LAND USE CONTROL BOARD RECOMMENDATION

CASE #: P.D. 08-332 CC

At its regular meeting of January 8, 2009, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application requesting a planned development on the property described as follows:

LOCATION: Northwest corner of Lowrance Road and Stansell Court

OWNER OF RECORD: Health Facilities Partners L.P. (Don Mundie)

APPLICANT: PEMEX, Inc. (Haitham Alyousef)

REPRESENTATIVE: Prime Development Group (Michael J. Fahy)

REQUEST: Amend Parcel 11 to permit a religious institution with Associated day care, meeting space, a tower, and lighted outdoor recreation fields

AREA: 4.39 Acres

EXISTING ZONING: Vacant land governed by the approved conditions for Parcel 11 of the Stansell Crossing Planned Development (P.D. 05-360CC)

OPD Presentation: Don Jones

Mr. Jones presented the application explaining that the Stansell Crossing development was set up with specific permitted uses in each parcel. Thus if a requested use for a parcel was not on the approved list, then an amendment is required. Mr. Jones also explained that due to the somewhat irregular shape of the parcel and some specific needs of the applicant, the staff is recommending in favor of a deeper setback than would typically be recommended here, in return the applicant is providing additional landscaping of the parking field that is consistent with the concepts found in the draft copy of the Unified Development Code. Mr. Jones did point out that the staff did some inconsistencies with respect to the ownership of the property (the drainage feature that surrounds the site and provides some access to the site) that surrounds the subject site and is not comfortable recommending this aspect of the site plan without a clear understanding of the relations between the owners. Mr. Jones did present 3 friendly amendments to be added to the conditions: 1). Photometric analysis will be included with any site plan that calls for lighting to demonstrate that the trespass of light onto adjoining properties will be kept at a minimum, 2. clarification of the height of the building and the tower (minaret), 3. a statement from a Certified Wetland Scientist as to the location of and impact on any wetlands will be submitted with the Final Plat.

The following spoke in support of the application:

Michael J. Fahy
Prime Development Group
7520 Capital Drive, Ste 200
Germantown, TN 38138

Mr. Fahy did express some displeasure at learning about the OPD's concerns about the abutting ownership so late in the process, But he nonetheless asked the Board to remove that aspect of the request from consideration and vowed to work with the OPD and City Engineering staff between the Board meeting and subsequent Council and Commission hearings to resolve the issue. He allowed, and staff quickly agreed, that there are many aspects of this Planned Development that are unusual in comparison with other Planned Developments.

No one spoke in opposition to the application:

The Land Use Control Board reviewed the application of PEMIX INC, requesting planned development and the report of the staff. A motion was made and seconded to recommend approval of the application, including the friendly amendments that were offered in staff presentation..

The motion passed by a unanimous vote of 9 to 0 with one recusal.

The Board approved the conclusions of the staff as contained in the staff report.

Respectfully submitted,

Donald Jones, Principal Planner for
Mary L. Baker, Deputy Director
Office of Planning and Development

OUTLINE PLAN CONDITIONS

Stansell Crossing Planned Development, 6th Amendment, Parcel 11
P.D. 08-332CC
(Bold print indicates friendly amendments approved by LUCB)

I. USES PERMITTED:

A. Parcels 1, 2, and 3:

Single family detached dwelling units and accessory uses.

B. Parcels 4, 5, 6, and 7:

Single family detached, zero lot line and townhouse residential dwelling units and accessory uses. Uses permitted (X or P) in the R-ML District shall be permitted.

C. Parcel 8:

Any use permitted (X) in the R-TH District.

