

**CITY OF MURFREESBORO
BOARD OF ZONING APPEALS**

Regular Meeting, November 24, 2008, at 1:00 p.m.
City Hall, 111 West Vine Street, Council Chambers, 1st Floor

A G E N D A

1. Call to order
2. Consideration of minutes for the regular meeting on October 22, 2008.
3. New Business

Variance Requests

- a. **Application Z-08-085 by Mr. Matt Taylor of SEC, Inc, for Mr. Mark Pirtle of Stonegate Corporate Center, LLC**, is requesting a 4-foot variance from the minimum required 15-foot separation between parking and adjacent property in the Gateway Design Overlay District (GDO-3) for property located along the south side of Gateway Boulevard south of Arnhart Drive (Lot 3, Murfreesboro Gateway Subdivision Mark Pirtle Subdivision).
- b. **Application Z-08-086 by Mr. Randy Fann**, is requesting a 20-foot variance from the minimum required 30-foot front setback for principal structures in a Residential Multi-Family (RM-16) zone for property located at 531 East Sevier Street.
- c. **Application Z-08-087 by Mr. Randy Fann**, is requesting the following variances for property in a Commercial Highway (CH) zone located at 409, 419, and 423 South Maney Avenue and 407 East Castle Street (the four parcels are proposed to be combined into one lot of record for the development of a commercial building):
 - An 36-foot variance from the minimum required 42-foot front setback along South Maney Avenue;
 - A 5-foot variance from the minimum required 5-foot side perimeter planting yard width (a waiver of the requirement to construct a side perimeter planting yard along the south lot line adjacent to 429 South Maney Avenue); and
 - A 1-space parking variance from the required 21 parking spaces for the proposed office/retail building.

Special Use Permit Requests

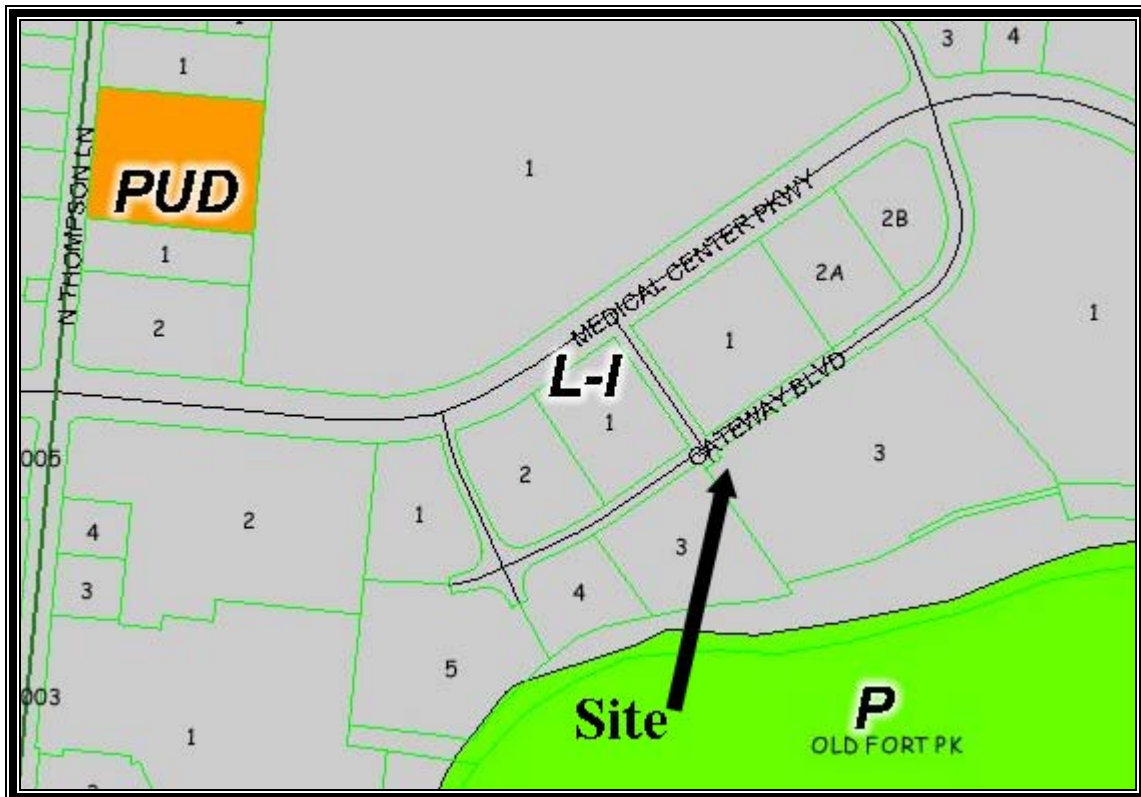
- d. Application Z-08-088 by Ms. Alexis Postell**, is requesting a special use permit in order to operate a group day-care home in a Residential Single-Family (RS-10) zone for property located at 2111 Golfield Court.
- e. Application Z-08-089 by Ms. Amy E. Pickering**, is requesting a special use permit in order to maintain a previously constructed accessory apartment in a Residential Single-Family (RS-10) zone for property located at 1506 Cypress Drive.
- f. Application Z-08-090 by Mr. Mike Jones for North Boulevard Church of Christ**, is requesting a special use permit in order to operate a temporary outdoor vending establishment (Christmas tree sales) in a Commercial Highway (CH) zone for property located at 1266 Northwest Broad Street.

Sign Variance Request

- g. Application S-08-091 by Mr. Preston Sweeney of J. Sweeney Homes, for Health Services Management, Inc.**, is requesting a variance from Section 25 ¼-24 (A)(22) of the City of Murfreesboro Sign Ordinance which prohibits a sign placed in or over a public utility or drainage easement on property located at 206 Fortress Boulevard.
- 4. Staff Reports and Other Business
 - a. Discussion of City's Ethical Policy as regards to Board and Commission members.
 - 5. Adjourn

**MURFREESBORO BOARD OF ZONING APPEALS
STAFF COMMENTS
NOVEMBER 24, 2008**

Application: Z-08-085
Location: Along the south side of Gateway Boulevard south of Arnhart Drive (Lot 3, Murfreesboro Gateway Subdivision Mark Pirtle Subdivision)
Applicant: Mr. Matt Taylor of SEC, Inc, for Mr. Mark Pirtle of Stonegate Corporate Center, LLC
Zoning: Light-Industrial (L-I) and Gateway Design Overlay District (GDO-3)
Requests: A 4-foot variance from the minimum required 15-foot separation between parking and adjacent property in the Gateway Design Overlay District (GDO-3)



