

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

**STAFF REPORT**

**#8**

**CASE NUMBER:** SAC 13-612    **L.U.C.B. MEETING:** September 12, 2013  
**COMPANION CASE:** P.D. 08-303    Midtown Memphis Planned Development

**STREET NAME:** **Jefferson Avenue**

**LOCATION:** Jefferson Avenue between Watkins Street and McNeil Street

**COUNCIL DISTRICT:** 5                    **SUPER DISTRICT:** 9

**APPLICANT:** TN Poplar Avenue, LLC (Michael Rios)

**REPRESENTATIVE:** Solomito Land Planning (Brenda Solomito)

**REQUEST:** Close & Vacate Street Right-Of-Way

**AREA:** 0.74 Acres

**EXISTING LAND USE & ZONING:** Improved right of way in the Residential Urban -4 (RU-4) and Commercial Mixed Use -1 (CMU-1)

**OFFICE OF PLANNING AND DEVELOPMENT  
RECOMMENDATION**

**APPROVAL WITH CONDITIONS**

**Staff:** Don Jones

**E-Mail:** john.jones@memphistn.gov

**CONCLUSIONS**

1. An application to close this street, SAC 08-605, was approved by the Memphis City Council in November of 2008. An application for a Time Extension was approved by the Memphis and Shelby County Land Use Control Board in January of 2010. Due to changes in property ownership and the downturn in the economy, this closure was never finalized.
2. This street closure application is located in Area G of the companion planned development, P.D. 08-303, which calls for the redevelopment of this area for an anchor tenant on the south side of the right of way.
3. Comments from the City Engineer's Staff indicate that a designated bicycle lane is needed through this street. A meeting was had in the City Engineer's Office, and the applicant has proposed some language to be added to the Planned Development as a condition to address this issue.
4. Staff finds that the closure of this alley will not have a negative impact on its neighbors.

