MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
UPDATED STAFF REPORT #7

CASE NUMBER: U.V. 08-11 CC
(Converted from S.U.P. 08-231 CC)

L.U.C.B. MEETING: March 12, 2009
(Updated from November 11 text; revised 3/9/09)

LOCATION: West side of Collierville-Arlington Road, immediately north of Mary's Creek

OWNER/APPLICANT: John & Kristina Laiche

REQUEST: Office & warehouse use

AREA: 6.96 acres

EXISTING LAND USE & ZONING: Office and warehouse for an electrical contracting business in the **Agricultural (AG) District**, with *Flood Plain overlay [FP]* affecting most of the AG area.. Also, part of the property is in the **Floodway (FW) District**
(Note: November 11 text was revised here)

SURROUNDING USES AND ZONING:

North: Farm buildings, including horse stables and a single-family residence in the Agricultural (AG) District, with Flood Plain overlay [FP] on part of the property.

East: Across Collierville-Arlington Road, single family estate residential use and cropland, with a TVA transmission line easement in the Agricultural (AG) District, with Flood Plain overlay [FP] on part of the property.

South: Across Mary's Creek, single-family residence in the Agricultural (AG) District, with Floodway (FW) District and Flood Plain overlay [FP] on part of the property.

West: A large vacant tract just north of Mary's Creek in Agricultural (AG) District, with Floodway (FW) District and Flood Plain overlay [FP] on part of the property.

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION

Rejection

CONCLUSIONS:

1. **The applicant has not presented any information to justify the necessity of a use variation based on the hardship criteria that are required for such an approval.**

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2. **The use is out of character with the existing estate residential and agricultural character of the area and with low density residential uses promoted by the Gray's Creek Plan in the Mary's Creek basin.**

