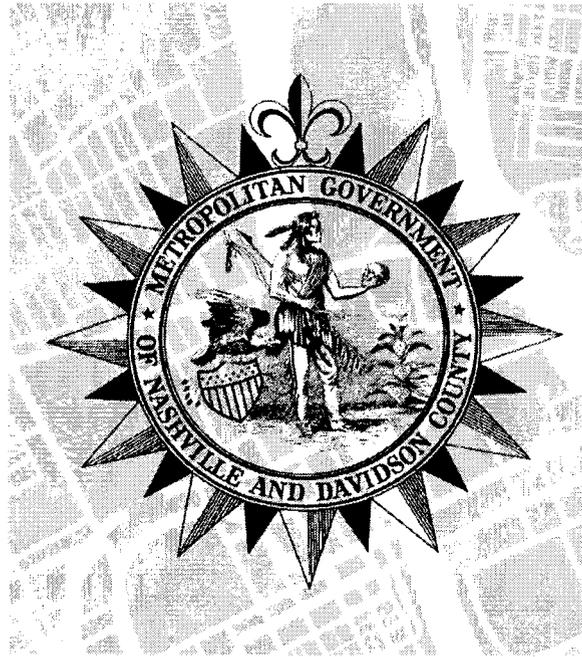


# Metropolitan Planning Commission



## Staff Report Part A

**June 25, 2009**

*Mission Statement: The Planning Commission is to guide the future growth and development for Nashville and Davidson County to evolve into a more socially, economically and environmentally sustainable community with a commitment to preservation of important assets, efficient use of public infrastructure, distinctive and diverse neighborhood character, free and open civic life, and choices in housing and transportation.*

# **PREVIOUSLY DEFERRED ITEMS**



**2007SP-162U-05**

Winberry Place

Map: 082-03 Parcel: 461, 462, 463, 464

East Nashville Community Plan

Council District 5 – Pam Murray



**Project No.**  
**Project Name**  
**Council District**  
**School District**  
**Requested by**

**Zone Change 2007SP-162U-05**  
**Winberry Place SP**  
5 – Murray  
5 - Porter  
Barge Cauthen & Associates, applicant, for B & V  
Development and Vernon Winfrey, owners

**Deferral**

*Deferred from the June 11, 2009, Planning Commission meeting at the request of the applicant*

**Staff Reviewer**  
**Staff Recommendation**

Bernards  
*Approve with conditions*

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**APPLICANT REQUEST**  
**SP Final Site Plan**

**A request for final site plan approval for the Winberry Place Specific Plan located at 927, 929, 1001 and 1003 Lischey Avenue, on the east side of Lischey Avenue (0.74 acre), zoned SP, to construct up to four single-family residential units, four townhome units, and a one-story commercial building.**

**Existing Zoning**  
**SP-MU District**

Specific Plan-Mixed Use is a zoning District category that provides for additional flexibility of design, including the relationship of streets to buildings, to provide the ability to implement the specific details of the General Plan. This Specific Plan includes residential uses in addition to office and/or commercial uses.

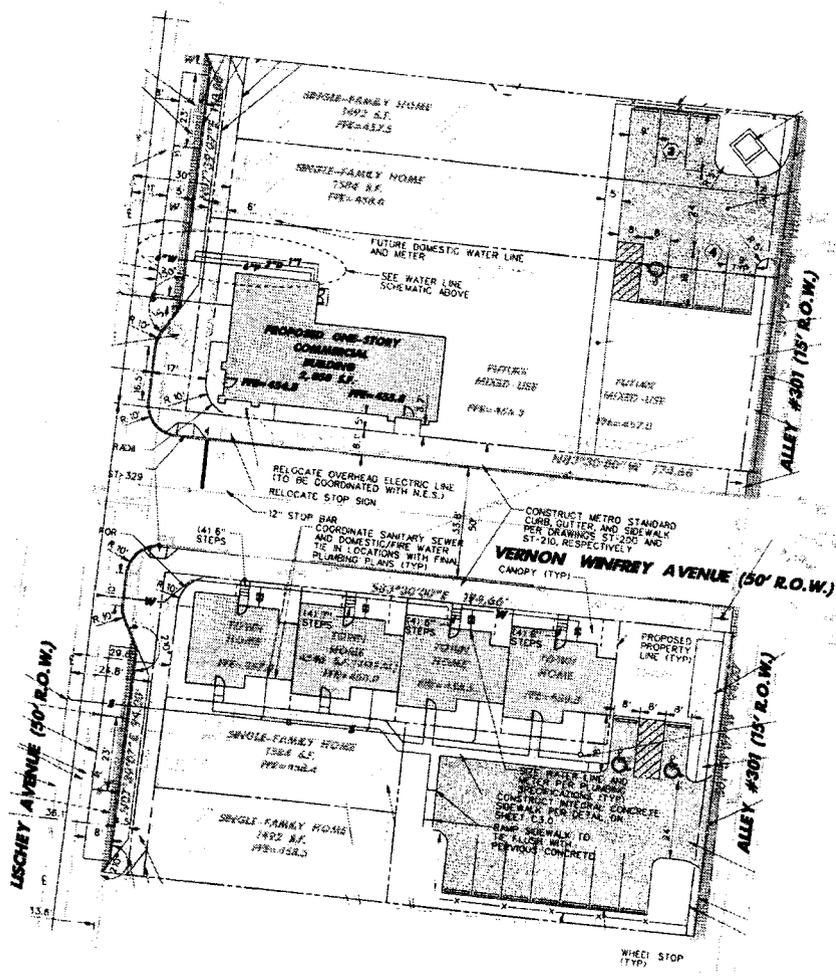
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**PLAN DETAILS**

The SP was approved for a two-story, mixed-use building, a three unit townhouse development and six, single-family residential units. The final site plan includes a one-story, 2,050 square foot commercial building, and up to four single-family residences and four townhome residential units. This final site plan only includes the first phase of the commercial portion of the development. The preliminary plan proposed condominium-type ownership for the residential portion. The proposed final site plan provides for each unit to be placed on its own lot.

