



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. 408 - MEMPHIS, TENNESSEE 38103 - (901) 576-6610



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

MINUTES
April 12, 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	
Alternate Member	Frank Colvett, Jr.	X	

Call to Order and Roll Call

Chairman McCreery called the meeting to order at 10:00 a.m. Brian Bacchus 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: Steve Auturman, El Hadji Badji, David Bray, Chris Caldwell, Councilman Harold Collins, Ann Conrad, Mike Fahy, Ronald Harkavy, David Kreher, Brandy Lellford, Rob Litton, David Madeen, Rev. Bill Marler, Scott McCullough, Ron Poe, Cindy Reaves, J. Wise Smith, Ralph Smith, Brenda Solomito, Harriett Synder, Faith Webber and June West.

Chairman's Opening Remarks

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

Secretary's Report

There was none.

Approval of Minutes: March 8, 2012

Board Member Pritchard made a motion to approve the minutes with the noted corrections. Board Member Sharp 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 and 8 were read. Chairman McCreery also explained the procedure for hearing the Consent Agenda Items. He then introduced Board Member Mary Sharp to be the Subdivision Chair and to read the Consent Agenda Items.

Consent Agenda (Items 1 and 8)

- 1. CASE NUMBER:** S 12-003 CO
DEVELOPMENT NAME: THE RETREAT @ JENSON FARMS
Request: 13 lots for single-family homes
Staff's Recommendation: Approval with conditions
- 2. CASE NUMBER:** SAC 12-601
DEVELOPMENT NAME: PEYTON STREET CLOSURE
Request: Close & Vacate Street Right-Of-Way
Staff's Recommendation: Approval with conditions
- 3. CASE NUMBER:** SNC 12-801
DEVELOPMENT NAME: LINDEN AVENE AND SOMERVILLE STREET TO DR. M. L. KING, JR. AVENUE
Request: Street Name Change from Linden Ave. to Dr. M. L. King Jr. Ave.
Staff's Recommendation: Approval
- 4. CASE NUMBER:** SNC 12-802
DEVELOPMENT NAME: JORDAN RIVER STREET
Request: Change the street name from Scott Cut-Off to Jordan River Avenue
Staff's Recommendation: Approval
- 5. CASE NUMBER:** SNC 12-803
DEVELOPMENT NAME: GERALD JORDAN LANE
Request: Change the street from Summer East to Gerald Jordan Lane
Staff's Recommendation: Approval with conditions
- 6. CASE NUMBER:** PD 94-301
DEVELOPMENT NAME: CORDOVA THE TOWN PLANNED DEVELOPMENT –

PHASE I
Request: Permit a minimum front yard setback of 16 feet along Cordova Cordova Road for Lots 103-104, 120-121, and 137 where 20 feet is required
Staff's Recommendation: Approval

7. CASE NUMBER: PD 04-357
DEVELOPMENT NAME: WOODLANDS OF CORDOVA PLANNED DEVELOPMENT

Request: Permit a minimum side yard setback of 3.5 feet where 5 feet is required for Lots 6-23
Staff's Recommendation: Approval

8. CASE NUMBER: PD 11-309
DEVELOPMENT NAME: HOUSTON LEVEE TRAILS PLANNED DEVELOPMENT, 1ST ADDITION, 3RD AMENDMENT- AREA C

Request:
1. Revise site plan to omit condition III. F of the Houston Levee Trails PD, 1st Addition 3rd Amendment, requiring a hammer head at Breezy Ridge Trail; curb and gutter shall be install at the end of the existing stub.
2. Revise site plan to illustrate alternate access to the existing celltower; access shall be gained from Hwy. 64.
Staff's Recommendation: Approval with conditions

Discussion Summary –Case #6 (**PD 94-301**) had Mr. J.T. Travis in attendance in favor but did not want to speak. Board Member Sharp made a motion to approve Consent Agenda Items 1 thru 8. The motion was seconded by Board Member Pritchard. The motion passed unanimously.

REGULAR AGENDA ITEMS 9-20

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

Item 9: CASE #: SUP 11-224 **West side of Boston Street (427 Boston), 175 feet north of Midland Avenue**
Request for a Day care and neighborhood center.
Staff's Recommendation: Approval with conditions

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

Reverend Bill Marler approached and stated his name and address as 158 Marne Street and that he did agree with staff's recommendation.

Chairman McCreery asked for a motion.

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 Wilbanks. The motion

passes unanimously.

Item 10: CASE #: ZTA 12-001

Adopt amendment to the Memphis and Shelby County UDC.

