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MEMORANDUM

To: Memphis City Council

From: Josh Whitehead, Assistant City Attorney

Date: July 28, 2010

Subject: **Third and Final Reading of the Unified Development Code**

This memorandum is provided to you in response to a request made by the Land Use Committee of the Memphis City Council during their July 20, 2010, meeting. This memorandum 1) summarizes the significant changes between the proposed Unified Development Code (UDC) and the current Zoning Code and Subdivision Regulations, and 2) highlights the proposed amendments to the document for Third and Final Reading. This memorandum is organized to coincide with the copy of the UDC that was distributed to all Council members on June 14, beginning with a discussion of Article 1 and ending with Article 12. The Land Use Committee will again discuss this item on August 10.

During the Shelby County Board of Commissioners' First and Second Readings and associated Committee meetings adopting the UDC, several amendments were made to the document. In addition, a few more amendments have been suggested by the City Attorney's Office and by City Council members during the July 20 Land Use Committee meeting. These amendments are included in this memorandum: proposed language is indicated in **bold, double underline**; deletions are indicated in ~~strikethrough~~.

Executive Summary

Each item in this memorandum is classified as either an "amendment" or a "significant change." The lists below are short explanations of each of the amendments and significant changes.

A. Designated Street Frontages

One issue that was discussed at the July 20 Land Use Committee meeting that should be emphasized -- the UDC, as amended with this memo, ***does not*** require any new buildings to adhere to ***Designated Street Frontage Standards***. New designated street frontage standards will only commence with the City Council's subsequent approval of either 1) a zoning map amendment designating future streets for frontage standards, or 2) the adoption of a new overlay district. Designated street frontage standards are already in place in two overlay districts, the Medical Overlay District and the University District Overlay, and are proposed in a third, which has yet to be approved: the Midtown Overlay District.

Frontage standards are typically applied to urban streets where pedestrian and bicycle activity is being encouraged. They essentially require:

1. Buildings to be built **close to the street**;
2. Building to contain **windows** along the sidewalks;
3. **Rear parking** to be located behind buildings; and
4. **Building frontage** to comprise a majority of the lot width.

It has been shown that these four principal zoning tools can create a streetscape that is welcoming to pedestrians and cyclists, and are frequently found in America's most desirable communities.

B. Amendments

The following **amendments** are included in this memorandum for your consideration:

1. **MLGW**: remove MLGW from the UDC's regulations, at least for properties located within the City of Memphis (see Section 1.2B, under Article 1 on p. 5 of this memorandum and Sub-Section 9.12.1E under Article 9 on p. 17);
2. **Effective Date**: insert effective dates of August 1, 2011, for properties owned by the Memphis City Schools and Shelby County Schools and January 1, 2011, for all other property owners (see Chapter 1.3 under Article 1 on p. 5);
3. **MLGW Sub-stations**: expand the zoning districts in which MLGW may locate sub-stations in unincorporated Shelby County (see Chapter 2.5 under Article 2 on p. 8);
4. **School Locations**: require that high schools be located on either arterials or collectors and elementary schools be located on arterials, collectors or local roads of at least 40 feet in width (see Sub-Section 2.6.2C under Article 2 on p. 9);
5. **Automatic Frontage Standards**: remove the provision that requires all buildings within 250 feet of the intersection of two arterials to adhere to Designated Frontage Standards (see Paragraph 3.10.3A(4), under Article 3 on p. 13);
6. **School Locations in Overlays**: allow schools to be located within residential zoning districts in the Uptown Special Purpose District and the University District Overlay (see Section 7.2.11 under Article 7 on p. 15 and Section 8.2.11 under Article 8 on p. 15);
7. **Certificate of Occupancy**: clarify the process by which new certificates of occupancy are required (see Sub-Section 9.19.3A and 9.17.2C under Article 9 on pp. 17 & 18); and
8. **Definition of Connector**: define a "connector" street as the same type of street as a "collector" since the Metropolitan Planning Organization uses the latter term (see Section 12.3.1 under Article 12 on p. 18).

C. Significant Changes

The UDC makes the following **significant changes** as compared to the existing Zoning Code and Subdivision Regulations:

