

**CITY OF MEMPHIS
COUNCIL AGENDA CHECK OFF SHEET**

**ONE ORIGINAL
ONLY STAPLED
TO DOCUMENTS**

**Planning & Development
DIVISION**

Planning & Zoning COMMITTEE: 04/23/2024
DATE

PUBLIC SESSION: 04/23/2024
DATE

ITEM (CHECK ONE)
 ORDINANCE RESOLUTION REQUEST FOR PUBLIC HEARING

ITEM DESCRIPTION: Resolution pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code approving a special use permit at the subject property located at 2001 Covington Pike, known as case number SUP 2024-0013

CASE NUMBER: SUP 2024-0013

LOCATION: 2001 Covington Pike

COUNCIL DISTRICTS: District 1 and Super District 9 – Positions 1, 2, and 3

OWNER/APPLICANT: Belle Properties, LLC/ENTERPRISE RENT A CAR

REQUEST: Special use permit to allow vehicle rental (light truck/van) and car sales

AREA: +/-2.066 acres

RECOMMENDATION: The Division of Planning and Development recommended *Approval with conditions*
 The Land Use Control Board recommended *Approval with conditions*

RECOMMENDED COUNCIL ACTION: **Public Hearing Not Required**

Hearing – April 23, 2024

PRIOR ACTION ON ITEM:

(1) _____	APPROVAL - (1) APPROVED (2) DENIED
04/11/2024 _____	DATE
(1) Land Use Control Board _____	ORGANIZATION - (1) BOARD / COMMISSION
	(2) GOV'T. ENTITY (3) COUNCIL COMMITTEE

FUNDING:

(2) _____	REQUIRES CITY EXPENDITURE - (1) YES (2) NO
\$ _____	AMOUNT OF EXPENDITURE
\$ _____	REVENUE TO BE RECEIVED

SOURCE AND AMOUNT OF FUNDS

\$ _____	OPERATING BUDGET
\$ _____	CIP PROJECT # _____
\$ _____	FEDERAL/STATE/OTHER

ADMINISTRATIVE APPROVAL:

	<u>DATE</u>	<u>POSITION</u>
<u>Kendra Cobbs</u>	<u>4/15/24</u>	PRINCIPAL PLANNER
		DEPUTY ADMINISTRATOR
<u>Butt Rn</u>	<u>4/15/24</u>	ADMINISTRATOR
		DIRECTOR (JOINT APPROVAL)
		COMPROLLER
		FINANCE DIRECTOR
		CITY ATTORNEY
		CHIEF ADMINISTRATIVE OFFICER
		COMMITTEE CHAIRMAN



Memphis City Council Summary Sheet

SUP 2024-0013

RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A SPECIAL USE PERMIT AT THE SUBJECT PROPERTY LOCATED 2001 COVINGTON PIKE, KNOWN AS CASE NUMBER SUP 2024-0013

- This item is a resolution with conditions for a special use permit to allow vehicle rental (light truck/van) and car sales; and
- The item may require future public improvement contracts.

LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on **Thursday, April 11, 2024**, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: SUP 2024-0013

LOCATION: 2001 Covington Pike

COUNCIL DISTRICT(S): District 1 and Super District 9 – Positions 1, 2, and 3

OWNER/APPLICANT: Belle Properties, LLC/ENTERPRISE RENT A CAR

REQUEST: Special use permit to allow vehicle rental (light truck/van) and car sales

EXISTING ZONING: Commercial Mixed Use – 3 (CMU-3)

AREA: +/-2.066 acres

The following spoke in support of the application: None

The following spoke in opposition the application: None

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval with conditions.

The motion passed by a vote of 7-0 on the consent agenda.

Respectfully,
Kendra Cobbs

Kendra Cobbs
Planner III
Land Use and Development Services
Division of Planning and Development

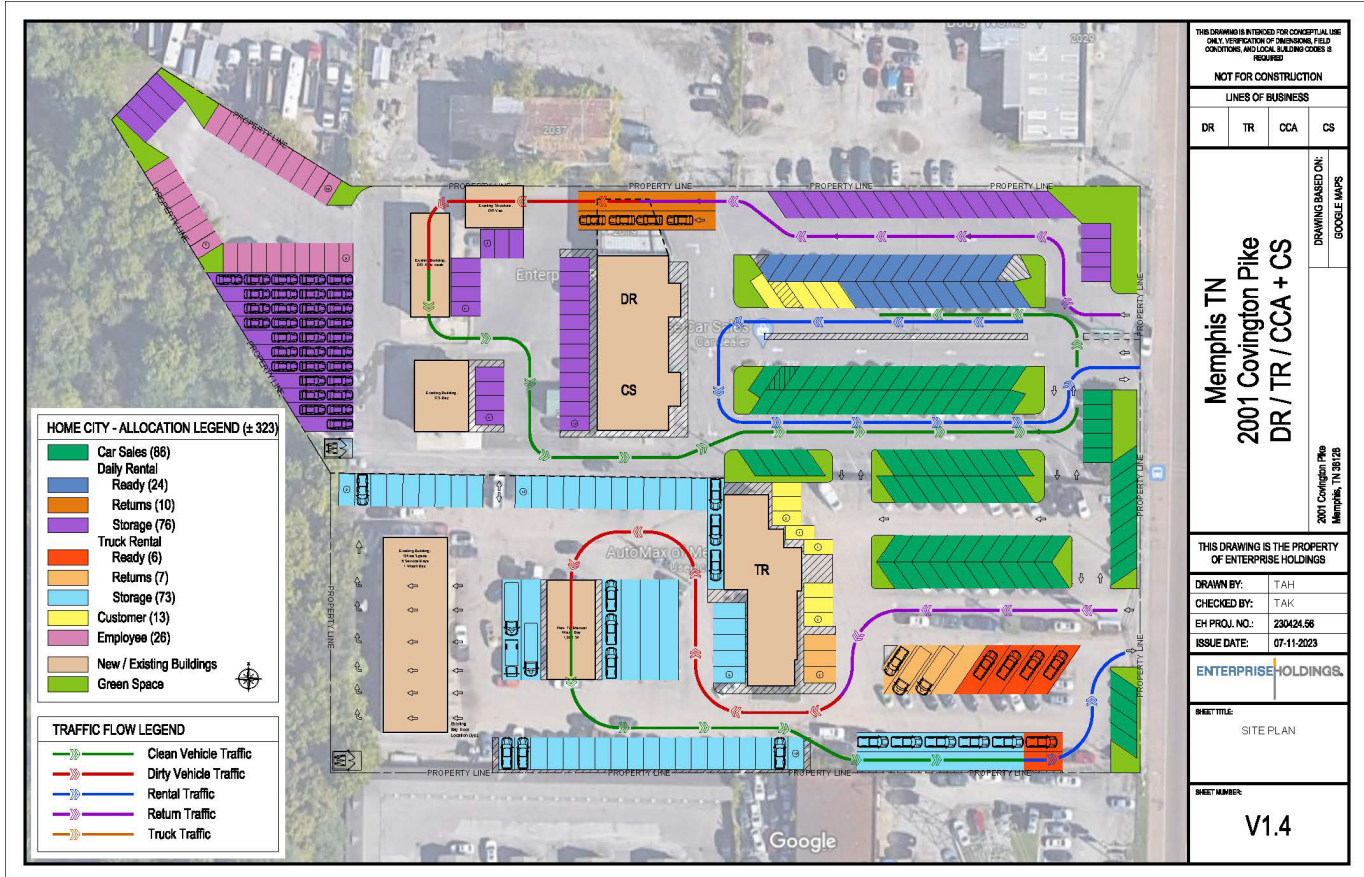
Cc: Committee Members
File

SUP 2024-0013

CONDITIONS

1. The applicant shall submit a final site plan for administrative review and approval (ASPR Application) by the Division of Planning and Development.
2. Outdoor overnight storage of vehicles may be permitted in accordance with Chapter 4.8, Outdoor Storage and Display of the Unified Development Code (UDC).
3. Perimeter screening in accordance with Streetscape Plates S-7, S-8, or S-9 per Chapter 4.3, Streetscape Standards must be provided.
4. Interior lot landscaping shall be consistent with Sub-Section 4.5.5D of the UDC.
5. The dismantling of vehicles for salvage shall not be permitted.
6. Impounded vehicles shall not be stored onsite.
7. Outdoor lighting must meet requirements of Chapter 4.7, Outdoor Site Lighting.
8. No banners, flags, steamers, balloons or similar advertising devices, temporary or portable signs, reader board signs, roof-mounted signs or tents shall be permitted.

SITE PLAN



RESOLUTION PURSUANT TO CHAPTER 9.6 OF THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE APPROVING A SPECIAL USE PERMIT AT THE SUBJECT PROPERTY LOCATED 2001 COVINGTON PIKE, KNOWN AS CASE NUMBER SUP 2024-0013

WHEREAS, Chapter 9.6 of the Memphis and Shelby County Unified Development Code, being a section of the Joint Ordinance Resolution No. 5367, dated August 10, 2010, authorizes the Council of the City of Memphis to grant a special use permit for certain stated purposes in the various zoning districts; and

WHEREAS, ENTERPRISE RENT A CAR filed an application with the Memphis and Shelby County Division of Planning and Development to allow vehicle rental (light truck/van) and car sales; and

WHEREAS, the Division of Planning and Development has received and reviewed the application in accordance with procedures, objectives, and standards for special use permits as set forth in Chapter 9.6 with regard to the proposed development's impacts upon surrounding properties, availability of public facilities, both external and internal circulation, land use compatibility, and that the design and amenities are consistent with the public interest; and has submitted its findings and recommendation concerning the above considerations to the Land Use Control Board; and

WHEREAS, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on April 11, 2024, and said Board has submitted its findings and recommendation concerning the above considerations to the Council of the City of Memphis; and

WHEREAS, the Council of the City of Memphis has reviewed the aforementioned application pursuant to Tennessee Code Annotated Section 13-4-202(B)(2)(B)(iii) and has determined that said development is consistent with the Memphis 3.0 General Plan; and

WHEREAS, the Council of the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the Division of Planning and Development and has determined that said development meets the objectives, standards and criteria for a special use permit, and said development is consistent with the public interests.

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF MEMPHIS, that, pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code, a special use permit is hereby granted for the request use in accordance with the attached conditions.

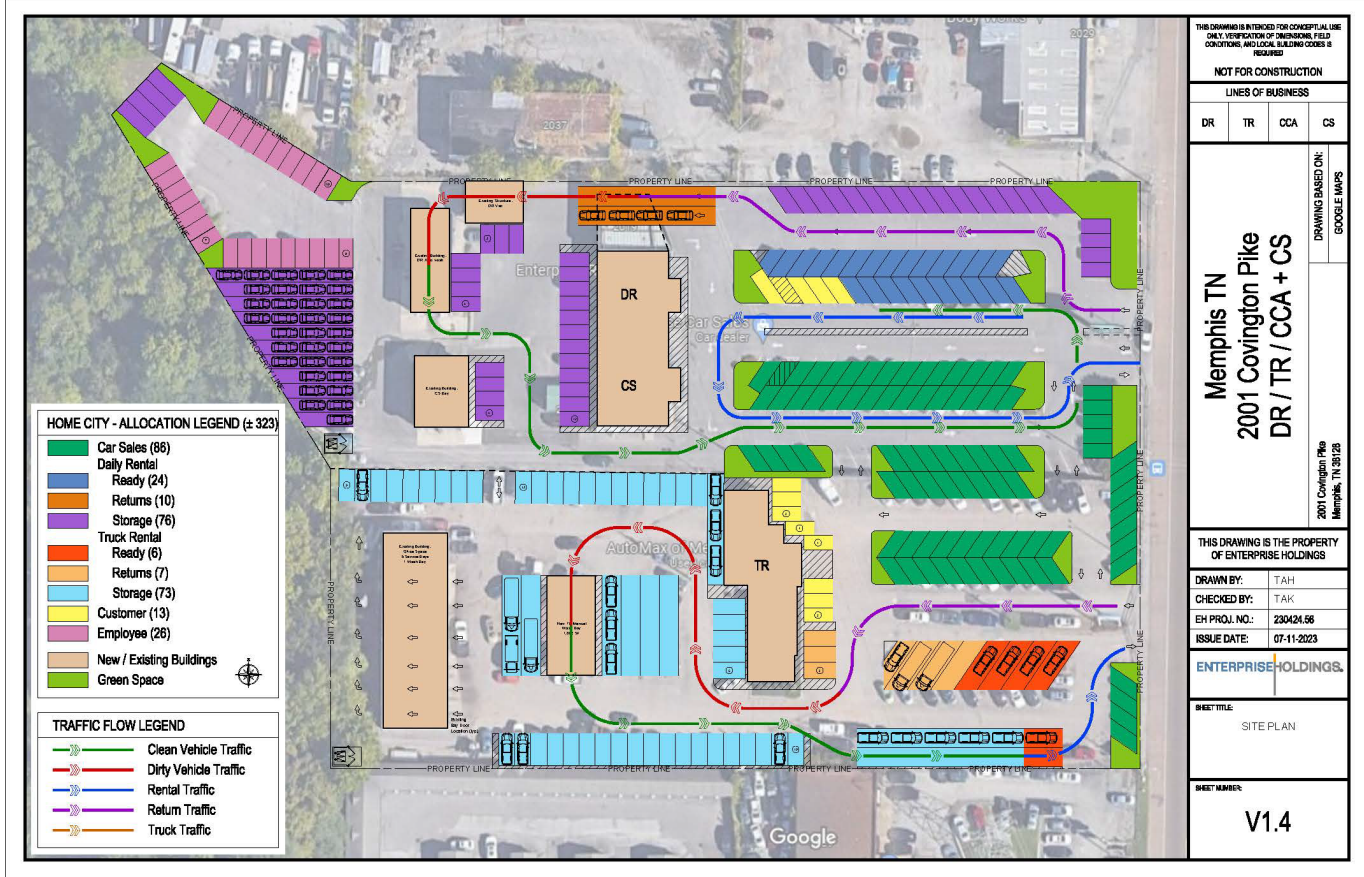
BE IT FURTHER RESOLVED, that this permit merely authorizes the filing of applications to acquire a Certificate of Use and Occupancy, or a Building Permit, and other required permits and approvals, provided that no such Certificate of Use and Occupancy shall be granted until all conditions imposed by the Council of the City of Memphis have been met.

BE IT FURTHER RESOLVED, that this Resolution take effect from and after the date it shall have been passed by this Council of the City of Memphis, and become effective as otherwise provided by law, and thereafter shall be treated as in full force and effect by virtue of passage thereof by the Council of the City of Memphis, the public welfare requiring same.

CONDITIONS

1. The applicant shall submit a final site plan for administrative review and approval (ASPR Application) by the Division of Planning and Development.
2. Outdoor overnight storage of vehicles may be permitted in accordance with Chapter 4.8, Outdoor Storage and Display of the Unified Development Code (UDC).
3. Perimeter screening in accordance with Streetscape Plates S-7, S-8, or S-9 per Chapter 4.3, Streetscape Standards must be provided.
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SITE PLAN



ATTEST:

CC: Division of Planning and Development
 – Land Use and Development Services
 – Office of Construction Enforcement

AGENDA ITEM: 24 **L.U.C.B. MEETING:** April 11, 2024
CASE NUMBER: SUP 2024-0013
LOCATION: 2001 Covington Pike
COUNCIL DISTRICT: District 1 and Super District 9 – Positions 1, 2, and 3
OWNER/APPLICANT: Belle Properties, LLC/ENTERPRISE RENT A CAR
REQUEST: Special use permit to allow vehicle rental (light truck/van) and car sales
EXISTING ZONING: Commercial Mixed Use – 3 (CMU-3)

CONCLUSIONS

1. The applicant is requesting a special use permit to allow vehicle rentals and sales in conjunction with the adjacent Enterprise Rent-A-Car sales site north of the subject property.
2. In addition to Enterprise Rent-A-Car existing north of the subject property, there is an abundance of vehicle sales and rental businesses existing along Covington Pike.
3. There are also numerous other commercial uses dominating the area.
4. The granting of this special use permit will not cause substantial detriment to the public good, nor will it substantially impair the intent and purpose of an adopted plan or the Unified Development Code (UDC), nor will it be injurious to the neighborhood or the general welfare, and it will be in harmony with the purpose and intent of the UDC.

