

APPLICATION NUMBER

5526/5484/5160

A REQUEST FOR

**USE VARIANCE TO ALLOW THE CONSTRUCTION OF
TWO 200' X 90' FLOAT BARNS IN A B-3, COMMUNITY
BUSINESS DISTRICT; FLOAT BARNS ARE ALLOWED
WITH PLANNING COMMISSION APPROVAL IN A B-4,
GENERAL BUSINESS DISTRICT, AND ALLOWED BY
RIGHT IN AN I-1, LIGHT INDUSTRY DISTRICT**

LOCATED AT

East side of South Washington Avenue, extending from Tennessee Street (unopened public right-of-way) and the Illinois Central Gulf Railroad right-of-way, to Kentucky Street.

APPLICANT

KREWE OF MARRY MATES

AGENT

PAUL TIDWELL

BOARD OF ZONING ADJUSTMENT

MARCH 2009

The applicant is requesting a Use Variance to allow the construction of two 200' x 90' float barns in a B-3, Community Business District; float barns are allowed with Planning Approval in a B-4, General Business District and allowed by right in an I-1, Light Industry District.

The applicant was granted a Use Variance in February 2003 to allow the construction of three 200' x 90' float barns in a B-3, Community Business District, and an R-2, Two-Family Residential District. A one-year extension was granted in August 2003, and a six-month extension was granted in September 2004. In September 2005, another one-year extension was granted. No construction was ever begun, but the entire site covered in the original application is now zoned B-3. Since the original application, the applicant has subdivided the site and sold the East lot (approximately half of the original site) and now wishes to develop the retained West lot. In August 2008, the applicant submitted a new application requesting a use variance for a scaled-down version of the original approval. The application was recommended for approval, with conditions, by staff, but the applicant twice failed to show up for the public hearing, and thus the application was denied by the Board. The applicant has waited to requisite six months before reapplying, and has now presented this identical application to the Board. There have been no changes to the regulations or to the site vicinity since the application in August, 2008.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The site plan illustrates a driveway leading onto Kentucky Street directly across from residentially developed and zoned properties. The possible negative impact to the residential properties from this proposed industrial development could be substantial. The surrounding residential properties should be protected by denying the development access to Kentucky Street. The site plan also illustrates a driveway from the parking lot with access onto Washington Avenue. The Washington Avenue corridor in this area is zoned and developed commercially, thus giving the site adequate access onto a commercial corridor and negating a need for a driveway onto a residential street.

A note on the Subdivision plat states “Preservation status is to be given to the 44” Live Oak located on the south side of Lot 1. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger”. The applicant coordinated with Urban Forestry about the location of the buildings relative to the preserved tree when the first application was submitted.

The site plan tree planting calculations do not address any plantings along Kentucky Street and should be revised for such. Also, the variable width Alabama Power Company easement along the Northern portion of the site is not indicated as on site plans for previous applications associated with this site. This easement should be shown on site plans submitted for land disturbance and construction, and the tree plantings along Washington Avenue should be revised to allow for the easement. Urban Forestry has previously indicated that tree plantings in the vicinity of the Washington Avenue and Kentucky Street drives should be located so as to allow for floats to clear the canopies as the trees mature.