1. **Public Agencies:** The UDC will encompass public agencies; the current Zoning Code does not (see Section 1.2B under Article 1 on p. 5).
2. **Zoning District Conversion:** The UDC creates new zoning districts; all current zoning districts will automatically convert to these new zoning districts once the UDC becomes effective (see Section 1.13.4 under Article 1 on p. 6).
3. **New Mixed Use Districts:** The UDC will convert all existing commercial zoning districts to commercial mixed use districts (CMUs) that will allow the construction of residential uses (see Section 2.2.3 under Article 2 on p. 6).
4. **Changes to Permitted Uses:** As indicated above, the UDC will permit certain uses in the converted zoning districts, particularly with the allowance of residential uses in the current commercial zoning districts (see Chapter 2.5 under Article 2 on pp. 7 & 8).
5. **Farmers Markets and Neighborhood Gardens:** The UDC allows these uses by right in certain zoning districts (see Sub-Sections 2.6.4Q and 2.6.5D under Article 2 on p. 9).
6. **Home-Based Business:** The UDC adopts provisions on home-based business; under the current Zoning Code, home-based businesses are prohibited (see Section 2.7.4 under Article 2 on pp. 9 & 10).
7. **Threshold Date for Legal Lots:** Only those lots created by deed before March 6, 1956, are exempt from the current Subdivision Regulations; the UDC exempts all lots created by deed prior to March 1, 1989 (see Paragraph 3.2.2C(1) on p. 10).
8. **Corner Radii:** The UDC reduces corner radii, thereby making intersections more pedestrian-friendly (see Section 3.2.5 under Article 3 on p. 10).
9. **Block Lengths:** The UDC contains maximum block lengths to improve neighborhood walkability; the current Zoning Code contains no maximum block lengths (see Chapter 3.3 under Article 3 on p. 10).
10. **New Housing Types:** The UDC creates several new types of housing, including the side yard house, the cottage, the live/work unit and large house (see Chapter 3.4 under Article 3 on p. 10).
11. **Lot Size:** The UDC reduces the minimum required lot size for many housing types in a variety of zoning districts (see Chapter 3.6 under Article 3 on p. 11).
12. **Lot Width:** The UDC, in most instances, reduces the required lot width for new lots (see Chapter 3.6 under Article 3 on p. 11).
13. **Building Height:** In most zoning districts, allowable maximum building height is increased. For example, the maximum height in residential districts is increased from the current maximum allowable height of 35 feet to 40 feet (see Chapter 3.6 under Article 3 on pp. 11 & 12).
14. **Building Setbacks:** Some minimum required building setbacks are reduced with the UDC, particularly where a lot abuts an alley (see Chapter 3.6 under Article 3 on p. 12).

15. **New Subdivision Types:** The UDC permits two new types of subdivisions that, under the current Zoning Code, would be considered planned developments. The Open Space and Sustainable Subdivisions permit smaller lot sizes with the dedication of additional open space (see Sections 3.8.5 and 3.8.6 under Article 3 on p. 12).
16. **Infill Housing:** New houses constructed on empty lots with existing houses on both sides must be constructed at the same distance from the street as the existing houses (see Section 3.9.2 under Article 3 on p. 13).
17. **Non-Residential Building Setbacks:** For most non-residential uses, the required minimum setback has been reduced to 20 feet. Non-industrial uses may be located even closer to the street if they adhere to certain design requirements (see Chapter 3.10 under Article 3 on p. 13).
18. **Frontage Standards:** As stated in the introduction above, the UDC does not designate any new streets for Frontage Standards. However, the UDC does contain these Frontage Standards for future designation by City Council (see Section 3.10.3 under Article 3 on p. 13).
19. **Development Standards:** The UDC contains certain development standards that are all compiled in one table. While many of these are not new, they are currently contained in various locations of the Memphis Code of Ordinances (see Chapter 4.1 under Article 4 on p. 13).
20. **Streetscape Plates:** The UDC contains graphical representations of the width of sidewalks and the median strip between curb and sidewalks. The current Zoning Code does not graphically portray these items (see Chapter 4.3 under Article 4 on p. 14).
21. **Curb and Gutter Exemption:** The UDC allows the Planning Director to waive the construction of curbs and gutters along a street once a property is developed if certain conditions exist (see Sub-Section 4.3.4A under Article 4 on p. 14).
22. **Narrower Streets:** The UDC allows for narrower streets than what is permitted under the current Subdivision Regulations (see Chapter 4.4 under Article 4 on p. 14).
23. **Parking Regulations:** While most uses under the UDC will be required to contain the same amount of off-street parking as is stipulated under the current Zoning Code, the UDC does reduce the required parking for a few uses. In addition, off-street parking may be further reduced in a number of situations (see Chapter 4.6 under Article 4 on p. 14).
24. **Historic Multifamily Properties:** The Landmarks Commission is authorized under the UDC to identify certain historic multifamily properties so they are not adversely affected by the UDC's nonconforming regulations (see Paragraph 8.5.2F(3) under Article 8 on p. 15).
25. **Neighborhood Conservation Overlay Districts:** The City Council is authorized under the UDC to identify certain neighborhoods as neighborhood conservation overlay districts to regulate the size and volume of infill housing (see Chapter 8.9 under Article 8 on pp. 15 & 16).
26. **Use Variance:** The use variance has been deleted in the UDC, as the private act regulating the authority of the Memphis Board of Adjustment no longer contains the allowance of use variances (see Section 9.1.1 under Article 9 on p. 16).

- 27. **Technical Review Committee:** The UDC changes the makeup and authority of the technical review committee, which reviews items that proceed to the Land Use Control Board (see Section 9.1.8 under Article 9 on p. 16).
- 28. **Procedural Changes:** The process by which planned development outline plan amendments, street name changes and special exceptions is changed under the UDC (see Section 9.2.2 under Article 9 on pp. 16 & 17).
- 29. **Nonconformities:** Properties designated as Historic Multifamily Properties by the Landmarks Commission shall not be considered nonconforming uses or structures (see Chapter 10.8 under Article 8 on p. 18).

