



City of Bartlett
David Parsons, Mayor

BOARD OF ZONING APPEALS AGENDA

Thursday, April 17, 2025 — 6:30 p.m.

Bartlett City Hall Assembly Chamber

Approval of Minutes and Findings of Fact of the January 16, 2025 meeting.

New Business **PUBLIC HEARING**

1. Angela Lawson, on behalf of Memphis Goodwill, Inc., is requesting an appeal from the decision of the Building Official for the proposed use of the existing building located at 7610 Highway 70. The subject property is within the "C-H" Highway Business Zoning District.

Discussion

Decision

Open Discussion

The public shall be provided an opportunity to address the Board or Commission during an Open Discussion period at the end of each regular and special meeting of the governing body. Prior to the start of the meeting, individuals will be required to complete and present to the Clerk the Open Discussion Citizen form provided at each meeting. The Open Discussion period for regular and special meetings of the Board or Commission shall be limited to twenty (20) minutes. Individuals shall be allowed to speak for up to three (3) minutes each. Open Discussion periods will not be held for any meeting where there are no actionable items on the agenda or meetings where the governing body is conducting a disciplinary hearing for a member of the governing body or a person whose profession or activities fall within the jurisdiction of the governing body.

Adjourn

BOARD OF ZONING APPEALS
THURSDAY, April 17, 2025 - 6:30 P.M.
Staff Comments

New Business
PUBLIC HEARING

- 1. Angela Lawson, on behalf of Memphis Goodwill, Inc., is appealing from the decision of the Building Official regarding the proposed use of the existing building located at 7610 Highway 70. The subject property is within the “C-H” Highway Business Commercial Zoning District.**

INTRODUCTION: Angela Lawson, on behalf of Memphis Goodwill, Inc., is appealing the decision of the Building Official that the proposed use of the existing building located at 7610 Highway 70, which is within the “C-H” Highway Business Commercial Zoning District, is not a permissible use in that Zoning District.

BACKGROUND: The subject property is located within the Corner Shops of Highway 70 Subdivision on Lot 1. The site was a Starbucks Coffee drive thru restaurant. The current use is a Baby Jack's BBQ restaurant with a drive thru window/lane. The building is 1,800 square feet. Memphis Goodwill, Inc. is under contract to purchase this property.

SUMMARY OF APPEAL: The Appellant is proposing to use the existing restaurant building located at 7610 Highway 70 as an Attended Donation Center (ADC). The Appellant describes an ADC as a donation collection, storage, and distribution facility. On March 3, 2025, the Building Official provided the Appellant with a letter describing how the proposed principal use could be categorized within Chart 1- Uses Permitted in Zoning Districts of the City of Bartlett Zoning Ordinance. While the proposed principal use is not specifically listed in the Zoning Ordinance Use Chart, the Use Chart is not ambiguous in categorizing a possible use for the Appellant's proposed principal use of 7610 Highway 70. The Appellant's proposed principal use of 7610 Highway 70 as a donation collection, storage, and distribution facility aligns with the Use Chart listing for Industrial Zoning Districts, which allow for the manufacture, storage, and distribution of products. Therefore, the Building Official decided that the proposed principal use as a donation collection, storage, and distribution facility would be permissible under the terms of the Zoning Ordinance within the “I-P” and “I-O” zoning districts with Site Plan approval by the Planning Commission and Design Review Commission, but that the proposed use is not permitted in the “C-H” Highway Business Commercial Zoning District. The Building Official decided that the proposed principal use, which was not a Retail Shop use; was not a Retail Secondhand Store use; and was

not a Processing and Manufacture Incident to a Retail Establishment on that property use; was not permitted in the "C-H" Highway Business Commercial Zoning District.

The Appellant contends that the Building Official erred in his decision that the proposed use would not be permitted and states that the Building Official misclassified the proposed use as "collection and distribution" when, according to the Appellant, "the actual use is 'more akin to processing and manufacture incidental to retail establishment,' which is permitted with site plan approval in this zoning district."

APPLICABLE PROVISIONS OF THE BARTLETT ZONING ORDINANCE

Article I, Section 2, Definitions, of the Bartlett Zoning Ordinance, defines "Principal Use" as "[t]he purpose for which land or structures thereon is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented or leased."

Article I, Section 2, Definitions, of the Bartlett Zoning Ordinance, defines "Accessory Building" as "[a] structure detached from the principal building, housing a use that (1) is subordinate in area, extent, and purpose to the principal use; (2) contributes to the comfort, convenience, or necessity of the principal use; (3) is located on the same lot and in the same zoning district as the principal use; and (4) is not a principal use, that is, not a use permitted in Article V, Chart 1."

Article I, Section 2, Definitions, of the Bartlett Zoning Ordinance, defines "Accessory Use or Structure" as "[a] use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use of the structure."

Article V, Section 15 – C-H Highway Business District, A. General Description, of the Bartlett Zoning Ordinance provides that: "[t]his highway commercial district is established to provide areas in which the principal use of land is devoted to commercial establishments which cater specifically to the needs of motor vehicle oriented trade. The intent of this district is to provide appropriate space and sufficient depth from the street to satisfy the needs of modern commercial developments where access is entirely dependent on motor vehicle trade, and to encourage the development of these locations with such uses and in such a manner as to minimize traffic hazards and interference with other uses."

