

April 11, 2012

Dear Members of the Land Use Control Board,

I am writing regarding the ZTA-12-01 before you for consideration. I ask that there be either a delay or withdrawal of the application, or allow myself and others to continue to work with the Planning Director to refine the amendments for a short period of time so as to allow those of us concerned with the planning of our City of Memphis to complete our professional review of the proposed amendments.

I have been working alongside a number of planning colleagues and interested citizens for more than two months reviewing and providing comments on the proposed amendments before you. At first I found numerous aspects of the proposed amendments which caused me concern, several of which were changes that were either a) contrary to the purpose and intent of the UDC, b) in conflict with the principles of sensible urban design, or c) promoted outdated and inappropriate practices that were "business as usual" in the outdated zoning code that the UDC was intended to replace. Thankfully, several of the provisions of ZTA-12-01 are amendments which are precisely the kind of minor corrections that were intended to be incorporated within the first 6 to 12 months of adopting the new ordinance.

I am thankful that many of my concerns about certain items were addressed by Planning Director Josh Whitehead through regular correspondence and two (2) face-to-face meetings since March 2012. His willingness to work with myself and others is a testament to his commitment and dedication to Memphis and Shelby County and to seeing this amendment properly completed; I appreciate that. We have the same goal; however our job is not yet done. We need a little more time to complete the task.

The UDC is the "recipe for making a city" and a few items need further review to ensure they aren't contrary to other ingredients in our concoction for making Memphis a Great City. I am hopeful that the Land Use Control Board has reviewed the amendments as thoroughly as my colleagues and I have, for they are numerous, substantial, and complex and will have a significant bearing upon the actions the Land Use Control Board may take. The impact of these revised provisions cannot be overstated. The public expects us to get them right.

Having made a partial review of the (final) draft of the ZTA-12-01 made available on April 5, 2012, at minimum more attention needs to be paid to the following sections (and possibly others) that I believe are nearly but yet not fully resolved.

- 2.5 Land Use Table
- 3.2.9c Building Frontage (as it relates to gas station canopies)
- 3.2.9E2(h-i) Building Setback
- 9.6.3 Special Use Permit – Neighborhood Meeting
- 9.6.8 Governing Body Action – Appeal

- 9.6.11E Major and Minor Revisions (PUD)
- 9.6.14 Period of Validity
- 9.21 and others Administrative Deviations

I ask that the Land Use Control Board and the Applicant look for a way to either postpone or withdraw ZTA-12-01 for one (1) month so that the unresolved items be addressed, or to find a way for continued review and changes be made to the application during the approvals process by the governing body.

Thank you. I look forward to your action in moving this item forward with proper review and assurances that it is in the best interests of the citizens of Memphis and Shelby County.

Sincerely,



Steve Auterman, AICP LEED AP
1897 Snowden Avenue
Memphis, TN 38107
/sa

DAVID J. KREHER
ATTORNEY AT LAW

May 18, 2012

Josh Whitehead
Planning Director/Administrator
Memphis & Shelby County
Office of Planning & Development
City Hall, 125 N. Main St., Ste. 468
Memphis, TN 38103

Re: Additional Considerations Regarding Allowing Group Instruction in Residential Communities

Dear Mr. Whitehead:

In regard to the amendment of the Memphis/Shelby County Unified Development Code to allow Group Instruction, we would present that there are three areas of concern that should be addressed in any amendment. First, the nature of the residence should not be allowed to change in order to comply with the needs of the type group instruction that will be taught. Second, the nature of the residential community should not be impacted by the allowance of group instruction at a residence in the community. And third, protections should be put in place to assure that whatever type of group instruction is contemplated, the instruction is performed in as safe a manner as possible.

1. The Nature of the Residence Should Not change

The position that the character of the residence should not change is consistent with Section 2.7.4.B.1 of the U.D.C., which reads "[t]he [accessory] use of the dwelling unit . . . shall under no circumstances change the residential character of the structure." In order to preserve the nature of the residence, the Residential Use Standards of the U.D.C. should be complied with, including but not limited to Section 2.6.1.B.6 regarding Licenses and Taxes, Section 2.6.1.B.8 regarding standards used when a residence in an RU-district for the purpose of living and working, Section 2.7.1.A regarding incidental and subordinate uses, Section 2.7.2.A regarding setbacks, Section 2.6.2 regarding Daycare Facilities, and Section 2.7.4.B regarding the standards for Home Occupations.

It is also inconsistent with the concept of maintaining the nature of the resident that group instruction be allowed as a full time business. Although the resident of the household is allowed to conduct certain types of business within the home, only one customer is allowed at the residence at any one time, thus preserving the primarily residential nature of the home. (See, U.D.C. Section 2.7.4.B.9). Allowing a group instruction business to operate on a full time basis would convert the house to primarily operate as a business and would destroy its nature as a residence.

2. The Nature of the Residential Community should not be Impacted

The nature of a residential community connotes a quiet area with limited traffic where people can relax. Allowing group instruction all day and/or every day would dramatically increase the traffic and noise levels in a residential community and would indicate that a full time group

instruction business is being operated. To preserve the residential nature of the community in which a home offers group instruction, the frequency with which group instruction is offered and the time periods during the day during which group instruction is offered should be restricted. Group instruction should therefore be restricted to 2 – 3 times per day and 2 – 3 times per week. Instruction should also not start until after 9:00 a.m. and be completed by 7:00 p.m. to preserve quiet.

