

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: May 12, 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 Willis were 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 Shelia Pounder.

Others Present:

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.

Consent Agenda (Items 1-5)

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.

Item Summary – Consent Agenda (Items 1-5)

1. CASE NUMBER: S 11-005
DEVELOPMENT NAME: CLEABORN HOMES HOPE VI SUBDIVISION
Request: 10 Lots and 2 Common Open Space Lots for Multi-Family and Townhouse Dwelling Units with an accessory use Community Center
Staff's Recommendation: Approval with (16) conditions and (2) waivers.

2. CASE NUMBER: P.D. 90-312
DEVELOPMENT NAME: RIDGEWAY TRACE PLANNED DEVELOPMENT
Request: Site Plan Approval for a retail building along Poplar Avenue on Lot 5
Staff's Recommendation: Approval with conditions.

3. CASE NUMBER: P D 00-368
DEVELOPMENT NAME: KATE BOND COMMONS PLANNED DEVELOPMENT
2ND AMENDMENT
Request: Requesting a change to the previously recorded PUD to reflect changes to the signs listed on the Kate Bond Commons P D (pictorial changes only)
Staff's Recommendation: Approval with conditions.

4. CASE NUMBER: PD 02-354 CC
DEVELOPMENT NAME: OFFICES OF SOUTHWIND PLANNED DEVELOPMENT
Request: 1) Modify existing attached sign requirements to permit a maximum letter height of 40 inches where a maximum of 24 inches is currently required for Baptist Memorial Medical Group; 2) Modify existing detached sign requirements to permit an additional ground-mounted sign for Baptist Memorial Medical Group where only one is currently permitted
Staff's Recommendation: Reject Pt. 1 and approve Pt. 2

5. CASE NUMBER: P.D. 08-331 CC
DEVELOPMENT NAME: IRENE WOODS PLANNED DEVELOPMENT
Request: Modify Outline Plan Conditions III. A. to remove requirement for full urban improvements to Forest-Hill Road and III. C. to clarify requirement to completely dedicate and improve the north/south collector road in Phase 1-Final Plan adjacent to Area 1 of Forest Creek Planned Development, 2nd Amendment
Staff's Recommendation: Approval

Discussion Summary – Agenda Items 1, 3 and 4 were pulled for discussion. Board Member McCreery made a motion to approve Consent Agenda Items 2 and 5. The motion was seconded by Board Member...(?). The motion passed unanimously.

Pulled Consent Agenda (Items 1, 3 and 4) for discussion

Chairman Toles called for the first Consent Agenda Item case.

Item 1: Case # S 11-005

CLEABORN HOMES HOPE VI SUBDIVISION

Request for 10 Lots and 2 Common Open Space Lots for Multi-Family and Townhouse Dwelling Units with an accessory use Community Center

*Board member Norcross recused himself from this case.

Chairman Toles asked if staff would present the case.

Chip Saliba requested that the representative for the applicant would speak regarding the issue in which the opposition was concerned. Charlie Go forth with Barge, Waggoner, Sumner and Cannon, a representative for the applicant approached and stated his name. He continued making reference to the sewer at the St. John Baptist Church which is tied in with the Cleaborn Homes units. He noted that the units were in the process of being demolished and the new construction of unit's sewer line would not be tied in with the church.

Chairman Toles asked those in opposition of the case for comments.

Mrs. Leola Bond approached and stated her name and address as 640 Vance Ave. (the address of the church). After listening to Mr. Go forth, she stated that she would not have come to the meeting to speak in opposition. Mrs. Bond mentioned letters she had sent to the City as well as the developers but had not gotten any response. She added that just most recently (Aug. 2010), the church had been experiencing sewer backup in the basement of the church and representing the church, they wanted to know what consideration the developers had for the ongoing sewer issues.

Chairman Toles asked if the representative for the applicant would like to comment and/or answer the question.

Christopher Triplett approached, stated his name, and acknowledged that he did receive the letter Mrs. Bond referenced. He also reiterated that he felt the church's sewer problems would be resolved once the units are demolished and the current sewer lines are detached and the new sewer lines are redirected and unattached to the church.