Article 1: General Provisions

Article 1 establishes the purpose, authority and intent of the UDC.

1. Section 1.2B – AMENDMENT – MLGW

The first proposed amendment for your consideration is included in Section 1.2B, below. Based on a City Attorney's opinion that the Memphis Charter prevents the City Council from restricting the placement of MLGW infrastructure inside the Memphis city limits, and a County Attorney's opinion that the Charter does *not* prevent the Board of Commissioners from restricting placement of MLGW infrastructure in Shelby County *outside* of the Memphis city limits, the proposed language below would only apply the UDC to MLGW properties outside of the city limits.

Section 1.2B
 All divisions, departments, commissions, boards, and authorities, of Shelby County government; the City of Memphis government; Memphis, Light, Gas and Water Division, only insofar as properties located in unincorporated Shelby County are concerned; Shelby County Schools and Memphis City Schools shall comply with the requirements of this development code.

2. Section 1.2B – SIGNIFICANT CHANGE – Public Agencies

The most significant change effectuated by Section 1.2B will be that, for the first time, public agencies must comply with the zoning regulations. The existing Zoning Code only applies to properties owned by private parties and not the City, County, City Schools or County Schools. Section 1.2B addresses this disparity by expressly including these public parties. A similar amendment is recommended for Sub-Section 9.12.1E, below. Please note that state- and federally-owned properties will continue to be exempt from the local zoning regulations.

3. Chapter 1.3 – AMENDMENT – Effective Date

The next section of the UDC, Chapter 1.3, includes an amendment proposed by the Board of Commissioners. This amendment involves the effective date for the

UDC in three ways 1) it inserts the date of January 1, 2011, as the effective date; 2) it allows 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) it permits 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.**

4. **Section 1.13.4 – SIGNIFICANT CHANGE – Zoning District Conversion**

Section 1.13.4 converts all existing zoning districts under the current Zoning Code into new zoning districts. Adoption of the UDC does not rezone any individual properties in Memphis and Shelby County; rather, all existing zoning districts will automatically convert to the districts as outlined in Section 1.13.4. Details on how these new districts differ from the existing zoning districts is included in the discussion of Chapter 2.5, Permitted Use Table and Article 3, Building Envelope Standards, below.

Article 2: Districts and Uses

Article 2 lists each new zoning district created by the UDC and includes the permitted uses in each district.

1. **Section 2.2.3 – SIGNIFICANT CHANGE – New Mixed Use Districts**

Section 2.2.3 provides intent statements for the "Mixed Use Districts." The current Zoning Code is Euclidian in nature; that is, all uses are segregated from one another. Part of the goal of the UDC is to foster new communities where people can live close to where they work and play in walkable, bikable neighborhoods. These new Mixed Use Districts allow for the construction of buildings that may include different uses, similar to Harbor Town or the South Main district.

With the passage of the UDC, all existing commercial zoning districts will automatically convert to these Mixed Use Districts, which are known as Commercial Mixed Use districts, or CMUs. The CMU districts allow for many more uses than is permitted in the current commercial zoning districts. Studies have indicated that the Memphis market contains at least 6 times the amount of retail square footage than would be necessary for its population. This has created an increase in the number of vacant shopping centers in the city. Therefore, the conversion of commercial zoning districts to CMU districts allows for additional options for the reinvestment and rehabilitation of some of the city's

faded shopping areas. More details on the permitted uses will be discussed below with Section 2.5, but basically, the CMU districts may include commercial, office and single-family residential uses by right. Multifamily residential uses are permitted in the CMU districts only by the issuance of a special use permit.

2. Chapter 2.5 – SIGNIFICANT CHANGES – Changes to Permitted Uses

Chapter 2.5, the Permitted Use Table, differs from the use table in the existing Zoning Code in the following ways.

- a. Single Family Detached Residential: Two new types of detached housing are permitted in the UDC: side yard house and cottage. Details of these housing types are discussed in Chapter 3.4, Housing Types, but basically, a side yard house may be built along the property line provided it is detached from the house on the abutting property and cottages require rear vehicular access via an alley.

Single Family Detached Residential will be permitted in three more zoning districts under the UDC than what is currently allowed under the existing Zoning Code: the proposed CMU-1, CMU-2 and CMU-3 districts. These include all properties within the City and unincorporated Shelby County that are currently zoned C-L (Local Commercial), C-P (Planned Commercial) and C-H (Highway Commercial).

