

# **FORM-BASED CODE COMMITTEE** **MINUTES**

**February 14, 2019**

The duly advertised meeting of the Form-Based Code Committee was held on February 14, 2019, at 2:00 p.m. at the Development Resource Center, Conference Room 1A. Chair Jason Havron called the meeting to order. Secretary Rosetta Greer called the roll and swore in all those who would be addressing the Committee. Development Review Planner Emily Dixon explained the rules of procedures and announced that the meeting is being recorded.

**Members Present:** Jason Havron, William Smith, Matt Whitaker, David Hudson and Jim Williamson

**Members Absent:** Marcus Jones and Grace Frank

**Staff Members Present:** Development Review Planner Emily Dixon, Secretary Rosetta Greer and City Attorney Harolda Bryson

**Applicants Present:** Tiffany Farley, Cardon Smith, Chad Moore, Brad Eckland and Clayton Mazingo.

**Approval of Minutes:** Jim Williamson made a motion to approve February 2019 meeting minutes. David Hudson seconded the motion. The motion was unanimously approved.

**Planner Emily Dixon explained the rules of procedures.**

## **OLD BUSINESS:**

### **Case #18-FB-00062 – 1601 & 1603 Long Street – Interior islands and perimeter plantings**

#### **Project Description:**

The applicant, Broadspace Investors LLC / Cardon Smith, has applied for the following modifications:

1. Reduction of interior islands from 13.5' to 8.88', 9.71', 11.7' and 9.94'.
2. Reduction of rear perimeter plantings from 4' to 3.51'.
3. Substitution of the 3' masonry wall along the perimeter planting for a 6' fence.

Ms. Dixon presented the PowerPoint presentation. This case was deferred by the applicant from the January 2019 Agenda to this month. The zoning is U-CX-3 which is urban commercial mixed use.

**Tiffany Farley, of 651 E 4<sup>th</sup> Street Suite 407, addressed the Committee.** Ms. Farley is a Civil Engineer with AD Engineering. She said the drawing shows a six (6) inch standard curb instead of the extruded curb. She said having a six (6) inch curb will give an extra foot to put in landscape across the side. She said she is actually proposing a four (4) foot fence of decorative aluminum instead of a six (6) foot fence. There is a parking lot, building and sidewalk between the adjacent properties. She said the parking is not visible from the [East Main] street. She said the relief is a combination between the two perimeter planting options. She said she

is proposing a continuous row of shrubs with a decorative aluminum fence at four (4) feet. Mr. Whitaker asked what the proposed four (4) foot fence looked like. He asked if the proposed fence had any openings. Ms. Farley said it is a black decorative aluminum fence. Mr. Whitaker asked what would be planted in the area around the proposed four (4) foot tall fence. Ms. Farley said the proposed plantings would be glossy abelia shrubs and Chinese pistache trees.

Mr. Hudson asked why the applicant decided to not do a six (6) foot fence. Ms. Farley said proposing a six (6) foot fence would be too high between the parking lots. The fence is a security fence and secures the lot.

Ms. Dixon said the intent of having a block wall is not absolutely necessary because everything surrounding the lot is a parking lot. The applicant is offering an alternative to screen the parking lot. Mr. Whitaker said the intent is to screen the parking lot. Ms. Farley said that is why she proposed a continuous row of shrubs. Ms. Dixon said the parking lot is screened from the right of way.

Mr. Hudson said he did not understand the change in the height of the proposed fence. Mr. Whitaker said the minimum height allowed is for three (3) foot wall. Mr. Hudson said a four (4) foot wall is not creating security and asked why the applicant could not build the wall per the Code. Ms. Farley said if the wall is done as required it would reduce the landscaping out of the area.

Mr. Smith asked if the material was a concern. Ms. Dixon said the material is not an issue in this case and if the proposed fence is built, there would be more soil area than there would be if a wall was built. Ms. Dixon said ultimately there would be more soil volume and the Committee needs to consider what the ultimate goal is. Mr. Whitaker asked if the variance request is to not have a wall. In response to Mr. Whitaker, Ms. Dixon said that was correct. Mr. Williamson asked if the applicants really wanted a fence.

**Cardon Smith, Developer for 1601 & 1603 Long Street, addressed the Committee.** Mr. Cardon Smith said a fence is desired and that it is a nice decorative aluminum fence. He said having a fence does not provide security but it is nice to have.