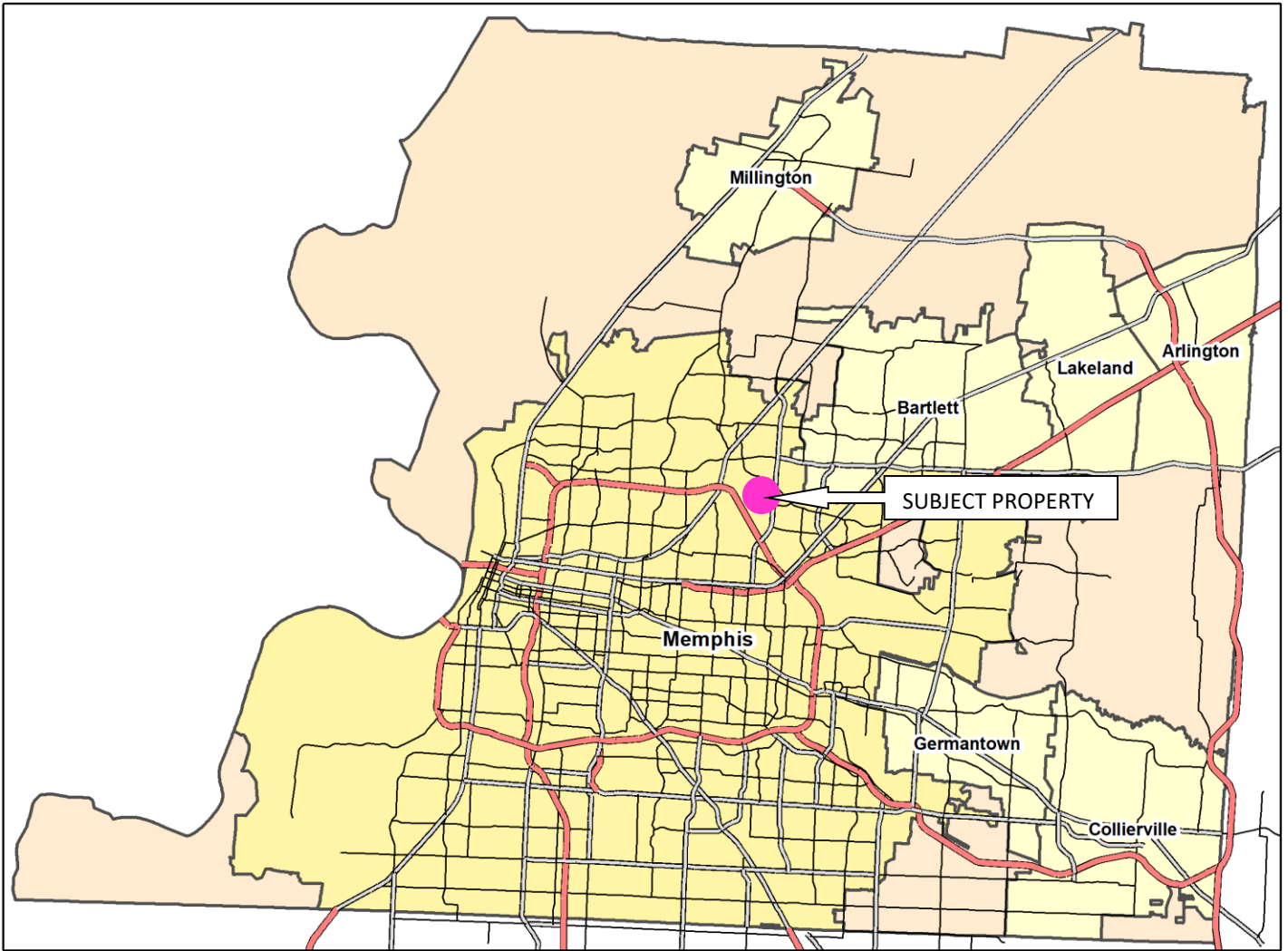
CONSISTENCY WITH MEMPHIS 3.0

This proposal is consistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on page 18 of this report.

RECOMMENDATION:

Approval with conditions

LOCATION MAP



Subject property located within the pink circle

PUBLIC NOTICE VICINITY MAP



Subject property highlighted in yellow

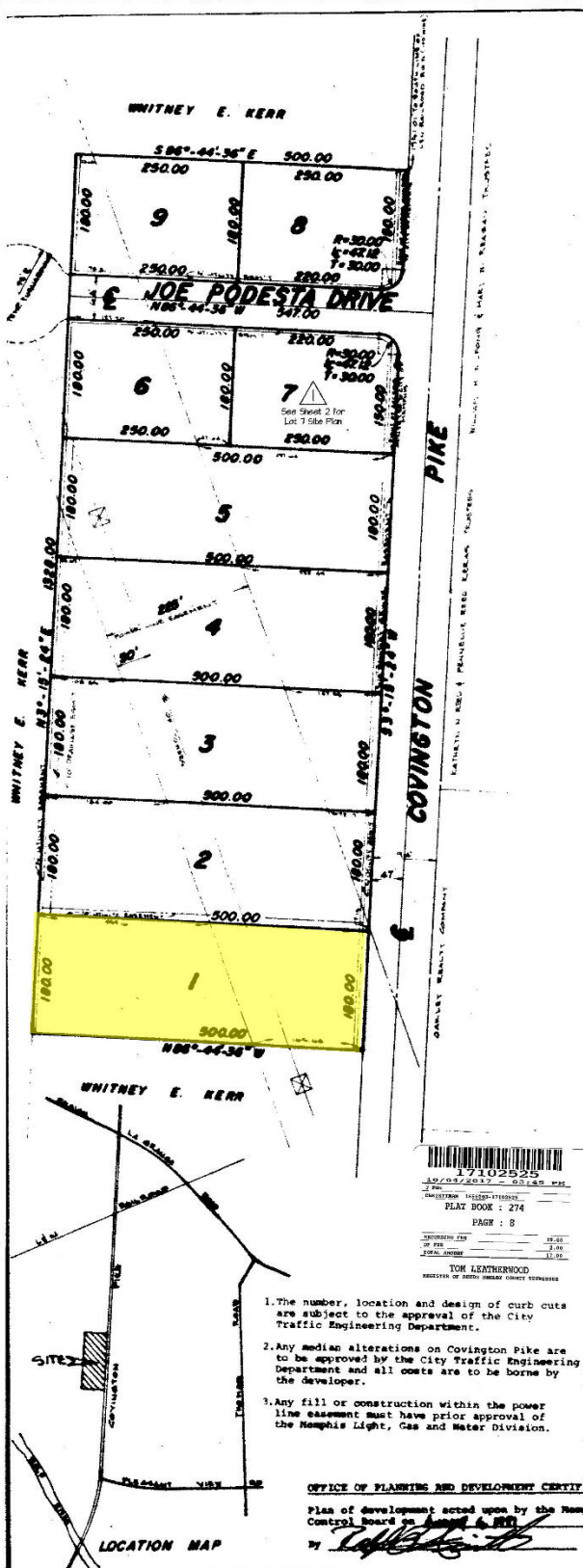
PUBLIC NOTICE DETAILS

In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signage posted. A total of 27 notices were mailed on March 14, 2024, see pages 21-22 of this report for a copy of said notice. Additionally, one sign was posted at the subject property, see page 23 of this report for a copy of the sign affidavit.

NEIGHBORHOOD MEETING

The meeting was held at 5:00 PM on Monday, April 1, 2024, at Enterprise Rent-A-Car, 2019 Covington Pike.

COVINGTON PIKE SUBDIVISION (1982) (PLAT BOOK 274 PAGE 8)



OWNER'S CERTIFICATE

We, Gary P. Davis, the undersigned owner(s) of the property shown hereon, hereby adopt this Plat as our plan of development and dedicate the streets, rights-of-way, and grant the easements as shown and/or described to public use forever. We certify that we are the owner(s) of the said property in fee simple, duly authorized to act, and that said property is not encumbered by any taxes which have become due and payable.

DATE 7-20-82

710017
85-26
STATE OF TENNESSEE
SHELBY COUNTY
NOTARY PUBLIC
GARY P. DAVIS

NOTARY'S CERTIFICATE

State of Tennessee
County of Shelby
Before me, the undersigned, a Notary Public in and for the said State and County at Memphis, duly commissioned and qualified, personally appeared Gary P. Davis, with whom I am personally acquainted, and who upon his oath acknowledged himself to be DAVIS of LOT 7 within named herein, and that he executed the foregoing instrument for the purpose therein contained. In witness whereof, I have hereunto set my hand and affixed my notarial seal, at my office in Memphis, this 20th day of July, 1982.

Notary Public Gary P. Davis
My Commission Expires 7-20-84

MORTGAGEE'S CERTIFICATE

We, Whitney E. Kerr, the undersigned mortgagee of the property shown hereon, hereby consent and agree to the plan of development as submitted by Gary P. Davis, owner(s) of the property.

DATE 7-20-82

NOTARY'S CERTIFICATE

State of Tennessee
County of Shelby
Before me, the undersigned, a Notary Public in and for the said State and County at Memphis, duly commissioned and qualified, personally appeared Whitney E. Kerr, with whom I am personally acquainted, and who upon his oath acknowledged himself to be KERR of LOT 1 within named herein, and that he executed the foregoing instrument for the purpose therein contained. In witness whereof, I have hereunto set my hand and affixed my notarial seal at my office in Memphis, this 20th day of July, 1982.

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Notary Public Gary P. Davis
My Commission Expires 7-20-84

ENGINEER'S CERTIFICATE

It is hereby certified that this plat is true and correct, and was prepared from an actual survey of the property made under my supervision.

By John H. Carter Tennessee Certificate No. 15-997



WHITNEY E. KERR
COVINGTON PIKE SUBDIVISION
MEMPHIS, SHELBY COUNTY, TENNESSEE
SEPTEMBER 14, 1981 SCALE: 1"=100'

- The number, location and design of curb cuts are subject to the approval of the City Traffic Engineering Department.
- Any median alterations on Covington Pike are to be approved by the City Traffic Engineering Department and all costs are to be borne by the developer.
- Any fill or construction within the power line easement must have prior approval of the Memphis Light, Gas and Water Division.

OFFICE OF PLANNING AND DEVELOPMENT CERTIFICATE

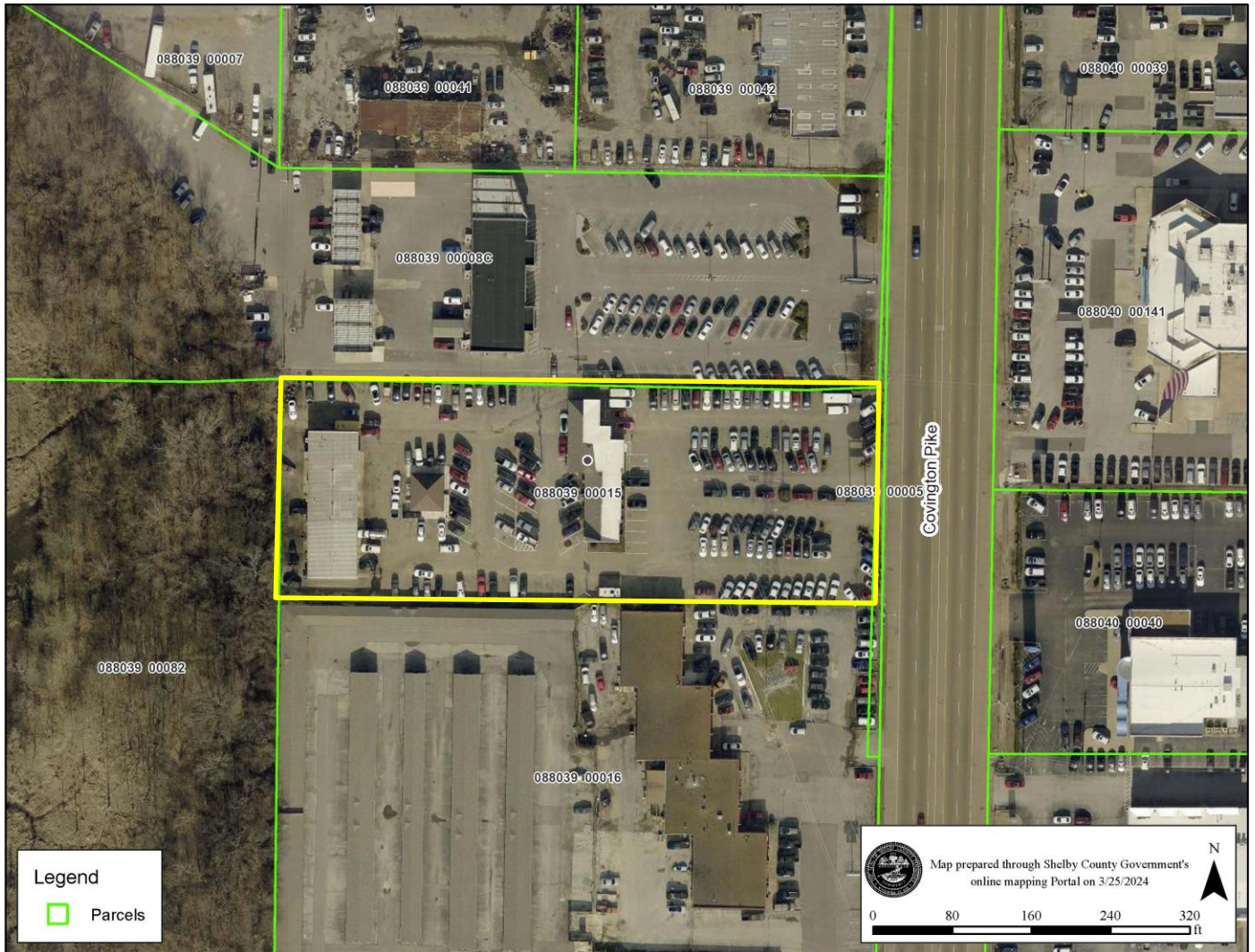
Plan of development acted upon by the Memphis and Shelby County Land Use Control Board on August 6, 1981

DATE March 3, 1982

RICHARDSON ENGINEERING COMPANY
1903 Union Avenue, Suite 200
Memphis, Tennessee 38106
Phone: 901-271-2448

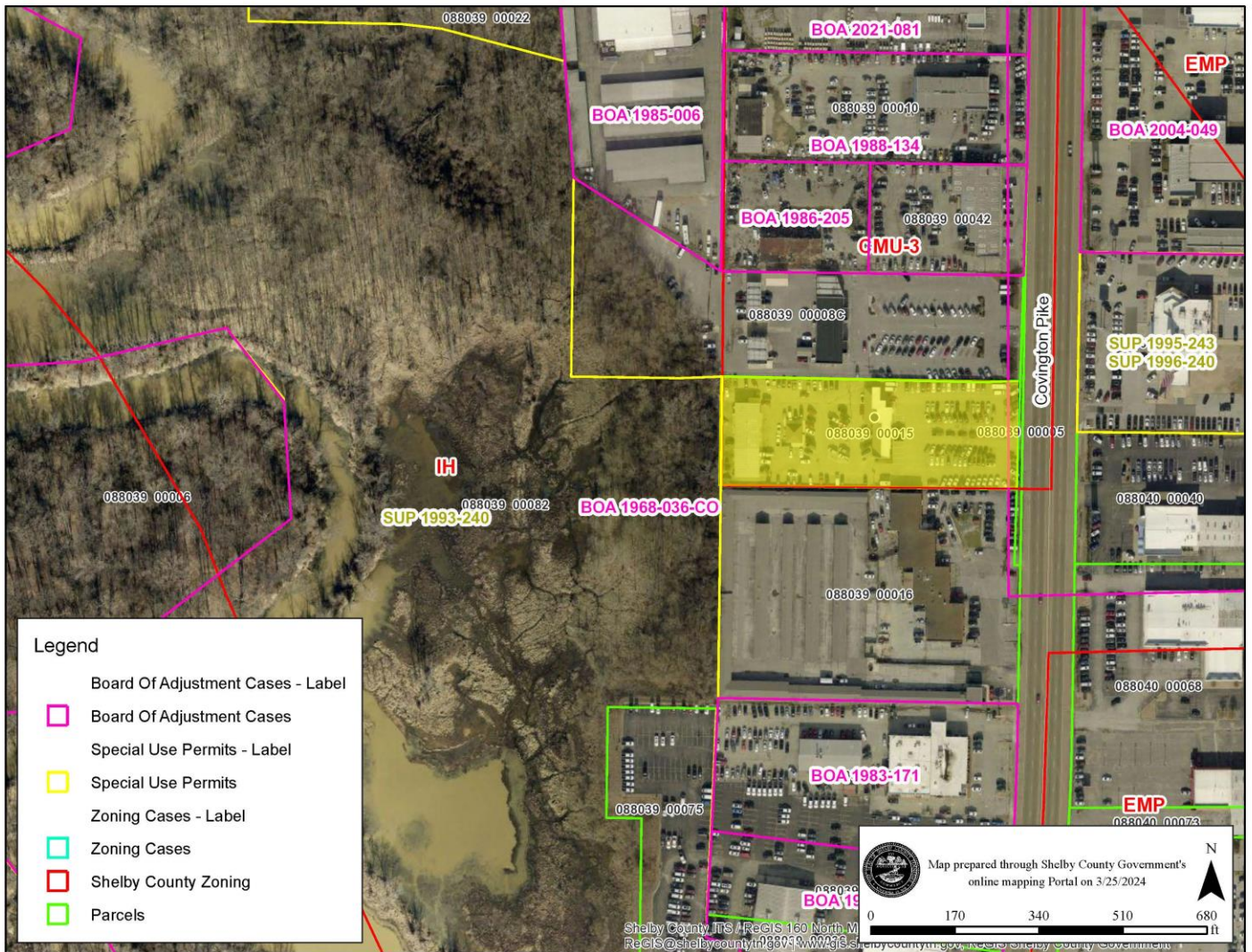
Subject property highlighted in yellow, Lot 1

