

Memphis and Shelby County Land Use Control Board

CITY HALL 125 NORTH MID AMERICA MALL MEMPHIS, TENNESSEE 38103-2084
(901) 576-6619

(Please visit our web site at: <http://www.dpdgov.com>)

MINUTES

Date: August 11, 2011

Meeting Attendance

LUCB Board Members

OFFICERS/MEMBERS	NAME	PRESENT	ABSENT
Chairman	James Toles	X	
Member	Loyal Featherstone	X	
Member	Rusty Linkous	X	
Member	Jon McCreery	X	
Member	Robert Norcross		X
Member	Margaret Pritchard	X	
Member	Mary Sharp	X	
Member	Emily Trenholm	X	
Member	Lisa Wilbanks	X	
Member	Roslyn Willis	X	
Alternate Member	Frank Colvett, Jr.	X	

Call to Order and Roll Call

Chairman James Toles called the meeting to order at 10:00 a.m. Don Jones called the roll. There was a quorum. Board Member Norcross was not present during roll call.

LUCB Staff: Josh Whitehead, Director of Office of Planning and Development, Chip Saliba, Brian Bacchus, Don Jones, Gregory Love and Sheila Pounder.

Others Present: James Cutter, Jr., Tom McConnell, W. H. Porter, Carolyn Randall-Smith, Michelle Smith, Brenda Solomito and Aida Talley.

Chairman's Opening Remarks

Chairman Toles read the General Order of the Public Hearing proceedings and the Conflict of Interest Statement.

Secretary's Report

Josh Whitehead reported that either next month or the month after, staff will submit the amendments of the Memphis/Shelby County Unified Development Code.

Approval of Minutes: July 14, 2011

Board Member Pritchard noted two changes to the minutes. 1) Start time was at 10 a.m. instead of 9 a.m. and 2) Item 5, language should read, Chairman Toles asked if staff was in agreement with the requested “modification”, not medication.

Board Member Pritchard made a motion to approve the minutes with the noted corrections. Board Member McCreery seconded the motion. The motion passed unanimously.

General Order of Public Hearing

Chairman Toles explained the procedure for hearing the applications; staff presentation for the application; applicant comments; comments from the public; time limits; rebuttal; and the LUCB’s discussion and action. The Consent Agenda Items 1-3 were read. Chairman Toles also explained the procedure for hearing the Consent Agenda Items. He then introduced Board Member Jon McCreery to read the Consent Agenda Items.

Consent Agenda (Items 1-3)

1. CASE NUMBER: S 11-013 CC
DEVELOPMENT NAME: CRAVEN HAVEN SUBDIVISION
Request: Two residential lots
Staff’s Recommendation: Approval with five (5) Conditions a one (1) Waiver.

2. CASE NUMBER: PD 07-342 CC
DEVELOPMENT NAME: PRESERVE AT FOREST CREEK APARTMENTS
Request: Remove third point of access through the adjoining commercial parcel abutting the apartments to the west as required by the Land Use Control Board as part of the original site plan approval for the apartment community.
Staff’s Recommendation: Approval.

3. CASE NUMBER: Z-2132
DEVELOPMENT NAME: EAST SIDE OF COVINGTON PIKE; +/-728 FEET NORTH OF YALE ROAD
Request: Revise Phase 4 final plat to reduce all building setback requirements to meet the CMU-2 District as follows: front – 20’, Rear – 10’, North & South – 0’
Staff’s Recommendation: Approval with conditions.

Discussion Summary – There were no Consent Agenda Items pulled for discussion. Board Member McCreery made a motion to approve Consent Agenda Items 1-3. The motion was seconded by Board Member Pritchard. The motion passed unanimously.

DEFERRED & REGULAR AGENDA ITEMS

Chairman Toles introduced Board Member Pritchard to read the Deferred & Regular Agenda Items and serve as Zoning Chair.

Item 4: CASE #: SUP 11-210

WEST SIDE OF HAYNES STREET: +/-404 FEET
SOUTH OF PARK AVE.

Request for Cellular Tower.