Staff Planner: **Dave Adams** **E-mail Address: david.adams@memphistn.gov**

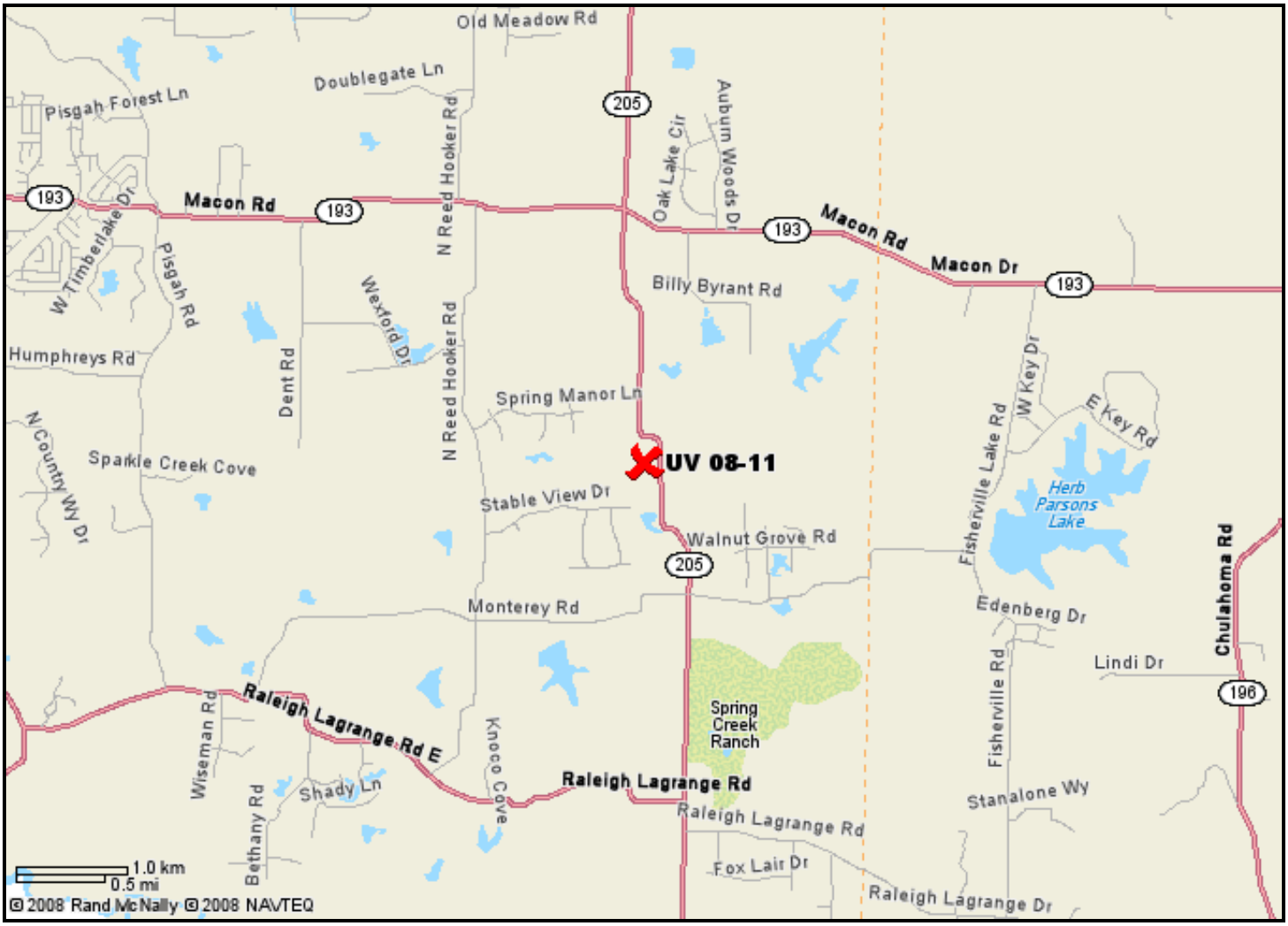

Figure 1: Location Map

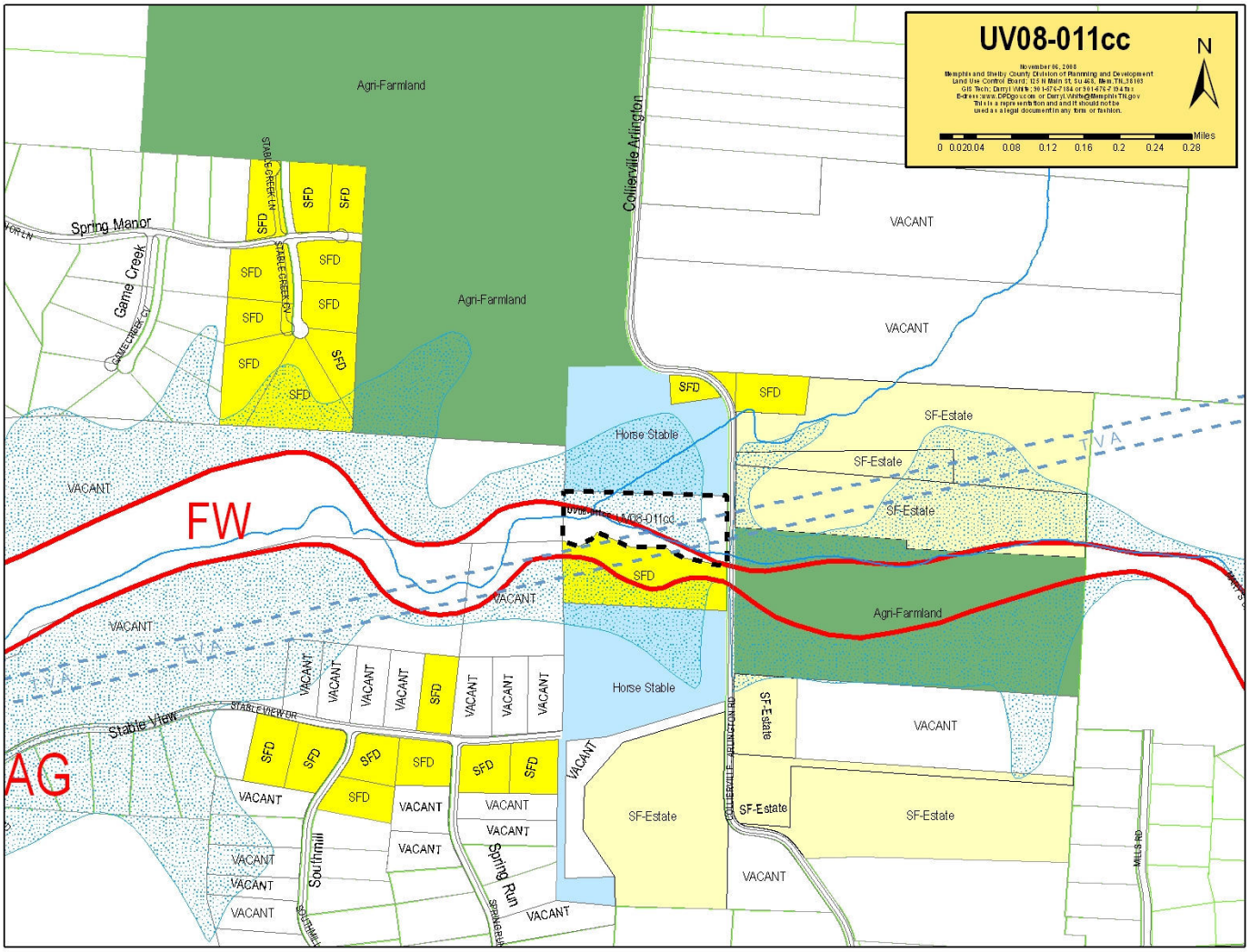

Figure 2: Land Use and Zoning in the Vicinity

Figure 3: Overhead View of Vicinity

Figure 4: Overhead view of subject property

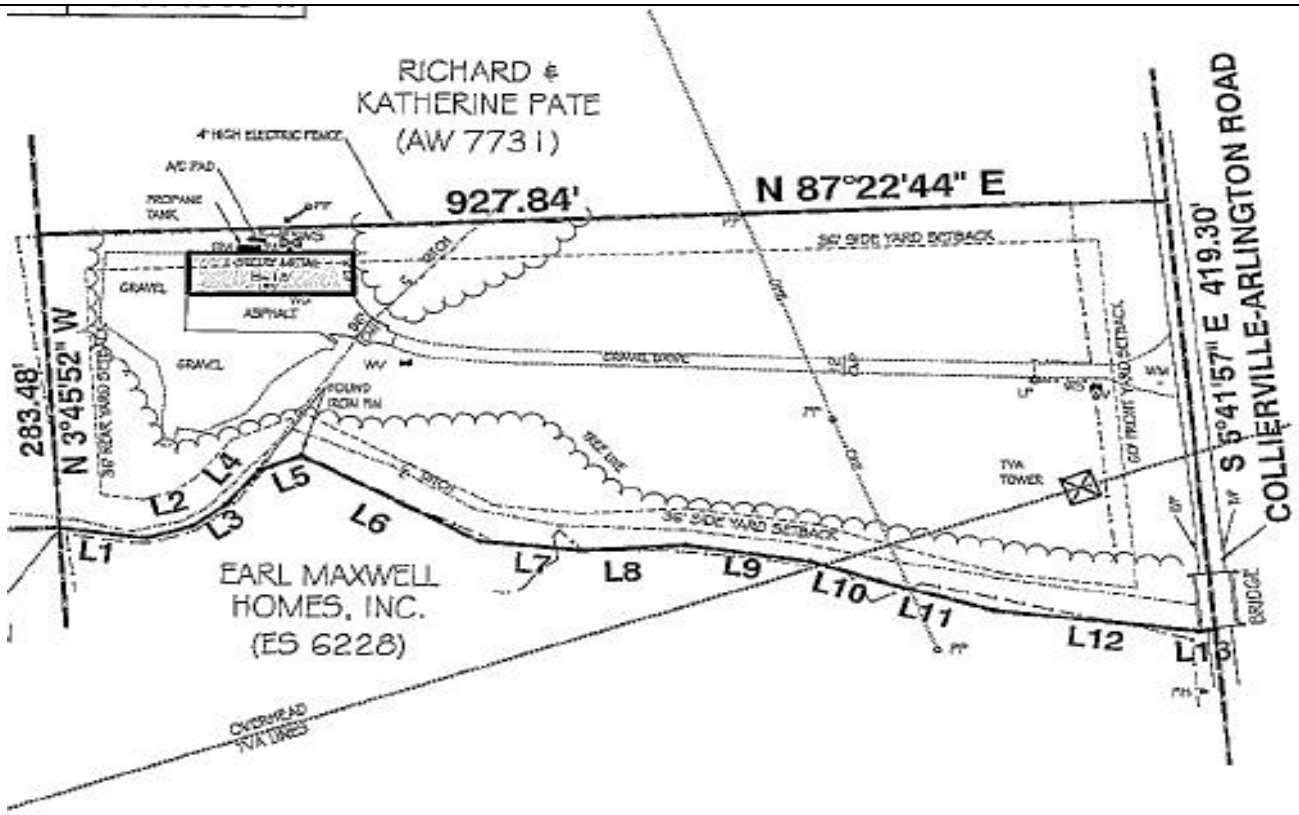

Figure 5: Site Plan Detail for subject property

Figure 6: Entrance to subject property on the west side of Collierville – Arlington Road

Figure 7: The existing office / warehouse building is heavily screened on the south side (to the left in this view)

Figure 8: Trees along a stream branch (and a three-foot berm with newly planted evergreen shrubs) provide significant screening for the view from the front (east side) of the property.

Figure 9: The north side of the warehouse extends to within 21 feet of the property line

Figure 10: The neighboring property to the north appears to be a horse farm, with several accessory buildings

Figure 11: The nearest residence at 540 Collierville-Arlington Road was built in 2001. It viewed here from across the road on the subject property

STAFF ANALYSIS

Site Characteristics

The subject property is a 6.96 acre tract in eastern Shelby County, located about 1 ½ miles south of the Fisherville community on the east side of Collierville-Arlington Road, immediately north of Mary's Creek, a tributary of Gray's Creek. The property has a 419 ft. frontage on Collierville – Arlington Road and extends 928 feet westwardly along its northern boundary.

The property is generally low-lying. A major portion of the site is in the Mary's Creek floodway, as designated by the Federal Emergency Management Agency. This must be kept clear of all development. A tributary of Mary's Creek traverses the subject property in a southwestwardly direction. A substantial portion of the property is in the currently designated 100-year floodplain, where all building construction must be elevated at one foot above the base flood elevation at the level of the lowest finished floor.

