



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: June 9, 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 9:00 a.m. Don Jones called the roll. There was a quorum. Board members Featherstone and Pritchard were not present during roll call.

Approval of Minutes (April and May)

Board member McCreery made a motion to approve LUCB minutes for April and May. The motion was seconded by Board member Wilbanks. The motion passed unanimously.

LUCB Staff: Josh Whitehead, Director of Office of Planning and Development, Chip Saliba, Brian Bacchus, Don Jones, Gregory Love and Shelia Pounder and Jack Stevenson, City Engr.

Others Present: Pat Beech, Tess Carrier, Jane Carroll, Jay Caughman, Lee Davidson, George Ellis, Verlinda Henning, Jonathan Hertz, Cecil Humphreys, Mr. Hussan, Joe Kirkland, John Leake, Jeff Old, W.D. Porter, Cindy Reaves, Frank Shepherd, Bert Shubert, Brenda Solomito, Tony Stewart, John Walpole, Sam Ware, Ricky Wilkins, and Jenny Yeates.

Chairman's Opening Remarks

Chairman Toles introduced and welcomed new board member, Rusty Linkous and then he read the General Order of the Public Hearing proceedings and the Conflict of Interest Statement.

Secretary's Report

Chip Saliba stated there was not a report.

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 Commission's discussion and action. The Consent Agenda Items 1-5 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 1-9)

- 1. CASE NUMBER:** S 11-006
DEVELOPMENT NAME: RALEIGH-RAMILL SUBDIVISION
Request: One commercial and two residential lots
Staff's Recommendation: Approval with conditions.
- 2. CASE NUMBER:** S 11-007
DEVELOPMENT NAME: RE-SUBDIVISION OF LOT 94 – BELLE MEADE SUBDIVISION
Request: 2 residential lots
Staff's Recommendation: Approval with conditions.
- 3. CASE NUMBER:** S 11-008
DEVELOPMENT NAME: RE-SUBDIVISION OF LOT 2 OF HERNANDO PLACE
Request: 3 Lot Preliminary Plat
Staff's Recommendation: Approval with (8) conditions.
- 4. CASE NUMBER:** S 11-009
DEVELOPMENT NAME: SONS OF LEON SUBDIVISION
Request: Two (2) lots
Staff's Recommendation: Approval with conditions.
- 5. CASE NUMBER:** SNC 11-801 (Companion Case SAC 11-603)
DEVELOPMENT NAME: STONEBROOK COVE
Request: Street name change from Stonebrook Circle to Stonebrook Cove
Staff's Recommendation: Approval with conditions.
- 6. CASE NUMBER:** SAC 11-607
DEVELOPMENT NAME: PROMENADE STREET
Request: Close unimproved public street right-of-way
Staff's Recommendation: Approval with conditions.
- 7. CASE NUMBER:** S 46-02
DEVELOPMENT NAME: SHADY GROVE ROAD SUBDIVISION
Request: To approve front yard setbacks as follows: 1) a reduction along Shady Grove Rd. from 75ft. to 73ft. and 2) a reduction along Colonial Rd. from 60ft. to 38ft.
Staff's Recommendation: Approval with conditions

8. CASE NUMBER: P.D. 94-364
DEVELOPMENT NAME: HOLLYWOOD MINI-STORAGE PLANNED DEVELOPMENT
Request: Modification to sign requirements to allow a detached sign 75 sq. ft. in area to remain with a manual reader board at a maximum height of 35ft.
Staff's Recommendation: Approval with two site plan conditions

9. CASE NUMBER: PD 06-320
DEVELOPMENT NAME: HIGHLAND UNIVERSITY SHOPS PLANNED DEVELOPMENT
Request: For a 1) five year outline plan time extension, 2) change name of the planned development to Highland Row Planned Development, and 3) clarify existing conditions to reflect that office uses are permitted on the second floor of the Planned Development and that the proposed bookstore use is permitted to have two levels within the single-story structure.
Staff's Recommendation: Approval with conditions and modifications of previously approved -condition II.E.3

Discussion Summary – Agenda Items 2, 5 and 7 were pulled for discussion. Board Member McCreery made a motion to approve Consent Agenda Items 1, 3, 4, 6, 8 and 9. Board Member Norcross recused himself from voting on Item 9. The motion was seconded by Board Member Sharp. The motion passed unanimously.

Pulled Consent Agenda (Items 2, 5 and 7) for discussion

Chairman Toles called for the first Consent Agenda Item case.