Mr. William Smith asked about the height requirements and material of the fence. He asked if the applicants were allowed to have a decorative aluminum fence. Ms. Dixon said the material is not a problem. Mr. William Smith asked if the minimum fence height was three (3) feet. Ms. Dixon said the three (3) feet height minimum requirement is for a wall and not the fence. Mr. Whitaker said the fence is not the order of discussion. Ms. Dixon also stated that the proposed aluminum material is fine.

Mr. Hudson asked if the applicant's request is to have a wall be replaced with planted shrubs to provide a screen. Ms. Dixon said yes. Mr. Hudson asked if the other request was to have smaller islands. Ms. Farley said the islands are two hundred (200) square feet in soil surface which is required by code. Mr. Whitaker asked if the islands are narrow in its overall dimensions. Mr. Hudson asked if it were two hundred (200) square feet because of the standard curb. Ms. Farley said yes. Mr. Cardon Smith said the site is tight and the goal is to offer the purchasers a parking spot per unit thus eliminating street parking.

**Community Comments:** None.

**Discussion:** The discussion took place as written above.

**Matt Whitaker made a motion to approve Case #18-FB-00062 – 1601 & 1603 Long Street, as submitted pursuant to the Chattanooga City Code, Section 38-596(4) and pursuant to the Form-Based Code, subject to any and all conditions.**

**Conditions:** For variance request three (3), the approval is to not have a three (3) feet wall required along the perimeter planting areas.

**William Smith seconded the motion. The motion was unanimously approved.**

#### **NEW BUSINESS:**

##### **Case #19-FB-00005 – 802 Central Avenue – Parking Reduction**

###### **Project Description:**

The applicant, Edwin Frank Chobot III, has applied for the following modification:

1. Replacement of required 6 vehicle parking spaces with bike parking.

Ms. Dixon said this case has been deferred by City Staff due to the applicant not having the required Neighborhood Association Meeting.

##### **Case #19-FB-00006 – 625 E Main Street – Monument Sign**

###### **Project Description:**

The applicant, Purple Sky Healing Arts, LLC / Certified Lighting LLC, has applied for the following modifications:

1. Increase in monument sign height from 6' to 8'8".
2. Allowance of sign in the 25' sight triangle.
3. Increase in maximum monument sign width from 10' to 10'7".

Ms. Dixon presented the PowerPoint presentation. She said this case has been heard before the Committee before but has had new developments since then. This is an enforcement case. A variance was previously heard for this site in July 2018. She said a setback variance was granted and the pole sign request was denied at that time. She stated that there is approximately twenty-seven (27) feet between the ROW (right of way) and the face of the building. The ROW is approximately twenty-two (22) feet. The current sign location is nineteen (19) foot nine (9) inches. This current sign is located within the ROW. She said if the current sign is approved it will be subject to acquire a Temporary Use Permit through CDOT (Chattanooga Department of Transportation). She read from the Form-Based Code *Section 38-753. Applicability (4) Monument Sign (Ground) Signs* and *Section 32-34. – Obstructions to visibility at intersections.*

**Chad Moore, of 165 Hamm Road, addressed the Committee.** Mr. Moore is with Certified Lighting LLC. He passed out renderings to each committee member and staff. (*The renderings have been filed*). He said this was his first major project in the Form-Based Code area. He said this project began in April of 2018. He then asked if the Committee could find a solution for his client. He said April 3, 2018 is when he met with the client and May of 2018 is when the Committee approved him to do the project. He went before this Committee in June of 2018 to have his case heard but the meeting was cancelled due to the lack of Committee quorum. He

said there was an interim meeting held and he missed it. He is aware that the pole sign was denied at that interim meeting and a ten (10) foot setback was granted. He said the initial reason for the design was to have planters placed around the current sign. He said the sign was installed at the end of October of 2018 and was informed in November 2018 that the sign was not conforming to the Code. He said upon discussion with Ms. Dixon the current sign is considered a pole sign because of the poles located on either side of the sign. He said he is proposing to lower the overall height of the sign to be closer to the proposed planters around the current sign base. He said the current sign is eight (8) feet eight (8) inches tall by ten (10) foot seven (7) inches wide. He said he is far off on the sign height requirements and only seven (7) inches off for the width. Ms. Dixon said the current sign is in the ROW. Mr. Moore said he is confused on the sight triangle requirements.

Mr. Hudson asked if the Form-Based Code violations made by the applicant. Ms. Dixon said the requested variances are listing all the violations. She said the current sign is in violation of the Form-Based Code sign code. The monument sign requirements have not changed since the code was established.