The northwest corner of the property is occupied by a metal building 135 ft long by 40 ft. wide. (5,400 sq. ft.). According the records of the Assessor, this "accessory improvement" was first permitted by a previous owner in 2002, with building permits for improvements issued to its current owner in 2006 and 2007. This building is located in northwest half of the subject property and accessible by driveway only by means of a bridge across the stream that cuts through the property.

The current owner conducts an electrical contracting business and has a contract that involves the modernization of supermarkets in various localities in the Mid South. The applicant states that he uses the building as an office and warehouse where supplies, mainly electrical hardware, are received, stored and then shipped out as needed for the various contracting jobs. The applicant indicates that the building, when acquired, was used as a wood working shop, which, in his view, established the industrial character of the property.

The owners have made some efforts to mitigate the impact of the warehousing operation. The frontage is maintained in a pasture-like setting, with white board fencing typical of a horse farm. Along the east side of the tributary stream, a berm has been constructed and a row of evergreen shrubs has been planted where they would help screen views of the warehouse. Screening is provided by native deciduous trees --- somewhat thinly along the tributary and more densely along the south and west property lines. The view from the north is mostly unscreened, but the loading and truck parking are all on the south side of the building and the view from the north is not dissimilar to horse barns and sheds, etc. that are visible on nearby farms.

Proposed Development

As it turns out, warehousing is not a permitted use in the Agricultural (AG) District. Although warehousing operations may occur in connection with permitted farming operations, they are legal only insofar as they are an integral part of those farming operations.

Having made investments in this property, the owner and operator of the business wishes to have an

exception made in the zoning regulations so that his current use of the property may continue.

The Vicinity and the Neighborhood

The subject property is in the Mary's Creek portion of the Gray's Creek Study area, where the recently approved plan recommends low density residential uses for such development that may occur there. The current land uses in this area typify such an environment, featuring farms and fields of cropland and single-family estate-type residences on large lots.

The only higher density developments are two nearby subdivisions with 2-acre lots, just within the 1,500 notification radius to the southeast and northeast. These are Spring Mill and Spring Mill Farms, accessible only from Monterrey Road, which runs parallel to Collierville-Arlington more than ½ mile to the west.

Planning Issues

As noted above, warehousing is not allowable in the AG District, and the use variation is the proposed method of granting it the right to continue in this case. Use variations are justified only on the basis of an unnecessary hardship resulting from a unique characteristic of the property. Self-caused hardships are not grounds for relief. Unless the applicants can demonstrate otherwise, their current difficulty appears due to, at best, a lack of due diligence, which is not grounds for relief.

Putting the site in context --- the distance from the site of the existing warehouse operations to nearby single-family estate residences, is roughly 700 feet to the northeast, 1,200 feet directly to the east, and 820 feet to the south. The nearest houses in the nearby subdivisions are 1,370 feet to the southwest (Spring Mill) and 1,600 feet to the northwest (Spring Mill Farms). These distances may seem large in a dense urban context. (660 ft is a typical length for a City block.) However, in the context of an environment of farm fields and residential estates, something that is only ¼ mile distant (1,320 ft.) is considered to be relatively close.

However it may be beautified, this use is out of character with the current character of the land use in the area and with the type of low-density suburban environment that the Gray's Creek Plan is recommending for the future of Shelby County and Memphis. Allowing this use would create pressure to allow others which would magnify the adverse effect and bring undesirable amount of truck traffic to the very rural, winding highway that serves the area.

In addition, the zoning ordinance specifies certain general standards that apply to all use variations.[1]

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1 [1] The General Standards of Applicability are as follows:

A. That the proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare;
B. That the proposed building or use will be constructed, arranged, and operated so as to be compatible with the immediate vicinity and not to interfere with the development and use of adjacent property in accordance with the applicable district regulations;

OPD staff believes that the proposed use fails the test with respect to Criterion B (compatibility), And Criterion D (preservation of scenic values as per Gray's Creek Plan) and that questions remain about compliance with Criterion E (additional standards related to storm drainage, etc.)

RECOMMENDATION: Rejection

If the Land Use Control Board sees fit to recommend approval, site plan conditions will be required. Without supporting approval, OPD staff offers the following list of conditions for the use of the Land Use Control Board. Further details will be worked out as required.

1. Approval to run with the owner, and not with the land.
2. Office and warehousing use shall be limited to the scope of the current operation.
3. No signage permitted that would be visible from off-site.
4. All on-site outdoor lighting to be screened or directed so as to prevent visibility from off-site at any season.
5. No trucking operations except between 5 AM and 7 PM. Mondays through Fridays.
6. Site plan to be reviewed in detail with OPD staff with respect to parking layout and landscape plans so as to insure no visibility of truck parking or transfer operations from off-site.
7. Site plan to show base flood elevation and actual elevation of the warehouse floor. The culvert over the lateral stream branch shall be assessed with respect to possible floodway restrictions or encroachments, including the culvert installed along the access drive. All other requirements of FEMA for participation in the flood insurance program shall be complied with before a use and occupancy permit shall be granted, including any floodway encroachments
8. All regulations of the Memphis and Shelby County Health Department to be complied with in respect to approval of septic tank systems on the property.
9. If the County Engineer, finds that that this 7-acre parcel is not exempt from the requirement to subdivide due to drainage issues, final approval of the site plan shall not occur until a subdivision has been approved by the Land Use Control Board.
10. Certification is required from City and County Engineering with respect to the possible need for additional stream bank stabilization measures.

