



CITY APPOINTEES
 MARY SHARP, VICE CHAIR
 BERLIN BOYD
 RUSTY LINKOUS
 MARGARET PRITCHARD
 JAMES TOLES

MEMPHIS AND SHELBY COUNTY
LAND USE CONTROL BOARD

EST. 1922 AS MEMPHIS PLANNING COMMISSION - REORGANIZED IN 1976
 JOSH WHITEHEAD, AICP, SECRETARY
 CITY HALL - 125 N. MAIN ST., STE. 466 - MEMPHIS, TENNESSEE 38103 - (901) 576-6619



COUNTY APPOINTEES
 JON MCCREERY, CHAIR
 ROBERT NORCROSS
 EMILY TRENHOLM
 LISA WILBANKS
 ROSLYN WILLIS

MINUTES
February 9, 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: Homer Brannon, Dedrick Brittenum, Lou Casterman, Derek Davis, Sadre Dweik, Beth Flanagan, Eddie Hayes, James Henderson, Jeremy Laudenbeck, Allen Long, Bill Maler, Phyllis Napier, Jack Parker, Charles Perkins, Cindy Reaves, James Russell, Delinor Smith, Brenda Solomito, Jud TePaske, Gary Thompson, Allan Wade and Christopher Walton.

Chairman's Opening Remarks

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

Secretary's Report

No report.

Approval of Minutes: January 12, 2011

Board Member Jon McCreery made a motion to approve the minutes with the noted corrections. Board Member Pritchard 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 1-10 were read. Chairman Toles also explained the procedure for hearing the Consent Agenda Items. He then introduced Board Member Jon McCreery to be the Subdivision Chair and to read the Consent Agenda Items.

Consent Agenda (Items 1-10)

- 1. CASE NUMBER:** S45-01
DEVELOPMENT NAME: CHANDLER'S DUNROVIN SUBDIVISION
Request: Reduction in the required side yard setback from 30 feet to 5 feet.
Staff's Recommendation: Approval
- 2. CASE NUMBER:** S 07-009 CO
DEVELOPMENT NAME: AVILLA SUBDIVISION
Request: Two-year time extension to complete the subdivision containing a total of fifteen (15) lots for single-family dwellings.
Staff's Recommendation: Approval with conditions
- 3. CASE NUMBER:** S 11-018
DEVELOPMENT NAME: CLEABORN HOPE IV SUBDIVISION, SEC. 2-3 & 4A
Request: Revisions to a ten-lot residential subdivision previously approved by the Land Use Control Board on 05/12/11 for townhouses and multiple-family dwellings
Staff's Recommendation: Approval with conditions
- 4. CASE NUMBER:** S 11-019
DEVELOPMENT NAME: ST. TIMOTHY SUBDIVISION
Request: Two (2) lots
Staff's Recommendation: Approval with conditions
- 5. CASE NUMBER:** PD 88-391
DEVELOPMENT NAME: G'TOWN GREEN PLANNED DEVELOPMENT, PHASE I
Request: Expand parking lot south of existing retail building to add ninety-two (92) parking spaces
Staff's Recommendation: Approval subject to Conditions

6. CASE NUMBER: PD 04-316 CC
DEVELOPMENT NAME: BUCKLAND PLANNED DEVELOPMENT, LOT 5
Request: Remove the existing 30-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

7. CASE NUMBER: PD 04-340 CC
DEVELOPMENT NAME: HACK CROSSING PLAN'D DEVELOPMENT, 2ND AMNMT
Request: Permit the following in conjunction with the construction of a Fred's Dollar Store:
1) Allow site lighting with a pole height of 25 feet and a concrete pole base of 2 feet, 6 inches where a maximum pole height of 15 feet is currently required; and
2) Permit an additional curb cut
Staff's Recommendation: Approval

8. CASE NUMBER: PD 07-302
DEVELOPMENT NAME: WINDOVER PARC PLANNED DEVELOPMENT
Request: Revised House Elevations
Staff's Recommendation: Approval

9. CASE NUMBER: Z 88-173
LOCATION: EASTSIDE OF SYCAMORE VIEW RD. 854' S OF RALEIGH-LAGRANGE RD.
Request: Modify condition IV of the Sycamore C-P plan (1) to amend the landscaping installation for Phase II from Plate A-2 to A-1 along Sycamore View Road, and (2) to defer the installation of Landscaping Plate B-4, modified, along the east property line until such time residential development occurs on the adjoining property.
Staff's Recommendation: Approval

10. CASE NUMBER: Z 88-173
LOCATION: ST. TIMOTHY SUBDIVISION
Request: Modify condition IV of the general plan to defer the landscaping installation along the east property line to a residential development to provide Plate A-1 occurs on adjoining property along Sycamore View.
Staff's Recommendation: Rejection

Discussion Summary –Consent Agenda Items 2, 4 and 6 were pulled for discussion. Board Member McCreedy made a motion to approve Consent Agenda Items 1, 3, 5, and 7-10. The motion was seconded by Board Member Pritchard. The motion passed unanimously.

