

Metropolitan Planning Commission

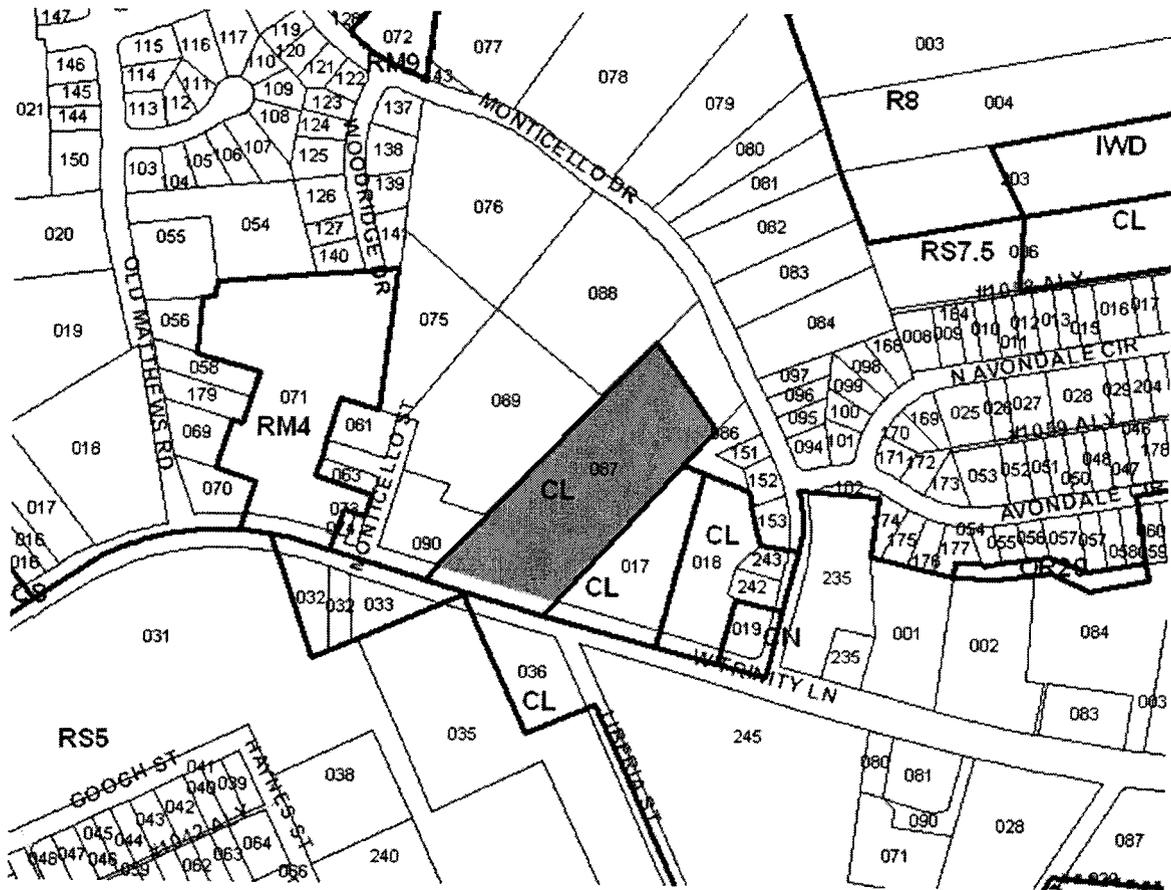


Staff Reports

December 11, 2008

Zoning, Subdivisions, and PUD Cases
Staff Report Part B

ZONING MAP AMENDMENTS



2008Z-085U-03

Map: 071-01 Parcel: Part Of 087

Bordeaux/Whites Creek Community Plan

Council District 2 – Frank Harrison



Project No.
Council Bill
Council District
School District
Requested by

Zone Change 2008Z-085U-03
BL2008-361
2 - Harrison
1 - Gentry
Councilmember Frank Harrison, applicant, for Greater Grace Temple Community Church, owner

Staff Reviewer
Staff Recommendation

Sexton
Approve

APPLICANT REQUEST

A request to rezone 4.10 acres from Commercial Limited (CL) to Single-Family Residential (RS7.5) zoning for a portion of property located at 415 W. Trinity Lane, approximately 560 feet west of Monticello Drive.

History

On April 24, 2008, the Metro Planning Commission approved a zone change request to rezone this property from RS7.5 to CL zoning.

Existing Zoning
CL District

Commercial Limited is intended for retail, consumer service, financial, restaurant, and office uses.

Proposed Zoning
RS7.5 District

RS7.5 requires a minimum 7,500 square foot lot and is intended for single-family dwellings at a density of 4.94 dwelling units per acre.

BORDEAUX/WHITES CREEK COMMUNITY PLAN

Residential Medium (RM)

RM policy is intended to accommodate residential development within a density range of four to nine dwelling units per acre. A variety of housing types are appropriate. The most common types include compact, single-family detached units, town-homes, and walk-up apartments.

Consistent with Policy?

Yes. The proposed RS7.5 zoning is consistent with the RM policy of the Bordeaux / Whites Creek community plan. The RM policy calls for a density range of four to nine dwelling units per acre.



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PUBLIC WORKS RECOMMENDATION

TIS may be required at time of development

Typical/Maximum Uses in Existing Zoning District: CL

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Strip Shopping (814)	4.10	0.184	32,861	1444	34	101

Maximum Uses in Proposed Zoning District: CL

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Strip Shopping (814)	4.10	0.6	107,157	4622	93	279

Typical Uses in Proposed Zoning District: RS7.5

Land Use (ITE Code)	Acres	FAR	Total Number of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached (210)	4.10	4.94	20	192	15	21

Change in Traffic Between Typical/Maximum Uses in Existing and Proposed Zoning District

Land Use (ITE Code)	Acres	--		Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--				+3370	+74	+199

METRO SCHOOL BOARD REPORT

Projected student generation

2 Elementary 2 Middle 2 High

Schools Over/Under Capacity

Students would attend Joelton Elementary School, Joelton Middle School, or Whites Creek High School. None of the schools have been identified as being over capacity by the Metro School Board. This information is based upon data from the school board last updated June 2008.

STAFF RECOMMENDATION

Staff recommends approval as the proposed RS7.5 zoning district is consistent with the RM land use policy of the Bordeaux / Whites Creek Community Plan.

SEE NEXT PAGE

NO SKETCH



Project No.
Project Name

Zoning Text Change 2008Z-090T
Zoning Code Text Amendment to require construction, enforcement and application of the Zoning Code consistent with federal law

Council Bill Requested By

BL2008-333
Councilmember Jim Gotto

Staff Reviewer
Staff Recommendation

Kleinfelter
Approve

APPLICANT REQUEST

A Council Bill to amend Chapter 17.40 of Title 17 of the Metropolitan Code of Laws and requiring construction, enforcement and application of the zoning code consistent with federal law.

APPLICATION DETAILS

The ordinance proposes two Zoning Code changes related to ensure that Metro Government does not enforce the Zoning Code in ways that are inconsistent with federal law. Section 1 of the ordinance adds new language to Section 17.24.010, the Zoning Administrator "Authority and Responsibilities" portion of the Code, and Section 2 adds language to Section 17.24.180, which addresses the powers of the Board of Zoning Appeals.

Analysis

Federal law requires local governments to make reasonable accommodations for disabled persons to ensure that they are afforded an equal opportunity to use and enjoy dwellings. Those accommodations can include exceptions or modifications in the way that zoning laws are construed, enforced, and/or applied. In Metro Nashville, the Zoning Administrator is charged with interpreting, administering, and enforcing the provisions of the Zoning Code.

Currently, there are no provisions in the Zoning Code that specifically allow the Zoning Administrator to modify or waive parts of the Zoning Code if the Zoning Administrator determines that the provision is inconsistent with federal laws that Nashville, as a local government, is obligated to follow. This proposed ordinance will amend the Code to require the Zoning Administrator to "make reasonable accommodations in the rules, policies, and practices of his office so that handicapped or



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disabled persons are not discriminated against and are afforded an equal opportunity to use and enjoy dwellings.”

In addition to requiring the Zoning Administrator to grant reasonable accommodations where necessary, the Council bill also adds a procedure to the Zoning Code to allow persons with handicaps or disabilities recognized under federal law to request in writing that they be afforded a reasonable accommodation. The bill further gives the Board of Zoning Appeals the authority to hear appeals from “any person or entity aggrieved” by the Zoning Administrator’s decision to grant or deny a request for a reasonable accommodation.

This Council bill has been proposed by the Metro Department of Law in response to concerns by the United States Department of Justice that Metro Government does not have adequate procedures in place to ensure that reasonable accommodations are afforded to persons who are protected from discrimination under federal housing laws. Arguably, the Zoning Administrator currently has the common law authority to grant reasonable accommodations, if requested to do so, because the federal laws in question supersede Metro ordinances, to the extent that any ordinance conflicts with such federal law. The proposed Council bill will simply clarify that the Zoning Administrator is required to grant reasonable accommodations, where necessary, and establishes a procedure for initiating, deciding, and appealing requests for reasonable accommodation.

The specific federal laws called out in the ordinance include:

- 1) the Fair Housing Act (FHA),
- 2) the Americans with Disabilities Act (ADA), and
- 3) the Religious Land Use and Institutionalized Persons Act (RLUIPIA).