While the final plan makes minor modifications to the layout, the changes are still consistent with the overall concept approved by the Council in terms of uses and development type.

The architectural style of the commercial building has been modified to ensure that the one-story building continues to create an urban presence at the corner. This is accomplished through decorative masonry treatments,





## Metro Planning Commission Meeting of 06/25/09

awnings, large windows, and a first floor approximately one and a half stories in height.

The four townhomes have been reconfigured, but continue to address both street frontages, and continue to be proposed at two stories in height. The four single-family residences have maintained the style of the preliminary plan.

### Signs

In addition to signs prohibited by Section 17.32.050 of the Metro Zoning Ordinance, prohibited signs within this SP will include roof mounted signs, pole mounted signs, billboards, and signs that flash, rotate, scintillate, blink, flicker or vary in intensity or color, including all electronic signs. Permitted signs will include three building signs. Building signs are attached directly to, or supported by brackets attached directly to a principal building.

Signs are to be externally lit with steady, stationary, down-directed, and completely shielded light sources or may be internally illuminated or back-lit with a diffused or shielded light source. Sign backgrounds must be opaque, only letters and logos may be illuminated.

The applicant has not presented a sign program for the commercial building and will need to include a program with the corrected copy of the Final SP plan. Two signs will be permitted on the protruding corner bay, one on each side, centered within the masonry lines and aligned. A third, smaller sign, for the second storefront will need to be similar in style as the first two signs and in proportion to the space it will be occupying.

### Access and Parking

Vehicular access remains from the alleys to the rear. Since the properties are located within the Urban Zoning Overlay (UZO), the SP parking standards are consistent with the UZO requirements. The first 2,000 sq. ft. of retail uses are exempt from parking requirements. In addition, the proposed development qualifies for a full 25% reduction based on proximity to transit, pedestrian access, and contextual front setbacks. The project originally required 18 parking spaces with 16 spaces provided on site and two spaces provided on the street. While the overall density of the development has been reduced, 16 parking spaces on-site and six on-street spaces are included in the plan.



## Metro Planning Commission Meeting of 06/25/09

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### STORMWATER RECOMMENDATIONS

1. If Metro Planning Commission will not be platting the easement, a separate Dedication of Easement will be needed for each parcel containing a water quality structure.
2. Register of Deeds fees for the Long Term Maintenance Plan will be \$67.
3. Downstream stormwater system analysis was checked on the Grading Permit Application Checklist. However, the analysis is missing from the design calculations. Please provide analysis showing the existing system can accept the proposed concentrated flow versus the existing overland flow regime.
4. Add NGVD“-29” to the site benchmark note.
5. Minimum construction entrance length is 100 feet.
6. Runoff entering Grates #s 2 and 6 do not received water quality treatment.
7. Detail ADS to RCP connections.
8. Provide perforated pipe beginning invert elevations. Bio-retention areas are to have minimum 3 feet head.
9. Concentrated flow from roofs to bio-retention areas must be less than or equal velocity of 2 fps or provide forebays.
10. Provide level spreaders and stone diaphragm and/or filter grass strip for overland flow into bio-retention areas.
11. Add a note on the plans that all erosion control measures are to be removed prior to as-built approvals.
12. Add a note stating the FEMA Community map, Panel Number and Date for the site location.

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### URBAN FORESTER RECOMMENDATION

Approved.

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### PUBLIC WORKS RECOMMENDATION

- All Public Works' design standards shall be met prior to any final approvals and permit issuance. Any approval is subject to Public Works' approval of the construction plans. Final design and improvements may vary based on field conditions.
- Show a 25' minimum curb radius at the intersection of Lischey Avenue and Vernon Winfrey Avenue.



## Metro Planning Commission Meeting of 06/25/09

- Show a pedestrian curb ramp for the crossing of Lischey Avenue. Identify / construct reciprocal curb ramp on the east side of Lischey Avenue.
- Remove proposed 4" solid white lines along Lischey Avenue.
- Construct curb and gutter per standard detail ST-200. Include detail.
- Construct alley ramps per detail per ST-325. Include detail.
- Construct Alley #301 along property frontage to the Department of Public Works standards and specifications. Provide full width pavement overlay.

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### STAFF RECOMMENDATION

Staff recommends approval with conditions as the proposed Final SP site plan is consistent with the concept approved by Council.

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### CONDITIONS

1. Signs shall be limited to three building signs as described in the staff report. A sign program, to be approved by staff, shall be included in the corrected copy of the Final SP Plan.
2. The eastern lot lines for the single-family lots north of Vernon Winfrey Avenue shall be moved to the west of the parking lot and sidewalk.
3. The requirements of the Public Works Department shall be addressed on the corrected copy of the Final SP plan.
4. The requirements of the Stormwater Division shall be addressed on the corrected copy of the Final SP plan or prior to the issuance of building permits as described above.
5. The uses for this SP are limited to commercial as defined in the approved preliminary SP plan, up to four single-family residences and up to four townhomes.
6. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, the property shall be subject to the standards, regulations, and requirements of the MUL zoning district for the Residential District at the