D. Parcels 9 and 10:

Any use permitted (X or P) in the Planned Commercial District, including a maximum of two(2) hotels (to be located in either parcel or parts of both), and a cleaning establishment with the following exclusions:

1. Pawn Shop
2. Used goods, second hand sales
3. Group Shelter
4. Transitional Home
5. Beverage container collection center
6. Garage, commercial
7. Lawn, tree, or garden service
8. Gasoline sales
9. Convenience store
10. Vehicle wash

E. Parcel 11:

The following uses shall be permitted:

a. The existing psychiatric and substance abuse sub-acute care facility (for treatment on a voluntary basis only)
b. Office
c. Day Care Center

d. Health Club
e. Bank or Financial Institution
f. Postal Facility
g. Nursing Home
h. Assisted Living Facility
i. Sit down Restaurant (but not fast food or drive-thru window service)
j. A religious institution with typical accessory uses such as unlighted ball fields, day care, meeting rooms, worship building. **Lighting of ball fields shall require the submittal of a lighting plan that provides photometric analysis to the Office of Planning and Development and no light shall wash beyond the property line. The maximum height of the lighting fixtures shall not exceed 15 feet in height.**

F. Parcel 12: Public Utility: MLGW Electric Subst*ation*-ONLY.

G. Parcel 13: Open space, recreational facilities, and pedestrian system.

II. BULK REGULATIONS:

A. Maximum densities and floor area ratios as shown on the Outline Plan.

1. Parcels 1, 2, and 3:

Maximum density 4 dwelling units per acre: 120 units for Parcel 1, 136 units for Parcel 2, 14 units for Parcel 3.

2. Parcels 4, 5, 6, and 7:

Maximum density five dwelling units per acre: 155 units for Parcel 4, 55 units for Parcel 5, 105 units for Parcel 6, and 82 units for Parcel 7.

3. Parcel 8:

Maximum density 12 dwelling units per acre: 278 dwelling units.

4. Parcels 9 and 10:

Maximum floor area as regulated by Zoning Ordinance for the C-P District.

a. Minimum setback from Nonconnah Parkway(Hwy 385) for any future uses shall be 50 feet.

b. The particular requirements for hotels in Parcel 9 and or 10 are as follows:

(1) The buildings shall be composed of a minimum of 80 percent brick with a pitched roof. The balance of the structure shall include glass, stucco, or similar materials, but not wood or vinyl siding.

(2) The roof may be composed of seamless metal or shingles. If metal, the color shall be an earth tone.

(3) A detailed landscaping plan equivalent to the landscaping plan for the Hotel in S.U.P. 97-273 CC.

(4) The base and framing of the detached sign shall use materials and colors that are similar to the building.

(5) Free standing lighting shall be limited to a maximum height of 15 feet and the design of the light fixture shall be illustrated.

5. Parcels 11 and 12:

Regulated by the Planned Commercial(C-P) District and the following additional conditions:

a. Any building shall be composed of 100 percent masonry and glass with a pitched roof, but wood or vinyl siding and split face block shall not be permitted.

b. The roof shall be composed of seamless metal or shingles. If metal, the color shall be an earth tone.

c. The base and framing of the detached sign shall use materials and colors that are similar to that of the building.

d. Free standing lighting shall be limited to a maximum height of 15 feet and the design of the light fixture shall be illustrated at Site Plan Review.

e. Maximum F.A.R. shall be .25.

f. Assisted living shall be regulated by the Bulk Regulations of the R-ML District.

g. The proposed buildings for the application for Parcel 11, sixth amendment, shall be in conformance with the submitted elevations and the conditions (a through f. above). The final plat shall identify the specific type and percentage of building materials which are subject to the review and approval of the Office of Planning and Development. Brick, stucco, stone, and glass, are preferred materials, a smaller percentage of split face and not smooth faced concrete block may be permitted but it must be a lower percentage than the preferred materials.

B. Maximum height of all buildings 35 feet.

1. The maximum height for any building located within 1,000 feet of a scenic highway (Hwy 385) shall not exceed a height of 35 feet above the level of the highway on property located below the level of such a highway, or a height of thirty five (35) feet above the ground line on property located above the level of such a highway.

2. Parcels 9 and 10 shall be permitted a four (4) –story hotel, a maximum of fifty (50') feet in height.

3. A maximum of 50 feet in height is permitted for the main worship structure (mosque), and a maximum of 75 feet in height for the minaret. All other buildings shall be a maximum of 35 feet.

III. ACCESS AND CIRCULATION:

A. The number and general location of curb cuts shall be as shown on the Outline Plan and subject to the approval of the City and County Engineer.