AERIAL



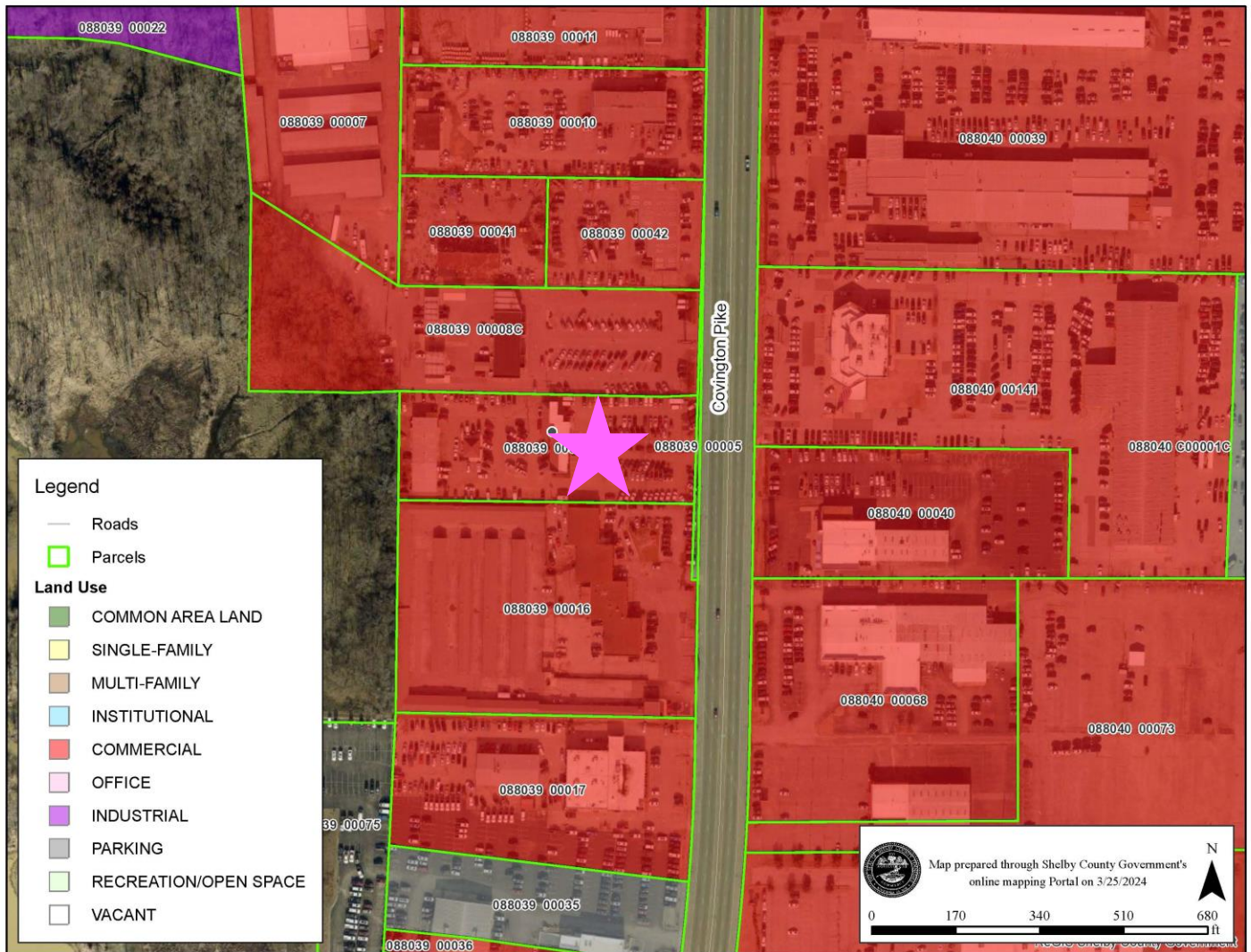
Subject property outlined in yellow

ZONING MAP



Subject property highlighted in yellow

LAND USE MAP



Subject property indicated by a pink star

SITE PHOTOS



View of subject property from Covington Pike looking northwest



View of subject property from Covington Pike looking west

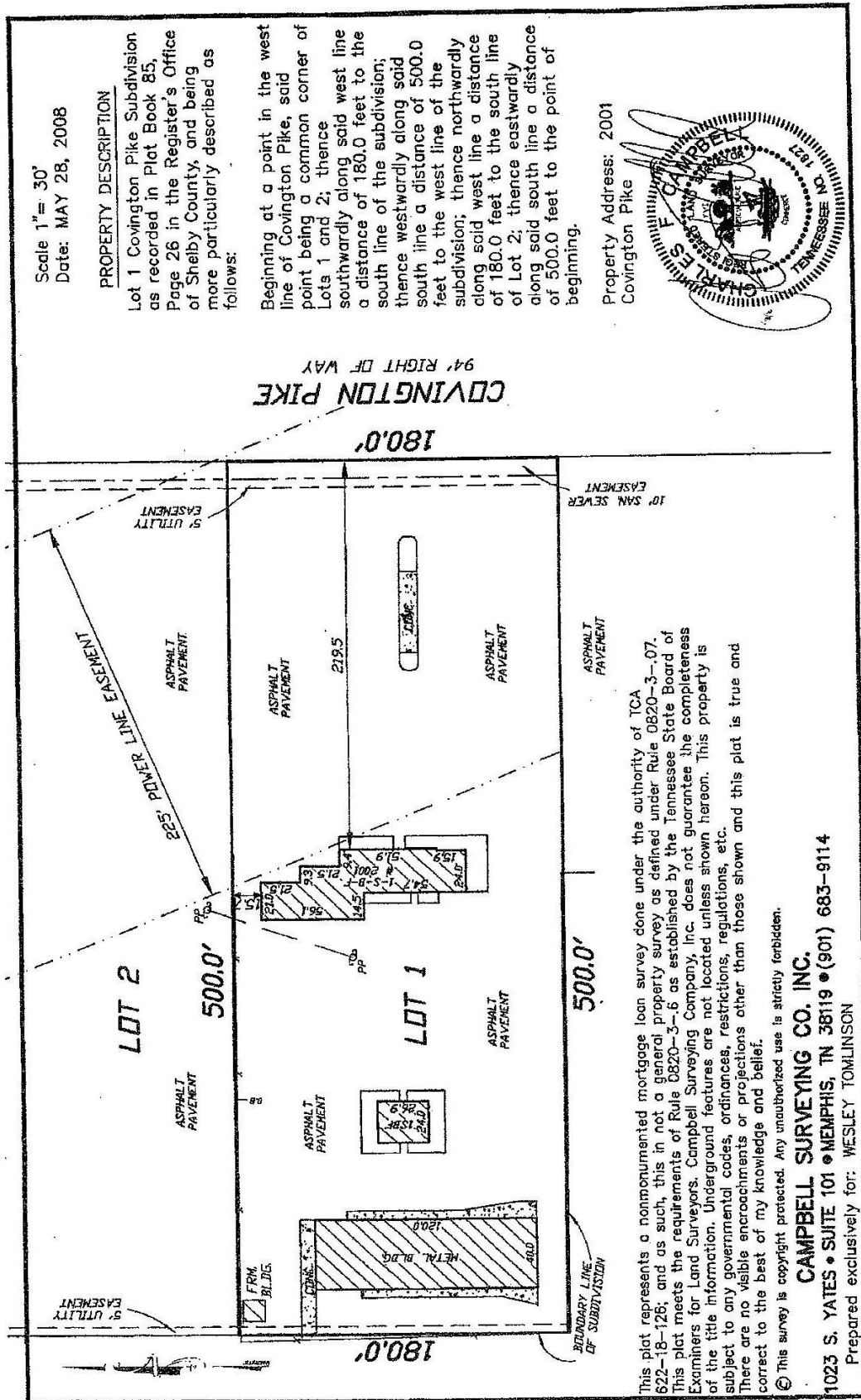


View of subject property from Covington Pike looking northwest



View of subject property in the background (Enterprise Rent-A-Car in foreground) from Covington Pike looking southwest

SURVEY

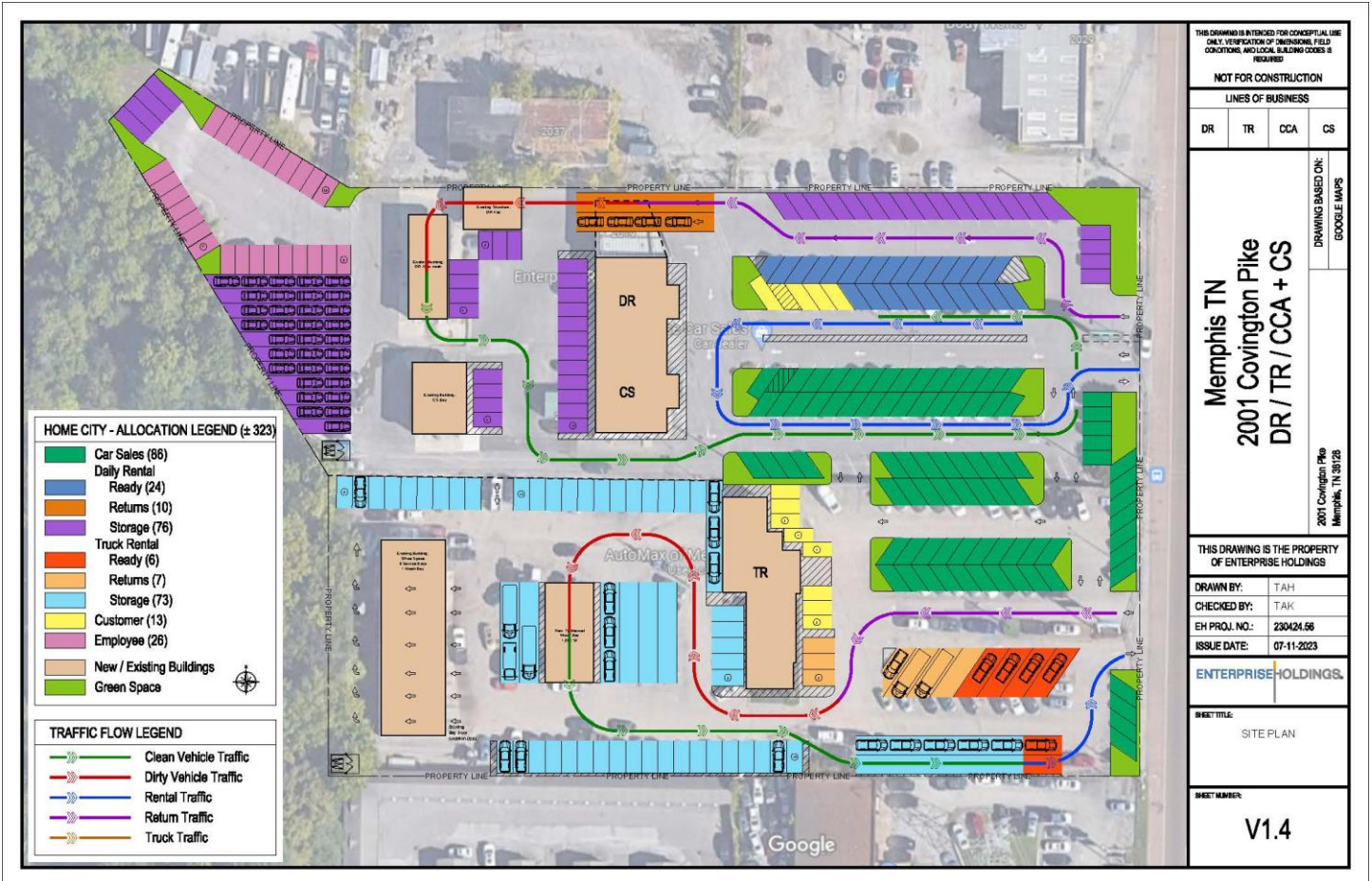


This plat represents a nonmonumented mortgage loan survey done under the authority of TCA 622-18-126; and as such, this in not a general property survey as defined under Rule 0820-3-07. This plat meets the requirements of Rule 0820-3-6 as established by the Tennessee State Board of Examiners for Land Surveyors. Campbell Surveying Company, Inc. does not guarantee the completeness of the title information. Underground features are not located unless shown hereon. This property is subject to any governmental codes, ordinances, restrictions, regulations, etc. There are no visible encroachments or projections other than those shown and this plat is true and correct to the best of my knowledge and belief.

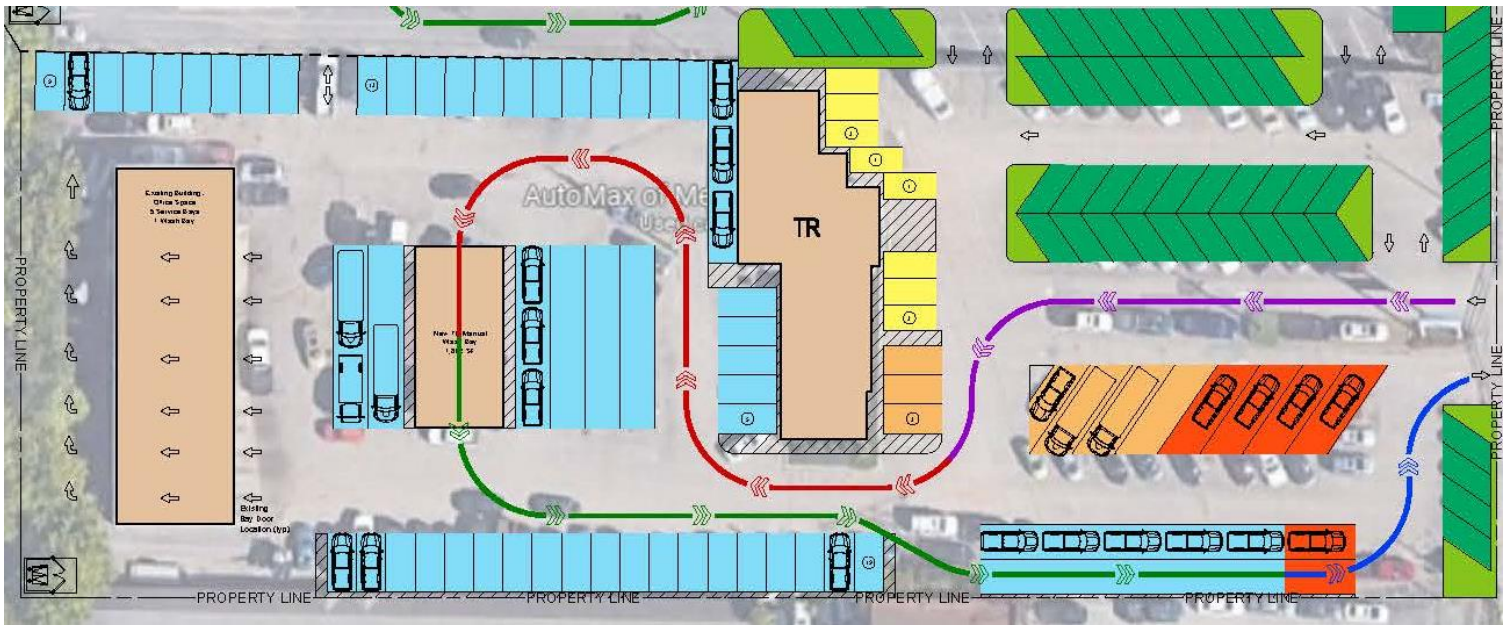
© This survey is copyright protected. Any unauthorized use is strictly forbidden.

CAMPBELL SURVEYING CO. INC.
 1023 S. YATES • SUITE 101 • MEMPHIS, TN 38119 • (901) 683-9114
 Prepared exclusively for: WESLEY TOMLINSON

SITE PLAN



SITE PLAN – MAGNIFIED



HOME CITY - ALLOCATION LEGEND (± 323)	
■	Car Sales (86)
■	Daily Rental Ready (24)
■	Returns (10)
■	Storage (76)
■	Truck Rental Ready (6)
■	Returns (7)
■	Storage (73)
■	Customer (13)
■	Employee (26)
■	New / Existing Buildings
■	Green Space

TRAFFIC FLOW LEGEND	
➤➤➤	Clean Vehicle Traffic
➤➤➤	Dirty Vehicle Traffic
➤➤➤	Rental Traffic
➤➤➤	Return Traffic
➤➤➤	Truck Traffic

CASE REVIEW

Request

The request is a special use permit to allow vehicle rental (light truck/van) in the Commercial Mixed Use – 3 (CMU-3) District.

Staff agrees the approval criteria in regard special use permits as set out in Section 9.6.9 of the Unified Development Code are met.

9.6.9 Approval Criteria

No special use permit or planned development shall be approved unless the following findings are made concerning the application:

- 9.6.9A The project 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.*
- 9.6.9B The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations.*
- 9.6.9C The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services.*
- 9.6.9D The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic or historic importance.*
- 9.6.9E The project complies with all additional standards imposed on it by any particular provisions authorizing such use.*
- 9.6.9F The request will not adversely affect any plans to be considered (see Chapter 1.9), or violate the character of existing standards for development of the adjacent properties.*
- 9.6.9G The governing bodies may impose conditions to minimize adverse effects on the neighborhood or on public facilities, and to ensure compatibility of the proposed development with surrounding properties, uses, and the purpose and intent of this development code.*
- 9.6.9H Any decision to deny a special use permit request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record, per the Telecommunications Act of 1996, 47 USC 332(c)(7)(B)(iii). The review body may not take into account any environmental or health concerns.*

Site Details

Address:

2001 Covington Pike

Parcel ID:

088039 00015

Area:

+/-2.066 acres

Description:

The subject property is the previous location of AutoMax automobile dealership. Although no longer occupied by AutoMax, improvements to the site like the showroom/office building and freestanding sign still remain. There is also a 4,800 square foot metal building at the rear of the property and a 646 square foot structure in between the metal building and showroom. Per the Assessor's website, the showroom was built in 1981 and consists of 8,379 square feet. There is an array of asphalt spanning the lot with parking spaces for previous automobile sales occupant and overhead power lines running across the front.

Relevant Unified Development Code Clauses

Section 2.5.2 Use Table

All Vehicle Sales, Rental and Leasing Principal Uses in the Commercial Mixed Use – 3 (CMU-3) District require Special Use Approval.

Site Plan Review

Automobile rental, sales and storage proposed in conjunction with existing Enterprise Rent-A-Car sales office abutting to the north (2019 Covington Pike);

Rental service at this site is limited to light and medium duty trucks and/or vans, with car sales also proposed;

Existing site buildings to be used for proposed operations;

Off-street parking required at a rate of 1 space per 500 indoor square footage floor area plus 1 space per 10,000 SF of outdoor lot area, therefore 26 parking spaces required;

8 customer spaces shown on this lot –

Off-site parking is permitted if within 300 feet of principal building and sites are within the same ownership, per Item 4.5.2C(2)(e) of Unified Development Code;

Ownership of lots is currently different, however it is believed that if SUP granted the lots would be under same ownership;

Existing Enterprise lot to north shows 4 customer spaces and 26 employee spaces;

Car sales face front (eastern) property line;

Need landscape plan to assess streetscape plate and interior lot landscaping.

Analysis

This portion of Covington Pike is a heavily travelled arterial road flanked by numerous commercial and industrial principal uses. While the subject property is zoned CMU-3, Heavy Industrial (IH) zoning is to the immediate south and west, and continues south to the next major intersection at Covington Pike and Pleasant View Road. Across Covington Pike, east of the subject property is also IH zoning but then the intensity lessens slightly to the Employment (EMP) District. The EMP District is less intense than IH, but industrial zoning nonetheless.

A clearer picture of the development pattern in the area can be gained from the land use map on Page 7 of this report, which shows all commercial land uses spanning the Covington Pike thoroughfare. Therefore, the proposed vehicle sales and rental service is perfectly situated considering the intense zoning that surrounds the subject property and existing land uses. Additionally, the subject property was most recently occupied by an AutoMax dealership (as seen from the aerial on Page 5), and car dealerships dominate the corridor including Enterprise Rent-A-Car sales abutting to the north.

RECOMMENDATION

Staff recommends approval with conditions.