The subject property is identified as Lot 3 of the Murfreesboro Gateway Subdivision Mark Pirtle Subdivision. This lot has its frontage along the south side of Gateway Boulevard. It is zoned L-I (Light-Industrial) and is also located in the Gateway Design

Overlay District (GDO-3). It is the proposed future site of a new office building, called Stonegate 4. The applicant has also developed several other office buildings in the immediate vicinity. The applicant is scheduled to appear before the Planning Commission for initial design review of this plan on November 19th (the Wednesday before the Board of Zoning Appeals meeting). Staff will report to the BZA at the meeting regarding the Planning Commission's comments on this variance request. The applicant is seeking a variance of the requirement that on lots of greater than 1.5 acres in the Gateway Design Overlay District that there must be a minimum of 15-feet of separation in between the parking lot and adjacent property. Included with the agenda materials is a letter from the applicant's engineer, Mr. Matt Taylor, and a site plan depicting the request.

The area of the site in question is along the westernmost entrance drive opposite Arnhart Drive. The applicant has requested a 4-foot variance of the minimum 15-foot separation requirement. The main reason for the request is so that the driveway will line up with Arnhart Drive on the opposite side of Gateway Boulevard. There is an existing driveway curb cut from when the City constructed Gateway Boulevard. This curb cut lines up with the location of Arnhart Drive and the applicant intends to construct the driveway at its present location. It is important for the Board to note that only the very front portion of the lot needs a variance. In fact, the variance is only sought for approximately the front 50-feet of the property along the western lot line, as the driveway is designed to angle back into the property in order to eliminate the need for a variance along the entire western lot line. The lot was in existence when the applicant purchased it. In addition, the location of Arnhart Drive across Gateway Boulevard from the subject property was not established by the applicant, nor was the existing driveway cut. The applicant is in essence working with the pre-existing conditions that he did not create. In addition, staff is supportive of the request for traffic safety reasons. Not lining up the driveway with Arnhart Drive may compromise the safety of this intersection.

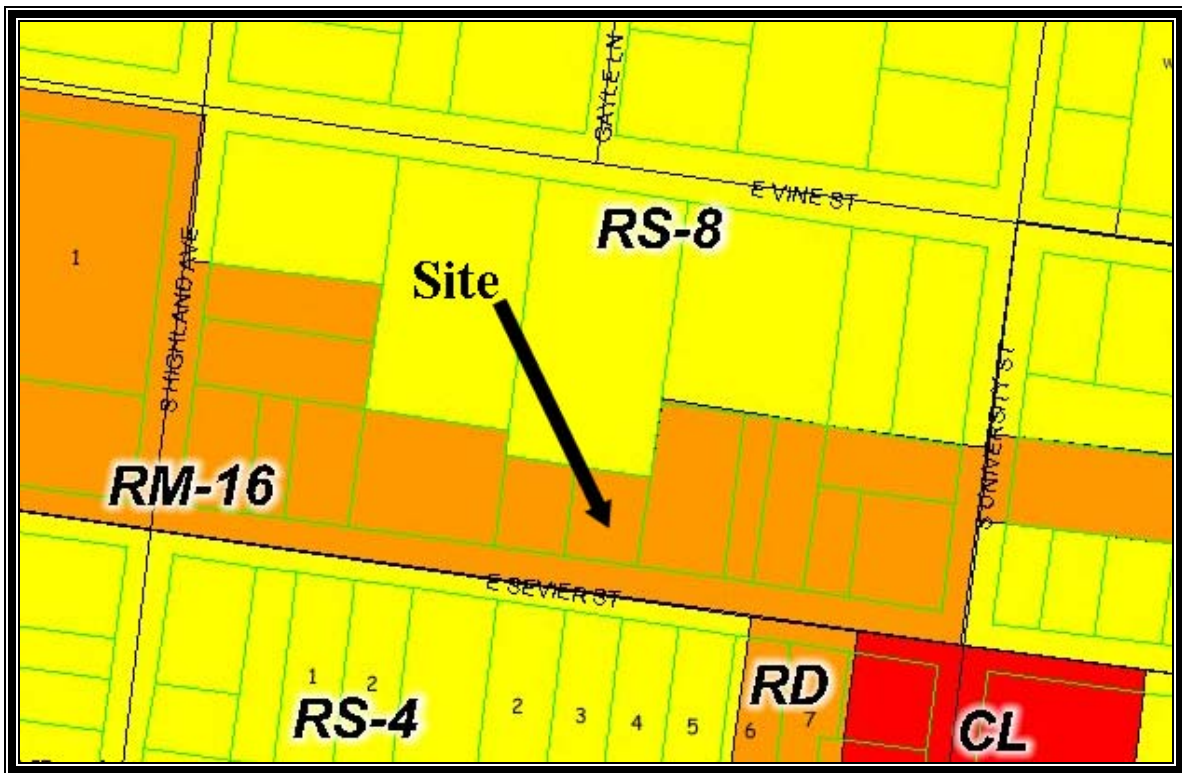
If the Board wishes to approve this variance request, staff recommends the following condition:

- 1) The development must receive final design review/site plan approval from the Murfreesboro Planning Commission.

Both Mr. Taylor and Mr. Pirtle will be in attendance at the meeting to answer any questions that the Board may have.

**MURFREESBORO BOARD OF ZONING APPEALS
STAFF COMMENTS
NOVEMBER 24, 2008**

Application: Z-08-086
Address: 531 East Sevier Street
Applicant: Mr. Randy Fann
Zoning: Residential Multi-Family (RM-16)
Requests: A 20-foot variance from the minimum required 30-foot front setback for principal structures



The subject property is located along the north side of East Sevier Street east of South Highland Avenue and west of South University Street. The subject property, 531 East Sevier Street, is currently vacant and undeveloped. Included with the agenda materials is a letter from the applicant as well as an engineered site plan. The applicant would like to move a single-family residence to the subject lot and has requested a front setback variance in order to make his plan feasible. The subject house is currently located at 409 South Maney Avenue, which is the subject of a variance request also on today's agenda. Pictures of the house at its current location are included with the Board's agenda materials. The applicant wishes to move the existing house from South Maney Avenue in order clear the way for commercial development where the house is currently located.