Request for Adopt amendment to the Memphis and Shelby County Unified Development Code.

Staff's Recommendation: Approval

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 asked if the staff/representative would present the case for Board review.

Josh Whitehead approached and presented the text for the proposed adopted amendments for the UDC. He gave a background recap presentation that listed the changes, explained the clauses, terms and need for the changes. He pointed various areas and sites the amendments would impact in some way.

Chairman McCreery asked if those in opposition would come forward and give the comments.

Steve Auturman approached and that he had submitted comments in writing at the executive session. He identified areas in the UDC that needed further work.

June West approached and stated her name and address as 1650 Peabody Ave. She stated it was a good and needed to be followed in the future and the overlay be kept as is for now.

Rob Litton approached and stated his name and address as 3991 N. Galloway. As a representative for St. Mary's School, he opposes the changes proposed for the school.

Scott McCullough approached and stated his name and address as 6884 Red Gum Cove. He stated he was in opposition of Article 2.7.4. of the UDC because it prohibits group instruction for his client's home were swimming lessons and various classes are took. He would like to amend #1 in the Article to permit up to (7) seven persons like a daycare home.

Faith Webber approached and stated her name and address as 2218 Kirby Road. She also wanted the language changed to allow for group instruction. She noted that there is a definition for "Home Occupation".

Cindy Reaves approached and stated her name and address as 5909 Shelby Oaks Dr. She also wanted home occupations to be allowed and to take in consideration home-schooling.

Ann Conrad approached and stated her name and address as 566 Melody Lane. She stated that her concern is not about lessons or classes, it was the education of the children and teaching them life-saving and life skills.

David Kreher approached and stated his name and address as 2099 Hampton Hill Dr. He was opposed to the home that offered swim lessons. He wanted clarity whether it was a home school or a business. He was concerned about the possible 56 children per day in the home, the increase in noise, trash and traffic and that it would change the character of the residence to a business.

Councilman Harold Collins approached and stated his name and address as 1314 Singing Trees Dr. His concern was the truck stops located in certain areas, especially at Boeingshire and Shelby Dr. where diesel fuel is sold. He requested for the LUCB to approve not allowing gas stations to build diesel fuel stations within close proximity of residential areas.

Chairman McCreery asked for a motion for Board discussion. 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 Sharp.

Josh Whitehead re-approached and requested to added (3) three new amendments. Board Member Colvett made a motion to approve the (3) amendments presented. The motion was seconded by Board Member Pritchard. The motion passed unanimously.

After further discussion from the LUCB, Chairman McCreery asked for a final motion with any and all amendments to be made. Board Member Linkous made a friendly amendment to the motion on the floor to 1) have the group instruction cases be approved on a case by case basis; 2) amend Article 2.7.4., by offering a Conditional Special Use Permit section in accordance with staff's recommendation. The motion with the friendly amendment was seconded by Board Member Pritchard. The motion passed unanimously.

Item 11: CASE #: Companion Case to ZTA 12-001 Adopt amendment to the Memphis and Shelby County UDC

Request for approval of the Land Use Controls Section of the Office of Planning and Development Fee Schedule.
Staff's Recommendation: Approval

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

Josh Whitehead approached and requested to adopt (2) two amendments: 1) add a limitation of 4ft. in height or higher for a permit process and 2) also \$150 fee for a condition to get a permit.

Chairman McCreery asked for a motion. Board Member Pritchard made a motion to approve Case #11 (Companion Case to ZTA 12-001) to adopt the (2) amendments in accordance with staff's recommendation. The motion was seconded by Board Member Toles. The motion passed unanimously.

Item 12: CASE #: PD 12-302 CRESCENT CENTER PLANNED DEVELOPMENT
A Planned development to include the existing
Crescent Center Office Building and Parking

Garage and add two (2) free standing restaurants.
Staff's Recommendation: Approval with conditions

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

Brenda Solomito approached and stated her name and that she agreed with staff's recommendation.

Chairman McCreery asked for a motion. Board Member Pritchard made a motion to approve Case **PD 12-302** in accordance with staff's recommendation. The motion was seconded by Board Member Wilbanks. The motion passed unanimously.

**Item 13: CASE #: SUP 11-205 Northwest corner of Walnut Grove and Hayden Street
Request to add a cellular tower to the rear of the property.
Staff's Recommendation: Approval with conditions**

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

Mike Fahy approached and stated his name and address as 7520 Capitol Drive. He requested a friendly amendment to the conditions to delete Items 3 & 4 and replace it with the site plan and Item 7 plants to have 5 year warranty in lieu of the requirement for irrigation. Staff was in agreement with the friendly amendments.