Proposed Text

This Council Bill proposes to amend Section 17.40.010 of the Zoning Code by adding the following new subsections H and I:



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H. Construction, Application and Enforcement Consistent With Federal Law. The provisions of this Title shall in every instance be construed, applied and enforced in a manner consistent with applicable federal law, including but not limited to the Fair Housing Act, 42 U.S.C. § 3601 et. seq.; the Americans with Disabilities Act, 42 U.S.C. § 12132, et. seq.; and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc et. seq. Notwithstanding any other provision of this Title to the contrary, the zoning administrator shall make reasonable accommodations in the rules, policies, and practices of his office so that handicapped or disabled persons are not discriminated against and are afforded an equal opportunity to use and enjoy dwellings.

I. Procedure for Obtaining Reasonable Accommodation. Any person having a handicap or disability recognized by federal law, or such person's representative, may request in writing a reasonable accommodation as contemplated in this section. The right to request a reasonable accommodation shall be prominently displayed in the public area under the supervision of the zoning administrator and on the publicly accessible portion of any Internet website maintained by the Metropolitan Government and devoted to local codes enforcement and zoning matters. The zoning administrator shall make and document in writing specific findings of fact in support of every decision to grant or deny an accommodation sought under this section and issue a determination within thirty (30) days of the request being made. The zoning administrator's decision shall be reviewable by the Board of Zoning Appeals upon the filing of a notice of appeal by any person or entity aggrieved by the decision. Any appeal brought under this subsection must be in writing and filed with the Board of Zoning Appeals not more than thirty (30) days after issuance of the zoning administrator's decision. Documents comprising the record of any determination made with respect to the grant or denial of a request for an accommodation by the zoning administrator or the Board of Zoning Appeals shall be kept on file for not less than three (3) years from the date of final decision and available for public inspection upon reasonable notice.

In addition, the Council Bill would add a new subsection F to Section 17.40.180 of the Code:

F. Reasonable Accommodation. The zoning administrator's decision to grant or deny a handicapped or disabled person a reasonable accommodation shall be reviewable by the Board of Zoning Appeals upon the filing of a notice of appeal with the Board of Zoning Appeals by any person or entity aggrieved by that decision. The notice of appeal must be filed with the Board of Zoning Appeals no more than thirty (30) days after issuance of the zoning administrator's decision.

STAFF RECOMMENDATION

Staff recommends approval of the proposed ordinance because it establishes specific procedures for requests to the Metro Government for reasonable accommodation. This will ensure that Metro does not, through application and enforcement of its Zoning Code, illegally discriminate against persons with handicaps or disabilities.

NO SKETCH



Project Nos.

Zone Change 2008Z-091T

Name

Automobile Repair & Automobile Service

Council Bills

BL2008-365

Council District

Countywide

School District

N/A

Requested by

Councilmember Jim Hodge

Staff Reviewer

Regen

Staff Recommendation

Approve

APPLICANT REQUEST

A council bill to amend the Metro Zoning Code, Section 17.040.060 (Definitions) to modify the definition of "automobile repair" and "automobile service" to prohibit vehicles being repaired or serviced from remaining on the premises more than forty-five (45) days.

ANALYSIS

Existing Law

The current Zoning Code definitions for "automobile repair" and "automobile service" prohibit vehicles being repaired or serviced remaining on the property for more than 21 days. State law requires 30 days to pass, however, before a service or repair shop owner can sell an unclaimed vehicle.

Proposed Bill

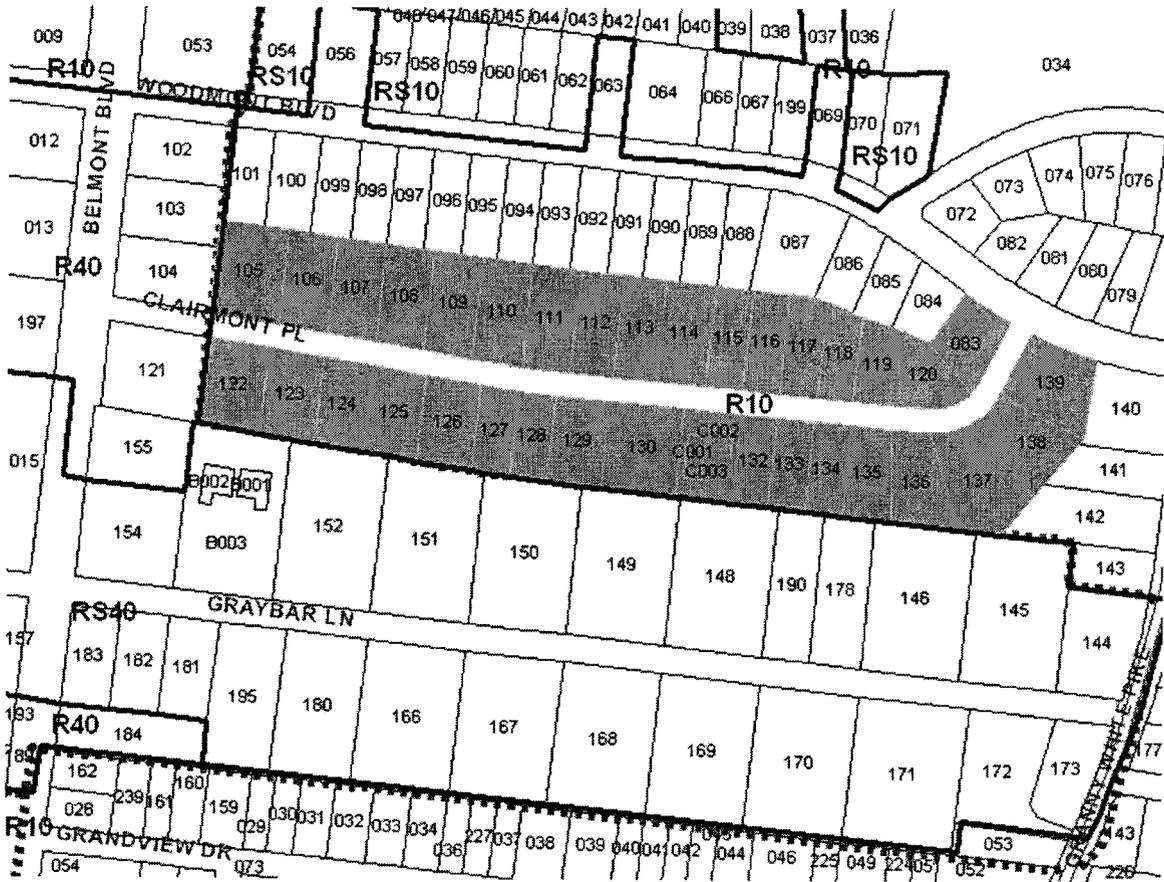
Bill BL2008-365 lengthens the time a vehicle can remain on the premises from 21 days to 45 days which will provide up to 15 days for the sale of an unclaimed vehicle. The proposed change is not significant since it merely makes the Zoning Code correspond with state law requirements.

Analysis

The proposed 45 day period provides sufficient time to prepare and process paperwork for an unclaimed vehicle's sale.

STAFF RECOMMENDATION

Staff recommends approval of BL2008-365.



2008Z-092U-10

Clairmont Place

Map: 117-12 Parcels: Various

Map: 117-12-0-C Parcels: 001, 002, 003

Green Hills/Midtown Community Plan

Council District 25 – Sean McGuire



Project No.	Zone Change 2008Z-092U-10
Project Name	Clairmont Place
Council Bill	BL2008-357
Council District	25 - McGuire
School District	8 - Fox
Requested by	Councilmember Sean McGuire for various owners
Staff Reviewer	Jones
Staff Recommendation	<i>Approve</i>

APPLICANT REQUEST

A request to rezone various properties from One and Two-Family Residential (R10) to Single-Family Residential (RS10) zoning along Clairmont Place, between Belmont Boulevard and Woodmont Boulevard (14.84 acres).

Existing Zoning
R10 District

R10 requires a minimum 10,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 4.63 dwelling units per acre including 25% duplex lots.

Proposed Zoning
RS10 District

RS10 requires a minimum of 10,000 square foot lot and is intended for single-family dwellings at a density of 3.7 dwelling units per acre.

GREEN HILLS-MIDTOWN COMMUNITY PLAN

Residential Low Medium (RLM)

RLM policy is intended to accommodate residential development within a density range of two to four dwelling units per acre. The predominant development type is single-family homes, although some townhomes and other forms of attached housing may be appropriate.

Consistent with Policy?

Yes. The RS10 district is consistent with the Residential Low Medium (RLM) land use policy. The RLM policy applies to existing conventional suburban residential areas where the predominant development type is single-family. This request for RS10 zoning applies to an area where the predominant housing type is single-family residential. The area also includes duplex units which will result in several non-conforming uses if the RS10 district is approved. Although these units will not conform to the RS10 district, they will retain their zoning rights as duplexes and be exempt from the regulations that apply to RS10 zoning.



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**PUBLIC WORKS
RECOMMENDATION**

No exception taken.

**WATER SERVICES
RECOMMENDATION**

No capacity study is required for this zone change as these are existing homes.

