

**STAFF REPORT**

**17**

**CASE NUMBER:** P.D. 08-321                      **L.U.C.B. MEETING:** August 14, 2008

**DEVELOPMENT NAME:** FLEMING'S STEAKHOUSE PLANNED DEVELOPMENT, Amended

**LOCATION:**                      South side of Poplar Avenue; ±670 feet west of Massey Road

**OWNERS OF RECORD:** Poplar Towers, LLC

**APPLICANTS:**                      Poplar Station, LLC

**REPRESENTATIVE:**                      Harkavy-Shainberg, PLLC (Ronald Harkavy)

**REQUEST:**                      Planned development amendment to allow a one-story retail building 6,000 square feet in area within the Outline Plan.

**AREA:**                      3.67 Acres

**EXISTING LAND USE & ZONING:**                      High-rise office and large restaurant currently governed by Fleming's Steakhouse Planned Development(P.D. 04-374).

**SURROUNDING LAND USES AND ZONING:**

**North:** Regalia Poplar-Shady Grove Planned Development(P.D. 96-334) with large restaurant, retail shops and bank office headquarters, small office village in Murray Lane Office Park Planned Development (P.D. O-64 AM) and Poplar Station Planned Development (P.D. 02-348) with small restaurant, drug store and retail shops.

**East:** Office towers in Tower Place Planned Development(P.D. 84-377), Kirby Woods Baptist Church and bank office headquarters in General Office(O-G) District.

**South:** Office and parking for Imports Company in Brock Residence Inn Planned Development(P.D 86-333), Norfolk-Southern Railroad and private school campus for Memphis University School in Single Family Residential(R-S10 & 15) Districts.

**West:** Bank branch offices, large restaurant, gasoline sales, bank headquarters, Shea Clinic and Mariott Residence Inn in Brock Residence Inn Planned Development(P.D 86-333).

**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION:**

*Approval with Conditions*

**Staff:** *Brian Bacchus*

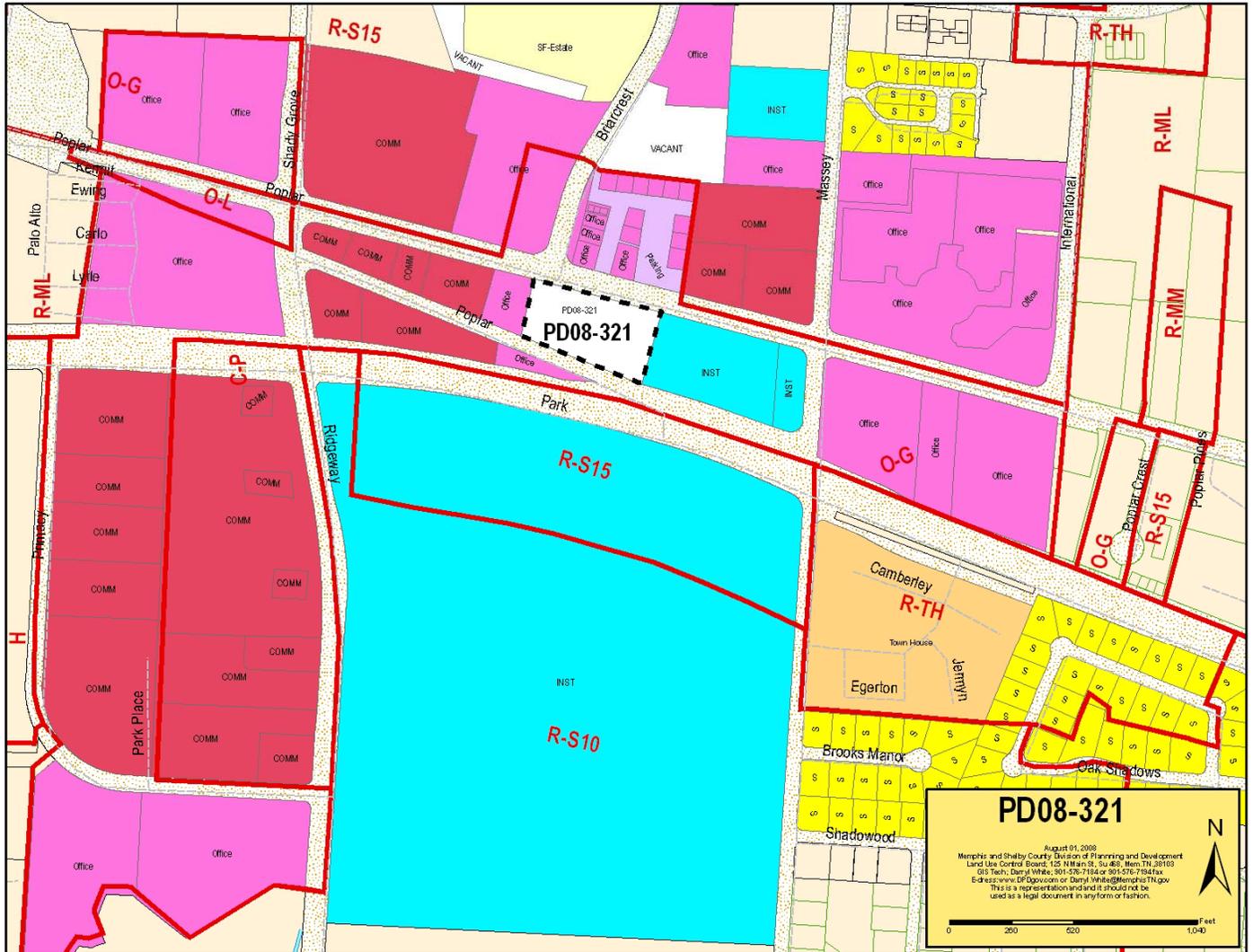
**E-mail:** [brian.bacchus@memphistn.gov](mailto:brian.bacchus@memphistn.gov)