Pulled Consent Agenda (Items 2, 4, and 6) for discussion

Chairman Toles called for the first Consent Agenda Item case.

Item 2: CASE #: S 07-009 CO AVILLA SUBDIVISION

Request for two-year time extension to complete the subdivision containing a total of fifteen (15) lots for single-family dwellings.

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.

Norman Saliba gave a brief summary of the staff report which included the location (Grey's Creek area) and size (42 acres) of the property. He showed aerial pictures of the property and an aerial map. He shared a brief history of prior work the applicant had done that was granted approval by LUCB in 2007 for a 15 lot subdivision but due to the economic downfall, the project was put on hold. Norman noted that some site improvements had been done and now the applicant is asking for a two (2) time extension to complete the project.

Chairman Toles asked if the applicant would come forward and state his name and address.

Gary Thompson with Boyle Investment approached and stated his name and address as 5900 Poplar Ave. He then stated that there were no changes made to the previous (2007) application but just needed an extension to complete the improvements.

Chairman Toles asked if the opposition for the case would come forward.

James Russell approached and stated his name and that he and his family owned 4 acres of property located at the Northeast corner that borders the case property. He stated that his concern was with the size of the lots. He recommended that all of the lots be 4 acres, not 2 and that the structure setback be 60ft. each from property lines.

Chairman Toles asked if the applicant would like to rebuttal.

Gary Thompson approached and stated that the public notice process was carried out by the LUCB and resizing the lots was not in the plan. He asked the LUCB to consider that the site plan was approved as is in 2007 and since no changes had been made with current application to grant approval just for the time extension.

Chairman Toles asked for a motion.

Board member McCreery made a motion to approve case S 07-009 CO in accordance with staff's recommendation for the two (2) year extension. The motion was seconded by Board Member Pritchard. The motion passed unanimously.

Item 4: CASE #: S 11-019

ST. TIMOTHY SUBDIVISION

Request for two (2) lots.

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 gave a brief summary of the staff report which included the location (Raleigh-Millington Rd. & St. Elmo) and size (4.5 acres) of the property. Gregory mentioned various areas near site property and the zoning (mix of Commercial & Single Family) for each area. He showed aerial pictures of the property and an aerial map. He stated the current use/occupancy of the site was St. Timothy Church and Parsonage. He explained the intentions of the applicant for the subdivision which was to subdivide the 4.5 acre site into two independent lots; one for the church and the other for a home. He added that future plans for the site were to sell the parsonage and continue to operate as a church. He showed photos of the relationship of the church and single family residence. Gregory then stated the recommended conditions for approval: 1) there be a Class II Landscape Buffer between the two (2) lots and 2) sidewalks be installed along Ral-Millington Rd. and in front of the church. He also noted that the applicant was in agreement with the conditions.

Chairman Toles asked if the applicant would come forward and state his name and address.

Jeremy Laudenbeck with Laudenbeck Survey approached and stated his name and that was representing the applicant. He then stated that the church has ceased to use the residence as a parsonage and they want to divide the lot to possibly sell the property with the residence. He also noted that he was in agreement with the stated conditions.

Chairman Toles asked if the opposition for the case would come forward.

Phyllis Napier approached and stated her name and that she just wanted to know where the houses were going to be built. She stated she was concerned about her privacy on her property since it adjoins the site property.

Chairman Toles asked if the applicant would like to rebuttal.

Jeremy Laudenbeck approached and stated that there will be no houses built on either of the properties. He added that the subdivide would only allow for the church (3.9 acres) to exist independently from the other property (17,633 sq. ft.) around the existing parsonage with no changes.

Chairman Toles asked for a motion.

Board member McCreery made a motion to approve case S 11-019 in accordance with staff's recommendation. The motion was seconded by Board Member Pritchard. The motion passed unanimously.

