

STAFF REPORT

#8

CASE NUMBER: U.V. 09-005 L.U.C.B. MEETING: August 13, 2009

LOCATION: Northwest corner of Lamar Avenue and Cleveland Street

COUNCIL DISTRICT: 7

SUPER DISTRICT: 8

OWNER OF RECORD: Renaissance Memphis LLC (Robert Reaves/Steve Steinbach)

APPLICANT: MidTown Assisted Living, LLC (Tony Crosby)

REPRESENTATIVE: SR Consulting, LLC (Cindy Reaves)

EXISTING LAND USE & ZONING: Vacant land in the Highway Commercial (C-H) District

REQUEST: Multiple Dwelling Residential (R-MM) District **AREA:** 2.1 Acres

SURROUNDING USES AND ZONING:

North: Garden style (1-story) apartments in the Multiple Dwelling Residential (R-MM) District

East: An institutional use (The Memphis University Club) in the Multiple Dwelling Residential (R-MM) District

South: An office use and a duplex in the Multiple Dwelling Residential (R-MH) District

West: A commercial use (a car wash) and a vacant office building in the Highway Commercial (C-H) District

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION:

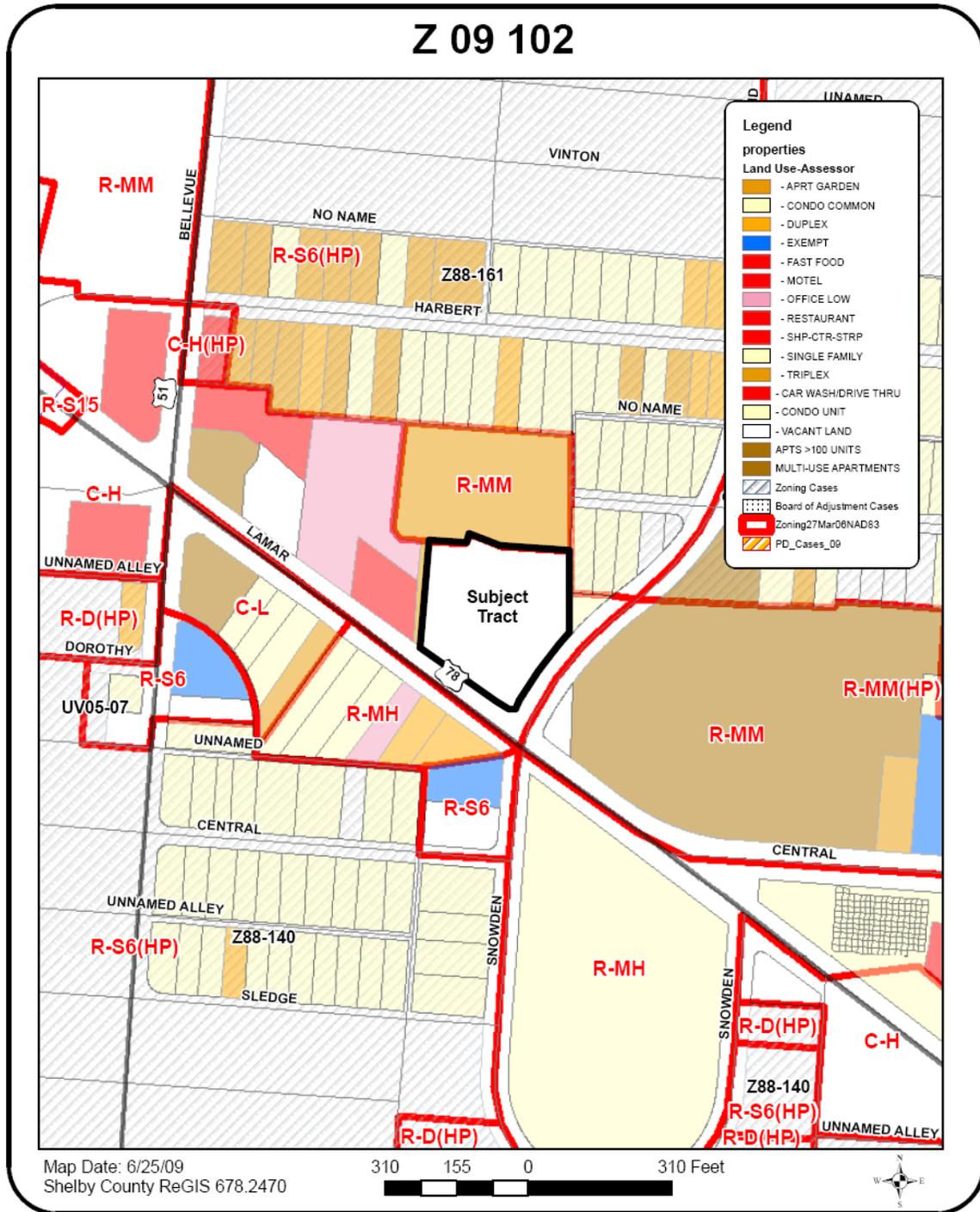
APPROVAL

Staff: Don Jones

E-Mail: donald.jones@memphistn.gov

CONCLUSIONS:

- 1.** The zoning map and aerial photograph reveal a mix of commercial (C-H and C-L) and multi-family (R-MM and R-MH) zoning and uses abutting the three arterials that serve this site.
- 2.** The subject property's access to three arterials, a transit line, relative close proximity to an interstate facility and the medical center make it a good site for an assisted living facility or for a multiple dwelling residential uses.
- 3.** However, these same factors make a good argument for zoning that allows for the development of the site as a part of a mixed use center.
- 4.** The Unified Development Code provides for the conversion of the single purpose commercial districts to a mixed use district that will permit an assisted living facility by right and apartments with a Special Permit.



Zoning and Land Use Map



Aerial Photograph



Looking west from across Cleveland Street



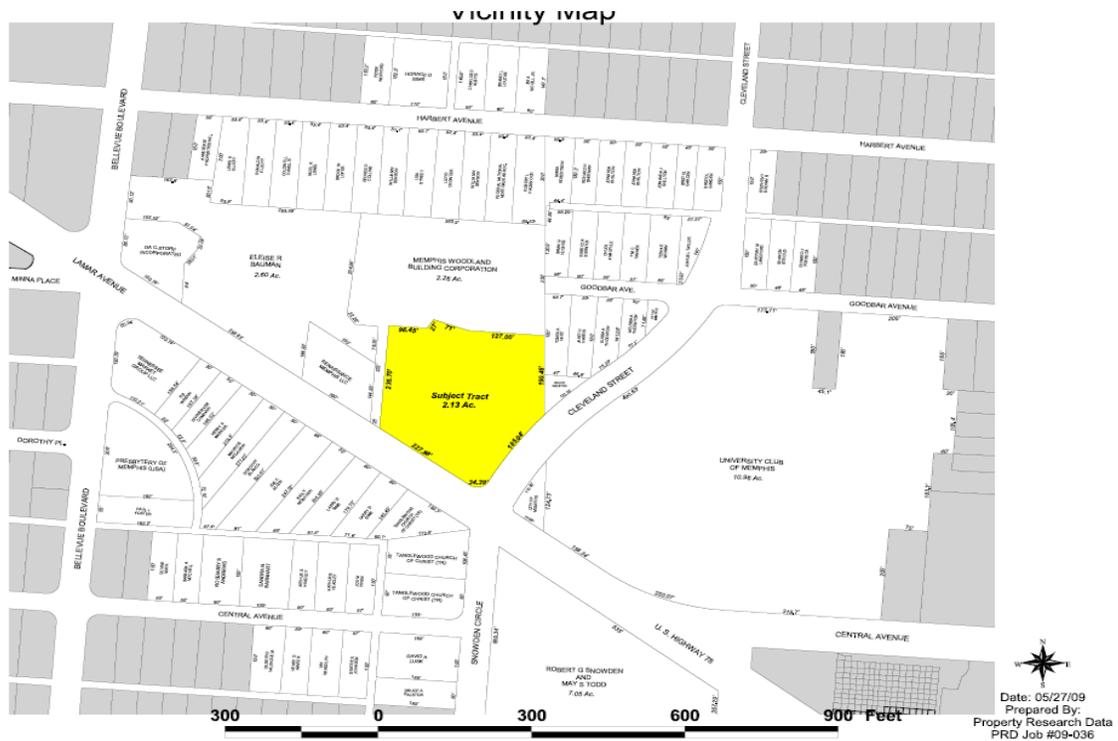
Looking North from across Lamar Avenue



South Elevation



West Elevation



STAFF ANALYSIS:

Location::

The subject property is located at the northwest corner of Lamar Avenue and Cleveland Street in Midtown Memphis. This 2.1 acre site is identified as Lots 1 and 2 of the Lamar Plaza Subdivision.