C. That the proposed building or use will be served adequately by essential public facilities and services such as highways, streets, parking spaces, drainage structures, refuse disposal, fire protection, water, and sewers; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services;
D. That the proposed building or use will not result in the destruction, loss or damage of any feature determined by the legislative body to be of significant natural, scenic or historic importance;
E. That the proposed building or use complies with all additional standards imposed on it by the particular provision of this section authorizing such use.

GENERAL INFORMATION

Coordinates:	35° 08' 19"N, 89° 39' 42"W
Parcel Number:	D0217 00170
Street Address:	475 N Collierville-Arlington Road, 38017
Street Frontage:	Collierville-Arlington Road: 419 feet on this 2-lane minor arterial road.
Planning District:	East Central Shelby (in Gray's Creek Plan area)
Census Tract:	210.20
Annexation Status:	In Memphis Annexation Reserve Area
Zoning Atlas Page:	2065
Zoning History:	**1961** – Agricultural Zoned Single Family Dwelling "R-1" District, upon annexation.

DEPARTMENTAL COMMENTS

City Engineer:

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. Collierville Arlington Road is designated as a Priority 1 on the MPO Major Road Plan. Dedicate 42 feet from centerline in accordance with Subdivision Regulations.

6. All private drives/rear service drives shall be constructed to meet pavement requirements of the Subdivision Regulations, applicable City Standards, and provide a minimum width of twenty-two feet (22').

Curb Cuts/Access:
7. The County Engineer shall approve the design, number and location of curb cuts.

8. 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.

9. 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.

10. Adequate maneuvering room shall be provided between the right-of-way and the gate/guardhouse/card reader for vehicles to exit by forward motion.

Memphis City Schools:

The subject property is not located within the City of Memphis' Reserve Area, nor does it appear to be adjacent to any property which has been identified as belonging to Memphis City Schools (MCS). This land use case will not have an identifiable impact on MCS' school-aged population nor MCS' property interests.

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.

OPD-Regional Services: Collierville-Arlington Road is an existing minor arterial on the Long Range Transportation Plan.

OPD-Plans Development: No comments

City/County Health Department:

1. Conventional subsurface sewage disposal statutory criteria T.C.A. 68-221-403 (c) which requires either a high intensity soils evaluation by a soil scientist certified by the State of Tennessee or a percolation test must be performed to verify that the soil is sufficiently permeable to allow proper absorption of the sewage into the soil. The soil mapping or percolation test must be performed as outlined in the Rules and Regulations to Govern Subsurface Sewage Disposal Systems Chapter 1200-1-6-.02 (3).

2. The minimum acreage for an existing lot to have a subsurface sewage disposal system is two (2) acres. If the lot has a proposal to be subdivided each of the subdivided lots **must** have a minimum of two (2) acres for the installation of a subsurface sewage disposal system. Also, if the existing lot has a subsurface sewage disposal system it **must** maintain the two (2) acre minimum requirement.
3. As outlined in Rules and Regulations to Govern Subsurface Sewage Disposal Systems Chapter 1200-1-6-.03, areas consisting of fill material shall be excluded from the area considered for the installation of the disposal field unless soil conditions provide for adequate filtration and will prevent outcropping of sewage effluent.

4. Subsurface sewage disposal systems or field lines cannot be installed within the designated boundaries of the 100-year floodplain or flood zone.

5. Subsurface sewage disposal systems for commercial usage **must** be an engineer designed system.

6. If any monitoring wells were installed as part of an environmental site assessment they must be filled as outlined in Section 6 of the Shelby County Well Construction Code.

7. If any abandoned water wells are present on this site they must be properly filled and abandoned as outlined in Section 9 of the Shelby County Well Construction Code.

8. If a Demolition Permit will be required after filling out the attached questionnaire then the owner, developer, or contractor must contact the Asbestos Branch in the Air Pollution Control Section at (901) 544-7349 in order to secure the appropriate permit.

Bell South: No comments received
Construction Code Enforcement: No comments received.
City Fire Division: No comments received.
Memphis Area Transit Authority (MATA): No comments received.

Neighborhood Associations:
Fisherville Civic Club: No comments received.

Gray's Creek Neighborhood Association:

"[Gray's Creek Neighborhood Association is] … in opposition to the proposed development. A variation at this location to permit an office warehouse is not consistent with the Gray's Creek Plan previously approved by the City Council and the County Commission"

David Wade, Atty., for David Sanders, 1/7/2009

Estates of Spring Mill Homeowners Association:

"[We are] …in opposition to the John and Kristina Laiche request for a variance to permit them to operate an office warehouse and trucking operation on the subject property. It needs to be noted, the Laiche's do not maintain a home on the property; only a commercial operation.