Mr. Smith asked if there would still be an issue with the line of sight. Ms. Dixon said the rule is if you place something over three (3) feet in height within twenty-five (25) feet of an intersection then the sight triangle has been compromised. She said because there is a side street adjacent to the side of the property the visibility down East Main Street is impeded. Thus, the sight triangle has been compromised. Mr. Whitaker said based upon the images, the stop sign location and the current sign location, there would be a visible sight issue. Mr. Moore said the building behind the current sign location is closer to the street than the current sign itself. Ms. Dixon said the building is a legal non-conforming issue and is irrelevant to the current sign case. Mr. Whitaker said the building is not in the sight triangle. Mr. Moore said he is willing to move the current sign back. Ms. Dixon said that either way the current sign would need a variance because it has to be setback a total of twenty-five (25) feet from the edge of the curb and that would make the sign location unusually close to the building.

### **Community Comments:**

An email was sent in opposition by Vicki Armor (*in PowerPoint presentation*).

### **Rebuttal:**

**Chad Moore addressed the Committee.** Mr. Moore said his rebuttal is similar to his previous statements. He said a six (6) feet tall by ten (10) feet wide sign is a large sign and what is another foot. He said another foot is larger but the actual signage is thirty-two (32) square feet. He said he wants to find a solution where the sign can remain as is but be moved around on the site location.

**Discussion:** Mr. Smith said the Committee does not have proposed plans for what the applicant would do but only what has been done already. Ms. Dixon agreed. Mr. Smith said he is confused on the timeline of the previous case about the pole sign. He asked about the previous denial for this property. Ms. Dixon said the pole sign was denied and the applicants were allowed to do a smaller setback. She said the applicant placed the sign without proper permitting and had a sign application been submitted she could have advised this on this matter

earlier. Mr. Smith asked if the applicant was knowledgeable of the requirements and steps needed prior to sign installation. Ms. Dixon said that he was knowledgeable of the process.

Mr. Hudson asked if the applicant had a ten (10) foot setback granted. Ms. Dixon said a ten (10) foot setback had been granted from the property line. She said if the current sign were moved to an approvable location it would need to be moved back twelve (12) feet and would be about one to two feet away from the building. Mr. Whitaker asked if the Committee could change the ten (10) foot setback to something smaller even though the applicant is not asking for a change in setback allowance. Mr. Whitaker said the sign must be moved out of the sight triangle. Mr. Smith asked if the Committee could ask for the current sign to be moved. Mr. Dixon said a condition could be made that the sign be moved. Mr. Smith asked if the applicant still need to check with CDOT. Ms. Dixon said if the sign is moved out of the ROW then the applicants would not need to consult with CDOT.

Mr. Hudson said the variance requests listed cannot be supported by him. He asked about the setback not being listed as a request today. Ms. Dixon said the greatest concern is the sight triangle due to the safety issue. She said the sign is okay to be within the eighteen (18) feet but it must be verified for safety.

Mr. Whitaker asked the City Attorney if the Committee could deny the variances and still place conditions after the fact. Attorney Bryson said no, once a variance is denied then it is denied. Mr. Hudson asked if the applicant had a variance for ten (10) foot setback. Ms. Dixon said yes.

Mr. Hudson asked if the applicant could comply with code and build the current sign. Ms. Dixon said if the current sign was moved to the other side of the building and out of the ROW then that would work with the variance granted in July of 2018. Mr. Whitaker agreed with Mr. Hudson about complying with the previously granted ten (10) foot setback variance. Mr. Whitaker said he is not in favor of granting any variances not presented before the Committee. Mr. Moore asked if he could defer his case. Mr. Whitaker said if the applicant is not changing the requests then he is still not in support of the current sign placement. Mr. Whitaker said the neighborhood has fully expressed their opposition of the current sign placement as well. He told Mr. Moore that he was well aware of the Form-Based process after having the old case granted and denied. He said Mr. Moore should have checked with Ms. Dixon and gone through the proper permitting process prior to placing the current sign.

**William Smith made a motion to deny Case #19-FB-00006 – 625 E Main Street, as submitted pursuant to the Chattanooga City Code, Section 38-596(4) and pursuant to the Form-Based Code, subject to any and all conditions.**

**Conditions: None.**

**Jim Williamson seconded the motion. The motion was unanimously approved.**

**Case #19-FB-00007 – 430 Manufacturers Road –**

**Project Description:**

The applicant, American River Development LLC / Chad Lorentz, has applied for the following modifications:

1. Increase in story height from 4 to 5 stories in the E-CX-4 area of the property.
2. Increase in height from 50' to 60' in the E-CX-4 areas of the property.
3. Reduction in parking stalls from 137 to 87. (36% reduction).