Item 6: CASE #: PD 04-316 CC BUCKLAND PLANNED DEVELOPMENT, LOT 5

Request Remove the existing 30-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

Recommendation: Rejection

Chairman Toles asked if the applicant was present and if there were any opposition. There was opposition. Chairman Toles also made the LUCB aware that the applicant requested a "hold" on the application for 30 days.

Norman Saliba stated that the case was presented on last month and placed on hold in hopes of the applicant and opposition to meet to come up with a compromise but they were unsuccessful and that is why the applicant requested another 30 days to meet again with the opposition.

Norman then stated that the opposition wanted the LUCB to hear the case again and act on it then and not wait another 30 days. Norman stated that he was fine with a 30 day hold but if case was heard then, staff's recommendation would be to reject the application.

Chairman Toles asked what was the expected goal/compromise with holding the case for 30 days.

Norman stated the applicant had presented information for review to the opposition, such as a Drainage Study and made some concessions on the changes to the plan. In turn, the opposition does not feel that was enough detail data to reach a compromise. Norman felt that at this point, there would not be a compromise due to the lack of specific information shared with the opposition to prevent any further impact on the opposition's property.

Chairman Toles asked if staff would present the case.

Norman Saliba stated that he had more to add to what has already been discussed unless any Board Member wanted to see specific photos, maps, etc.

Chairman Toles asked if the applicant would come forward and state her name and address.

Sadre Dweik, the daughter of the applicant approached and stated her name and clarified that they were not asking for the removal of the easement but encroachment of 5ft. She stated that the Conservation Easement was set by the Homeowners Assn. of Buckland Subdivision, in which the President approved their site plan. She noted that they received the opposition's concerns and responded to them all but has yet heard back from them. Sadre stated that the major issue has always been with the drainage and they proposed a drainage plan which projected a decrease in the water flow. She went on to state other concerns and requests from the opposition and that those concerns and requests were addressed and agreed upon but they had failed to respond back. She stated that the opposition requested from the applicant to specify the species, size and location of every tree that was going to be planted as well as the fencing to be installed and that

was information they did not know of or have at that time. She added that they compromised to have 10ft. greenery but did not see the significance of knowing all of the specifics. Sadre did question why the concern was targeted towards their property, with it being three (3) other properties in the subdivision with the same site plan. She mentioned the letters of support from residents in the Buckland Subdivision as well as residents from Fallen Creek, the subdivision where Jack Parker (who is in opposition) lives.

Chairman Toles asked if the opposition for the case would come forward.

Jack Parker approached and stated his name and address as 285 Paulie St. He stated that he disagreed with what the applicant's daughter had stated. He listed some of the issues he had with the site plan such as the current encroachment that is 10ft. and the pool permit being issued in error. He then stated that he felt the pool should be relocated outside the conservation area. He requested that the LUCB accepts staff's recommendation and reject the application to build on a Conservation Easement.

Jud TePaske approached and stated his name and address as 9406 Rocky Hills Dr., Cordova, TN. He stated there was a meeting with the applicants after the last LUCB meeting to seek a compromise. He added that the applicants did produce a revised site plan. He then stated in lieu of the encroachment, the applicants should provide some litigated treatment such as landscaping and choice of fence. He went on to say that the applicants had been very hesitant about provide the requested information; the drainage information only related to a retention basin, not a drainage plan. He noted that he does not feel another 30 days would get them any closer to a compromise.

Chairman Toles asked if the applicant would come forward for a rebuttal.

Sadre Dweik begun by saying that the opposition agreed to the retaining wall and the deck was pre-existing which they had already made smaller. She reiterated that they do not know the type of trees at the time but they know they would fill the 10ft. area with greenery. She stated regarding the fence, it would be determined by the Property Owner's Association. And lastly, she gave reasons why there was no other location on the property for the pool and that the curtain pipe had been inspected, approved and advised not to move for the operation of the septic tank system.

Chairman Toles asked for a motion for LUCB discussion.

Board member McCreery made a motion to approve case **PD 04-316 CC** in accordance with staff's recommendation. The motion was seconded by Board Member Pritchard.

LUCB DISCUSSION:

Chairman Toles clarified that the applicant was allowed to start and near completion of the pool with an authorized permit. Board Member McCreery asked Mr. Parker what was his #1 issue and Mr. Parker stated it was 1) the drainage that points at his property right into the walking trail, 2) encroachment and 3) appropriate landscaping consistent with rural area between his property line and the pool. Mr. Parker expressed strongly, he would like to have a commitment to alleviate the

drainage concern. McCreery suggested to Sadre Dweik to consider adding landscaping as a backdrop, eliminate the deck and no fire pit. Ms. Dweik stated that she would make a concession on behalf of her father to resolve the issue. Board Member Colvett stated in order to move forward, get approval and to resume construction, the applicants have an approved Drainage Plan, approved Landscaping Plan and approved Wall Plan.