The variance request is out of character with the existing residential estate and agricultural character of the area and with the low density residential use promoted by the Gray's Creek Association. Our homeowners are directly affected by this operation from a visual perspective and noise pollution as well as the potential for a negative impact on property value. We do not think a lack of due diligence on the part of the purchaser should be grounds for a variance that will negatively impact our homeowners."

Kevin Grant, 1/12/2009

USE VARIATION REQUEST
475 North Collierville Arlington Road

This request is to grant a Use Variation in accord with the Memphis and Shelby County Zoning Regulations which require that an owner of land show that there are practical difficulties to develop the land in accordance with the applicable zoning regulations that govern the property and that such a variation not be harmful the surrounding properties.

The Applicant, John Laiche does operate a commercial operation on the property, known as Elite Lighting. They install and replace lighting fixtures in large retail establishments, namely Kroger Supermarkets. Mr. Laiche has several work crews that service the 160 or so Kroger Supermarkets in the Mid-South Region for Kroger approximately 60 percent of which are located outside of the immediate Memphis area. The work crews pick up lighting fixtures, light bulbs and related electrical equipment and transport them to the sites for installation. The work crews have pick-up trucks and various sized utility trailers depending upon the size and location of the work assignments. Those working out of town, load supplies for multiple days out on location, and are not on site everyday. Even those crews working jobs in-town may not be on site everyday. An office manager may be the only person on site for numerous days of the week.

Delivery of fixtures is via 18 wheel tractor-trailers. In 2008 on average there were four deliveries a month to this location. While it may be noted that multiple deliveries may be made in a single day there is documented that it could be as long as six (6) weeks between deliveries. Lighting fixtures and the related bulbs and other electrical lighting equipment is stored on the property. That is the extent of the warehousing activity. In essence this use is an electrical contractor, who stores some supplies on site – within a building – as most contractors of this type do.

The Property at 475 North Collierville Arlington Road, was created as a four (4) plus acre lot prior to 1984, as can be documented by deed Interment Number AW 7731, which references this lot by Shelby County Assessor Parcel number in the transfer of the property to a previous owner.

At the time Mr. Laiche purchased this property, there were two electrical transmission easements on the site. One TVA easement which is 150 feet wide, and a second local electrical line easement which is eight (8) feet wide. The TVA transmission easement covers the southeast corner of the property from approximately the entrance drive south to the southeast corner of the property and extending southwesterly about 400 feet deep along the southern property line. The MLGW easement enters the site about 300 feet deep into the property along the north property line and extends southeastwardly and exits the property about 200 feet deep from Collierville Arlington Road.

Since Mr. Laiche purchased the property, FEMA has amended the Floodway and Floodway on this site. The Floodway now covers a substantial portion of the site beginning at a point about eighty (80) feet south of the northwest corner and in a slight arc extends across the southern portion of the site to a point about twenty (20) feet north of the bridge in Collierville Arlington Road. The Flood Plain now encompasses all the remainder portion of the site. The Finished Floor Elevation (FFE) for the structure on the property is 226. From contour data, it appears the 100 year flood elevation is 225 putting the structure the required one (1) foot above the base flood elevation.

The impact of the easements and Floodway leaves only the portion of the property north of the gravel drive available for any type of development. This developable area is further divided into three areas: east of the MLGW easement, west of the MLGW easement and east of the creek running northeastwardly through the site, and the third area being west of the creek, and the area within which the structure is located.

Under the Applicable Zoning Regulation, the property is zoned AG Agricultural. This permits a full range of agricultural activities including some commercial uses that are complimentary to agriculture. The recent development pattern in this area is for both large tract single-family homes, (five acres and larger) and two to four acres single family subdivisions. The impacts of the easements, creeks and Floodway on the property make it currently only developable with one (1) residence. This would be a very inefficient use of the land in the future. The real trend in this immediate area is for subdivision into Sub-Urban type lots as found in the Subdivision located just southwest of this property. Again however given this legal lot of record, such a subdivision patter could not be established on this site. The property owner cannot therefore expect to develop his property as other properties in the area. To accomplish such a subdivision would require the re-assembly of this and land to both the north and south. Market conditions certainly disfavor such an assembly at this time, but long term as the market recovers and land values rise, such a subdivision is practical, warranted and desired.

The applicant is seeking to utilize this property for a temporary period of time. He can not extend the building any further due to the creek and Floodway limitation, therefore if the business grows as we all would hope, this site is no longer practical as a location. Second, as the housing market recovers and new demand for large lot development is again a market factor, this property is well suited to be reassembled with the land to the north and south to create sufficient developable land for a subdivision in character with the area.