The applicant has submitted an engineered site plan of the house drawn to scale. The size of the lot is roughly 78.5-feet deep by 62.8-feet wide. The applicants have not resubdivided this lot, as it has the same dimensions as when it was purchased. The subject lot is zoned RM-16 (Residential Multi-Family). The minimum front setback requirement in the RM-16 zoning district is 30-feet and the minimum rear setback requirement is 25-feet. The minimum side setback requirement is 5-feet; however, the sum of the two side yards can equal no less than 15-feet. The footprint of the subject house will not fit on this lot if the existing setback requirements are applied. In fact, applying the front and rear setbacks would allow for only a 23.5-foot deep building envelope. Mr. Fann has submitted a request for a 20-foot front setback variance in order for the house to be located 10-feet from the front property line. All other setback and lot coverage requirements will be met. The driveway for the proposed house is proposed to be located along the west side of the house, as shown on the site plan.

Staff believes that the subject lot is a good candidate for a front setback variance due to its shallow building envelope. By making this request, the applicant has also tried to be in harmony with the location of the existing homes in the surrounding neighborhood that predate current zoning regulations and are built much closer to the front property line. After visiting the subject property, staff observed that most of the houses in the immediate vicinity are indeed much closer to the front property line than 30-feet. This can be observed on the site plan submitted by the applicant, as several of the adjacent homes are even closer to the front property line than this proposed house. Pictures demonstrating the proximity of the surrounding housing to the street have been included for the Board's review. In addition, on the lot to the west, which has approximately the same dimensions as the subject lot, the Board granted a 17-foot front setback variance in April 2007 in order for the construction of a single-family residence.

This request is generally consistent with the recommendations of the *Maney Avenue Comprehensive Plan*, which is used as a planning tool for the subject area by the Planning and Engineering Department as well as the Planning Commission and the Board of Zoning Appeals. The Plan identifies the subject property as being in the Patterson Park Revitalization District. With regards to the Patterson Park Revitalization District, the plan recommends as a key design standard "reduced front setbacks to better relate homes to the street." It recommends a minimum front setback of 15-feet and a maximum front setback of 25-feet. The Plan noted that in many instances the suburban zoning requirements that are currently in place are not conducive to redevelopment of the older, more urbanized areas of the City.

The Board should note that State law now has additional requirements that must be met in order for an existing house to be relocated. In this case, approval by the Murfreesboro Planning Commission is required. Mr. Fann has presented the Planning Staff with information attempting to show compliance with all requirements, which the Planning Staff is currently reviewing. Staff felt it most appropriate for Mr. Fann to seek the variance from the BZA prior to seeking approval from the Planning Commission, because without the variance, he will not be able to locate the house on this lot.

If the Board approves this application, staff recommends the following conditions:

- 1) A surveyor will be required to help lay out the footing of the building and a surveyor's certification must be provided that the building is in compliance with the action of the BZA as well as all other setback requirements.
- 2) The applicant must receive approval from the Murfreesboro Planning Commission to relocate this house on the subject lot, and he must also demonstrate that he is meeting all criteria set forth in State law in order to do so.

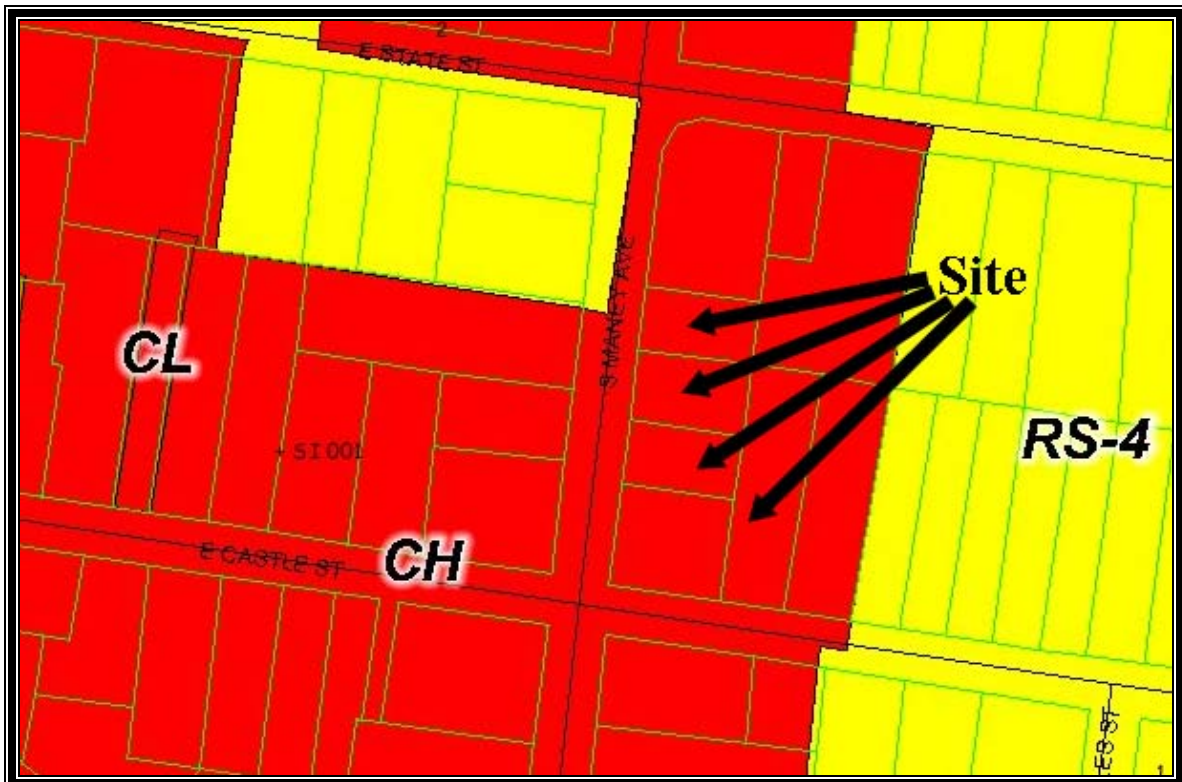
Ms. Fann will be in attendance to answer any questions that the Board may have.

**MURFREESBORO BOARD OF ZONING APPEALS
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Application: Z-08-087
Addresses: 409, 419, and 423 South Maney Avenue and 407 East Castle Street (the four parcels are proposed to be combined into one lot of record for the development of a commercial building)

Applicant: Mr. Randy Fann
Zoning: Commercial Highway (CH)
Requests: As follows:

- An 36-foot variance from the minimum required 42-foot front setback along South Maney Avenue;
- A 5-foot variance from the minimum required 5-foot side perimeter planting yard width (a waiver of the requirement to construct a side perimeter planting yard along the south lot line adjacent to 429 South Maney Avenue); and
- A 1-space parking variance from the required 21 parking spaces for the proposed office/retail building.