Conditions

1. The applicant shall submit a final site plan for administrative review and approval (ASPR Application) by the Division of Planning and Development.
2. Outdoor overnight storage of vehicles may be permitted in accordance with Chapter 4.8, Outdoor Storage and Display of the Unified Development Code (UDC).
3. Perimeter screening in accordance with Streetscape Plates S-7, S-8, or S-9 per Chapter 4.3, Streetscape Standards must be provided.
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8. No banners, flags, steamers, balloons or similar advertising devices, temporary or portable signs, reader board signs, roof-mounted signs or tents shall be permitted.

DEPARTMENTAL COMMENTS

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

City Engineer: See comments as follows:

NAME: 2001 Covington Pike; Enterprise Truck Rental

1. Standard Public Improvement Contract or Right-Of-Way Permit as required in Section 5.5.5 of the Unified Development Code.

Sewers:

2. City sanitary sewers are available to serve this development.
3. The availability of City sanitary sewer is unknown at this time. Once the developer has submitted proposed sewer discharge rates to the City's Sewer Design Dept, a determination can be made as to available sewer capacity.
4. A sanitary sewer service connection plan is required to be submitted (via 901 portal) to the City Land Development Office for review and approval.
5. All required design plans and potential traffic control plan must be prepared in accordance with the City's Standard Requirements and must be stamped by a Professional Engineer registered in the State of Tennessee.
6. A Sewer Development fee may be required per the City of Memphis Sewer Use Ordinance.

Roads:

7. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
8. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.

Traffic Control Provisions:

9. The developer shall provide a traffic control plan to the city engineer that shows the phasing for each street frontage during demolition and construction of curb gutter and sidewalk. Upon completion of sidewalk and curb and gutter improvements, a minimum 5 foot wide pedestrian pathway shall be provided throughout the remainder of the project. In the event that the existing right of way width does not allow for a 5 foot clear pedestrian path, an exception may be considered.
10. Any closure of the right of way shall be time limited to the active demolition and construction of sidewalks and curb and gutter. Continuous unwarranted closure of the right of way shall not be allowed for the duration of the project. The developer shall provide on the traffic control plan, the time needed per phase to complete that portion of the work. Time limits will begin on the day of closure and will be monitored by the Engineering construction inspectors on the job.

11. The developer's engineer shall submit a Trip Generation Report that documents the proposed land use, scope and anticipated traffic demand associated with the proposed development. A detailed Traffic Impact Study will be required when the accepted Trip Generation Report indicates that the number for projected trips meets or exceeds the criteria listed in Section 210-Traffic Impact Policy for Land Development of the City of Memphis Division of Engineering Design and Policy Review Manual. Any required Traffic Impact Study will need to be formally approved by the City of Memphis, Traffic Engineering Department.

Curb Cuts/Access:

12. The City Engineer shall approve the design, number, and location of curb cuts.

13. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter, and sidewalk.

Drainage:

14. A grading and drainage plan for the site shall be submitted to the City Engineer for review and approval prior to recording of the final plat.

15. Drainage improvements, including possible on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis/Shelby County Storm Water Management Manual.

16. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.

17. 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.

18. 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.

19. No other utilities or services may occupy sanitary sewer easements in private drives and yards except for crossings.

20. All connections to the sewer shall be at manholes only.

21. 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.

22. Required landscaping shall not be placed on sewer or drainage easements.

City/County Fire Division: No comments received.

City Real Estate: No comments received.

County Health Department: No comments received.

Shelby County Schools: No comments received.

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water: No comments received.

Office of Sustainability and Resilience: No comments received.

Office of Comprehensive Planning: See comments as follows:

Site Address/Location: 2001 COVINGTON PIKE

Overlay District/Historic District/Flood Zone: Not in any Overlay District, Historic District and Flood Zone

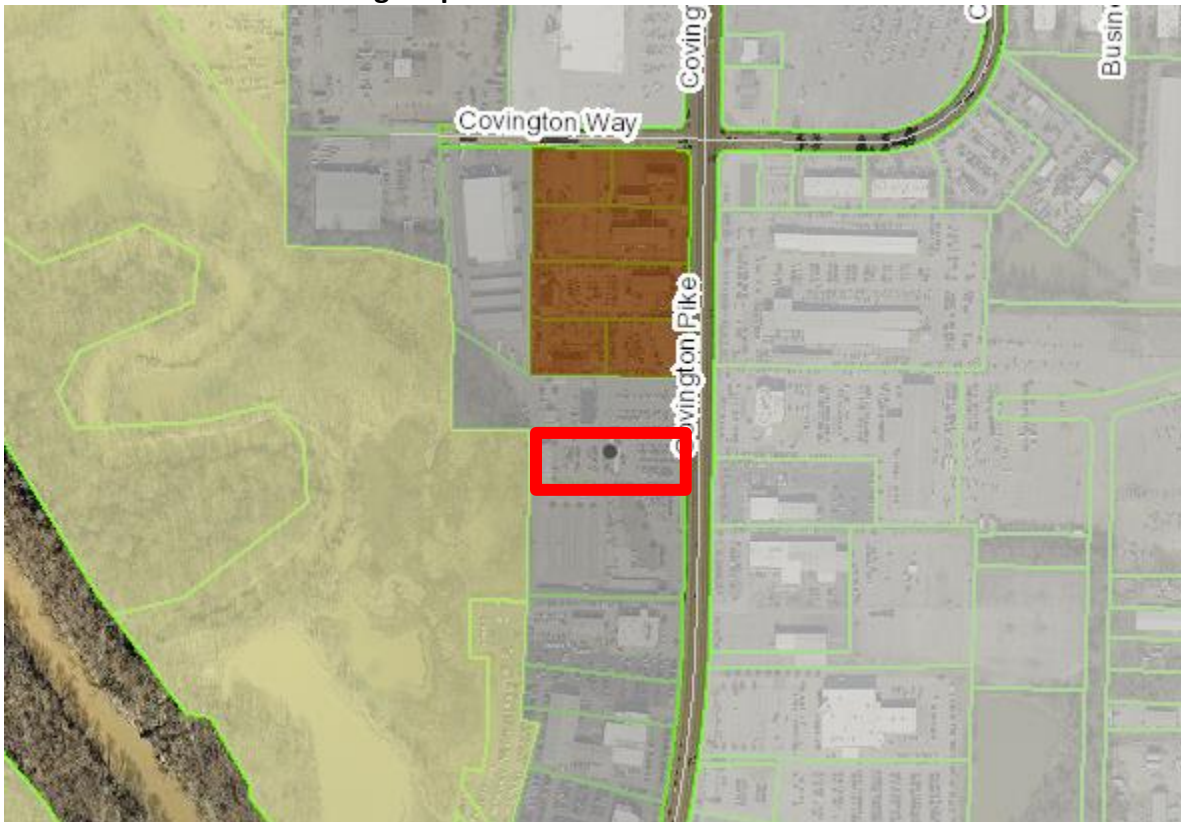
Future Land Use Designation: Industrial (I)

Street Type: Parkway

The applicant is requesting a SUP to open a light and medium duty truck rental office. This location would be used to rent Pickup Trucks, Medium duty box trucks and cargo vans; no heavy trucks, semis, or heavy equipment, would be rented.

The following information about the land use designation can be found on pages 76 – 122:

1. Future Land Use Planning Map



Red polygon indicates the application site on the Future Land Use Map.

2. Land Use Description/Intent

Higher intensity industrial areas. Graphic portrayal of I is to the right.



“I” Form & Location Characteristics

Industrial, 1-10 stories.

“I” Zoning Notes

Generally compatible with the following zone districts: IH in accordance with Form and characteristics listed below. Consult zoning map and applicable overlays for current and effective regulations. May consider rezonings, as appropriate, at the time of a small area plan to limit the use of this district specifically to noxious and/or incompatible high-intensity industrial uses.

Existing, Adjacent Land Use and Zoning

Existing Land Use and Zoning: Commercial, CMU-3

Adjacent Land Use and Zoning: Commercial, Industrial, Parking and Vacancy; IH, EMP and CMU-3

Overall Compatibility: *This requested use is compatible with the future land use description/intent, form & location characteristics, zoning notes, and existing, adjacent land use and zoning.*

3. Degree of Change Map



Red polygon denotes the proposed site in Degree of Change area. There is no Degree of Change.

4. Degree of Change Description: N/A

5. Objectives/Actions Consistent with Goal 1, Complete, Cohesive, Communities: N/A

6. Pertinent Sections of Memphis 3.0 that Address Land Use Recommendations: N/A

Consistency Analysis Summary

The applicant is requesting a SUP to open a light and medium duty truck rental office. This location would be used to rent Pickup Trucks Medium duty box trucks and cargo vans; no heavy trucks, semis, or heavy equipment, would be rented.

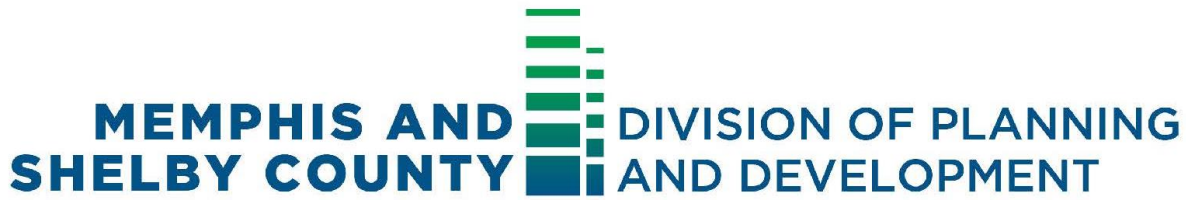
This requested use is compatible with the future land use description/intent, form & location characteristics, zoning notes, and existing, adjacent land use and zoning.

Based on the information provided, the proposal is CONSISTENT with the Memphis 3.0 Comprehensive Plan.

Summary Compiled by: Romana Haque Suravi, Comprehensive Planning.

MAILED PUBLIC NOTICE

27 Notices Mailed on 3/14/2024



City Hall – 125 N. Main Street, Suite 468 – Memphis, Tennessee 38103

NOTICE OF PUBLIC HEARING

You have received this notice because you own or reside on a property that is near the site of a land use application filed with the Division of Planning and Development. The **MEMPHIS & SHELBY COUNTY LAND USE CONTROL BOARD** will hold a Public Hearing on the following application, pursuant to Sub-Section 9.3.4A of the Memphis & Shelby County Unified Development Code:

CASE NUMBER: SUP 2024-0013
LOCATION: 2001 Covington Pike
(SEE SITE PLAN ON REVERSE SIDE)
APPLICANT: ENTERPRISE RENT A CAR
REQUEST: Allow vehicle rental (light truck/van) in the Commercial Mixed Use – 3 (CMU-3) District

THE LAND USE CONTROL BOARD PUBLIC MEETING WILL BE HELD:

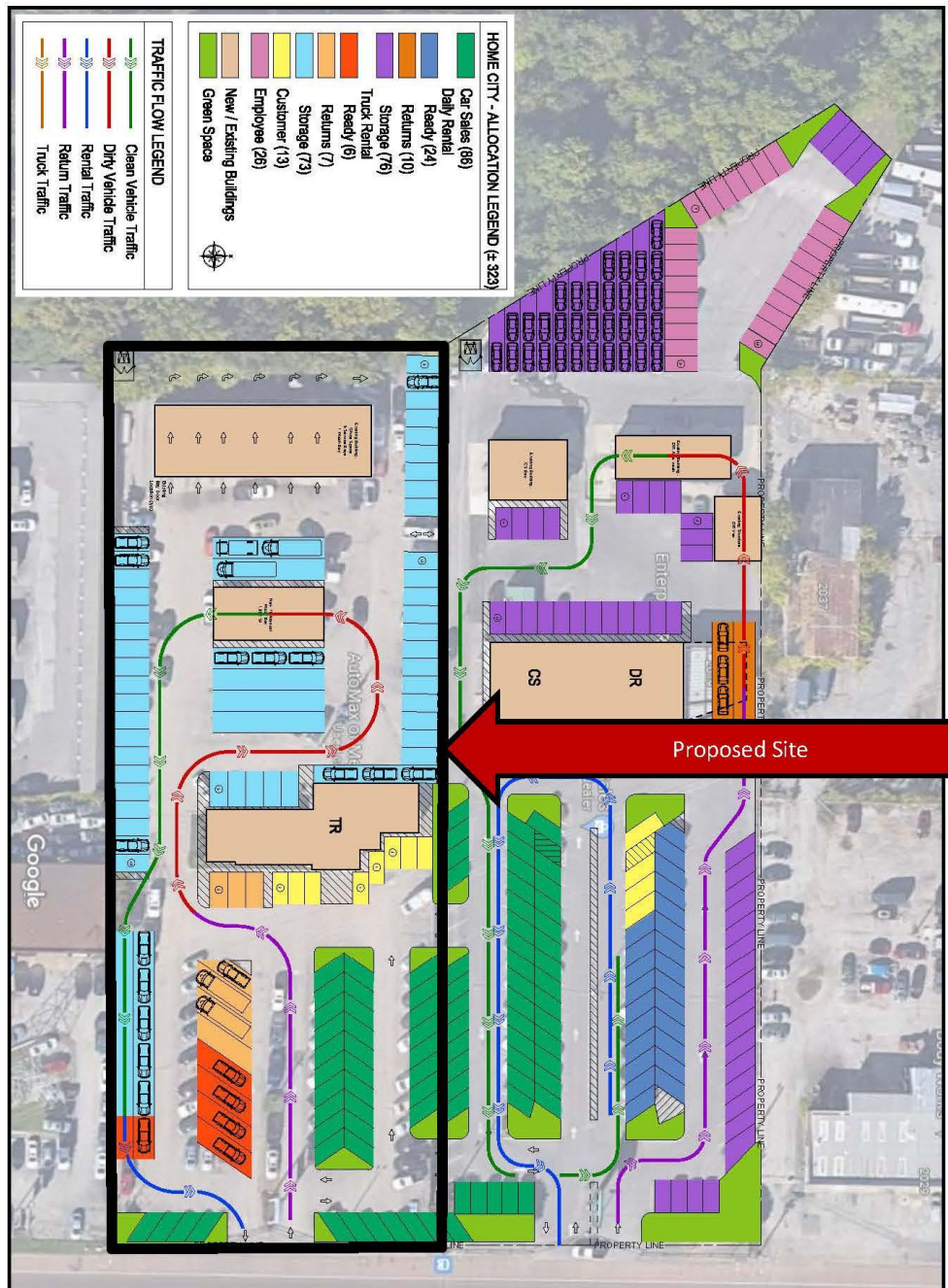
DATE: Thursday, April 11, 2024
TIME: 9:00 AM
LOCATION: Council Chambers on the First Floor of City Hall, 125 N. Main Street

During the public hearing, the Board may recommend the approval or rejection of this item or hold the item for a public hearing at a subsequent Board meeting. For this case, the Board will make a **recommendation** to the legislative body; the legislative body will take final action at a later date.

Please note the Board may place this item on the Consent Agenda, which is considered at the beginning of the Board meeting. No individual public hearing will be held, nor will the Board debate items on the Consent Agenda unless a member of the audience, staff or Board requests that the item be removed from the Consent Agenda.

You are not required to attend this hearing, although you are welcome to do so if you wish to speak for or against this application. You may also contact Kendra Cobbs at Kendra.Cobbs@memphistn.gov or (901) 636-6602 to learn more about the proposal and/or to submit a letter of support or opposition no later than **Wednesday, April 3, 2024, at 8 AM**.

SITE PLAN



TRAFFIC FLOW LEGEND		HOME CITY - ALLOCATION LEGEND (4-323)	
	Clean Vehicle Traffic		Car Sales (88)
	Dirty Vehicle Traffic		Daily Rental Ready (24)
	Rental Traffic		Returns (10)
	Return Traffic		Storage (76)
	Truck Traffic		Truck Rental Ready (6)
			Returns (7)
			Storage (73)
			Customer (13)
			Employee (26)
			New / Existing Buildings
			Green Space

<p>THIS DRAWING IS THE PROPERTY OF ENTERPRISE HOLDINGS</p> <p>2001 Covington Pike Memphis, TN 38128</p>		<p>DRAWING BASED ON: GOOGLE MAPS</p>
<p>MEMPHIS TN 2001 Covington Pike DR / TR / CCA + CS</p>		<p>NOT FOR CONSTRUCTION</p>
<p>ENTERPRISE HOLDINGS</p>		<p>DR TR CCA CS</p>
<p>DRAWN BY: TAJ</p> <p>CHECKED BY: TAK</p> <p>EH PROJ. NO.: 23004.98</p> <p>ISSUE DATE: 07-11-2023</p>		<p>PROPERTY LINE</p>
<p>SHEET NUMBER</p> <p>V1.4</p>		<p>PROPERTY LINE</p>

SIGN AFFIDAVIT

AFFIDAVIT

Shelby County
State of Tennessee

I, Katelyn Thompson, being duly sworn, depose and say that at 10:16 am/pm on the 27 day of March, 2024, I posted 1 Public Notice Sign(s) pertaining to Case No. 2024-0013 at 2001 Covington Pike

providing notice of a Public Hearing before the (check one):

- Land Use Control Board
- Board of Adjustment
- Memphis City Council
- Shelby County Board of Commissioners

for consideration of a proposed land use action, a photograph of said sign(s) being attached hereon and a copy of the sign purchase receipt or rental contract attached hereto.

Katelyn Thompson
Owner, Applicant or Representative

3/27/2024
Date

Subscribed and sworn to before me this 27 day of March, 2024.

Ryan M. Cramer
Notary Public

My commission expires: 11-18-2026



APPLICATION



Record Summary for Special Use Permit

Record Detail Information

Record Type: Special Use Permit

Record Status: Processing

Opened Date: March 5, 2024

Record Number: SUP 2024-013

Expiration Date:

Record Name: Enterprise Truck Rental 2001 Covington Pike

Description of Work: Enterprise mobility is requesting a SUP to open a light and medium duty truck rental office. This location would rent Pickup Trucks Medium duty box trucks and cargo vans. NO heavy trucks, semis or heavy equipment, would be rented.