Finally, why did MLGW acquire and utilize an easement through the subject property? Collierville Arlington Road is on the MPO Major Road Plan as an eighty-four (84) foot wide arterial. There is a large "S" turn in the road just north of the property. Following "Hurricane Elvis" in 2003, MLGW did not replace the electrical lines along Collierville Arlington Road, but moved them along the easement purchased from the landowners west of Collierville Arlington Road to make a straight connection of the power lines. Could the future alignment of Collierville Arlington Road take a similar course? Could this property be further impacted? An impact that place this parcel of land on either side of this major roadway, further limiting its development potential, unless assembled with the adjacent tracts of land.

As a temporary use of this land until market condition change, the location of a contractor's office and associated storage of related materials is a reasonable use of the property.

From: William Smith

Sent: Mon 1/5/2009 3:33 PM

Subject: Case UV-08-11-CC Use variation Application

Dear. Mr. Adams:

I see the case #UV 08 11 CC, has made it back to the control board schedule again. I will be unable to attend the meeting personally, but would like to express my concern.

As an owner of 18.6 acres near the area in question, I most strongly object, to the petitioned use variance of the said property. Currently there are two commercial locations designated in this area. One is at the corner of Macon and Collierville-Arlington and the other is at Monterey. These areas seem to adequately service the community. There seems to be room in those locations for expansion if the board feels we need more office/ warehouse space. But to plop down, in the middle of an Agricultural /residential area, a warehouse with large trucks making deliveries just seems inconsistent with the current community.

On a side note I am told that the owner of the property does not have a residence on it. Nor does he live in our community. He has chosen to infringe on our peaceful community by having fleets of 18 wheel tractor-trailer rigs and other commercial vehicles enter and exit a business operation regularly. He has chosen to do this in an area zoned residential. Furthermore, Collierville-Arlington is not adequately equipped to handle an increase in this type of traffic. Nor should it.

I personally don't, think this is right. I feel it will have negative impact on agricultural/residential life in this area. And increase the ever-growing dangers of navigation on Collierville-Arlington Rd. I urge the board to deny this petition.

Sincerely,

William Smith

EXHIBIT B-1
E-MAIL IN OPPOSITION - #1

From: kay mcadams

Sent: Wed 1/7/2009 11:13 AM

Subject: Case # UV 08-11 CC

I am contacting you to protest any change in zoning in the captioned case. Mr. Laiche has been operating a business in violation of the zoning for more than a year now. There are very bright outside lights
left on all night. There are large 18-wheel tractor trailer vehicles in and out all day. We all paid very dearly for the right to live in a quiet, peaceful area and Mr. Laiche has violated our rights to continue to do so. I most vehemently oppose any change in zoning that would allow him to continue to run a business at its current location on Collierville-Arlington Road.

Kay McAdams
355 North Collierville-Arlington Road

EXHIBIT B-2
E-MAIL IN OPPOSITION - #2

From: George Flowers

Sent: Fri 1/30/2009 9:38 AM

Subject: Variance permit at 475 N. Coll/Arl Rd.

Mr. Adams it was very disappointing to get your second e-mail 29 Jan. after getting the first stating the case would be on the Feb 12 meeting of the Land use Board and notices were to be sent out 30 Jan. If this is allowed to be postponed to 12 March 08, this will be the fourth setting for such.

FIRST Setting Nov 12, 08 Postpone by the applicants' request as according to him he would be out of the country.

When notified by you of this you stated it probably would come up in Dec.

Supposed SECOND setting. Before the Dec. meeting you called and stated it would be put off, I understood the agenda was very loaded at that time was the reason and it would be set for Jan. 09.

THIRD Setting Jan.8 09 Everyone present, the applicant again asked for a postponement. It was granted by the board at which time the chairman stated it would definitely be heard on the next setting which was to be 12 Feb 09

I do not go along with this postponement as the board chairman told all parties it would definitely be heard in Feb.

This man has been operating this business for almost two year in violation of the zone and after not giving correct information for a permit to the country permit Dept. He applied for a variance only after being given a citation to court by Code Enforcement.

EXHIBIT B-3
E-MAIL IN OPPOSITION - #3

From: Wylie W Bingham [and George Flowers]

Sent: Fri 2/13/2009 11:32 AM

Subject: 475 N. Collierville-Arlington Rd.

Addendum to Staff Analysis by OPD

Permits and Site Characteristics:
Parcel ID: D021700170

Tax Assessor - 3/26/2002 - Permit for 40' x 80' barn - 3200 s.f. Secluded view to the east by dense woods and growth. Hobby shop and personal storage (Mr. Robin Richardson).

Tax Assessor - 10/6/2006 - Purchase date from Robin Richardson to John Laiche.

Tax Assessor - 12/1/2006 - Permit for an addition – three bay garages with overhead doors - 40' x 55' barn - 2200 s.f. Total square footage is 5400 s.f. (40' x 135' structure).

Pollution Control/Water Quality - 2/28/2007 - permit for septic system, 1000 gallon tank w/150' of line. Building and septic system are in 100 year Flood Plain. Permit issue is undoubtedly in error. Approximately 100% of the parcel #D021700170 is in the flood plain. Refer to T.C.A. 68-221-403(c) regulating conventional sewage disposal.