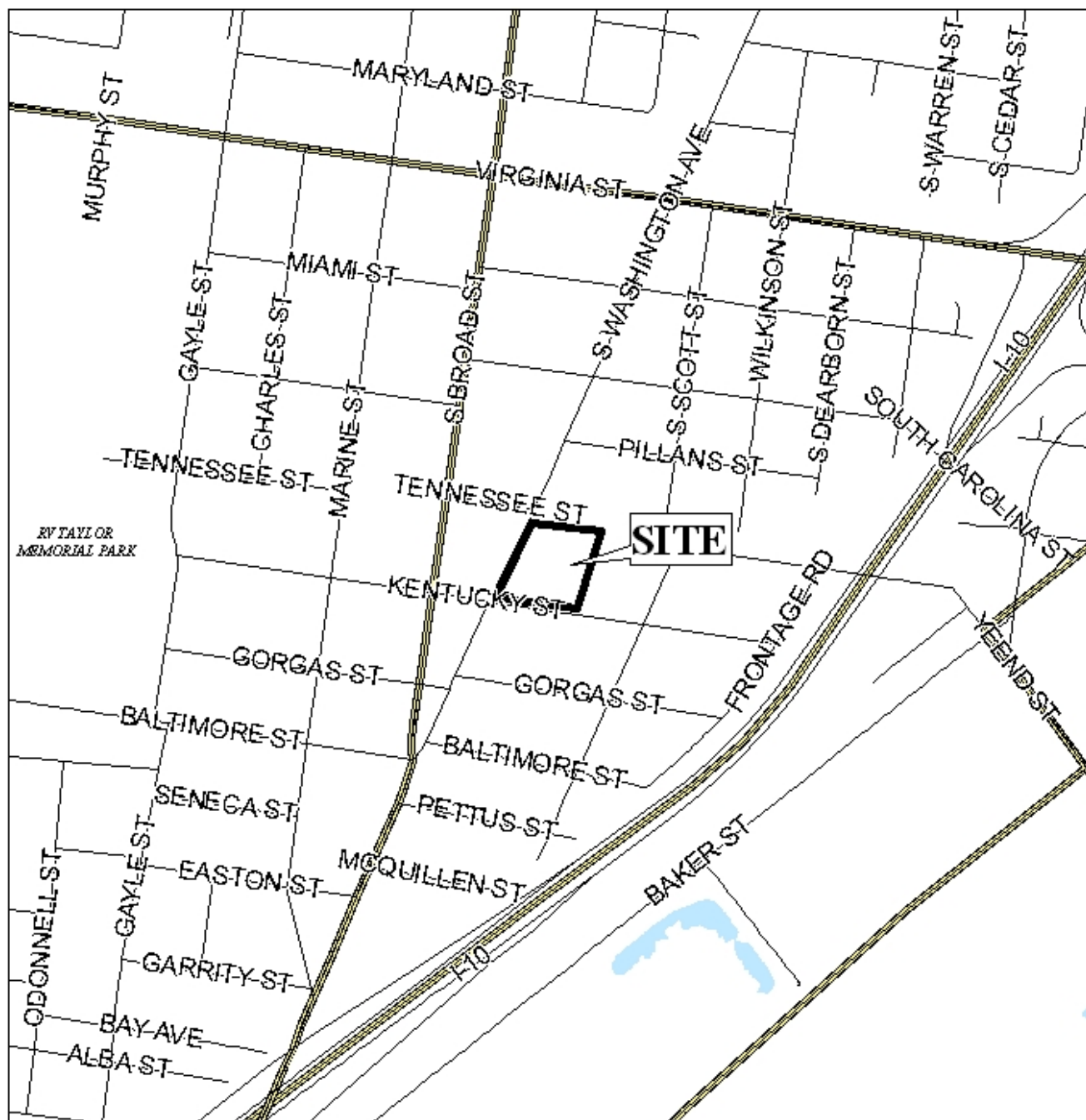
As previously mentioned, this application is a scaled-down version of the originally approved variance request, and it is also identical to the application that was submitted six months ago. Therefore, it would stand that approval of this request would be justified, subject to conditions.

RECOMMENDATION 5526/5484/5160**Date: March 2, 2009**

Based on the preceding, the application is recommended for approval, subject to the following conditions:

- 1) revision of the site plan to eliminate the driveway onto Kentucky Street;
- 2) denial of access for this development to Kentucky Street;
- 3) revision of the site plan for land disturbance and construction permitting to indicate full compliance with the landscaping and tree planting requirements of the Zoning Ordinance, including any tree credits and/or canopy credits;
- 4) inclusion of the Alabama Power Company easement along the Northern portion of the site with adjusted tree plantings within along Washington Avenue;
- 5) location of tree plantings in the vicinity of the Washington Avenue and Kentucky Street drives to allow for float clearance as trees mature; and
- 6) preservation status is to be given to the 44" Live Oak located on the south side of the site. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.

