



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 - REDORGANIZED IN 1976

JOSH WHITEHEAD, AICP, SECRETARY

CITY HALL - 125 N. MAIN ST., STE. 468 - MEMPHIS, TENNESSEE 38103 - (901) 576-6619



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

**MINUTES**  
**December 13, 2012**

**Meeting Attendance**

**LUCB Board Members**

OFFICERS/MEMBERS	NAME	PRESENT	ABSENT
Chairman	Jon McCreery	X	
Vice Chairman	Mary Sharp	X	
Member	Berlin Boyd	X	
Member	Rusty Linkous	X	
Member	Margaret Pritchard	X	
Member	Robert Norcross	X	
Member	James Toles	X	
Member	Emily Trenholm	X	
Member	Lisa Wilbanks	X	
Member	Rosalyn Willis		X

**Call to Order and Roll Call**

Chairman McCreery called the meeting to order at 10:00 a.m. Josh Whitehead called the roll. There was a quorum.

**LUCB Staff:** Josh Whitehead, Brian Bacchus, Don Jones, Gregory Love, Terry Langlois, Calvin Abram and Norman Saliba.

**Others Present:** Belinda Bodie, Ronald Harkavy, Tsega Igwebe, Cindy Reaves, Brenda Solomito, David Townsend and LaToya Weaver.

**Chairman's Opening Remarks**

Chairman McCreery read the General Order of the Public Hearing proceedings and the Conflict of Interest Statement. He also noted the new Mission Statement on the Agenda and advised the Board to read it at their convenience.

**Secretary's Report**

Josh Whitehead did not have a Secretary's Report.

**Approval of Minutes: November 8, 2012**

Board Member Pritchard made a motion to approve the minutes. Board Member Norcross seconded the motion. The motion passed unanimously.

**General Order of Public Hearing**

Chairman McCreery 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 thru 7 was read. Chairman McCreery also explained the procedure for hearing the Consent Agenda Items. He then introduced Board Member Norcross to be the Subdivision Chair and to read the Consent Agenda Items.

**Consent Agenda (Items 1-7)**

- |                          |   |
|--------------------------|---|
| <b>1. CASE NUMBER:</b>   | <b><u>S 26-01</u></b>   |
| <b>DEVELOPMENT NAME:</b> | <b><u>CHICKASAW GARDENS SUBDIVISION</u></b>   |
| Request:                 | Permission to erect a screened porch encroaching 6 (six) feet into the required 40 (forty) foot setback along Goodwyn Avenue. Also to allow a reduction in the required setback along Tilton Road from 40 (forty) feet to approximately 38 (thirty-eight) feet to justify the existing residence. |
| Staff's Recommendation:  | Approval with conditions  |
| <b>2. CASE NUMBER:</b>   | <b><u>S.U.P. 06-206 CC</u></b>  |
| <b>DEVELOPMENT NAME:</b> | <b><u>TOWER VENTURES</u></b>  |
| Request:                 | Add a 4' Diameter Dish to the Existing Cell Tower   |
| Staff's Recommendation:  | Approval with revised conditions  |
| <b>3. CASE NUMBER:</b>   | <b><u>P.D. 11-316</u></b>   |
| <b>DEVELOPMENT NAME:</b> | <b><u>KIRBY GATE WEST PLANNED DEVELOPMENT</u></b>   |
| Request:                 | Waive the requirement to provide sidewalks on the west side of Equine Run Lane.   |
| Staff's Recommendation:  | Rejection   |
| <b>4. CASE NUMBER:</b>   | <b><u>P.D. 08-324 CC</u></b>  |
| <b>DEVELOPMENT NAME:</b> | <b><u>WOODLAND HILLS II PLANNED DEVELOPMENT PHASE 8-AREA 10</u></b>   |
| Request:                 | Site Plan Review for a 42,620 sq. ft. theatre building, including 20,400 sq. ft. of commercial space and a modification to reduce the required front yard setback at Woodland Lake Drive from thirty (30) to 12.5 feet.   |
| Staff's Recommendation:  | Approval with conditions  |

**5. CASE NUMBER:** S.A.C. 12-605  
**DEVELOPMENT NAME:** AUTUMN AVENUE (BRACK ALLEY)  
Request: Close & Vacate Street Right-Of-Way.  
Staff's Recommendation: Approval with conditions

**6. CASE NUMBER:** S.A.C. 12-606  
**DEVELOPMENT NAME:** VICTORY RIDGE COVE CLOSURE  
Request: Street Closure.  
Staff's Recommendation: Approval with conditions

**7. CASE NUMBER:** S.A.C. 12-607  
**DEVELOPMENT NAME:** NORTHPOINTE DRIVE CLOSURE  
Request: Close and vacate public right-of-way.  
Staff's Recommendation: Approval with conditions

Cases #3 P.D. 11-316 and #4 P.D. 08-324 CC were requested to be pulled from the Consent Agenda. Board Member Norcross made a motion to approve Consent Agenda Items 1, 2, and 5-7. The motion was seconded by Board Member Pritchard. The motion passed unanimously.

