

Frequently Asked Questions about the Midtown Overlay

What led to the conception of Midtown Overlay?

While the MRDC was already working on a potential project with the Midtown Memphis Development Corporation called the Midtown Plan, Councilman Shea Flinn asked the MRDC to work with the Office of Planning and Development on overlay zoning for portions of Midtown.

This overlay will put guidelines in place that will provide developers with some direction from the public as to the type of development they'd like to see throughout Midtown and particularly at Overton Square. While the overlay will not affect existing buildings on a site unless they are expanded, it will put certain restrictions on any buildings that would replace existing structures or redevelop underutilized lots to ensure the resulting environment is pedestrian friendly. While giving Midtowners some assurance that future development will be the right development for Midtown, this overlay will also provide predictability for developers who want to protect their investments in Midtown.

Are there any precedents outside Memphis for the tools used in Midtown Overlay?

Visit <http://www.epa.gov/smartgrowth/codeexamples.htm> to see a number of cities across the US that have pursued similar Zoning ordinances (Unified Development Code), and tools available to such ordinances such as Form-based Area plans and Transit-Oriented Districts, Design Guidelines, Street Design Standards, and Zoning Overlays.

Who will oversee or enforce Midtown Overlay?

All proposed development, except for single-family detached and single-family attached housing types, used exclusively for residential purposes on individual lots, shall be subject to the administrative site plan review process.

During the site plan review process, the Office of Planning and Development is authorized to approve administrative deviations to certain building standards, owing to special conditions, as strict enforcement of certain standards would be physically impractical. This optional process

shall occur only where the applicant requests an administration deviation to that standard.

Additionally, the Land Use Control Board shall have the authority to approve special exceptions for the following standards: A). Additional height; B). Modifications to any parking requirements; C). Greenspace in lieu of requirement for active ground floor space in Shopfront, Pedestrian and Urban Frontages.

The University District Overlay, a similar overlay previously adopted for Highland Area near the University of Memphis uses community members and area professionals along with City planning officials on a design/administrative review committee that will make suggestions on requests for deviations. This may also be an option for Midtown Overlay.

What is the timeframe for Midtown Overlay?

Provided there are no major changes after the three public meetings (as on 6/17, 6/23, and 6/30), the Midtown Overlay Draft is scheduled to go to Land Use Control Board on 12th August. With recommendations (positive/negative) from LUCB, the draft will then go to City Council for three readings for adoption.

How rigid is the proposed overlay at this time. Can we expect any changes before it goes to the legislative bodies for approval?

The proposed overlay presented in public meetings is merely a draft version and is intended as a starting point for discussion. This draft was prepared in consultation with community representatives, developers, city officials with a council representative present at almost all meetings. Assuming that the draft is in line with aspirations of the Midtown community, the document may be presented with any minor changes to the Land Use Control Board, and consequently the City Council for adoption. If there is a major disagreement on certain issue, that issue will either be dropped or revised and presented back to the community before going through the legislative process.

The revised draft document (please look for the date of revision to keep current) is currently available online for your review on our website. In case you missed all three meetings or have some more issues on your mind, we would like to hear from you before Aug 12. It will be helpful to have a good turnout in support of the Overlay to ensure its timely adoption.

What is the appeal process for Midtown Overlay?

Minor revisions to the current form of the Midtown Overlay may be accommodated before presenting to Land Use Control Board, provided it is not in conflict with the majority of public input. If you personally disagree with certain provisions of the Midtown Overlay, you may come to the Land Use Control Board/ City Council, and share your concerns.

For appeal process after adoption of Midtown Overlay, please refer to the question - "Who will oversee or enforce Midtown Overlay?"

Is there an economic analysis done to support the recommendations? Will there be one in a future plan?

The midtown overlay document is not based on any economic analysis, but based on good urban design principles of encouraging mixed use development and bringing buildings closer to the street to provide a pedestrian friendly environment, and providing adequate definition/enclosure to the street with appropriate building heights.

The current zoning ordinance of 1981 is outdated and based on planning principles that are obsolete. The overlay uses contemporary urban design principles also recommended in the proposed Unified Development Code, and is further tailored to specifically suit the unique character of Midtown.

What data suggests the requirement for density? What other cities have the kind of density proposed by the height map of Midtown Overlay?