LOCATOR MAP



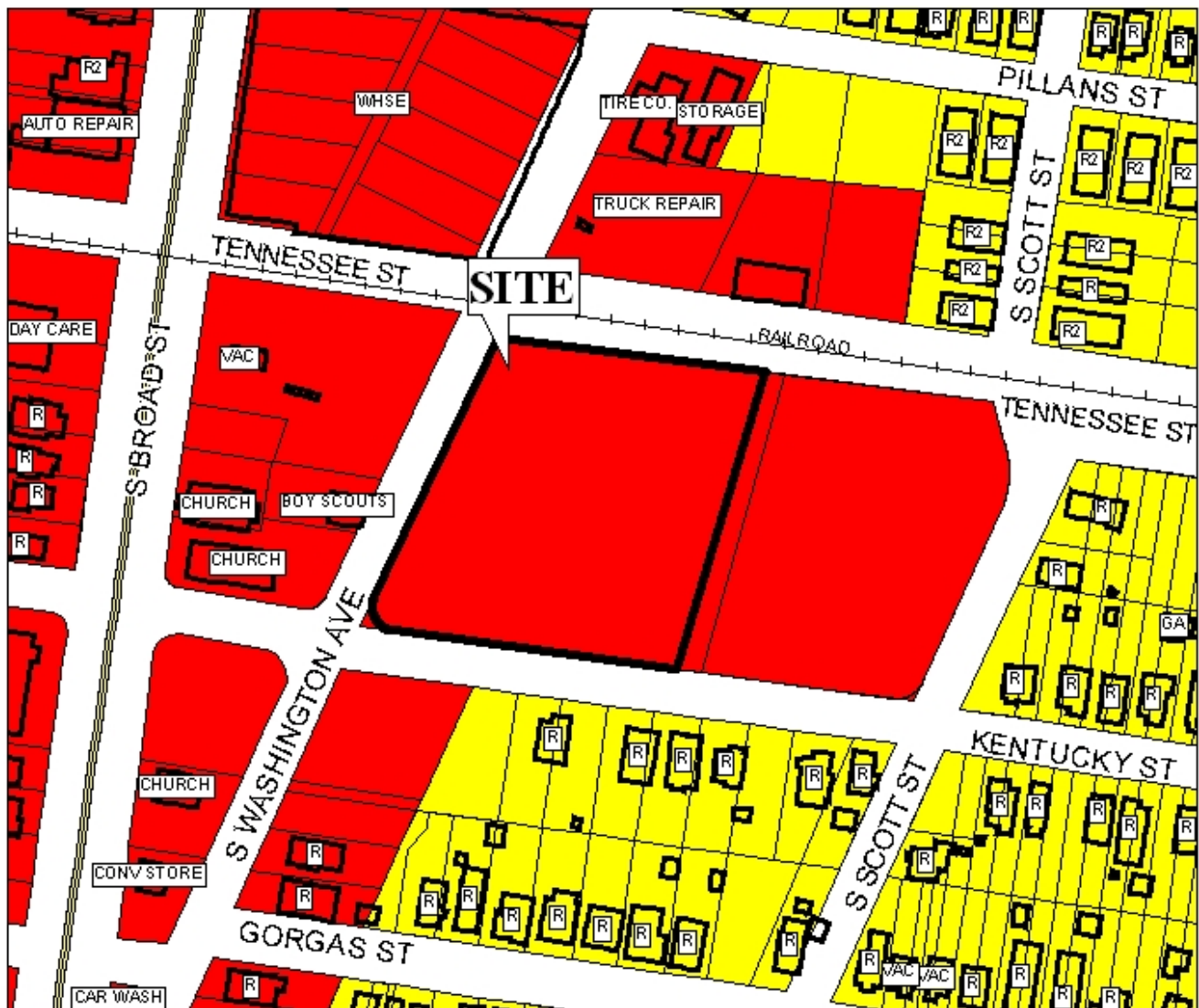
APPLICATION NUMBER 5526/5484/5160 DATE March 2, 2009

APPLICANT Krewe of Marry Mates (Paul Tidwell, Agent)

REQUEST Use Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



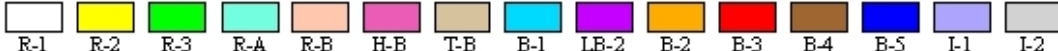
Auto repair services are located to the northwest of the site, multi-family residential units are located to the northeast, single family residential units are located to the south, and a church is located to the west.