Article IX, Subsection B, Variances: Conditions Governing Applications; Procedures, of the Bartlett Zoning Ordinance provides that: "[u]nder no circumstances shall the Board of Zoning Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district."

Article IX, Subsection C, BOARD HAS POWERS OF ADMINISTRATIVE OFFICIAL ON APPEALS, REVERSING DECISION OF THE BUILDING OFFICIAL of the Bartlett Zoning Ordinance, provides that: "[i]n exercising the above mentioned powers, the Board of Zoning Appeals may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Building Official from whom the appeal is taken."

Although the Appellant is not directly seeking a variance, Staff considers that granting the proposed use of the subject property would not be in conformity with the terms of the Bartlett Zoning Ordinance and would have the same effect as granting a variance to allow a use not permissible under the terms of the Bartlett Zoning Ordinance. Should the Board of Zoning Appeals grant this appeal, a use not permissible under the terms of the Bartlett Zoning Ordinance in the C-H Highway Business Zoning District, or a use expressly or by implication prohibited by the terms of the Bartlett Zoning Ordinance in said district would be allowed.

Proposed Motion: To reverse the decision of the Building Official and permit the proposed principal use of 7610 Highway 70 as Processing and Manufacturing Incidental to Retail Establishment despite the absence of a principal retail establishment on the property located at 7610 Highway 70, subject to conditions.

Comments:

1. The Appellant cites the location proximity to adjacent residential of their other retail secondhand stores and storage and distribution facilities in Memphis, Olive Branch, Arlington, and Collierville. These locations are located 0.3 – 0.5 miles from adjacent residential. The subject property is located about 100 feet from adjacent residential.

ACTION: MOTION BY _____ SECONDED BY: _____

VOTE:	Conroy	Burton	Hunt	King	Kaiser
-------	--------	--------	------	------	--------

YES	Yes	Yes	Yes	Yes	Yes
NO	No	No	No	No	No
ABSTAIN	Abstain	Abstain	Abstain	Abstain	Abstain



Appeal from Decision of the Building Official to the Bartlett Board of Zoning Appeals (not including variances)

Appellant Memphis Goodwill, Inc. Owner Arlington Ventures Properties, LLC
Address 6895 Stage Road, Memphis, TN 38133 Address 12251 Grand Ridge Lane, Arlington, TN 38002
Phone/Fax 901-323-6221 Phone/Fax _____
Location Of Property 7610 Highway 70, Lot 1 of The Corner Shops of Highway 70 Subdivision
Street Number, Street, Subdivision and Lot Number

SECTION 1.

Describe the decision of the Building Inspector from which this appeal is made. (under Zoning Ordinance article IX, Section 5A)
See attached supplemental documentation.

Note: This information may be supplied on separate sheets

SECTION 2. It is the responsibility of the applicant to provide the following information twenty – eight (28) days prior to the scheduled hearing date. This information shall be provided on sheets 8½" x 11" in size, or folded to that size. Ten (10) sets of this information shall be submitted, with each set containing one copy of each document.

1. This Form
2. Where applicable, Plot Plan showing subject property and public street rights-of-way. If the property is encumbered by easements, show the type and location on the Plot Plan.
3. Any other information deemed necessary and requested by the Board.

RECEIVED

FEB 20 2021

SECTION 3. FEE

The secretary of the Board shall notify the parties in interest of the time scheduled for the public hearing and give fifteen (15) days public notice in a newspaper of general circulation. The cost of this application is \$300.00, which includes the newspaper advertisement.

I hereby certify the above to be true and complete to the best of my knowledge.

SIGNED

Signed by:
Ray Couch

Signed by:
Ray Couch

EC135B5EA53D4FA...

Applicant by:

Will Clem

AD6518573DB74E4...

2/19/2025

Date

STATUS

DECISION

Building Permit No. _____ Date _____
Date this application filed _____
Notice of hearing _____
Advertised on _____
Date of hearing _____
Notice mailed to _____

Application or appeal granted _____ denied _____
in accordance with the terms of the following
resolution.

Date: _____
Secretary, Board of Zoning Appeals

6400 Stage Road P. O. Box 341148 Bartlett, Tennessee, 38134-1148 901-385-6417

Appeal from Decision of the Building Official
to the Bartlett Board of Zoning Appeals
Supplement Documentation

Appellant: Memphis Goodwill, Inc.
Address: 6895 Stage Road, Memphis, TN 38133
Phone: 901-323-6221
Location of
Property: 7610 Highway 70, Bartlett, TN 38135
Lot 1 of The Corner Shops of Highway 70 Subdivision

Owner: Arlington Ventures Properties, LLC
Address: 12251 Grand Ridge Lane, Arlington, TN 38002
Phone:

Section 1.

On Monday, January 20, 2025, Memphis Goodwill, Inc., through its attorney Angela Lawson, requested a zoning letter via email for a property that Memphis Goodwill is under contract to purchase. The email was sent to Melissa McAfee, Administrative Secretary, and Leslie Brock, Planner. That email is attached hereto as **Exhibit A**.

The property at issue is located at 7610 Highway 70 at the corner of Appling Road and Highway 70 and is in the Highway Business Zoning District (C-H). It is currently being operated as a Baby Jack's BBQ fast food, drive-thru restaurant.