***CONCLUSIONS:***

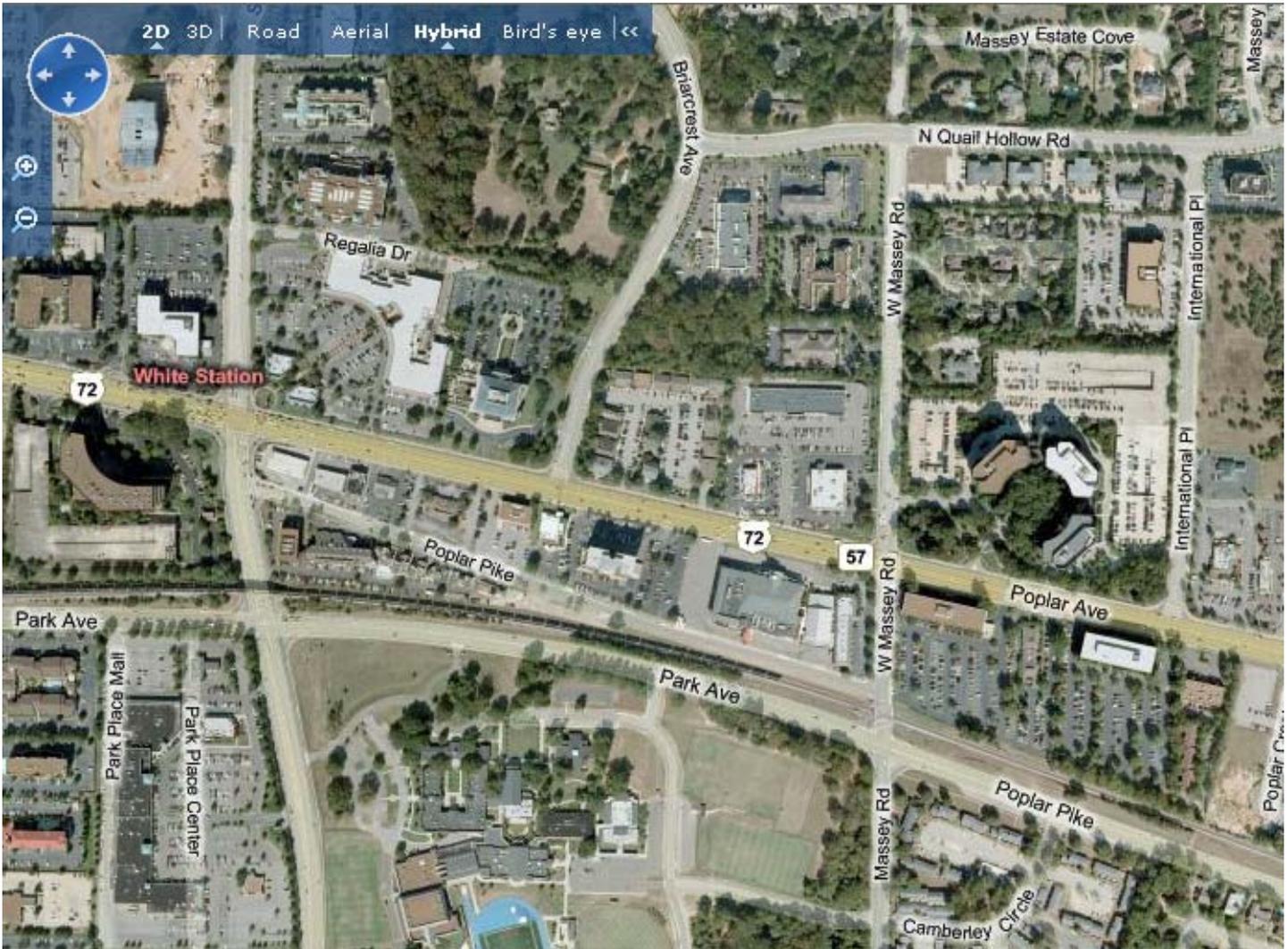
- 1. The subject property is a 3.67 acre parcel located at the south side of Poplar Avenue and west of Massey Road. The entire parcel is a double frontage lot with an existing eleven(11) story high-rise office building and a one-story restaurant building both facing Poplar Avenue.**
- 2. The high-rise office building on this parcel was built in 1973 and the restaurant land use was permitted by planned development approved in February, 2005. This application is an amendment to allow another land use within the Outline Plan of Fleming's Steakhouse Planned Development.**
- 3. This planned development amendment is to allow a new one-story retail building 6,000 square feet in area on one(1) parcel located within one(1) block that extends from Ridgeway Road on the west to Massey Road on the east. The high-rise office building on the site is the anchor for this block and parcel that is wedged between a major railroad and roadway.**
- 4. The restaurant on this parcel complements the office building by use, color, texture and form. All buildings within this Outline Plan should maintain this form and balance with flexible, yet corresponding land use parking ratios.**
- 5. The required number of spaces in the Zoning Ordinance for retail shops in General Office(O-G) District zoning is one(1) space for each 300 square feet of floor area or twenty(20) spaces. The parking for this land use is insignificant, because the parking ratio of 1:300 is the same for the office building.**