Chairman Toles recommended to the developers to work closely with the Mrs. Bond and the church to keep them aware of progress of the sewer lines.

Chairman Toles asked for a motion.

Board member McCreery made a motion to approve Case S 11-005 in accordance with staff's recommendation. The motion was seconded by Board member Pritchard. The motion passed unanimously.

Item 3: Case #P D 00-368

**KATE BOND COMMONS PLANNED
DEVELOPMENT 2ND AMENDMENT**

Chairman Toles asked if the applicant was present and if there was anyone from the general public in opposition to the case. There was no opposition only a friendly amendment.

Norcross made a friendly amendment to the staff's recommendation to include the language, "if the owner/applicant changes the digital sign or the type of sign, and would be required to come back before City Council and the LUCB for approval".

Chairman Toles asked for a motion.

Board member McCreery made a motion to approve Case P D 00-368 in accordance with staff's recommendation as amended. The motion was seconded by Board member Pritchard. The motion passed unanimously.

Item 4: Case # PD 02-354 CC OFFICES OF SOUTHWIND PLANNED DEVELOPMENT

*Board member McCreery recused himself from this case and requested for Board member Pritchard to make the motion in his stead.

Chairman Toles asked if the applicant was present and if there was anyone from the general public in opposition to the case. There was opposition present.

Chairman Toles asked if staff would present the case.

Chip Saliba gave a summary of staff report, location of proposed signage and showed photos of the signage. Chip addressed first the attached signage request and noted the required maximum size letters is 24" in height which other commercial buildings surrounding case property are in compliance. He felt that anything larger would be overpowering, not appropriate and not needed for the area or building. He then addressed the detached signage request for signage along Winchester Rd. He noted that the Planned Development allowed for one detached sign that cover 150 sq. ft. He pointed out the existing detached sign, West of the bldg. covers a 120 sq. ft area. He stated that Baptist wanted to add a detached sign (5' wide and 6.5 tall) East of the bldg. He added that the sign was smaller than general office zoning size which is 35 sq. ft. max. area and 16 ft. in height and it would not distract from the area or building. He stated that staff recommends rejection of the attached signage and approval of the detached sign. He also requested that if the board approves the detached sign, that a condition be added for no LED or digital lettering and no movement component for the sign.

Chairman Toles asked if the applicant had any comments.

Mr. Chris Haskins approached and stated his name, representing Frank Balton Sign Co. and his address as 5385 Pleasant View Rd. He added that he felt Chip Saliba had presented what his client was requesting but would still like for the board to consider the 40" lettering for the attached sign.

Chairman Toles asked if there was anyone present to speak in opposition of the case.

Mr. Dole Sullivan approached and stated his name and that he was representing several neighborhood associations surrounding the case property. He stated that he agreed with staff's recommendations for the attached sign. He also stated that the 6.5ft. tall monument detached sign is not needed for the area, it would create an obstruction of view, looking from the left side pulling out onto the street and become a safety hazard.

He continued saying that after checking with Code Enforcement, the current sign, "Learn To Dance" is an illegal sign that has not received a permit. He noted that recently, after inspectors had been out to the site, they had turned off the signage electricity. He states that the major objection was to avoid roadside sign clutter.

Chairman Toles asked if the applicant had any comments for his 2 min. rebuttal.

Luke Hill approached and stated his name and that he was In-house counsel representing Bapt. Medical Group, a subsidiary of Bapt. Memorial Healthcare. He stated that his client's concern was mostly with the monument detached sign which he wanted the board to consider approving. He stated that Forest Hill Family Practice was chosen because Baptist was forming a partnership with the practice and wanted signage adequate to show that merge and the listing of physicians on staff to serve the community.

Chairman Toles asked for a motion.

Board member Pritchard made a motion to approve Case PD 02-354 CC in accordance with staff's recommendation as amended. The motion was seconded by Board member Trenholm.

Josh Whitehead recommended separate motions for the attached signage and the detached signage.

Motion #1: - Attached Sign

Board member Pritchard made a motion to approve Case PD 02-354 CC of the enlarged lettering from 24" to 40" on the attached sign in accordance with staff's recommendation. The motion was seconded by Board member Wilbanks. The motion passed unanimously. The enlarged lettering was denied due to staff recommending rejection.