Memphis Goodwill informed the City of Bartlett that it intended to use the property as an attended donation center. Memphis Goodwill would receive donations and process them on site before they are picked up to be sold in their retail stores.

On Tuesday, January 21, 2025, Melissa McAfee responded to the email request and stated that "collection and distribution is not permitted in C-H zoning." That email is attached hereto as **Exhibit B**. Memphis Goodwill is appealing that decision.

Section 2.

Memphis Goodwill believes that the City of Bartlett has erred in its decision that the use would not be permitted in this zoning district. Furthermore, the City has misclassified the use as "collection and distribution" as the actual use is more akin to "processing and manufacture incidental to retail establishments" which is permitted with site plan approval in this zoning district.

Memphis Goodwill is under contract to purchase the property located at 7610 Highway 70. This property is described as Lot 1 of The Corner Shops of Highway 70 as shown on Plat Book 232 Page 14, in the Register's Office of Shelby County, Tennessee. A copy of this Plat is enclosed. Goodwill intends to use this property as an attended donation center, or an ADC.

Memphis Goodwill operates more than thirty ADCs throughout the Mid-South. The purpose of these ADCs is to allow donors to drop off donations by using a drive-thru at those locations. Those donations are then processed at the ADC to be sold in the retail stores. Employees at these ADCs receive the donations to sort and process them into sixteen different categories. Once they are processed, the donations are picked up to be delivered to the various retail stores around the city to be sold. Donations are picked up seven days a week from the ADCs. The donations do not stay in the ADC for more than twenty-four hours.

In a phone call on Wednesday, January 22, 2025 between Sam Harris, the Senior Planner, and Angela Lawson, attorney for Memphis Goodwill, Sam Harris stated that he believed the use was more aligned with manufacture, storage, and distribution which would only be permitted in an industrial zoning district. The flaw in this categorization is that the donations are not stored at the ADC for any significant length of time. The donations are received from the donors and immediately processed to be sold in Goodwill's retail establishments. This is not equivalent to a storage facility where items are housed or stored until they are needed. Additionally, this is not a warehouse center in the sense that items are stored in bulk until someone places an order for those items to be shipped to a store or third-party vendor. These donations are only kept at the ADCs for the amount of time that it takes to process them to be sold in their retail establishments. They are immediately picked up and delivered to those retail stores. Furthermore, no items are manufactured at these ADCs.

Another issue that was raised by Sam Harris was the concern that donors would leave items at the ADCs after hours and the site would become a "dumping ground" of sorts for donations. The ADCs are open seven-days a week so the sites are open every day to be able to receive donations and take them inside the store. However, to provide additional preventive measures to stop those after-hour drops, Memphis Goodwill has explored options for gating the entry points to the ADC so that donors can only access the store during operating hours. Included in this packet you will find a drawing of the site showing where those gates are proposed to be located. Also included are photos of other ADCs in the area with similar fencing and gates. Finally, you will find photographs and renderings of the gates that would be installed at this location.

Memphis Goodwill has prepared renderings that depict what the site will look like once it has been transformed into an ADC. Included are photographs of the site as it currently exists as Baby Jack's BBQ and what it will look like once it becomes an ADC.

Also included with this packet as required by Article IX, Section 3 of the Zoning Ordinances is a list of all of the property owners within three hundred (300) feet of this site along with a vicinity map and mailing list for such property owners.

Finally, Memphis Goodwill has included a letter of support from Maureen Fraser, Mayor of the Town of Collierville, and David Couch, a landlord for Memphis Goodwill.

In summary, Memphis Goodwill, Inc. requests that the Board of Zoning Appeals reconsider the classification of the intended use of this property such that it be classified as "Processing and Manufacture Incidental to Retail Establishments" and therefore be permitted with site plan approval in the Highway Business Zoning District (C-H).

Summary of Exhibits

- A – Email to City of Bartlett
- B – Response from City of Bartlett
- C – Plat for The Corner Shops of Highway 70
- D – Site plan depicting location of gates
- E – Photo of existing use
- F – Example of proposed use
- G – Sample photos of gate to be installed
- H – Photos of ADCs in Olive Branch and on Hacks Cross with a similar gate
- I – Vicinity Map
- J – Property owners and mailing addresses of adjacent properties
- K – Letters of Support

Angela Lawson

From: Angela Lawson
Sent: Monday, January 20, 2025 9:24 AM
To: leslie.brock@cityofbartlett.org; mmcafee@cityofbartlett.org
Cc: Amber Stem; Brittany Spencer
Subject: Request for Zoning Letter

Leslie and Melissa,

This law firm represents Memphis Goodwill, Inc. Memphis Goodwill is in negotiations to purchase the property located at 7610 Highway 70 in Bartlett. This property is currently being operated as a Baby Jack's BBQ drive-thru restaurant. Memphis Goodwill intends to use this property as a donation center where they will receive donations and process them so that they can be sold in their retail stores.

This property is located in the Highway Business Zoning District (C-H). Memphis Goodwill is requesting a zoning letter from the City of Bartlett as to whether Memphis Goodwill's intended use for the property is permitted in this zoning district.

Can you please provide a cost for this letter?