## Metro Planning Commission Meeting of 06/25/09

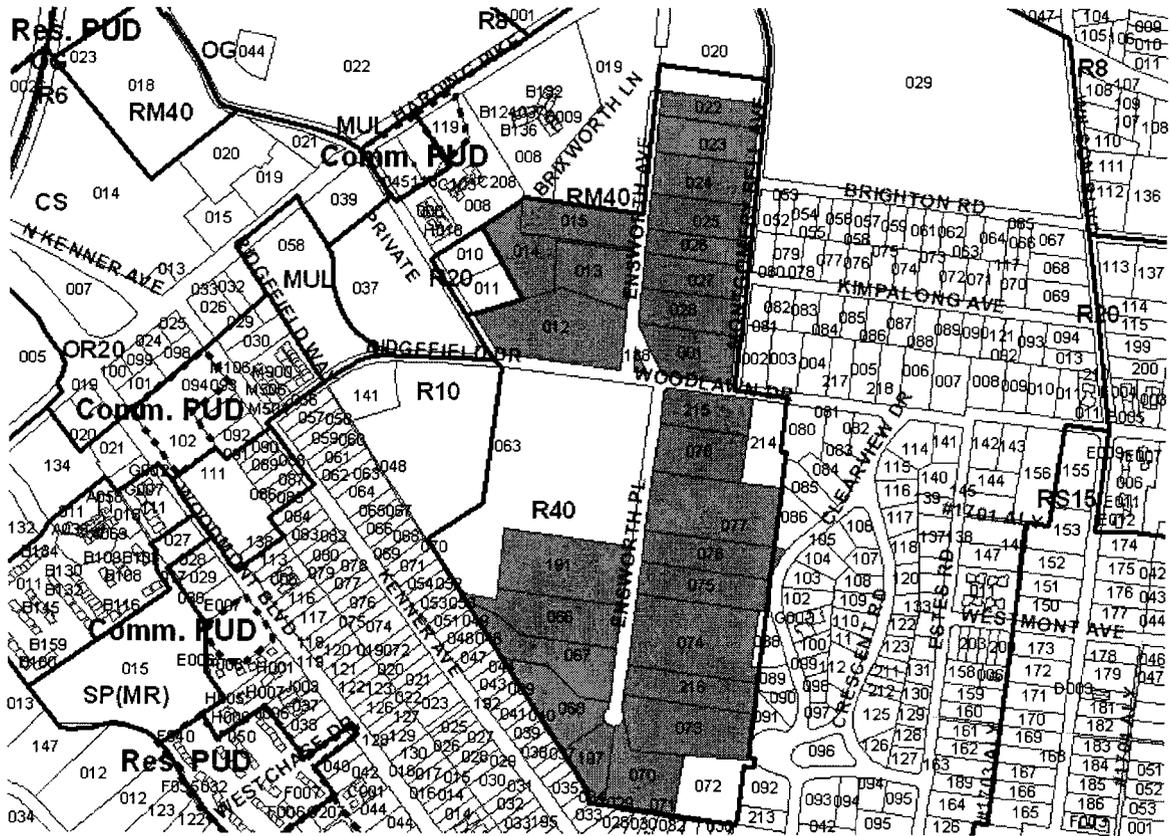
effective date of this ordinance, which must be shown on the plan.

7. Prior to the issuance of any permits, confirmation of approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services.
8. Prior to the issuance of any permits, confirmation of preliminary approval of this proposal shall be forwarded to the Planning Commission by the Traffic Engineering Sections of the Metropolitan Department of Public Works for all improvements within public rights of way.
9. The requirements of the Metropolitan Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
10. A corrected copy of the SP final site plan incorporating the conditions of approval by the Planning Commission shall be provided to the Planning Department prior to the issuance of any permit for this property, and in any event no later than 120 days after consideration by Planning Commission. If a corrected copy of the SP final site plan incorporating the conditions therein is not provided to the Planning Department within 120 days after the date of conditional approval by the Planning Commission, then the corrected copy of the SP final site plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, or any other development application for the property.
11. The SP final site plan as approved by the Planning Commission will be used to determine compliance, both in the issuance of permits for construction and field inspection. While minor changes may be allowed, significant deviation from the approved site plans may require reapproval by the Planning Commission and/or Metro Council.
12. Minor adjustments to the site plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All adjustments shall be



## Metro Planning Commission Meeting of 06/25/09

consistent with the principles and further the objectives of the approved plan. Adjustments shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or intensity, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.



**2009Z-021PR-001**

Ensworth Place & Ensworth Avenue

Map:103-16 Parcels:012, 013, 014, 015, 022, 023, 024, 025, 026, 027,

Map:116-04 Parcels:001, 066-068, 070, 073, 074, 075, 076, 077, 078, 188, 191, 197,  
215, 216

Green Hills/Midtown Community Plan

Council District 24 – Jason Holleman



**Project No.**  
**Council Bill**  
**Council District**  
**School District**  
**Requested by**

**Zone Change 2009Z-021PR-001**

BL2009-430

24 – Holleman

8 – Fox

Councilmember Jason Holleman, applicant for various property owners

**Deferral**

*Deferred from the April 23, 2009, Planning Commission meeting*

**Staff Reviewer**

Bernards

**Staff Recommendation**

*Approve*

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**APPLICANT REQUEST**

**A request to rezone various properties from One and Two-Family Residential (R40) to Single-Family Residential (RS40) zoning along Ensworth Place and Ensworth Avenue (48.34 acres).**

**Existing Zoning**

R40 District

R40 requires a minimum 40,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 1.16 dwelling units per acre including 25% duplex lots.

**Proposed Zoning**

RS40 District

RS40 requires a minimum 40,000 square foot lot and is intended for single-family dwellings at a density of .93 dwelling units per acre.

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**GREEN HILLS/MIDTOWN  
COMMUNITY PLAN**

Residential Low (RL)

RL policy is intended to conserve large areas of established, low density (one to two dwelling units per acre) residential development. The predominant development type is single-family homes.

**Consistent with Policy?**

Yes. The request to rezone the properties from R40 to RS40 is consistent with the RL policy. This 48 acre area is an established, low density residential development with predominantly single-family residences.

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**ANALYSIS**

This request would rezone 27 properties from R40 to RS40. All but one of these properties is at least 40,000 square feet in size, ranging from 0.94 acres to 3.43 acres. The one property less than 40,000 square feet is currently, under the R40 zoning, a substandard parcel with approximately 2,600 square feet. This property resulted from the re-alignment of Ensworth Place and Ensworth



## Metro Planning Commission Meeting of 06/25/09

Avenue on the north side of Woodlawn Drive. The properties on Ensworth Avenue are within the Woodlawn West Neighborhood Conservation Overlay District. The Historic Commission reviewed this rezoning request and had no objections.

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### **PUBLIC WORKS RECOMMENDATION**

No exception taken.