Staff's Recommendation: Denial/Rejection

Board Member Pritchard noted that the agenda read "rejection" but that it should have read "approval with conditions".

Chairman Toles asked if the applicant was present and if there were any opposition. There was opposition. He then asked staff to present the staff report.

Greg Love gave a summary of staff report, showing various aerial views and location of the case property. He also showed photos of the surrounding residential properties to give an idea of the character of the neighborhood. Greg stated his concerns and reason for denial was the proximity of the proposed Tower to the residential neighborhood on Haynes and the effect it would pose on the character of the neighborhood. He even mentioned a discussion with the applicant regarding an alternate location for the Tower. He also added that the case was placed on hold in order for the applicant and neighbors to come up with a mutual plan. He mentioned that a meeting was held and parties both in favor and in opposition of the tower were in attendance (50/50 turn-out). He noted all the issues and concerns from both sides of the neighbors and stated that staff could not base a decision on future proposed health issues which was one of the greatest concerns. Greg finally stated that after further discussion with the applicant, they came to a agreement to approve the application with the following conditions: 1) tower be place at a new location at the rear of the Post Office, 2) that landscaping/screening be submitted for approval by OPD staff, and 3) the materials & details of the gate surrounding the tower be reviewed and approved by OPD staff.

Chairman Toles asked if the applicant was present and if there were any opposition. There was opposition. Chairman Toles asked if the applicant agreed with staff's recommendation.

Ms. Brenda Solomito approached and stated her name and address as 2067 Kirby Pkwy. She stated she was in agreement with staff's recommendation and the conditions for approval. She also presented in a packet a plan design that illustrated the cell coverage with and without the tower as well as a letter from the City of Memphis HCD, which stated no adverse effects were associated with the proposed project and in compliance or has no effect with National Register of Historic Places.

Chairman Toles asked for comments from the general public that were in opposition of the case.

Rev. James Cutter, Jr., Pastor of Greater Faith Baptist Church, approached and stated his name and address as 920 Haynes St. He then stated that he voiced his concerns during the neighborhood meeting with the developers. He added that the tower is not a good fit for the park, school or residential area.

Michelle Smith approached and stated her name and address as 2757 Select Ave. She stated that

even with the location change of the tower, it yet does not conform to the neighborhood. She also requested for the developers to engage in conversation more with the neighbors in the area to try to resolve some issues.

Carolyn Randall-Smith approached and stated her name and address as 2757 Select Ave. She stated that she has been a longtime resident of the Orange Mound community and the older residents did not have any idea of what a cell tower was and she wanted to voice the sentiments of opposition of the older generation.

Chairman Toles asked for rebuttal comments from the applicant.

Ms. Brenda Solomito approached and stated that during the July 26th meeting with the residents they discussed various aspects, she understands their concerns but yet felt the tower is a much needed tool in the neighborhood and it is no different from any other utility. She added that she would meet with the residents in the future but would also like to proceed currently with the LUCB approval.

Chairman Toles asked the board members for a motion. Board Member Pritchard made a motion to approve case SUP 11-210. The motion was seconded by Board Member Sharp. Then the Chairman open the floor for Board Member discussion.

Board Member Pritchard thanked the developers for meeting with the residents in the community and the willingness to meet in the future. She commended all for their efforts, realizing the necessity of a tower in case of an emergency, and to maintaining the historical integrity and character of the neighborhood.

Chairman Toles asked the applicant if the tower would provide service to areas that has gaps within community and within the classrooms/bldgs. The applicant stated that it would even with just Cricket being the current provider.

Chairman Toles asked for a vote on the motion to approve case SUP 11-210. The motion passed unanimously.

Item 5: CASE #: PD 11-312

TEMPLE ISRAEL PLANNED DEVELOPMENT

Request for a planned development to allow the expansion of burial plots to an existing cemetery, including new fencing, landscaping and site amenities.

Staff's Recommendation: Approval with conditions

*Chairman Toles wanted the record to show that Board Member Frank Colvett recused himself from this case.

Chairman Toles asked if the applicant was present and if there were any opposition. There was no opposition. He then asked if the applicant agreed with staff's recommendation.