Thank you,
Angela



DINKELSPIEL RASMUSSEN & MINK, PLLC
ATTORNEYS

Angela G. Lawson
Member

Dinkelspiel Rasmussen & Mink, PLLC
1669 Kirby Parkway Suite 106
Memphis, TN 38120
alawson@drmlawmemphis.com

901-759-2473 - direct dial
901-754-7770 - main
901-756-7772 - fax



Please consider the environment before printing this email

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Circular 230 Disclosure: In compliance with requirements imposed by the IRS pursuant to IRS Circular 230, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

Angela Lawson

From: Melissa McAfee <mmcafee@cityofbartlett.org>
Sent: Tuesday, January 21, 2025 8:34 AM
To: Angela Lawson; Leslie Brock
Cc: Amber Stem; Brittany Spencer
Subject: RE: [External]Request for Zoning Letter

Angela,

The cost for simple zoning letter just requesting the zoning and the use is \$25. We take cash, check, or I can create a permit that allows you to pay online with a credit card. I will go ahead and tell you that collection and distribution is not permitted in C-H zoning, but we can of course provide a formal letter stating that.

Thank you,

Melissa McAfee | Administrative Secretary
City of Bartlett | Office of Planning & Economic Development
6382 Stage Road • Bartlett, TN 38134
office (901) 385-6417



From: Angela Lawson <alawson@drmlawmemphis.com>
Sent: Monday, January 20, 2025 9:24 AM
To: Leslie Brock <leslie.brock@cityofbartlett.org>; Melissa McAfee <mmcafee@cityofbartlett.org>
Cc: Amber Stem <astem@drmlawmemphis.com>; Brittany Spencer <bspencer@drmlawmemphis.com>
Subject: [External]Request for Zoning Letter

WARNING

This email originated from outside of The City of Bartlett. **Do not click links or open attachments unless you recognize the sender and know that the content is safe.**

Leslie and Melissa,

This law firm represents Memphis Goodwill, Inc. Memphis Goodwill is in negotiations to purchase the property located at 7610 Highway 70 in Bartlett. This property is currently being operated as a Baby Jack's BBQ drive-thru restaurant. Memphis Goodwill intends to use this property as a donation center where they will receive donations and process them so that they can be sold in their retail stores.

This property is located in the Highway Business Zoning District (C-H). Memphis Goodwill is requesting a zoning letter from the City of Bartlett as to whether Memphis Goodwill's intended use for the property is permitted in this zoning district.

Can you please provide a cost for this letter?

Thank you,
Angela



DINKELSPIEL RASMUSSEN & MINK, PLLC
ATTORNEYS

Angela G. Lawson
Member

Dinkelspiel Rasmussen & Mink, PLLC
1669 Kirby Parkway Suite 106
Memphis, TN 38120
alawson@drmlawmemphis.com

901-759-2473 - direct dial
901-754-7770 - main
901-756-7772 - fax



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Tom Leatherwood
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.

	
07053164	
03/30/2007 - 11:26 AM	
2 PGS : R - PLAT	
DAVEJ 481017-7053164	
PLAT BOOK : 232	
PAGE : 14	
RECORDING FEE	15.00
DP FEE	2.00
TOTAL AMOUNT	17.00
TOM LEATHERWOOD	
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	

Exhibit C

APPLING ROAD

NEW WROUGHT IRON
FENCE / GATE W/
BRICK COLUMNS

NEW PLANT
AREA

NEW WROUGHT IRON
FENCE / GATE W/
BRICK COLUMNS

NEW METAL
CANOPY

NEW PLANT
AREA

1-5' B. BUILDING
75' x 10'
CONC. PATIO
STEPS

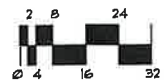
0.78 AC.

U.S. HIGHWAY NO. 70 - (SUMMER AVENUE)

NORTH



PROPOSED SITE PLAN



PROJECT NO.	20-014
DATE	10/10/19
BY	CH
CHECKED	CH

ARCHITECTURE
SCENIC DESIGN
LANDSCAPE ARCHITECTURE
1000 W. WALKER
BARTLETT, TN 38003
765.243.2100



NEW TENANT IMPROVEMENTS FOR:
GOODWILL OF MEMPHIS
7610 HIGHWAY 70 (SUMMER AVENUE)
BARTLETT, TENNESSEE

NO.	DATE	REVISION

Exhibit D



EXISTING BUILDING ELEVATION

TYPICAL - NO SCALE

SHEET TITLE	8D.1
DATE	20 FEB, 2019
PROJECT NO.	25-014
PROJECT NAME	GOODWILL OF MEMPHIS

DATE	20 FEB, 2019
PROJECT NO.	25-014
PROJECT NAME	GOODWILL OF MEMPHIS



NEW TENANT IMPROVEMENTS FOR:
GOODWILL OF MEMPHIS
 7610 HIGHWAY 70 (SUMMER AVENUE)
 BARTLETT, TENNESSEE

NO.	DATE	REVISION

Exhibit E



EXAMPLE BUILDING ELEVATION

TYPICAL - NO SCALE

PROJECT NO.	20-014
DATE	2/20/2020
PROJECT NO.	20-014
SHEET NO.	8D2

ARCHITECT
 WALKER
 1234 GULFVIEW
 BARTLETT, TN
 37013-4100
 615.299.4100
 www.walker.com



