

STAFF REPORT

CASE NUMBER: P.D. 08-313 CC **L.U.C.B. MEETING:** June 12, 2008

DEVELOPMENT NAME: Dr. Aguiard Planned Development

LOCATION: South side of Fite Road; ±800.6 feet east of North Watkins Street

OWNER OF RECORD/APPLICANT: Dr. Neal & Dr. Susan Aguiard

REPRESENTATIVE: Homer Branan, Atty.

REQUEST: A planned development to permit the customizing, repairing, brokering and manufacturing of antique, sporting and collectible firearms and their parts and accessories.

AREA: 5.79 Acres

EXISTING LAND USE & ZONING: Single family estate home in the Agricultural (AG) District

SURROUNDING LAND USES AND ZONING:

North: Single family estate homes in the Agricultural (AG) District

East: Single family estate homes in the Agricultural (AG) District

South: Single family estate homes in the Agricultural (AG) District

West: Single family estate homes in the Agricultural (AG) District

**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION
APPROVAL WITH CONDITIONS**

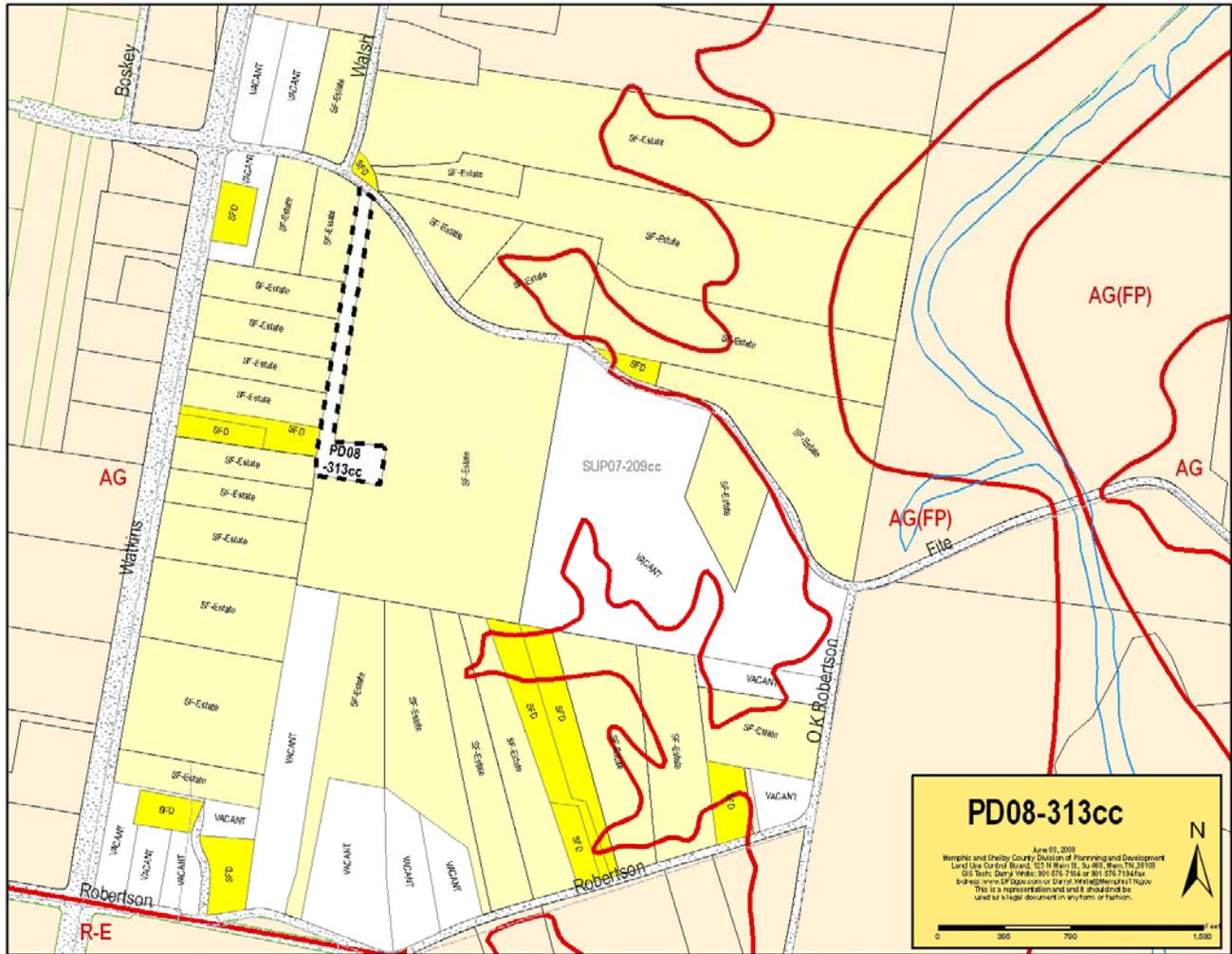
Staff Planner: Sheila Pounder

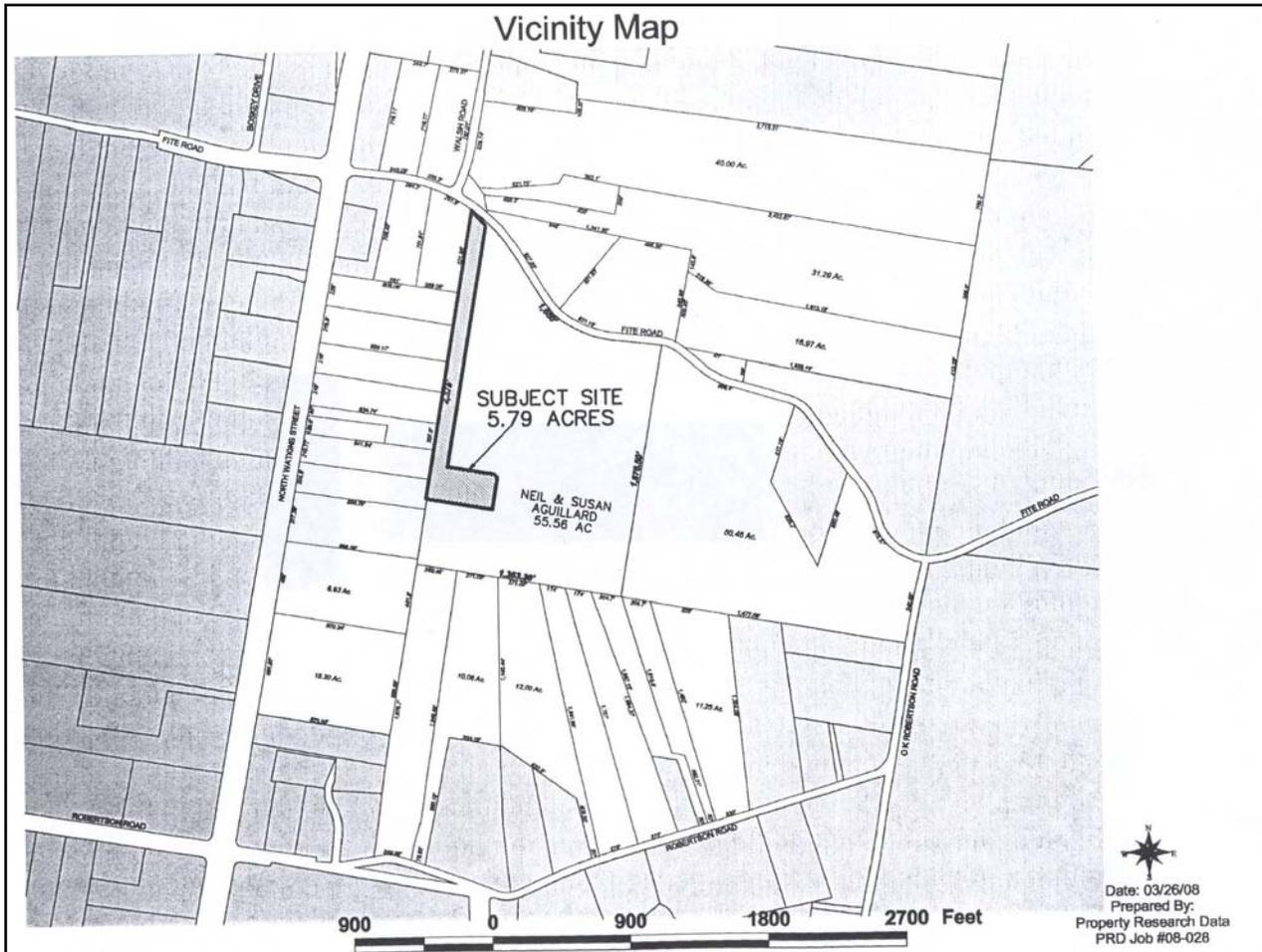
E-mail Address: sheila.pounder@memphistn.gov

