LAND USE CONTROL BOARD RECOMMENDATION

CASE #: P. D. 08-331 CC

At its regular meeting on ***Thursday, December 11, 2008***, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application requesting a planned development amendment on the property described as follows:

LOCATION:	**East side of Forest Hill-Irene Road; +/-597 feet north of East Shelby Drive**
OWNERS:	**Turley, L.P.**
APPLICANTS:	**Edward Rose Properties, Inc.**
REPRESENTATIVE:	**Tetra Tech, Inc.-Frank Gianotti**
REQUEST:	**Planned development amendment to allow 432 multi-family residential apartments and 140 independent senior living apartment units.**
AREA:	**54.10 Acres**
EXISTING LAND USE & ZONING:	**Vacant land currently governed by Forest Creek Planned Development(P.D. 02-365 CC).**

The following spoke in support of the application:

Frank Gianotti, representative; 65 Union Avenue-Suite 300 Memphis, TN 38103, stated agreement with the recommendation of the staff and conditions of approval and that the developer will continue to work with surrounding neighborhoods to add language regarding building design and future transfer of ownership.

Karl P. Birkholz, President-Irene Ngh'd Association, 8560 Old Creek Road, Memphis, TN 38125; stated they researched the company and concluded they are in favor of this proposal for apartments and senior living units.

The following spoke in opposition of the application:

Linda Davis, 4620 Barkley Glen Drive, Collierville, TN 38017
Brandy Seif, 9266 South Fairmont Circle, Collierville, TN 38017
Liz Fernwalt, 9315 S. Fairmont Circle, Collierville, TN 38017
Carrie L. Harris, 9390 Barkley Dale Drive, Collierville, TN 38017

The Land Use Control Board viewed the application of ***'Edward Rose Properties, Inc.'*** requesting a planned development amendment and the report of the staff. A motion was made and seconded to recommend approval of the application with conditions.

The motion *passed* by unanimous vote of *6* to *3*.

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

Respectfully submitted,

Brian S. Bacchus, Principal
Mary L. Baker, Deputy Director
Office of Planning and Development

Cc: ***P & Z Committee Members***
File

P.D. 08-331 CC
Forest Creek Planned Development, 3rd Amendment

Land Use Control Board
OUTLINE PLAN CONDITIONS: *[Amendments: Bold, Italic & Underlined]*

I. USES PERMITTED:

A. Area 1 - Uses permitted by right or Administrative Site Plan Review in the C-P Planned Commercial District.

B. Area 2 - Uses permitted by right in the Single Family Residential(R-S6) District as modified herein.

C. Area 3 - Uses permitted by right in the Single Family Residential(R-S10) District as modified herein.

D. Area 4 - Uses permitted by right in the Single Family Residential(R-S15) District as modified herein.

E. Area 5 - Uses permitted by right in the Single Family Residential(R-S15) District as modified herein.

F. Area 6 - Uses permitted by right in the Single Family Residential(R-S15) District as modified herein: The density shall be a maximum of two(2) dwelling units per acre.

G. Area 7 - Uses permitted by right or administrative site plan review in the Multiple Dwelling Residential(R-ML) District, including a 140 unit independent senior living facility.

H. Area 7A - Uses permitted by right or Administrative Site Plan Review in the Planned Commercial(C-P) District. Area 7A shall extend a distance of nine-hundred feet(900') east from the right-of-way line of Forest Hill-Irene Road.

I. Area 8 - Uses permitted by right in the Multiple Family Residential(R-ML) District and single family residential with a minimum lot size of 40 feet by 100 feet.

J. Area 9 - Uses permitted by right or Administrative Site Plan Review in the Planned Commercial (C-P) District.

K. Area 10 - Natural open space, boardwalks, wildlife habitats, visitor kiosk, shelters and support parking.

L. Area 10 - The open space area shall be the first phase of development, provided an appropriate public entity agrees to take ownership of this area.

M. Until the subject property is served by sanitary sewers, any lot developed shall have a minimum area of two acres.

N. Any development which precedes availability of sanitary sewer to the property shall include construction of a dry gravity sewer system to provide for eventual connection to the City sewer system.