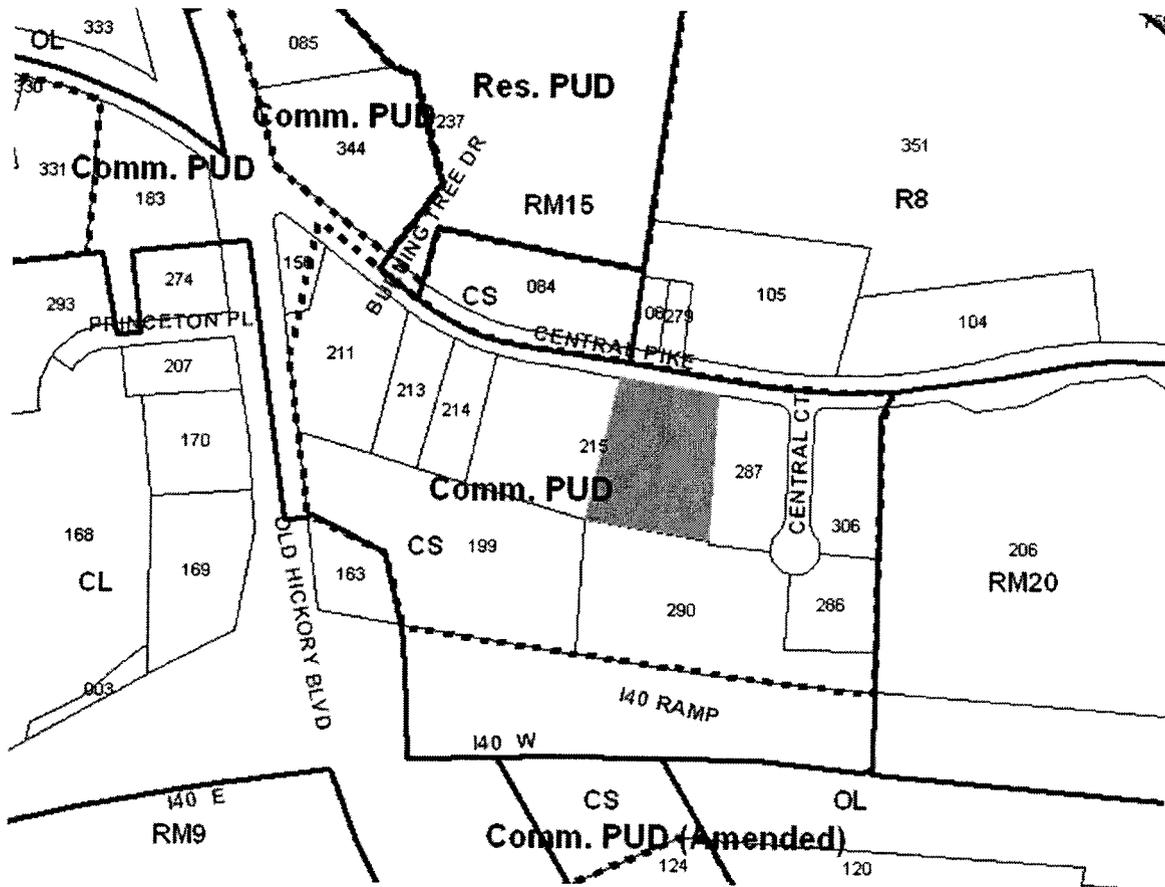
**FIRE MARSHAL
RECOMMENDATION**

No comments at this time.

STAFF RECOMMENDATION

Staff recommends approval of the request to rezone various properties along Clairmont Place from One and Two-Family Residential (R10) to Single-Family Residential (RS10). The RS10 district is consistent with the Residential Low Medium land use policy.

SEE NEXT PAGE



6-74-G-14

Priest Lake Commercial Pud (Hermitage Motel 6)

Map: 086-00 Parcel: Part of 215

Donelson/Hermitage/Old Hickory Community Plan

Council District 12 – Jim Gotto



Project No.
Project Name

Planned Unit Development 6-74-G-14
Priest Lake Commercial PUD (Hermitage Motel 6)

Council District
School Board District
Requested By

12 - Gotto
4 - Glover
Civil and Environmental Engineering, applicant for JAI Ganesha LLC, owner

Staff Reviewer
Staff Recommendation

Swaggart
Approve with conditions

APPLICANT REQUEST
Amend Preliminary Plan

A request to amend a portion of the Commercial Planned Unit Development district located at 3887 Central Pike, approximately 700 feet east of Old Hickory Boulevard, zoned Commercial Service (CS), (1.46 acres), to permit a 4-story, 67 room motel where a 2-story, 47 room motel was previously approved.

Zoning District
CS District

Commercial Service is intended for retail, consumer service, financial, restaurant, office, self-storage, light manufacturing and small warehouse uses.

PLAN DETAILS

Preliminary Plan

This is a request to amend the preliminary plan for a portion of the Priest Lake Commercial Planned Unit Development (PUD). The property is currently developed and consists of a motel with 128 units in two buildings. The plan proposes to divide the property into two new lots. The building on the western portion is to remain while the building on the eastern portion will be demolished and replaced with a new motel.

The preliminary plan was originally approved in 1972 for general retail. The last approved preliminary plan for this property was in 1983 and included a 49,240 square foot motel with 128 rooms.

Site Plan

The proposed site plan includes the 22,438 sq. ft. motel and office which is to remain and a new 36,820 square foot motel. The site plan also proposes a new property line which will separate the existing motel and the new motel.

The proposed new lot will not have direct access onto Central Pike or Old Hickory Boulevard. Primary access to the new lot will be indirect from the existing curb cut on Central Pike. Indirect access to Old Hickory Boulevard west of the site is also provided through other portions of

17 S.F.
10 S.F.
26 S.F.
17 S.F.

CONCRETE H.C. RAMP (TYP.)
REFER TO SHT. C3.1 FOR DTL.

7' RESERVED R-O-W

TOTAL AREA
135,174 SQ. FT.
3.10 ACRES

LOT B = 63,393 S.F.

36,820 S.F. FOUR STORY
67 ROOM BUILDING

PROPOSED ZONING AND PROPERTY LINE
N14°45'00"E 287.38'