Item 2: CASE # S 11-007 **RE-SUBDIVISION OF LOT 94 – BELLE MEADE SUBDIVISION**
Request for 2 residential lots
Staff's Recommendation: Approval with conditions.

Chairman Toles asked if staff would present the case.

Chip Saliba gave a summary of staff report, location of proposed two lots, showed land use and zoning map, existing plat layout, and photos of existing typical homes and smaller lots in the area. He noted that the area is zoned R-10 for single family homes. He added that in 2000 City Council approved for the lot to be subdivided into two lots after being rejected by LUCB. He recommended approval of the 2 lots because they are in character with the neighborhood, along with the condition to retain the setback and width with the Development across the street. He also added that 111 letters were submitted in opposition and 4 letters of support.

Chairman Toles asked the applicant of the case for comments.

Mr. Ricky Wilkins of Ricky Wilkins Law Office, a representative for applicant approached and stated his name and address as 66 Monroe. He stated that the application warrants approval due the fact his clients met or exceeded all requirements for the redevelopment of the site. He added that the lot and width is greater than the minimum requirements and the plan is a mirror image of the development across the street. He also added that he had gotten approval from City

Engineering that lieu of payments the plans must be an improvement to Poplar Ave.

Chairman Toles asked the opposition of the case for their comments.

Bret Shubert approached and stated his name and that he was the attorney representing the residents in opposition. He noted that the one lot was already the smallest lot in the area and subdividing it would make even smaller lots which would take away from the character of the neighborhood. He also mentioned that three prior similar cases were denied by LUCB. He then mentioned that if LUCB were to approve the application, to do so with the following conditions: 1) burned property with blue tarp be removed within 30 days after city council's approval, 2) construction begin in a reasonable time on the 2 lots that were approved in 2000, and 3) case property obtain a professional landscaping plan.

Pat Beech approached and stated her name and address as 4339 Gwynne Rd. She stated the residents love the neighborhood just as it is and wanted to maintain the character and integrity.

George Ellis approached and stated his name and address as 4151 Tuckahoe Rd. He stated the subdivision is unnecessary and there was no need for two smaller lots. He also submitted photos for the board to review.

Chairman Toles asked Mr. Wilkins for his rebuttal comments.

Mr. Wilkins restated the application met or exceeded all of the requirements. He mentioned that the opposition based their fact on the lot being smaller only due the size of the 2 lots backyards, which is not visible. He noted that the frontage would be visible is it does not take away from the character of the neighborhood.

Chairman Toles asked for a motion. Board member McCreey made a motion to approved Case S 11-007 in accordance with staff's recommendation. The motion was seconded by Board member Wilbanks.

Chairman Toles open the floor for board discussion.

The board discussion consisted of questions and concerns regarding the zoning requirements for the area, the comparison to other existing subdivisions, frontage setbacks, the legal rights of the owner to subdivide the lot and the standard of the neighborhood.

Chairman Toles asked what was different about this application in regards to the prior applications that were denied.

Chip Saliba stated due to the development across the street and the case site plans being a mirror image, it adds to the character of the neighborhood.

Board member Norcross asked for the zoning requirements for the area.

Josh Whitehead stated it was an R-10 zoning district and the minimum lot size was 10K sq. ft., minimum width was 60ft., minimum front yard setback was 20ft., minimum side yard setback was 10ft. and minimum back yard setback was 20ft.

Board member Colvett did not support the subdivision but stated if the application was approved to add 4 friendly amendments:

1. Approval from City Engineering for a waiver of payments in lieu of improvements to Poplar Ave.
2. A 5 yr. timeframe be put on all existing trees to be replaced if they die and
3. 30 days after City Council approval for existing homes be demolished
4. A 2 yr. timeframe to build 2 new homes on the lots.

Board member McCreedy made a friendly amendment to his motion to approved Case S 11-007 in accordance with staff's recommendation and the add the 4 friendly amendments fore-mentioned. The amended motion was seconded by Board member Norcross. The motion was denied with a vote of 1-8. Chairman Toles was the (1) one vote to approve the application.

Item 5: CASE #: SNC 11-801 (Companion Case SAC 11-603)

STONEBROOK COVE

Request for Street name change from Stonebrook Circle to Stonebrook Cove

Staff's Recommendation: Approval with conditions.

Chairman Toles asked if staff would present the case and if there were any opposition. There was opposition.