The subject properties are located along the east side of South Maney Avenue and along the north side of East Castle Street. A total of four (4) parcels are involved with these requests. The applicant intends to resubdivide the subject parcels in order to combine them into one lot of record for commercial redevelopment. Included with the agenda materials is a letter from the applicant as well as an engineered site plan.

All four (4) parcels are currently zoned Commercial Highway (CH). 409 South Maney is currently developed with a non-conforming single-family residence. This home is proposed to be relocated to East Sevier Street (see previous item on agenda). 419 South Maney Avenue is a vacant lot. 423 South Maney Avenue is also developed with a non-conforming single-family residence. The applicant does not intend to move this house at the present time. The applicant, who is a contractor, maintains his office at 407 East Castle Street. It was developed within the last 5 years. Upon combining the four (4) lots into one (1), the applicant intends on building a 6,400 square-foot 2-story retail/office building on what is now 409 and 419 South Maney Avenue. The required parking associated with the proposed building would be located on all four lots, crossing the existing property lines and thus, creating the need for the four properties to be combined into one lot of record. Primary access for the development will be from South Maney Avenue just to the north of the house at 423 South Maney. The existing gravel driveway for 423 South Maney will be relocated to the south side of the house. There is a separate existing access drive for 407 East Castle Street and it will not change.

The following offers a summary of the three (3) requests. The Board should make a separate motion for each request.

Setback Variance Request:

In order to redevelop these lots with a commercial building allowed by the CH zoning district, the applicant and his engineer have worked for a number of months on a plan that will be functional. The applicant is requesting a 36-foot front setback variance in order to construct the proposed building no less than 6-feet off of the front property line along South Maney Avenue. This will allow the required parking to be in the rear of the new building and hidden from the public right-of-way. The applicant states that the placement of this building as proposed will “give the street a more uniform appearance and more attractive to pedestrian traffic.” Pictures demonstrating the proximity of the surrounding structures to the street have been included for the Board’s review. In the applicant’s initial submittal, the plans showed a second-story porch less than 2-feet from the front property line. The Board should note that this aspect of his plan has been eliminated. Color renderings of the proposed building have been included for the Board’s review. Both the BZA and the applicant should note that these renderings are not final and will be subject to the review and approval of the Planning Commission. As a side note to the developer, the Planning Staff will be expecting architectural elevations more consistent with the pre WWII era. For more information, he should contact the Planning Director to discuss.

Staff believes that the subject lot is a good candidate for the aforementioned variances due to its small lot area, making it difficult to redevelop with a CH use. In fact, staff encouraged the applicant to request a front setback variance. This plan is generally consistent with the recommendations of the *Maney Avenue Comprehensive Plan*, which is used as a planning tool for the subject area by the Planning and Engineering Department as well as the Planning Commission and the Board of Zoning Appeals. The Plan identifies the subject property as being in the South Maney Village District. It is important to note that with regards to the Patterson Park Revitalization District the plan stated that “this village district becomes the focal point for a revitalized Maney Avenue Community. Use and design guidelines promote the area as a pedestrian friendly commercial district that meets the needs of the local community, as well as the needs of potential visitors.” In addition, the Plan actually recommends that new development in this district build to the front lot line in order to create pedestrian friendly and active streets. It also recommends that parking be located on the street, on the side, or behind buildings, which the applicant is attempting to honor with his design. The Plan noted that in many instances the suburban zoning requirements that are currently in place are not conducive to redevelopment of the older, more urbanized areas of the City.

If the Board approves the front setback variance request, staff recommends the following conditions:

- 1) A surveyor will be required to help lay out the footing of the building and a surveyor’s certification must be provided that the building is in compliance with the action of the BZA as well as all other setback requirements.
- 2) The Planning Commission must grant site plan approval for the proposed development. As a function of its site plan review, the Planning Commission will also have final architectural review of the development and all building orientation requirements must be met to the satisfaction of the Planning Commission.
- 3) A resubdivision plat combining all four (4) lots into one (1) lot of record must be recorded prior to the issuance of any building permits.

Landscape Variance Request:

The applicant is seeking a variance to the requirement of a 5-foot side planting yard along the southern lot line of 423 South Maney, which is adjacent to the neighboring 429 South Maney property. In an attempt to add a parking space behind 423 South Maney Avenue, the applicant is eliminating the opportunity for the required side planting yard. He seeks relief from this requirement, but only along the aforementioned property line. All other planting yards will comply. In fact, the applicant can work with the City Horticulturist to “beef up” other areas of the landscape plan to compensate for this request.

If the Board approves the landscape variance request, staff recommends the following condition:

- 1) The landscape plan will be subject to the final review and approval of the City Horticulturist.

Parking Variance Request:

The proposed 6,400 square-foot retail/office building requires a minimum of one parking space per 300-square-foot of floor area, meaning that the subject development is required to have 21 parking spaces (in addition to the required parking for the existing uses). The applicant is showing a total of twenty (20) non-handicapped spaces, one short of the required number. Staff feels comfortable with this request for several reasons. First, it is expected that some of the traffic for the proposed retail/office building will be by foot. Secondly, South Maney Avenue is to be reconstructed by the City, as plans are currently being drafted by Huddleston-Steele Engineering. These plans call for on-street parallel parking spaces to serve the adjacent commercial uses. In fact, the Maney Avenue Comprehensive Plan calls for on-street parking in this district, and the street improvement plans intend to honor this recommendation.

There are a number of items on the site plan that need to be addressed prior to the BZA meeting. In addition, the very last item (Comment #14) concerns the architectural elevations. Six (6) copies of both the revised site plan and the color elevations should be submitted no later than 12:00 PM on Friday, November 21st. Please see below for staff comments/revisions:

- 1) Provide parking tabulations for all three buildings (existing house to remain, existing contracting office/warehouse, and proposed retail/office building), as this is all proposed to be on one lot of record.
- 2) Label the building at 423 South Maney Avenue as “Existing Single-Family Dwelling to Remain.”
- 3) Show the existing parking lot striping and landscaping for the existing building at 407 East Castle Street.
- 4) Provide a “bump-out” for the lone parking space behind 423 South Maney Avenue for ease of backing out.
- 5) Is the proposed building to be used for purely office uses, as labeled? If not, label as “Office/Retail.”
- 6) Call out the South Maney ROW width on the plans.
- 7) Provide one sheet with the existing roadway conditions on South Maney and a second sheet with the proposed roadway improvements per the HSE plans.
- 8) Provide required landscape screening for the solid waste enclosure.
- 9) Show the old driveway north of 409 South Maney as “to be removed.”
- 10) Denote the type of curb and gutter on South Maney (on both the existing and proposed sheets).