ACCESS EASEMENT
TO BE RECORDED

24" PAINTED WHITE STOP BAR (TYP.)
IN ACCORDANCE WITH MUTCD

DIRECTIONAL ARROW (TYP.)
IN ACCORDANCE WITH MUTCD

SPEED BUMPS
TYP. 3 PLACES

PROPOSED ZONING
PROPERTY

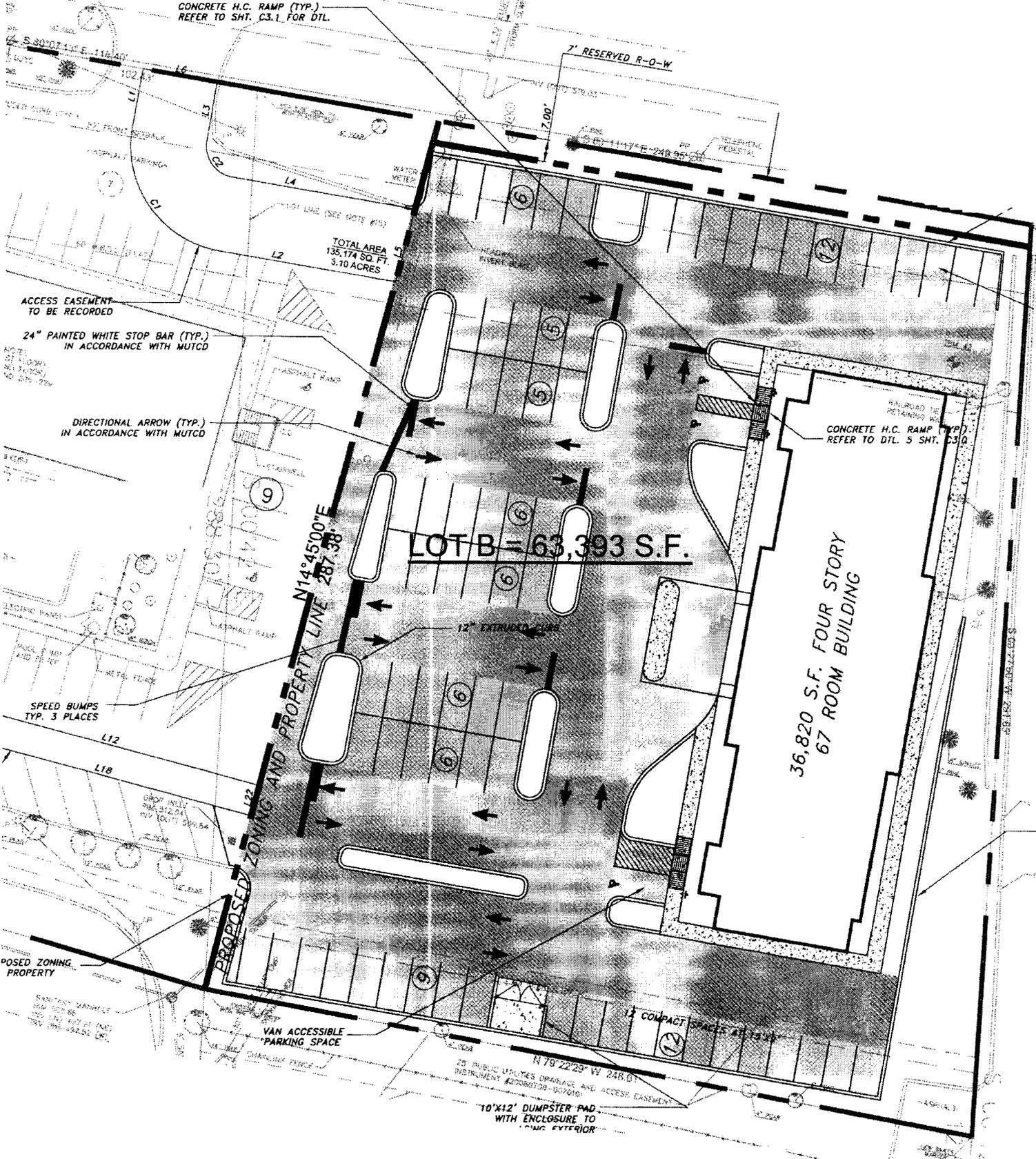
VAN ACCESSIBLE
PARKING SPACE

12' COMPACT SPACES AT 15' W

10'X12' DUMPSTER PAD
WITH ENCLOSURE TO
CONCEAL EXTERIOR

25' PUBLIC UTILITIES DRAINAGE AND ACCESS EASEMENT
INSTRUMENT #20080100-007010

RAILROAD THE
RETAINING WALL
CONCRETE H.C. RAMP (TYP.)
REFER TO DTL. 5 SHT. C3.0





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Staff Analysis

the PUD. An access easement is required and is identified on the plan. When the property is subdivided into two lots, the shared access drive shown on the plan will need to be recorded with the plat.

A total of 148 parking spaces are shown which exceeds the minimum 132 spaces required by the Zoning Code. Since the existing lot will be split into two new lots both lots must either provide sufficient parking on site or establish a shared parking agreement. Each lot has sufficient parking and no shared parking agreement is needed.

As proposed the total floor area will exceed 10% of what was last approved by Council. The Zoning Code requires Council approval for any proposal within a PUD that exceeds 10% of what was last approved by Council. While the PUD exceeds 10% of what was last approved it is consistent with the overall PUD plan and meets current zoning requirements.

PUBLIC WORKS RECOMMENDATION

1. 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.
2. Record cross access along the proposed property line between lots A & B due to shared driveway.

STORMWATER RECOMMENDATION

Preliminary PUD approved

STAFF RECOMMENDATION

Staff recommends deferral until Stormwater has approved the plan. If Stormwater Staff approves the plan prior to the Planning Commission Meeting then Staff recommends approval with conditions. The request is consistent with the concept of the last approved site plan and is not incompatible with existing uses in the PUD.

CONDITIONS

1. A shared access drive as shown on the site plan and required by Public Works shall be recorded prior to the issuance of any building permits.
2. This approval does not include any signs. Signs in planned unit developments must be approved by the Metro Department of Codes Administration except in specific instances when the Metro

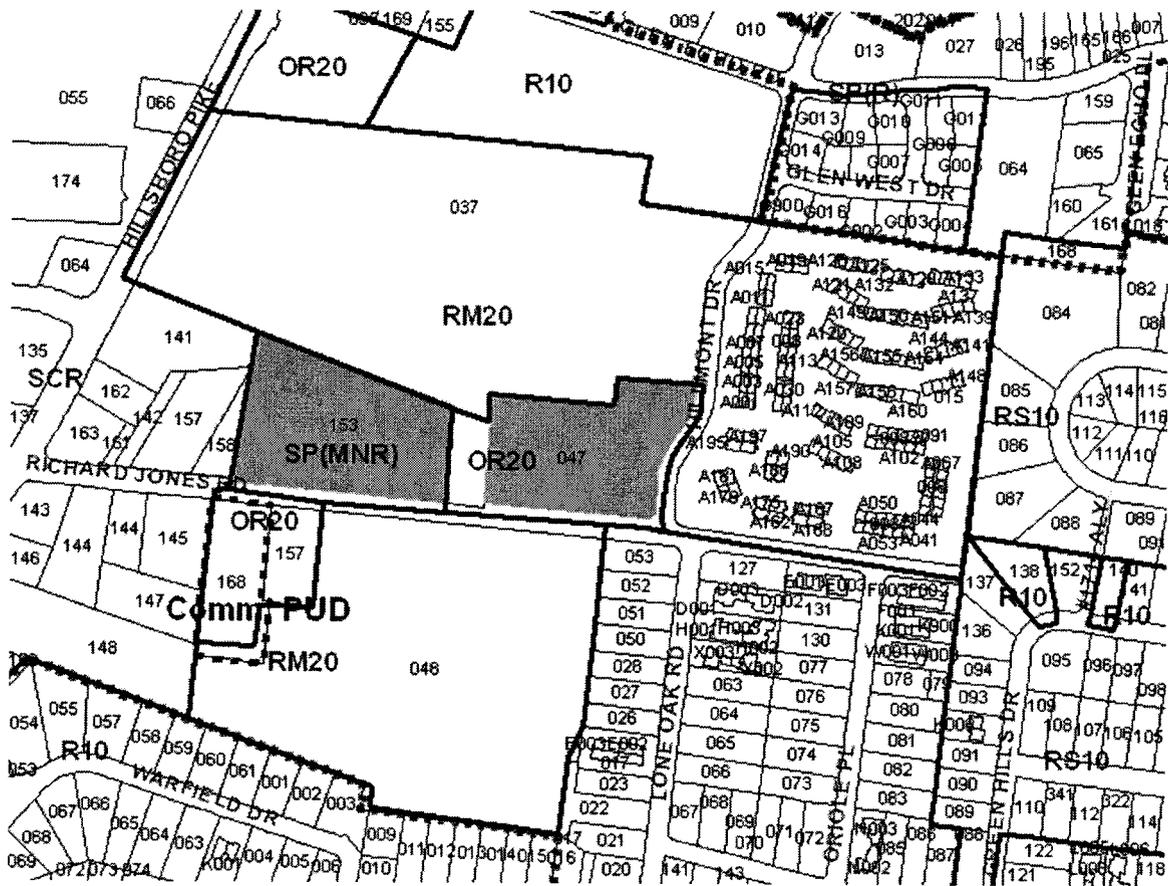


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Council directs the Metro Planning Commission to review such signs.

3. The requirements of the Metro 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.
4. If the PUD final site plan or final plat indicates that there is less acreage than what is shown on the approved preliminary plan, the final site plan shall be appropriately adjusted to show the actual total acreage, which may require that the total number of dwelling units or total floor area be reduced.
5. Prior to any additional development applications for this property, and in no event later than 120 days after the effective date of the enacting ordinance, the applicant shall provide the Planning Department with a corrected copy of the preliminary PUD plan. If a corrected copy of the preliminary PUD plan incorporating the conditions of approval therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the preliminary PUD plan shall be presented to the Metro Council as an amendment to this PUD ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.

SEE NEXT PAGE



2002UD-001U-10
 Green Hills Udo (Boundary Amendment)
 Map: 117-15 Parcels: 047, 153
 Green Hills/Midtown Community Plan
 Council District 25 – Sean McGuire



Project No. 2002UD-001U-10
Project Name Green Hills UDO Boundary Amendment
Council Bill BL2008-362
Council District 25 - McGuire
School Board District 8 - Fox
Requested By Councilmember Sean McGuire for HDJ Capital Partners Ltd., and Water's Edge Limited Partnership et al, owners.

Staff Reviewer Johnson
Staff Recommendation Approve

APPLICANT REQUEST
Amend UDO

A request to amend the existing Green Hills Urban Design Overlay (UDO) District to add properties located at 2000 and 2002 Richard Jones Road, approximately 500 feet east of Hillsboro Pike (7.21 acres), zoned Specific Plan – Mixed Non-Residential (SP-MNR) and Office/Residential (OR20), to require all provisions of the Green Hills UDO to apply to these properties.

BASE ZONING
SP-MNR District

Specific Plan-Mixed Non-Residential 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 office and commercial uses.

OR20 District

Office/Residential is intended for office and/or multi-family residential units at up to 20 dwelling units per acre.

GREEN HILLS/MIDTOWN COMMUNITY PLAN

Regional Activity Center (RAC)

RAC policy is intended for concentrated mixed-use areas anchored by a regional mall. Other uses common in RAC policy are all types of retail activities, offices, public uses, and higher density residential areas. An accompanying Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in these policy areas, to assure appropriate design and that the type of development conforms to the intent of the policy.

Office Concentration (OC)

The OC policy is intended for existing and future large concentrations of office development. It is expected that certain types of commercial uses that cater to office workers, such as restaurants, will also locate in these areas.



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Residential uses of at least nine to twenty dwelling units per acre (RMH density) are also an appropriate secondary use.

UDO History

The Green Hills UDO is a zoning overlay intended to promote a compact multi-level urban village that is visually coherent and pedestrian oriented, and is a center of commerce that includes entertainment, employment and living activities. The overlay includes pedestrian, bicycle and transit linkages within the center, as well as between the surrounding areas. The UDO was adopted by the Metro Council in 2002 and amended in 2003 and 2007.