Ms. Dixon presented the PowerPoint presentation.

**Brad Eckland, of Urbal Architecture, addressed the Committee.** Mr. Eckland presented renderings to the Committee and staff. [*The renderings have been filed*]. Mr. Eckland said there are other 5 story buildings in the zone, right up the street. He said if the building mass was to be maxed out in the river view zone there would be more view limitations than what is currently being proposed. He said the parking designations are for seventy percent (70%) of his residents. He said shuttle services would be provided which is why the number of parking spaces have been asked to be reduced.

Mr. Hudson asked if the parking lot would have limited with access barriers. Mr. Eckland said sharing or leasing parking spaces to adjacent businesses would be okay, if that is something that was needed. He said the question of access barriers could not be answered now but could be discussed later.

Mr. Smith asked if the building could be used as an apartment building with the current design. Mr. Eckland said there are amenity spaces designed at the lower level that you would not find in a multifamily building. Mr. Smith asked if the applicant has a special permit from Board of Zoning Appeals. Mr. Eckland said a special permit was granted pending the purchase of the property.

Mr. Havron asked how many employees the facility anticipates having. Mr. Eckland said there is to be on site staff and nursing care, on site management and activity directors. He said there would be approximately twenty-five (25) max employees. Mr. Havron asked if the building would have twenty-five (25) employees taking care of one hundred sixty (160) people. Mr. Eckland said there are a total of one hundred fifty-one (151) units. Of those units, one hundred thirty-six (136) are for assisted living units and fifteen (15) memory care units. He said if it were to be absolutely maxed out then there could be up to two hundred fifty (250) residents in the building. He said typically their buildings are not maxed out. Mr. Havron said he had an issue with the parking that the applicant was asking to reduce. He said parking in the North Shore area is horrific. He stated he cannot imagine eighty-six (86) parking stalls being sufficient enough for assisted living and staff. He asked what the projected parking stall numbers for an assisted living facility would be. Ms. Dixon said this project type is not the applicant's first rodeo and with the research the applicants have done they would be better to answer to the parking stall to residents' concerns.

**Clayton Mazingo, Owner and Developer, addressed the Committee.** Mr. Mazingo said he has thirty-five (35) other properties across the country. He said the parking ratios they come up with are typical. He said building and parking for assisted living is determined by acuity. He

said he has never had a one to one parking situation because they usually get a parking reduction especially since the memory care residents are unable to drive. He said typically [*his facilities*] have two (2) bedrooms, one (1) bedrooms and studios assisted living units. He said typically with the age [of the residents] and place concept the average person might stay in the facility for three (3) years but probably would lose their car or not want to drive it within those three (3) years. He said so the concept is active and to put people in a community where they do not have to use a car. He said they encourage walkability within the community the facilities are placed. He addressed the concerns the Committee had about the parking being open to the public. He said the public is typically not allowed to the parking lot because the residents will need to be within close proximity of the building. Mr. Hudson said his question was directed towards how they propose to keep the public out. Mr. Mazingo said he presumed that a towing service or such would be used to maintain the privacy of the parking lot.

**Community Comments:** None.

**Discussion:** Mr. Smith said lowering the parking requirement makes sense. Mr. Williamson said he is in favor of parking reduction. Mr. Havron said he had no objection to the parking reduction but he did have to ask the questions about parking. He said I am not saying I am not for the parking reduction but it was determined by the knowledge of the statements the applicants provided.

Mr. Hudson asked why the piece of property [*the case in review*] was split into two zones. Ms. Dixon said Regional Planning Agency (RPA) could speak to that. She believed when RPA was doing the rezoning for the site area their intention was to have commercial zoning along Manufacturers Road while ignoring the property lines. She reinstated that the question should be directed to RPA. She mentioned that the developers are wanting to not have a lot of blank space along that are of the building with a different zone.

Mr. Williamson said the future usage of this property could allow flexibility. He said the applicant is meeting fenestration and everything else beyond the variances requested. Mr. Whitaker said there are no views across the street and the Committee granted an additional story for view for a previous case.