Site Characteristics

The site is currently a vacant lot with some volunteer vegetation having grown up in the middle to northern portion of the site. The site is the former location of the Coach and Four sports bar and hotel.

The site has approximately 185 feet of frontage along Cleveland Street and some 227 feet of frontage along Lamar Avenue.

Zoning and Land Use Pattern

The zoning map shows a mix of commercial (C-H and C-L) and multi-family (R-MM and R-

MH) zoning abutting the three arterials that serve this site.

Land Use Pattern – (North side of Lamar) Similarly, the aerial photograph, reveals commercial uses and a vacant office structure west of the site, and a Social and Tennis Club occupying the site at the northeast corner of Lamar Avenue and Cleveland Street/Central Avenue.

(South side of Lamar) – The south side includes retail commercial uses, single family dwellings, a dentist's office and a vacant duplex.

History of Request –

In July of 2009, a request to re-zone the subject property from its current Highway Commercial (C-H) District to the Multiple Family Residential (R-MM) District. The purpose of that request was to employ a zoning district that will accommodate the intended use of this site is for an assisted living facility. Assisted living is not a permitted use in the C-H District, and would require a Special Use Permit in the R-ML District.

This application was deferred with the intention of transferring it to a request for a Use Variation. The Use Variation will act as an overlay to the existing zoning and allow the specific use and allow for the OPD to apply conditions to the site plan.

Review of Request:

The subject property's access to three arterials, a transit line, relative close proximity to an interstate facility and the medical center make it a good site for an assisted living facility. And such a facility could breath some new life into the existing retail commercial uses.

This site which is at the intersection of Lamar and Cleveland/Snowden Circle is in close proximity to four midtown neighborhoods: Annesdale Park, Annesdale Snowden, Central Gardens, and Glenview. An assisted living facility at or nearby the boundaries of these vibrant residential neighborhood could provide an important residential alternative as area residents proceed through life.

In the interim the applicant has met with a number of the area leaders to present an improved site plan and some initial building elevations. The neighbors have suggested changes to the elevations that give the building a more residential appearance and the applicant has agreed to incorporate those suggestions into the design. The attached elevations represent what was presented to the neighbors. The attached conditions will require that revised elevations be presented to the neighbors who were present at the August 3, 2009 meeting prior to this item being forwarded to the Memphis City Council.

RECOMMENDATION: APPROVAL WITH CONDITONS

Site Plan Conditions
U.V. 09-05
Lamar at Cleveland

A Use Variance is hereby granted to Memphis Housing LLC to permit an Assisted Living Facility at 1318 Lamar Avenue (Assessors Parcel # 01500100073) subject to an approved Site Plan and the following additional conditions:

1. A 4-story (maximum height 60 feet) building, 94 units, with a 2-story common building to serve persons 55 years of age and older.
2. Building setbacks and parking as shown on the approved site plan.
3. A detailed landscape plan shall be submitted for the review and approval of the Office of Planning and Development. All required landscaping shall be irrigated.
4. Elevations shall be submitted to the OPD and to the neighbors who attended the August 3, 2009 meeting, prior to this item being forwarded to the Memphis City Council. Elevations shall contain a wider porch that is typical of Midtown residential units on the common building, primarily brick facades, and residential roof shingles.
5. A detail of the proposed fencing and gate shall also be required at the time the proposed elevations are provided (4 above).
6. Dedicate a 30 foot property line radius at the intersection of Lamar and Cleveland. No improvements required.
7. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards,
8. Show the clear site area on the site plan, no signs or landscaping shall be permitted in the clear site area.
9. Signs shall be regulated by the Local Commercial District. A detail of the sign shall be illustrated on the approved Site Plan.

GENERAL INFORMATION:

Planning District: Midtown
Census Tract: 35
Street Frontage: Cleveland Street – 185 Feet
Lamar Avenue – 227 Feet
Parcel ID: 015001 00073
Zoning History: The current C-H or its predecessor C-3 dates back to 1954.