- b. Single Family Attached and Two-Family: The same changes are proposed as with single family detached, above; under the UDC, these will be permitted in the CMU-1, CMU-2 and CMU-3 districts by right.
- c. Townhouse: Under the current zoning code, townhouses are only permitted in four zoning districts by right; in four others, townhouses are permitted but only with site plan approval by the Office of Planning and Development. Under the UDC, townhouses are permitted in 12 zoning districts by right. New districts allowing townhouses by right where they are not currently permitted are as follows: RW (current O-L, Limited Office), OG (current O-G, General Office), CMU-1 (current C-L), CMU-2 (current C-P) and CMU-3 (current C-H).
- d. Multifamily. As indicated in the discussion on Section 2.3.3 above, all current commercial districts will be converted to Mixed Use Districts (CMUs) with the passage of the UDC. Multifamily residential is not currently permitted in the commercial districts; under the UDC, multifamily projects may be located in CMU districts with the issuance of a special use permit by the appropriate legislative body. One zoning district that currently does not allow for multifamily, but would so under the UDC by right is the RW district (current O-L).
- e. Upper-Story Residential. This is currently not an allowable use under the existing Zoning Code. As stated before, one of the primary goals of the UDC is to allow for the construction of a mixture of uses, where a single building may include retail on the first floor, offices on the floor above that and residential on the top floors. This situation is contemplated by this residential housing type. Upper-story residential is permitted by right in

all Mixed Use Districts (CMUs), as well as the RU-3 (current R-MM, Multiple Dwelling Residential), RW (current O-L), OG (current O-G), CBD (current CBD, Central Business District) and CMP (current CU, College and University) districts.

- f. Live-Work Units. This housing type permits a working space to be located contiguous to a living space. Unlike home-based businesses, there are no limitations on customers, provided "no equipment or process [is] used that creates excessive noise, vibration, glare, fumes, odors or electrical interference." (Paragraph 2.6.1B(5) of the UDC). Live-work units are permitted by right in the RU-4 (current R-MH, Multiple Dwelling Residential), RU-5 (no equivalent zoning district currently exists), RW, OG, CMU, CBD and CMP districts. In the RU-1 (current R-D, Duplex Residential), RU-2 (current R-TH, Townhouse Residential) and RU-3 districts, live-work units are permitted only by special use permit. Live-work units in any RU district will require additional regulations, such as the requirements regarding close proximity to intersections, minimum parking spaces and maximum work unit size (see Paragraph 2.6.1B(8)).
- g. Boardinghouses and Rooming Houses. For these housing types, the UDC is more restrictive than the current Zoning Code. While these are currently allowed in the R-MM, R-MH, CBD and CU zoning districts by right and in nearly all other residential zoning districts by special use permit, the UDC limits these housing types to the CMU-2 and CMU-3 zoning districts by right and the RU-3, RU-4, RU-5, CMU-1 and CBD districts by special use permit.
- h. Fraternity and Sorority Houses. As with boardinghouses and rooming houses, the UDC is more prohibitive in the location of fraternity and sorority houses. They are currently permitted in the same zoning districts as boardinghouses and rooming houses, with the lone exception that they are not permitted by right in the R-MM and R-MH districts, but by the issuance of a special use permit. Under the UDC, fraternity and sorority houses will be permitted in the same districts as boardinghouses and rooming houses, with the following two exceptions: they will not be permitted in the CBD district and they will be permitted in the CMP districts by special use permit.
- i. Non-Residential Uses. In addition to the residential uses mentioned above, certain non-residential permitted uses will change with the passage of the UDC. For instance, the Land Use Control Board and appropriate governing bodies may designate certain historic non-residential structures as "Significant Neighborhood Structures" to allow certain uses (restaurants, offices, bakeries, etc.).

3. Chapter 2.5 – AMENDMENT – MLGW Sub-stations

According to the Use Table in Section 2.5, major utilities are only permitted in the IH (Heavy Industrial) zoning district by right and the EMP (Employment) district by issuance of special use permit. According to Sub-Section 2.9.3I, "major utilities" includes electrical substations, railroad right-of-way and electric generation plants. Federal law exempts railroads from zoning restrictions, and

MLGW is exempt from zoning restrictions inside the city limits. Allowing major utilities to be located in only two zoning districts may require the initiation of a rezoning process in some situations, which places the site of the proposed major utility in some peril since conditional zoning is not permitted in Memphis and Shelby County. In other words, a request for a rezoning to the IH (Heavy Industrial) zoning district could be processed by MLGW, then they abandon their plans for a sub-station once the property is rezoned to IH and then a less-desirable use purchases the property that is now legally zoned IH. It is the recommendation of staff to amend the Use Table in Chapter 2.5 to allow "all major utilities" in the same zoning districts as "all minor utilities." **This will involve the insertion of solid boxes in for "all major utilities" in all zoning district columns, except for "P" (Parks).**

4. **Sub-Section 2.6.2C – AMENDMENT – School Locations**

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, Sub-Section 2.6.2C will be amended to allow all high schools to be located on either connectors or arterials and all elementary, middle, and junior high schools to 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,**

5. **Sub-Section 2.6.4Q and 2.6.5D – SIGNIFICANT CHANGE – Farmers Markets and Neighborhood Gardens**

Section 2.6, "Use Standards" contains two uses that are either absent in the current Zoning Code or will be greatly amended with the adoption of the UDC: Farmers Markets and Neighborhood Gardens. Sub-Section 2.6.4Q contains details on farmers markets, such as their hours of operation and preference for community or neighborhood based-farmers markets over commercial farmers markets. Neighborhood gardens, which do not allow for on-site sales in residential zoning districts, are detailed in Sub-Section 2.6.5D. The principal difference between farmers markets and neighborhood gardens is that the purpose of the former is to be an outdoor sales venue for food grown elsewhere; the purpose of the latter is to grow food.