NEW TENANT IMPROVEMENTS FOR:
GOODWILL OF MEMPHIS
 7610 HIGHWAY 70 (SUMMER AVENUE)
 BARTLETT, TENNESSEE

NO.	DATE	REVISION

Exhibit F



BRICK / WROUGHT IRON FENCE

TYPICAL - NO SCALE

823

25-014

20 FEB, 2019

DATE

TYPICAL PRICE

AND DATE

SHEET TITLE

www.walkerand.com

501.328.2410

MEMPHIS, TN

300 N. COLLETT AVENUE

38117

SCENIC DESIGN

PLANNING

ARCHITECTURE

WALKER AND



NEW TENANT IMPROVEMENTS FOR:

GOODWILL OF MEMPHIS
7610 HIGHWAY 70 (SUMMER AVENUE)
BARTLETT, TENNESSEE

NO.	DATE	REVISION

Exhibit G



EXISTING FENCE / GATE EXAMPLES

TYPICAL - NO SCALE

SD 4

10 FEB, 2015

PROJECT NO.
75-014

DATE

TYPICAL FENCE
AND GATE

PROJECT TITLE

ARCHITECTURE
PLANNING
SCHEMATIC DESIGN
200 N. COLUMBIA ST.
MEMPHIS, TN 38102
501.253.1410
www.walgreen.com

WALGREEN



NEW TENANT IMPROVEMENTS FOR:

GOODWILL OF MEMPHIS

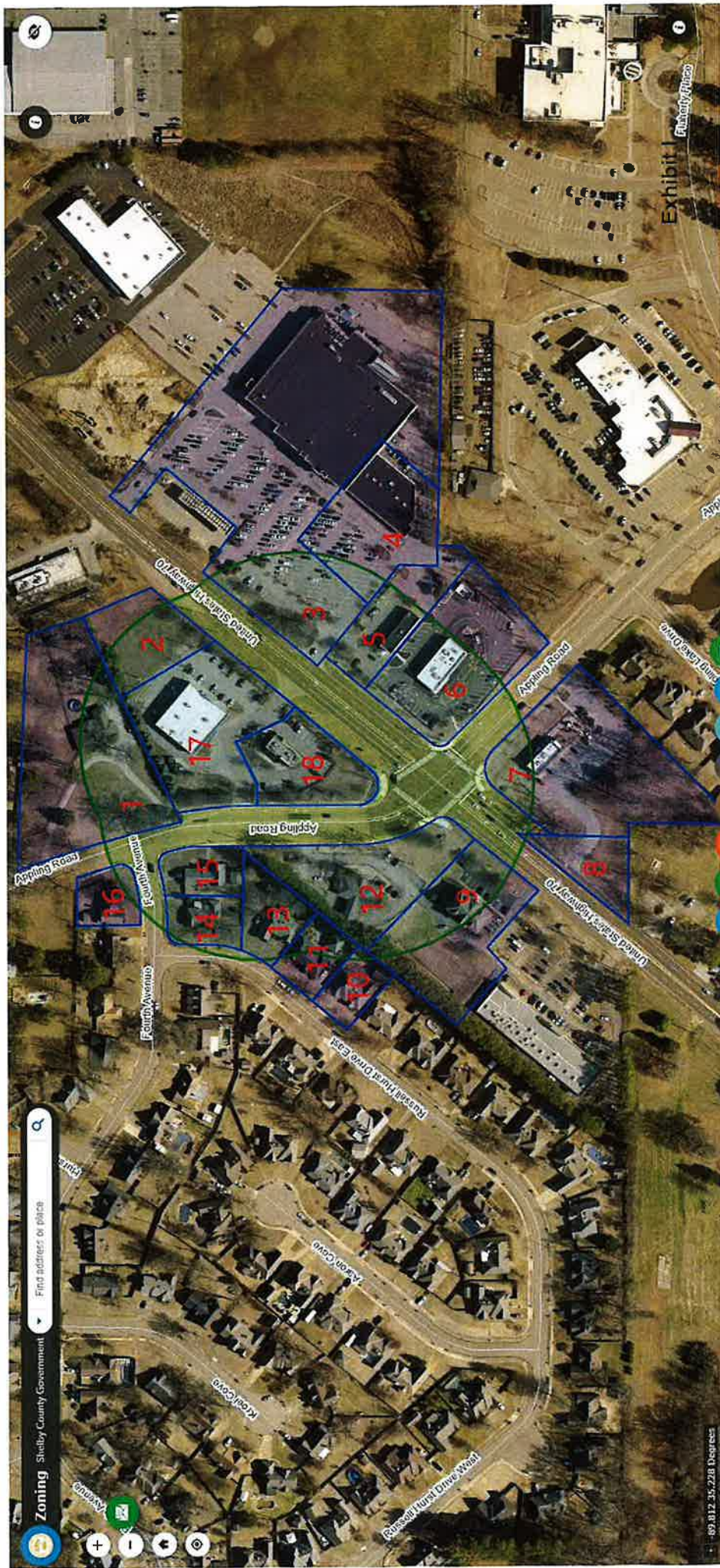
7610 HIGHWAY 70 (SUMMER AVENUE)