Parent Record Number:

Address:

2001 COVINGTON PIKE, MEMPHIS 38128

Owner Information

Primary Owner Name

Y BELLE PROPERTIES LLC

Owner Address

0 PO BOX 772808, MEMPHIS, TN 38177

Owner Phone

Parcel Information

088039 00015

Data Fields

PREAPPLICATION MEETING

Name of DPD Planner

TBD

Date of Meeting

-

Pre-application Meeting Type

Virtual

GENERAL PROJECT INFORMATION

Application Type	New Special Use Permit (SUP)
List any relevant former Docket / Case Number(s) related to previous applications on this site	N/A
Is this application in response to a citation, stop work order, or zoning letter	No
If yes, please provide a copy of the citation, stop work order, and/or zoning letter along with any other relevant information	-

APPROVAL CRITERIA

A) The project 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	It will not.
B) The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations	It will be.
UDC Sub-Section 9.6.9C	It will be.
UDC Sub-Section 9.6.9D	It will not.
UDC Sub-Section 9.6.9E	IT does.
UDC Sub-Section 9.6.9F	It will not

GIS INFORMATION

Case Layer	BOA1968-036-CO
Central Business Improvement District	No
Class	C
Downtown Fire District	No
Historic District	-
Land Use	COMMERCIAL
Municipality	MEMPHIS
Overlay/Special Purpose District	-
Zoning	CMU-3
State Route	1
Lot	1
Subdivision	COVINGTON PIKE
Planned Development District	-
Wellhead Protection Overlay District	No

Data Tables

AREA INFORMATION

Name:	Enterprise Rent a Car
Size (Acres):	1
Existing Use of Property:	Automobile rental

Requested Use of Property: Automobile rental

Name: Enterprise Car Sales
 Size (Acres): 1
 Existing Use of Property: automobile sales
 Requested Use of Property: Automobile rental

Contact Information

Name	ENTERPRISE RENT A CAR	Contact Type	APPLICANT
Address	2001 COVINGTON PIKE, MEMPHIS, TN, 38128		
Phone	(385)831-3441		

Fee Information

Invoice #	Fee Item	Quantity	Fees	Status	Balance	Date Assessed
1543218	Special Use Permit Fee - 5 acres or less (Base Fee)	1	500.00	INVOICED	0.00	03/05/2024
1543218	Credit Card Use Fee (.026 x fee)	1	13.00	INVOICED	0.00	03/05/2024

Total Fee Invoiced: \$513.00 Total Balance: \$0.00

Payment Information

Payment Amount	Method of Payment
\$513.00	Credit Card

OWNER AFFIDAVIT



Property Owner's Affidavit

Memphis and Shelby County Unified Development Code Section 12.3.1

OWNER: Includes the holder of legal title as well as holders of any equitable interest, such as trust beneficiaries, contract purchasers, option holders, lessees under leases having an unexpired term of at least ten years, and the like. Whenever a statement of ownership is required by the Memphis and Shelby County Unified Development Code, full disclosure of all legal and equitable interest in the property is required. Memphis and Shelby County Unified Development Code Section 12.3.1.

I, Joseph B. Thomas (Print Name) Joseph B Thomas (Sign Name), state that I have read the definition of

"Owner" as outlined in the Memphis and Shelby County Unified Development Code Section 12.3.1 and hereby state that (select applicable box):

- I am the owner of record as shown on the current tax rolls of the county Assessor of Property; the mortgage holder of record as shown in the mortgage records of the county Register of Deeds; purchaser under a land contract; a mortgagee or vendee in possession; or I have a freehold or lesser estate in the premises
- I have charge, care or control of the premises as trustee, agent, executor, administrator, assignee, receiver, guardian or lessee (and have included documentation with this affidavit)

of the property located at 2001 Covington Pike, Memphis, TN 38128
and further identified by Assessor's Parcel Number 088039 00015
for which an application is being made to the Division of Planning and Development.

Subscribed and sworn to (or affirmed) before me this 5 day of MARCH in the year of 2024

[Signature]
Signature of Notary Public

My Commission Expires [Stamp]



LETTER OF INTENT

ENTERPRISE MOBILITY

209 Seaboard Lane
Franklin TN 37067

March 4, 2024

Memphis and Shelby County Division of Planning and Development
Land Use Control Board

Dear Land Use Control Board:

Enterprise Mobility is requesting a special use permit to open an Enterprise Truck rental office located at 2001 Covington Pike. This property is located next to the Enterprise Rent a Car and Enterprise Car Sales office located at 2019 Covington Pike. This rental office will offer light duty pickup trucks, medium duty box trucks, and cargo vans, to both retail and commercial customers. The property is currently in the CMU-3 zone and does require a SUP for all vehicle rental operations. To be clear this office will not be renting large tractor trailers or any Heavy Trucks. They only offer light and medium duty truck rentals.

Thank you for your assistance.

Matt Mraz

Group Property Manager

Matthew.a.mraz@em.com

385-831-3441

LETTERS RECEIVED

No letters received at the time of completion of this report.



Record Summary for Special Use Permit

Record Detail Information

Record Type: Special Use Permit

Record Status: Processing

Opened Date: March 5, 2024

Record Number: SUP 2024-013

Expiration Date:

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Parent Record Number:

Address:

2001 COVINGTON PIKE, MEMPHIS 38128

Owner Information

Primary Owner Name

Y BELLE PROPERTIES LLC

Owner Address

0 PO BOX 772808, MEMPHIS, TN 38177

Owner Phone

Parcel Information

088039 00015

Data Fields

PREAPPLICATION MEETING

Name of DPD Planner

TBD

Date of Meeting

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Pre-application Meeting Type

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Application Type New Special Use Permit (SUP)
List any relevant former Docket / Case Number(s) related to previous applications on this site N/A
Is this application in response to a citation, stop work order, or zoning letter No
If yes, please provide a copy of the citation, stop work order, and/or zoning letter along with any other relevant information -

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B) The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations It will be.
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UDC Sub-Section 9.6.9E IT does.
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GIS INFORMATION

Case Layer BOA1968-036-CO
Central Business Improvement District No
Class C
Downtown Fire District No
Historic District -
Land Use COMMERCIAL
Municipality MEMPHIS
Overlay/Special Purpose District -
Zoning CMU-3
State Route 1
Lot 1
Subdivision COVINGTON PIKE
Planned Development District -
Wellhead Protection Overlay District No

Data Tables

AREA INFORMATION

Name: Enterprise Rent a Car
Size (Acres): 1
Existing Use of Property: Automobile rental

Requested Use of Property: Automobile rental

Name: Enterprise Car Sales

Size (Acres): 1

Existing Use of Property: automobile sales

Requested Use of Property: Automobile rental

Contact Information

Name

ENTERPRISE RENT A CAR

Contact Type

APPLICANT

Address

2001 COVINGTON PIKE, MEMPHIS, TN, 38128

Phone

(385)831-3441

Fee Information

Invoice #	Fee Item	Quantity	Fees	Status	Balance	Date Assessed
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Method of Payment

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I, Joseph B. Thomas (Print Name) Joseph B Thomas (Sign Name), state that I have read the definition of

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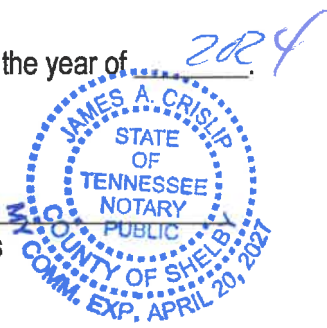
- I am the owner of record as shown on the current tax rolls of the county Assessor of Property; the mortgage holder of record as shown in the mortgage records of the county Register of Deeds; purchaser under a land contract; a mortgagee or vendee in possession; or I have a freehold or lesser estate in the premises
- I have charge, care or control of the premises as trustee, agent, executor, administrator, assignee, receiver, guardian or lessee (and have included documentation with this affidavit)

of the property located at 2001 Covington Pike, Memphis, TN 38128
and further identified by Assessor's Parcel Number 088039 00015,
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Subscribed and sworn to (or affirmed) before me this 5 day of MARCH in the year of 2024.

[Signature]
Signature of Notary Public

My Commission Expires



ENTERPRISE MOBILITY

209 Seaboard Lane
Franklin TN 37067

March 4, 2024

Memphis and Shelby County Division of Planning and Development
Land Use Control Board

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Thank you for your assistance.

Matt Mraz

Group Property Manager

Matthew.a.mraz@em.com

385-831-3441

THIS DRAWING IS INTENDED FOR CONCEPTUAL USE ONLY. VERIFICATION OF DIMENSIONS, FIELD CONDITIONS, AND LOCAL BUILDING CODES IS REQUIRED

NOT FOR CONSTRUCTION

LINES OF BUSINESS

DR	TR	CCA	CS
----	----	-----	----

Memphis TN 2001 Covington Pike DR / TR / CCA + CS

DRAWING BASED ON:
GOOGLE MAPS

2001 Covington Pike
Memphis, TN 38128

THIS DRAWING IS THE PROPERTY OF ENTERPRISE HOLDINGS

DRAWN BY: TAH

CHECKED BY: TAK

EH PROJ. NO.: 230424.56

ISSUE DATE: 07-11-2023

ENTERPRISE HOLDINGS.

SHEET TITLE:
SITE PLAN

SHEET NUMBER:
V1.4

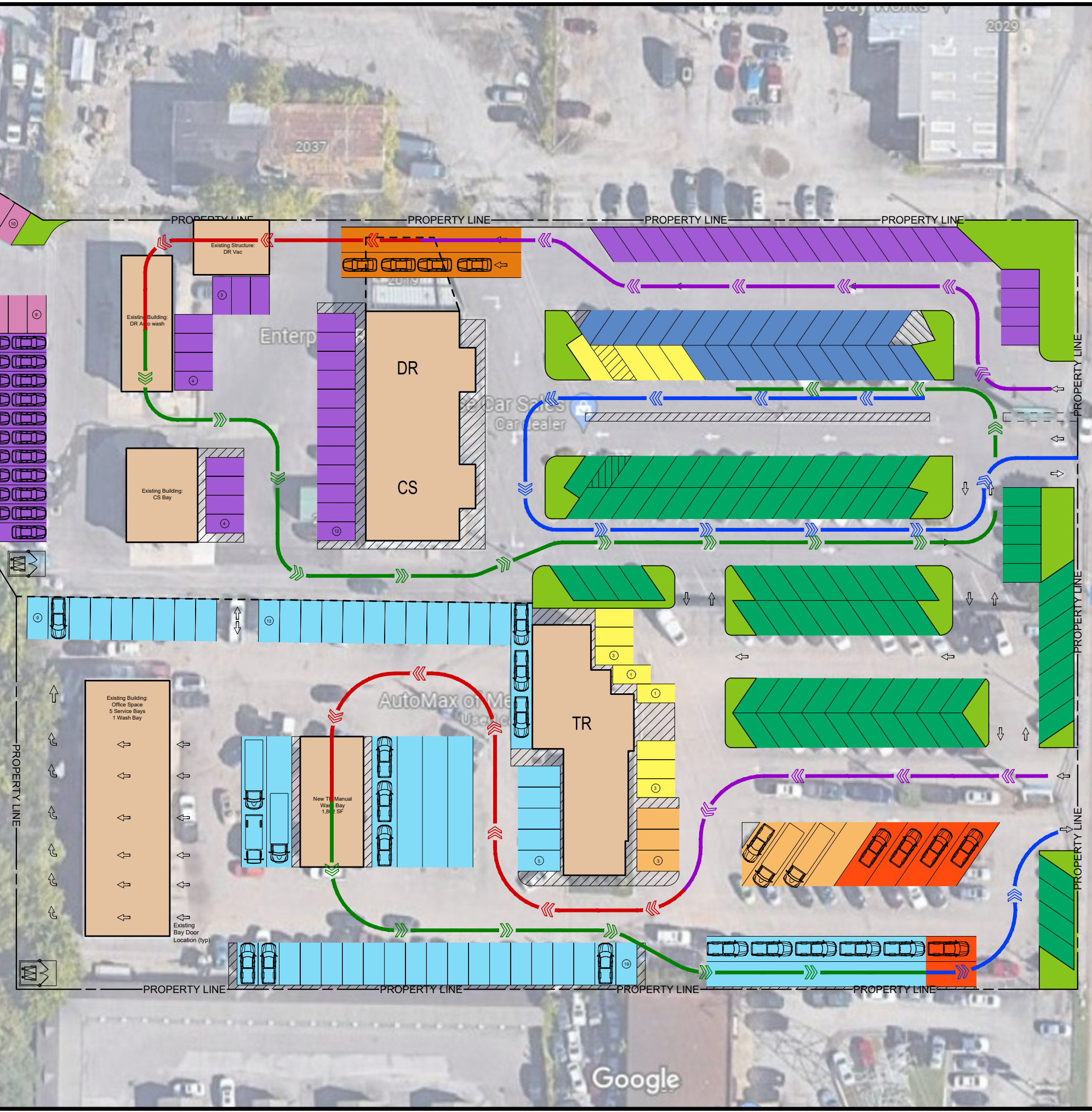
HOME CITY - ALLOCATION LEGEND (± 323)

- Car Sales (86)
- Daily Rental
- Ready (24)
- Returns (10)
- Storage (76)
- Truck Rental
- Ready (6)
- Returns (7)
- Storage (73)
- Customer (13)
- Employee (26)
- New / Existing Buildings
- Green Space



TRAFFIC FLOW LEGEND

- Clean Vehicle Traffic
- Dirty Vehicle Traffic
- Rental Traffic
- Return Traffic
- Truck Traffic



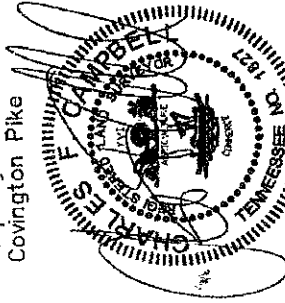
Scale 1" = 30'
 Date: MAY 28, 2008

PROPERTY DESCRIPTION

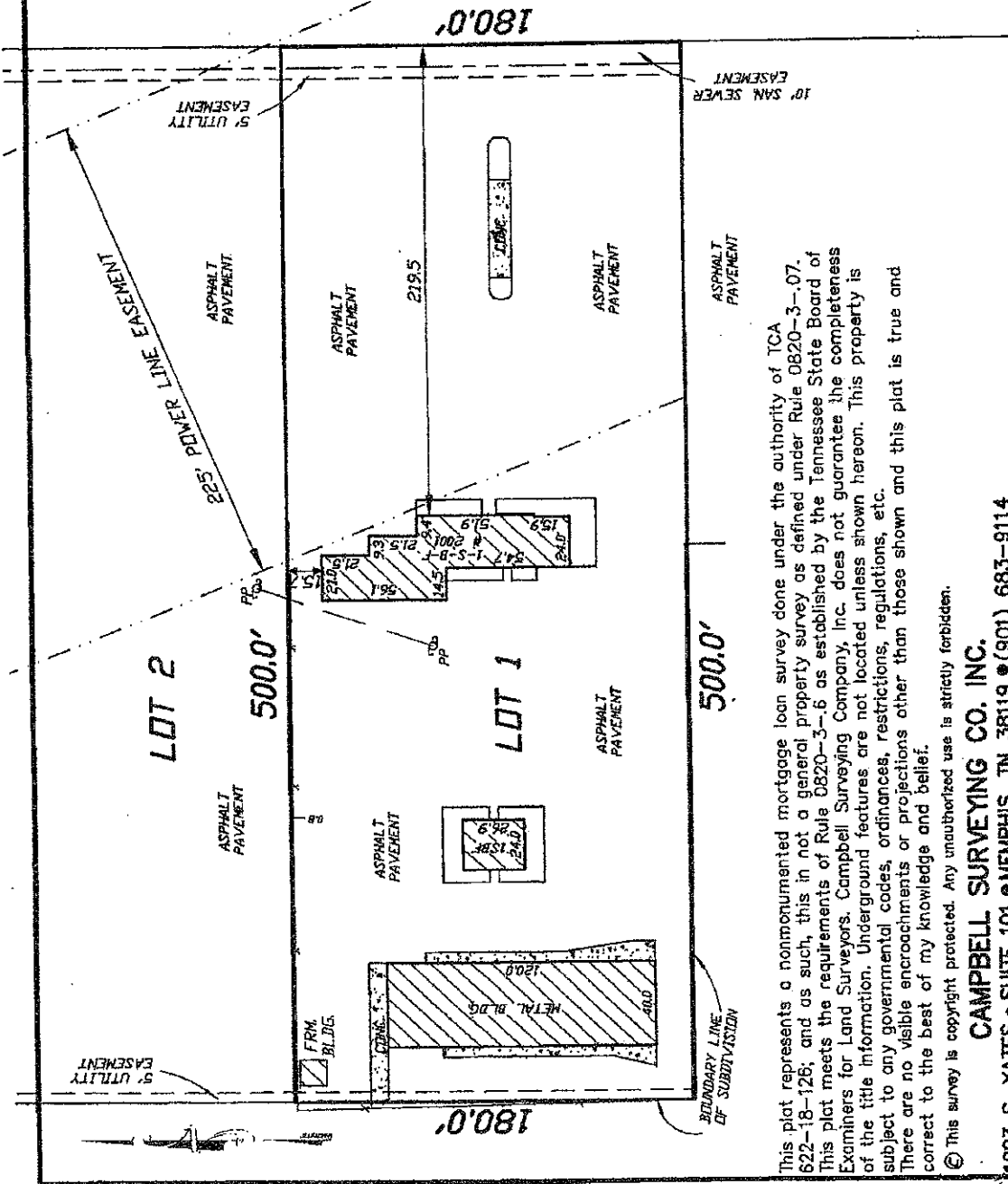
Lot 1 Covington Pike Subdivision as recorded in Plot Book 85, Page 26 in the Register's Office of Shelby County, and being more particularly described as follows:

Beginning at a point in the west line of Covington Pike, said point being a common corner of Lots 1 and 2; thence southwardly along said west line a distance of 180.0 feet to the south line of the subdivision; thence westwardly along said south line a distance of 500.0 feet to the west line of the subdivision; thence northwardly along said west line a distance of 180.0 feet to the south line of Lot 2; thence eastwardly along said south line a distance of 500.0 feet to the point of beginning.

Property Address: 2001
 Covington Pike



COVINGTON PIKE
 94' RIGHT OF WAY



This plat represents a nonmonumented mortgage loan survey done under the authority of TCA 622-18-126; and as such, this is not a general property survey as defined under Rule 0820-3-.07. This plat meets the requirements of Rule 0820-3-.6 as established by the Tennessee State Board of Examiners for Land Surveyors. Campbell Surveying Company, Inc. does not guarantee the completeness of the title information. Underground features are not located unless shown hereon. This property is subject to any governmental codes, ordinances, restrictions, regulations, etc. There are no visible encroachments or projections other than those shown and this plat is true and correct to the best of my knowledge and belief.