6. **Section 2.7.4 – SIGNIFICANT CHANGE – Home-Based Businesses**

Section 2.7.4 contains provisions for home occupations, i.e., home-based businesses. Under the current Zoning Code, home-based occupations are not permitted; under the UDC, certain home-based occupations are prohibited, such as restaurants, group instructions, child care centers, etc., but many are allowed

in residential zoning districts. Section 2.7.4 contains the rules by which home-based businesses must operate; for example, outdoor display of merchandise and exterior alterations to the home are not permitted.

Article 3: Building Envelope Standards

Article 3 not only includes bulk regulations, such as yard size and building height, but also subdivision regulation-related items such as block length, sight triangles and cul-de-sac length.

1. **Paragraph 3.2.2C(1) – SIGNIFICANT CHANGE – Threshold Date for Legal Lots**

Paragraph 3.2.2C(1) contains the threshold date for lots created by deed that are exempt from the UDC – March 1, 1989. All lots created after that date must be created by subdivision plat or be 4 acres or larger in size. The current Subdivision Regulations use the threshold date of March 6, 1956. Lots created by deed after these dates must adhere to the subdivision regulations and proceed to the Land Use Control Board to become legal lots of record. Therefore, all lots created by deed between March 6, 1956, and March 1, 1989, will become legal lots with the passage of the UDC.

2. **Section 3.2.5 – SIGNIFICANT CHANGE – Corner Radii**

Section 3.2.5 contains rules on corner radii. The UDC reduces corner radii, or the curvature at which two streets intersect with one another, as compared to the current Subdivision Regulations. This will help create an environment more amenable to pedestrians, as it will be more difficult for drivers to take right turns going at a high rate of speed. In addition, reduced corner radii provide a shorter crosswalk distance since the corners will be closer to one another.

3. **Chapter 3.3 – SIGNIFICANT CHANGE – Block Lengths**

Chapter 3.3 details how block length is measured; the UDC includes maximum lengths for blocks, whereas the current Subdivision Regulations do not. Requiring blocks to be shorter encourages neighborhood connectivity, decreases emergency response time and promotes walking and biking. Planned developments with private streets are not required to meet the block length standards of the UDC.

4. **Chapter 3.4 – SIGNIFICANT CHANGE – New Housing Types**

Chapter 3.4 contains graphics and photographs to pictorially describe each housing type. As indicated above, the side yard house is a new housing type in the UDC that is not permitted in the current Zoning Code. Basically, a side yard house is built along one of its side property lines. This is repeated on the lot next door, which allows each house to be detached. The Carolina and Main Street Subdivision, the newer gated community at the northeast corner of Main and Carolina, features side yard houses. In addition to side yard houses, the UDC also features the large home, an apartment building that has six or fewer units that has the appearance of a large house.

5. **Chapter 3.6 – SIGNIFICANT CHANGES – Bulk Regulations (Lot Size and Width; Building Height and Setback)**

Chapter 3.6 contains lot size, lot width, building height and building setbacks for conventional subdivisions in each residential zoning district. Changes from the current Zoning Code are listed below.

- a. Lot Size: Lot size is relatively unaffected with the passage of the UDC. Major changes in minimum lot size are found in the CA and R-E districts, where lots will be required to be larger if they lack city water and/or sewer. In the RU-2 district (the current R-TH, Townhouse Residential district), in which the minimum lot size is reduced from 6000 square feet for single-family detached dwellings to 4000 square feet for a cottage (which requires an alley). Also in the RU-2 district, minimum lot size for duplexes is increased from 6000 square feet to 8000 square feet. For large homes, lot size is also increased in the RU-2 district, changing from the current 10,000 square feet for "other uses" to 12,000 square feet.

Other changes to lot size are found in the RU-3 district (the current R-ML, Multiple Dwelling Residential district), in which the minimum lot for a townhouse is decreased from 2500 square feet to 1300 square feet. Also in the RU-3 district, lot size for duplexes is increased to 8000 square feet from 5500 square feet. In the RU-4 district (the current R-MH, Multiple Dwelling Residential district), single-family detached lot size is decreased from 5000 square feet to 3000 square feet, townhouse lot size is decreased from 2400 square feet to 1100 square feet and multi-family dwelling lot size is decreased from 10,000 square feet to 8000 square feet.