With respect to Overton Square, many concerned Midtowners expressed interest to see quality retailers and grocers in the area. These retailers look at demographics to make location decisions. In order to attract these quality vendors, it is pertinent to accommodate an increase in density in the area while keeping in character with the Midtown Area. Midtown Overlay seeks to accomplish that by allowing for development within certain height on key transit corridors such as Madison, Union, and Poplar. The increased height will additionally provide proper definition with an appropriate height to width ratio. The increased density will also help support better transit options and quality retailers.

Additionally, accompanying revised building standards and street frontage designations will ensure that this new development will be of high quality and in character with rest of Midtown.

How am I protected against next door commercial property being built too tall?

Irrespective of the height limit allowed on your neighboring lots, bulk plane regulations (Refer to Section 1.7.1 of the Midtown Overlay about Bulk Plane) help to protect single family residential lots from being shadowed by tall buildings next door.

Any multifamily, mixed use or non residential building that abuts or is across from a single or two family dwelling will be subject to a bulk plane starting at 35 feet in height at the setback or right-of-way line, and extending upward one foot for every additional foot into the site from that line.

Is Midtown Overlay limiting the parking requirements for businesses? Will that encourage commercial parking to spill over into residential areas?

Current zoning requirements for parking are based on worst-case scenario that occurs at rare instances such as festivals or special events. Those tend to create large areas of parking that are rarely used and are an eyesore.

Parking requirements proposed in Midtown Overlay and the proposed Unified Development Code are based on realistic needs of each type of business. It is also in the best interest of each business to provide adequate parking for their customers. Particularly, high-rise buildings or large businesses may have to build attached or detached parking garages to accommodate the required parking.

Is there anything being done to increase storm drainage capacity to accommodate the increased density?

The increased density is not expected to create any additional storm water runoff as most of Midtown Area is already built out. Additional density in urban areas may create a need for additional sewage capacity if the existing system is not adequate.

It is thought that both sewage and storm water run-off systems may be dated and in need of updating. We are currently talking to the engineers in Public Works Division in this regard.

Will Frontages apply to streets other than the major streets recommended along with the Midtown Overlay?

Midtown Overlay is designating frontages only on select streets that have a high potential for new infill developments. It is expected that more commercial streets will eventually be designated with street frontages based on planning efforts by individual neighborhoods.

How will downzoning from C-H/CMU-3 to CMU-1 affect properties on Cooper?

C-H or CMU-3 (after adoption of UDC) is intended to accommodate a very broad range of high intensity commercial, office and employment uses that require highly visible and highly accessible locations with direct access to major roadways.

Rezoning the above to CMU-1 will restrict development to neighborhood serving commercial, office, and employment uses. Auto-oriented uses will be prohibited. Typical retail uses in this district range from 1,000 to 15,000 sq ft.

For instance, all vehicle sales & service are permitted by right in CMU-3, but not in CMU-1. Most of those uses such as lube, oil change facility, tire motor vehicle sales and service, full or service vehicle wash, all vehicle repair including auto body shop are strictly prohibited in CMU-1. Other uses (if any) in that category may be permitted in CMU-1 only by a special use permit.

Are there plans to reduce the number of lanes on Cooper? What about on-street parking on Cooper?

The City of Memphis is currently in the process of reducing traffic lanes on Cooper between Central and Southern from 4 to 2 in order to accommodate bike lanes on either side. On-street parking will remain.

Are these issues addressed in the Midtown Overlay?:

Is affordable housing addressed in Midtown Overlay?

A very recent 2010 study of Affordable housing needs in City of Memphis prepared by the University of Memphis and commissioned by the Division of Housing and Community Development classifies the southern part of Midtown Overlay (primarily Cooper Young area) as affordable based on both owner-occupied as well as rental housing units, while the northern

part of Midtown Overlay Area has been classified as affordable based on rental units but not affordable based on owner-occupied units. Please refer to the following document online for more information:
http://www.memphis.edu/planning/pdfs/redc_reports/Affordable_Housing_Final_Report_May_2010.pdf

Moreover, allowing residential in traditionally commercial districts, and allowing for increased density along major transit corridors as proposed in the Height Map of Midtown Overlay is expected to provide additional affordable housing in the form of rentals and shared ownership in the form of condominium housing.

Is Industrial zoning changed as part of Overlay?

Only certain properties along Cooper and Central that are currently zoned as C-H/ I-L will be rezoned to CMU-1 on the request of property owners.

Future planning efforts will address comprehensive rezoning for the area and is not in the current scope of the Midtown Overlay.