Chairman McCreery asked for a motion. Board Member Pritchard made a motion to approve Case **SUP 11-205** in accordance with staff's recommendation and with the requested friendly amendment. The motion was seconded by Board Member Wilbanks. The motion passed unanimously.

**Item 14: CASE #: SUP 12-206 CC West side of Houston Levee Road; +/-3,900 feet
south of Walnut Grove Road
Request for special permit to allow a Recreation Field with lights.
Staff's Recommendation: Approval with Site Plan Conditions**

*Board Member Colvett recused himself 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 no opposition.

Brian Bacchus noted that the conditions per the softball field were previously approved in the Executive Session.

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

Chairman McCreery asked for a motion. Board Member Pritchard made a motion to approve Case SUP 12-206 CC in accordance with staff's recommendation and with the conditions per the softball field that were previously approved. The motion was seconded by Board Member Toles. The motion passed unanimously.

Item 15: CASE #: SUP 12-207 Northeast corner of Monroe Avenue and Claybrook Street

Request for a special use permit to allow a social service institution that will feed the needy in and around the medical district (Soup Kitchen).

Staff's Recommendation: Approval with conditions

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 asked if staff would present the case for board review.

Gregory Love gave a brief summary of the staff report which included the location. He showed aerial pictures, the boundaries, aerial and zoning maps of the property site which included other public and private owned properties. He also explained and gave reasons for staff's approval with conditions for a special use permit.

Chairman McCreery asked if the applicant to come forward and state name address for the record. He also allow the applicant their opportunity for comments.

Ron Poe approached and stated his name and he was representing the applicant who works for the Catholic Diocese of Memphis. He added that he agreed with staff's recommendation on behalf of the applicant. He noted the operational history/background of the services the nonprofit facility had been rendering for years. He stated that they provide a sandwich and soup 365 days a year feeding up to 300 persons per day.

Chairman McCreery asked those who were in opposition to come forward and give their comments.

David Madeen approached and stated his name and address as 1295 Madison Ave. He stated that there had been a shelter near him before and it caused problems.

Brandy Lellford approached and stated his name and address as 20 S. Dudley. He stated that he was representing the Medical Center stakeholders who would be glad to assist St. Vincent DePaul in locating another site.

Harriett Synder approached and stated her name and address as 1660 N. Parkway also the owner of property located at 1289 Madison Avenue located north of site. She stated that her and her husband's concern was that creating a "soup kitchen" would be a hindrance for the small business owners, banks, and medical entities located in the area and that it would lower the property value.

Ron Poe approached and expressed that poverty and individuals with daily need of food could be associated with criminals, creating criminal activity or blight to an area. He added that the residents who come to the facility are individuals who already live in the or near the site, so it was not bringing any new persons in the neighborhood. He then added that blight in the area already exists and was nothing new and that the facility has operated for 20 years providing vital services needed in the community.

Chairman McCreery asked for a motion. Board Member Pritchard made a motion to approve Case SUP 12-207 in accordance with staff's recommendation. The motion was seconded by Board Member Toles. The floor was opened for Board discussion.

Board Member Pritchard stated that she has lived in the area for 35+ years and felt that the services being offered and proposed is a much needed one and she was in full support.

Board Member Colvett agreed with Board Member Pritchard's comments. Also Board Member Sharp expressed that during these economic times and the progress the facility has made from feeding individuals outside and moving them inside was a major plus. She added that she agreed with the conditions by staff and applaud the organization for their efforts.

Chairman McCreery asked for a vote on the motion on the floor. The motion passed unanimously.

Item 16: CASE #: Z 12-101 (Companion Case S.U.P. 12-203)

Southwest corner S. Perkins Road & Knight Arnold Road

Request for a Commercial Mixed Use (CMU-2) District.
Staff's Recommendation: Approval

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

Chris Caldwell, representing the applicant, approached and stated his name and that he agreed with staff's recommendation.

Chairman McCreery asked for a motion. Board Member Pritchard made a motion to approve Case Z 12-101 (Companion Case S.U.P. 12-203) in accordance with staff's recommendation. The motion was seconded by Board Member Wilbanks. The motion passed unanimously.

Item 17: CASE #: S.U.P. 12-203 (Companion Case Z 12-101)

Southwest corner S. Perkins Road & Knight Arnold Road

Request for a special permit to allow a pawnshop.
Staff's Recommendation: Approval with conditions

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

recommendation and if there were any opposition. There was no opposition. Chris Caldwell, representing the applicant, approached and stated his name and that he agreed with staff's recommendation.