Chip Saliba gave a summary of staff report, reason for the renaming of the street due to the condition placed on the previous application that was approved in April 2011 to build a SAC circle turnaround for all lots to use in the area. Chip stated that the circle has turned into a Cove and recommended approval. He added that the UDC now permitted LUCB to approve street name changes unless it is appealed through City Council.

Chairman Toles asked the applicant of the case for comments.

Mr. Jay Caughman, a representative for applicant approached and stated his name and address as 166 International Drive. He stated that he was only in attendance to adhere to and support the staff's recommendation.

Chairman Toles asked the opposition of the case for comments.

Tess Carrier approached and stated her name and address as 3111 Stonebrook Cir., owner of API Photographers, Inc. She passed out a signed petition from 8 of the 9 business owners on Stonebrook Cir. and stated her opposition of the street name change was due to the thousands of dollars the other 9 business owners would have to incur to reproduce stationary, envelopes and invoices, time consumed with having to contact all of their vendors and other business

associates. She suggested a possible private gate at entrance of street and have the street remain named a Circle.

Chairman Toles asked the applicant of the case for his rebuttal comments. The applicant had none.

Chip Saliba stated the opposition mentioned some valid points and add that the change would not officially go into affect until about 3-6 months down the road until it is finally approved by the City Council.

Chairman Toles asked for a motion. Board member McCreery made a motion to approve Case SNC 11-801 in accordance to staff's recommendation. The motion was seconded by Board member Sharp.

Chairman Toles open the floor for board discussion.

The board discussion consisted of questions and concerns regarding the authority of the board to rename a street if it had not gotten prior approval from City Council and the reason for the name change. Chip stated that the reason for the name change was for 911 to have an accurate name if ever they were dispatched to the area. Since the board could not allow a name change until after City Council approves the circle turnaround, the Agenda Item was requested to be placed on hold by Board member Linkous until SAC 11-603 case get approval from council. It was also asked if posting a "Dead End" sign along with the current name would be an option. Jack Stevenson, City Engineer's Office stated it would have to be a "No Outlet" sign posted instead. Josh Whitehead gave examples of one street Manila which had been closed but is yet called Manila Ave. and Idlewild St. which dead ends into Catholic High. Josh felt that the emergency personnel could be easily notified of the name and location of the street.

There being no more discussion, Chairman Toles asked for a vote.

Board member McCreery amended his motion to place Case SNC 11-801 on hold for 30 days. The motion was seconded by Board member Colvett. The motion passed unanimously.

Item 7: CASE #: S 46-02

SHADY GROVE ROAD SUBDIVISION

Request to approve front yard setbacks as follows: 1) a reduction along Shady Grove Rd. from 75ft. to 73ft. and 2) a reduction along Colonial Rd. from 60ft. to 38ft.

Staff's Recommendation: Approval with conditions

Chairman Toles asked if staff would present the case and if there were any opposition. There was opposition.

Greg Love gave a summary of staff report, showed photos and reasons for the setbacks which was for the applicant to expand garage and allow more room getting to and from the car to the primary structure. He added that staff recommended approval with the conditions 1) materials and color used must match the existing structure and 2) the improvements must maintain the

character of the structure and neighborhood. Greg Love noted that he had received some letters of opposition.

Chairman Toles asked the applicant of the case for comments.

Jenny Yeates, a representative for applicant approached and stated her name and address as 556 Cherry Rd. She stated that the owners grew up in the home and would not do anything that would jeopardize the character of the neighborhood. She added they wanted to add value to the home with the expansion of the garage (3 cars), add storage room and small office space.

Chairman Toles asked the opposition of the case for comments.

Joe Kirkland approached and stated his name and address as 4795 Shady Grove Rd. He stated that he lives directly across from case property and that he was concerned about the encroachments that continue to mount up which could change the character of the area. He asked for the board to honor the setbacks established from 1945.

Chairman Toles asked for a motion. Board member McCreery made a motion to approve Case S 46-02 in accordance to staff's recommendation. The motion was seconded by Board member Wilbanks.

Chairman Toles open the floor for board discussion.

The board discussion consisted of questions and concerns from Board member Colvett regarding the possible re-design of the setbacks without re-designing the primary structure. Board member McCreery made the board members aware that the encroachment would not be 22ft., only be 5ft. due the already 17ft. encroachment that had existed for years. Board member Norcross stated he felt more justified to approve this case than the last case. Board member McCreery suggested to Mr. Kirkland to address his concerns to the BOA since their guidelines were different to base a denial/rejection of the setbacks.