### LAND USE & ZONING MAP

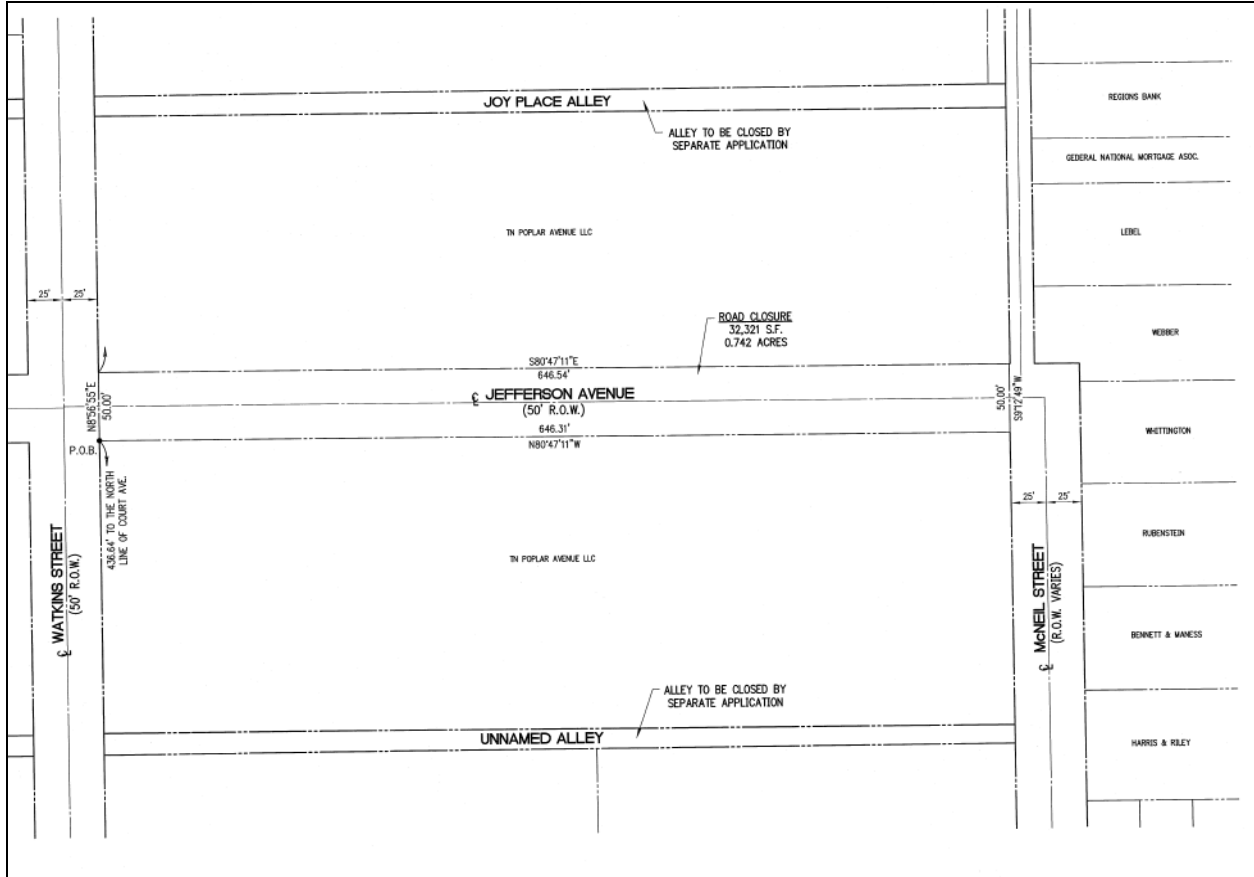


#### SURROUNDING LAND USE & ZONING:

**North, South, & West:** Vacant land in the Residential Urban – 4 (RU-4) and Commercial Mixed Use – 1 (CMU-1) Districts

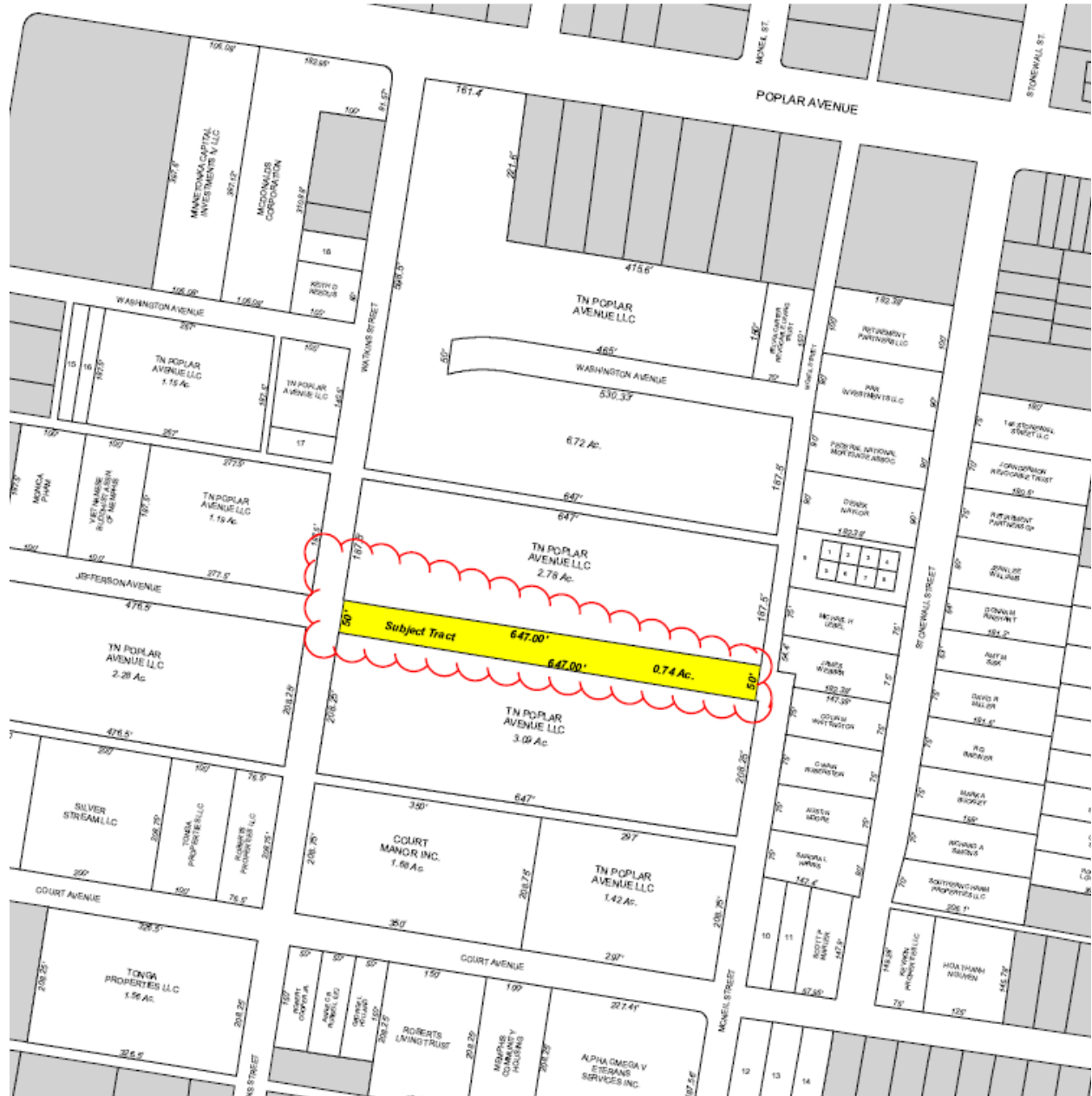
**East:** Residential dwellings in the Residential Urban – 3 (RU-3) and Historic District Overlay (H) Districts