Are drive-thru facilities restricted in the Overlay?

Drive-thru facilities are considered accessory uses of another primary use, and is allowed in all commercial districts that the primary use is allowed, except in the O-G District. Drive-thru facilities for financial institutions may be allowed in O-G. Drive-thru facilities are permitted through special exception process in a RW District.

Furthermore, Section 1.9.5 of Midtown Overlay provides additional use standards on the placement of drive-thru windows.

1.9.5 Drive-Through Facilities

- A. A drive-through window shall only be permitted where it is not facing the public right-of-way of a Shopfront or Urban Frontage.*
- B. Drive through windows and lanes placed between the right-of-way and the associated building shall require landscape plantings installed and maintained along the entire length of the drive through lane and the adjacent right-of-way. Such screening shall be a compact evergreen hedge or other type of dense foliage. At the time of installation, such screening shall be at least 36 inches in height and shall reach a height of 48 inches within two years of planting.*
- C. No drive-through window or drive-through speaker."*

How does Midtown Overlay address screening between Commercial and Residential lots? Is it any different in case of an alley dividing the two lots considering that it may be closed someday and the right of way dedicated back to adjacent property owners?

Screening requirements are addressed in Section 1.9.3 of Midtown Overlay Draft available for download on MRDC homepage.

Additionally, alleys are considered public right-of-ways. As can be seen below, screening requirements applied to loading /trash collection areas of commercial properties are irrespective of whether they are adjacent to residentially zoned property or public right-of-ways. However, Section C of Chapter 1.9.6.3 Design and Maintenance, regulating Perimeter Screening only applies to that adjacent to a residential district and does not address public alleys.

Following are some excerpts

"1.9.3 Landscaping and Screening

B.) Trash collection, trash compaction, recycling collection and other similar service areas shall be located on the side or rear of the building and shall be screened from view from residentially zoned property or public rights-of-way. Screening enclosures shall be fully enclosed by opaque walls or fences at least eight feet high with self-closing access doors and shall be constructed of compatible materials to the primary building or buildings."

"D.) Loading areas shall be subject to the following screening requirements:

- 1. Provide a minimum 100 percent year round screen of all loading areas visible from residentially zoned property or public right-of-way.*
- 2. This screen shall consist of berms, walls, fences, plant material or combination totaling eight feet in height at installation or completion of construction. Wall or Fence materials shall be compatible with the primary structure.*
- 3. Loading docks shall be located to the side or rear of buildings when within 50 feet of any residentially zoned property line."*

"E.) All roof, ground and wall mounted mechanical equipment (e.g. air handling equipment, compressors, duct work, transformers and elevator equipment) shall be screened from view from residential

properties or public rights-of-way at ground level of the property line."

"1.9.6.3

C1. Perimeter Screening

a. All parking and vehicular use areas with frontage on any portion of a public street right-of-way (not including an alley) must provide landscaping in accordance with Chapter 1.8, Streetscape Standards.

b. The perimeter of all parking and vehicular use areas adjacent to a residential district must provide a Class III buffer."

How does Midtown overlay affect the existing sign ordinance?

The Midtown Overlay does not change the existing sign ordinance.

"1.9.7 Signs

The sign regulations in all residential zoning districts shall meet the district standards. Sign regulations in all nonresidential underlying zoning districts shall meet the standards of the sign regulations set out in Section 16-92-10 et seq. (existing ordinance) / Article 4.10-Signs (UDC)"

Is there anything on the books to control billboards?

In 1991, Billboards were made non-conforming on streets other than Interstates. Existing ones can stay but new ones can not be built.

Are bikelanes part of Midtown Overlay?

No, bikelanes have not been separately addressed in the Midtown Overlay. It is part of a larger plan by Memphis MPO.

Memphis MPO already has an adopted Bicycle and Pedestrian Plan.
http://memphismpo.org/index.php?option=com_content&view=article&id=70&Itemid=7

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"This plan is intended to identify the opportunities for enhancing bicycle and pedestrian travel within the Memphis MPO region. The recommendations contained in this plan should be used as guides for taking advantage of these opportunities. The intent of the plan is not to secure funding for every project, but, instead, to identify the benefits and approximate costs of the opportunities that are

available. The Memphis MPO Regional Bicycle and Pedestrian Plan will serve as the bicycle and pedestrian component of the MPO's Long Range Transportation Plan(LRTP). Therefore, the goals of this plan must be consistent with the goals of the LRTP."

