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MEMORANDUM

To: Memphis City Council

From: Josh Whitehead, Assistant City Attorney

Date: July 20, 2010

Subject: **Amendments made to the UDC (ZTA 09-001 CC) by the Shelby County Board of Commissioners**

The purpose of this memorandum is to summarize the four amendments made by the Shelby County Board of Commissioners during their first two readings of the Unified Development Code (UDC). These amendments were not reflected in the paper copy of the UDC you received prior to Council's First Reading of the Zoning Text Amendment on June 22, 2010. As the UDC is a joint ordinance that must be approved by both the Memphis City Council and Shelby County Board of Commissioners, these amendments are being offered for your consideration on Third and Final Reading on July 20, 2010. The document is expected to be subsequently approved on Third and Final Reading by the Shelby County Board of Commissioners on July 26, 2010. Throughout this memorandum, proposed language is indicated in **bold, double underline**; deletions are indicated in *strikethrough*.

Amendment No. 1: The Board of Commissioners amended the effective date for the UDC in three ways 1) to insert the date of January 1, 2011 as the effective date, 2) to allow the Memphis City Schools and Shelby County Schools additional time to adhere to the provisions of the UDC since Qualified School Construction Bonds (QSCB) funds have already been allocated by the US Department of Education for new schools and site plans have been drawn for these locations and 3) to permit a property owner the choice to adhere to the provisions of the UDC between the date the UDC is approved on and January 1, 2011.

Chapter 1.3, Effective Date

*This development code was adopted on [insert date here] and **becomes** ~~became~~ effective on **January 1, 2011, except as it applies to properties owned by Shelby County Schools and Memphis City Schools, in which case this development code becomes effective on August 1, 2011. Between the adoption date and the effective date, a property owner may choose to adhere to either this development code or the previously adopted Memphis and Shelby County Zoning Code and Subdivision Regulations.***

Amendment No. 2: The Board of Commissioners amended the permissible locations for the construction of new schools. Under the current Zoning Code, schools may be located on any street (arterial, collector or local) since the Zoning Code has no effect on either the Shelby County Schools or Memphis City Schools. Under this amendment, all high schools must be located on either connectors or arterials and all elementary,

middle, and junior high schools must be located on either connectors, arterials or a local street provided the local street is at least 40 feet wide adjacent to the school. The locations of arterials, connectors and local streets are indicated in the Memphis Metropolitan Organization's Long Range Transportation Plan.

2.6.2 C School, Public or Private, Seminary

8. All elementary, middle and junior high schools shall be located on a connector or arterial, **or on a local street if the drivable width of the local street adjacent to the school site is at least 40 feet wide.**

9. All high schools shall be located on an arterial **or connector.**

In addition to the above-referenced amendment, the following definition was added, since the UDC utilizes the term "connector" and the Long Range Transportation Plan utilizes the term "collector:"

12.3.1 General Definitions

CONNECTOR: As it pertains to specified uses permitted along connector streets, a connector shall be defined as any street identified as either a collector or connector in the Long Range Transportation Plan.

Amendment No. 3: The Board of Commissioners amended the University District Overlay and the Uptown Special Purpose District to allow schools in residential districts by right rather than by issuance of a special use permit, since schools are permitted by right in residential districts throughout the balance of the jurisdiction of the UDC.

The proposed amendment added solid boxes to Section 8.2.11 for "schools, public or private (K-12)" to indicate these uses are permitted by right in the R6, RU-1 and RU-3 zoning districts rather than by special use permit. This amendment also replaced the "S" that indicates a special use permit in the Medium-Density Residential Zoning District on the table in Section 7.2.11 with an "X," indicating this as a use by right. This squared these tables in the University District Overlay and the Uptown Special Purpose District with the Use Table in Section 2.5.2, which applies to all properties not included in Overlay or Special Purpose Districts.

Amendment No. 4: Finally, the Board of Commissioners approved an amendment to the section of the UDC concerning Certificates of Occupancy. The proposed amendment clarifies the current process of issuing Certificates of Occupancy.

Sub-Section 9.19.3A:

*It shall be unlawful for an owner or any other person to use or permit the use of any building or premises or part thereof, hereafter created, changed, converted, or enlarged, wholly or partly, until a certificate of occupancy has been issued by the Building Official ~~in that owner or person's name;~~ **provided however, such certificate of occupancy shall not be required for a person to use an existing building or premises, or part thereof, if:***

1. The proposed use does not require a change in the physical layout of the interior or exterior of the building or structure or its support systems which would require the issuance of a permit from the Building Official under the technical codes; and

2. The proposed use is:

- (a) a permitted use under Article 2.5 of this development code for the zoning district in which the building is located, and**
(b) the same use and occupancy classification under Chapter 3 of the building code as the most recent such building code use and occupancy classification of the premises.

9.17.2 C. A sign permit shall not require a certificate of occupancy.

Please feel free to contact me if you have any questions on any of these matters, or on the UDC in general.

Sincerely,



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