Ms. Yates was allowed to address the board again. She stated after she spoke with the neighbors and explained that the setback was only going to be 5ft. instead of 22ft., they understood and seemed accepting.

There being no more discussion, Chairman Toles asked for a vote. The motion passed with a 8-1 vote. Board member Colvett voted to deny application.

DEFERRED AGENDA ITEM

Item 10: CASE #: P.D. 11-304CC SHELBY DRIVE/G'TOWN RD. PLANNED DEV.

Request of planned development amendment to allow one (1) retail bldg. in Area 'C' and to change the Concept Plan for remaining Areas 'A', 'B', & 'C' of the Outline Plan
Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present and if there were any opposition. There was no opposition.

Brian Bacchus gave a summary of staff report, showed photos, other sites in the surrounding area and reason for the application being before the LUCB again due to a notification error on the part of the applicant and an over-sight by staff. He noted that the applicant had satisfied the neighborhood notification policy and submitted revised plans that expanded past the 500ft. radius. He then mentioned the various amendments made to the P.D. since approval in 2008 and to match other developments in the area. Brian stated that condition for approval was for the site plan of the portion proposed to be Single Family attached or detached would come back for review and approval.

Chairman Toles asked the applicant of the case for comments.

Mr. Frank Shepherd with ETI Corp. approached and stated his name and address as 6799 Great Oaks Rd. and that he was in agreement with staff's recommendations and condition.

Chairman Toles asked the opposition of the case for comments.

Mr. Jonathan Hertz approached and stated his name and address as 7151 Pepper Mill Lane. He stated his concern was ETI developing apartments and multi-story structures in the area. He stated that ETI confirmed the development was going to be Single Family structures. He also stated and asked if the zoning was changed would it allow for future apartments and rental properties to be developed in the area.

Chairman Toles asked the applicant of the case if he had any rebuttal comments.

Mr. Shepherd reiterated that the development was only going to be Single Family structures, attached and detached.

Chairman Toles asked the board members for a motion. Board member McCreery made a motion to approve case P.D. 11-304 CC in accordance with staff's recommendation. The motion was seconded by Board member Wilbanks. The motion passed unanimously.

REGULAR AGENDA ITEMS

**Item 11: CASE #: P.D. 11-307 WINCHESTER-RIVERDALE PLANNED DEV.
Request of planned development WITH Commercial
Mixed Use-2 (CMU-2) uses.
Staff's Recommendation: Approval with conditions**

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

Mr. Lee Davidson with The Reaves Firm approached and stated his name and address as 5880 Ridge Bend Rd. and that he was in agreement with staff's recommendation and conditions.

Shelia Pounder made a friendly amendment to the conditions before the chairman asked for a motion. Her amendments from the staff report were in sections: (3.A.) dedication of Malco Way and (5.H.) timing of the Landscaping.

Chairman Toles asked the board members for a motion. Board member McCreery made a motion to approve case P.D. 11-307 in accordance with staff's recommendation and the two friendly amendments. The motion was seconded by Board member Sharp. The motion passed unanimously.

Item 12: CASE #: P.D. 11-308

THE STONE INSTITUTE PLANNED DEV.

Request for a small private medical office with a self contained pharmacy, a private art gallery/studio on the site
Staff's Recommendation: Approval with conditions

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

Ms. Brenda Solomito with Solomito Land Planning approached and stated her name and address as 2067 Kirby Parkway. She stated that she agreed with staff's recommendations and after a mutual agreement with staff, she wanted to make a friendly amendment to condition (2.C.) as follows: 1) the bldg. must be design on a residential scale, 2) there must be a pitched roof, 3) there must be a front door porch and 4) must contain some natural materials.

Chairman Toles asked the board members for a motion. Board member McCreery made a motion to approve case P.D. 11-308 in accordance with staff's recommendation and the agreed upon friendly amendment to condition (2.C.). The motion was seconded by Board member Norcross. The motion passed unanimously.

Item 13: CASE #: P.D. 11-310

BRIDGES PARKING LOT PLANNED DEV.

Request to legitimize the existing parking lot and add a future parking lot.
Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present and if there were any opposition. There was no opposition. Chairman Toles then recognized John Jones to present an amendment.

John Jones made a friendly amendment to the staff report on pg. 13, condition (4.D.) to state after the inclusion of a comma; "unless otherwise approved by the Office of Planning and Development".

Chairman Toles asked if the applicant agreed with staff's recommendation and friendly amendment.

Ms. Cindy Reaves with SR Consulting, LLC approached and stated her name, address as 5909

Shelby Oaks Dr., Suite 200 and that she agreed with staff's recommendation and friendly amendment.