Motion #2: - Detached Sign

Board member Pritchard made a motion to approve Case PD 02-354 CC of the detached sign, in accordance with staff's recommendation and that a condition be added that no LED or digital lettering and no movement component would be associated with the sign. The motion was seconded by Board member McCreery. The motion passed unanimously. The detached monument sign was approved.

REGULAR AGENDA ITEMS

Item 6: Case # SE 11-01

COTTON MILL APARTMENTS

Request for a special exception to allow a 51' tall bldg. where maximum is 35' permitted by Medical Overlay Height Map. Staff recommended approval.

Chairman Toles asked if the applicant was present and if there was anyone from the general public in opposition to the case. There was opposition present.

Chairman Toles asked if staff would present the case and give staff report.

Don Jones gave a summary of staff report, showed aerial and location of site property that had a

frontage on Monroe and Union Ave. and showed photos of the site plan approved by BOE in 2008. He also presented the Medical Overlay Height Map, pointing out two areas. Area 2 which allowed for additional height from 80' to 128', depending on the location and Area 3 which allowed for a maximum of only 35' for Monroe. He added that due to various issues, the bldg. permit was not obtained by applicant after BOA's approval in 2008 in which it was required within one year from the date of approval. Don Jones continued stating that since the Unified Development Code had been approved and deals with issues of height as a special exception, it was more feasible to present the case to the LUCB now for approval. He noted that the application had been placed on hold until the applicant and opposition met to come to a mutual agreement on the design. He stated it was a successful meeting and that the opposition requested to flip the design to allow the front door/entrance be on Monroe. He added that was also a condition added to the staff report.

Chairman Toles asked if the applicant had any comments.

Cindy Reaves approached and stated her name, representing S R Consulting and her address as 5909 Shelby Oaks Dr., Suite 200. She stated that the site had been difficult and they were at a point ready for financing plus have met all requirements even those not typically required for the property.

Chairman Toles asked if there was anyone present to speak in opposition of the case. He also reminded them of the total time of 5 min. allotted.

Beth Flannigan approached and stated her name, her address as 20 S. Dudley and that she represented most of the major institutions in the area. She stated that it took them 3 years to put the Overlay in place and don't want to see someone to start chipping away at it.

Mike Murphy approached and stated his name and address as 7895 Clara Forest Dr. He also stated a lot of time and money was spent on the Overlay and now someone wants a variance for height that he felt strongly would set precedence and change the nature and character of the area.

Mike Todd approached and stated his name, address as 629 Monroe and that he represented the Edge Neighborhood Association. He stated that he wanted to work with the applicant but also wanted to follow the guidelines. He felt that the foundation and drilling required for a 51' bldg. would injure and damage the surrounding properties. He also stated that his concerns were parking traffic through the alley and the gutters from 51' that would dump water onto the sidewalks and street that would prevent people from walking pass.

The owner of Foreign Deli, which owns property surrounding the case property also stated his concern for structural damage to his building if the event of the foundation and drilling required for a 51' building.

Chairman Toles asked if the applicant had any comments for a 2 min. rebuttal.

Cindy Reaves approached again and stated that all of the cases that had gone before BOE within the Overlay needed some type of variance. And since the UDC has been adopted, cases

now go before LUCB. She continued saying that she also wanted to invest in the neighborhood. She introduced Mark Denton, the architect for the project and Shaun Green one of the developers on the project.

Shaun Green approached and stated his name and address as 4925 Cherry Tree Rd. He stated that he was surprised of the opposed feedback because the project would be a stepping stone for the growing Midtown area. He gave numerous reasons why they were behind with the project and did not obtain the building permit needed. He then also responded to the opposition's concerns for the additional height and pile lines; stating that either of their concerns would not make a difference if the building was 30', 40' or 50'. Shaun noted that the he and his partners could not afford to prolong the project or flip the design and that the additional homes would be a plus for the surrounding businesses.

Chairman Toles asked for a motion.