DEPARTMENTAL COMMENTS:

The following comments were provided by agencies to which this application was referred:

City Engineer:

1. Dedicate a 30 foot radius at the intersection of Cleveland and Lamar. Dedicate a 30 foot property line radius at the intersection of Lamar and Cleveland. No improvements required.
2. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards,

City Fire Division: No comments.

City Real Estate: No comments received.

City/County Health Department:

1. If any monitoring wells were installed as part of an environmental site assessment they must be filled as outlined in Section 6 of the Shelby County Well Construction Code.
2. If any abandoned water wells are present on this site they must be properly filled and abandoned as outlined in Section 9 of the Shelby County Well Construction Code.
3. Since this is a Planned Development that could require the demolition of a structure or structures at this site before any demolition the developer will need to fill out the attached questionnaire.
4. If a Demolition Permit will be required after filling out the questionnaire then the

owner, developer, or contractor must contact the Asbestos Branch in the Air Pollution Control Section at (901) 544-7349 in order to secure the appropriate permit.

City Board of Education:

To ensure that this site is, in fact, developed as an assisted living facility, please include a requirement to that effect within the approved conditions. The school aged children in this area are zoned to the following schools:

Bruce Elementary which is functioning at 97.2% capacity Bellevue Middle which is functioning at 95.1% capacity Central High which is functioning at 113.1% capacity

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water:

MLGW has reviewed the referenced application, and has no objection, subject to the following conditions:

- **It is the responsibility of the owner/applicant** to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- **It is the responsibility of the owner/applicant** to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- **It is the responsibility of the owner/applicant** to comply with the **National Electric Safety Code (NESC)** and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- **Landscaping is prohibited** within any MLGW utility easement without prior approval. It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance - Landscape and Screening Regulations.
- **It is the responsibility of the owner/applicant** to contact **TN-1-CALL @ 1.800.351.1111**, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc
- **It is the responsibility of the owner/applicant** to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s).
- **Fire Protection Water Services: It is the responsibility of the owner/applicant** to contact **MLGW - Water Engineering @ 528-4720** to obtain fire protection/water flow information. If water main extensions and/or an increase in existing main sizes are needed to meet the minimum fire flow rate to serve the proposed development, the owner/applicant will be responsible for the cost of these improvements.
 - Please refer to Section 12.1.1 and Appendix A of the **MLGW Water Service Policy Manual**, which is available online at the following MLGW website: http://www.mlgw.com/images/water_manual.pdf

- **It is the responsibility of the owner/applicant** to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.
 - All residential developers must contact MLGW's Residential Engineer at 528-4855 for application of utility services.
 - All commercial developers must contact MLGW's Builder Services line at 367-3343 to initiate the utility installation process.
- **It is the responsibility of the owner/applicant** to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

AT&T: AT&T Tennessee has no comment regarding this new development.

Memphis Area Transit Authority (MATA): No comments received.

OPD-Regional Services: No comments received.

OPD-Comprehensive Planning: No comments.

Neighborhood Associations:

31st Ward Civic Club: No comments received

New Pathways: (comment from zoning case)

There is comment on behalf of New Pathways, Inc. and one of its member organizations, Methodist Le Bonheur Healthcare, on proposal to rezone northwest corner of Lamar Ave. & Cleveland, file # Z09-102. Thank you. Trina Jones, Methodist Le Bonheur Healthcare and New Pathways, Inc., Board Chairman

Phone conversation with developer Tony Crosby on 6.23.09 provided some prelim information. MLH Real Estate Manager Carol Sweet phoned Mr. Crosby at my request.

Generally, we could favorably view a sustainable, safe, assisted living housing development for seniors, but we would like to be advised of future OPD sessions in which development details will be presented. Due to longstanding history of neglected/vacant properties in the area, and the negative impact it has had on commercial and residential neighbors, we have a special interest in minimizing possible risks associated with long-distance developers and absentee owner-landlords. We are hoping for strong involvement of local parties (Mid-town Assisted Living LLC, Renaissance Memphis LLC). We also look forward to getting more detail about this proposed senior living development.

Trina Jones

Director, Sustainability & Executive Projects Methodist Le Bonheur Healthcare

Trina Jones, on behalf of Methodist Le Bonheur Healthcare and New Pathways, Inc. . We join the voiced concerns of the Annesdale Park Neighborhood Association in having no detailed plans or information provided by the property owners/project partners on the eve of requested LUCB action. Adequate information and review time would be considered the appropriate good-faith response from applicants to concerned residential and corporate neighbors. We hope to receive such information to allow thoughtful and thorough review, and plan to attend LUCB meeting set for Aug. 13. Thank you.