Board Member McCreery made a friendly amendment to the motion on the floor which states *"the applicant must submit a revision of plans that would eliminate the deck, fire pit and anything north of the pool coping, hire a Landscape Architect to create a 14ft. landscaping screen/plate/buffer behind the pool and hire a licensed Engineer to resolve the drainage issue. The plans must be submitted to OPD within 30 days and the opposition has 10 days to respond"*. The friendly amendment was seconded by Board Member Pritchard. The motion along with the friendly amendment passed unanimously.

REGULAR AGENDA ITEMS 11-20

Chairman Toles introduced Board Member Libby Pritchard to serve as Zoning Chair.

Item 11: CASE #: S.U.P. 11-222 East side of N. 7th St.; +/-146ft. South of Wells Street
Request for a Special use permit to allow fifty (50) multifamily residential homes for the elderly.
Staff's Recommendation: Approval with conditions

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

Delinor Smith approached and stated his name and address as 3831 Lakehurst Dr. He requested an amendment to the conditions for the utility poles along the sidewalk remain and be allowed to work around the issue.

Chairman Toles asked if the staff was agreement with the request.

Brian Bacchus stated that the applicant was referring to Condition (3.a.): *"to dedicate 8ft. of additional ROW along N. 7th St. to accommodate street trees consistent with the required design of Bear Water Park Subdivision"*. He stated that the applicant was willing to maintain the existing sidewalk with curb and gutter and place a 13.5ft. landscape screen between a new sidewalk located within the 30ft. front yard setback.

Chairman Toles asked if the applicant was in agreement with staff's clarification and the required design front yard setback for the subdivision. The applicant stated he understood the clarification and was in agreement with the setback.

Chairman Toles asked for a motion.

Board member Pritchard made a motion to approve case S.U.P. 11-222 in accordance with staff's recommendation and the requested amendment. The motion was seconded by Board Member Linkous. The motion passed unanimously.

Item 12: CASE #: P D 11-322

MTL COMMERCIAL PLANNED DEVELOPMENT

Request for a wood chipping and processing operation.

Staff's Recommendation: Rejection

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

Homer Brannon approached and stated his name and address as 999 S. Shady Grove Rd. He requested a 30-day "HOLD" to address some of the issues from Pastor James Henderson that was presented to him upon his arrival to the LUCB meeting.

Chairman Toles stated that he wanted to allow Pastor Henderson to briefly address the Board.

James Henderson, Pastor of Abundant Life Fellowship Church and where Zoe Christian Academy is housed, approached and stated his name. He stated that the Getwell Business Assn. met and expressed great concern about the impact a wood chipping and processing operation would have on the Delta Medical Center located 800ft. from the case property. Pastor Henderson stated the main concern was the environmental impact. He requested a 90-day "HOLD" on the application in order for an Environmental Study and Air Quality Study be conducted. The association wanted to see the impact the facility would have on the community where there are churches, a hospital and residents who may be exposed to harmful elements.

Chairman Toles asked if the applicant would come forward for a rebuttal.

Homer Brannon approached and stated he felt 30-days were enough time for him to meet with the concerned residence to work out a compromise and address their concerns. He added that the area is zoning Commercial which his proposed business falls within the guidelines since all he would be doing is chipping wood.

Chairman Toles suggested to Mr. Brannon to definitely meet with the neighborhood association so they could get a good understanding of his proposed plans and to conduct the Air Quality and Environmental Study. Chairman Toles then asked for a motion of a 30-day "Hold".

Board member Pritchard made a motion to on case P D 11-322 to "HOLD FOR 30-DAYS. The motion was seconded by Board Member Sharp. The motion passed unanimously.

Item 13: CASE #: P D 11-323

THE RACQUET CLUB OF MEMPHIS

Request to add tennis court, outdoor restrooms, concessions, redesign of pool area, and reduction in required parking spaces.

Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present, in agreement with staff's recommendation and with the conditions.

Brenda Solomito approached and stated she was in agreement with the conditions.

Chairman Toles then asked for a motion.