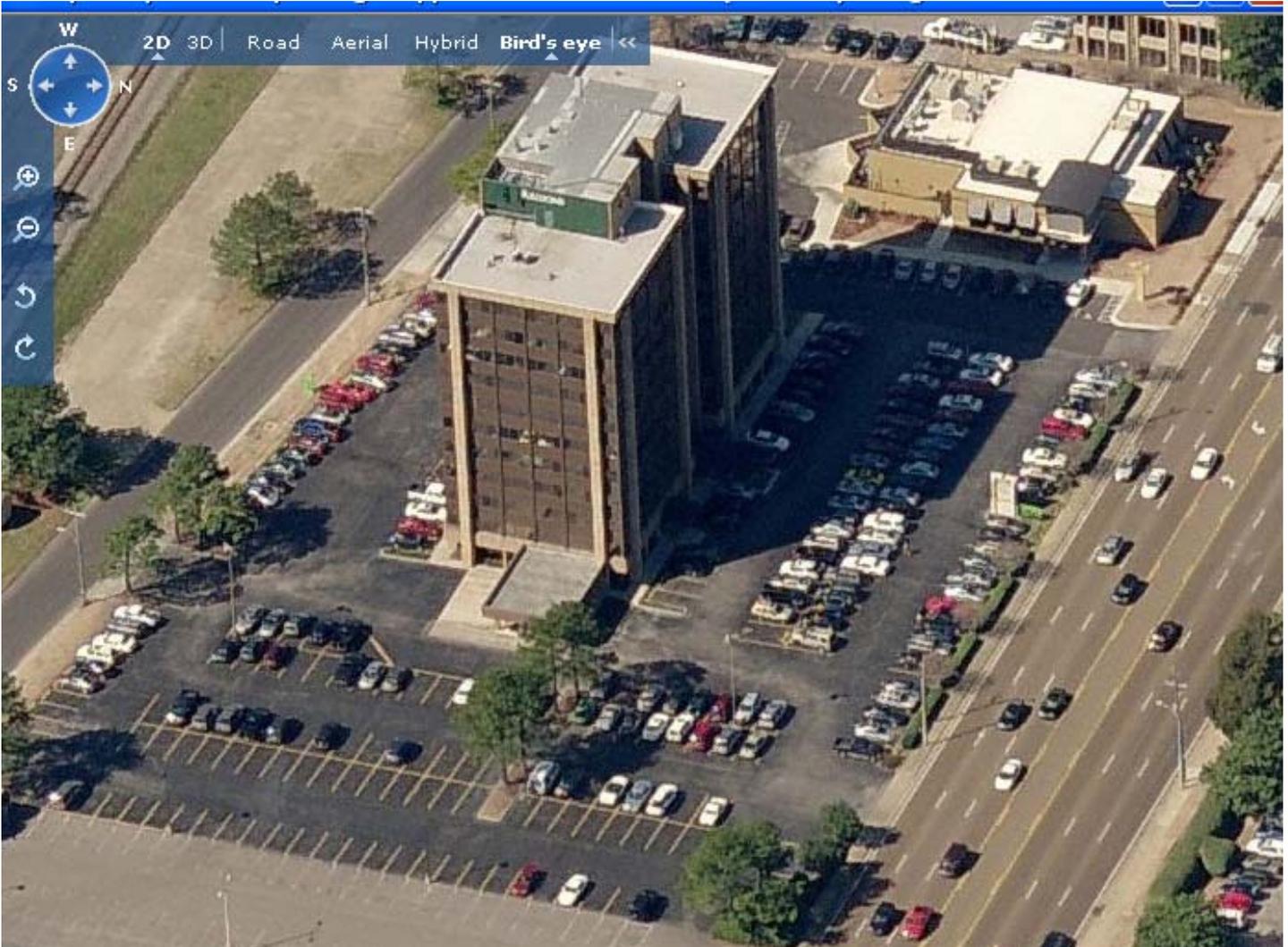
**ZONING & LAND USE MAP:**