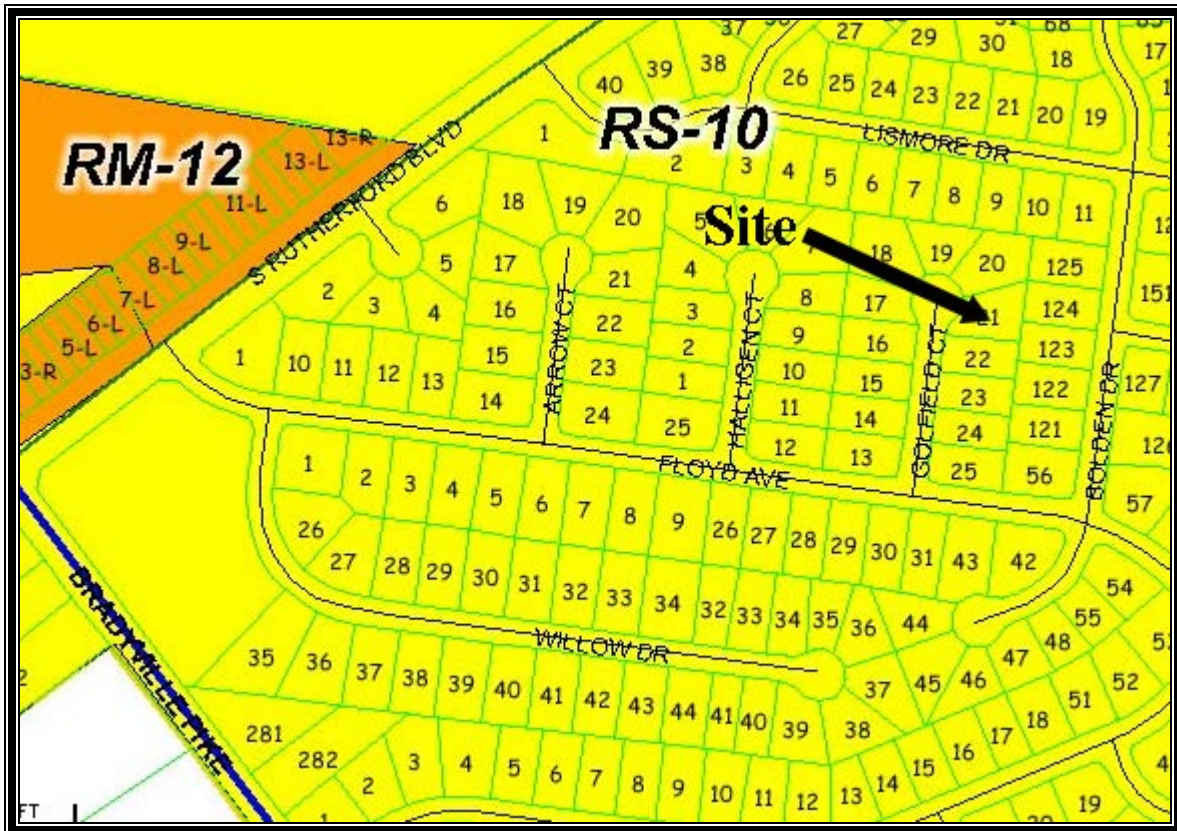
- 11) Denote that the driveway for 423 South Maney is to be relocated to the south side of the residence. Provide enough depth for the required two spaces for a single-family residence. Also, show the proposed ramp for this new, relocated driveway. The design engineer needs to also review the latest road plans, as staff believes that this relocated driveway may necessitate some changes to the road plans.
- 12) Label the area where the landscape variance is being requested.
- 13) Remove from the site plan the second-floor porch along the front of the building, as the applicant has decided not to pursue this.
- 14) The architectural elevations should be revised to remove the second-floor porch from the front of the building, as the applicant has decided not to pursue this. Also, a side perspective should be included viewing the building from either its north or south side.

Upon visiting the subject property, staff observed several property maintenance violations at 409 and 419 South Maney Avenue. Staff forwarded photographs of the violations to the Building and Codes Department. The Building and Codes Department has issued the applicant a notice to come into compliance and is scheduled to reinspect prior to the BZA meeting. If the Codes violations are not remedied prior to the BZA meeting, staff recommends deferring action on all three (3) requests until such time that the subject properties are brought into compliance with property maintenance codes.

Mr. Fann will be in attendance to answer any questions that the Board may have. Each variance will require a separate motion.

**MURFREESBORO BOARD OF ZONING APPEALS
STAFF COMMENTS
NOVEMBER 24, 2008**

Application: Z-08-088
Address: 2111 Golfield Court
Applicant: Ms. Alexis Postell
Zoning: Residential Single-Family (RS-10)
Request: A special use permit in order to operate a group day-care home



The subject property, 2111 Golfield Court, is located in the Willow Drive Estates Subdivision north of Bradyville Pike and east of South Rutherford Boulevard. The applicant has submitted a special use permit request for a group day-care home at this address. The Zoning Ordinance allows for the BZA to approve a maximum of twelve (12) children to be cared for at a group day-care home. The applicant has requested permission to care for the maximum number of twelve (12). The subject property is zoned Residential Single-Family (RS-10), and the applicant currently resides at the existing single-family residence on the subject property. She is aware that she must continue to reside there in order to operate a group day-care home at this location. In

making application for a special use permit, Ms. Postell has submitted a letter addressing Sections 8 and 9 of the Zoning Ordinance, including the standards for group day-care homes, as well as a site plan for a proposed circular driveway.

The applicant's proposed hours of operation are Monday through Friday from 6 AM to 6 PM. According to the applicant, regular drop-off times will be from 6 AM until 9 AM and regular pick-up times will be from 4 PM until 6PM. The applicant has indicated that she does not intend to have any outside employees working at the group day-care home; that it will be operated only by her and her husband. However, staff does want to caution the Board that the number of employees will be dictated by the State. The back yard will be used as the play area. There is an existing chain link fence, which fully encloses the back yard.