Board member Pritchard made a motion to approve case **P D 11-323** in accordance with staff's recommendation. The motion was seconded by Board Member Norcross. The motion passed unanimously.

Item 14: CASE #: P D 11-324

AEROTROPOLIS PLANNED DEVELOPMENT

Request for Planned development to allow Employment (EMP) District land uses, including warehouse and distribution within the Outline Plan.

Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present, in agreement with staff's recommendation and with the conditions.

Cindy Reaves approached and stated her name and address as 5909 Shady Oaks Dr., Ste.200 and that she was in agreement with staff's recommendation.

Chairman Toles asked if there were any opposition to the case. There was none but he asked staff to present the staff report.

Brian Bacchus gave a brief summary of the staff report which included the location (old Mall of Memphis site, demo in 2004) and size (133 acres) of the property. He showed aerial pictures of the property and an aerial map as well as the of the property owners within area who received public notices. Brian noted that he had received two letters of support for the proposed project. He showed sample photos of other distribution buildings. He also noted that the applicant had two option site plans: Option 1 – 1.5 million sq. ft. of Office/Warehouse Development with 32% of land area and Option 2 – 1 million sq. ft. of Office/Warehouse Development with 32% of land area. He went on to note language change for two conditions: Condition (1.c.) – strike “limited to” add “except” and Condition (2) – delete the remainder of the language after “shall apply”. He added that he and the applicant would discuss more about Condition (1.b.) regarding the maximum number (3) of buildings.

Chairman Toles stated that he received cards from the general public and assumed they did not want to speak. He also suggested to Cindy Reaves to meet with the residents/opposition and see what the issues or concerns were and address them so they would have a clear understanding of the proposed plan.

Ms. Reaves stated she would be willing to meet with any of the residents/opposition to discuss matters further.

Chairman Toles then asked for a motion.

Board member Pritchard made a motion to approve case **P D 11-324** in accordance with staff's recommendation and as amended. The motion was seconded by Board Member Wilbanks.

Chairman Toles asked if there were any board discussion.

Board Member McCreery stated he was not concerned with the number of buildings rented but more with the rentable sq. footage. He then requested to offered a friendly amendment that stated, "that the site would have up to 1.2 million of rentable sq. ft." instead of limiting the applicant to three (3) buildings.

Brian Bacchus stated he was concerned with the orientation of the buildings and its mass. He added that he was not in opposition of either changing the language or deleting the condition.

Board Member McCreery asked Ms. Reaves if she had any issues with deleting the condition. She stated that she did not and suggested letting the site dictate the amount of buildable/rentable area.

Chairman Toles then asked for a motion.

Board member Pritchard made a motion to approve case **PD 11-324** in accordance with staff's recommendation and a friendly amendment to delete Condition (1.b.) and add language to Condition (2) to read: "*the bulk regulation of the (EMP) District shall apply except a maximum sq. footage shall be 1.2 million sq. ft.*" The motion was seconded by Board Member Wilbanks. The motion passed unanimously.

Item 15: CASE #: S.U.P. 11-223 South side of Egypt-Central Road; +/-185 feet west of Raleigh-Millington Road

Request for Special permit to allow communications tower one-hundred seventy (170) feet in height with capacity to accommodate a minimum of five (5) antennae

Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present, in agreement with staff's recommendation and with the conditions.

Lou Katzerman approached and stated his name and address as 409 Viscount Ave. He stated that he would like to modify some of the conditions:

1. Change the height of the tower to 135ft., after receiving information from FAA that only allows for 135ft.
2. Instead of flush-mount antennae to use a platform type of antenna
3. Allow the site to remain in the location as proposed
4. Allow 15ft. landscaping screen be deleted so trees don't get cut down in order to plant new trees.

He added that he was in agreement with the remainder of staff's recommendations but request board approval for the above mentioned modifications.

Chairman Toles asked staff if they were in agreement with the modifications.

Brian Bacchus stated he does not agree with deleting the landscaping screen condition. Mr. Katzerman mutually agreed to a 10ft. landscaping screen along the West side and 5ft. around the rest of the property.

Chairman Toles then asked for a motion.

Board member Pritchard made a motion to approve case S.U.P. 11-223 in accordance with staff's recommendation as mutually amended to change height of tower to 135ft. The motion was seconded by Board Member Colvett. The motion passed unanimously.

Item 16: CASE #: S.U.P. 11-224 West side of Boston Street (427 Boston), 175 feet north of Midland Avenue
Request for a Group daycare and playground (8-12) children
Staff's Recommendation: Approval with conditions

Chairman Toles asked if the applicant was present, in agreement with staff's recommendation and with the conditions.