Tax Assessor - 6/21/2007 - permit for Accessory.

1-13-2003 - National Conservation Resource Services - Mr. Andy Neal, surveyor. Mr. Neal did survey work on Dam #18, etc. and tributaries that flow into Mary's Creek. He related to me that there was a pipe in Gravelly Branch, north of Mary's Creek on the property at 475 N. Collierville-Arlington Rd. that may cause a stream flow problem and could damage homes north-easterly up stream in the event of heavy rains or if all the dams failed. Most of Mr. Neal's work was done during 2002.

Please investigate and respond as quickly as possible to the above noted events.

W. Wayne Bingham
George W. Flowers

EXHIBIT B-4
E-MAIL IN OPPOSITION - #4

From: Greg Hall

Sent: Fri 2/13/2009 10:05 PM

Subject: 475 N. Collierville-Arlington Rd.

I would like to add that there are probably no B and O *[U & O ?]* certificates which require, among other things, clearance from the fire chief in addition to proper recording in the Shelby County register's office.

It is my understanding that the property is used to store electrical equipment or components which obviously makes the property's ***current use*** of a more commercial nature than residential which requires the above mentioned certificates.

[Ed. Note: Lengthy section pertaining to subdivision regulations is omitted here. Author believes that the requirements may not been met. OPD staff notes that this issue really comes down to the question of whether the standard 4-acre exemption from the subdivision process is in effect in this case, since County Engineering approval is required if certain drainage criteria are not met.]

Another requirement for obtaining the occupancy and business permits include clearance from the Shelby County Fire Chief. Several factors make this requirement obvious as well.

Fees for fire services in unincorporated Shelby County are higher for commercial use property than that for residential use. Any commercial operation which has not obtained the Fire Chief's clearance is not being assessed proper fire fees and is discriminatory against businesses that are paying the proper fee as well as the residents paying the same fee as the business. Why should a commercial operation be allowed to pay the same fee as the area residents?

Electrical or any other commercial equipment concentrated in a few thousand square feet is a potential fire hazard and could have a serious impact on neighboring properties should a disaster cause a fire in the immediate area. Also, the Shelby County Fire Department's requisite disaster response is based on the department's known use of properties and, as of now, the fire department would potentially be ill-prepared for the hazards of electrical equipment in response to a disaster in this area.

I will contact Shelby County Fire Chief, Mr. Clarence Cash, to file a complaint of business occupancy without proper clearance in addition to not paying adequate county fire fees. I will also contact State Representative Curry Todd and Senator Mark Norris to notify state officials of this noncompliance and the county's lacking enforcement.

I want to stress that compliance with these ordinances and regulations does not obviate Mr. Laiche's requirement to comply with zoning standards; these are merely other code violations that will be brought to the attention of government officials having authority over these matters.

EXHIBIT B-5
E-MAIL IN OPPOSITION - #5

WOMEN'S HEAL
SPECIALISTS

Sherri Li, MD
Frank W. Ling, MD
Thomas G. Stovall, MD, MBA
Margaret Z. Summitt, MD
Robert L. Summitt, Jr., MD
Val Y. Vogt, MD
Candace Brown, MSN, PharmD

November 6, 2008

David Adams
Memphis and Shelby County Office of Planning and Development
125 North Main Street, Room 476
Memphis, Tennessee

Re: Case Number: UV 08-11 CC

Dear Mr. Adams:

I am writing in opposition to the request for a use variation for an Office / Warehouse to be located at 475 N. Collierville-Arlington Road. I am frankly surprised that this has been allowed to happen since the owner has been running a business on this property since early February 2007. It took many months for the owner to be cited for their use violation. I am unsure as to why it took so long, but the business has continued.

On a daily basis there are eighteen wheeler trucks making deliveries, there are multiple delivery trucks entering and exiting the property, and multiple work trucks from the business entering and exiting as well. All of this creates additional traffic congestion on what is already a busy two-lane road.

The fact that a business is being run out of this location is a violation of the Gray's Creek Development Plan and a violation of zoning use. All of these will have a negative impact on home and land values in the area.

Unfortunately, it doesn't appear that little can be done about all the rezoning that is occurring in the area as recently First Baptist Church was given permission to build multiple lighted athletic fields use North of this piece of property. I opposed this rezoning and found it disappointing that it was approved.

Please do not approve this rezoning so that our property values and safety can be protected.

Sincerely,

Thomas G. Stovall

Donna S. Stovall

Centers of Excellence

Center for Sexual Health
and Wellness

Center for Urogynecology
and Pelvic Surgery

Center for Pelvic Pain Management

Center for Pediatric
and Adolescent Gynecology

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EXHIBIT C
LETTER IN OPPOSITION
(Quoted elsewhere - 2 neighborhood association letters excerpted on page 14
Omitted - other letters not addressed to OPD, Board Members, Commissioners or Council members)