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### **METRO SCHOOL BOARD REPORT**

#### **Projected Student Generation**

As this request to rezone from R40 to RS40 represents a down zoning, the number of expected students to be generated would be less than could be generated under current zoning.

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### **STAFF RECOMMENDATION**

Staff recommends approval of the zone change request. The RS40 zoning district is consistent with the RL land use policy.

# **TEXT AMENDMENTS**

**NO SKETCH**



**Project No.**  
**Name**  
**Council Bill**  
**Council District**  
**School District**

**Zone Change 2009Z-013TX-001**  
**Community Gardens**  
BL2009-479  
Countywide  
N/A

**Requested by**

Councilmembers Jason Holleman, Megan Barry, Kristine LaLonde, Erik Cole, Emily Evans, Bo Mitchell, Jerry Maynard, Sandra Moore, Carter Todd, and Darren Jernigan

**Staff Reviewer**  
**Staff Recommendation**

T. Adams  
*Approve with comments*

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**APPLICANT REQUEST**

**An ordinance amending Title 17 of the Metropolitan Code, Zoning Regulations, by amending Chapters 17.04, 17.08, and 17.16 to add community gardening as a permitted use, a use permitted with conditions, or a special exception use in certain zoning districts.**

---

**ANALYSIS**  
Proposed Use

The proposed council bill defines commercial community gardens as an individual or group of individuals growing and harvesting food crops and/or non-food, ornamental crops, such as flowers, for commercial sale. Commercial community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

The proposed bill also defines non-commercial community gardening as a group of individuals growing and harvesting food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members. Non-commercial community gardening refers to crops for use/consumption by growers only.

Community gardens may serve a recreational function or serve a commercial function, both of which provide food to the immediate community. Also referred to as the practice of urban agriculture, community gardens provide a food source in urban environments, and therefore are typically allowed in more urbanized residential areas.



## Metro Planning Commission Meeting of 06/25/09

### Existing Law & Background

Per the council bill, community gardens may be used for the commercial production and sale of crops or for non-commercial production of crops.

The Zoning Code currently does not have a "Community Garden" land use. Rather, the Zoning Code includes "Agricultural Activity," which means "the raising of animal, fowl, fish and agricultural or horticultural crops, including but not limited soybeans, tobacco, timber, orchard fruits, vegetables, flowers and/or ornamental plants for commercial purposes."

Agricultural Activity is permitted by right in agricultural zone districts (AG and AR2a). It is permitted as an accessory use in RS80, RS40, RS30, RS20 and R80, R40, R30, and R20 residential zone districts, with the condition that the minimum lot size shall be five acres and shall be outside of urban services district. This essentially prohibits "Community Gardens" in many more urbanized areas with smaller lot sizes.

Despite the limitations for the existing "Agricultural Activity" land use, community gardens do exist in Nashville. Under the existing law, some community gardens currently operating may be considered illegal.

### Proposed Text

The proposed council bill addresses the following:

#### *Definition*

The bill proposes two types of Community Gardens – commercial and non-commercial.

#### *Permitted*

Non-commercial community gardens would be a permitted use in all residential, industrial and commercial zone districts.

Commercial community gardens would be a permitted use in the AR2a, R80, RS80, R40 and RS40, as well as commercial and industrial zone districts.

Commercial community gardens would be a permitted-with-conditions use in the R20, RS20, R15 and RS15 zoning districts.

Commercial community gardens would be a special exception use in the RS10, RS7.5, RS5, RS3.75, R10, R8 and R6 zoning districts.



## Metro Planning Commission Meeting of 06/25/09

### Standards

The proposed bill adds standards to the Zoning Code for commercial community gardens including: landscape buffers, lighting, on-site storage of compost, drainage, refuse storage and disposal, parking, and buildings/structures height and coverage.

### Analysis

Community gardens serve as a food source in urban areas, particularly for populations of the elderly and those on fixed incomes where healthy food sources are not readily available. Meanwhile, from a land use standpoint, community gardens are also ideal in that they encourage the interim use of underutilized land.

Community gardens, while beneficial, may also have other impacts on a neighborhood. Therefore, considerations to location, parking and access, signage, and the storage of compost materials should be made. These impacts may be amplified if the community garden is a commercial operation. For this reason, planning staff suggests that the commercial and non-commercial community gardens uses be permitted as a use through a Special Exception, and *not* a Permitted or Permitted with Conditions land use.

As a Special Exceptions land use, the Board of Zoning Appeals will hold a public hearing and decide upon the appropriateness of a community garden. The Special Exception process provides an opportunity for public comment, and establishes a review process to encourage accountability on the part of the owner(s) with regard to management and maintenance of the community garden. As a Special Exception land use, the Planning Commission also provides a recommendation on the community garden land use and its consistency with the General Plan.

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### STAFF RECOMMENDATION

Staff recommends approval of this bill acknowledging the following issues may need to be addressed by the Metro Council prior to the third reading.

### Comments

The following are issues raised by Metro Codes, Metro Stormwater, the Metro Traffic Engineer and Metro Planning staff that need to be considered prior to third reading.

### Drainage

The site shall be designed and maintained to prevent increased water runoff from irrigation and/or other activities and/or fertilizer from draining onto adjacent property and to receiving streams.



## Metro Planning Commission Meeting of 06/25/09

### *Parking*

Where the minimum parking space standard requires additional parking area to be constructed, such area shall comply with the perimeter parking lot landscaping according to Chapter 17.24 of this code. In urban settings, the board of zoning appeals may consider on-street parking to satisfy the minimum parking standard, provided there is a finding of sufficient available public space. Minimum parking requirements shall be established by the Metro traffic engineer (Section 17.20.030F). (Note – regardless of whether the parking is determined per the parking table or by the Metro traffic engineer, the Community Garden land use should be added as a land use to the parking table in the Zoning Code (Section 17.20.030F).)

### *Building/Structure Height and Coverage*

No buildings or structures constructed on the site shall exceed ~~twenty feet (20')~~ sixteen feet (16') in height or ~~five percent (5%)~~ two percent (2%) of the total area of the property.