South Memphis Neighborhood Inc.	No comments received
Glenview Community Development Partners:	No comments received
Central Garden Area Association:	No comments received
Orange Mound Concerned Citizens Co.:	No comments received
Annesdale Park Association:	

See Letter from Andrew McGill

Annesdale – Snowden N.A.:

We are concerned that if someone changes their mind, after the zoning is changed, we might get an undesirable development there. From what we have heard from neighbors who are working on this, nothing seems to be too sure. We need transparency and clear understanding as to real plans, not maybes. Then, if the development suits the location and neighborhood, have a discussion about changing the zoning. Barry and I are definitely interested in a development that will make our neighborhoods better, not worse.

Respectfully,

Katie Lincoln

See Letter from Margaret Craddock

See Letter from Carissa Hussong

From: J. Andrew McGill [jam0416@gmail.com]
Sent: Thursday, August 06, 2009 10:49 AM
To: Jones, Donald
Cc: Cathy Winterburn; Russ & Lelia Savory; Robert Packwood; Tom Wilemon; Terry Hill; Katie Donald; Williamson; Christina Hall; >; Carissa Hussong; Margaret Craddock; Jenny Garnett; Beth Flanagan; Joanne Turnage; S B
Subject: U. V. 09-05
Dear Mr. Jones, Ms. Baker and Board Members:

After meeting with the developers Mr. Tony Crosby and Joe Harris, and their engineer Cindy Reaves, I am encouraged by their willingness to work with the area residents and organizations that will be impacted daily by their proposed development. This meeting was held at MIFA on 08/03/09 with Executive Director Margaret Craddock and a member of her staff that has some jurisdiction over assisted living facilities in the area, Beth Flanagan, representing the Memphis Medical Center District, representatives from Annesdale Park Neighborhood Association, Annesdale Snowden Neighborhood Association and Vance-Peabody Neighborhood Association as well as Methodist Lebonheur.

In the meeting, the developers agreed to adjust the present architectural design of the common building to better suit the flavor of the historic neighborhoods surrounding the property. The building design is to incorporate columns and a portico or facade which is reminiscent of some of the older midtown homes that line this section of Lamar, instead of the present plan of a "ranch style", contemporary building. Perhaps some of those historic elements could be incorporated in the four story building as well.

They also agreed that the generous landscaping depicted in the plan presented at the meeting would not be the victim of budget cuts or overruns. They recognized that a generous landscaping design is a vitally important part of the marketability of the property and it's success. Their budget is extremely limited and this concerns us immensely.

Perhaps our greatest concern is that the developers have an extremely limited budget. The architects, with which they are working, are very talented people but can only work with the budget they are given. We place our trust in the board to confirm that the developer has the financial means to see a quality project come to fruition. Mr. Crosby stated that he has completed other facilities of this type, in his words, "around the world." We have asked for photos of these properties which he did not bring to the meeting and to date has not provided. He has not entered into an agreement with a management company for the property and has not disclosed with what management company or companies presently operate his previous developments. According to the MIFA representatives, many management companies in the business of assisted living are either in bankruptcy or coming out of bankruptcy. A well organized, financially solvent management company is crucial to the future success of the property and the life quality of it's vulnerable inhabitants.

When asked what would happen if their plan to market to dependent assisted living residents failed, Mr. Crosby stated that they would then open the property to more independent residents. When asked about the closing and failure of several local such facilities, they appeared somewhat taken aback. It appears that the developer does not have a clear marketing plan.

Our organization would suggest that the developer be required to submit a comprehensive marketing plan, produce a management company agreement with a solvent company and a proven track record, provide a completed and historically compatible architectural plan with an un-negotiable generous landscaping plan and appropriate lighting. Proof of financial means to complete the project should also be presented. The developer's previous projects of this nature and regulatory inspection results should be reviewed before approval.

We do not oppose the proposed use of the property as an assisted living facility and the use-variance. We appreciate the developer meeting with us and their willingness to work through the issues to insure success. We oppose the use of the building for any other purpose in the event of the assisted living center's failure. We do not support more apartments in this area. We have many concerns that this developer will complete a quality project with long term future success. We leave it to the board with your expertise and wealth of experience to protect our area and determine if this is the right development and the right developer for this site and the future of the medical center district as well as our beloved neighborhoods.