Utilization of the guidelines thus far has been incentive based and at the choice of the property owner, with the exception of the signage requirements. The development guidelines of the UDO become applicable when a proposed development utilizes any of the incentive provisions of the UDO. For example, in exchange for providing structured parking instead of surface parking, or mixed-use buildings instead of single-use buildings, developments become eligible for “bonuses” such as parking reductions, increased building height, and additional floor area for residential development. The owner still has the option to develop under the base zoning standards if no incentives are desired and the UDO standards are then encouraged but not mandatory.

The guidelines of the UDO include the following standards:

- Streetscape
- Building placement, height and massing
- Architectural Treatment
- Parking
- Signage and Awnings

STAFF RECOMMENDATION

The addition of the subject property into the Green Hills UDO is consistent with the goal of guiding development in the area into a visually coherent urban village.

The addition of 2002 Richard Jones Rd. to the Green Hills UDO is an instance where a property will have both SP and UDO designations applied to it. The Specific Plan zoning and the Urban Design Overlay are intended to provide site or neighborhood specific standards for property development and will rarely overlap. In this case, the SP zoning for 2002 Richard Jones Rd. specifies land use and does not provide additional design-related



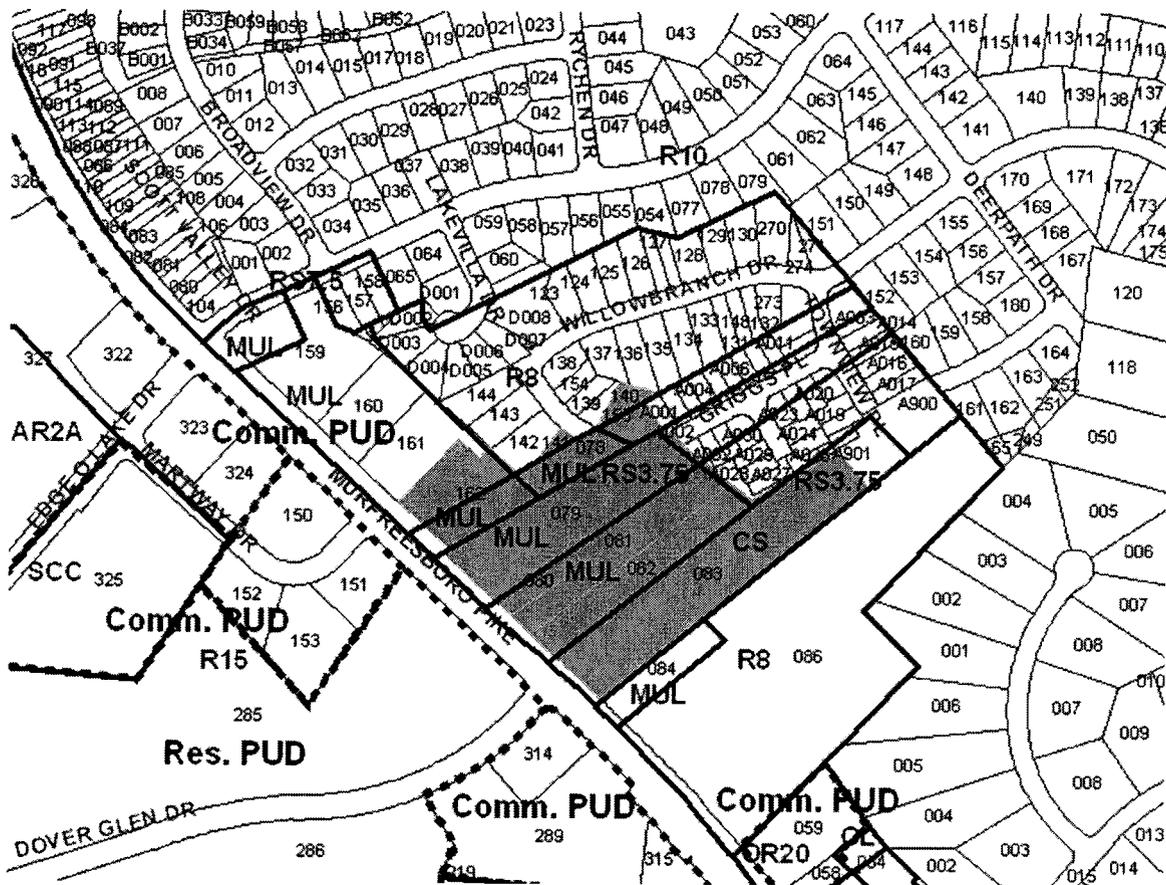
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standards that could conflict with the standards of the Green Hills UDO. The SP and UDO designations will coexist without conflicting standards.

Staff recommends approval of the addition of these properties into the Green Hills UDO for mandatory application of the standards.

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FINAL PLAT SUBDIVISIONS



2007S-312U-13

The Shoppes At Dover Glen (Formerly The Shoppes At Edge-O-Lake, Ph 2)

Map: 149-00 Parcels: 078, 079, 080, 081

Map: 149-00 Parcels: 082, 083, Part of 162

Antioch/Priest Lake Community Plan

Council District 29 – Vivian Wilhoite



Project No.
Project Name
Council District
School District
Requested by

Subdivision 2007S-312U-13
Shoppes of Dover Glen
29 - Whilhoite
6 - Johnson
Murfreesboro Edge-O-Lake LLC and O'Reilly
Automotive Inc., owners

Deferral

This item was deferred from the June 28, 2008, Planning Commission meeting at the request of the applicant to allow submission of an application for additional access onto Murfreesboro Pike for consideration by the Department of Public Works and the Traffic and Parking Committee for the purpose of providing a recommendation on such additional access to the Planning Commission.

Staff Reviewer
Staff Recommendation

Jones
Approve with conditions

APPLICANT REQUEST
Final Plat

A request for final plat approval to create 10 lots located at 2520, 2530, 2532, 2534, 2538 and 2540 Murfreesboro Pike near the intersection of Dover Glen Drive and Murfreesboro Pike (9.97 acres), zoned Commercial Service (CS) and Mixed Use Limited (MUL).

ZONING
CS District

Commercial Service is intended for retail, consumer service, financial, restaurant, office, self-storage, light manufacturing and small warehouse uses.

MUL District

Mixed Use Limited is intended for a moderate intensity mixture of residential, retail, restaurant, and office uses.

PLAN DETAILS

The final plat subdivides 9.97 acres into 10 lots. Most of the site is undeveloped with the exception of an existing retail store located on a portion of Lot 4 of the Shoppes of Edge-O-Lake. The property is zoned for mixed-use and commercial type land uses. A cemetery, once located on Lot 2 has been relocated to the east near the recently approved, Townview Subdivision. The lots range in size from approximately 5,300 square feet to 73,800 square feet. One lot is planned for open space between the commercial and residential uses. Landscaping buffers are also provided between the adjacent residential lots and the planned commercial lots.

Access

The property is accessible from Murfreesboro Pike by Lakevilla Drive and a 36 foot access easement. A 25 foot access easement extends along the back portion of lots 1 thru



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3 and will intersect Edge-O-Lake Drive to the north and Lakevilla Drive to the south. A note on the plat states that an additional access per the Traffic and Parking Commission will be located between 200 feet and 350 feet northwest of Lakevilla Drive. Sidewalks are proposed along Lakevilla Drive to provide pedestrian connections to the residential neighborhood immediately abutting this site. Sidewalks are also provided along the frontage of the site on Murfreesboro Pike.

Preliminary Plat

The preliminary plat was approved in January 2006. The plat consisted of 14 lots with access limited to one 25 foot cross-access easement and the extension of Lakevilla Drive connecting to Murfreesboro Pike. A six month extension was approved and granted for the preliminary plan in January 2008. A second six month extension for the preliminary plat was approved and granted on June 26, 2008. The current preliminary plat approval will expire on December 28, 2008.

TRAFFIC & PARKING RECOMMENDATION

The applicant appealed to the Traffic and Parking Commission on October 13, 2008, to allow a second curb cut or driveway off of Murfreesboro Pike. The Traffic and Parking Commission voted unanimously to allow the driveway at the Shoppes at Dover Glen.

PUBLIC WORKS RECOMMENDATION

Roadway and sidewalk infrastructure improvements are to be bonded with the recording of the final plat.

STORMWATER RECOMMENDATION

Approved.

FIRE MARSHAL RECOMMENDATION

No construction, no comments at this time.

STAFF RECOMMENDATION

Staff recommends approval of the 10 lot subdivision with a condition that access to Murfreesboro Pike be limited to one designated cross-access easement area and that any driveway connections within the designated easement area be approved by the Public Works Department.