B. The number of parking and loading spaces shall be in accordance with the Zoning Ordinance requirements.

C. Dedicate and improve 57 feet from the centerline of Hacks Cross Road in accordance with the Subdivision Regulations.

D. Dedicate and improve 34 feet from the centerline of Lowrance Road in accordance with the Subdivision Regulations.

E. Dedicate 30 feet from the centerline of Germantown Lane and improve in accordance with the Subdivision Regulations.

F. Dedicate 34 feet from the centerline of Long Creek Road/Isherwood and improve in accordance with the Subdivision Regulations.

G. Close the commercial collector shown on the Outline Plan with curb, gutter and sidewalk and relocate to the east side of the ditch.

H. Dedicate a commercial collector (55/40) to serve Parcels 9, 10, and 12 with a cul-de-sac, including a 50' radius at its northern terminus, with the first phase of this development.

I. Sidewalks are required on all streets, but residential loops and cul-de-sacs.

J. Participation in the cost of bridge or box culvert construction if found to be necessary to access this property will be subject to the approval of the City/County Engineer as a part of final plan approval.

K. Provide internal circulation between adjacent phases, lots, and sections. Common ingress/egress easements shall be shown on the final plats.

L. Any nonconforming curb cuts shall be modified according to the requirements of the City/County Engineer or closed and replaced with curb, gutter, and sidewalk.

M. Any private drives shall be designed to meet the requirements of the Subdivision Regulations and the paving requirements of the City of Memphis.

IV. LANDSCAPING, SCREENING, PARKING AND OPEN SPACE:

A. Perimeter landscaping shall be provided as follows:

1. Plate A-2 or A-3, 8 feet in width on the non-residential frontage of Hacks Cross Road and Lowrance Road and the commercial collector loop road.

2. A minimum of 300 feet of internal landscaping and one shade tree shall be provided and maintained for every 20 spaces, excluding required perimeter landscaping or screening.

3. Existing trees will be preserved wherever feasible.

4. For any use which abuts Nonconnah Parkway a Plate A-4 or equivalent shall be required.

5. Equivalent landscaping may be substituted for that required above subject to the approval of the Office of Planning and Development.

6. The Tree Ordinance shall apply to the development or re-development of the parcels in this planned development. A Notice of Intent is required prior to the removal of the first tree.

B. Lighting shall be directed so as to not glare onto residential property.

C. Refuse containers and HVAC equipment shall be completely screened from view from adjacent property. For Parcels 11 and 12, method of that screening, landscaping, fencing, or architectural features, shall be demonstrated at Site Plan Review.

D. Required landscaping shall not be placed on sewer or drainage easements. The required landscaping shall be exclusive of and in addition to, any required easements.

E. A detailed landscaping plan for Parcel 12, equivalent to the approved landscaping plan for S.U.P. 97-273CC, shall be provided. Said landscaping plan shall be reviewed at the time of Site Plan Review.

F. The donation of the land on either side of the drainage feature to create and maintain a Greenbelt, including a pedestrian trail system, should be investigated with the Shelby County Conservation Board. If an agreement is reached, the Outline and Final Plats shall be re-recorded to show the change in ownership.

G. If parking is anticipated for motor homes, recreational vehicles, trailers or boats, such location shall be specified on the site plan and such area shall be screened from the view of Nonconnah Parkway and Lowrance Road. No tractor trailers (i.e. 18 wheelers with or without the trailer attached) shall be permitted to park on this site.

H. If a chain link fence is proposed to provide security fencing, such fencing shall include black or green vinyl coating.

I. Parcel 11, 6th Amendment,

1. Lowrance – A RV-2 Plate or equivalent widened to 20 feet. If fencing is proposed along the street frontage, it shall be decorative wrought iron, and illustrated on the final plat.

2. East and West Property lines – A single row of evergreen, the equivalent of the B-1 Plate, minimum width of 8 feet, without the wall.

J. Due to the presence of floodplain on this site and the adjacent drainage easements, a letter from the Corps of Engineers and/or Tennessee Department of Environment and Conservation **or a Certified Wetland Scientist** stating that no wetlands are present or that mitigation requirements have been met shall be required during the review of the Final Plat.