The Long Range Transportation Plan (LRTP) referred to is available at http://memphismpo.org/index.php?option=com_content&view=article&id=66&Itemid=67

Refer to Chapter 9 of the above plan for Bicycle and Pedestrian Issues

Are storm water issues addressed in Midtown Overlay?

The Overlay steering committee is currently in discussions with City engineers about storm water issues relating to Lick Creek.

Are locations of schools addressed in Midtown Overlay?

No, schools are not currently addressed in the Midtown Overlay. The steering committee considers this a larger issue that needs to be addressed as a whole for Memphis and Shelby County.

Is there anyway to limit trucks on certain roads?

Truckers are expected to stick to a network of designated truck routes to the extent possible. In certain cases, when their destination is off such a designated truck route, they are allowed to take the shortest/quickest possible route to their destination.

If that becomes a regular occurring and becomes a nuisance, citizens are welcome to register complaints with Traffic Engineering by calling 901-576-6710. Traffic Engineering will investigate the matter after receiving a complaint. If they indeed find a pattern, then they will install a sign prohibiting trucks on that particular residential street.

Unified Development Code (UDC)

What is Unified Development Code (UDC)?

The City of Memphis and Shelby County are in the process of preparing a single ("unified") document to replace existing zoning and subdivision regulations, along with any other development-related regulations found elsewhere in the City or County code of ordinances. The current ordinance relating to the above issues are mostly dated and obsolete. The proposed Unified Development Code considers current best practices

across the country, and applies it to Memphis and Shelby County with the following intent.

"This development code is intended to accomplish the following:

- A. Guide the future growth and development in the City and County.*
- B. Implements the planned growth and rural areas of the adopted Shelby County Growth Plan, consistent with Public Chapter 1101.*
- C. Protect the character, and the social and economic stability of all parts of the City of Memphis and the unincorporated area within Shelby County and to encourage the orderly and beneficial development thereof.*
- D. Prohibit uses, buildings or structures incompatible with the character of established districts.*
- E. Establish procedures necessary to implement and enforce the provisions of this development code.*
- F. Guide public and private policy, and action to provide adequate and efficient public facilities.*
- G. Consider the availability of public facilities and determine if there is sufficient capacity to serve current and future development.*
- H. Minimize the pollution of air and water, to safeguard the water table, to maintain the adequacy of drainage facilities, and to encourage the wise use and management of natural resources.*
- I. Encourage compliance with all applicable Americans with Disabilities Act Accessibility Guidelines.*
- J. Establish district regulations which encourage originality and flexibility in design to ensure that development is properly related to its site and to surrounding development patterns."*

Draft copy of the proposed document is available on the MRDC homepage to download.

What is the timeline of UDC?

The Land Use Control Board has approved the draft document on June 10, 2010. The draft is now being presented to City Council and County Commission for final approval. Third reading of the UDC at City Council will be on August 10th. Third reading of the UDC at County Commission will be on August 9th.

Is the ground floor restricted to retail in any of the CMU districts?

No, ground floor is not restricted to retail in CMU districts. The CMU districts are not intended to provide for areas exclusively dominated by any one use, but aims at establishing neighborhoods that integrate several types of compatible uses together. Residential units are allowed on the ground floor, but upper story units are encouraged.

Also, please note that retail and residential may have different transparency standards for the ground floor based on specific frontage designations.

Development Projects in Memphis Midtown

Will the Midtown Overlay affect the CVS plan at Union and Cooper?

No, the Midtown Overlay may not affect the CVS plan as the CVS application is expected to go to the City Council before the adoption of Midtown Overlay.

What is the latest progress on Sears Crosstown?

At one of the public meetings, June West of Memphis Heritage shared with the attendees that the Sears Crosstown group is expected to commission a feasibility study in the coming year to assess the development potential of Sears Crosstown.

What is the status of development proposed for Washington Bottoms SouthEast of Poplar and Cleveland? Is there anything being done about the condition of derelict building in the area?

The development proposed for Washington Bottoms is currently on hold due to foreclosure of the property. The city has asked the property owner to demolish the buildings and will do it for them if the owner does not comply.

How does the overlay affect any future development at Overton Square?

The Midtown Overlay, when adopted, will give predictability to potential developers, while trying to regulate any kind of redevelopment to be in character with the walk-able nature of Midtown Memphis.