CONCLUSIONS:

- 1. The proposed use on the site is to permit the customizing, repairing, brokering and manufacturing of antique, sporting and collectible firearms and their parts and accessories.**
- 2. In order to ensure that he has obtained the required governmental licenses and approval to continue this operation, given the amount of business he is now handling, the applicant is now seeking permission to continue operation of the requested use on this property through the planned development process.**
- 3. The site is located within a predominately rural area of Shelby County and should have not adverse impact on the surrounding community.**
- 4. The approval of this planned development will also legalize the 5.79 acre parcel by the recording of a final plat and separate it from the overall 59.17 acre parcel. The new smaller parcel will exceed the bulk requirements of the AG District.**
- 5. The continued use of the new parcels as requested should be contingent upon the applicant having up to date federal licenses and the continual ownership of the subject property.**
- 6. There is no objection to this request subject to the additional restrictions, concerning federal licenses and property ownership, being placed on the applicant through the planned development conditions.**

ZONING AND LAND USE MAP





**ARIEAL OF ENTIRE PROPERTY OWNED BY APPLICANT
INCLUDING SUBJECT SITE**



ENTRANCE DRIVEWAY OF SUBJECT SITE VIA FITE ROAD



WEST OF SITE ALONG FITE ROAD



EAST OF SITE ALONG FITE ROAD



APPLICANT'S HOME ADJACENT TO SUBJECT SITE





INTERIOR OF METAL WORKSHOP



STAFF ANALYSIS:

Location and Description of Subject Property

The subject property is located on the south side of Fite Road; ±800.6 feet east of north Watkins Street in the Woodstock area of Shelby County. The subject tract (5.79 acres) is currently part of an overall 59.17 acre residential estate tract which includes the applicant's home. Access to both the applicant's home and the proposed metal shop is via Fite Road.

The site contains a large quantity of mature trees, especially along each of the four property lines. An existing MLG&W easement runs parallel to and just beyond the south property line of the overall 59.17 acre tract. The site lies within the Agricultural (AG) District and the surrounding area is rural in character. The use of land in the immediate area ranges from vacant or purely agricultural with a modest farm home on the site to large tracts with homes of substantial size (Residential Estate).

Applicant's Request

The proposed use on the site is to permit the customizing, repairing, brokering and manufacturing of antique, sporting and collectible firearms and their parts and accessories. The applicant currently has a free-standing workshop located on the property in close proximity to his home that he is utilizing for this hobby. Given the reputation the applicant has developed over the years, this hobby has become more or less a small business. In order to ensure that he has obtained the required governmental licenses and approval to continue this operation, given the amount of business he is now handling, the applicant is now seeking permission to continue operation of the requested use on this property through the planned development process. The applicant is asking that the approval of this use be granted only to him and that if the property is sold the planned development would become null and void.

Current Plans and Policies

City of Memphis Urban Growth Plan – This document which was prepared as a part of the County's response to Statewide Legislation requiring a plan to guide the County's future growth, and the municipalities annexation plans, designates this area as rural. Public Sanitary Sewer is not anticipated to be extended to this area in the next 15 to 20 year timeframe. The proposed use of the subject property as requested is not inconsistent with the Urban Growth Plan.

Proposed Route for I-69 - The future alignment of this limited access facility is currently shown approximately 1,000 feet east of the proposed planned development, "the proposed use 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".

Zoning Ordinance – The proposed use is not found as a permitted use, either by right or special use permit, in any of the use categories of the Memphis and Shelby County Zoning Ordinance. The closest associated uses that can be found in the zoning use chart are sheet metal shop; fabricated metal product & machinery; and metal mining and other related processing. All of these associated uses are either permitted by right or by special use permit within the Light Industrial (I-L) or Heavy Industrial (I-H) Districts. However, none of these associated uses really addresses the type of activities that is proposed by the applicant's request. Additionally, since the proposed use is not permitted by special use permit, there are no review standards in the Zoning Ordinance to govern this request.

Federal Regulations – The applicant has submitted for review a copy of his federal firearm permit as proof of complying with federal government regulations. He has also indicated that the firing range on his property is approved by the National Rifle Association. Research indicates that firearm repair and gunsmithing are governed by Federal Regulations and not by state or local regulations. The applicant appears to have met all requirements of the federal government and is in compliance with the law. However, it is recommended that the approval of this planned development be contingent upon the applicant's yearly compliance with the federal firearms permitting law.