Finally, in the OG district (the current OG, General Office district), the UDC contains no minimum lot size for office uses. On the other hand, in the CMU-2 district (the current C-P, Planned Commercial and C-L, Local Commercial districts), uses besides offices currently contain no minimum, but under the UDC must be on lots of at least 20,000 square feet in size.

- b. Lot Width: In most instances, minimum lot width is unaffected with the passage of the UDC. The most significant changes between the UDC and the current Zoning Code insofar as lot width is the minimum width in the new CA district (the current AG, Agricultural district), where the minimum required width increases from 60 feet to 120 feet; the RU-2 district, where the required width for large homes decreases from 100 feet to 50 feet, the RU-3 and RU-4 districts; where the minimum lot width for multifamily buildings decreases from 100 feet to 50 feet; the OG district, where minimum lot size increases for offices from 50 feet to 100 feet; the CMU-2 district, where lot size changes from no minimum in the current Zoning Code to 50 feet in the UDC and the CMU-3 district (the current C-H, Highway Commercial district) where lot size changes from no minimum to 100 feet.
- c. Building Height: While the current Zoning Code sets 35 feet as the maximum building height in the existing single-family residential zoning districts, the UDC sets the minimum at 40 feet. Townhouses, apartment

buildings and large homes are also limited to 35 feet under the current Zoning Code in the existing multifamily zoning districts; the UDC proposes increases for those uses, as well. Townhouses and large homes in the RU-2 district will be permitted to be 45 feet in height, townhouses and multifamily buildings in the RU-3 district will be permitted to be 45 feet in height, townhouses and large homes in the RU-4 district will be permitted to be 50 feet in height and apartment buildings in the RU-4 district will be permitted to be 75 feet in height. For non-residential uses, offices in the RW district (the current O-L, Limited Office district) will be permitted to be 50 feet in height (the current Zoning Code limits offices at 35 feet in height), non-office uses in the CMU-2 district will be permitted to be 75 feet in height (the current Zoning Code contains a maximum of 35 feet) and non-office uses in the CMU-3 district will also be permitted to be 75 feet in height (the current Zoning Code limits these uses at 50 feet). Please note that Sub-Section 3.2.8B stipulates that all nonresidential and multifamily buildings over 40 feet in height must be "stair stepped" from abutting single-family residential houses.

- d. Building Setbacks: Front, side and rear yard setbacks are relatively unchanged in the UDC as compared to the current Zoning Code. The most significant change in the residential zoning districts is the decrease in front yard setback if a lot has rear alley vehicular access, where the front yard may be reduced to 15 feet for lots abutting an alley. In addition, required front yards for many of the attached single-family, townhouse, large home and apartments buildings are reduced from 30 feet under the current Zoning Code to 20 feet under the UDC. In addition to the reduction of front yard setbacks, rear yard setbacks are also reduced in a few residential zoning districts, particularly for duplex, townhouse and single-family attached uses, usually from 25 feet to 20 feet.

In the RU-2, RU-3, RU-4 and RU-5 districts, apartment buildings and townhouses will be subject to a *maximum* setback of 20 feet. In other words, the buildings must be located at least 20 feet from the right-of-way. This is in contrast with the setbacks previously mentioned in this section, which have all been minimum setbacks. The *minimum* setback for apartments and townhouses in these districts is 2 feet.

Finally, one major change proposed with the UDC for many zoning districts is the reduced setback required for side yards facing streets. Under the current Zoning Code, side yards facing streets are considered front yards, necessitating a greater setback. The UDC considers these as a side yard, which decreases the required setback in most zoning districts.

6. **Sections 3.8.5 and 3.8.6 – SIGNIFICANT CHANGE – New Subdivision Types**

Sections 3.8.5 and 3.8.6 detail the rules and regulations for open space and sustainable subdivisions. These types of subdivisions allow for smaller lots than would ordinarily be permitted in the underlying zoning district, provided a certain amount of open space is provided. Under the current Zoning Code, this is only achieved through the planned development process.

7. **Section 3.9.2 – SIGNIFICANT CHANGE – Infill Housing**

Section 3.9.2 stipulates that infill single-family housing must be constructed to be compatible with existing surrounding housing, particularly in regards to the size of the front yard. The current Zoning Code contains no similar provisions.

8. **Chapter 3.10 – SIGNIFICANT CHANGE – Non-Residential Building Setbacks**

Chapter 3.10 covers bulk regulations for the non-exclusively residential zoning districts. In most instances, the minimum setback for these nonresidential and multifamily uses is 20 feet. However, non-industrial buildings may be located closer than 20 feet to the right-of-way, provided that certain design criteria are met, such as a minimum percentage of the building devoted to windows (termed "transparency" in the UDC).

9. **Section 3.10.3 – SIGNIFICANT CHANGE – Frontage Standards**

Section 3.10.3 includes the Frontage Standards for buildings built along those streets that the City Council and Board of Commissioners choose to designate. Streets have already been designated by the City Council in the Medical Overlay District and the University District Overlay. For instance, buildings built along a designated street must contain a certain percentage of transparency (i.e., windows), must be within close proximity to the street, must cover a certain percentage of its lot and must have no or limited parking in the front. If the amendment listed below is approved, Section 3.10.3 will apply to no properties with the passage of the UDC; rather, this section will only be triggered through a zoning map amendment.

