilizing the subject right-of-way as means for access.

Street Characteristics:

The subject right-of-way was dedicated as a street right-of-way containing forty six (46') feet of right-of-way width and three hundred and seventy eight (378') feet in length. However, the request is to close only one hundred and seventy eight (178') feet in length. The total closure area contains eight thousand and ninety (8,090) square feet of area. The closure area has been fenced into the site and two buildings have been constructed over the alley.

There are approximately seven (7) residential dwellings located to the south of this closure area that have access to the southern portion of the street which is not being requested for closure. To date, this street right-of-way terminates into the motor vehicle salvage yard. Residents still have access from Lane Street. When the motor vehicle salvage yard was operating a metal fence screened this use from the adjacent residential uses. The adjacent neighbor to the north, Southern Steel Supply Company has purchased the former motor vehicle salvage yard site and has filed an planned development application for site plan approval for the expansion of their facilities.

As previously mentioned, Southern Steel Supply Company has recently acquired the former salvage site and has had the salvage automobiles removed. This request is being made for the purpose of property consolidation. Over time streets and alleyways within this area have been closed and consolidated with adjacent lots for redevelopment purposes for larger projects. Some of these streets and alleyways have been maintained by the adjacent property owners. The applicant is the owner of the adjacent lots which currently abut this alley way. There is no physical street within the right-of-way to be closed. To date this street exists as an unimproved alley; it has not been utilized for pedestrian or vehicular traffic for some time.

This street closure will not negatively impact the adjacent property owners because of the lack of utilization. This request for a street closure is recommended for approval. The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.

L.U.C.B. Conditions

1. The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.
2. The applicant shall comply with all conditions of the closure within 365 days of the conditional approval of the closure by the City Council.
3. Provide easements for existing sanitary sewers , drainage facilities and other utilities or relocate at developers expense.

GENERAL INFORMATION

Planning District: Downtown-Medical Center
Census Tract: 24
Municipal Annexation Reserve Area: Memphis City Limits
Zoning Atlas Page: 1930

DEPARTMENTAL COMMENTS:

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

City Engineer:

Street Closures:

1. Provide easements for existing sanitary sewers, drainage facilities and other utilities or relocate at developer's expense.
2. The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.
3. The applicant shall comply with all conditions of the closure within 365 days of the conditional approval of the closure by the City Council.
4. 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.
5. Adequate maneuvering room shall be provided between the right-of-way and the gate/guardhouse/card reader for vehicles to exit by forward motion.

City Fire Division: No comments.

City Real Estate: No comments received.

City/County Health Department: The Water Quality Branch has no comments.

City 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:

- MLGW has existing facilities within the present public road right of way. The City of Memphis shall retain an easement across the proposed street closure, from edge to edge of the road right of way, to accommodate any existing public utilities, including electric, gas, water, CATV, telephone, sewer, drainage, etc
- If it is necessary for MLGW facilities to be installed, removed or relocated, any work performed by MLGW will be done at the expense of the owner/applicant.
- MLGW reserves the right to retain a utility right-of-way within that portion of the existing public road right of way at all times for existing utilities, or the owner/applicant may choose to relocate existing utilities at the expense of the owner/applicant.
- Street Trees are prohibited, subject to the review and approval of the landscape plan by MLGW Engineering. It is the responsibility of the owner/applicant to submit a detailed landscape plan to MLGW Engineering.
- MLGW must be able to access any overhead or underground facilities. Consequently, no permanent structure(s) shall be constructed or erected within that portion of the existing public road right of way including fences, buildings, patios, vehicle parking or paving.
- If there are existing fire hydrants within the proposed closure of the public right-of-way, these hydrants will become private facilities, and the owner/applicant will be billed a monthly fee by MLGW.
- If there are existing street lights within the proposed closure of the public right-of-way, MLGW will remove all street lights, and abandon underground electric feeds or remove overhead electric feeds – 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 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.

Bell South / Millington Telephone: No comments received.

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

OPD-Regional Services:

This application was reviewed by the MPO staff/Department of Regional Services on November 19, 2007. The MPO staff has determined that the proposed actions as submitted in this application will have no affect on the MPO Long Range Transportation Plan, Transportation Improvement Program, or any other plan, document, program or initiative of this department/organization.

OPD-Plans Development: No comments.

Mid-Inner City:

Dixie Homes R.A.:

SW-CMc



NOTICE OF PUBLIC HEARING

MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
125 NORTH MAIN STREET, ROOM 476 MEMPHIS, TENNESSEE
PHONE (901) 576-6619 WEB SITE: <http://www.dpdgov.com>

TO ALL INTERESTED PROPERTY OWNERS

The Memphis and Shelby County Land Use Control Board will hold a public hearing on the following **Alley/Street Closure/Vacation** application.

CASE NUMBER: SAC 07-617

STREET NAME: Leath Street Closure

LOCATION: ±225 feet; south of Gene Logan Drive
(SEE MAP ON REVERSE SIDE)

APPLICANT: FPC Realty

REQUEST: Close & Vacate Alley Street Right-Of-Way

AREA of R.O.W: 8,090 sq. ft.

LENGTH x WIDTH of R.O.W.: 46' x 175'

THE PUBLIC HEARING WILL BE HELD

LOCATION: City Hall Council Chambers
125 North Main Street

DATE: Thursday, December 13, 2007

TIME: After 10:00 a.m.

You are invited to appear at the hearing, write the Board at the address at the top of this notice or by e-mail to Mr. Carlos McCloud at carlos.mccloud@cityofmemphis.org stating the reasons for your support or opposition to the request. The Board may consider an amended plat of street closure/vacation which differs from the plan shown on the reverse side without renotification. Differences may pertain to the area, length and width the alley/street or to other features of the closure. The Land Use Control Board may recommend approval, approval with conditions, or rejection of the street closure application or continue the public hearing.

You may call 576-6619 prior to the hearing to determine if the request is still scheduled to be heard by the Board or if you have any questions concerning this notice or the request.



Memphis and Shelby County
Office of Planning and Development

CITY HALL 125 NORTH MID AMERICA MALL MEMPHIS, TENNESSEE 38103-2084 (901) 576-6619

November 7, 2007

OPD FILE #: SAC 07-617

Dear :

The Memphis and Shelby County Land Use Control Board on December 13, 2007 recommended approval your alley street closure/vacation application located at/on +225 feet; south of Gene Logan Drive subject to the following variance, conditions and design changes:

L.U.C.B. VARIANCE

L.U.C.B. CONDITIONS

A revised plat shall be submitted to this office, within 30 days, incorporating any modifications to the plat approved by the Board. Upon receipt of the modified plat, the recommendations of the Board and staff will be forwarded to the County Commission and City Council for final action. Your application shall be deemed withdrawn if the modified plat is not received within the thirty day time period.

The recommendations of the Board and staff will be forwarded to the City Council for final action. The City Council's Planning and Zoning Committee will review this case in detail approximately seven days prior to the public hearing. You should plan to attend both the committee meeting and public hearing. Failure to appear at either meeting may result in delays for your project.

If you have questions regarding this matter, please contact Mr. Renner Ms. Pounder at (901) 576-6619.

Sincerely,

Sheila Pounder Burk Renner, AICP for
Mary L. Baker, Deputy Director
Office of Planning and Development

BR/br

cc: City Engineer's Office - Connie Williams
County Engineer's Office - Bob Evans
MLGW Distribution Engineering - Melanie Fortner Runyon
City Real Estate - Agnes Martin