Section 3-4.4 of the current Metro Subdivision Regulations (Section 2-4.3B of the previous Subdivision Regulations) states that when property is divided along an existing street, the Planning Commission may require that lots shall not, if avoidable, derive access from arterial or



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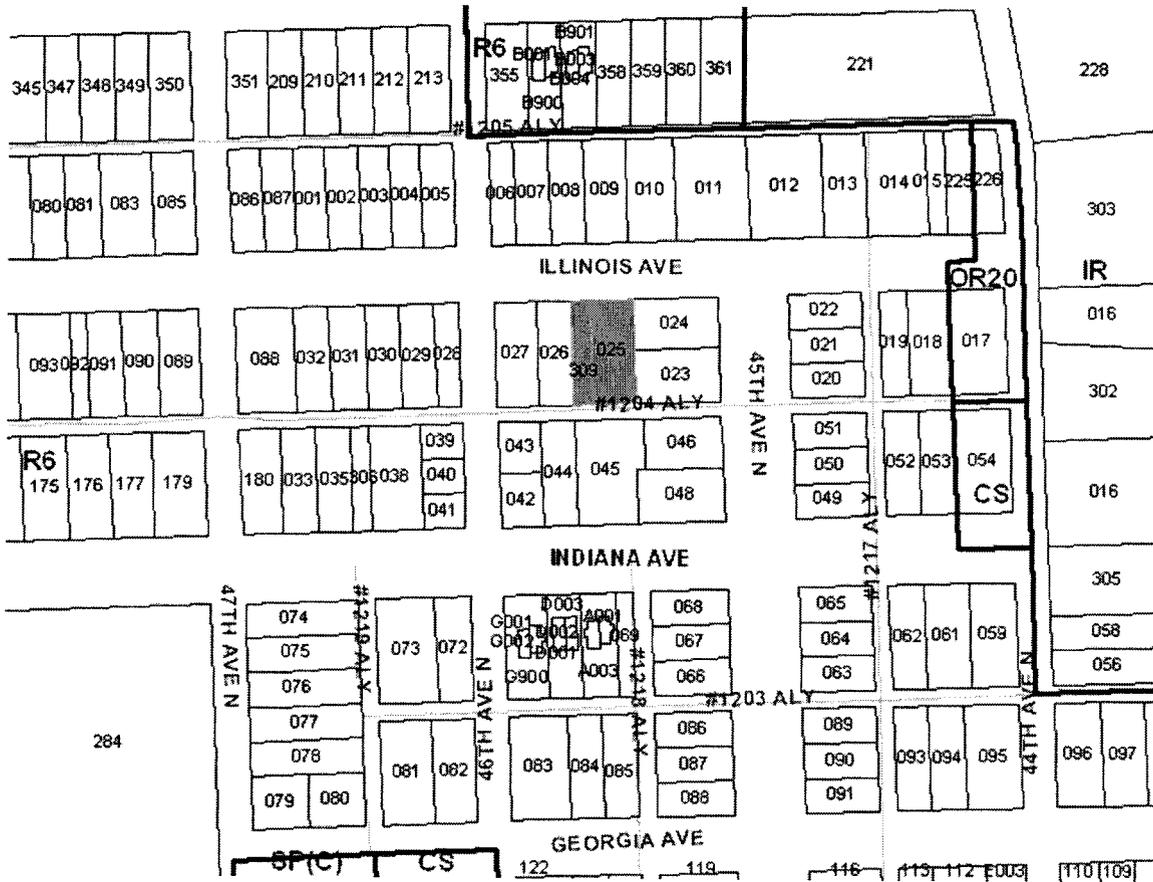
collector streets. Where driveway access from arterial or collector streets may be necessary, the Planning Commission may require that lots be served by combined driveways (usually one driveway entrance shared by two lots), or by a private access drive serving more than two lots (if necessary shared maintenance arrangements shall be incorporated into the subdivision deeds) in order to limit driveway entrances and potential traffic hazards.

Given the intense commercial development along Murfreesboro Pike, particularly between Nashboro Boulevard and Dover Glen Drive, controlled access along this stretch of arterial is important to ensure the safe and continuous flow of traffic. In September 2007, the applicant requested an additional curb cut exclusively for Lot 4 (The Shoppes of Edge-O-Lake). The Planning Commission voted unanimously to not allow the additional access, and to limit access to the easements designated on the plat. Limiting access to Murfreesboro Pike is in accordance with the Metro Subdivision Regulations, and consistent with the intent of the access easements previously approved on the preliminary plat.

CONDITIONS

1. Prior to final plat recordation, a note shall be added to the plat stating: "No additional driveways onto Murfreesboro Pike outside of the designated cross-access easement area and any driveway connections within the designated easement area must be approved by Metro Public Works."
2. Prior to final plat recordation, Note No. 18 shall be removed from the plat, which states: "Additional access per Traffic and Parking Commission to be located between 200 and 350 feet northwest of Lake Villa."

SEE NEXT PAGE



2008S-181U-07

Plan Of West Nashville, Resub. Lots 412, 414, 416, Blk. 86

Map: 091-12 Parcels: 025, 309

West Nashville Community Plan

Council District 20 – Buddy Baker



Project No.
Project Name
Council District
School District
Requested by

Subdivision 2008S-181U-07
Plan of West Nashville, Resubdivision
20 - Baker
1 - Gentry
Toni J. Rothfuss and Roger and Dorothy Rotoni, owners,
Gary R. Cummings, surveyor

Staff Reviewer
Staff Recommendation

Jones
Approve with a variance to the Subdivision Regulations for lot depth to width ratio.

APPLICANT REQUEST
Final Plat

A request for final plat approval to shift lot lines between two lots located at 4507 and 4509 Illinois Avenue, approximately 160 feet west of 45th Avenue North (0.30 acres), zoned One and Two-Family Residential (R6).

ZONING
R6 District

R6 requires a minimum 6,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 7.71 dwelling units per acre including 25% duplex lots.

PLAN DETAILS

The final plat shifts the lot line between Lots 1 and 2 by five feet to add additional area to Lot 1. The additional acreage to Lot 1 increases the lot width from 25 feet to 30 feet. The resulting Lot 1 will contain a total of 4,500 square feet or 0.103 acres. Lot 2 will consist of 8,625 square feet or 0.198 acres. Lot 1 will not meet the 6,000 square foot minimum lot size requirement for R6 zoning, but qualifies for construction of a single-family structure only. Section 17.40.670 of the Metro Zoning Ordinance states that a single-family structure may be constructed on a legally created lot that contains less than the minimum lot area required by Tables 17.12.020A provided the lot contains a minimum area of three thousand seven hundred fifty square feet and existed prior to the effective date of the ordinance. Lot 1 was created with the recording of the Plan of West Nashville in 1887, and contained an area of 3,750 square feet.

Variance

Section 3-4.2 (f) of the Subdivision Regulations states the lot at the front property line shall not be less than 25 percent of the average lot depth. Proposed Lot 1 will measure 30 feet in width at the front property line and 150 feet in depth. Because the lot width will be less than 25 percent of the lot depth, a variance to this section of the Subdivision Regulations is required. Since the existing lot



Metro Planning Commission Meeting of 12/11/2008

with even less frontage is an existing situation created by the original plat from 1887, staff recommends approval of the variance in that it is a unique situation not applicable to all lots in Nashville.

Variations from the Subdivision Regulations may be granted by the Planning Commission if the Commission finds that extraordinary hardship or practical difficulties may result from strict compliance with the regulations, and that the variance will not have the effect of nullifying the intent and purpose of the regulations. The Planning Commission must make findings based upon the evidence presented to it in each specific case that:

- a. The granting of the variance shall not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- b. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.
- c. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out.
- d. The variance shall not in any manner vary from the provisions of the adopted General Plan, including its constituent elements, the Major Street Plan, or the Zoning Code for Metropolitan Nashville and Davidson County (Zoning Code).

**PUBLIC WORKS
RECOMMENDATION**

No exception taken.

**STORMWATER
RECOMMENDATION**

Approved

**WATER SERVICES
RECOMMENDATION**

Approved

**FIRE MARSHAL
RECOMMENDATION**

Conditional. Approved based on no construction being done this application. Any new construction will require additional information.



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STAFF RECOMMENDATION

Staff recommends approval of the final plat to shift lot lines between two lots and granting a variance to Section 3-4.2(f) of the Metro Subdivision Regulations.

SEE NEXT PAGE



Project No.
Project Name
Council District
School Board District
Requested By

Subdivision 2008S-183U-13
Hickory Woods Estates, Phase 2, Sec. C
32 - Coleman
06 – Johnson
Wamble and Associates, PLLC and the Metro Planning Department

Staff Reviewer
Staff Recommendation

Leeman
Approve variance with conditions

APPLICANT REQUEST
Variance for a sidewalk

A request for a variance to remove a 950 foot long, unbuilt sidewalk along the north side of Brookstone Court within the Hickory Woods Estates Planned Unit Development, zoned One and Two-Family Residential (R10), and to build a 530 foot long sidewalk along the north side of Lavergne-Couchville Pike between Murfreesboro Pike and Hickory Way, (12.49 acres).

R10 District

R10 requires a minimum 10,000 square foot lot and is intended for single -family dwellings and duplexes at an overall density of 4.63 dwelling units per acre including 25% duplex lots.