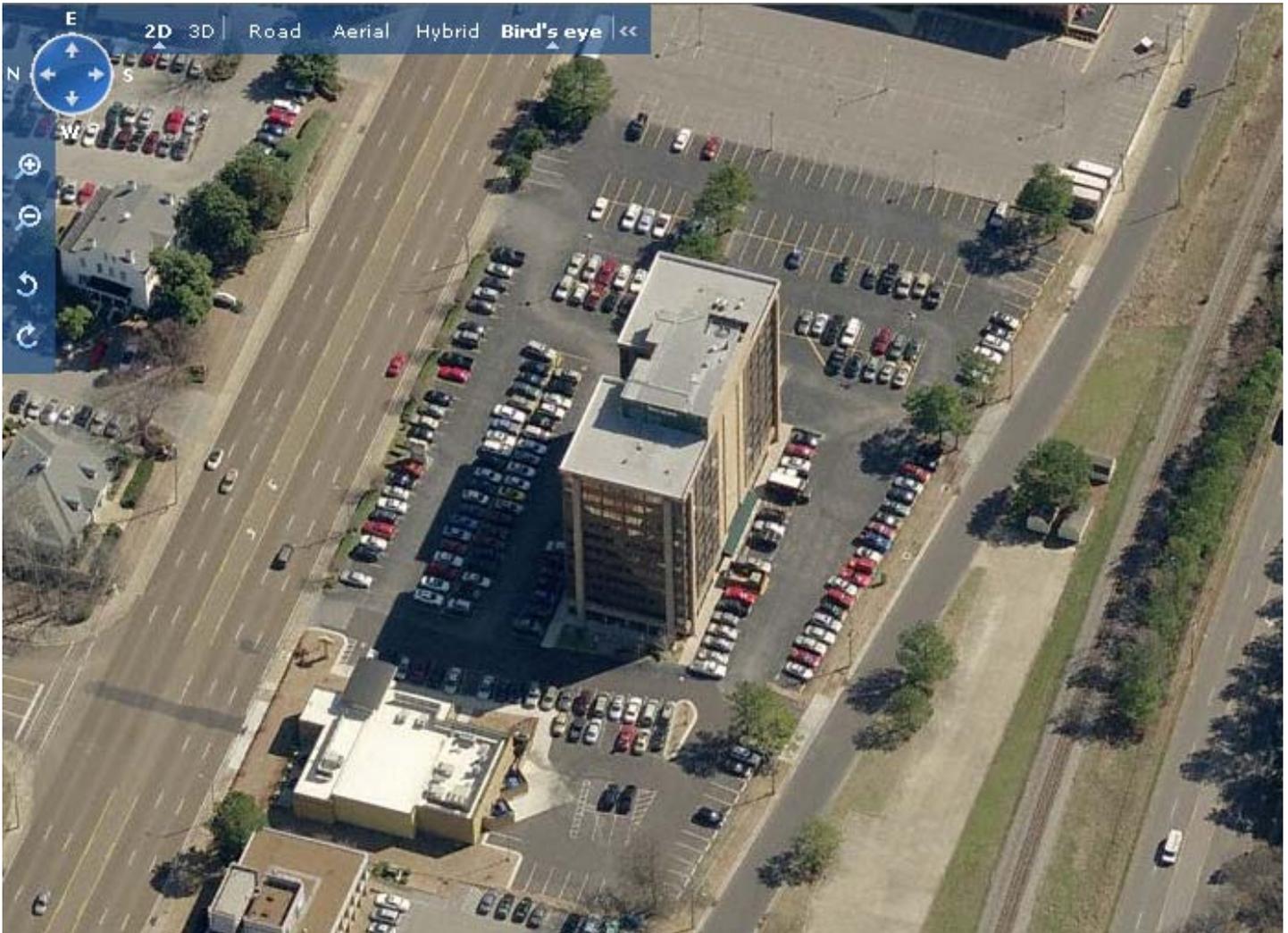
**'POPLAR CORRIDOR-East'**  
*(Hybrid View)*