10. **Paragraph 3.10.3A(4) – AMENDMENT – Automatic Frontage Standards**

Based on comments made during the Land Use Committee of the Memphis City Council at its July 20, 2010, meeting, the following amendment is proposed to Paragraph 3.10.3A(4). **Delete Paragraph 3.10.3A(4), which requires all developments within 250 feet of two arterials to adhere to the Frontage Standards of Section 3.10.3.** It was determined that frontage standards should be limited to urban streets, and many arterial intersections throughout the City and County were suburban and rural and inappropriate locations for frontage standards.

Article 4: General Development Standards

Article 4 regulates when certain types of improvements, such as sidewalks and landscaping are required with the development or redevelopment of lots.

1. **Chapter 4.1 – SIGNIFICANT CHANGE – Development Standards**

Chapter 4.1 contains a table summarizing most requirements of Article 4. While most of these items are not necessarily new to the Code of Ordinances, they were not previously located in the Zoning Code.

2. **Chapter 4.3 – SIGNIFICANT CHANGE – Streetscape Plates**

Chapter 4.3 contains streetscape plates that regulate the placement of sidewalks, on-street parking and street trees, as well as the width of sidewalks and median strips. For the most part, median strips under the UDC are required to be wider than they are under current regulations to allow the planting of street trees.

3. **Section 4.3.4 – SIGNIFICANT CHANGE – Curb and Gutter Exemption**

Section 4.3.4 allows the Planning Director to grant an administrative deviation to exempt a property owner from installing curbs and gutters along the abutting street if there are no curbs and gutters along the street already and if there are no planned public capital improvement projects proposed in the next 10 years to install curbs and gutters along the street. The current Subdivision Regulations do not contain this provision.

4. **Chapter 4.4 – SIGNIFICANT CHANGE – Narrower Streets**

Chapter 4.4 contains new street width standards that permit narrower streets than under the previous Subdivision Regulations. Narrower streets are safer due to the accompanying reduction of vehicular speed.

5. **Chapter 4.6 – SIGNIFICANT CHANGE – Parking Regulations**

Chapter 4.6 contains parking regulations. For the most part, the amount of required parking is not affected by the UDC. In a few situations, the parking requirements have been relaxed. For example, parking for restaurants has been reduced from one space per 100 square feet to one space per 300 square feet. In addition, Sub-Section 4.6.3E contains a table detailing ways to reduce on-site parking, including proximity to transit stops, residential areas, on-street parking and bicycle parking.

Article 5: Infrastructure and Public Improvements

Article 5 regulates the dedication and improvement of streets and alleys and includes requirement for utility location. No significant changes are proposed with the UDC.

Article 6: Open Space and Natural Resource Protection

This article regulates the clearing of trees and other vegetation and promotes the protection and preservation of existing trees and root systems and also establishes the priority of required open space and provides options for how it might be configured and maintained. No significant changes are proposed with the UDC.

Article 7: Special Purpose Districts

This article contains the rules and regulations for the two special purpose districts that have been approved in Memphis and Shelby County: the South Central Business Improvement District and the Uptown District.

1. **Section 7.2.11** – AMENDMENT – School Locations in Overlays

The Board of Commissioners amended 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 UDC. The proposed amendment replaces the “S” in the table in Section 7.2.11 in the Medium-Density Residential Zoning District for “schools, public or private (K-12)” with an “X” to indicate these uses are permitted by right. This squares the use table in 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.

Article 8: Overlay Districts

This article contains the regulations for the overlay districts approved in Memphis and Shelby County: the Medical Overlay District, the University District Overlay, the Transitional Office Overlay, the Residential Corridor Overlay District, the Historic Overlay District, the Floodplain Overlay District, the Fletcher Creek Overlay District and the Neighborhood Conservation Overlay District.

1. **Section 8.2.11** – AMENDMENT – School Locations in Overlays

In addition to amending the Uptown Special Purpose District use regulations, the Board of Commissioners amended the University District Overlay to allow schools in residential districts by right rather than by issuance of a special use permit. This proposed amendment adds 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.

2. **Paragraph 8.5.2F(3)** – SIGNIFICANT CHANGE – Historic Multifamily Properties

While many larger houses in the city’s older sections have been subdivided into duplexes, triplexes and multi-family properties, some were originally constructed that way. Paragraph 8.5.2F(3) outlines the process by which the Landmarks Commission may identify historic multi-family properties so they will not be considered nonconformities at risk of being forced to convert to single-family if partially demolished or vacated for 365 days.

3. **Chapter 8.9** – SIGNIFICANT CHANGE – Neighborhood Conservation Overlay Districts

Some neighborhoods are either too young to be considered designated historic districts, or the residents do not desire the architectural controls that accompany such designation. Nevertheless, some neighborhoods may wish to be designated for the new Neighborhood Conservation Overlay Districts, which can

limit the volume and massing of new homes. Chapter 8.9 highlights the process by which a Neighborhood Conservation Overlay District may be established, as well as the requirement that a neighborhood plan be submitted prior to the creation of the district.