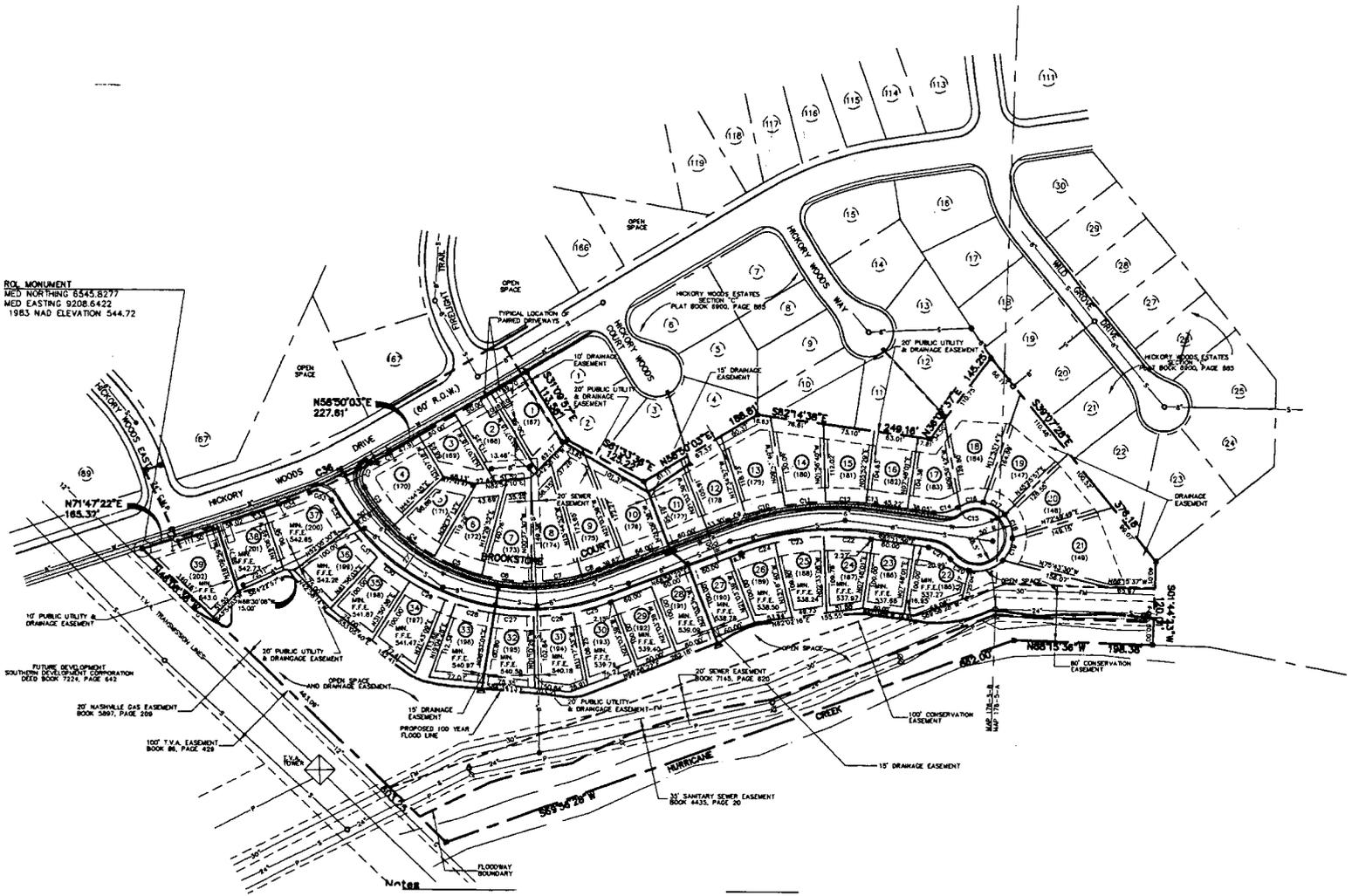
PLAN DETAILS

The applicant is requesting a variance to the Subdivision Regulations to eliminate a sidewalk along the north side of Brookstone Court. This sidewalk was shown on the Final PUD plan and the Final Plat approved by the Planning Commission on February 4, 1999. At the time of the Preliminary PUD approval in 1997, and the Final Site Plan in 1998, as well as the Final Plat in 1999, sidewalks were required by the Subdivision Regulations on one side of the street.

The applicant is requesting the variance along Brookstone Court due to the topography. The applicant has indicated:

“[t]he topography on this side of Brookstone Court slopes steeply upward from the street, preventing the ability to build this sidewalk and maintain access to garages for houses that are built on these lots. If the fronts of the lots are graded down to accommodate this sidewalk, the driveway reconstruction between the back of the sidewalk and the front of the garages will be so steep that access

ROCK MONUMENT
MED NORTHING 8545.8277
MED EASTING 9208.6422
1983 NAD ELEVATION 544.72





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to the garages will be impossible. Therefore, based on the hardship created by the topography of these lots I request the approval to build a section of sidewalk on LaVergne-Couchville Pike in lieu of building the sidewalk within this development along Brookstone Court which is a dead-end cul-de-sac street.”

Off-Site Sidewalk Installation

While the developer constructed the streets and sold the lots without constructing the required sidewalks, the developer is now proposing to construct a 530 foot long sidewalk along a portion of LaVergne-Couchville Pike that would provide a continuous connection between Murfreesboro Pike and Hickory Way. The applicant has indicated that the property owner's along Brookstone Court do not want a sidewalk to be constructed along either side of the road, and that it would cause an undue hardship to the property owners in that they would have to remove mailboxes and rebuild driveways.

PUBLIC WORKS RECOMMENDATION

Public Works agrees with the sidewalk variance request.

The developer's engineer is to provide construction plans to Public Works for approval prior to beginning construction.

STAFF RECOMMENDATION

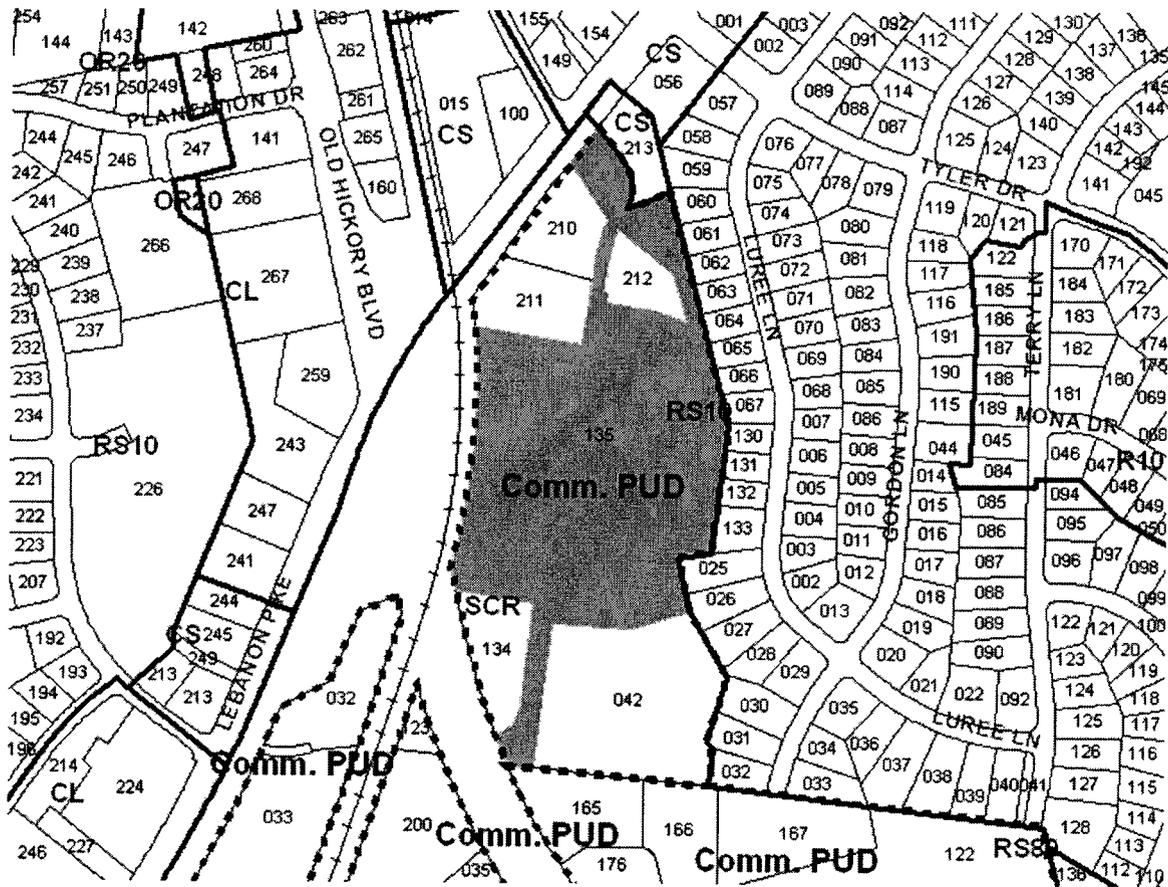
Staff recommends approval of the sidewalk variance with a condition that 530 feet of sidewalk be constructed by the developer along LaVergne-Couchville Pike.

CONDITION

Prior to the release of any bonds for Hickory Woods Estates, a sidewalk must be constructed and accepted by Metro Public Works approximately 530 feet in length along the north side of LaVergne-Couchville Pike between Murfreesboro Pike and Hickory Way.

SEE NEXT PAGE

**REVISIONS
and FINAL SITE PLANS**



128-78-G-14
 Hermitage Business Center (Sign Variance)
 Map: 075-14 Parcel: 135
 Donelson/Hermitage/Old Hickory Community Plan
 Council District 11 – Darren Jernigan



Metro Planning Commission Meeting of 12/11/2008

The Zoning Administrator has indicated that signage requirements for PUDs approved prior to 1998, must comply with the standards for Commercial Service (CS) zoning, which is the same as the SCR base zoning. The CS district allows a maximum of three ground signs where the lot frontage is 500 feet or more, and requires that the following standards be met:

Sign Regulations	Required	Provided
Front Setback	10 ft.	20 ft.
Side Setback	25 ft.	5 ft.
Maximum Height	40 ft.	33 ft.
Sign Area	576 sq. ft.	212 sq. ft.