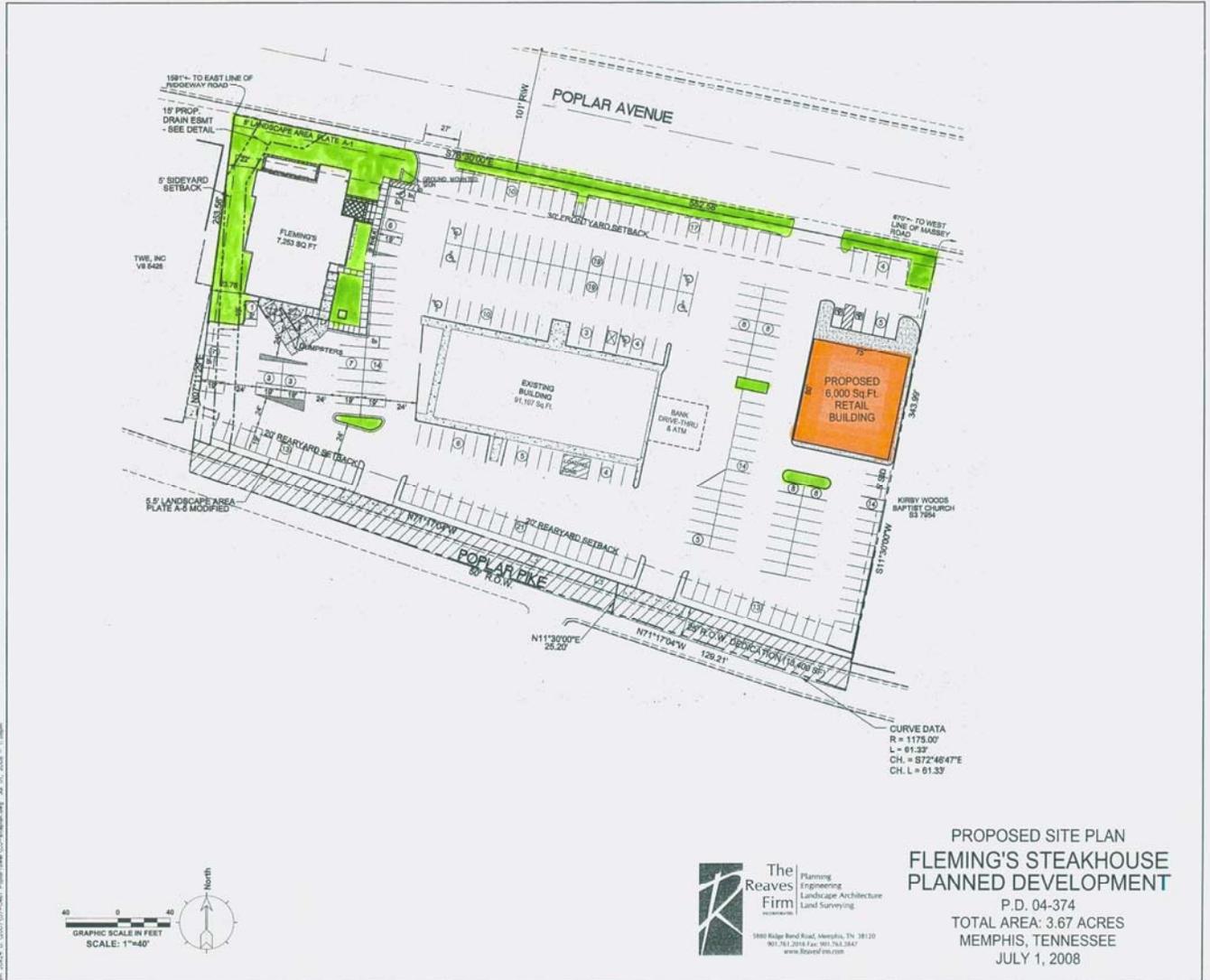
**'POPLAR TOWERS'**  
*6263 Poplar Avenue (Bird's Eye View West)*



