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: January 12, 2012

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	Margaret Pritchard	X	
Member	Robert Norcross	X	
Member	Mary Sharp	X	
Member	Emily Trenholm	X	
Member	Lisa Wilbanks	X	
Member	Rosalyn 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. Josh Whitehead called the roll. There was a quorum.

LUCB Staff: Josh Whitehead, Secretary of Land Use Control Board, Brian Bacchus, Don Jones, Gregory Love and Chip Saliba.

Others Present: David Baker, Joseph Baker, Kathy Baker, Diane Baldi, Andrew Bender, Scott Bjork, Berlin Boyd, Gene Bryan, Clay Culpepper, Jack Delaney, Jay Easter, Gregory Grant, Ken Johnson, Kathryn Kabel, John Lee, Lee Miller, Jack Parker, Cindy Reaves, Gerald Reynolds, Ralph Smith, Bob Sweeney, Judson Te Paske and Lou Wardlaw.

Chairman's Opening Remarks
Chairman Toles read the General Order of the Public Hearing proceedings and the Conflict of Interest Statement.

Secretary's Report

Request:	Remove the existing 10-foot wide landscape/conservation easement along the north property line of Lot 5 to allow a pool, pool deck, arbor, landscaping and retaining wall with fence
Staff's Recommendation:	Rejection

5. CASE NUMBER:	**PD 06-358**
DEVELOPMENT NAME:	**BROWN PLANNED DEVELOPMENT**
Request:	Request removal of time limit (February 1, 2012) for "mulch production"
Staff's Recommendation:	Approval with conditions

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

Pulled Consent Agenda (Items 3, 4, and 5) for discussion
Chairman Toles called for the first Consent Agenda Item case.

Item 3: CASE #: SNC 11-802 **DR. MARTIN LUTHER KING, JR. AVENUE**
Request for a street name change from Linden Avenue to Dr. Martin Luther King Jr. Avenue
Staff's Recommendation: Approval.

Chairman Toles asked if the applicant was present and if there were any opposition. There was opposition.

Chairman Toles asked if staff would present the case.

Josh Whitehead gave a brief summary of the staff report, the origin for the name change via a Resolution from City Council and the process that it takes to officially change the name of a street in the City of Memphis. He showed aerial pictures of the proposed stretch of street to be renamed and various other structures and businesses in the area. Josh also noted support from Father Tim of St. Patrick Catholic Church and from the Pastor of Pentecostal Temple Institutional COGIC, Pastor Charles Harrison Mason Patterson. Josh some gave historical factual significance of the area and of Clayborn Temple Church, Mason Temple and Beale Street. Josh then read the resolution from City Council supporting the case for a permanent street name change. He also presented three (3) friendly amendments to the conditions for approval: 1) the street name be extended West to Wagner; 2) the physical print name of the street be shorten to Dr. M. L. King, Jr. Ave. and 3) for City Council to submit a Phase II modification to the Resolution to extend the street further eastward from Danny Thomas to Somerville. Josh expressed that all parties involved in the case, including the feasible time for print from the sign company, would like to see the street signs in place prior to April 4, 2010, the anniversary date of Dr. King's assassination.

residents/property owners near the case property site. He stated also that the owners felt it would set precedence if the landscape/conservation easements was removed which would compromise the rural character of the neighborhood. Norman recommended rejection of the application due to the existing 10ft. wide landscape/conservation easement is a violation and does not meet the 30ft. requirement. He did state a compromise/condition to application if the owners would redesign the layout of the pool, remove some of the improvements that would allow the planting of trees.

Chairman Toles asked if the applicant or representative for the case would come forward.

Cindy Reaves approached the LUCB, stated her name and address as 5909 Shelby Oaks Dr., Ste. 200. She stated that the pool was not intentionally set in place to disturb or remove trees but to preserve the trees located on another part of the site property. She requested an approval of an 8ft. encroachment easement for the site property as well as for 3 other properties in the area.

Chairman Toles asked those in opposition for the case would come forward.

Clay Culpepper, Attorney for The Parkers, approached the LUCB, stated his name and address as 1000 Ridgeway Loop Road, 38120. Mr. Culpepper made the board aware that the applicant did contact his clients prior to the installation of the pool and even wanted to purchase some of their land but they declined. He also mentioned that due to significant drainage issue, they were currently in litigation. He added that there was even significant encroachment currently within 18" to his client's property line. He continued saying that the approval of the application would set precedence for other property owners to do the same. Mr. Culpepper then stated that since they had not seen any compromise or redesign to consider, he asked that the LUCB reject the application.

Chairman Toles asked if the applicant or representative for the case would like time for a rebuttal.

Cindy Reaves re-approached the LUCB and stated that had never offered to purchase land from The Parkers or an opportunity to present a compromise. Cindy stated that she was willing to compromise by moving the arbor out of the landscape/conservation easement, encroach the pool and landscaping and continue with the plan.

Chairman Toles asked the LUCB for a motion for board discussion. Board Member McCreey made a motion to approve case PD 04-316 CC. The motion was seconded by Board Member Pritchard.

Board member Linkus mention the comment from the opposition that they were not presented any compromise to consider but would be willing to entertain a compromise. He added if that were the case, he suggested putting the case on hold until the parties met with a compromise.