II. BULK REGULATIONS:

A. Areas 1, 7A and 9: The requirements of the C-P District shall apply with the following exceptions:

1. Maximum floor area ratio: .25(F.A.R.).

2. Specific building setbacks and height shall be determined at the time of site plan review.

B. Area 2 - The requirements of the R-S6 District shall apply with the exception that density shall be a maximum of 5.0 dwelling units per acre.

C. Area 3- The requirements of the R-S 10 District shall apply with the exception that density shall be a maximum of 3.5 dwelling units per acre.

D. Areas 4 and 5 -The requirements of the R-S 15 District shall apply with the exception that density shall be a maximum of 2.5 dwelling units per acre.

E. Area 6 - The requirements of the R-S15 District shall apply with the exception that density shall be a maximum of 2.0 dwelling units per acre.

F. *Area 7* - ***In accordance with the R-ML District with a maximum of 432 apartment units and a maximum of 140 senior living units with the following exceptions:***

1. ***Maximum density shall be .35 (F.A.R.).***

2. ***Maximum height – four(4) stories.***

3. Maximum setback from Forest Hill-Irene Road - 60 feet.

4. Air conditioning and heating or other mechanical equipment shall be screened using architectural features or other means.

G. Area 8 - Portions of Area 8 developed for multi-family uses shall meet the requirements of the R-ML District with the exception that the density shall be a maximum of 12 dwelling units per acre. The portion of Area 8 developed as single family shall have a minimum lot size of 40 feet by100 feet with one(1) zero side yard set back and one(1) 3.5 foot set back with a minimum separation of seven(7') feet between buildings; a front yard set back of fifteen(15') feet and a rear yard set back of thirteen(13') feet. One story units shall have a minimum square footage of 1,400 square feet. Two story units shall have a minimum first floor area of 1,200 square feet and a minimum second floor area of 200 square feet.

III. ACCESS AND CIRCULATION:

A. Forest Hill-Irene Road (Priority II) shall be dedicated 57 feet from the centerline along Areas 1,7,8,9 and 10. Full urban improvements shall be provided in accordance with the Subdivision Regulations along Areas 1 and 7, no improvements are required along Areas 8, 9, and 10.

B. Shelby Drive (Priority II) shall be dedicated 57 feet from the centerline and improved with full urban improvements in accordance with the Subdivision Regulations.

C. Mayfield Road shall be designed as a major local street with eight(8) foot wide tree lawns containing street trees and with landscaped traffic circles as shown on the Concept Plan.

D. Curb cuts shall be permitted as follows:

Area 1: 5 curb cuts to Shelby Drive and
3 curb cuts to Forest Hill-Irene Road.

Area 4: 1 curb cut plus 1 shared curb cut between Area 3 & 4 to Shelby Drive.

Area 5: 1 curb cut to Shelby Drive.

Area 7: 2 curb cuts to Forest Hill-Irene Road.

Area 8: 2 curb cuts to Forest Hill-Irene Road.

Area 9: 2 curb cuts to Forest Hill-Irene Road.

Area 10: 2 curb cuts to Forest Hill-Irene Road.

E. No curb cuts permitting left turns into the site shall begin closer than 300 feet from the intersection centerline of Shelby Drive and Forest Hill-Irene Road.

F. The design and location of curb cuts are to be approved by the County Engineer's Office.

G. Internal circulation shall be provided between adjacent phases, lots, and sections of similar development as appropriate subject to site plan review by the Land Use Control Board.

H. All private drives shall be constructed to meet pavement requirements of the Subdivision Regulations, applicable City Standards and provide a minimum width of 22 feet exclusive of curb and gutter.

I. The geometry, design and improvement of all public roadways shall be in accordance with the Subdivision Regulations and the paving policy adopted by the Shelby County Commission on August 1, 1988.

J. Access to Forest Hill-Irene Road will be established at a safe distance from the Nonconnah Parkway ramp by the City/County Engineer.

K. Clover Trace Lane east of Forest Creek Planned Development terminates at the east property line of Area 6. Access from Area 6 to Clover Trace Lane shall be prohibited.

L. Provide a permanent access easement across Area 9 from Area 8 to Forest Hill-Irene Road. Easement location shall be determined at the time of Area 9 development if Area 8 develops as single family residential with more than eighty(80) units.