V. SIGNAGE:

A. Ground mounted signs in accordance with the C-P District shall be permitted on Parcels 9, 10, and 12. Any signage along the Nonconnah Parkway is limited to 35 square feet in area and 10 feet in height. The number of detached signs along the Nonconnah Parkway frontage is regulated by the Scenic Highway Act.

B. Attached signage shall be permitted as provided in the Zoning Ordinance, except that no roof mounted signs shall be permitted.

C. No portable or temporary signs shall be permitted.

D. In Parcel 11, the detached signage shall be ground mounted, monument in style, and limited to 35 square feet in area and 10 feet in height, and as otherwise regulated by the Planned Commercial District.

VI. DRAINAGE:

A. All drainage plans shall be submitted to the City and County Engineers for review.

B. All drainage emanating on site shall be private. No easements will be accepted.

C. The Outline Plan shall reflect a minimum 25-foot rear yard, exclusive of the easement along the natural drainage way, as well as a buildable area and front yard setback on each buildable lot.

VII. A final plan shall be filed within five(5) years of approval of the Outline Plan by the legislative bodies. The Land Use Control Board may grant extensions at the request of the applicant.

VIII. Amendments to the Planned Development may be requested by an individual property owner without the consent of other property owners within the planned development; however, all property owners within the planned development shall receive notice of any public hearing.

IX. The Land Use Control Board may modify the bulk, access, parking, loading, screening, signage, and other site design features if equivalent alternatives are presented, but may not permit modifications to the uses permitted on maximum densities and floor area ratios.

X. This is one of many anticipated amendments to the vacant land associated with the Stansell Crossing Planned Development. If certain amendments, currently in process (i.e. the amendment to Parcels 9 and 10), are approved by the Legislative Bodies, prior to the adoption of this requested amendment then those changes will be reflected in these conditions. It will be made clear which changes are binding upon which parcels.

XI. Site Plan Review:

A. The development of Parcels 11 and 12 shall require site plan review before the Land Use Control Board. Notification to abutting properties and the representatives of the Buckingham Farms and Richwood Homeowner Associations as well as any other associations deemed appropriate by the Office of Planning and Development shall be required. Site Plan review before the Land Use Control Board shall not be required for the development of the religious institution. If the applicant or the OPD Staff cannot agree on the meaning of a condition, a correspondence application may be filed for review by the Land Use Control Board as described above.

B. An application for Site Plan Review shall be submitted to the Office of Planning and Development no less than 35 days prior to the next scheduled hearing. The recommendation of the Land Use Control Board may be appealed to the Legislative Bodies, provided that a letter of appeal is received by the City/County CAO, with a copy to the Director of the Office of Planning and Development or its succeeding entity, within 10 days of the public hearing before the Land Use Control Board. The letter shall state the reason for the appeal, including any particular conditions or requirements that are in dispute.

C. The following elements shall be included in any Site Plan Review for any use within Parcels 11
and 12:

1. The elevation of the building, including materials and the color of the roof if metal is used.

2. A detailed landscaping plan as described above.

3. Elevations of any detached signs.

4. A detailed lighting plan.

5. Proposed screening of HVAC and refuse containers.

6. Location and screening of parking areas.

XII. Any final plan shall include the following:

A. The Outline Plan Conditions.

B. A standard improvement contract as defined by the Subdivision Regulations for any needed public improvements.

C. The exact location and dimensions, including height of all buildings or buildable areas, parking areas, drives, and required landscaping.

D. The number of parking spaces.

E. The location and ownership, whether public or private, of any easement.

F. A statement conveying all common facilities and areas to a Homeowners' or Property Owners' Association or other entity, for ownership and maintenance purposes.

G. The 100 year flood elevation.

H. The location, diameter, and species name of existing trees over 8 inches in diameter and differentiating between those trees to be preserved and those to be removed.

I. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City or County Engineer, as applicable. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City/County Engineer's Office. Such maintenance shall include, but not be limited to, removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.

J. The applicant agrees to furnish the Richwood Homeowners Association's Public Relations Chairman with the name and phone number of the Construction Engineer and/or Project Engineer. If that name changes, the applicant shall advise the association accordingly.