© This survey is copyright protected. Any unauthorized use is strictly forbidden.

CAMPBELL SURVEYING CO. INC.
 1023 S. YATES • SUITE 101 • MEMPHIS, TN 38119 • (901) 683-9114
 Prepared exclusively for: WESLEY TOMLINSON

Campbell Surveying Co., Inc.

1023 South Yates Rd.
Suite 201
Memphis, TN 38119-0000

Phone: (901) 683-9114
Fax: (901) 761-4661

Date: 6/3/2008

To: MARYANN ANDREWS
Ordered By: WESLEY TOMLINSON

CC:

STATEMENT for: MORTGAGE SURVEY

Survey of: 2001 COVINGTON PIKE

Zip: 38128

Property Buyer:

Amount Due: \$850.00

paid 6-4-08

Show search results for 200...

STORAGE PORTFOLIO II SUBSIDIARY LLC
0 PO BOX 71870 #
SALT LAKE CITY UT 84171

PATTERSON DONALD P TRUST AND
4385 POPLAR AVE #
MEMPHIS TN 38117

PATTERSON DONALD P TRUST AND
4385 POPLAR AVE #
MEMPHIS TN 38117

GMU-3

SOUTHBAY PROPERTIES LLC
0 PO BOX 772808 #
MEMPHIS TN 38177

ARNOLD PENNELLIE AND BENJAMIN R
KERAS
0 P O BOX 280809 #
MEMPHIS TN 38168

KERAS CHILDRENS FAMILY LP
0 P O BOX 280809 #
MEMPHIS TN 38168

COVINGTON PIKE MOTORS INC
2240 COVINGTON PIKE #
MEMPHIS TN 38128

EMP

COVINGTON PIKE STORAGE OWNER LLC
200 PARK AVE #
NEW YORK NY 10166

GOSSETT AL
1901 COVINGTON PIKE #
MEMPHIS TN 38128

GOSSETT AL
1900 COVINGTON PIKE #
MEMPHIS TN 38128

COVINGTON PIKE MOTORS INC
200 SW 1ST AVE #
FORT LAUDERDALE FL 33301

COVINGTON PIKE MOTORS INC
200 SW 1ST AVE #
FORT LAUDERDALE FL 33301

IH



FW

SHELBY COUNTY
160 N MAIN ST #
MEMPHIS TN 38103

GOSSETT AL
1900 COVINGTON PIKE #
MEMPHIS TN 38128

COVINGTON PIKE MOTORS INC
200 SW 1ST AVE #
FORT LAUDERDALE FL 33301

MEMPHIS CITY OF AND COUNTY OF SHELBY
160 N MAIN ST #
MEMPHIS TN 38103

CSPM LTD
13831 NORTHWEST FWY #
HOUSTON TX 77040

COVINGTON PIKE MOTORS INC
200 SW 1ST AVE #
FORT LAUDERDALE FL 33301

STORAGE PORTFOLIO II SUBSIDIARY LLC
PO BOX 71870 #
SALT LAKE CITY UT 84171

GOSSETT AL
1901 COVINGTON PIKE #
MEMPHIS TN 38128

KERAS CHILDRENS FAMILY LP
2080 COVINGTON PIKE #
MEMPHIS TN 38128

SOUTHBAY PROPERTIES LLC
PO BOX 772808 #
MEMPHIS TN 38177

GOSSETT AL
1901 COVINGTON PIKE #
MEMPHIS TN 38128

KERAS CHILDRENS FAMILY LP
PO BOX 280809 #
MEMPHIS TN 38168

PATTERSON DONALD P TRUST AND
4385 POPLAR AVE #
MEMPHIS TN 38117

PATTERSON DONALD P TRUST AND
4385 POPLAR AVE #
MEMPHIS TN 38117

5055 COVINGTON WAY LLC
760 SOUTHERN TRACE PKWY #
SHREVEPORT LA 71106

PATTERSON DONALD P TRUST AND
4385 POPLAR AVE #
MEMPHIS TN 38117

PATTERSON DONALD P TRUST AND ASHLEY N
4385 POPLAR AVE #
MEMPHIS TN 38117

GOSSETT AL
1901 COVINGTON PIKE #
MEMPHIS TN 38128

PATTERSON DONALD P TRUST AND
4385 POPLAR AVE #
MEMPHIS TN 38117

GOSSETT AL
1901 COVINGTON PIKE #
MEMPHIS TN 38128

KERAS CHILDRENS FAMILY LP
P O BOX 280809 #
MEMPHIS TN 38168

PATTERSON DONALD P TRUST AND
4385 POPLAR AVE #
MEMPHIS TN 38117

FERRELL PROPERTIES
2174 E PERSON AVE #
MEMPHIS TN 38114

BELLE PROPERTIES LLC
PO BOX 772808 #
MEMPHIS TN 38177

ARNOLD PENNELLIE AND BENJAMIN R KERAS
P O BOX 280809 #
MEMPHIS TN 38168

COVINGTON PIKE STORAGE OWNER LLC
200 PARK AVE #
NEW YORK NY 10166

COVINGTON PIKE MOTORS INC
2240 COVINGTON PIKE #
MEMPHIS TN 38128



Shelby County Tennessee

Willie F. Brooks Jr

Shelby County Register

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.



24001860

01/08/2024 - 11:01:12 AM

24 PGS	
ALLYSON 2661130 - 24001860	
VALUE	700000.00
MORTGAGE TAX	802.70
TRANSFER TAX	0.00
RECORDING FEE	120.00
DP FEE	2.00
REGISTER'S FEE	1.00
TOTAL AMOUNT	925.70

WILLIE F. BROOKS JR
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

Loan No. 51491

MAXIMUM PRINCIPAL INDEBTEDNESS FOR TENNESSEE RECORDING TAX PURPOSES IS \$700,000.00.

Prepared By and Return to:
Michael E. Hewgley, Attorney At Law
Hewgley Law Firm
1715 Aaron Brenner Drive, Suite 401
Memphis, Tennessee 38120
MST# 2023120781 LM

**REVOLVING CREDIT DEED OF TRUST
ASSIGNMENT OF RENTS, SECURITY AGREEMENT
AND FIXTURE FILING**

THIS REVOLVING CREDIT DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING is made as of the 5th day of January, 2024, by and among BELLE PROPERTIES, LLC, a Tennessee Limited Liability Company, and SOUTHBAY PROPERTIES, LLC, a Tennessee Limited Liability Company ("Trustor") whose address is 6225 Greenlee Suite 102, Arlington, TN 38002, KENT WUNDERLICH, TRUSTEE ("Trustee"), whose address is 1715 Aaron Brenner Drive, Memphis, TN 38120, and FINANCIAL FEDERAL BANK ("Beneficiary"), whose address is 1715 Aaron Brenner Drive, Suite 100, Memphis, Tennessee 38120. This instrument covers property which is or may become fixtures and also constitutes a fixture filing under T.C.A. §47-9-502.

PURSUANT TO TENNESSEE CODE ANNOTATED §47-28-104, NOTICE IS HEREBY GIVEN THAT THIS DEED OF TRUST SECURES OBLIGATORY ADVANCES AND IS FOR COMMERCIAL PURPOSES. THIS DEED OF TRUST ALSO SECURES CERTAIN FUTURE ADVANCES WHICH ARE OPTIONAL AND NON-OBLIGATORY.

FOR GOOD AND VALUABLE Consideration, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby bargains, sells, conveys and confirms to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, the real property located in the County of Shelby, State of Tennessee, (the "Property"), more particularly described in the attached Exhibit "A" which is incorporated herein by reference and made a part hereof.

TO HAVE AND TO HOLD the Property unto Trustee, his successors and assigns, in fee simple forever; and Trustor does hereby covenant with Trustee, his successors and assigns, that it is lawfully seized in fee of the Property; that it has a good right to sell and convey the same; that the same is unencumbered except for the permitted encumbrances ("Permitted Encumbrances") shown on Exhibit "B" attached hereto and made a part hereof, and that the title and quiet possession thereto it will warrant and forever defend against the lawful claims of all persons.

TOGETHER WITH, all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Property (the "Improvements").

TOGETHER WITH, all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto.

TOGETHER WITH, all right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Property.

TOGETHER WITH, all the estate, interest, right, title, other claim or demand, including claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire in the Property, and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Trust Estate, including, without limitation, any awards resulting from a change of grade of streets and awards for severance damage.

The entire estate, property and interest hereby conveyed to Trustee may hereafter be referred to as the "Trust Estate".

FOR THE PURPOSE OF SECURING

a. Payment of indebtedness in the total principal amount of SEVEN HUNDRED THOUSAND AND NO/100 DOLLARS (\$700,000.00) with interest at the rate specified therein, evidenced by that certain Promissory Note and Credit Line Agreement of even date herewith (the "Note"), executed by Belle Properties, LLC, and Southbay Properties, LLC, which has been delivered to and is payable to the order of Beneficiary, and which by this reference is hereby made a part hereof, and any and all modifications, extensions and renewals thereof; accrued interest under said Note is payable monthly with maturity on January 1, 2026.

b. Performance of all obligations of Trustor under that certain Promissory Note and Credit Line Agreement of even date herewith between Trustor and Beneficiary. The Note provides that future advances of principal shall be made to Trustor on its request provided that there is no Event of Default thereunder or under any other Loan Instrument (hereafter defined). Trustor may repay amounts advanced by Beneficiary under the Note and re-borrow from time to time subject to all the terms and conditions in the Note, provided that the total principal balance outstanding under the Note shall not exceed \$700,000.00 at any time.

c. Payment of all sums advanced by Beneficiary to protect the Trust Estate, with interest thereon at the Default Rate, as defined in the Note ("Default Rate").

This Deed of Trust and the Note, any guaranty thereof and any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby may hereafter be referred to as the "Loan Instruments."

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

**ARTICLE I
COVENANTS AND AGREEMENT OF TRUSTOR**

Trustor hereby covenants and agrees:

1.01 Payment of Secured Obligations. To pay within ten (10) days of when due the principal of, and the interest on, the indebtedness evidenced by the Note, charges, fees and all other sums as provided in the Loan Instruments, and the principal of, and interest on, any future advances secured by this Deed of Trust.

1.02 Maintenance, Repair, Alterations. To keep the Trust Estate in good condition and repair; not to remove, demolish or substantially alter (except such alterations as may be required by laws, ordinances or regulations) any of the Improvements; to complete promptly and in good and workmanlike manner any building or other improvement which may be constructed on the Property and promptly restore in like manner any Improvement which may be damaged or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefor, to comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Trust Estate, or any part thereof, or requiring any alterations or improvements; not to commit or permit any waste or deterioration of the Trust Estate, to keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas owned or under the control of Trustor in good and neat order and repair; not to commit, suffer or permit any act to be done in or upon the Trust Estate in violation of any law, ordinance or regulation.

1.03 Required Insurance. To at all times provide, maintain and keep in force the following policies of insurance:

(a) Trustor shall maintain comprehensive public liability insurance, fire insurance with extended coverage, builder's risk insurance with respect to any construction, renovation or reconstruction, contractual liability insurance for all indemnification obligations of Trustor under all leases and such other insurance as may be required from time to time by Beneficiary. The amounts, coverages and other terms and conditions of the insurance policies shall at all times be satisfactory to Beneficiary and shall satisfy any coinsurance requirements of Beneficiary. Trustor shall pay as they become due all premiums for such insurance, shall keep each policy in full force and effect, shall deliver to Beneficiary evidence of the payment of the full premium therefor at least thirty (30) days prior to the expiration date of each policy and shall deliver to Beneficiary original policies of insurance, with noncontributory mortgagee clauses in favor of and acceptable to Beneficiary. Trustor's liability insurance policy shall specifically name Beneficiary as an additional insured. Each policy for personal property shall contain a lender loss payee clause and each policy for real

property shall contain a mortgagee clause acceptable to Beneficiary. Additionally, each policy shall provide for written notice to Beneficiary at least thirty (30) days prior to any cancellation, nonrenewal or amendment of such insurance.

(b) If the Property is located in an area which is presently identified by any governmental agency, authority or body as a flood hazard area or the like, then Trustor shall maintain a flood insurance policy covering the Property in an amount not less than the full replacement value of the Improvements, or the maximum limit of coverage available under the federal program, whichever amount is less.

(c) Such other insurance, and in such amounts, as may from time to time be required by Beneficiary against the same or other hazards.

1.04 Payment of Premiums. In the event Trustor fails to provide, maintain, keep in force or deliver and furnish to Beneficiary the policies of insurance required by Section 1.03, Beneficiary may procure such insurance or single-interest insurance for such risks covering Beneficiary's interest, and Trustor will pay all premiums thereon promptly upon demand by Beneficiary, and, until such payment is made by Trustor, the amount of all such premiums shall bear interest at the Default Rate and shall be secured by this Deed of Trust. At the request of Beneficiary, Trustor shall deposit with Beneficiary, in monthly installments, an amount equal to one-twelfth (1/12) of the aggregate annual insurance premiums, as estimated by Beneficiary, on all policies of insurance required by this Deed of Trust in order to accumulate with Beneficiary sufficient funds to pay such premiums at least thirty (30) days prior to their due date; Trustor further agrees, upon Beneficiary's request, to cause all bills, statements or other documents relating to the foregoing insurance premiums to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements, or other documents, and providing Trustor has deposited sufficient funds with Beneficiary pursuant to this Section 1.04, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time and for any reason the funds deposited with Beneficiary are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary shall notify Trustor and Trustor shall immediately deposit an amount equal to such deficiency with Beneficiary. Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section 1.04.

1.05 Insurance Proceeds. That after the happening of any casualty to the Trust Estate or any part thereof, Trustor shall give prompt written notice thereof to Beneficiary.

(a) In the event of any damage to or destruction of the Improvements, Beneficiary shall have the option in its sole discretion of applying all or part of the insurance proceeds (i) to any indebtedness secured hereby and in such order as Beneficiary may determine, or (ii) to the restoration of the Improvements or (iii) to Trustor; provided that in the event Beneficiary elects to apply insurance proceeds in repayment of the indebtedness secured hereby, Trustor shall be entitled to prepay the remaining balance of said indebtedness in full, without penalty or premium.

(b) In the event of such loss or damage, all proceeds of insurance shall be payable to Beneficiary, and Trustor hereby authorizes and directs any affected insurance company to make payment of such proceeds directly to Beneficiary. Beneficiary is hereby authorized and empowered by Trustor to settle, adjust or compromise any claims for loss, damage or destruction under any policy or policies of insurance.

(c) Except to the extent that insurance proceeds are received by Beneficiary and applied to the indebtedness secured hereby, nothing herein contained shall be deemed to excuse Trustor from repairing or maintaining the Trust Estate, regardless of whether or not there are insurance proceeds available or whether any such proceeds are sufficient in amount, and the application or release by Beneficiary of any insurance proceeds shall not cure or waive any default or notice of default under this Deed of Trust or invalidate any act done pursuant to such notice.

(d) Notwithstanding any provision hereof to the contrary, in the event any proceeds become available as a result of the condemnation of all or any part of the Property, or any insurance proceeds become available as a result of any hazard insurance loss, Beneficiary will make such proceeds available to Trustor for use in the repair and restoration of the Property to the condition existing immediately prior to the condemnation or loss, or such other condition as Beneficiary may approve in writing, upon the following terms and conditions:

- (i) No Event of Default shall have occurred and be continuing under this Deed of Trust;
- (ii) Beneficiary shall approve in writing plans and specifications of an architect satisfactory to Beneficiary and contractor's cost estimates by contractors satisfactory to Beneficiary, which approval shall not be withheld or delayed unreasonably;
- (iii) Such proceeds are deemed sufficient by Beneficiary to pay all costs of, and expenses incidental to, such repair or restoration, and, if such proceeds shall be deemed insufficient to pay same, Trustor shall deposit with Beneficiary such additional sums as Beneficiary deems necessary, in its reasonable judgment, when combined with such proceeds, to pay such costs and expenses;
- (iv) Such proceeds shall be disbursed by advances conforming to the requirements for advances ordinarily set forth in construction loan agreements then in use by Beneficiary, and to such other requirements as Beneficiary may reasonably impose;
- (v) Beneficiary shall be entitled to deduct from each such advance all costs reasonably incurred by Beneficiary in connection therewith; and

1.06 Assignment of Policies Upon Foreclosure. In the event of foreclosure of this Deed of Trust or other transfer of title or assignment of the Trust Estate in extinguishment, in whole or in

part, of the debt secured hereby, all right, title and interest of Trustor in and to all policies of insurance required by this Section shall inure to the benefit of and pass to the successor in interest of Trustor or the purchaser or grantee of the Trust Estate.

1.07 Indemnification; Subrogation; Waiver of Offset.

(a) If Beneficiary is made a party defendant to any litigation concerning this Deed of Trust or the Trust Estate or any part thereof or interest therein, or the occupancy thereof by Trustor, then Trustor shall indemnify, defend and hold Beneficiary harmless from all liability by reason of said litigation, including reasonable attorney's fees and expenses incurred by Beneficiary in any such litigation, whether or not any such litigation is prosecuted to judgment. If Beneficiary commences an action against Trustor to enforce any of the terms hereof or because of the breach by Trustor of any of the terms hereof, or for the recovery of any sum secured hereby, Trustor shall pay to Beneficiary reasonable attorney's fees and expenses, and the right to such attorney's fees and expenses shall be deemed to have accrued on the commencement of such action, and shall be enforceable whether or not such action is prosecuted to judgment. If Trustor breaches any term of this Deed of Trust, Beneficiary may employ an attorney or attorneys to protect its rights hereunder, and, in the event of such employment following any breach of Trustor, Trustor shall pay Beneficiary reasonable attorney's fees and expenses incurred by Beneficiary, whether or not an action is actually commenced against Trustor by reason of breach.

(b) Trustor waives any and all right to claim or recover against Beneficiary, its officers, employees, agents and representatives, for loss of or damage to Trustor, the Trust Estate, Trustor's property or the property of others under Trustor's control from any cause insured against or required to be insured against by the provisions of this Deed of Trust.