Review of Request

The site is located within a predominately rural area of Shelby County. Given its location and the existing character of the surrounding area, there is no objection to the applicant's requested land use.

The approval of this planned development will also legalize the 5.79 acre parcel by the recording of a final plat and separate it from the overall 59.17 acre parcel. The new smaller parcel exceeds the bulk requirements of the AG District.

The continued use of the new parcels as requested should be contingent upon the applicant having up to date federal licenses and the continual ownership of the subject property. With these additional restrictions placed on the applicant through planned development conditions, approval is recommended on this application.

RECOMMENDATION: APPROVAL WITH CONDITIONS

OUTLINE PLAN CONDITIONS:

I. USES PERMITTED:

- A. Any use permitted in the Agricultural (AG) District.
- B. The customizing, repairing, brokering and manufacturing of antique, sporting and collectible firearms and their parts and accessories by the current property owner, Dr. Neil Aguillard, only.
- C. This planned development shall be contingent upon the applicant's yearly compliance with all federal firearms permitting law(s).

II. BULK REGULATIONS: The bulk regulations shall conform with the Agricultural (AG) District.

III. ACCESS, PARKING AND CIRCULATION:

- A. Dedicate 34 feet from centerline of Fite Road and improve in accordance with Subdivision Regulations.
- B. The County Engineer shall approve the design, number and location of curb cuts. Any existing nonconforming curb cuts shall be modified to meet current County Standards or closed with curb, gutter and sidewalk.
- C. The Engineer will be responsible for indicating the driveway culvert size on the final plat, for the connection to Fite Road. The minimum driveway culvert size is 15" CMP.
- D. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.
- E. 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.
- F. Adequate maneuvering room shall be provided between the right-of-way and the gate/guardhouse/card reader for vehicles to exit by forward motion.

IV. ALL SIGNS AND LIGHTING SHALL BE GOVERNED BY THE AGRICULTURAL (AG) DISTRICT

V. DRAINAGE & SEWER:

- A. 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.

- B.** Septic tank suitability is to be approved by the Memphis and Shelby County Health Department prior to the recording of the Final Plat.

- VI.** 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.

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

- VIII.** Any final plan 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.** 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.

 - E.** 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:	100 feet along Fite Road
Planning District:	Millington
Census Tract:	201
Annexation Reserve Area:	City of Memphis
Zoning Atlas Page:	Map 1530
Zoning History:	The Agricultural (AG) zoning of this site dates to the adoption of County wide zoning in 1960.

DEPARTMENTAL COMMENTS:

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

City Engineering:

1. Standard Subdivision Contract as required in Section 500 of Subdivision Regulations.
2. This site is located in the Memphis Reserve Area.

Sewers:

3. No City sewers are currently available to serve this site.
4. The Memphis and Shelby County Health Department shall approve private septic tanks for each lot.

Roads:

5. Dedicate 34 feet from centerline of Fite Road and improve in accordance with Subdivision Regulations.

Curbs Cuts/Access:

6. The County Engineer shall approve the design, number and location of curb cuts.
 1. Any existing nonconforming curb cuts shall be modified to meet current County Standards or closed with curb, gutter and sidewalk.
 2. 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.

3. 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:

4. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.
5. 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.
6. Adequate maneuvering room shall be provided between the right-of-way and the gate/guardhouse/card reader for vehicles to exit by forward motion.
7. 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.

County Engineering:

1. **Fite Road** is a county collector. Dedicate 34 feet from the centerline in accordance with Subdivision Regulations.
2. The Engineer will be responsible for indicating the driveway culvert size on the final plat, for the connection to Fite Road. The minimum driveway culvert size is 15" CMP.
3. Septic tank suitability is to be approved by the Memphis and Shelby County Health Department prior to the recording of the Final Plat.

City Fire Division: No comments received.

County Fire Department: No comments received.

City Real Estate: None.

County Real Estate: No comments received.

City/County Health Department- No objections.

City Board of Education:

The subject property does not appear to be adjacent to any property which has been identified as belonging to Memphis City Schools (MCS). No identifiable impact on MCS' school-aged population nor MCS' property interests. Thank you for the opportunity to comment.

County 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.
- **It is the responsibility of the owner/applicant** to comply with the **National Electric Safety Code (NESC)** and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- **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/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 March 28, 2008. The MPO staff has determined that while the proposed alignment of Interstate 69 is approximately 1,000 feet east of the proposed planned development, 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.

Shelby Forest Civic Club:

No comments received.