Rev. Bill Maler approached and stated his name (address was not recorded due to installing Tape II.).

Chairman Toles then asked for a motion and if there was any board discussion. There was no discussion.

Board member Pritchard made a motion to approve case S.U.P. 11-224 in accordance with staff's recommendation. The motion was seconded by Board Member Linkous. The motion passed unanimously.

Item 17: CASE #: Z 11-112 South side of Highway 64; +/-1,200 feet east of Chambers Chapel Road
Request to Reconfigure Parcel boundaries to rezone a portion of Parcel 87 from Conservation Agriculture (CA) to Commercial Mixed Use-3 (CMU-3) and a portion of Parcel 88 from Commercial Mixed Use-3 (CMU-3) to Conservation Agriculture (CA) to better utilize this property
Staff's Recommendation: Approval

Chairman Toles asked if the applicant was present, in agreement with staff's recommendation and with the conditions.

Derek Davis approached and stated his name and address as 11003 Hwy. 64 and that he agreed with staff's recommendation.

Chairman Toles then asked for a motion and if there was any board discussion. There was no discussion.

Board member Pritchard made a motion to approve case Z 11-112 in accordance with staff's recommendation. The motion was seconded by Board Member Linkous. The motion passed unanimously.

Item 18: CASE #: Z 11-114

Northwest corner of North Bellevue and Smith Avenue
Request for Commercial Mixed Use -3 (CMU-3) District
Staff's Recommendation: Rejection

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

Chairman Toles asked staff to present the staff report to the LUCB.

Brian Bacchus gave a brief summary of the staff report which included the location (NW corner of Smith Ave. & N. Bellevue) and size (.03 acres = 13K sq. ft.) of the property. He showed various aerial views/pictures of the property (1289 Bellevue), zoning map and stated that 130 the property owners within the area received public notices. He stated the he had received one (1) letter and one (1) phone call of opposition. He went on to say that staff recommended rejection of rezoning from CMU-1 to CMU-3 because it would put a burden on adjacent property owners for uses that would be more intense than what the current CMU-1 zoning allows; it does not benefit the transitioning that's much in need to be revitalized neighborhood in a positive manner; and it does not promote the concept of a sustainable neighborhood. Brian added that the application was presented to the LUCB approximately 20+ months ago and ended going before City Council where the main motion for re-zoning was rejected.

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

Dedrick Brittenum, a representative for the applicant, approached and stated his name and address as 6465 Quail Hollow Rd., Ste. 103. He clarified that the City Council vote was a tie (6-6 vote). He then stated that he would allow Jud TePaske to present comments in his stead for the case.

Jud TePaske approached and stated his name and 9406 Rocky Hills Dr., Cordova, TN. He stated that with the departure of Firestone and Harvester the neighborhood had been declining ever since and the interstate devastated to the area. He explained that the neighborhood had not been any rehabilitation of commercial business or new businesses introduced. He stated that the only thing that has been happening was business structures being demolished and nothing put in its place, just left a vacant lot. He then added that if the current zoning has not been good for the past 35-40yrs., why would anyone believe that it's the zoning of choice to try to move forward and revitalized the neighborhood. Jud mentioned the property owner across from the case property misunderstood the proposed rezoning and thought it would cover his property and it would not, so in turn, he felt his opposition was out of fear not as a legitimate concerned of Mr. Walton's proposed business. He lastly added that Mr. Walton cannot do what he does at the location and need the change of zoning in order to expand his business and provide incentives to occupy his remaining two (2) properties.

Christopher Walton, the applicant & owner of CDW Services, approached and stated his name. He stated there was a need in the community for an alternative low cost place for people to purchase materials (used/refurbished cabinets & appliances) to do upgrades on their homes. He made mention of the support (business partners) for his project from Pastor Ivory Swindle from DTR Ministries, Rev. W.R. Jimerson from Southside MBC and Curtis Boone from CSC Furniture

and Appliances. He added that he wanted to do his part as a business owner to help revitalized what once was a thriving community that he has been a part of for the past 49 years.

Chairman Toles asked if the opposition for the case would come forward.