### *Definitions*

The definition “Commercial Community Gardening”, should clearly state that on-sites sales are not permitted.

The order of the wording of the definitions of community gardens should be changed to say:

“Community Garden (Commercial)” and “Community Garden (Non-Commercial)”

This will allow them to be next to each other in the definition section of the Code.

### *Land Use Table*

Planning staff recommends that all community gardens (commercial and non-commercial) should be permitted only by Special Exception. A Special Exception will allow review of the each garden case by case with regard to management accountability, review of appropriateness of the location, and potentially time limits to review the maintenance and upkeep of gardens, as well as other special exception general provisions.

### *Standards*

If Community Gardens (commercial and non-commercial) are permitted only by Special Exception, then Sections 3 and 4 of the original bill should be combined (which discuss conditions of approval for Permitted with Conditions land uses and Special Exception land uses



## Metro Planning Commission Meeting of 06/25/09

respectively) to then have conditions that address only Special Exception land uses.

### *Landscaping*

Planning staff recommends amending the Zoning Code's existing landscaping standards (Section 17.24) to create appropriate standards for community gardens, potentially including the use of fences. The standards proposed by the council bill may prove too onerous for community gardens especially as it requires irrigation of the landscape buffer.

### *On-site Storage and Use of Compost and Organic Matter*

In addition to the standards proposed in the council bill, Planning staff recommends that a "Community Garden Management Plan" be required, by the Board of Zoning Appeals, as part of the application for a community garden. The Board could then determine if the management plan provided adequate safeguards against the community garden becoming a nuisance.

### *Additional Issues Raised by Planning Staff*

In addition to the conditions proposed in the council bill, the following issues should be considered as the council bill proceeds.

**Signage - Per Metro Codes,** if the council bill does not include a signage standard, then signage would be reviewed per the zoning district where the community garden is proposed. In residential districts, signs not exceeding two square feet in area are allowed only if they are identifying residents' names, mailbox sign, or signs related to trespassing, private parking, and dangerous animals. Being silent on signage may not allow gardens to have identification at all; the councilman should consider adding signage standards. One sign at a maximum of three square feet is appropriate.

**Location -** Planning staff recognizes that the location of individual community gardens could present issues for the neighborhood or community. Staff recommends adding language that gives the Board of Zoning Appeals discretion in an SE case to determine if the proposed location is appropriate. The Board could consider the location of community gardens with regard to the guidance of the Community Plan, the proximity to other community gardens, and the like.

**Management Plan -** Planning staff recognizes that a poorly maintained or managed community gardens could have adverse impacts for the neighborhood. Staff recommends requiring a "Community Garden Management Plan,"



## Metro Planning Commission Meeting of 06/25/09

including the option for periodic review of the maintenance of the community garden, as a condition for approval as a Special Exception to encourage accountability.

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### **STAFF RECOMMENDATION**

Staff recommends approval with the comments included in the staff report.

**SEE NEXT PAGE**

**NO SKETCH**



**Project No.**  
**Name**  
**Council Bill**  
**Council District**  
**School District**  
**Requested by**  
**Staff Reviewer**

**Zone Change 2009Z-014TX-001**  
**Lobbying, Public Relations, and Pollsters**  
BL2009-480  
Countywide  
N/A  
Councilmember Jason Holleman  
Regen

**Staff Recommendation**

*No recommendation on bill content. If the Metro Council desires this amendment, then the existing portion of the Metro Code addressing lobbying should be amended, Chapter 2.196 "Lobbyist Registration and Disclosure", to ensure compliance and enforcement*

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**APPLICANT REQUEST**

**A council bill to amend the Metro Zoning Code, Chapter 17.40 to require persons to register as lobbyists whenever they are contracted by an entity to communicate directly or indirectly with the public about a rezoning and are paid \$1,000 or more.**

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**ANALYSIS**

Lobbying Overview  
*Lobbying*

The term "lobbying" often has a negative connotation for most persons. It seems to connote unlawful activity by government officials or public servants behind closed doors. While lobbying is designed to affect what government does, it is not one singular event. Lobbying is a process that serves a legitimate purpose by providing decision-makers with varying viewpoints. At best it creates vigorous public debate, and at worst it undermines.

*Lobbyist*

A lobbyist works on behalf of a client to influence the adoption or content of administrative decisions, rules, regulations, and legislation. A client can be a person or organization who retains, employs, or designates someone else to lobby on his or her behalf. Whether the lobbyist receives compensation from the client is immaterial. Lobbying is the collective action(s) by that person, organization or firm. Hence, any person or organization, (e.g. individual, a homeowner association or a neighborhood association) is a "lobbyist" that seeks to influence a government official, administrator, or legislative body.

*Influence*

Lobbyists influence government, legislators, and the general public by communicating their client's position via oral, written, and electronic means. Lobbyists work to further their client's interest or to inhibit opponents.



## Metro Planning Commission Meeting of 06/25/09

### *Fairness/Transparency*

The ability of lobbying to undermine public debate occurs when allegations are made regarding the fairness and transparency of client communications. Fairness arises as to the content and accuracy of communications.

Transparency concerns relate to “who” or “what” is behind those communications received by phone, e-mail, U.S. mail, T.V., and written and electronic means. To improve fairness and transparency, many local governments require lobbyists to register and file reports disclosing communications with government officials and legislators within a certain reporting period.

### Existing Law

The Zoning Code does not address lobbying activities. The Metropolitan Code of Laws does address lobbying of the Executive Branch (all agencies/departments), the Legislative Branch (i.e. Metro Council), but excludes the Judicial Branch. The regulations are contained in Chapter 2.196, *Lobbyist Registration and Disclosure*.

### Proposed Text

The bill would regulate lobbying activities by persons, firms, pollsters, and public relation companies on proposed or pending applications to rezone property. The bill defines a lobbyist as any person or firm hired to communicate with residents of Davidson County, directly or indirectly, and who receives pay or consideration in excess of \$1,000. The bill applies to lobbying of the general public vs. the existing Metro Code provisions which apply to lobbying the government.