**Jim Williamson made a motion to approve Case #19-FB-00007 – 430 Manufacturers Road, as submitted pursuant to the Chattanooga City Code, Section 38-596(4) and pursuant to the Form-Based Code, subject to any and all conditions.**

**Conditions:** None.

**Matt Whitaker seconded the motion. The motion was unanimously approved.**

**Case #19-FB-00008 – 10 W. MLK boulevard – Signage / window coverage**

**Project Description:**

The applicant, Electric Power Board (EPB) / Certified Lighting LLC, has applied for the following modification:

1. Increase in the allowance of window coverage by signage from 20% max to 40%.

Ms. Dixon PowerPoint presentation. She said vinyl signage is asked to be used for the windows when the space is not being used for EPB's annual Christmas visuals. She said the

vinyl signage was granted previously but were taken down to put up décor for the annual Christmas visuals.

Mr. Smith asked if the proposed window coverage percentage was the same as it was previously. Ms. Dixon said the applicant told her it is. Mr. Hudson asked if the signage was approved previously. Ms. Dixon said yes it was granted a while ago and when it came time for re-permitting her supervisor told her either the Mayor would have to give approval or EPB would have to go before the Form-Based Code Committee. Mr. Williamson said the signage is not for advertising and that it serves as a community message. Mr. Whitaker said Rock Creek was turned down for a request similar to the request for this case. Ms. Dixon said the window area for the proposed signage does not peer into the lobby of EPB. She said the area was specifically built for the Christmas [*windows*] and the rest of the time it is [*an empty space, similar to the Synovus case*].

**Chad Moore, of 165 Hamm Road, addressed the Committee.** Mr. Moore said this is the third year putting up graphics. He said the signage is vinyl and will be placed on the outside [*of the glass*] and not on the inside. He said this is more of a permanent aspect until the removal for the annual Christmas display. He said all the signage is for community outreach and no advertising.

**Community Comments:** None.

**Discussion:** Mr. Hudson said he appreciated that the signage was not for advertising and is more for community outreach. He said his main concern is that the Code requires a certain amount of window visibility and allowing variances such as these are constantly going against it. Mr. Whitaker said Rock Creek asked for a similar variance and was denied. He said the Committee allowed Rock Creek to keep the window signage up temporarily. Mr. Havron said the Committee also [*required*] Rock Creek to take down the signage. Ms. Dixon said Rock Creek also put another sign up after that enforcement and she had to call them to ask that it be taken down. She said Rock Creek had active open commercial space to look into. She said like Synovus, the EPB space is not active or open for commercial usage. Mr. Whitaker said he would be inclined to give them a temporary approval while the applicants come up with another option.

Mr. Hudson asked if the signage for the windows was the exact same signage from last year and as seen on the drawings. Mr. Moore said the sizes of the signage will be the same but the signage may or may not be the same design. Mr. Williamson asked the applicant if the presented signage on the drawings may or may not be seen if the request was granted. Mr. Moore said the concept will be the same and the size but the design may be different. Mr. Havron asked Mr. Hudson if he would have a problem with allowing a specific time frame for the window signage. Mr. Whitaker said that could be a potential problem. [*The Committee agreed that ninety (90) days should be sufficient time to come up with another way to fill the window space.*]

**David Hudson made a motion to approve Case #19-FB-00008 – 10 W. Martin Luther King Boulevard, as submitted pursuant to the Chattanooga City Code, Section 38-596(4) and pursuant to the Form-Based Code, subject to any and all conditions.**

**Conditions:** The approval is only temporary. Sign contractor must notify staff on the day the vinyl is installed. After 90 days it must be removed.

**Jim Williamson seconded the motion. The motion was unanimously approved approve.**

**OTHER BUSINESS:** Neighborhood Association Meeting Requirements – *Interpretations by Committee.* Ms. Dixon discussed the Code as it relates to the neighborhood association meeting requirements for interior renovations. Mr. Whitaker said if a plan review is not required than the neighborhood meeting should not be required. Mr. Smith said it needs to be clearly written out for all the things that are required for the plan review. Ms. Dixon said she will look into this matter further and have updates for the Committee at a later meeting date.

**NEXT MEETING DATE:** March 14, 2019 (application deadline is February 15, 2019 at 4 p.m.).

**William Smith made a motion to adjourn. Jason Havron seconded the motion. The motion was unanimously approved.**

The meeting was adjourned at 3:41 p.m.

  
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Jason Havron, Chair

3/14/19  
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Date

  
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Rosetta Greer, Secretary

3/14/19  
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Date