Chairman McCreery asked for a motion. Board Member Pritchard made a motion to approve Case **S.U.P. 12-203 (Companion Case Z 12-101)** in accordance with staff's recommendation. The motion was seconded by Board Member Wilbanks. The motion passed unanimously.

**Item 18: CASE #: Z 12-102 CC Southwest corner of Holmes Road and Riverdale Road
Request for a Commercial Mixed Use (CMU-2) District.
Staff's Recommendation: Approval**

*Board Member Linkous recused himself 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 no opposition.

J. Wise Smith, representing the applicant approached and stated his name, address as 771 Brookhaven Circle and that he agreed with staff's recommendation.

Chairman McCreery asked for a motion. Board Member Pritchard made a motion to approve Case **Z 12-102 CC** in accordance with staff's recommendation. The motion was seconded by Board Member Wilbanks. The motion passed unanimously.

**Item 19: CASE #: Z 12-103 South side of I-240; +/-835 feet east of Thousand Oaks Cove
Request for a Commercial Mixed Use (CMU-3 [FP])
Floodplain District
Staff's Recommendation: Approval**

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

Ronald Harkavy, Attorney, representing the applicant was present but was not asked to approach.

Chairman McCreery asked for a motion. Board Member Pritchard made a motion to approve Case **Z 12-103** in accordance with staff's recommendation. The motion was seconded by Board Member Wilbanks. The motion passed unanimously.

**Item 20: CASE #: Z 12-104 East side of S. Perkins Road; +/-145.95 feet south of Cottonwood Road
Request for a Commercial Mixed Use (CMU-1) District.
Staff's Recommendation: Rejection**

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

recommendation and if there were any opposition. There was no opposition present but staff member, Brian Bacchus pointed out that he received a letter of opposition.

Chairman McCreery asked staff to present the case.

Brian Bacchus gave a brief summary of the staff report which included the location and zoning request. He showed aerial pictures, the boundaries, aerial and zoning maps of the property site which included other public and private owned properties. He also explained and gave reasons for staff's rejection for a Commercial Mixed Use (CMU-1) District.

Chairman McCreery asked if the applicant would come forward for comments.

David Bray, a representative for the applicant, approached and stated his name and address as 2950 Stage Plaza North. He gave reasons why the owners were interested in purchasing the lots for a better site location for their hair braiding business. He added that even the property is residential; it was currently being used for an auto business that is surrounded by other businesses across the street. He stated that they would be in agreement to convert their request into a PD or something that would be more compatible for the neighborhood.

El Hadji Badji, the applicant approached and stated that due to the economy, rent has been so high that the previous owner of the (3) three properties offered he and his wife a good price, they decided to purchase the middle lot property instead of continuing to rent. He added they were told that the properties could be converted to Commercial zoning due to so many other operating businesses surrounding the properties. He stated that after going to Code Enforcement to obtain a permit, they were referred to LUC to start the process.

Chairman McCreery asked for a motion. Board Member Pritchard made a motion to approve Case **Z 12-104**. The motion was seconded by Board Member Toles. The floor was opened for Board discussion.

Board member Toles asked staff what the applicant would have to do to get the application converted to a PD.

Brian Bacchus explained that resubmittal of the application for a PD with specific site plans for conversion from a Residential Use to Commercial Mixed Use and the fee for the conversion. He added that the LUCB would have to place the current application on "HOLD" for the process to take place.

Board member Pritchard asked the applicant and Mr. Bray if a hold for 30 days to convert the application to a PD request would be acceptable. They replied that it would.

Chairman McCreery questioned if the other two owners of the properties on either side of the applicant were not in agreement with the re-zoning what would the result be for the applicant.

Josh Whitehead explained that an outline plan could be submitted for all three lots but the focus of approval would only on the applicant's site plans for their lot.

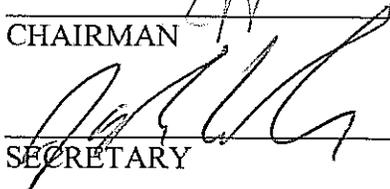
Board Member Pritchard made an amended motion to "HOLD" Case Z 12-104 for 30 days to convert application to a PD request. The motion was seconded by Board Member Toles. The motion passed unanimously.

ADJOURNMENT:

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

MINUTES APPROVED: May 10, 2012

CHAIRMAN



SECRETARY