Closure Plat



SAC 13-612

# Vicinity Map





## **STAFF ANALYSIS:**

### Location and Background:

Jefferson Avenue was created as a part of the 1888 Madison Heights Subdivision. This segment runs east to west between McNeil Street and Watkins Street.

An application to close this street, SAC 08-605, was approved by the Memphis City Council in November of 2008. An application for a Time Extension was approved by the Memphis and Shelby County Land Use Control Board in January of 2010. Due to changes in property ownership and the downturn in the economy, this closure was never finalized.

This street closure application is located in Area G of the companion planned development, P.D. 08-303, which calls for the redevelopment of this area for an anchor tenant on the south side of the right of way. The Concept Plan also envisions a second big box type of retailer with some limited surface parking and parking at the roof top to accommodate the parking needs of the Anchor Tenant on the opposite side of the former Jefferson Street Right-of-Way.

### Review of Request:

This applicant controls the abutting properties to this closure, so there is no issue with abutting property owners being affected by or in opposition with this closure.

Comments from the City Engineer's Staff indicate that a designated bicycle lane is needed through this street. The comments call for an easement. A meeting was had in the City Engineers Office and as a result of that meeting the applicant has proposed some language to be added to the Planned Development as a condition to address this issue.

### Pedestrian and Bike Path

The property owner(s) contained within the appropriate portions of the Midtown Planned Development and associated Street and Alley Closure applications will work with the City of Memphis and the Office of Planning and Development on a mutually agreed upon size and location of a pedestrian/bike path, if warranted.

The City of Memphis and/or OPD will provide ample notification for any public hearings, need for access to the property and provide all engineering data, plans, studies, and any other pertinent information that may affect the development potential of the site. The City of Memphis and/or OPD will coordinate timing of construction of any pedestrian bike and path with any development intended for that area so as to not delay the construction of a private development.

Staff finds that the closure of this alley will not have a negative impact on its neighbors.

**RECOMMENDATION:            APPROVAL WITH CONDITIONS**

**CONDITIONS:**

1. Provide easements for existing sanitary sewers, drainage facilities and other utilities or relocate at developer's expense.
2. City sanitary sewers/drainage facilities are located within the proposed closure area.
3. The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.
4. The applicant shall comply with all conditions of the closure within three years of the conditional approval of the closure by the City Council.

## GENERAL INFORMATION

**Planning District:** Midtown  
**Census Tract:** 36  
**Zoning Atlas Page:** 2030  
**Parcel ID:** 017021 00001Z

## DEPARTMENTAL COMMENTS:

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

### City Engineer:

- 1 The City Engineer objects to the outright closure of this street.
- 2 Jefferson Street is a designated bicycle route. The City Engineer requires a 12 foot wide dedicated lane for bicycles and pedestrian access to be retained. Said 12 foot lane shall not be closed to public ingress/egress at any time.

### Street Closures:

- 3 Provide easements for existing sanitary sewers, drainage facilities and other utilities or relocate at developer's expense.
- 4 City sanitary sewers/drainage facilities are located within the proposed closure area.
5. The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.
6. The applicant shall comply with all conditions of the closure within three years of the conditional approval of the closure by the City Council.