IV. LANDSCAPING AND SCREENING:

A. Plate A-3 landscaping or equivalent landscaping shall be provided along the Shelby Drive and Forest Hill-Irene Road frontages of Area 1 and 9. If Area 8 develops as single family residential, then a Plate A-4(modified) or equivalent landscaping screen shall be provided along the Forest Hill-Irene Road frontage of Area 9.

B. Plate B-3 planting screen or an equivalent shall be provided along the north and east boundary of Areas 1 and 9.

C. Plate RV-2 or equivalent landscaping shall be provided along Shelby Drive at Areas 3, 4 and 5 if developed as residential.

D. Plate A-4 or equivalent landscaping shall be provided along Forest Hill-Irene Road at Areas 7 and 8. ***A detailed Landscape Plan shall be submitted for review and approval for Area 7 in accordance with the Concept Plan. All mature and natural buffers of trees shall be preserved as illustrated on the Concept Plan of development.***

E. ***A residential entry feature shall be constructed at the south property line where Mayfield Road enters Collierville Station and Barkley Square neighborhood. This entry feature shall be designated and compatible to existing entrances to Collierville Station and Barkley Square subdivisions.***

F. Chain-link fencing shall be prohibited along Shelby Drive and Forest Hill-Irene Road.

G. Internal landscaping shall be provided at a minimum ratio of 300 square feet of landscaped area and one shade tree (Tree A from the approved plant list of the Landscape Ordinance) for every 20 parking spaces. Required landscaped area shall not be less than 200 square feet in any single location.

H. Additional landscaping may be required or equivalent landscaping may be substituted subject to site plan review by the Land Use Control Board.

I. All required landscaping and screening shall not conflict with easements including drainage, sewer or utility easements and overhead wires.

J. Lighting on non-residential properties shall be directed so as not to glare onto residential property.

K. Refuse containers shall be reasonably screened from view of adjacent properties.

L. All loading facilities shall be screened from view of the public roads and adjacent properties.

M. Heating and air conditioning equipment located on the roof shall be screened from view of adjacent properties using architectural features.

The following conditions shall apply only if Area 8 is developed as single family residential, otherwise the original conditions shall apply:

N. Provide a solid eight(8') foot brick wall along Forest Hill-Irene Road frontage of Area 8. No portion of the wall shall be closer to Forest Hill-Irene Road than fifty(50') feet. Entrance gates shall be set back a minimum of one-hundred(100') feet from Forest Hill-Irene Road. Details for the brick wall and landscaping of the lawn area shall be submitted with the Final Site Plan for review and approval by the Memphis & Shelby County Land Use Control Board at the time of site plan approval.

O. Along the north property line of Area 8, provide a solid brick wall eastwardly to a point one-hundred feet (100') from Forest Hill-Irene Road, then provide an eight(8') foot high wood fence (double faced) supported by steel posts set in concrete extending to the point where the property line turns southeast. Along the balance of the north property line, provide a six(6) foot high green vinyl coated chain-link fence. North of the chain link fence, within the Dan B. Turley Natural Area, provide a meandering row of privet spaced at six(6') feet on center. Privet shall be located a minimum of ten(10') feet north of the chain-link fence.

P. Along the south property line of Area 8, provide a solid eight(8') foot brick wall to a point one-hundred(100') feet from Forest Hill-Irene Road. The balance of the common frontage with Area 9 shall include a Plate B-3. This plate shall be modified to include a wood fence in lieu of chain-link. A fence opening shall be provided at the location of the access drive serving Area 8.

Q. Along the south property line of Area 8, provide a thirty(30') foot non-disturbance area from the north right-of-way of Bill Morris Parkway(Hwy 385). Provide a transition from this non-disturbance area to a point where the grade of the property coincides with the private road grade. This private road shall be north and adjacent to this transition and non-disturbance area. Supplement the non-disturbance area with evergreens in areas where existing vegetation is sparse. Residential lots shall be located north of the private road. Units shall be arranged so that garage door openings shall not be on the south elevation.

R. Plate B-3 modified or equivalent landscaping shall be provided along the frontage of Nonconnah Parkway in Area 9 only if the rear of buildings face the road right-of-way.