Chairman Toles asked the board members for a motion. Board member McCreery made a motion to approve case P.D. 11-310 in accordance with staff's recommendation and the agreed upon friendly amendment to condition (4.D.). The motion was seconded by Board member Norcross. The motion passed unanimously.

**Item 14: CASE #: P.D. 11-311 DOLLAR GENERAL @ELVIS PRESLEY/ALCY RD.
Request for a Dollar General Retail Store.
Staff's Recommendation: Hold Item**

Chairman Toles asked if the applicant was present and if there were any opposition to staff's recommendation. There was opposition from the applicant. Chairman Toles then asked staff to present a staff report.

Gregory Love gave a summary of staff report, showed photos of the intersection, other businesses and residential structures, and he noted that the case was previously presented as a zoning case. He added that the applicant wants to include a residential parcel West of the site in his plan development. He then gave reasons for recommending to place the item on hold which was: 1) to get a better site plan that would address Elvis Presley better, 2) to find out who owes the land that fronts Elvis Presley and 3) redesign the curb cut since its too close to Elvis Presley.

Chairman Toles asked the applicant of the case for comments.

Mr. W.D. Porter, representing the applicant, approached and stated his name and address as 482 American Way. He gave a brief history of the Dollar General Stores and their intent to redevelop and revitalize some of the blighted neighborhoods. He stated reasons for the setback from Elvis Presley which was mostly due to safety concerns of its employees and customers entering and exiting the store. He noted that the land that fronts Elvis Presley is City owned property and his client does not have any deed or title of ownership. He also added that his client would not have a problem eliminating the curb cut if needed.

Chairman Toles asked the board members for a motion. Board member McCreery made a motion to approve case P.D. 11-311. The motion was seconded by Board member Norcross.

Chairman Toles opened the floor for board discussion and asked Greg Love if he was recommending a PUD instead of a Zoning case and if there could be a condition based on the ownership of the land fronting Elvis Presley.

Greg responded saying that with it being a zoning case, Land Use could not impose any type of conditions or implement any encroachments to the setback. He added that if the small piece of land is owed by the applicant, it would be implemented into the site plan.

Board member McCreery stated that the board should review only the details and site plan

submission from the applicant. He felt the Planner's suggestions to what the structure should be or look like were irrelevant, especially when the applicant had successful models all over the country.

Mr. Sam Ware requested if he could address the board. Chairman Toles stated that he could. He then stated his name, that he was a Developer for Dollar General and his current residence in Coldwater, MS. He stated that he had built 12 of the Dollar General 21 stores in Memphis and after speaking with the VP of Dollar General; they refused to bring the structure closer to Elvis Presley and to model the Family Dollar stores.

Board member McCreery made a motion to disregard case P.D. 11-311 with an amendment to reinstate the original case Z 11-103. The motion was seconded by Board member Wilbanks. The motion passed unanimously. Then Board member McCreery made a motion to approve case Z 11-103. The motion was seconded by Board member Wilbanks. The motion passed unanimously.

**Item 15: CASE #: SUP 11-207 NW CORNER OF SOUTHERN AND ELLSWORTH
Request a convenience store with gasoline sales.
Staff's Recommendation: Approval with conditions**

Chairman Toles asked if the applicant was present and if there were any opposition to staff's recommendation. There was opposition. Chairman Toles then asked staff to present a staff report.

Chairman Toles asked if staff would present the case and if there were any opposition. There was opposition.

Shelia Pounder gave a detailed summary of staff report, showed zoning map, showed photos of site and site plans as well as other adjacent properties. She stated the location of site property as being in the University of Memphis area. She stated that in 1978, BOA approved an encroachment in the front for gas pumps and the applicant would like for it to remain. She recommended approval with the following conditions: 1) no signage within 20ft of zoned residential parcels, 2) no free standing vents, 3) use of compatible material above canopy, and 4) restricted lighting on site. She stated that even though the application was rejected in 2010, the applicant had submitted a better site plan design that warrants approval and within the guidelines of the University District Overlay and Unified Development Codes. Lastly, she noted some issues staff and applicant needed to work on before going before Council, which was 1) making the streetscape compatible along Southern & Ellsworth, 2) deleting one curb cut and 3) submission of a detail bldg. elevation along Southern.

Chairman Toles asked the applicant of the case for comments.