Board member Pritchard made a motion to approve Case SE 11-01 in accordance with staff's recommendation as amended. The motion was seconded by Board member Sharp.

Chairman Toles asked Ms. Reaves if any mechanical equipment would be on the top of the flat roof. Marcus Denton replied there would be equipment on top but not visible from the street.

Chairman Toles noted that one of the conditions from staff was to shift/flip the design for the front entrance to be on Monroe and wanted to know if it was possible.

Marcus Denton stated his name and address as 1052 Oakhaven Rd. He stated that there were two elevations for the project. One was for Monroe for a pedestrian and Brownstone look that fits the neighborhood and the other to appeal to the residence by install the 2-Story Glass entrance area in order to kill the backdoor look. He added that to get the application approved, he felt the owner would be willing to comprise.

Chairman Toles asked Don Jones to clarify what the recommended condition was again.

Don Jones stated it was to have to same front entrance elevation design flipped to the Monroe street side.

Board member Norcross asked the applicant how did the floor to floor height measurement and how were the trees going to be protected and maintained.

Marcus Denton responded saying the trees will not be disturbed and the Monroe side of the building had to be raised from street level which projects each floor 12 ft.

Board member Pritchard stated that she thought the building would bring an infusion of activity and it was very appropriate for the area.

Board member McCreery stated that he understood Mr. Green's economics but he was not convinced that the project was the best for the area. He added that he agreed with Ms. Flannigan about the UDC and stated that if it continues to be chipped away, it's not going to mean anything later. He was also concerned about a few other issues that were not resolved with the project.

Chairman Toles asked for a roll call for the vote.

Colvett – yes, Featherstone – yes, Linkous – no, McCreery – no, Norcross – no, Pritchard – yes, Sharp – yes, Trenholm – no, Wilbanks – yes and Toles – yes. The motion passes with a 6 to 4 vote.

Item 7: Case # UV 10-12

North side corner of Tant Rd. & I-240

Request for a use variation for outdoor contractor storage and recycling of building materials.

Staff recommends rejection.

Greg gave a summary of the staff report similar of last's month's report. His concerns again were the noise, debris and the continued traffic of the big trucks in and out of the driveway. He also stated that he did meet with the applicant and they had agreed upon some conditions but his recommendation yet remains denial of the application.

Chairman Toles asked if the applicant had any comments.

Mr. Kevin Farmer approached and stated his name and address as 2190 Tant Rd. He stated that he felt like he could continue to store items for his business on the site without disturbing or disrupting his surrounding neighbors or take away from the neighborhood. He added that the conditions we fair and workable for him.

Chairman Toles asked for a motion from the board.

Board member Pritchard made a motion to approve Case UV 10-12 with the agreed upon conditions. The motion was seconded by Board member Wilbanks.

Board member Pritchard congratulated staff and the applicant for coming a mutual agreement with the conditions.

Chairman Toles wanted clarity for the property being sited by the TN Dept. of Environmental Conservation for having materials at the site that was not allowed.

Greg Love responded saying it was sited but was not sure of the exact materials involved. He added that the within a 30 day period, the property was cleaned up and the citation was removed.

Board member Colvett stated that the request is not compatible with the neighborhood and he was concerned about future complaints. He added that he was not in favor of the application.

Board member Wilbanks stated that she drove by the site and the applicant seemed in compliance with the area and the neighborhood.

Chairman Toles then asked for a roll call vote on the motion. The motion passed with a 8-2 vote. Chairman Toles and Board members Pritchard, Sharp, McCreery, Linkous, Featherstone, Norcross, Wilbanks voted YES and Board members Trenholm and Colvett voted NO.

Item 8: Case # P.D. 11-304 CC

Shelby Dr. /Germantown Rd. Planned Development, 4th Amendment

Request for planned development amendment to allow one retail building in Area C and to change the Concept Plan for remaining Areas A, B, & C of the Outline Plan.
Staff recommends approval with conditions.

Chairman Toles asked if the applicant was present and if he agreed with staff's recommendation.

Ralph Smith approached and stated his name and address as 6799 Great Oaks Rd. and that he agreed with staff's recommendation.

Chairman Toles asked if there was anyone from the general public in opposition to the case. There was no opposition.