(c) All sums payable by Trustor hereunder shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Trustor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction or any condemnation or similar taking of the Trust Estate or any part thereof; (ii) any restriction or prevention of or interference with any use of the Trust Estate or any part thereof; (iii) any title defect or encumbrance or any eviction from the Property or the Improvements, or any part thereof, by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary, or by any court, in any such proceeding; (v) any claim which Trustor has or might have against Beneficiary; (vi) any default or failure on the part of Beneficiary to perform or comply with any other agreement with Trustor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; whether or not Trustor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, Trustor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Trustor.

1.08 Taxes and Impositions.

(a) Trustor agrees to pay, prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, including, without limitation, nongovernmental levies or assessments such as maintenance charges, owner association dues or charges or fees, levies or charges resulting from covenants, conditions and restrictions affecting the Trust Estate, which are assessed or imposed upon the Trust Estate, or become due and payable, and which create, or may create, a lien upon the Trust Estate, or any part thereof, or upon any Personal Property (as defined in Section 3.01 hereof), equipment or other facility used in the operation or maintenance thereof (all of which taxes, assessments and other governmental charges of like nature are hereinafter referred to as "Impositions"); provided, however, that if, by law, any such imposition is payable, or may at the option of the taxpayer be paid, in installments, Trustor may pay the same together with any accrued interest on the unpaid balance of such Imposition in installments as the same become due and before any fine, penalty, interest or cost may be added thereto for the nonpayment of any such installment and interest.

(b) If at any time after the date hereof there shall be assessed or imposed (i) a tax or assessment on the Trust Estate in lieu of or in addition to the Impositions payable by Trustor pursuant to subparagraph (a) hereof, or (ii) a license fee, tax or assessment imposed on Beneficiary and measured by or based, in whole or in part, upon the amount of the outstanding obligations secured hereby, then all such taxes, assessments or fees shall be deemed to be included within the term "Impositions" as defined in subparagraph (a) hereof, and Trustor shall pay and discharge the same as herein provided with respect to the payment of Impositions. Anything to the contrary herein notwithstanding, Trustor shall have no obligation to pay any franchise, estate, inheritance, income, excess profits or similar tax levied on Beneficiary or on the obligations secured hereby.

(c) Subject to the provisions of subparagraph (d) of this Section 1.08, Trustor covenants, upon written request of Beneficiary, to furnish Beneficiary within thirty (30) days after the date upon which any such Imposition is due and payable by Trustor, official receipts of the appropriate taxing authority, or other proof satisfactory to Beneficiary, evidencing the payments thereof.

(d) Trustor shall have the right before any delinquency occurs to contest or object to the amount or validity of any such Imposition by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying or extending Trustor's covenant to pay any such Imposition at the time and in the manner provided in this Section 1.08, unless Trustor has given prior written notice to Beneficiary of Trustor's intent to so contest or object to an Imposition, and unless, at Beneficiary's sole option, (i) Trustor shall demonstrate to Beneficiary's reasonable satisfaction that the legal proceedings shall conclusively operate to prevent the sale of the Trust Estate, or any part thereof, to satisfy such Imposition prior to final determination of such proceedings; or (ii) Trustor shall furnish a good and sufficient bond or surety as requested by and satisfactory to Beneficiary; or (iii) Trustor shall have provided a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of such proceedings.

(e) At the written request of Beneficiary, Trustor shall pay to Beneficiary, on the day monthly installments of interest are payable under the Note, until the Note is paid in full, an amount

equal to one-twelfth (1/12) of the annual Impositions reasonably estimated by Beneficiary to pay the installment of taxes next due on the Trust Estate in order to accumulate with Beneficiary sufficient funds to pay such Impositions thirty (30) days prior to delinquency. In such event, Trustor further agrees to cause all bills, statements or other documents relating to such Impositions to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents, and providing Trustor has deposited sufficient funds with Beneficiary pursuant to this Section 1.08, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time and for any reason the funds deposited with Beneficiary are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary shall notify Trustor and Trustor shall promptly deposit an amount equal to such deficiency with Beneficiary. Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section 1.08. Beneficiary shall not be obliged to pay or allow any interest on any sums held by Beneficiary pending disbursement or application hereunder, and Beneficiary may impound or reserve for future payment of Impositions such portion of such payments as Beneficiary may in its absolute discretion deem proper, applying the balance on the principal of or interest on the obligations secured hereby. Should Trustor fail to deposit with Beneficiary (exclusive of that portion of said payments which has been applied by Beneficiary on the principal of or interest on the indebtedness secured by the Loan Instruments) sums sufficient to fully pay such Impositions at least thirty (30) days before delinquency thereof, Beneficiary may, at Beneficiary's election, but without any obligation so to do, advance any amounts required to make up the deficiency, which advances, if any, shall be secured hereby and shall be repayable to Beneficiary with interest at the Default Rate, as herein elsewhere provided, or, at the option of Beneficiary, the latter may, without making any advance whatever, apply any sums held by it upon any obligation of the Trustor secured hereby. Should any Event of Default occur or exist on the part of the Trustor of the payment or performance of any of Trustor's and/or any guarantor's obligations under the terms of the Loan Instruments, Beneficiary may, at any time and at Beneficiary's option, apply any sums or amounts in its hands received pursuant hereto, or as rents or income of the Trust Estate or otherwise, upon any indebtedness or obligation of the Trustor secured hereby in such manner and order as Beneficiary may elect. The receipt, use or application of any such sums paid by Trustor to Beneficiary hereunder shall not be construed to affect the maturity of any indebtedness secured by this Deed of Trust or any of the rights or powers of Beneficiary or Trustee under the terms of the Loan Instruments or any of the obligations of Trustor and/or any guarantor under this Loan Instrument.

(f) Trustor covenants and agrees not to suffer, permit or initiate the joint assessment of the real and Personal Property, or any other procedure whereby the lien of the real property taxes and the lien of the personal property taxes shall be assessed, levied or charged to the Trust Estate as a single lien.

1.09 Utilities. To pay when due all utility charges which are incurred by Trustor for the benefit of the Trust Estate or which may become a charge or lien against the Trust Estate for gas, electricity, water or sewer services furnished to the Trust Estate, and all other assessments or charges of a similar nature, whether public or private, affecting the Trust Estate or any portion thereof, whether or not such taxes, assessments or charges are liens thereon.

1.10 Actions Affecting Trust Estate. To appear in and contest any action or proceeding purporting to adversely affect the security hereof or the rights or powers of Beneficiary or Trustee. If the Trustee or Beneficiary shall be made a party to or shall intervene in any action or proceeding affecting the Property or the title thereto, or the interests of Trustee or Beneficiary under this Deed of Trust, Trustee and Beneficiary shall be reimbursed by Trustor, promptly upon demand, all out-of-pocket costs and expenses, including cost of evidence of title and reasonable attorney's fees, incurred by them in any such action or proceeding in which Beneficiary or Trustee may appear.

1.11 Actions by Trustee and/or Beneficiary to Preserve Trust Estate. Following an Event of Default by Trustor under any of the Loan Instruments, Beneficiary and/or Trustee, each in its own discretion, without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. In connection therewith (without limiting their general powers), Beneficiary and/or Trustee shall have and are hereby given the right, but not the obligation, (i) to enter upon and take possession of the Trust Estate; (ii) to make additions, alterations, repairs and improvements to the Trust Estate which they or either of them may reasonably consider necessary or proper to keep the Trust Estate in good condition and repair; (iii) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Beneficiary or Trustee; (iv) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of either may reasonably affect the security of this Deed of Trust or be prior or superior hereto; and (v) in exercising such powers, to pay necessary reasonable expenses, including employment of counsel or other necessary or desirable consultants. Trustor shall, promptly upon demand therefor by Beneficiary, pay all reasonable costs and expenses, including employment of counsel or other necessary or desirable consultant. Trustor shall, promptly upon demand therefor by Beneficiary, pay all out-of-pocket costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing rights, including, without limitation, costs of evidence of title, court costs, appraisals, surveys and reasonable attorney's fees.

1.12 Survival of Warranties. To fully and faithfully satisfy and perform the obligations of Trustor contained in the Trustor's loan application, if any, and Beneficiary's loan commitment, if any, and any such application and commitment between Trustor and any assignee of Beneficiary, and each agreement of Trustor incorporated by reference therein or herein, and any modification or amendment thereof, all representations, warranties and covenants of Trustor contained therein or incorporated by reference shall survive the closing and funding of the loan evidenced by the Note and shall remain continuing obligations, warranties and representations of Trustor during any time when any portion of the obligations secured by this Deed of Trust remain outstanding.

1.13 Eminent Domain. That should the Trust Estate, or any material part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner ("Condemnation"), or should Trustor receive any notice or other information regarding such proceeding, Trustor shall give prompt written notice thereof to Beneficiary.

(a) Beneficiary shall be entitled to apply all compensation, awards and other payments or relief therefor to principal reduction of the Note, and shall be entitled after consultation with Trustor, at its option, to commence, appear in and prosecute in its own name any action or proceedings. Beneficiary shall also be entitled to make any compromise or settlement in connection with such taking or damage following written notice to, and consultation with, Trustor. All such compensation, awards, damages, rights of action and proceeds awarded to Trustor (the "Proceeds") are hereby assigned to Beneficiary and Trustor agrees to execute such further assignments of the Proceeds as Beneficiary or Trustee may require.

(b) In the event any portion of the Trust Estate is so taken or damaged, Beneficiary shall have the option, in its sole and absolute discretion, to apply all such Proceeds, after deducting therefrom all out-of-pocket costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit), including reasonable attorney's fees, incurred by it in connection with such Proceeds, to any indebtedness secured hereby and in such order as Beneficiary may determine, or to apply all such Proceeds, after such deductions, to the restoration of the Trust Estate upon such conditions as Beneficiary may determine. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

1.14 Additional Security. That in the event Beneficiary at any time holds additional security for any of the obligations secured hereby, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently herewith or after a sale is made hereunder.

1.15 Appointment of Successor Trustee. That Trustee may resign at any time, with or without cause, by written instrument to that effect delivered to Beneficiary. By instrument properly executed, acknowledged and filed for record in the office of the Recorder of Deeds in the County where this Deed of Trust is recorded, Beneficiary may (for any reason satisfactory to Beneficiary and whether or not Trustee has resigned by an instrument placed of record) appoint a successor Trustee, who from and after the filing of such appointment shall become vested with the title to the Property in trust and shall have all of the powers, authority and duties vested in Trustee by this Deed of Trust. In the event any foreclosure advertisement is running or has run at the time of such appointment of a successor Trustee, the successor Trustee may consummate the advertised sale without the necessity of republishing such advertisement. The making of oath or giving of bond by Trustee or any successor Trustee is expressly waived.

1.16 Successors and Assigns. That this Deed of Trust applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Beneficiary" shall mean the owner and holder of the Note, whether or not named as Beneficiary herein.

1.17 Inspections. That Beneficiary, or its agents, representatives or workmen, are authorized to enter at any reasonable time, upon reasonable notice to Trustor, on or upon any part of the Trust Estate for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Loan Instruments.

1.18 Liens. To pay and promptly discharge, either by paying the amount claimed to be due, or by procuring the discharge of such lien by depositing in court a bond or the amount claimed, or otherwise giving security for such claim, or in such manner as is or may be prescribed by law at Trustor's cost and expense, all liens, encumbrances and charges upon the Trust Estate, or any part thereof or interest therein. If Trustor shall fail to discharge any such lien, encumbrance or charge, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such lien by depositing in court a bond or the amount claimed, or otherwise giving security for such claim, or in such manner as is or may be prescribed by law. All sums advanced by Beneficiary to protect the Trust Estate shall bear interest at the Default Rate.

1.19 Trustee's Powers. At any time, or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note secured hereby for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of said Trust Estate, Trustee may (i) reconvey any part of said Trust Estate, (ii) consent in writing to the making of any map or plat thereof, (iii) join in granting any easement thereon, (iv) or join in any extension agreement or any agreement subordinating the lien or charge hereof.

1.20 Beneficiary's Power. Without affecting the liability of any other person liable for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Property not then or theretofore released as security for the full amount of all unpaid obligations, Beneficiary may, from time to time and without notice, (i) release any person so liable, (ii) extend the maturity or alter any of the terms of any such obligation, (iii) grant other indulgences, (iv) release or reconvey, or cause to be released or reconveyed, at any time at Beneficiary's option, any parcel, portion or all of the Trust Estate, (v) take or release any other or additional security for any obligation herein mentioned, or (vi) make compositions or other arrangements with creditors in relation thereto.

1.21 Tradenames. At the request of Beneficiary, Trustor shall execute a certificate in form satisfactory to Beneficiary listing the tradenames under which Trustor intends to operate the Trust Estate, and representing and warranting that Trustor does business under no other tradenames with respect to the Trust Estate. Trustor shall immediately notify Beneficiary in writing of any change in said tradenames, and will, upon request of Beneficiary, execute any additional financing statements and other certificates revised to reflect the change in tradename.

1.22 Hazardous Substances. Trustor warrants that, to the best of Trustor's knowledge, the Property is in compliance with all federal (including, without limitation, the Resource Conservation and Recovery Act), state, and local environmental laws pertaining to air and water pollution control and to hazardous substances (including, without limitation, toxic substances, flammable substances, explosives, radioactive materials, hazardous wastes, pollutants, pollution, polychlorinated biphenyls, asbestos, friable asbestos, and related materials, and any material defined as hazardous under applicable federal, state, or local environmental laws) or governing the use, storage, treatment, transportation, manufacture, refinement, handling, or production of such hazardous substances; and Trustor covenants that the Property shall remain at all times in compliance with said environmental

laws now existing or hereafter enacted during the term of this Deed of Trust. Without limiting the generality of the foregoing, Trustor:

(a) Represents that Trustor has not, and to the best of Trustor's actual knowledge, no prior owner or current or prior tenant or other occupant of all or part of the Property has, used such hazardous substances on, from, or affecting the Property in any manner which violates any such environmental laws, materially diminishes the value of the Property, would allow any public authority to take any adverse action under said environmental laws, or causes or creates any liens on the Property, and that, to the best of Trustor's knowledge, no such hazardous substances have been disposed of, or are located, on the Property; and

(b) Covenants that Trustor shall indemnify and hold Beneficiary harmless from all

(i) claims (by any person, entity, or public authority), causes of action, fines, penalties, damages (including, without limitation, reasonable attorney's fees), loss, and expense (including, without limitation, cost of cleanup, containment, or removal of hazardous substances), whether the foregoing are foreseeable or unforeseeable resulting from the existence of hazardous substances on the Property or the violation of environmental laws; and

(ii) liens which are asserted against the Property, as a result of said environmental laws, or alleged or proven violations thereof, in respect to the Property, occurring or existing while Trustor has or had any interest in the Property, irrespective of whether caused by Trustor and irrespective of whether Trustor has knowledge thereof on the date of this Deed of Trust or during the term of this Deed of Trust; and the obligations of Trustor under this subparagraph (b) shall survive irrespective of any transfer by Trustor of any interest in the Property, and shall survive foreclosure of this Deed of Trust or a conveyance in lieu of such foreclosure but shall expire two (2) years from the date of such foreclosure or conveyance in lieu of foreclosure unless Beneficiary shall have given Trustor written notice before the expiration of two (2) years after the date of such foreclosure or conveyance that a violation of said environmental laws or suspected violation has been discovered or claimed, in which case the obligations of Trustor under this subparagraph (b) will survive as the claimed or suspected violation to the maximum extent permitted by law.

ARTICLE II ASSIGNMENT OF RENTS, ISSUES AND PROFITS

2.01 Assignment of Rents. Trustor hereby assigns and transfers to Beneficiary all the rents, issues and profits of the Trust Estate, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature, and hereby gives to and confers upon Beneficiary the right, power and authority to collect such rents, issues and profits. Trustor irrevocably appoints Beneficiary its true and lawful attorney-in-fact, at the option of Beneficiary at any time and from time to time, after the occurrence of an Event of Default hereunder, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Trustor or Beneficiary, for all such rents, issues and profits and apply the same to the indebtedness secured hereby; provided, however, that Trustor shall have the right to collect such rents, issues and profits (but not more than one (1) month in advance) prior to or at any time there is not an Event of

Default under any of the Loan Instruments. The assignment of the rents, issues and profits of the Trust Estate in this Article II is intended to be an absolute assignment from Trustor to Beneficiary and not merely the passing of a security interest. The rents, issues and profits are hereby assigned absolutely by Trustor to Beneficiary contingent only upon the occurrence of an Event of Default under any of the Loan Instruments.

2.02 Collection Upon Default. Upon any Event of Default under any of the Loan Instruments, Beneficiary may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Trust Estate, or any part thereof; in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid; and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The collection of such rents, issues and profits, or the entering upon and taking possession of the Trust Estate, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default.

ARTICLE III SECURITY AGREEMENT

3.01 Creation of Security Interest. Trustor hereby grants to Beneficiary a security interest in all tangible personal property (the "Personal Property") owned by Trustor, and now or at any time hereafter located on or at the Property or used in connection therewith, including, but not limited to:

(a) All heating, plumbing, lighting, water heating, incinerating, ventilating and air conditioning equipment, swimming pool equipment, shades, awnings, blinds, drapes and draperies, linoleum, rugs and carpeting, all furniture, furnishings, machinery, equipment, and fixtures (whether or not so attached to the realty as to become a part thereof) and all other tangible personal property of every kind and character owned by Trustor now or at any time hereafter located in or on the Improvements or used in connection therewith, together with all substitutions, additions, and accessions to any and all of the foregoing, and exchanges and replacements of any and all of the foregoing;

(b) All building materials owned by Trustor now or hereafter located on the Property, prior to incorporation of said building materials in the Improvements;

(c) All plans and specifications owned by Trustor related to the Property and the Improvements;

(d) All rents, incomes, profits, revenues, royalties, bonuses, rights, accounts, contract rights, general intangibles, and benefits whether arising under any leases or tenancies now existing or hereafter created on the Property and the Improvements, or otherwise;

(e) All leases and subleases covering the Property or any portion thereof now or hereafter existing or entered into, and all rights and interests thereunder, including without limitation, all cash or security deposits, advance rentals, guarantees and deposits of similar nature;

(f) All judgments, awards of damages, and settlements hereafter made to Trustor as a result of or in lieu of any taking of the Property and Improvements, or any part thereof or interest therein under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Property or the Improvements or any part thereof or interest therein, including any award for change of grade of streets;

(g) All proceeds of hazard or other insurance policies payable to Trustor maintained with respect to any Personal Property described in subparagraphs (a) and (b) above or with respect to the Improvements (whether or not Beneficiary is loss payee thereof); and

(h) All proceeds of any and all of the foregoing collateral. (Although proceeds are covered, Beneficiary does not authorize the sale or other transfer of any of the collateral or the transfer of any interest in the collateral);

all for the purpose of securing all obligations of Trustor contained in any of the Loan Instruments.