Mr. John Leake, represented the applicant, approached and stated his name and address as 318 Midland St., Somerville, TN. He stated the willingness of his client to continue to work with OPD, City Engineering and Zoning to develop a new site that would enhance the area. He

stated that the bldg. material that would be used would be similar if not the same. He also addressed and had solutions to some of the issues that the opposition had concerns about regarding the noise, screening and traffic.

Chairman Toles asked the opposition of the case for comments.

Three residents (Jane Carroll, 546 Ellsworth; Verlinda Henning, 405 Ellsworth; and Cecil Humphreys, 144 Cherokee Dr.) from the area spoke in opposition and all of their concerns centered on the applicant not being in compliant with the University District Overlay and Unified Development Codes. All had concerns about the adverse effects the store and reopening the gas station would have on the neighborhood, students and its residents. The major issues were the traffic, safety and the site plan being compatible to the character of the neighborhood. They also mentioned the applicant's failure to comply with the City after having its Occupancy Permit rescinded.

Chairman Toles asked the applicant's representative of the case for rebuttal comments.

Mr. John Leake restated that the design was to adhere to the District's Overlay requirements which he felt has been met.

Chairman Toles asked the board members for a motion. Board member McCreery made a motion to approve case SUP 11-207. The motion was seconded by Board member Colvett.

Board member Colvett asked the applicant if there were any intentions on selling alcohol, being open 24/7 and had notice been received to terminate operation from the City.

Mr. Hussan approached and stated his name and address as 411 N. Mendenhall. He added that there was no intent to sell alcohol, the store hours would be from 6am until 10pm, and the letter the City sent out, went to the wrong address.

Mr. John Walpole from Code Enforcement approached and stated that Codes did issue a Certificate of Occupancy which the applicant failed to comply with but the certificate had not been revoked or rescinded. He added that the applicant had been given notice to come into compliance.

Board member Colvett made a friendly amendment to the conditions in the staff report as follows: 1) the store hours be set from 6am until 10pm and 2) landscaping screen be increased from Buffer 3 and approved by OPD between the site property, the Montessori School and the City Fire Station.

Chairman Toles asked the board members for a vote on the motion and the friendly amendment. The motion and amendment was denied unanimously.

Item 16: CASE #: S.U.P. 11-208CC SE SIDE OF HWY 51; 2,900FT. SW OF WORTHAM
Request for a special permit to allow a communications

tower (199) ft. in height with capacity to accommodate a minimum of four antennas
Staff's Recommendation: Approval with conditions

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

Mr. Tony Stewart with AT&T approached and stated her name and address as 604 Lambert St. in South Carolina. He stated that he agreed with staff's recommendation and requested to make an amendment to condition (3.B.) to state to pave a minimum width of 12' and only the first 50' in length from ROW and the remainder 650' gravel road.

Chairman Toles asked the board members for a motion. Board member McCreery made a motion to approve case S.U.P. 11-208 CC along with the friendly amendment to pave a minimum width of 12' and only the first 50' in length from ROW and condition (3.A.) the curb cut be approved by TDOT. The motion was seconded by Board member Wilbanks. The motion passed unanimously.

Item 17: CASE #: Z 11-104

NW CORNER OF PENDLETON ST. & BRANDON CIR.

Request for Civic District to allow Group Living for an Assisted Living Facility.

Staff's Recommendation: Approval

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

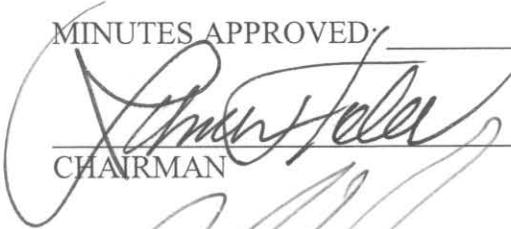
Mr. Jeff Old with the Pickering Firm approached and stated his name and address as 6775 Lenox Center Court and that he agreed with staff's recommendation.

Chairman Toles asked the board members for a motion. Board member McCreery made a motion to approve case Z 11-104 (formerly SUP 11-206) in accordance with staff's recommendation. The motion was seconded by Board member Wilbanks. The motion passed unanimously.

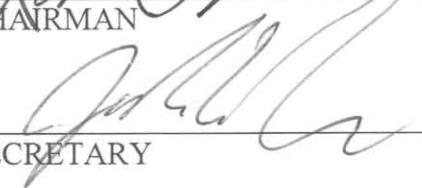
ADJOURNMENT:

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

MINUTES APPROVED: _____



CHAIRMAN



SECRETARY