3. Group Instruction Facilities Should Be Operated in a Safe Manner

In order to attempt to protect those who are taking group instruction, before issuing the permit to operate, the applicant should be required to prove that he or she is qualified to teach the group instruction type the application is applying for, that all local, state, and federal requirements are met, and that the applicant has appropriate types of bonding and insurance to cover the exposed liability in conducting the group instruction activity.

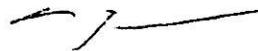
There is no reason to allow a person who is not qualified to teach a group instruction activity to have a permit to conduct those lessons. Certifications, training and experience should be taken into consideration before the granting of a permit.

If a home cannot, without alteration, meet the licensing requirements for the type of group activity proposed, the permit should not be granted. The applicant must be able to show not only the type of licenses are required but also that he or she have met those requirements. For example, a location where group swimming instruction would occur is regulated by the Tennessee Department of Health, Bureau of Health Services Administration, Division of General Environmental Health, in Chapter 1299-23-5, Public Swimming Pools. If the applicant cannot prove that his or her group instruction facilities cannot meet those standards, the applicant should not be granted a permit.

For the safety of the applicant and those attending the group instruction lessons, the applicant should be required to demonstrate that he or she has sufficient insurance to cover the risk of conducting the lessons at his or her facility.

In conclusion, the nature of the residence should not be allowed to change with the allowance of group instruction at the location, the nature of the residential community should not be impacted, and there should be some minimum guarantees that the operation will be conducted in a safe fashion. Without these guarantees, group instruction should not be allowed in residential communities.

Sincerely,



David J. Kreher

From Chuck Picard

UDC Stakeholders Report Summary of Objections to Provisions in UDC Amendments

The UDC Stakeholders represent neighborhoods and organizations throughout Memphis including Memphis Medical Center, Memphis Regional Design Center, University District Neighborhoods Community Development Corporation, Memphis Midtown Development Corporation and other concerned individuals. Over the past couple of months we have studied the extensive amendments which OPD has proposed to the Unified Development Code. We have carefully listed and explained our concerns during negotiation with the Office of Planning and Development.

We continue to have the following concerns about the provisions in Article 7 of the UDC.

7.2.8 – When the SCBID Special Purposed District was incorporated into the UDC the original streetscape plates A-1 through A-10 were omitted. This leaves this district without streetscape plate standards. Consider re-inserting the original streetscape plates A-1 through A-10 or convert and refer to new plate types S-1 thru S-15 in section 4.3.3.

We continue to have the following concerns about the provisions in Article 9 of the UDC.

9.6.11E2e – This provision gives the Planning Director authority to change the uses permitted in a planned development. The only limit to the authority is that it must be a change from a higher classification use to a lower classification. For example, the Planning Director could approve a multi-family use in a planned development approved for commercial uses. This is too much administrative authority without public notice and should be eliminated.

9.7.93C – This provision allows a final plat to be re-recorded to change required setbacks. This is completely administrative. There is no public notice. This is too much administrative authority without public notice and should be eliminated.

9.3.2, 9.5.4, 9.6.3 & 9.7.5 – In all of these sections the requirement for neighborhood meeting has been deleted and replaced with neighborhood

notification. A provision added with the most recent version of the proposed UDC stipulates that even neighborhood notification is not required for a subdivision unless the subdivision proposes at least 10 lots. We think neighborhood meetings should be the goal. Neighborhood notification should be required for any subdivision. It should not be limited to subdivisions of 10 lots.

9.7.4, 9.7.6 – We are concerned about the reference to the state approved plan for roads “TDOT.” We would prefer a locally approved plan for roads that is approved along with the proposed land use.

9.3.4D2 – This provision limits notice to neighborhoods registered with the Memphis Office of Community Affairs. We request information about what neighborhoods are listed and how to add neighborhoods to the list.

From: William Turner [wllmtrnr@earthlink.net]

Sent: Friday, June 01, 2012 7:37 PM

To: Whitehead, Josh

Subject: UDC Amendments

Mr. Whitehead,

This is extraordinary that this "oh so quiet" effort to "gut" the UDC has gotten this far along! But, the word is out, and there will be a large, large communication effort (now underway) to enlighten our concerned citizens that some parties (a small percentage of our citizenship) are trying to usurp our democratically and thoughtfully done UDC. Shame on those who would hope to pull this off.

We are counting on you to stand on your principles and do the right thing.

Bill Turner

HBBA member

Broad Ave. property owner

Past president of Hein Park Neighborhood Association

Whitehead, Josh

From: Paul West [PaulWest@WestMemorials.com]
Sent: Tuesday, May 08, 2012 3:43 PM
To: Whitehead, Josh
Subject: broad avenue code change

Hello,

I'm Paul West of Westmemorials. We've met at events my company hosted for Broad Avenue. I received an email stating that there has been a proposed change in the code to allow tattoo shops on Broad Avenue. I don't understand if the is a proposal or if the code has been changed.

My company is against a change in the code. We have become more convinced that a change should not occur because of incidences that have taken place since a variance of the code was declined.

Please let me know if this is a proposed change and what I can do to speak against this.

Thank you for help in the past and continued assistance in making Broad Avenue what it is and can become.

Sincerely,
Paul

Paul West
www.westmemorials.com
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901-767-0026