BARTLETT, TENNESSEE

NO DATE REVISION

NO	DATE	REVISION

Exhibit H



	Address	Owner
Parcel 1	3836 Appling Bartlett, TN 38135	Christina W and Stephen K Presson 3836 Appling Road Bartlett, TN 38135
Parcel 2	7616 US Highway 70 Bartlett, TN 38135	Bartlett Donut Holdings LLC 1050 Cambridge Sq #A Alpharetta, GA 30009
Parcel 3	7615 Highway 70 Bartlett, TN 38133	Kroger Limited Partnership I 1014 Vine St Cincinnati, OH 45202
Parcel 4	7605 Highway 70 Bartlett, TN 38135	Appling Crossing Shops, LLC 1104 Ordway Pl Nashville, TN 37206
Parcel 5	7603 Highway 70 Bartlett, TN 38133	Appling Crossing Outparcel B, LLC 1104 Ordway Pl Nashville, TN 37206
Parcel 6	7599 Highway 70 Bartlett, TN 38133	Three Pine Three, LLC 50 Simpson Trl Wellington, NV 89444
Parcel 7	7571 Highway 70 Bartlett, TN 38133	Taco Bell of America, LLC PO Box 80615 Indianapolis, IN 46280
Parcel 8	0 Highway 70 Bartlett, TN 38133	Taco Bell of America, LLC PO Box 80615 Indianapolis, IN 46280
Parcel 9	7556 Highway 70 Bartlett, TN 38135	Alexander N and Sara E Labrador 4357 Monteleone Way Lakeland, TN 38002
Parcel 10	3721 E Russell Hurst Bartlett, TN 38135	Brandon and April Sherrill 3721 E Russell Hurst Bartlett, TN 38135
Parcel 11	3717 Russell Hurst Bartlett, TN 38135	Wesley S and Tonnye L Stone 3717 Russell Hurst Bartlett, TN 38135

Parcel 12	7580 Highway 70 Bartlett, TN 38135	First Citizens National Bank PO Box 370 Dyersburg, TN 38028
Parcel 13	3711 Russell Hurst Bartlett, TN 38135	William E and Brenda L Thomas 3711 Russell Hurst Bartlett, TN 38135
Parcel 14	3705 Russell Hurst Bartlett, TN 38135	Bonita G Nix 3705 Russell Hurst Bartlett, TN 38135
Parcel 15	3835 Appling Bartlett, TN 38135	Larry E and Pamela R Friend 3835 Appling Bartlett, TN 38135
Parcel 16	7560 4th Ave Bartlett, TN 38135	Sheila D Carver 7560 4th Ave Bartlett, TN 38135
Parcel 17	7606 Highway 70 Bartlett, TN 38135	DT Retail Properties, LLC 500 Volvo Pkwy Chesapeake, VA 23320
Parcel 18	7610 Highway 70 Bartlett, TN 38135	Arlington Venture Properties, LLC 12251 Grand Ridge Lane Arlington, TN 38002

Maureen Fraser
Mayor

Charles Hall, *Alderman*
Jewel Jordan, *Alderman*
Nick Robbins, *Alderman*
Missy Marshall, *Alderman*
John E. Stamps, *Alderman*



Molly Mehner
Town Administrator

Kristie Diamond
Town Clerk

Town of Collierville

February 20, 2025

Re: Goodwill Letter of Recommendation

To Whom It May Concern,

I am delighted to extend my support for Memphis Goodwill, Inc., a remarkable tenant in the Town of Collierville for over 15 years. Memphis Goodwill operates three essential locations within our community: a donation center at 330 Market Blvd, Suite 102; a donation center and bookstore at 1015 W. Poplar Ave; and a Goodwill thrift store at 10217 E. Shelby Dr.

Memphis Goodwill is a highly respected and valued organization, significantly contributing to our town. Their dedication to maintaining pristine and orderly facilities is evident, with no issues of debris or unattended donations reported at any of their locations. Additionally, there have been no complaints from neighboring properties regarding their operations.

The Town of Collierville deeply appreciates the positive impact Memphis Goodwill has made through its services and community presence. We eagerly anticipate continuing our strong partnership for many years to come.

Sincerely,


Maureen Fraser
Mayor of Collierville

Exhibit K

OUCH

Couch Realty Investments, LLC

February 19, 2025

Dear Board of Zoning Appeals,

Memphis Goodwill, Inc. is a long-term tenant in 8 properties located in the Memphis area as well as in Olive Branch and Tupelo. The use of those properties is for attended donation centers (ADC). Memphis Goodwill is a respected and valuable tenant. There are no issues with debris or donations being left at these properties after-hours. The site where the ADC is located has a gate that secures the lot and building after hours. There have not been any complaints from the city or any neighboring properties about debris or donations left unattended at these sites. I look forward to a long-continuing partnership with Memphis Goodwill at these locations.

Sincerely,

David V. Couch, Landlord
David V. Couch



City of Bartlett

David Parsons, Mayor

Trey Arthur
Director of Code Enforcement
City of Bartlett

March 3, 2025

To whom it may concern:

The proposed use of 7610 Highway 70 as a donation acceptance, donation storage, and donation distribution facility identical in use and function as the facility located at 2964 Covington Pike has been brought to the attention of the City of Bartlett. The subject property, 7610 Highway 70, is located within the "C-H" Highway Business Commercial District. This highway commercial district is established to provide areas in which the principal use of land is devoted to commercial establishments which cater specifically to the needs of motor vehicle oriented trade. The intent of this district is to provide appropriate space and sufficient depth from the street to satisfy the needs of modern commercial development where access is entirely dependent on motor vehicle trade, and to encourage the development of these locations with such uses and in such a manner as to minimize traffic hazards and interference with other uses.