V. SIGNS:

A. Attached and detached signs in Area 1, Area 7, Area 7A and Area 9 shall conform to the Planned Commercial(C-P) District regulations with the following exceptions:

1. Maximum sign area shall be 100 feet.

2. Materials and design shall be consistent with the design and materials of the commercial buildings.

B. All signs in Areas 2,3,4,5, and 6 shall conform to the Single Family Residential(R-S10) District regulations with the following exceptions:

1. All detached signs shall be monument style signs.

2. Materials and design shall be consistent with the design and materials of the office buildings.

C. Integrated center signs in Area 1, 7A and 9 shall be permitted in accordance within the C-P District regulations. ***(Note: Area 7 deleted from this condition)***

D. All signs in Area 8 shall be permitted in accordance with the R-ML District.

E. Portable and temporary signs shall be prohibited.

F. Billboards or other off-premise signs shall be prohibited.

G. All signs shall be setback a minimum of 15 feet from the right-of-way.

VI. DRAINAGE:

A. All drainage plans shall be submitted to the City/County Engineer(s) for review.

B. Drainage improvements, including possible on-site detention, to be provided under contract in accordance within the Subdivision Regulations and the City of Memphis Drainage Design Manual.

C. This project must be evaluated by the Tennessee Department of Health and Environment regarding their jurisdiction over the watercourses on this site in accordance with the Water Quality Control Act of 1977 as amended (T.C.A. 69-3-101 to 69-3-131).

VII. The Land Use Control Board may modify the bulk, access, parking, landscaping, loading, screening, signs and other site requirements if equivalent alternatives are presented; provided, however, any adjacent property owner who is dissatisfied with the modifications of the Land Use Control Board and hereunder may, within ten days of such action file a written appeal to the director of Office of Planning and Development, to have such action reviewed by the appropriate legislative bodies.

VIII. DESIGN:

A. Commercial and office buildings shall be constructed using a consistent style and materials.

B. Gasoline sales islands and canopies shall be designed as an integral part of the principal structure.

IX. SITE PLAN REVIEW:

A. A site plan shall be submitted for the review, comment and recommendation of the Office of Planning and Development(OPD) and appropriate City and County agencies and the approval of the Land Use Control Board prior to approval of any final plan ***for Areas 1, 7A and 8.***

B. The site plan shall be submitted at least twenty days prior to a Land Use Control Board meeting and shall include the following information:

1. The location and dimensions of all buildings (commercial and office), buildable areas (residential), signs and parking areas.

2. The layout of all public streets, private drives and the dimensions and area of all lots.

3. Specific plans for internal and perimeter landscaping and screening.

4. Location and dimensions, area and dimensions, including landscaping of all open space features.

5. Illustrations of the design and materials of any proposed buildings and signs.

C. The site plan shall be reviewed based upon the following criteria:

1. Conformance with the Outline Plan Conditions.

2. Adequacy of facilities (streets, sewers, drainage, etc.) and conformance to the Subdivision Regulations and Standards.

3. Building orientation and setback.

X. Final plans shall not be approved until the site plan for that phase is approved by the Land Use Control Board. The Board may approve, approve with conditions, or reject the site plan. If necessary, the Board may take the matter under advisement or defer the decision until the next regular meeting of the Board.

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

XII. Any final plan shall include the following:

A. The Outline Plan Conditions.

B. A standard subdivision contract as defined by the Subdivision Regulation for any needed public improvements.

C. The location and dimensions of buildings (commercial and office) or buildable areas (residential), pedestrian and utility easements and required landscaping and screening areas.

D. The specific content of all landscaping and screening to be provided.

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

F. A statement conveying all common facilities and areas to a homeowners' association or other entity for ownership and maintenance purposes.

G. 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/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.

H. The following note(s) shall be included on any final plat filed for this development if Area 8 is developed as single family residential:

"This is a private development. The Homeowners' Association is solely responsible for all maintenance and repair of private facilities including streets, roads, sewers and storm drains. There is not, nor ever will be, any County or City responsibility for these facilities."

I. The Outline Plan shall be recorded to reflect any area change of use and changes to the Outline Plan Conditions prior to the recording of the next phase of development.

J. ***The Outline Plan for Forest Creek Planned Development, 2nd Amendment(P.D. 02-365 CC) shall be revised to reflect this plan amendment and shall be re-recorded with the Office of Shelby County Register.***

P.D. 08-331 CC(formerly P.D. 02-365 CC
Forest Creek Planned Development, 3RD Amendment