Article 9: Administration

This article establishes the procedures by which all zoning and subdivision requests are processed by the Office of Planning and Development.

1. Section 9.1.1 – SIGNIFICANT CHANGE – Use Variance

Section 9.1.1 lists the items over which City Council and/or the Board of Commissioners have final authority. One significant item is absent from this list as it compares with the land use decisions that are currently enjoyed by the legislative bodies: the use variance. The use variance was removed from the UDC because it is no longer permitted by the enabling legislation, at least inside the city limits. In addition, widespread use of the use variance has decreased predictability in land use patterns in the city, contributing to market instability. Sub-Section 9.6.1D stipulates that any use variance already approved may be expanded or modified with the issuance of a special use permit.

2. Section 9.1.8 – SIGNIFICANT CHANGE – Technical Review Committee

Section 9.1.8 contains the composition and role of the Technical Review Committee (TRC), the group that reviews and provides recommendations on many items that are forwarded to the Land Use Control Board and the appropriate legislative bodies. The composition of the TRC is different from the current Subdivision Technical Review Committee in the following ways: representatives from Comprehensive Planning, City Engineering and County Engineering are added and representatives from County Traffic Engineering, the Home Builders Association and the Board of Realtors are removed. In addition to these changes in the composition of the TRC, its role is greatly expanded. Under the current Zoning Code, the Subdivision Technical Review Committee only reviews subdivisions. Under the Sub-Section 9.1.8B of the UDC, the TRC will also review special use permits, planned developments, zoning text amendments, special exceptions and administrative site plans under the discretion of the planning director.

3. Section 9.2.2 – SIGNIFICANT CHANGE – Procedural Changes

Section 9.2.2 contains a table that identifies the review authority for each item that is processed by the Office of Planning and Development. The UDC makes the following changes in this table, in addition to the changes highlighted above with the TRC:

- a. The City Council and/or Board of Commissioners must approve all amendments to an outline plan under the UDC. Under the current Zoning Code, these amendments are only forwarded to the appropriate legislative bodies on appeal.

- b. The Land Use Control Board may approve street name changes with only appeals forwarded to the appropriate governing bodies; under the current Zoning Code, the appropriate governing bodies approve street name changes (see Chapter 9.10).
- c. Special exceptions, which are outlined in Chapter 9.14 and include allowing alternative streetscape plates and increased heights for buildings, will be processed by the Land Use Control Board and forwarded to the appropriate legislative bodies if appealed. Under the current Zoning Code, special exceptions are reviewed and approved by the Board of Adjustment.

4. **Sub-Section 9.12.1E – AMENDMENT – MLGW**

Similar to the manner in which Section 1.2B was amended above, Sub-Section 9.12.1E should also be amended to exempt MLGW from the provisions of the UDC for properties located inside the City of Memphis.

Sub-Section 9.12.1E:

All divisions, departments, commissions, boards, and authorities, of Shelby County government; the City of Memphis government; Memphis Light, Gas and Water Division, only insofar as properties located in unincorporated Shelby County are concerned; Shelby County Schools and Memphis City Schools shall be subject to administrative site plan review and shall submit site plans to the Planning Director to review for compliance with the requirements of this development code.

5. **Sub-Section 9.19.3A – AMENDMENT – Certificate of Occupancy**

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.

6. **9.17.2C – AMENDMENT – Certificate of Occupancy**

This amendment, which was approved by the Board of Commissioners in tandem with the amendment above, clarifies that a new sign shall not trigger the requirement that a business owner obtain a new certificate of occupancy.

Sub-Section 9.17.2C:

A sign permit shall not require a certificate of occupancy.

Article 10: Nonconformities

Article 10 regulates buildings that are "grandfathered," due to their construction before the adoption of current zoning regulations. If a structure is demolished resulting in a reduction of fair market value of more than 75%, or if it has been vacated for 365 consecutive days, it loses its nonconforming protection and must adhere to the UDC.

1. **Chapter 10.8 – SIGNIFICANT CHANGE – Nonconformities**

Chapter 10.8 stipulates that historic multifamily properties, as identified by the Landmarks Commission, will not be considered nonconforming properties.

Article 11: Enforcement

This article establishes the Memphis and Shelby County Office of Construction Code Enforcement as the enforcement agency of the UDC. No significant changes are proposed to this article in the UDC.

Article 12: Definitions

This article defines the terms of the UDC.

1. **Section 12.3.1 – AMENDMENT – Definition of Connector**

The following definition was added by the Board of Commissioners, 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.

Please feel free to contact me if you have any questions on the UDC, or if you would like to meet one-on-one on any of these issues. The entire Council is invited to attend the Land Use Committee on August 10 when this item will be heard in full and a powerpoint presentation will be provided.

Sincerely,



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