J. Andrew McGill
Housing Chairman, APNA
1302 Harbert Ave.
Memphis TN. 38104
228-326-3739

From: mcraddoc@comcast.net
Sent: Wednesday, August 05, 2009 11:23 AM
To: Jones, Donald
Subject: Midtown Assisted Living LLC

Mr. Jones - I was present at a meeting of representatives of Midtown Assisted Living LLC with neighborhood representatives on 8-3. Plans for development of an assisted living facility at 1318 Lamar were presented. I understand that the developers are requesting a use variance for this development, that comments from concerned parties are due at the LUCB by 8-6 and that if granted, the use must remain assisted living.

While I certainly agree that something should happen with this eyesore property, as a resident of the neighborhood, I am not in favor of granting the requested approvals for this project at this time. Based on information presented at the meeting I am very concerned about the ability and experience of the developers, Mr. Crosby and Mr. Harris to complete an assisted living facility of the quality that the surrounding neighborhoods should expect.

- They have no experience with assisted living or knowledge of its technicalities.
- When asked about marketing to determine the need, answers were vague and seemed to simply be based on growing numbers of elderly.
- Most importantly, they had no information about a management company for the development.
- The lot really does not seem large enough for a quality project of this nature with adequate green space and landscaping.
- The "amenities" of the development were stressed but were not defined.
- The scale of the project with its four stories does not fit the character of the surrounding neighborhoods.

I suggest that any approval be delayed until more information is presented and the neighborhoods are assured of the developers plans for a quality development with adequate financing to complete it and quality management to sustain it.

Thank you.

Margaret Craddock
1504 Carr Avenue
258-7641

From: Carissa Hussong [carissa@davidluskgallery.com]
Sent: Wednesday, August 05, 2009 4:27 PM
To: Jones, Donald
Subject: Midtown Assisted Living LLC
To: Don Jones
Sent: Wed, 5 Aug 2009
Subject: Midtown Assisted Living LLC
Re: U.V. 09-05

Dear Mr. Jones:

I am a resident of Annesdale Snowden. I attended a meeting between the Midtown Assisted Living LLC and neighborhood representatives on August 3 where current plans for the development of an assisted living facility at 1318 Lamar were presented.

Although I strongly support development of this site, I have several concerns about the proposed development and use of the site that have not been adequately addressed by the developers.

- 1) Although the developers claim to have experience with four other assisted living facilities, they have not provided the names, locations or photographs of the existing facilities and do not know or will not share the name of the management company(s) that oversees these facilities.
- 2) The lot is not very large, meaning the size of the project is small for an assisted living facility. It is unclear how many amenities will be provided. Fewer amenities will limit the type of clientele they can attract. It also means that the building will be four stories, which does not fit in well with the fabric of the surrounding neighborhood.
- 3) The overall development does not comply with the proposed new unified code - meaning the scale of the building and the location of the building and parking on the lot does not comply with the proposed new code. As the building will be further back on the lot and parking will be in front of the building, adequate landscaping is key to maintaining an attractive corner and gateway into the neighborhood. Landscaping is often the first thing to be value engineered out of a project and is not enforced by the city. Although the developers have assured us that the landscaping plan will be maintained, there is no way for the neighborhood to ensure that this will happen. Without seeing pictures of their other facilities, I am not confident that the landscaping will be adequate.

It is my understanding that the developers are requesting a one-time use variance for multi-family housing. I would support the use variance if

- 1) It only permits an assisted living facility and not apartments. The neighborhood is worried that the plans for the assisted living facility will fall through and the developers will build low income housing instead. An inexpensive, poorly planned housing development at this corner would be detrimental to the surrounding neighborhoods and

lower property values.

2) The plans for the assisting living facility be revised so that the building reflects the historic nature of the neighborhoods surrounding the site. Although this is a commercial strip, many of the buildings on this section of Lamar are houses that are 80 - 100 years old. Reflecting the historic nature of these other structures would enhance the development and help improve property values in the surrounding area.

3) The developer provides evidence that he has the financing and management in place for an assisted living facility.

Carissa Hussong
1293 Central Avenue
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