The Zoning Code is probably not the best place for this content. One doesn't tend to think of lobbying as being a zoning specific concern. To ensure proper registration and disclosure, the content of this bill should be within the body of Chapter 2.196, *Lobbyist Registration and Disclosure*. By making one section of the Metro Code pertain to lobbying activity, the likelihood of compliance and enforcement is enhanced.

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### **STAFF RECOMMENDATION**

No recommendation on bill content. If the Metro Council desires this amendment, then the existing portion of the Metro Code addressing lobbying should be amended, Chapter 2.196 "Lobbyist Registration and Disclosure, ", to ease compliance and enforcement.

# **FINAL PLAT SUBDIVISIONS**



**2009S-027-001**  
Poplar Hill Subdivision  
Map: 154-00 Parcel: 282  
Bellevue Community Plan  
Council District 35 – Bo Mitchell



**Project No.** Subdivision 2009S-027-001  
**Project Name** Poplar Hill Subdivision  
**Council District** 35 - Mitchell  
**School District** 9- Coverstone  
**Requested by** Wyatt and Wendy Rampy, owners, Joseph Brown, surveyor

**Staff Reviewer** Bernards

**Staff Recommendation** *Approve with conditions, including a variance to the Subdivision Regulations to allow more than 10 lots to access a private street*

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**APPLICANT REQUEST**  
**Final Plat**

**A request for final plat approval to create one lot for property located at 8706 Poplar Creek Road, approximately 625 feet north of Poplar Creek Road (7.1 acres), zoned Agricultural Residential (AR2a).**

**ZONING**  
AR2a District

Agricultural/Residential requires a minimum lot size of 2 acres and intended for uses that generally occur in rural areas, including single-family, two-family, and mobile homes at a density of one dwelling unit per 2 acres. The AR2a District is intended to implement the natural conservation or rural land use policies of the general plan.

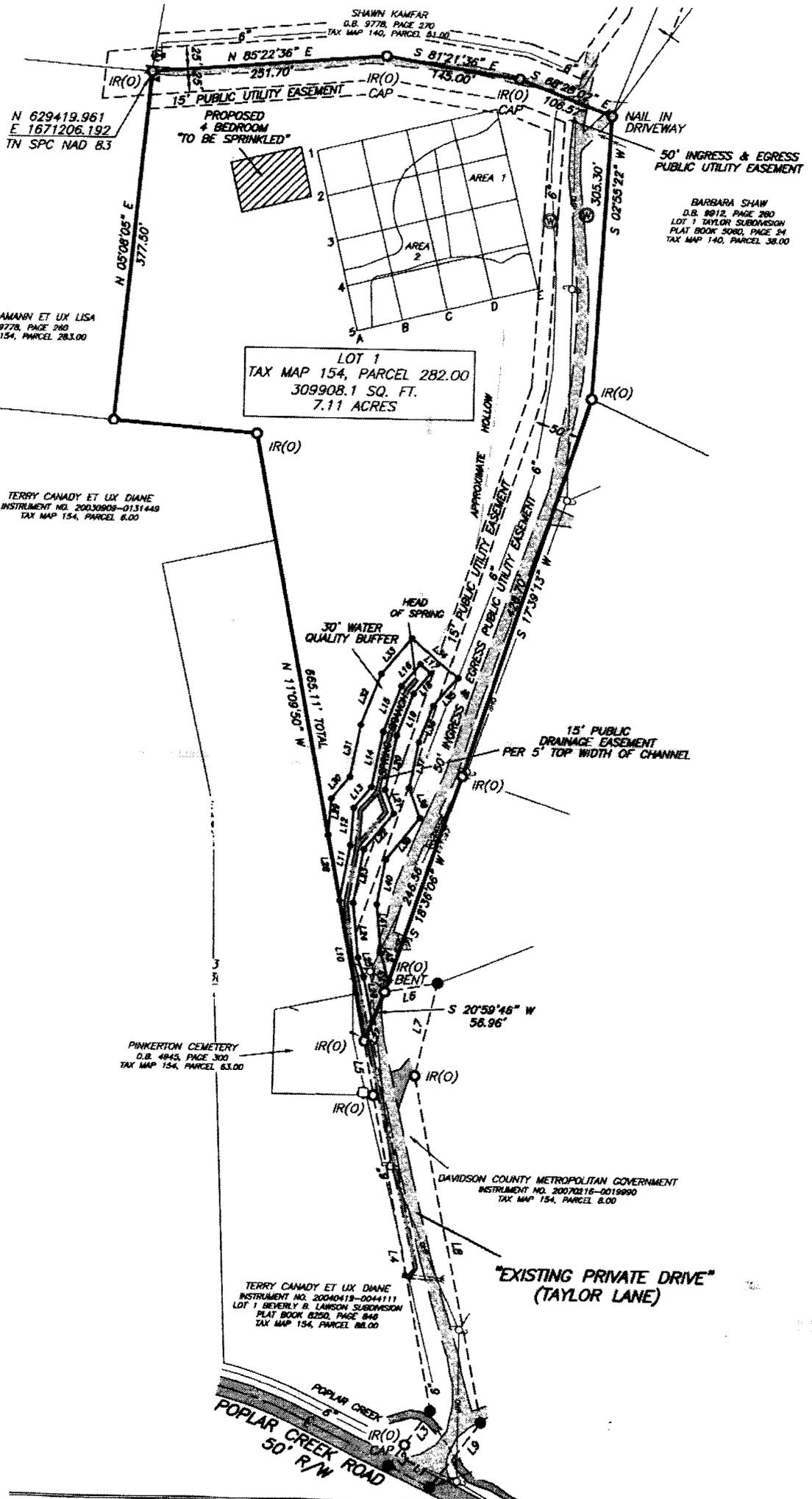
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**PLAN DETAILS**

The applicant is requesting final plat approval for a seven acre lot that is within a Natural Conservation Policy and is accessed from a private road. The Subdivision Regulations allow up to 10 lots, five acres or greater, within the Natural Conservation or Rural land use polices, to be accessed from a private street. This will be the 13<sup>th</sup> improved property to take access from this private street and a variance to Section 3-9.3.c.1 will be required.