Chairman Toles asked for a motion.

Board member Pritchard made a motion to approve Case P.D. 11-304 CC in accordance with staff's recommendation. The motion was seconded by Board member Sharp. The motion passed unanimously.

Item 9: Case # SUP 11-204 CC

North side of Macon Rd. across from Big Orange Rd.

Request for outdoor recreation (Golf Driving Range).
Staff recommends approval with conditions.

Chairman Toles asked if the applicant was present and if he agreed with staff's recommendation.

Henry Minor approached and stated his name and address as 7068 Ledgestone Commons, Bartlett, TN and that he agreed with staff's recommendation, except for condition #8. He stated that the same sewer line on the South side of Macon Rd. that the upstream properties were using would remain the same. He said they had no intentions of extending a sewer line through the site when one already exists.

Greg Love stated that he had been waiting on information regarding the sewer line from the City Engineering office but after Mr. Smith's comments, he suggested to remove condition #8.

Chairman Toles asked if there was anyone from the general public in opposition to the case. There was no opposition.

Chairman Toles asked for a motion.

Board member Pritchard made a motion to approve Case SUP 11-204 CC in accordance with staff's recommendation as amended to remove condition #8. The motion was seconded by Board member Wilbanks. The motion passed unanimously.

Item 10: Case # SUP 11-205

North side of Stage Rd. +/- 346 ft. West of Tena Drive

Request for Daycare (Childcare Center, 13 or more children).
Staff recommends approval with conditions.

Chairman Toles asked if the applicant was present and if he agreed with staff's recommendation.

David Bray approached and stated his name and address as 2950 Stage Rd. and that he agreed with staff's recommendation.

Chairman Toles asked if there was anyone from the general public in opposition to the case. There was no opposition.

Chairman Toles asked for a motion.

Board member Pritchard made a motion to approve Case SUP 11-205 in accordance with staff's recommendation to approve with conditions. The motion was seconded by Board member Trenholm. The motion passed unanimously.

Item 11: Case # SUP 11-206 **North side of Stage Rd. +/- 346 ft. West of Tena Drive**
Request for Daycare (Childcare Center, 13 or more children).
Staff recommended to holding case for 30 days.

Chairman Toles asked if the applicant was present and if he agreed with staff's recommendation.

Jeff Olge approached and stated his name and address as 6775 Lenox Court and that he agreed with staff's recommendation.

Chairman Toles asked if there was anyone from the general public in opposition to the case. There was no opposition.

Chairman Toles asked for a motion.

Board member Pritchard made a motion to approve Case SUP 11-205 in accordance with staff's recommendation to hold case for 30 days. The motion was seconded by Board member Wilbanks. The motion passed unanimously.

Item 12: Case # SE 11-03-CC **Macon Golf Driving Range**
Request to increase height limits above the permitted in the base district or on an officially adopted height map.
Staff recommends approval with conditions.

Chairman Toles asked if the applicant was present and if he agreed with staff's recommendation.

Chris Thompson approached and stated his name and address as 1823 Dragonfly Cove, Apt. 63, Germantown, TN and that he agreed with staff's recommendation.

Chairman Toles asked if there was anyone from the general public in opposition to the case. There was no opposition.

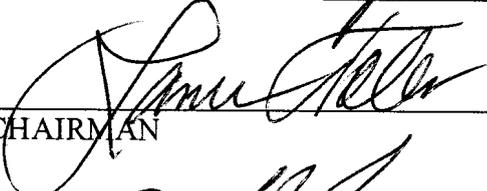
Chairman Toles asked for a motion.

Board member Pritchard made a motion to approve Case SE 11-03-CC in accordance with staff's recommendation. The motion was seconded by Board member Trenholm. The motion passed unanimously.

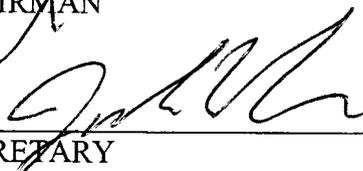
ADJOURNMENT:

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

MINUTES APPROVED: June 9, 2011



CHAIRMAN



SECRETARY