Eddie Hayes with the New Chicago CDC approached and stated his name and address as 1036 Firestone. He stated that his concern with the change of zoning would allow for the construction of a billboard. He noted that the current zoning only allow for billboards adjacent to interstates. He added that he would like comments from Brian Bacchus as to what would prevent the applicant from moving forward with redeveloping the neighborhood and operating his business as he sees fit under the current zoning. He also stated higher commercial uses nor were billboards conducive to residential development due to being an eye-sore and unfavorable messages posted on them.

Jud TePaske approached and stated that the proposed plan is to have a billboard. He said the billboard will fuel the revitalization/rehab of the building and the items sold in the building are much needed in the area. He referenced that the application was before the board in 2009 and since then, no development or anyone has presented a better plan. He felt the proposed plan would fuel adequate neighborhood services, opposing what staff noted it would not do. Jud added that the project would be using private sector funds to rehabilitate an inner city area and fueled by the income of the billboard. He closed stating there was a petition circulated during a neighborhood picnic where they obtained 94 signatures of support.

Chairman Toles then asked for a motion and if there was any board discussion.

Board member Pritchard made a motion to approve case Z 11-114 in accordance with staff's recommendation. The motion was seconded by Board Member Wilbanks.

Chairman Toles stated that he was familiar with the area and agrees with Mr. TePaske in that no development or redevelopment has taken place and would like to see Mr. Walton expand his shop. He also stated that there were no neighbors present in opposition of the application. He felt he could support the application and even allow for the billboard. He then asked Brian Bacchus if he had any problems with the billboard.

Brian stated that the billboard was permitted under the ordinance approved by City Council, however New Chicago CDC and the Office of Planning & Development does not recommend a billboard be placed in close proximity of single family homes. He added it would be a precedence set that would rezone the whole stretch of N. Bellevue that and also open up the neighborhood for land uses that would not conform to a neighborhood setting. He noted that the state does not recognize Planned Developments for billboards.

Josh Whitehead gave options to the LUCB suggesting that the rezoning for the area could occur with prohibiting billboards.

Jud TePaske was allowed to approach and he appealed to the board of why they should be allowed to post the billboard.

Board Member Trenholm stated that she disagreed with the comments from the Mr. TePaske. She stated that the billboard would be inappropriate for the area and allowing “inappropriate” development was not better than “no” development.

Chairman Toles then asked for a roll call vote for the motion to approve with staff’s recommendation of rejection. The application failed with an 8 to 1 vote. Board Members Colvett, Linkous, McCreery, Norcross, Pritchard, Sharp, Trenholm and Wilbanks voted “Nay” to reject and Chairman Toles voted “Aye” to approve.

Item 19: CASE #: ZTA 12-001 Request to Adopt amendment to the Memphis and Shelby County Unified Development Code
Staff’s Recommendation: Approval

Chairman Toles asked if the applicant was present and in agreement with staff’s recommendation.

Josh Whitehead approached and stated his name and mentioned that he was representing the administration. He stated discussed in the Executive Session, he was presenting a set of zoning amendments to the UDC which is a redraft of a 30yr. zoning code. He went on to say that roughly every 30yrs., zoning codes and subdivision regulations are revisited to be updated and adopted. He made the board aware that there were no amendments to the 1981 zoning code document and that was cause for his request to adopt the amendments he was presenting. He added that within the drafted document, there were some separate County and City Code Provisions that would be presented as companion cases of the ZTA to both City Council and County Commission. Josh stated that the Provisions addressed old zoning districts and/or language conflicting with the UDC. He gave a 15+ mins. presentation that listed the changes, explained the clauses, terms and need for the changes. He also noted that the entire document with the changes was posted on the City website LUCB’s page and a blog setup on the County website to enable the public to comment on the changes.

Chairman Toles asked for a motion.

Board member Pritchard made a motion to approve case ZTA 12-001 in accordance with staff’s recommendation. The motion was seconded by Board Member Wilbanks.

Chairman Toles then asked if there were any comments from the general public.

Allen Long approached and stated his name and address as 12003 Cranston Drive, Arlington, TN. He thanked Josh Whitehead for meeting with the residents/group in his area and working with them on Section 4.7 of the UDC. He added that his group was happy the proposed amendments.

Charles Perkins approached and stated his name and address as 284 German Oak, Memphis, TN. He stated that his attorney’s office represent several clients who were in favor and support the changes.

Beth Flanagan with Memphis Medical Center approached and stated her name and address as 20 S. Dudley. She requested more time to review the proposed document. She stated that the Medical Center Overlay had spent 3yrs. and thousands of dollars putting it in place. She added

that they had not had a chance to meet with OPD to discuss the document, only receiving a public notice regarding the current meeting. She felt the current rules and regulation in the Overlay should stay in place and that they have currently have \$1.4 billion underway in development. She added that there are some “tweets” they would like to spend a lot more time on.