The Zoning Ordinance requires an on-site off-street loading/unloading area. It also requires that the applicant make provisions for vehicles to not have to back out onto the public street. The applicant proposes to construct a circular driveway in order to meet these requirements. The circular driveway is depicted on the attached site plan. After reviewing the site plan, the City Traffic Engineer believes it to be functional; however, he recommends that several improvements in the geometry can be made to the proposed design. Required off-street parking for Ms. Postell and her family and for any parents who wish to stay for an extended period of time will be located on the existing gravel driveway, which is to the side of the house. There is a heavy treeline along the rear property line, which will act as an effective screen for the neighbors to the east. However, there is no screening along the side lot lines, and the Board may wish to discuss whether any is warranted. The Zoning Ordinance, in its standards for group day-care homes, requires "a statement from the State of Tennessee, Department of Human Services, that such day care home can comply with all requirements of the State of Tennessee with respect to such use." Staff has contacted the State's local day-care licensing office, and they have indicated that they do not feel it is appropriate to issue such a statement at this time prior to the zoning approval. They have indicated a preference for conditioning approval on the applicant's compliance with State licensure laws and requirements.

Upon visiting the subject property, staff observed several property maintenance violations. Staff mentioned these to the applicant and also to the Building and Codes Department. The Building and Codes Department has issued the applicant a notice to come into compliance and is scheduled to reinspect prior to the BZA meeting. If the Codes violations are not remedied prior to the BZA meeting, staff recommends deferring action on this item until such time that the subject property is brought into compliance with property maintenance codes.

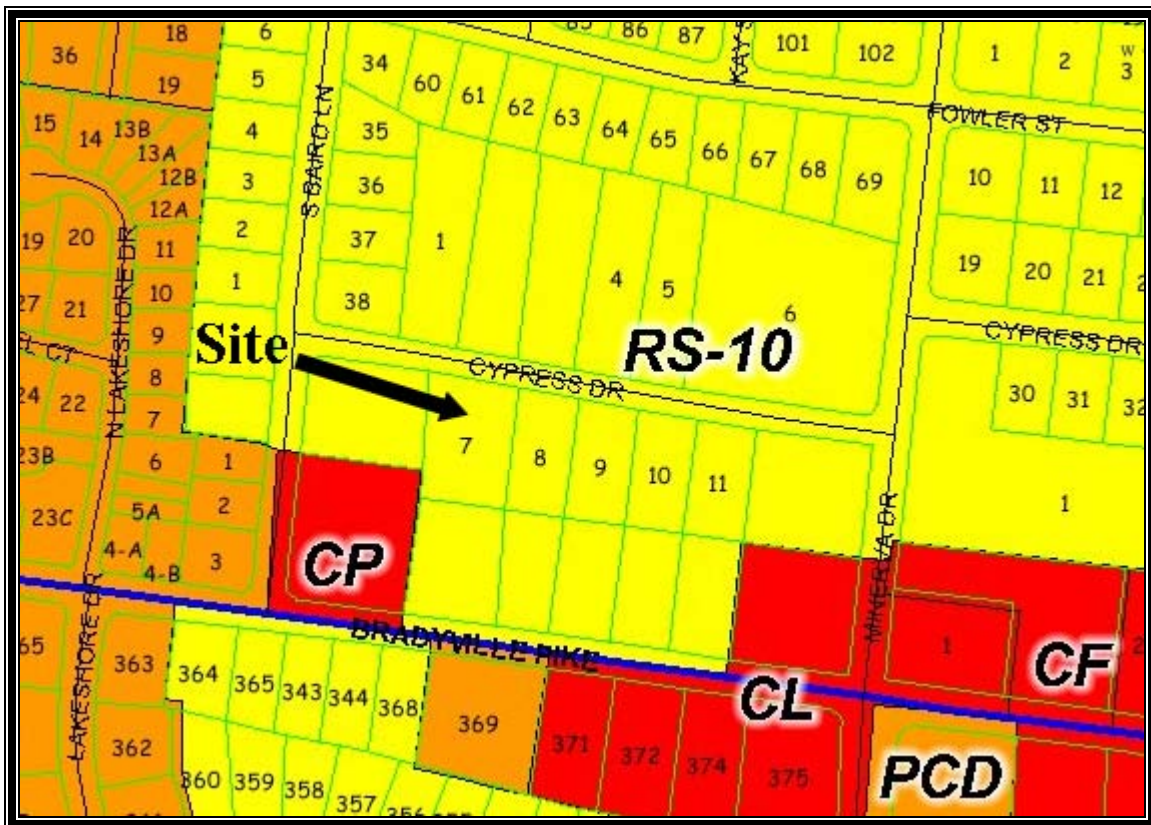
If the Board approves this request, staff recommends the following conditions:

- 1) The applicant must comply with all State of Tennessee day-care licensure laws and requirements and evidence of licensure must be submitted for staff's review prior to beginning operation.
- 2) The paved circular driveway must be constructed prior to beginning operation. The design and construction of the circular driveway will be subject to the review and approval of the City Traffic Engineer.

Ms. Postell will be in attendance at the meeting to answer any questions that the Board may have.

**MURFREESBORO BOARD OF ZONING APPEALS
STAFF COMMENTS
NOVEMBER 24, 2008**

Application: Z-08-089
Location: 1506 Cypress Drive
Applicant: Ms. Amy E. Pickering
Zoning: Residential Single-Family (RS-10)
Request: A special use permit in order to maintain a previously constructed accessory apartment



The subject property is located at 1506 Cypress Drive just east of South Baird Lane and north of Bradyville Pike. The applicant has submitted a letter describing the request and addressing Sections 8 and 9 of the Zoning Ordinance, as well as a floor plan of the accessory apartment and a plot plan of the property.

Staff received a phone call from the applicant concerning the subject accessory apartment, which is existing. She had been told when her family purchased the property that the accessory apartment had never been legally established, so that if she wanted to

sell the property in the future, she would not be able to count it as heated floor area. Upon further research, staff found no evidence in the records of both the Building and Codes Department and Planning Department that this accessory apartment was ever legally established. Staff sent a letter to the applicant notifying her that the property was in violation of the Zoning Ordinance, and that one option for bringing the property into compliance was to apply for a special use permit to legally establish the unit as an accessory apartment. It should be noted that the applicant's parents have only owned the property since 2005, and it appears that the accessory apartment was established long before the applicant's parents took ownership of the property. When staff notified her that it appeared that the property was in violation, she promptly sought to make application to the Board in order to rectify the situation. If the special use permit is approved and all conditions are met, the subject property will no longer be in violation of the Zoning Ordinance. The Board should also note that prior to making application, the applicant's parents recorded a quitclaim deed in the Register of Deeds office making the applicant a co-owner of the property, which enabled her to have standing to make application for the special use permit.