The proposed use does not have a distinct permitted use defined within the City of Bartlett Zoning Ordinance. Within the Chart 1 – Uses Permitted in Zoning Districts of the Zoning Ordinance, the proposed use has three possible permitted uses to be categorized as within the "C-H" Highway Business Commercial District: Retail Shop, Retail Secondhand Store, or Processing and Manufacture Incidental to Retail Establishments.

Retail Shop use is defined as an establishment selling at retail new merchandise that is not secondhand previously used merchandise. The proposed use will not be selling at retail new merchandise that is not secondhand previously used merchandise. Therefore, Retail Shop use is not permissible under the terms of the Zoning Ordinance for the proposed use.

Retail Secondhand Store use is an establishment selling at retail previously used merchandise, such as clothing, household furnishings or appliances, or sports/recreational equipment; not including secondhand motor vehicles, parts, or accessories. This does not include "Antique Store". Retail Secondhand Store use would require obtaining Special Use Permit approval from the Planning Commission and Board of Mayor and Aldermen in order to be a use permissible under the terms of the Zoning Ordinance.

The proposed use will not be utilizing a sales floor for the selling at retail previously used merchandise for the building located at 7610 Highway 70. The proposed use for the subject property will be a donation acceptance, donation storage, and donation distribution facility identical in use and function as the facility located at 2964 Covington Pike. Therefore, Retail Secondhand Store use is not permissible under the terms of the Zoning Ordinance for the proposed use.

Processing and Manufacture Incidental to Retail Establishments is an establishment selling at retail new merchandise that is not secondhand previously used merchandise that requires incidental processing or manufacture that is accessory to the principal permissible use as an establishment selling at retail new merchandise that is not secondhand previously used merchandise. The proposed use will not be utilizing a sales floor for the selling at retail new merchandise that is not secondhand previously used merchandise. The proposed use will not be processing or manufacturing product as an accessory use to the primary use as an establishment selling at retail new merchandise that is not secondhand previously used merchandise. Therefore, Processing and Manufacture Incidental to Retail Establishments use is not permissible under the terms of the Zoning Ordinance for the proposed use.

Within the Chart 1 – Uses Permitted in Zoning Districts of the Zoning Ordinance, our Industrial zoning districts allow for the manufacture, storage, or distribution of products. The proposed use of 7610 Highway 70 as a donation acceptance, donation storage, and donation distribution facility identical in use and function as the facility located at 2964 Covington Pike aligns with the intent of the City of Bartlett's industrial zoning districts. Therefore, the proposed use as a donation acceptance, donation storage, and donation distribution facility is a permissible use under the terms of the Zoning Ordinance within the "I-P" and "I-O" zoning districts with Site Plan approval by the Planning Commission and Design Review Commission.

Sincerely,



Trey Arthur
Director of Code Enforcement
tarthur@cityofbartlett.org

cc: file

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March 21, 2025

Edward J. McKenney, Jr.
City Attorney, City of Bartlett
Harris Shelton
6060 Primacy Parkway, Suite 100
Memphis, TN 38119

Sent via electronic mail to: emckenney@harrisskelton.com

RE: Appeal related to 7610 Summer Avenue

Mr. McKenney,

This letter has been prepared in anticipation of our meeting scheduled for Tuesday, March 25, 2025. As you may recall, I represent Memphis Goodwill, Inc. ("Goodwill"), which has identified 7610 Summer Avenue (the "Property") located in the City of Bartlett (the "City") as one of its future attended donation center ("ADC") locations. The Property is located within the City's Highway Business ("C-H") zoning district. City personnel has interpreted the City's Zoning Ordinance (the "Ordinance") as prohibiting ADCs in the C-H district; we have challenged this interpretation by means of filing an appeal (the "Appeal") with the City's Board of Zoning Appeals (the "BZA"). I delivered to your attention a copy of the application associated with the appeal yesterday, March 20, 2025.

At the request of City personnel, on March 3, 2025, my co-counsel on this matter Angela Lawson augmented the Appeal with a letter directed to Trey Arthur, the City's Director of Code Enforcement, identified by the Ordinance as the "Building Official." That same day, Mr. Arthur responded in a letter of his own explaining the City's rationale of its interpretation of the Ordinance related to ADCs in the C-H district. I delivered copies of these letter to your attention yesterday. In Mr. Arthur's letter, he states "the proposed use does not have a district permitted use defined within the...Ordinance." In the letter, Mr. Arthur also accurately cites Article V, Sec. 15, of the Ordinance, which provides the following general description of the C-H district:

This highway commercial district is established to provide areas in which the principal use of land is devoted to commercial establishments which cater specifically to the needs of motor vehicle oriented trade. The intent of this district is to provide appropriate space and sufficient depth from the street to satisfy the needs of modern commercial development where access is entirely dependent on motor vehicle trade, and to

encourage the development of these locations with such uses and in such a manner as to minimize traffic hazards and interference with other uses.