Chairman Toles then asked if there were any discussion from the LUCB members.

Board Member Emily Trenholm stated that she would like to make a motion to recommend a “HOLD” for the agenda item in order to review the document. She stated that she was time sensitive with staff but would like another meeting with more attendance from the residents and/or those who would be most affected in the Medical Center Overlay.

Chairman Toles seconded the motion. He also stated that it was a lot of information and agreed that more time is needed to review.

Chairman Toles asked for a vote on the motion made to “HOLD” the agenda item for 30 days. The motion passed unanimously.

Item 20: CASE #:

ANNEXATION OF GRAY’S CREEK AREA
REQUEST AN ORDINANCE TO EXTEND THE
BOUNDARIES OF THE CITY LIMITS OF THE CITY
OF MEMPHIS BY VIRTUE OF PROVISIONS OF
CHAPTER 113 OF THE PUBLIC ACTS OF THE
GENERAL ASSEMBLY OF THE STATE OF
TENNESSEE FOR 1995, AS AMENDED BY
ANNEXING GRAY’S CREEK AREA STUDY AREA
AND ASSIGNING SAID AREA TO A COUNCIL
DISTRICT

Staff’s Recommendation: Approval

Chairman Toles asked if the applicant was present and in agreement with staff’s recommendation.

Josh Whitehead made the LUCB aware that Attorney Allan Wade would address the agenda item.

Allan Wade approached and stated his name, position (City Council Attorney) and address as 125 N. Main St. He gave the location, area size (26 sq. miles), population (17K), households (6K) and reason for the annexation which had been recently been publicized. He stated that the City wanted to adopt a Plan of Services for the area and before the plan could be adopted, it would have to be submitted to the LUCB for a recommendation. He noted that the statute gives the LUCB 90-days to make a recommendation and the strict time restraints the City is under. He mentioned the County had set a second (2nd) reading on Feb. 14th and probably a third (3rd) reading for March 6th. He explained that the March 6th date allow time for publication of the Plan of Services 15-days prior to its approval. Mr. Wade added that the Plan of Services presented had met the required State Law and the elements regarding public safety and utility. He stated that the Plan of Services provide for immediate provision of public safety (fire and police), utilities (MLG&W), sewer which is not going to be extend to the area immediately but allow the private services to continue as proposed and street lights which is not going to be imposed since the

residence are in opposition of them. He concluded saying the Plan of Services also recommends that the City would provide essential services to a level needed as the population density increased.

Chairman Toles asked if there were any comments from the general public. There were none. He then asked for a motion.

Board member Pritchard made a motion for approval and advancing the Gray's Creek Plan of Services to the next appropriate legislative body. The motion was seconded by Board Member Wilbanks. The motion passed unanimously.

Board member Pritchard wanted clarity if Board member Trenholm had suggested to "hold" the Bridgewater Annexation Plan of Services until the next meeting since it was just received.

Josh Whitehead responded that he had spoken with Mr. Wade and the Bridgewater Annexation Plan of Services was being added to the same Ordinance as with the Gray's Creek Plan of Services.

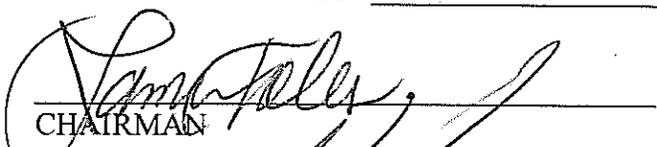
Board member Pritchard made a motion to add Bridgewater Annexation Plan of Services with the same Ordinance of Gray's Creek Plan of Services and advance both to the next appropriate legislative body. The motion was seconded by Board Member Wilbanks. The motion passed unanimously.

ADJOURNMENT:

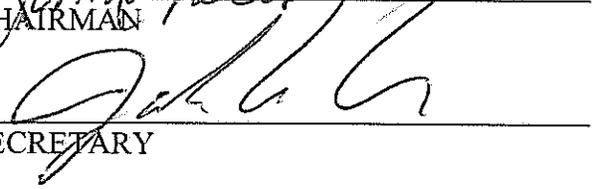
There being no further business, the meeting there upon adjourned.

MINUTES APPROVED: _____

March 8, 2012



CHAIRMAN



SECRETARY