The subject lot is over two-thirds of an acre, and the existing accessory apartment is situated behind the existing house. There is a carport that connects the accessory apartment to the principal residence. The front door of the accessory apartment is located hidden from view of the public right-of-way underneath the roof of the carport. From the public right-of-way, the property maintains the look of a single-family residence. Pictures of the house and accessory apartment are attached. The accessory apartment currently contains a living room, bedroom, bathroom, and kitchen. The applicant and her fiancé live in the accessory apartment, while her brother lives in the principal residence.

The application appears to meet all of the criteria for accessory apartments specified in the Zoning Ordinance. The applicant has provided a floor plan and has indicated the total square footage of the accessory apartment to be 660 square-feet. Based on the exhibits submitted, however, staff actually calculates that number to be less than 660 square-feet. At any rate, the maximum allowed by the Zoning Ordinance is 700 square-feet, and the accessory apartment appears to be compliant with that number. Also, it has been customary for the Board to require the applicant to record an addendum to the deed that will run with the property. This deed reiterates the zoning requirement that the accessory apartment is only to be used for invited guests and family members and not for rental purposes. The applicant has indicated that she intends only to use the accessory apartment for the purposes expressly allowed in the Zoning Ordinance. The Zoning Ordinance also requires that the design and size of the accessory apartment shall conform to all applicable standards in the health, building, and other codes. Codes Inspector Monty Kapavik performed a cursory inspection of the accessory apartment with the Planning Staff several months ago and did not observe any violations. However, staff would like the Building and Codes Department to complete a more detailed inspection if this application is approved in order to verify that the accessory apartment is Codes-compliant.

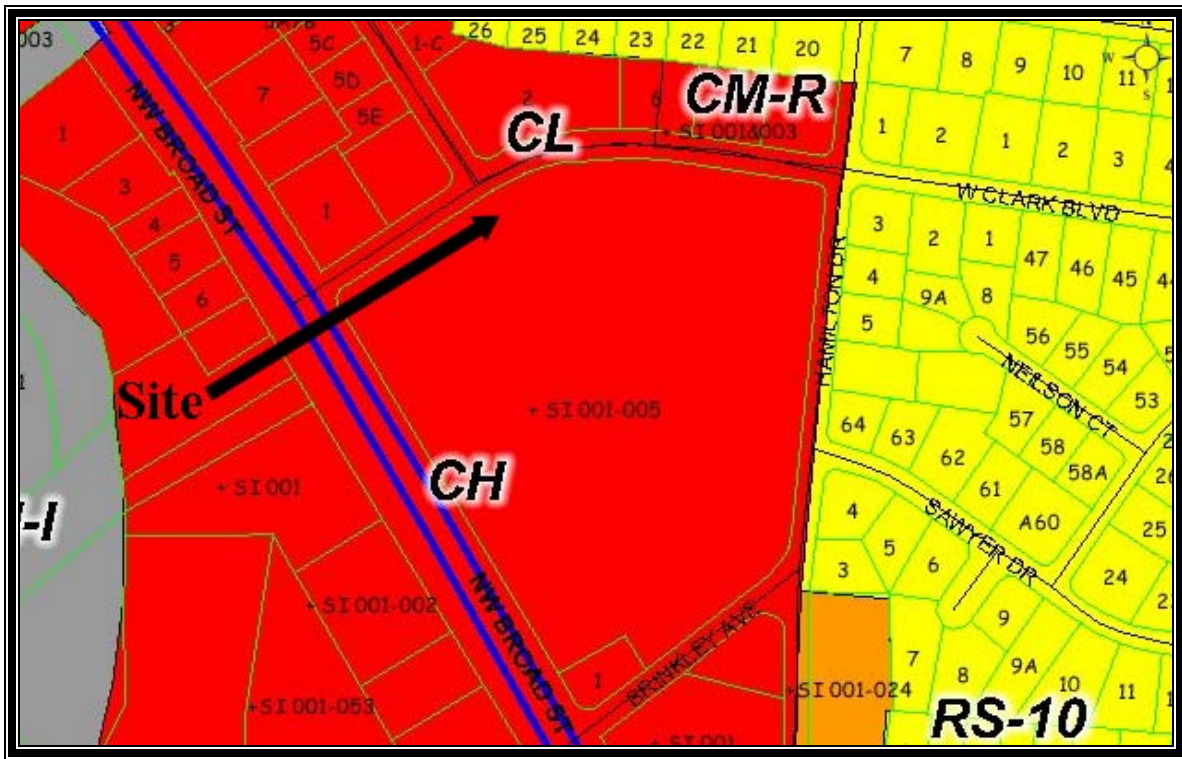
If the Board desires to approve this application, staff recommends the following conditions:

- 1) A deed restriction must be recorded stating that the accessory apartment will not be used for rental purposes and that it will comply with all of the standards specified in the Zoning Ordinance.
- 2) The accessory apartment must pass an inspection by the Building and Codes Department, verifying that there are not violations of the health, building, or other codes.

Ms. Pickering will be in attendance at the meeting to answer any questions that the Board may have.

**MURFREESBORO BOARD OF ZONING APPEALS
STAFF COMMENTS
NOVEMBER 24, 2008**

Application: Z-08-090
Address: 1266 Northwest Broad Street
Applicant: Mr. Mike Jones for North Boulevard Church of Christ
Zoning: Commercial Highway (CH)
Request: A special use permit in order to operate a temporary outdoor vending establishment (Christmas tree sales)



The subject site is located in the parking lot of K-Mart at 1266 Northwest Broad Street, along the northwest side of the property fronting West Clark Boulevard. As it did the last two years, the North Boulevard Church of Christ Men's Ministry is requesting a special use permit in order to sell Christmas trees. The subject property is zoned Commercial Highway (CH) and a special use permit is required for temporary vending. The applicant has submitted his lease from the property owner, as well as a site plan and a letter addressing Sections 8 and 9 of the Zoning Ordinance.