**Access**

The applicant has agreed to construct a private street in the access easement to Metro standards (20 feet of pavement with two four-foot shoulders). The street will extend from Poplar Creek Road to the point where it meets the access driveway for the property. No other driveway access will be permitted to this lot from the easement running along the eastern edge of this property unless that portion of the easement is also brought up to the same Metro street standards. Construction plans have been approved by Public



N 629419.961  
E 1671206.192  
TN SPC NAD 83

JEFFREY AMANN ET UX LISA  
D.B. 9778, PAGE 260  
TAX MAP 154, PARCEL 283.00

TERRY CANADY ET UX DIANE  
INSTRUMENT NO. 20030909-0131449  
TAX MAP 154, PARCEL 6.00

PINKERTON CEMETERY  
D.B. 4945, PAGE 300  
TAX MAP 154, PARCEL 63.00

LOT 1  
TAX MAP 154, PARCEL 282.00  
309908.1 SQ. FT.  
7.11 ACRES

BARBARA SHAW  
D.B. 8912, PAGE 280  
LOT 1 TAYLOR SUBDIVISION  
PLAT BOOK 509D, PAGE 24  
TAX MAP 140, PARCEL 38.00

TERRY CANADY ET UX DIANE  
INSTRUMENT NO. 20040419-0044111  
LOT 1 BEVERLY B. LAUSON SUBDIVISION  
PLAT BOOK 625D, PAGE 848  
TAX MAP 154, PARCEL 88.00

DAVIDSON COUNTY METROPOLITAN GOVERNMENT  
INSTRUMENT NO. 20070216-0019990  
TAX MAP 154, PARCEL 6.00

"EXISTING PRIVATE DRIVE"  
(TAYLOR LANE)

POPLAR CREEK  
POPLAR CREEK ROAD  
50' R/W



## Metro Planning Commission Meeting of 6/25/2009

Works. The road will need to be constructed or bonded prior to the recording of the plat. Upon completion of the road, it will need to be inspected by Public Works, or the applicant will need to obtain a letter from a registered engineer certifying that the road has been constructed to Public Works standards.

Prior to recording the final plat, a joint maintenance agreement will need to be prepared and signed by the applicant and all owners of adjacent property up to the point where the improved roadway will be located. Future lots using this shared access easement will be required to upgrade the road to Public Works standards to the point where the driveway access intersects with private road, and each future lot will be required to sign the joint maintenance agreement with the owner of this property and any others who follow.

### History

This parcel of land is one of 21 parcels created by deed in 1995. The access for these 21 parcels of land is the extension of an existing private ingress-egress easement from Poplar Creek Road. With the addition of these 21 parcels, there are now approximately 28 parcels that would use at least a small portion of this access easement as their sole access from Poplar Creek Road.

Although it is legal to create parcels of land five acres and greater by deed, it does not automatically make them "buildable" lots. If a parcel accesses utilities from a public right-of-way, a subdivision plat is not required. This parcel will obtain water and electric service from common lines that run through the private easement and must be platted.

In March 2003, the Planning Commission approved, with conditions, a final plat for a property adjacent to this parcel. That plat was never recorded. The conditions included:

- that the private road be brought up to public works standards from Poplar Creek Road to the point where it was to intersect with the access drive serving the property
- that a joint-access maintenance agreement be prepared and signed by the applicant and to be recorded when the next parcel on the joint access easement records a subdivision plat. All future applicant for buildable lots using the



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private road would be required to sign this joint maintenance agreement

- Metro health approval for the septic system was required before the plat could be recorded

Staff is recommending that these conditions also apply to this request with some minor modifications.

### Variance Request

The applicant has requested a variance to Section 3-9.3.c.1 of the Subdivision Regulations. Section 1-11 of the Subdivision Regulations permits the Planning Commission to grant variances if it finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations provided that such variance does not have the effect of nullifying the intent and purpose of these regulations.

The findings are based on a number of criteria. These include conditions unique to the property that are not applicable generally to other property and the particular physical conditions of the property involved. The physical conditions must cause a particular hardship to the owner, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out.

Due to the location of the property and its proximity to Poplar Creek Road, and the fact that this portion of the private road is not maintained as well as other portions to the north, permitting the variance will improve the safety of this portion of the private road, and benefit all property owners accessing this private road. The impact of converting this parcel to a lot will be minimal, as this lot is close to Poplar Creek Road. Staff is recommending that the Planning Commission grant this variance request.

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**PUBLIC WORKS****RECOMMENDATION**

Construction drawings approved

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**HARPETH VALLEY UTILITY****DISTRICT RECOMMENDATION**

Approve

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**STORMWATER****RECOMMENDATION**

Approved



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### FIRE MARSHAL RECOMMENDATION

- A sprinkler fire line shall only be installed by a Tennessee licensed sprinkler contractor.
- My review shows that this project will require the building to be sprinklered.
- Approved based on earlier and current comments being met.
- The angle of approach and departure for any means of fire department access road shall not exceed 1 ft drop in 20 ft.
- Fire department access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with an all-weather driving surface.
- Before a plat for one or two family buildings can be approved, plans must show results from fire hydrant(s) flow test, performed within 6 months with a minimum of 1000 gpm @ 20 psi available at fire hydrants.
- When a bridge is required to be used as part of a fire department access road, it shall be constructed and maintained in accordance with nationally recognized standards.
- Fire department access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building is located not more than 150 ft (46 m) from fire department access roads.
- A fire department access road shall extend to within 50 ft of at least one exterior door that can be opened from the outside and that provides access to the interior of the building.
- Any fire flow less than 20 psi will require a meeting with the sprinkler division of the Fire Marshals
- Developer needs to provide more information to the Fire Marshal's Office.
- All dead end roads over 150 ft. in length require a 100 ft. diameter turnaround, this includes temporary turnarounds.
- Temporary T-type turnarounds that last no more than one year shall be approved by the Fire Marshal's Office.
- All fire department access roads shall be 20 feet minimum width and shall have an unobstructed



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vertical clearance of 13.6 ft.