3.02 Warranties, Representations and Covenants of Trustor. Trustor hereby warrants, represents and covenants as follows:

(a) Except for the security interest granted hereby, Trustor is, and as to portions of the Personal Property to be acquired after the date hereof will be, the sole owner of the Personal Property, free from any adverse lien, security interest, encumbrance or adverse claims thereon of any kind whatsoever. Trustor will notify Beneficiary of, and will defend the Personal Property against, all claims and demands of all persons at any time claiming the same or any interest therein.

(b) Trustor will not lease, sell, convey or in any manner transfer the Personal Property, except in the normal course of business, without the prior written consent of Beneficiary, which consent shall not unreasonably be withheld.

(c) The Personal Property is not used or bought for personal, family or household purposes.

(d) The Personal Property will be kept on or at the Property and Trustor will not remove the Personal Property from the Property without the prior written consent of Beneficiary, except (i) in the ordinary course of business and (ii) such portions or items of Personal Property which are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Trustor.

(e) Trustor maintains a place of business in the State of Tennessee and Trustor will immediately notify Beneficiary in writing of any change in its place of business as set forth in the beginning of this Deed of Trust.

(f) At the request of Beneficiary, Trustor will join Beneficiary in executing one or more financing statements and renewals and amendments thereof pursuant to the Uniform Commercial Code of Tennessee in form satisfactory to Beneficiary, and will pay the cost of filing same in all public offices wherever filing is reasonably deemed by Beneficiary to be necessary or desirable.

(g) All covenants and obligations of Trustor contained herein relating to the Trust Estate shall be deemed to apply to the Personal Property whether or not expressly referred to herein.

(h) This Deed of Trust constitutes a Security Agreement as that term is used in the Uniform Commercial Code of Tennessee.

ARTICLE IV REMEDIES UPON DEFAULT

4.01 Events of Default. Any of the following events shall be deemed an "Event of Default" hereunder:

(a) Default shall be made in the payment of any installment of principal or interest due under any of the Loan Instruments and such default remains uncured for ten (10) days; or

(b) Trustor shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Trustor or of all or any part of the Trust Estate, or of any or all of the royalties, revenues, rents, issues or profits thereof, or shall make any general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or

(c) A court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against Trustor seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the first date of entry thereof; or any trustee, receiver or liquidator of Trustor or of all or any part of the Trust Estate, or of any or all of the royalties, revenues, rents, issues or profits thereof, shall be appointed without the consent or acquiescence of Trustor and such appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive); or

(d) A writ of execution or attachment or any similar process shall be issued or levied against all or any part of or interest in the Trust Estate, or any judgment involving monetary damages shall be entered against Trustor which shall become a lien on the Trust Estate or any portion thereof or interest therein and such execution, attachment or similar process or judgment is not released, bonded, satisfied, vacated or stayed within sixty (60) days after its entry or levy; or

(e) There has occurred a breach of or default under any other term, covenant, agreement, condition, provision, representation or warranty contained in any of the Loan Instruments or any part thereof, and such breach shall not be cured within thirty (30) days after written notice thereof to Trustor; provided, however, if such default is not susceptible of cure within thirty (30) days, then Trustor shall have an additional period of up to thirty (30) days (total of 60 days) within which to cure such default provided Trustor commences such cure promptly upon receipt of notice and thereafter diligently pursues same; or

(f) If all or any part of the Property or any interest therein is sold, transferred or further encumbered by Trustor without Beneficiary's prior written consent, Beneficiary may, at its sole option, declare all sums secured by this Deed of Trust to be immediately due and payable.

(g) Any change in the ownership of Trustor, without the prior written consent of Beneficiary; or

(h) If Trustor enters into any interest rate swap agreements or other derivative transactions, without Beneficiary's prior written consent.

4.02 Acceleration Upon Default, Additional Remedies. In the event of any Event of Default hereunder, Beneficiary may declare all indebtedness secured hereby to be due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Trust Estate, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems reasonably necessary or desirable to preserve the value, marketability or rentability of the Trust Estate, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Trust Estate, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of the Trust Estate, the collection of such rents, issues and profits and the application thereof as aforesaid shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Trust Estate or the collection, receipt and application of rents, issues or profits, Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Loan Instruments or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Exercise any or all of the remedies available to a secured party under the Tennessee Uniform Commercial Code, including, but not limited to:

- (i) Either personally or by means of a court appointed receiver, take possession of all or any of the Personal Property and exclude therefrom Trustor and all others claiming under Trustor, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Trustor in respect to the Personal Property or any part thereof. In the event Beneficiary demands or attempts to take possession of the Personal Property in the exercise of any rights under any of the Loan Instruments, Trustor promises and agrees to promptly turn over and deliver complete possession thereof to Beneficiary;
- (ii) Without notice to or demand upon Trustor, make such payments and do such acts as Beneficiary may deem necessary to protect its security interest in the Personal Property, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority to pay all expenses incurred in connection therewith;
- (iii) Require Trustor to assemble the Personal Property, or any portion thereof, at a place designated by Beneficiary and reasonably convenient to both parties, and promptly to deliver such Personal Property to Beneficiary, or an agent or representative designated by it. Beneficiary, and its agents and representatives, shall have the right to enter upon any or all of Trustor's premises and property to exercise Beneficiary's rights hereunder;
- (iv) Sell, lease or otherwise dispose of the Personal Property at public sale, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as Beneficiary may determine in a commercially reasonable manner in accordance with the Tennessee Uniform Commercial Code. Beneficiary may be a purchaser at any such sale;

- (v) Sell, lease or otherwise dispose of the Personal Property through the Trustee, at Beneficiary's option, pursuant to Tennessee Code Annotated §47-9-604;
- (vi) Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary shall give Trustor at least ten (10) days prior written notice of the time and place of any public sale of the Personal Property or other intended disposition thereof. Such notice may be mailed to Trustor at the address set forth at the beginning of this Deed of Trust.

(d) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Trust Estate to be sold.

4.03 Foreclosure By Power of Sale. Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

(a) Upon receipt of such notice from Beneficiary, Trustee shall advertise the sale of all or any portion of the Trust Estate for twenty-one (21) days by three (3) weekly notices in some newspaper of general circulation published in Memphis, Tennessee, if the Trust Estate is situated in Shelby County, Tennessee, or in some newspaper of general circulation published in the County or Counties in which the Trust Estate is situated, if other than Shelby County, Tennessee, and sell the Trust Estate for cash to the highest bidder, free from equity of redemption, statutory right of redemption, homestead, dower, and all other rights and exemptions of every kind, all of which are hereby expressly waived, and said Trustee shall execute a conveyance to the purchaser in fee simple, and deliver possession to such purchaser, which Trustor binds itself shall be given without obstruction, hindrance or delay.

(b) The proceeds of any such sale shall be applied as follows: (i) to the payment of the expenses of making, maintaining and executing this Trust, the protection of the Property, including the expense of any litigation and reasonable attorney's fees and reasonable compensation to the Trustee; (ii) to the payment of the indebtedness secured hereby or intended so to be, without preference or priority of any part over any other part; and; (iii) should there be any surplus the Trustee will pay it to the Trustor or its assigns.

(c) Upon any foreclosure sale or sale of all or any portion of the Trust Estate under the power herein granted, Beneficiary may bid for and purchase the Trust Estate and shall be entitled to apply all or any part of the indebtedness secured hereby as a credit to the purchase price.

(d) In case of any sale under this Deed of Trust, the Trust Estate may be sold as an entirety or in parcels, by one sale or by several sales, as may be deemed by the Trustee to be appropriate and without regard to any right of the Trustor or any other person to the marshaling of assets. In the

event that a sale of less than all of the Trust Estate has been effected and the Note secured hereby has not been paid in full, then the unsold portion of the Trust Estate shall continue to be subject to this Deed of Trust, and the Deed of Trust shall continue in full force and effect in accordance with its terms.

4.04 Appointment of Receiver. If an Event of Default described in Section 4.01 of this Deed of Trust shall have occurred and be continuing, Beneficiary, as a matter of right and without notice to Trustor or anyone claiming under Trustor, and without regard to the then value of the Trust Estate or the interest of Trustor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Trust Estate, and Trustor hereby irrevocably consents to such appointment. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided in Section 4.02 (a) and shall continue as such and exercise all such powers until the date of confirmation of sale of the Trust Estate unless such receivership is sooner terminated.

4.05 Remedies Not Exclusive. Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or under any Loan Instrument or other agreement or any laws now or hereafter in force, notwithstanding that some or all of the said indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action, power of sale or otherwise, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they, or either of them, may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Instruments to Trustee or Beneficiary, or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies.

4.06 Request for Notice. Trustor hereby requests a copy of any notice of default and that any notice of sale hereunder be mailed to it at the address set forth in the first paragraph of this Deed of Trust. Failure to provide notice of sale to Trustor shall not impair the validity of any remedy granted to Beneficiary under this Deed of Trust.

ARTICLE V MISCELLANEOUS

5.01 Governing Law. This Deed of Trust and the Note secured hereby are hereby executed and delivered in the State of Tennessee and shall be governed by the laws of such State. In the event

that any provision or clause of any of the Loan Instruments conflicts with applicable laws, such conflicts shall not affect other provisions of such Loan Instruments and are declared to be severable. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

5.02 Trustor Waiver of Rights. Trustor waives the benefit of all laws now existing or that hereafter may be enacted providing for (i) any appraisal before sale of any portion of the Trust Estate, and (ii) the benefit of all laws that may be hereafter enacted in any way extending the time for the enforcement of the collection of the Note or the debt evidenced thereby or creating or extending a period of redemption from any sale made by collecting said debt. To the full extent Trustor may do so, Trustor agrees that Trustor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for an appraisal, valuation, stay, extension or redemption, and Trustor, for Trustor, Trustor's heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming any interest in the Trust Estate, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and marshaling in the event of foreclosure of the liens hereby created, whether such rights are statutory, common law or otherwise. If any law referred to in this Section and now in force, of which Trustor, Trustor's heirs, devisees, representatives, successors and assigns or other person might take advantage despite this Section shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section. Trustor expressly waives and relinquishes any and all rights and remedies which Trustor may have or be able to assert by reason of the laws of the State of Tennessee pertaining to the rights and remedies of sureties.

5.03 Satisfaction of Indebtedness. At such time as all indebtedness secured by this Deed of Trust has been paid in full and all obligations of Trustor under the Loan Instruments have been performed, Beneficiary agrees to execute a release of lien or other such instrument necessary to evidence the cancellation of this Deed of Trust.

5.04 Notices. Whenever Beneficiary, Trustor or Trustee shall desire to give or serve any notice, demand, request or other communication with respect to this Deed of Trust, each such notice, demand, request or other communication shall be in writing and shall be effective only if the same is delivered by personal service or mailed by registered mail, postage prepaid, return receipt requested, addressed to the address set forth at the beginning of this Deed of Trust. Any party may at any time change its address for such notices by delivering or mailing to the other parties hereto, as aforesaid, a notice of such change.

5.05 Acceptance by Trustee. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee covenants faithfully to perform the trust herein created, being liable, however, only for gross negligence or willful misconduct.

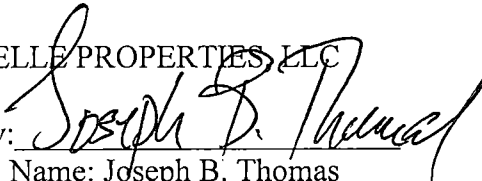
5.06 Captions. The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

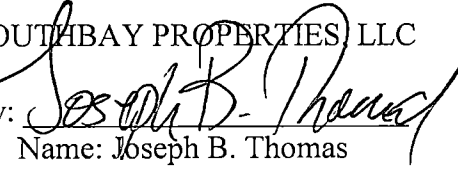
5.07 Invalidity of Certain Provisions. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Trust Estate, the unsecured or partially secured portion of the debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the debt which is not secured or fully secured by the lien of this Deed of Trust.

5.08 Subrogation. To the extent that proceeds of the Note are advanced to pay any outstanding lien, charge or prior encumbrance against the Trust Estate, such proceeds have been or will be advanced by Beneficiary at Trustor's request and Beneficiary shall be subrogated to any and all rights and liens owed by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released.

5.09 First Mortgage Default. It is a condition of this Deed of Trust that in the event of any default in any prior deed of trust encumbering either parcel in Exhibit "A", shall be a default hereunder, at the option of the Beneficiary.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

BELLE PROPERTIES, LLC
By: 
Name: Joseph B. Thomas
Title: Managing Member

SOUTHBAY PROPERTIES, LLC
By: 
Name: Joseph B. Thomas
Title: Managing Member

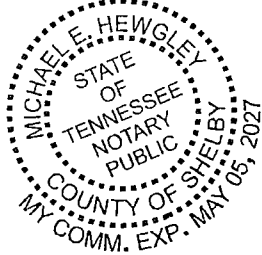
STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared Joseph B. Thomas, with whom I am personally acquainted, and who upon oath acknowledged himself to be the Managing Member of a Tennessee Limited Liability Company, the within named bargainor, and that he as such Managing Member being authorized so to do, executed and delivered the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Managing Member.

WITNESS my hand and official seal at office this 5th day of January, 2024.
[Handwritten Signature]

NOTARY PUBLIC

My Commission Expires: 5-5-27



STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared Joseph B. Thomas, with whom I am personally acquainted, and who upon oath acknowledged himself to be the Managing Member of a Tennessee Limited Liability Company, the within named bargainor, and that he as such Managing Member being authorized so to do, executed and delivered the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Managing Member.

WITNESS my hand and official seal at office this 5th day of January, 2024.
[Handwritten Signature]

NOTARY PUBLIC

My Commission Expires: 5-5-27

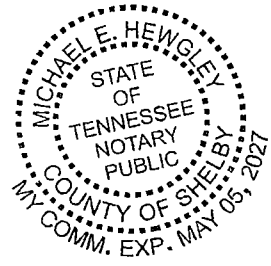


EXHIBIT A
Real Property Description

Parcel I: 2001 Covington Pike

Lot 1, Covington Pike Subdivision, as shown on plat of record in Plat Book 85, Page 26, in the Register's Office of Shelby County, Tennessee, to which plat reference is hereby made for a more particular description of said lot.

Being all of the same property conveyed to the grantor herein in a Warranty Deed of record at Instrument Number 08103205 in the Register's Office of Shelby County, Tennessee.

Parcel II: 2019 Covington Pike

Lot 2, Covington Pike Subdivision, as shown on plat of record in Plat Book 85, Page 26, in the Register's Office of Shelby County, Tennessee, to which plat reference is hereby made for a more particular description of said lot.

Being all of the same property conveyed to the grantor herein in Quit Claim Deed of record at Instrument Number 05013326 in the Register's Office of Shelby County, Tennessee.

EXHIBIT B

PERMITTED ENCUMBRANCES

All of those exceptions shown in Schedule B-PartII of a Loan Policy of title insurance issued by Stewart Title Guaranty Company under its file number 2023120781.



**MEMPHIS AND
SHELBY COUNTY** **DIVISION OF PLANNING
AND DEVELOPMENT**

City Hall – 125 N. Main Street, Suite 468 – Memphis, Tennessee 38103 – (901) 636-6619

April 15, 2024

Enterprise
2019 Covington Pike
Memphis, TN 38128

Sent via electronic mail to: matthew.a.mraz@em.com

Case Number: SUP 2024-0013

LUCB Recommendation: Approval with conditions

Dear Applicant,

On Thursday, April 11, 2024, the Memphis and Shelby County Land Use Control Board recommended **approval** of your special use permit application to allow vehicle rental (light truck/van) and car sales located at 2001 Covington Pike, subject to the following conditions:

1. The applicant shall submit a final site plan for administrative review and approval (ASPR Application) by the Division of Planning and Development.
2. Outdoor overnight storage of vehicles may be permitted in accordance with Chapter 4.8, Outdoor Storage and Display of the Unified Development Code (UDC).
3. Perimeter screening in accordance with Streetscape Plates S-7, S-8, or S-9 per Chapter 4.3, Streetscape Standards must be provided.
4. Interior lot landscaping shall be consistent with Sub-Section 4.5.5D of the UDC.
5. The dismantling of vehicles for salvage shall not be permitted.
6. Impounded vehicles shall not be stored onsite.
7. Outdoor lighting must meet requirements of Chapter 4.7, Outdoor Site Lighting.
8. No banners, flags, steamers, balloons or similar advertising devices, temporary or portable signs, reader board signs, roof-mounted signs or tents shall be permitted.

This application will be forwarded, for final action, to the Council of the City of Memphis. The Council will review your application in a committee meeting prior to voting on it in a public hearing. The applicant or the applicant's representative(s) shall be in attendance at all meetings and hearings.

Letter to Applicant
SUP 2024-0013

It is the applicant's responsibility to contact the City Council Records Office to determine when the application is scheduled to be heard at committee and in public session. The City Council Records Office may be reached at (901) 636-6792.

If for some reason you choose to withdraw your application, a letter should be mailed to the Land Use and Development Services Department of the Division of Planning and Development at the address provided above or emailed to the address provided below.

If you have questions regarding this matter, please feel free to contact me at (901) 636-6619 or via email at Kendra.Cobbs@memphistn.gov.

Respectfully,
Kendra Cobbs

Kendra Cobbs
Planner III
Land Use and Development Services
Division of Planning and Development

Cc: Chad R. Parker, Enterprise
Katelyn R. Thompson, Enterprise
File