The inventory will be placed, as shown on the attached site plan, in a vacant grassy spot between Cornerstone Financial Credit Union and the driveway entering K-Mart from West Clark Boulevard. There will also be a small 8' x 8' portable building brought in on-site, which the applicant seeks to place on the grassy area as well. This building will be used as shelter for the volunteers in case of inclement weather and for storage at night and will not have electricity, only a portable fuel oil heater. The building will be unmanned after operating hours, as there will be no overnight security on-site. No tents are proposed for this site. The Christmas trees will be out in the open in the grassy area behind the 42-foot minimum front setback line. The applicant will provide lighting for the display area and the source of electricity will be from a generator. There is a fire hydrant directly across West Clark Boulevard from the site. A portable toilet will be brought on-site for the duration of the selling season. The applicants will handle solid waste by keeping a garbage can on-site and emptying it off-site at the end of each business day. Tree trimmings around the tree display area will be collected off the ground twice daily in order to make wreaths. The site passed its initial codes and zoning inspections. Staff has not received any complaints regarding the operation of this site during the past two years.

According to information submitted by the applicant, the use will run from November 28, 2008 until no later than December 21, 2008. This is within the timeframe allowed by the Zoning Ordinance (November 15 until December 28). The applicant has indicated that the hours of operation will be from 1:00 PM until 9:00 PM Sunday through Friday and 10:00 AM until 9:00 PM on Saturdays. Parking will be located in the K-Mart parking lot to the south of the display area. The applicant states that he expects to average about fifteen (15) customers per day and about 350-375 customers total during the duration of the selling season. The number of parking spaces used for the temporary vendor will not exceed the maximum amount allowed by the Zoning Ordinance. The Zoning Ordinance dictates that all materials, including discarded trees, tents, sales offices, garbage, etc... shall be removed from the lot on or before January 2nd and the applicant understands this requirement.

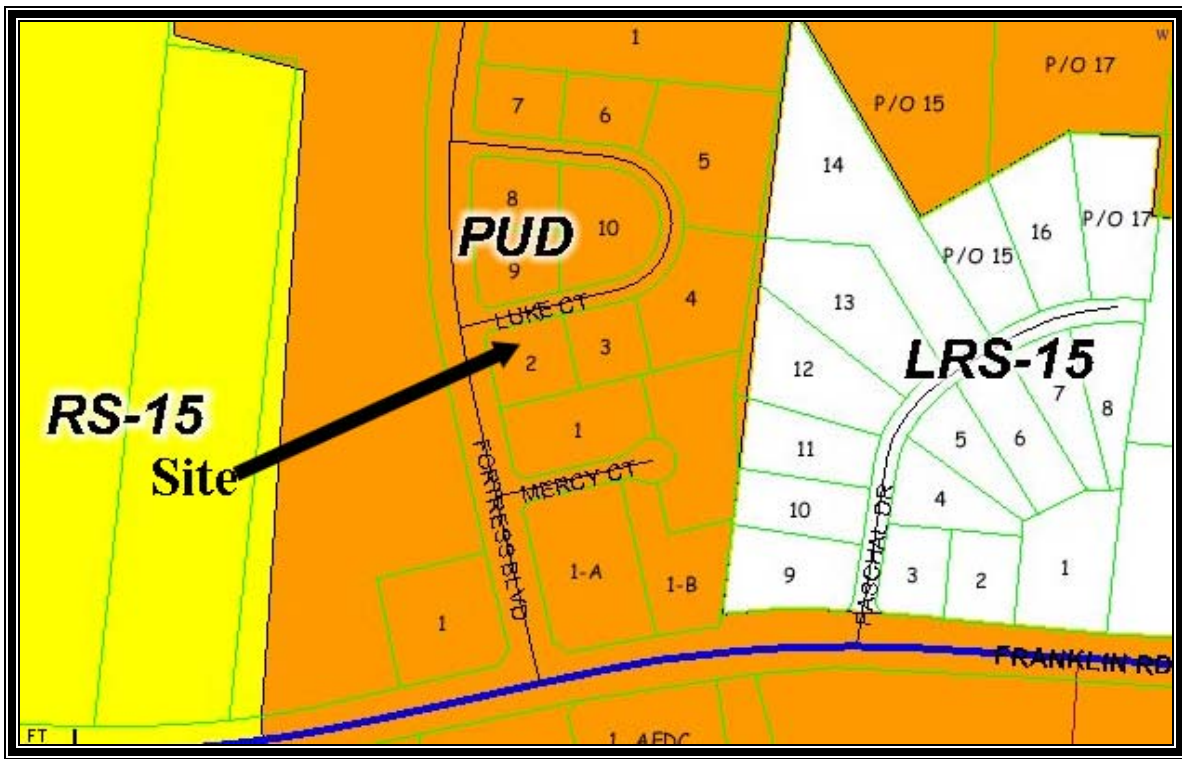
If approved, staff recommends the following conditions:

- 1) The site must pass an electrical safety inspection prior to opening for business. An electrical permit must be purchased from the Building and Codes Department in order to obtain this inspection.
- 2) All structures and inventory must meet the minimum 42-foot front building setback requirement for the CH zoning district, and a building permit must be obtained for the temporary structure.

Mr. Mike Jones will be in attendance to answer any questions the Board might have regarding this application.

**MURFREESBORO BOARD OF ZONING APPEALS
STAFF COMMENTS
NOVEMBER 24, 2008**

Application: Z-08-091
Address: 206 Fortress Boulevard
Applicant: Mr. Preston Sweeney of J. Sweeney Homes, for Health Services Management, Inc.
Zoning: Planned Unit District (PUD)
Request: A variance from Section 25 1/4-24 (A)(22) of the City of Murfreesboro Sign Ordinance which prohibits a sign placed in or over a public utility or drainage easement



The Applicant, Mr. Preston Sweeney representing Health Services Management, Inc. is requesting a variance from Section 25 1/4-24 (A)(22) of the City of Murfreesboro Sign Ordinance which prohibits a foundation or sign placed in or over a public utility or drainage easement without consent of the easement holder and Board of Zoning Appeals approval. The proposed sign location for Health Services Management, Inc. is within a PUD Zone.

The applicant is requesting permission to erect one (1) externally illuminated free standing wall sign with 10 sq .ft. display area and an overall height of 4'5". The sign will be located within a 35' Sanitary Sewer and Drainage Easement. The Agreement for a Sign in a City of Murfreesboro Easement has been signed by the Murfreesboro Water and Sewer Department and the City Engineer at this time.

The applicant will comply with all other set backs and regulations.