#### **PULLED CONSENT AGENDA ITEMS 3 AND 4**

**Item 3: CASE #: P.D. 11-316      KIRBY GATE WEST PLANNED DEVELOPMENT**  
Request: Waive the requirement to provide sidewalks on the west side of Equine Run Lane.  
Staff's Recommendation: Rejection

Chairman McCreery asked if the applicant was present, in agreement with staff's recommendation and if there were any opposition. The applicant was not in agreement with the staff recommendation.

Cindy Reaves approached and stated her name and address as 5909 Shelby Oaks Dr., Suite 200.

Chairman McCreery then asked staff for the staff report.

Don Jones gave a brief summary of the staff report which included the location of property site and the proposed plan for a planned development waiver requirement. He showed various aerial pictures, the boundaries, aerial and zoning maps of the property site which included other public and private owned properties. He noted the original parcel for the Nursing home was setup to be an exempt and was exempt from any requirements for road improvements and sidewalks along its boundaries. Don then stated the UDC emphasized the connectivity issue in which staff agrees. He added that it was an unusual circumstance to have one developer made responsible for building sidewalks, curb and gutters down both sides of the street.

Chairman McCreery asked if the applicant would give their 5 mins. comments.

Cindy Reaves approached again and agreed with staff of the requirement to development on both sides of the street and the reason being for the request of a waiver.

Chairman McCreery asked the board members for a motion for board discussion. Board Member Norcross made a motion to approve Case P.D. 11-316. The motion was seconded by Board Member Toles. Board Member Pritchard made a motion for a amendment to the motion to waive the requirement to provide sidewalks on the west side of Equine Run Lane. The motion for a amendment was seconded by Board Member Boyd. The motion was approved with a 8 to 1 vote with Board Member Trenholm voting Nay. The original motion with the amendment passed with a vote of 8 to 1.

**Item 4: CASE #: P.D. 08-324 CC WOODLAND HILLS II PLANNED DEVELOPMWENT PHASE 8-AREA 10**

Request: Site Plan Review for a 42,620 sq. ft. theatre building, including 20,400 sq. ft. of commercial space and a modification to reduce the required front yard setback at Woodland Lake Drive from thirty (30) to 12.5 feet.

Staff's Recommendation: Approval with conditions

\*Board Member Wilbanks recused herself and Board Member Linkous abstained from this case.

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

Chairman McCreery then asked staff for the staff report.

Brian Bacchus gave a brief summary of the staff report which included the location of property site and the proposed plan for a planned development for a 42,620 sq. ft. theatre building. He gave a brief background of the overall plan development which covers over 200 acres. Of the proposed site, he showed aerial pictures, the boundaries, aerial and zoning maps of the property site which included the connectivity to Trinity Rd. He reviewed the site plan, elevations, materials and setback for the proposed building on the site. He stated staff's amendments to the conditions which was to allow for a 1) 12.5 ft. setback on Lots 1 & 2 and 2) allow for 175 sq. ft. sign for a theatre building.

Ronald Harkavy approached and stated his name and address as 1660 Poplar. He stated that he was present only for a site plan approval and noted what that involved. He noted that the PUD was approved a long time ago and Land Use staff mentioned that all other requirements had been met. He went on to state the opposition is (apartment bldg. next to site) concerns and addressed those by assuring the proposed plan would not be an unbearable blockage onto Walnut Grove Rd. He added that he and his clients were willing to make some accommodations to the site plan, other than moving the building, but he doesn't think anything would satisfy the opposition even the suggestions from staff.

Chairman McCreery asked the opposition to approach and state their name and address for the record.

Lou Wardlaw approached and stated his name and address as 6410 Poplar Avenue. He stated how difficult it had been and the resistance received to discuss the proposed plan with the applicant. He felt the proposed theatre building would have an adverse effect and negative impact for the area which his clients had invested millions of dollars. He stated that he and his clients (apartment building owners) would like sufficient time to sit down and review the proposed site plan and discuss any changes that could be mutually agreed upon. Mr. Wardlaw requested from the LUCB a 30 day hold on the application in order to accomplish a meeting with the applicants and review time of the application. He suggested a plan that would meet and match the scope of what's currently exists.

Chairman McCreery asked the board members for a motion for board discussion. Board Member Norcross made a motion to approve Case P.D. 08-324 CC. The motion was seconded by Board Member Pritchard.

Board Member Toles asked the reasoning for a 30 day hold. Mr. Wardlaw restated that it would be for sufficient time to sit down and review the proposed site plan and discuss any changes that could be mutually agreed upon. Mr. Harkavy stated that unless the opposition stated there would be no changes in the size, scope, height, and location of the building, he would agree to the hold. Board Member Trenholm made a motion to hold the case for 30 days, the motion failed due to no Board Member seconding the motion. Board Member Norcross made a motion to add a condition for a landscape plan/buffer on the east side along the building encroachment. This condition is in addition to conditions 1 and 5 made in the Executive Session earlier. The motion for landscaping was seconded by Board Member Boyd. The original motion with the additional condition for a landscape plan/buffer on the east side along the building encroachment, passed unanimously.