- No part of any building shall be more than 500 ft from a fire hydrant via an approved hard surface road.

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### STAFF RECOMMENDATION

Staff recommends approval with conditions of the final plat, and that a variance be granted to Section 3-9.3.c.1 of the Subdivision Regulations to permit this lot to take access from an improved private road.

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### CONDITIONS

1. The private road shall be brought up to Metro Public Works standards from Poplar Creek Road to the point where it intersects with the access drive serving this lot.
2. A note shall be added to the plat that specifies that no additional access points shall be permitted from the easement that runs along the eastern edge of the property unless the easement is brought up to Public Works standards to the point where it intersects with the additional access.
3. The road shall be constructed or bonded prior to the recording of the plat. Upon completion of the road, the road shall be inspected by Public Works or the applicant shall obtain a letter from a registered engineer certifying that the road has been constructed to Public Works standards.
4. Prior to the recordation of the final plat, a joint maintenance agreement shall be prepared and signed by the applicant and all owners of property where the improved roadway will be located and shall be recorded. All future applicants for buildable lots using the private road shall be required to sign and join into this joint maintenance agreement.
5. Prior to the recordation of the final plat, Metro Health Department approval shall be indicated on the plat for septic systems prior to recording of the plat.

**REVISIONS  
and FINAL SITE PLANS**





<b>Project No.</b>	<b>Planned Unit Development 2004P-015U-001</b>
<b>Project Name</b>	<b>Matlock Residential PUD</b>
<b>Council District</b>	32 - Coleman
<b>School Board District</b>	6 - Johnson
<b>Requested By</b>	Wamble and Associates PLLC, applicant for J2K Builders, LLC
<b>Staff Reviewer</b>	Bernards
<b>Staff Recommendation</b>	<i>Approve with conditions</i>

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**APPLICANT REQUEST**  
**Revise Preliminary Plan and PUD Final Site Plan**

**A request to revise the preliminary plan and for final approval for a portion (0.82 acres) of the Matlock Residential Planned Unit Development Overlay located at Waterburg Lane (unnumbered), on the east side of Old Franklin Road, zoned Multi-Family Residential (RM15), to reduce the overall density to 101 townhome units, replacing 104 townhome units and permit the development of 12 townhome units.**

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**PLAN DETAILS**

**Site Plan**

This request is to revise the preliminary plan to reduce the total number of units from 104 townhomes to 101 townhomes and to construct Phase IIA, which will consist of 12 attached units. These units will be accessed via a private drive, Smedley Lane, which will connect to Old Franklin Road via Isabelle Lane.

The preliminary plan has been revised to address access issues raised by the Fire Marshal. One unit was removed from Phase IIA and two units were removed from Phase IIB. The driveways in these two sections were connected in order to provide a sufficient turn-around to accommodate emergency vehicles.

**Future Connections**

Approval of Phase I in February 2007, included a condition that no final plats were to be approved or recorded for any other phase within this PUD until the entirety of the extension of Isabelle Lane, including the stream crossing, is completed or bonded. With the current request, this condition has been amended to require the stream crossing be included as part of the Phase III Final Site Plan. No permits will be issued for any portion of Phase III until the entirety of the extension of Isabelle Lane to the adjacent property, including the stream crossing, is constructed or bonded.





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### **PUBLIC WORKS RECOMMENDATION**

- All Public Works' design standards shall be met prior to any final approvals and permit issuance. Any approval is subject to Public Works' approval of the construction plans.
- Identify plans for solid waste collection and disposal. Identify dumpster pad locations. Service truck pickup routes to accommodate SU-30 turning movements. Solid waste collection and disposal plan to be approved by the Department of Public Works Solid Waste Division.
- Prior to building permits, restripe Old Franklin Road to provide a continuous center left turn lane as previously conditioned.

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### **STORMWATER RECOMMENDATION**

1. Add note to plans stating that this site is covered under Stormwater Detention Agreement # ...
2. Add note on erosion control sheet stating:  
"Contractor to provide an area for concrete wash down and equipment fueling in accordance with Metro CP – 10 and CP – 13, respectively. Contractor to coordinate exact location with NPDES department during preconstruction meeting."
3. Add note to plans stating that Stormwater Detention and Water Quality measures are treated within SWGR 2006-021.
4. Provide 4 sets for approval.

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### **FIRE MARSHAL RECOMMENDATION**

Approved

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### **WATER SERVICES RECOMMENDATION**

Conditional approval upon the construction and approval of Metro Project No.09-WL-20 ( public sewer line extension) & Metro Project No. 09-WL-17 (public water main extension).

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### **STAFF RECOMMENDATION**

The request is consistent with the concept and layout of the originally approved preliminary plan. Staff



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recommends that the request be approved with conditions.

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### CONDITIONS

1. Prior to the issuance of any building permits, restripe Old Franklin Road to provide a continuous center left turn lane as previously conditioned
2. The PUD Final Site Plan for Phase III shall include the entirety of the extension of Isabelle Lane to the adjacent property, including the stream crossing. No building permits will be issued for Phase III until the extension of Isabelle Lane, to the property line, is constructed or bonded.
3. Prior to the issuance of any permits, confirmation of final approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services.
4. Prior to the issuance of any permits, confirmation of final approval of this proposal shall be forwarded to the Planning Commission by the Traffic Engineering Sections of the Metropolitan Department of Public Works for all improvements within public rights of way.
5. The requirements of the Metropolitan Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
6. Authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four (4) additional copies of the approved plans have been submitted to the Metropolitan Planning Commission.
7. These plans as approved by the Planning Commission will be used by the Department of Codes Administration to determine compliance, both in the issuance of permits for construction and field inspection. Significant deviation from these plans will require reapproval by the Planning Commission.



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8. If this final approval includes conditions which require correction/revision of the plans, authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four (4) copies of the corrected/revised plans have been submitted to and approved by staff of the Metropolitan Planning Commission for filing and recordation with the Davidson County Register of Deeds.