**'POPLAR TOWERS'**  
*6263 Poplar Avenue (Bird's Eye View East)*



**SITE PLAN**





***STAFF ANALYSIS:***

**Site Description**

The subject property is a 3.67 acre parcel located at the south side of Poplar Avenue(U.S. Hwy 72), a major road with 100 feet of right of way, 86 feet of pavement, and no proposed improvements. The entire parcel is a double frontage lot with an existing eleven(11) story high-rise office building with drive-thru banking facilities and practically a new one-story restaurant building that faces Poplar Avenue with associated parking and landscaping. There is curb, gutter and sidewalk along Poplar Avenue with only curb and gutter on Poplar Pike.

The site has two(2) curb-cuts on Poplar Avenue and two(2) curb-cuts on Poplar Pike with large mature pines, small under-story trees and shrubs at both streets. There is interior landscaping of mature pine trees in the parking areas and at each corner for identification of the parcel from adjacent land uses. The high-rise office building on this parcel was built in 1973 and the restaurant land use is permitted by planned development approved in February, 2005. This application is an amendment to allow another land use within the Outline Plan of Fleming's Steakhouse Planned Development.

**Area Overview**

The land use and zoning in the immediate area north of the railroad is primarily office and retail developments approved by planned developments. The north side of Poplar Avenue is Regalia Poplar-Shady Grove PD, a mixed-use plan of bank and corporate office headquarters, retail shops, large restaurant, hotels, including the maintenance of the original single family estate home. The land use directly across the street is an office village consisting of primarily doctor's offices and the Poplar Station Planned Development approved for neighborhood retail land uses consisting of a small restaurant, retail drug store and retail shops.

The land use south of Norfolk-Southern Railroad is the large private school campus facility for Memphis University School and farther south The Hutchinson School with vast green open spaces. The zoning and land use west of the school campus is Park Place Center, a Planned Commercial(C-P) development for a neighborhood retail center, including large and small restaurants. The land use east of the campus facility is predominantly single family homes with a townhouse development at the southeast corner of Massey Road and Poplar Pike. The land use west of Ridgeway Road is primarily for bank office headquarters facing Poplar Avenue and large corporate office developments farther north of this intersection.

The proposed land use is located within one(1) block of land that extends from Ridgeway Road on the west to Massey Road on the east. The bank branch offices, retail shops and restaurants are all anchored by the gasoline sales/convenient store and Kirby Woods Baptist Church. All are double-frontage lots with land use that faces Poplar Avenue and some with rear access to Poplar Pike. The restaurant within this Outline Plan coincides with building setback lines along this side of the Poplar Avenue Corridor employment center.

**Request vs. Land Use Parking Ratios**

This planned development amendment is to allow a new one-story retail building 6,000 square feet in area within the Outline Plan approved in February, 2005. This plan allowed a restaurant use at the west side of the parcel and this amendment seeks to add a land use at the east side. The high-rise office building on the site is the anchor for this block and parcel that is wedged between a major railroad and roadway.