Chairman McCreery introduced Board Member Pritchard to serve as Zoning Chair for the remainder of the meeting.

**REGULAR AGENDA ITEMS:**

Board member Pritchard announced for the benefit of the general public that Agenda Item #10 would not be heard due to a mutual agreement with LUCB staff and the applicant. She then called the next case.

<b>Item 8: CASE #:</b> <u>PD 12-318</u>	<b><u>PRIMACY OAKS OFFICE PARK P.D., AMEND</u></b>
Request:	Additional Use of property for day care uses on Parcel 8
Staff's Recommendation:	Approval with conditions

Chairman McCreery asked if the applicant was present and in agreement with staff's recommendation. He also asked if there was opposition. There was no opposition.

Cindy Reaves approached and stated her name and address as 5909 Shelby Oaks Dr., Suite 200. She then stated that there was a friendly amendment agreed upon by her and staff. Chairman asked if staff agreed and Calvin Abram agreed.

Chairman McCreery asked the board members of a motion. Board Member Pritchard made a motion to approve Case PD 12-318. The motion was seconded by Board Member Linkous. The motion passed unanimously.

**Item 9: CASE #: S.U.P. 12-219      South side Leroy Avenue; +/-138 feet west of Walter Cove**

Request: Special permit to allow a communications tower one-hundred twenty (120) feet in height of concealed canister design with capacity to accommodate a minimum of three (3) antennae

Staff's Recommendation: Approval with conditions

Chairman McCreery asked if the applicant was present and in agreement with staff's recommendation. He also asked if there was opposition. There was no opposition.

Belinda Bodie, approached and stated her name and address as 1811 Auburn Ave. Monroe, LA. She then stated that she was in agreement with staff's recommendations.

Chairman McCreery asked the board members of a motion. Board Member Pritchard made a motion to approve Case S.U.P. 12-219. The motion was seconded by Board Member Toles. The motion passed unanimously.

**Item 10: CASE #: S.U.P. 12-220 CO      West side of Quito Road; opposite of Cuba Millington Road**

Request: Construct a 160 foot tall monopole telecommunication tower

Staff's Recommendation: Approval with conditions

Chairman McCreery asked if the applicant was present and in agreement with staff's recommendation. He also asked if there was opposition. There was no opposition.

Belinda Bodie, approached and stated her name and address as 1811 Auburn Ave. Monroe, LA. She then stated that she was in agreement with staff's recommendations.

Chairman McCreery asked the board members for a motion. Board Member Pritchard made a motion to approve Case S.U.P. 12-220 CO. The motion was seconded by Board Member Boyd. The motion passed unanimously.

**Item 11: CASE #: S.U.P. 12-222      West side of Mountain Terrace; +/- 48 feet south of St. Elmo**

Request: Proposal to construct a one-hundred forty foot (140') monopole communications tower

Staff's Recommendation: Approval with conditions

Chairman McCreery asked if the applicant was present and in agreement with staff's



Chairman McCreery asked if the applicant was present and in agreement with staff's recommendation. He also asked if there was opposition. There was opposition. He then asked for the staff report to be presented.

Terry Langlois gave a brief summary of the staff report which included the location of property site and the proposed plan for a Commercial Planned Development. He gave a brief background of the overall plan development in which most of the surrounding area is zoned Commercial. He stated that there were some residential development to the South and East of the proposed site. Of the proposed site, he showed aerial pictures, the boundaries, aerial and zoning maps of the property site. Terry mentioned that the proposed PD was similar in use to an approved 1992 PD for the site which had expired. He reviewed the site plan, 3 different Areas, elevations, materials and setback for the proposed planned development. He stated staff's approval contingent upon the conditions which were as follows:

1. Areas 1 & 2 would be used as Commercial as required with CMU-1 and Area 3 usage as general office with option for mini-storage.
2. Setback on Pecan would be 30ft.
3. There would be Class 2 landscaping and/or buffer along the Northern and Eastern frontage of the site.
4. Preserve as many trees as possible
5. Signage as required by CMU or OD standards
6. Final site plan be submitted within 5 years subject to Administrative approval.
7. All vehicle and drainage issues/concerns be approved by the City's Engineers Office.

Chairman McCreery asked the applicant to approach and state his name and address for the record and if he agreed with staff's recommendation.

Tsega Igwebe approached and stated his name and address as 8886 Village Creek Dr., Arlington, TN. He stated that he was in agreement with all of staff's recommendations and conditions.

Chairman McCreery asked the opposition to approach and state their name and address for the record.

One person from the general public stated their opposition was mainly to the proposed gas station.

Chairman McCreery asked the applicant if he wanted to give any rebuttal comments.

Tsega Igwebe stated his application was for a planned development for the LUCB to vote on, not whether if a proposed gas station would be in competition to another gas station. He restated that all of the conditions that had been set from staff, he is in agreement.

Chairman McCreery asked the board members for a motion for board discussion. Board Member Pritchard made a motion to approve Case P.D. 12-319. The motion was seconded by Board Member Toles.