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LEGEND



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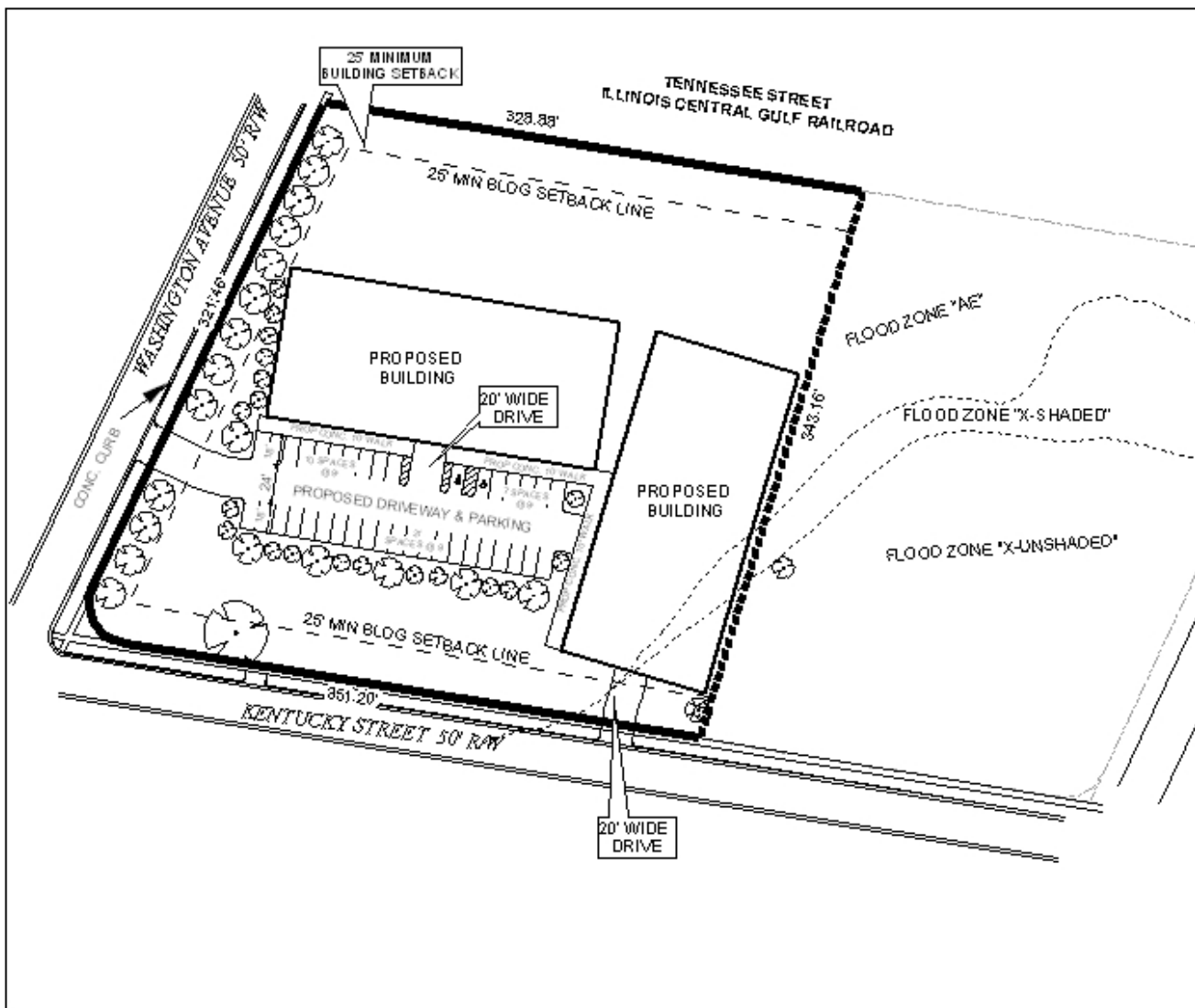


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SITE PLAN



The site plan illustrates the proposed buildings, flood zones, parking, and drives.

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