The other office developments within the immediate area are similar in mass and scale that create a balance between buildings that appear to be accessory, but ancillary in nature. The restaurant on this parcel complements the office building by use, color, texture and form. All buildings within this Outline Plan should maintain this form and balance with flexible, yet corresponding land use parking ratios.

The office building is 91,107 square feet in area with a total of 304 required parking spaces and the restaurant building was approved for a maximum of 240 seats with a required total of 120 spaces. The parking on this entire parcel is currently shared parking with an hours of operation condition placed on the restaurant. The approved restaurant operation hours are 4 p.m. to 11 p.m. and for lunch hours only on holiday weekends. These conditions were placed on this development plan to attempt to maintain parking ratios between different land uses.

The sharing of parking spaces in this area is not unusual, but should be carefully measured when land uses share the same parcel and parking spaces. Although the land is all in one ownership, the operating hours of the ancillary land uses should continue to support the parking ratios dictated by existing and proposed land uses. This can be accomplished by prohibiting certain land uses that require higher parking ratios and by selecting those with lower ratios.

The standards for land uses permitted in the Neighborhood Commercial(C-N) District may accomplish the goal of allowing a new 6,000 sq. ft. retail building to be located in close proximity to an employment center. The required parking in this district yields twelve(12) spaces at a ratio of one(1) space for each 500 square feet of floor area for retail with 4,000 square feet or greater. The required number of spaces in the Zoning Ordinance for retail shops in General Office(O-G) District zoning is one(1) space for each 300 square feet of floor area or twenty(20) spaces.

The parking for this land use is insignificant, because the parking ratio of 1:300 is the same for the high-rise office building. This development proposal appears to be similar to retail shops in Poplar Station Planned Development directly across Poplar Avenue. Although this development will not be of the same size—the color, texture, form, placement, orientation, landscaping and architecture of this new retail building should be compatible with the office and restaurant buildings within this Outline Plan, including no parking in the front yard for any new ancillary building.

**RECOMMENDATION:**     *Approval with Conditions*

**OUTLINE PLAN CONDITIONS:**                      *[Amendments:     **Bold, Italic, Underlined**]*

I.        Uses Permitted:

- A.        Any use permitted by right or by administrative site plan review in the General Office District, provided that any additional use, except for the requested restaurant in B **and retail in C** below, shall be located within the existing office building.
  
- B.        One free-standing, full service, restaurant, with a maximum capacity of 240 seats.
  - 1.        Operating hours shall be between 4:00 p.m. and 11:00 p.m. However, the restaurant shall be permitted to operate during lunch hours on any “Holiday” that falls on a weekend.
  - 2.        The restaurant is permitted on the same site as the existing office tower. Any change in ownership or the lease arrangement that proposes the restaurant to be located on its own lot of record shall require an amendment to this Planned Development.
  
- C.        **One(1) free-standing retail building a maximum of 6,000 square feet in area.**
  - 1.        **The retail building shall be permitted on the same site as the existing office tower and restaurant building. Any change in ownership or the lease arrangement that proposes the retail building to be located on its own lot of record shall require an amendment to this Planned Development.**
  - 2.        **The retail building shall be compatible in color, texture, form, placement, orientation, landscaping and architecture with the office and restaurant buildings within this Outline Plan, including no parking in the front yard.**

II.       Bulk Regulations:        The bulk regulations of the General Office(O-G) District shall apply, **except as stated above for the retail building.**

III.      Access, Circulation and Parking:

- A.        Dedicate fifty(50’) feet of total right-of-way on Poplar Pike and improve in accordance with Subdivision Regulations.
  
- B.        The existing two(2) access points to both Poplar Avenue(U.S. Highway 72) and Poplar Pike shall be permitted.
  
- C.        Provide an A-5 Plate, or a suitable equivalent that is acceptable to the Office of Planning and Development along the Poplar Pike frontage.
  
- D.        In the area of the site that it being used for the restaurant **and retail buildings**, provide a minimum of 300 feet of required landscaping for every twenty(20) vehicles and one(1) shade tree (Tree A) shall be planted for every twenty(20) parking spaces or fraction thereof. The required interior landscaping calculations shall not include the required streetscape landscaping, but may include any landscaped area in front of buildings.