We would like to focus on these two aspects of Mr. Arthur's letter. By their very nature, ADCs "cater specifically to the needs of motor vehicle trade" and therefore squarely meet the intent of the C-H district as provided by the section of the Ordinance cited above. The Property was constructed under the provisions of the C-H district so all of the requirements of the district such as appropriate space and efficient depth from the street to allow for vehicular access are already met.

As stated above, Mr. Arthur finds that ADCs are not specifically permitted by the Ordinance. This is no different than surrounding jurisdictions, all of which permit ADCs in similar commercial districts.

Collierville is home to three Goodwill donation centers: one with a bookstore, one with a retail store and one ADC. The ADC is located within the Town of Collierville's Shopping Center Commercial zoning district. Like the Bartlett Ordinance, Sec. 151.021 of Collierville's Code of Ordinances does not specifically list ADCs as a permitted use within the Shopping Center Commercial district. The attached letter from Collierville Mayor Maureen Fraser demonstrates the Town's support of ADCs within its jurisdiction.

There are several ADCs within the City of Memphis. From our review, these are located within the lowest intensity commercial zoning districts, the Commercial Mixed Use-1 and Commercial Mixed Use-2 districts, either through the zoning map or by Planned Development. Zoning in Memphis is governed by the Memphis and Shelby County Unified Development Code (the "UDC"). Like Bartlett and Collierville, the use table of the UDC, UDC Sec. 2.5.2, as well as the descriptive list of retail uses found in UDC Sec. 2.9.4H, are silent on the matter of ADCs.

There is one ADC within the City of Arlington's corporate limits. It is located within the Shopping Center, S-C, zoning district. Sec. 4.8 of the City's zoning ordinance, which lists permitted uses within each of the City's zoning district, does not explicitly list ADCs.

The courts of Tennessee have consistently found that zoning ordinances, as deprivations of private property rights, should be interpreted in favor of the property owner:

Because zoning laws are in derogation of the common law and operate to deprive a property owner of a use of land that would otherwise be lawful, such laws are to be strictly construed in favor of the property owner. Ready Mix, USA, LLC v. Jefferson Co., Tenn. 380 S.W.3d 52, 63 (Tenn.2012).

The Appeal was filed under the direction of Tennessee Code Annotated Sec. 13-7-207, Para. 1 of which empowers the BZA to hear and decide appeals where a property owner alleges an interpretation by a local municipal official of the local zoning ordinance is in error:

13-7-207. Powers of board of appeals.

The board of appeals has the power to:

(1) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the municipal building commissioner or any other administrative official in the carrying out or enforcement of any provision of any ordinance enacted pursuant to this part and part 3 of this chapter...

In a case that specifically examined a BZA's authority under Tenn. Code Ann. 13-7-207(1) above, the courts of Tennessee expounded on the direction it provides to municipalities in their administration of their zoning ordinances above in *Ready Mix*:

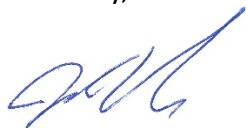
...[A]ny ambiguity in a zoning ordinance should be resolved in favor of an owner's unrestricted use of his or her property. Whittemore v. Brentwood Planning Commission, 835 S.W.2d 11, 15 (Tenn. Ct. App.1992).

This is undoubtedly the approach the Cities of Memphis and Arlington and the Town of Collierville have taken when they have found that Goodwill's ADCs are an acceptable commercial use in their equally ambiguous zoning ordinances.

We appreciate the fact that the City has valid concerns over the future of its community, but please note that Goodwill has extensive plans to improve and secure the Property; I believe these plans will be thoroughly reviewed by the City's Design Review Commission. We believe the Property, as improved, will compliment both its immediate surroundings and benefit City as a whole.

We look forward to meeting with you on this matter.

Sincerely,



Josh Whitehead

C: Angela Lawson, Member, Dinkelspiel Rasmussen & Mink, PLLC
Ray Couch, Business Development Consultant, Memphis Goodwill, Inc.
Milos Mikic, Chief Operating Officer, Whitehead Law, PLLC

Maureen Fraser
Mayor

Charles Hall, *Alderman*
Jewel Jordan, *Alderman*
Nick Robbins, *Alderman*
Missy Marshall, *Alderman*
John E. Stamps, *Alderman*



Molly Mehner
Town Administrator

Kristie Diamond
Town Clerk

Town of Collierville

February 20, 2025

Re: Goodwill Letter of Recommendation

To Whom It May Concern,

I am delighted to extend my support for Memphis Goodwill, Inc., a remarkable tenant in the Town of Collierville for over 15 years. Memphis Goodwill operates three essential locations within our community: a donation center at 330 Market Blvd, Suite 102; a donation center and bookstore at 1015 W. Poplar Ave; and a Goodwill thrift store at 10217 E. Shelby Dr.

Memphis Goodwill is a highly respected and valued organization, significantly contributing to our town. Their dedication to maintaining pristine and orderly facilities is evident, with no issues of debris or unattended donations reported at any of their locations. Additionally, there have been no complaints from neighboring properties regarding their operations.

The Town of Collierville deeply appreciates the positive impact Memphis Goodwill has made through its services and community presence. We eagerly anticipate continuing our strong partnership for many years to come.

Sincerely,

Maureen Fraser
Mayor of Collierville