**.City Fire Division:** No comments received.

**City Real Estate:** No comments received.

**City/County Health Department:** No comments received.



**City Board of Education:** No comments received.

**Construction Code Enforcement:** No comments received.

**Memphis Light, Gas and Water:**

MLGW has reviewed the referenced application, and has no objection, subject to the following comments:

**Because of the magnitude of existing facilities and the cost to remove/relocate, it would be beneficial for the owner/applicant to meet with MLGW to discuss their plans, and develop a solution to mitigate the utility conflicts.**

MLGW has **SIGNIFICANT** overhead and underground facilities within the public rights-of-way as outlined in the referenced applications.

**It is the responsibility of the owner/applicant** to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development. There are some facilities which could:

- Remain in place, subject to specific limitations and easement rights.
- Be abandoned in place.
- Be removed.
- Be removed and relocated in order to maintain the utility distribution network.
- There is a 115,000-volt underground electric cable in Jefferson Avenue/McNeil which could cost well in excess of \$1,000,000 to relocate.

Additionally:

- **MLGW has existing utility distribution facilities within the present public road right of way.** The City of Memphis shall retain an easement across the proposed street closure, from edge to edge of the road right of way, to accommodate any existing public utilities, including electric, gas, water, CATV, telephone, sewer, drainage, etc
- **It is the responsibility of the owner/applicant** to bear the cost if it is necessary for MLGW facilities to be installed, removed or relocated.
- **MLGW reserves the right** to retain a utility right-of-way within that portion of the existing public road right of way at all times for existing utilities, or the owner/applicant may choose to relocate existing utilities at the expense of the owner/applicant.
- **MLGW must be able to access any overhead or underground facilities.** Consequently, no permanent structure(s) shall be constructed or erected within that portion of the existing public road right of way including fences, buildings, patios, vehicle parking or paving.
- If there are **existing fire hydrants** within the proposed closure of the public right-of-way, these hydrants will become public hydrants on private property, and the owner/applicant will be billed an annual maintenance fee on a monthly basis by MLGW.
- If there are **existing street lights** within the proposed closure of the public right-of-way, MLGW will remove all street lights, and abandon underground electric feeds or remove overhead electric feeds – at the expense of the owner/applicant.

- **STREET NAMES: It is the responsibility of the owner/applicant** to contact MLGW–Address Assignment @ 729-8628 and submit proposed street names for review and approval. Please use the following link to the MLGW Land & Mapping website for **Street Naming Guidelines** and the **Online Street Name Search**: <http://www.mlgw.com/builders/landandmapping>
- **It is the responsibility of the owner/applicant** to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- **It is the responsibility of the owner/applicant** to contact **TN-1-CALL @ 1.800.351.1111**, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc.
- **It is the responsibility of the owner/applicant** to contact MLGW-Property Management, Land Rights Specialist @ 901-528-4186 to request a Release Deed for release of easement for any existing MLGW Easement(s) in conflict with the proposed development.
- **It is the responsibility of the owner/applicant** to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- **It is the responsibility of the owner/applicant** to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- **It is the responsibility of the owner/applicant** to comply with the **National Electric Safety Code (NESC)** and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- **Landscaping is prohibited** within any MLGW utility easement without prior MLGW approval. It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance - Landscape and Screening Regulations.
- **Street Trees are prohibited**, subject to the review and approval of the landscape plan by MLGW Engineering. It is the responsibility of the owner/applicant to submit a detailed landscape plan to MLGW Engineering.
- **It is the responsibility of the owner/applicant** to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s).
- **Fire Protection Water Services: It is the responsibility of the owner/applicant** to contact **MLGW - Water Engineering @ 901-528-4720** to obtain fire protection/water flow information. If water main extensions and/or an increase in existing main sizes are needed to meet the minimum fire flow rate to serve the proposed development, the owner/applicant will be responsible for the cost of these improvements.
  - Please refer to **Section 4.3 and Section 17 - Appendix A** of the **MLGW Service Policy Manual**, which is available online at the following MLGW website: <http://www.mlgw.com/images/ElectricGasWaterServicePolicyManual2012.pdf>
- **It is the responsibility of the owner/applicant** to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.
  - All residential developers must contact MLGW's Residential Engineer at Builder Services: (901) 729-8675 to initiate the utility application process.
  - All commercial developers must contact MLGW's Builder Services line at 729-8630 (select option 2) to initiate the utility application process.
- **It is the responsibility of the owner/applicant** to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

**AT& T:**

No comments received.

**Memphis Area Transit Authority (MATA):**

No comments received.

**OPD-Regional Services:**

No comments received.

**Park Services Division:**

No comments received.