- E. All required landscaping shall not conflict with any easements, including overhead wires. However, all required landscaping shall be exclusive of and in addition to, any required, easements.
  - F. Equivalent landscaping may be substituted for that required above, subject to the approval of the Office of Planning and Development.
  - G. Lighting shall be designed so as to minimize the trespass of light onto adjoining properties and streets. The use of such measures as shoe box style fixtures is recommended.
  - H. Refuse containers shall be completely enclosed within a building or a structure. The location of said containers shall be as shown on the Outline Plan.
  - I. Heating and air conditioning equipment, including that located on the roof, shall be screened from view of adjacent properties and public roads through the use of architectural features or landscaping.
  - J. All loading facilities shall be screened from view of the public roads and adjacent properties.
  - K. The removal of any tree 10 inches in caliper (DBH) or greater shall require the filing of an NOI a minimum of 10 days prior to removal. The preservation of existing trees shall be considered when evaluating this application under the requirements of the Tree Ordinance.
  - L. Provide a Tree Survey that identifies the location, and type of any trees over 10 inches in caliper.
- IV. Signs: Signs shall be in conformance with the General Office(O-G) District with the following additional conditions.
- A. All detached signs shall be monument style signs.
  - B. Maximum sign area shall be thirty-five(35) square feet.
  - C. Maximum sign height shall be ten(10) feet.
  - D. Minimum fifteen(15) foot setback shall be provided for all signage.
  - E. The detached sign shall be composed of materials which are similar to the principal building.
  - F. The base of the detached sign shall be landscaped and irrigated. The area of landscaping shall be equivalent to two(2) times the area of the sign. If the base of the sign is located within the required streetscape plate, the streetscape may be counted toward this requirement.
  - G. Attached signs shall be permitted in accordance with the O-G District regulations, including the application of text messages and/or logo's upon the bottom twelve(12) inches of canopies or awnings extending from the face of the building.

- V. Drainage: All drainage plans shall be submitted to the City Engineer's Office for review.
- VI. The Land Use Control Board may modify the building setback, height, access, parking, landscaping, sign requirements, and other design elements if equivalent alternatives are presented.
- VII. Time Limit: A Final Plan shall be filed within five(5) years of approval of the Outline Plan. The Land Use Control Board may grant extensions at the request of the applicant subject to additional conditions.

VIII. Final Plan:

Any final plan shall include the following:

- A. The Outline Plan Conditions.
- B. A Standard Subdivision Contract in accordance with the Subdivision Regulations and the City of Memphis paving policy for any needed public improvements.
- C. The exact location and dimensions, including height, of all commercial buildings or buildable areas, parking areas, and number of parking spaces, drives and required lighting.
- D. The content of all landscaping and screening to be provided.
- E. The location and group of trees to be preserved and required landscape/screening areas.
- F. The location and ownership, whether public or private, of any easement.
- G. The following note shall be placed on the final plan of any development requiring on site storm water detention facilities. The area denoted by "Reserved for Storm Water Detention: shall not be used a building site or filled without first obtaining written permission from the City Engineer. The storm water detentions 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 owner's association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approval plan on file in the City 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.
- H. The one-hundred(100) year flood elevation.

**GENERAL INFORMATION:**

**Street Frontage:** Poplar Avenue(US 72)-----+/- 552.58 linear feet.  
Poplar Pike-----+/-544.64 linear feet.

**Planning District:** Shelby Farms-Germantown

**Census Tract:** 213.20

**Zoning Atlas Page:** 2145

**Handy Map Page:** 57-D

**Zoning History:** In February, 2005 a planned development was approved to allow a full-service restaurant with a maximum of 240 seats. Prior to this date, the General Office(O-G) District zoning of the site dates to the adoption of the 1980 zoning map amendments.

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**DEPARTMENTAL COMMENTS:**

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

**City Engineer:** No objections to this request.

**City Fire Division:** No comments.

**Memphis & Shelby County Health Department:** No comments by Water Quality Branch.

**Memphis 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.

**AT&T:** No comment.

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

**OPD-Regional Services:**

This application was reviewed by the MPO staff/Department of Regional Services on July 24, 2008. Poplar Avenue is an existing major road consisting of 100 feet of right of way, 86 feet of pavement, and no proposed improvements.

**OPD-Plans Development:** No comments.

**Park Services:** No comments received.

**TN Dep't of Environment & Conservation(TDEC):** No comments.

**Neighborhood Associations/Organizations:**

*Massey Hill Homeowners' Association:* No comments received as of 8/8/08.  
*Whitmar Homes Association:* No comments received as of 8/8/08.

**Staff:** *bb*