Ms. Brenda Solomito approached and stated her name and address as 2067 Kirby Pkwy. She stated she was in agreement with staff's recommendation and noted that there were two friendly

amendments to the conditions which she read as follows: 1) II.E – add the language “new burial site” and 2) IV.C – add the language “a wrought iron fence to match existing entry gates shall be installed along public road frontages of the site”.

Chairman Toles asked staff if they were in agreement with the two friendly amendments. Brian Bacchus stated he was in agreement.

Chairman Toles asked the board members for a motion. Board Member Pritchard made a motion to approve case PD 11-312 as amended. The motion was seconded by Board Member Wilbanks. The motion passed unanimously.

**Item 6: CASE #: PD 11-314
(formerly SUP 11-212)**

LAW OFFICE PLANNED DEVELOPMENT

Request for a Child Care Center (13 or more children).

Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present and if there were any opposition. There was no opposition. He then asked if the applicant agreed with staff's recommendation.

Ms. Aida Talley approached and stated her name and address as 4029 Summer Ave. and that she was in agreement with staff's recommendation.

Chairman Toles asked the board members for a motion. Board Member Pritchard made a motion to approve case PD 11-314 in accordance with staff's recommendation. The motion was seconded by Board Member Wilbanks. The motion passed unanimously.

Item 7: CASE #: SE 11-04

DR. R.Q. VENSON CENTER

Request for an increase the height of existing building by 13'6" (current height 106') where a maximum height of 90' is permitted by zoning.

Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present and if there were any opposition. There was no opposition. He then asked if the applicant agreed with staff's recommendation.

Mr. Tom McConnell approached and stated his name and address as 291 N. Avalon and that he was in agreement with staff's recommendation but wanted to revise the City Engineering comments as it regarded the easement increase. He stated that he did not want to relocate any existing structures primarily the brick and wrought iron fences surrounding the property.

A representative from the City Engineer's Office noted the request for the width extension was in case any repairs needed to be done, it would allow room without removal or demolition of fencing. He stated that he would agree with the applicant's request not to relocate the fencing only if the repair and replace of any damage to the fences due to sewer repair is solely the responsibility of the applicant.

The applicant agreed. And staff noted that it would be included in the conditions if approved.

Chairman Toles asked the board members for a motion. Board Member Pritchard made a motion to approve case SE 11-04 in accordance with staff's recommendation as amended. The motion was seconded by Board Member Sharp. The motion passed unanimously.

Item 8: CASE #: Z 11-106

SE CORNER FAIROAKS AVE. AND JACKSON AVE.

Request to re-zone property from RU-1 (Residential Urban-1) to (CMU-3) Commercial Mixed Use-3 District.
Staff's Recommendation: Rejection as a Rezoning Case, Approval as a Planned Development

Chairman Toles asked if the applicant was present and if there were any opposition. There was no opposition. He then asked if the applicant agreed with staff's recommendation.

Mr. W. H. Porter approached and stated his name and address as 482 American Way and that he was in agreement with staff's recommendation and the conditions recommended.

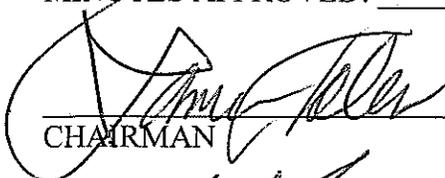
Gregory Love requested to make two friendly amendments as follows: 1) applicant paint duck work at the rear of the building and 2) any lighting fixtures would face the building and not glair onto Fair Oaks Ave.

Chairman Toles asked the board members for a motion. Board Member Pritchard made a motion to approve case Z 11-106 in accordance with staff's recommendation. The motion was seconded by Board Member McCreery. The motion passed unanimously.

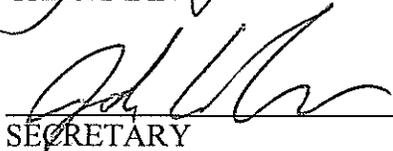
ADJOURNMENT:

There being no further business, the meeting there upon adjourned.

MINUTES APPROVED: _____



CHAIRMAN



SECRETARY