Cindy Reaves requested that the LUCB did not hold the case due to the length of time it would take to get the case before the board again. She also asked if the LUCB would approve that the compromise be authorized by staff instead of having to come back before the LUCB.

Discussion Summary

Board member Colvett felt the site plan was okay as is for approval especially using a reputable &

Item 6: CASE #: SUP 11-213 **9334 WALNUT GROVE AT REDDIT ROAD**
Request for a Dog Daycare.
Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present and if there were any opposition. There was opposition.

Chairman Toles asked if staff would present the case.

Gregory Love restated the applicant's request and gave a presentation of his staff report. He showed sit map of the case property and its zoning. He showed an aerial of the property site and the distance of site from the nearby residential subdivision. Greg added that there were a lot opposition regarding the Dog Daycare and that the concerns were the traffic, noise and environmental issues. He stated that the applicant had addressed traffic and noise issues and stated the alternatives that would be taken if approved.

Chairman Toles asked if the applicant would approach and state their and address for the record.

Jay Easter approached and stated his name, address as 3009 Davis Plantation and Kathryn Kabel stated her name, address as 2961 Mallard Lane. Mr. Easter stated the concern with the school had been addressed regarding the drop-off and pickup times. Ms. Kabel stated that all requirements had been met with City Engineering office for approval of a Special Use permit to be allowed and every effort would be kept to maintain the property's residential character.

Chairman Toles asked those in opposition for the case would come forward.

Joseph Baker approached and stated his name and address as 9405 Walnut Grove Rd. which is located on the South side of Walnut Grove Rd. He opposed the application due to the heavy and dangerous traffic and the alleged noise that would be a nuisance to the retired families.

Kathy Baker approached and stated her name and address as 9445 Walnut Grove Rd. She opposed the application due to the heavy and dangerous traffic. She added due to the dangerous traffic, she had witness death in her front yard as well as a neighbor's daughter who suffers from permanent back problems from being hit by a car trying to make a left turn.

Judson Te Paske approached and stated his name and address as 9426 Rocky Hills Dr. He opposed the application due to the rezoning would be permanent as well as the heavy and dangerous traffic. He also read a letter of opposition submitted by Carolyn Brooks, a resident unable to attend the meeting. Per Ms. Brooks' letter, she requested for no future development to be approved in the area until improvements be made to the roadway.

Gerald Reynolds approached and stated his name and address as 840 Rocky Hills Cv. He opposed the application due to the heavy and dangerous traffic and expressed to the LUCB to make a decision for the safety that would impact human lives.

WASHINGTON AVE. & W TO DANNY THOMAS
Request for an expansion of existing Group Shelter.
Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present and if there were any opposition. There was opposition.

Chairman Toles asked if staff would present the case.

Don Jones gave a summary of the staff report. He showed a map and aerial view of the location of the subject property (Union Mission). Don noted various land/zoning uses of various properties and vacant lots near the subject property. Don suggested to the LUCB to consider the site plan's Zoning & Titlement and if it meets the Medical District's Overlay and Center Business District requirements. He stated that staff feels that the site plan is an appropriate setting and could handle any operation issues. Don added that Mr. Smith wanted to make a friendly amendment to Condition #4 regarding the location of the gate onto Washington Ave.

Chairman Toles asked if the applicant would approach and state his name and address for the record.

Ralph Smith approached and stated his name, address as 6799 Great Oak Rd. He mentioned that the area was in a depressed state, especially on Washington due to no curbs and sidewalks that needed repair. He went on to state all of the redevelopment the area, subject property needed and the infrastructure and streetscape improvement needed which would cost approximately a total of $250K.

Scott Bjork, the President & CEO of Union Mission approached and stated his name, address as 383 Poplar Ave. Mr. Bjork gave a brief history of the shelter, how vital the mission is and how it serves the community to those in need. He stated all of the inadequacies the facility currently has and how the expansion would benefit the growing number of the homeless around the location.

Chairman Toles asked the opposition to come forward and state their comments.

Lou Wardlaw, representative for Wendy's Restaurant approached and stated his name and address as 6410 Poplar Ave. He opposed the application due to the increase and density of the establishment. He noted that he residents leave the mission during the day and stated that would cause an influx of even more daytime loitering on the premises of the surrounding businesses. He also read the noted requirements the UDC had set forth for the special use permit for the area.

Jack Delaney approached and stated his name and address as 668 Poplar Ave. He stated that is law office is located very close to the subject property and that he agrees with the comments from Mr. Wardlaw.

Andrew Bender approached and stated his name and address as 382 Washington Ave. He stated that the area was urban blight and if approved that the City would patrol the area more and make it as decent as possible.

Chairman Toles asked if the applicant would like to rebuttal.

Chairman Toles asked if the LUCB were ready to vote on the motion. The motion passed unanimously.

Item 10: CASE#: SUP 11-222 **E OF N. SEVENTH ST.; +/-146FT. S OF WELLS ST.**
Request for a Special permit to allow fifty (50) multifamily residential homes for the elderly.
Staff's Recommendation: Hold for 30 days

Chairman Toles asked if the applicant if the recommendation to hold agreed upon. The applicant stated it was.

Chairman Toles asked if the LUCB for a motion to hold the case for 30 days. Board Member Pritchard made a motion to hold case SUP 11-222 for 30 days. 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: 2-10-12

CHAIRMAN

SECRETARY