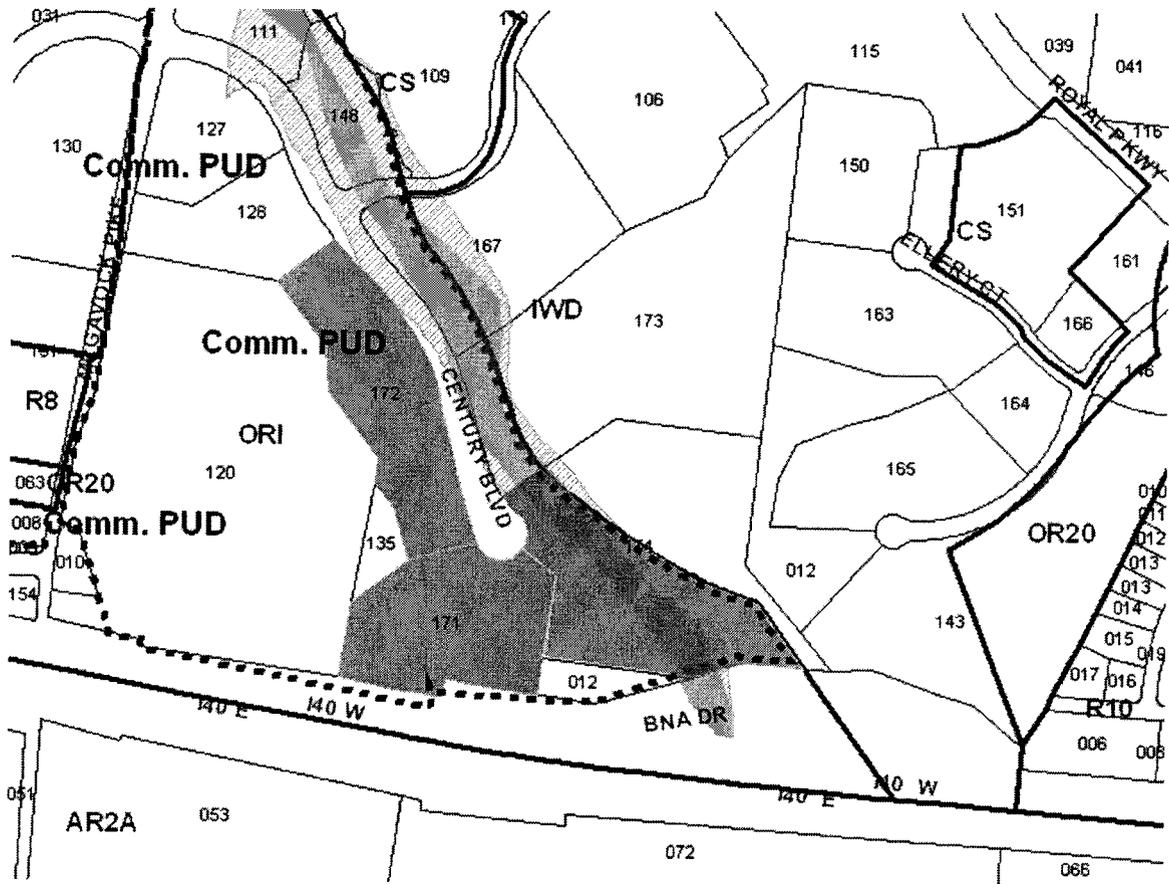
The sign to be relocated measures 33 feet in height; includes three panels that have a combined sign area of 212 square feet, and exceeds the front setback requirements of the CS district.

Since this request is within a PUD, the Planning Commission is required to make a recommendation to The Board of Zoning Appeals (BZA) to approve or disapprove the variance request. The BZA will make the final determination regarding the variance request.

STAFF RECOMMENDATION

Staff recommends that the Commission recommend approval of the variance to allow a five foot side setback for an existing pylon sign located in the Hermitage Business Center PUD.

SEE NEXT PAGE



148-74-U-14

Century City (Piedmont Natural Gas)

Map: 107-00 Parcels: 171, 172, part of 174

Donelson/Hermitage/Old Hickory Community Plan

Council District

15 – Phil Claiborne



Project No.
Project Name
Council District
School Board District
Requested By

Planned Unit Development 148-74-U-14
Century City (Piedmont Natural Gas)
15 - Claiborne
4 - Glover
Barge Cauthen and Associates, applicant for Corporate Investors Partnership, V LLC, and Piedmont Natural Gas Company, Inc., owners

Staff Reviewer
Staff Recommendation

Swaggart
Approve with conditions

APPLICANT REQUEST
Revise Preliminary Plan

A request to revise the preliminary plan for a portion of the Century City Planned Unit Development Overlay located on various properties at McGavock Pike (unnumbered), approximately 800 feet east of McGavock Pike (19.5 acres), zoned Office/Residential Intensive (ORI), to permit the development of 31,500 square feet of office for a public utility corporation and associated accessory uses.

Zoning District
ORI District

Office/Residential Intensive is intended for high intensity office and/or multi-family residential uses with limited retail opportunities.

PLAN DETAILS

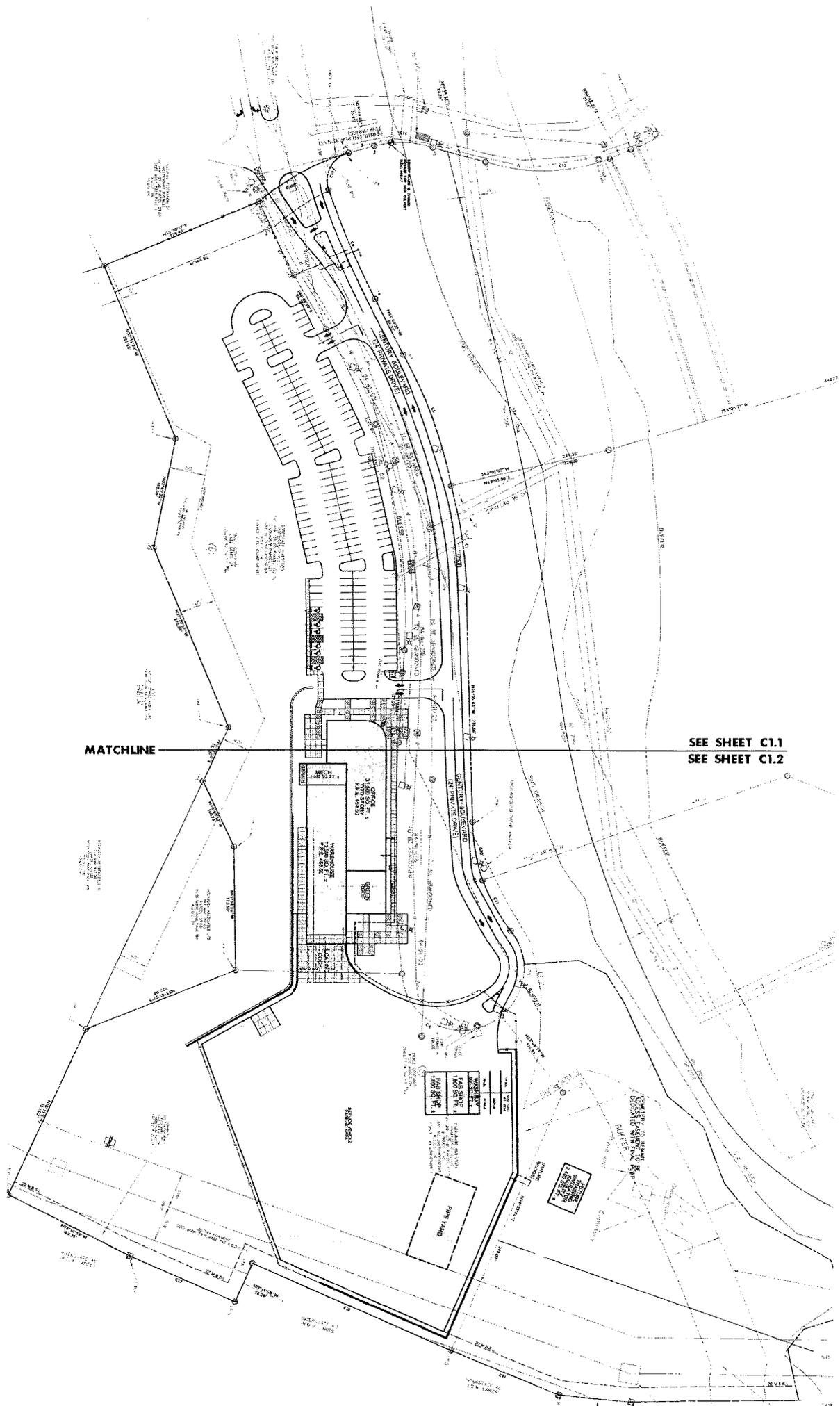
Preliminary Plan

This is a request to revise the preliminary plan for a portion of the Century City Planned Unit Development (PUD). The site is undeveloped but the portion of Century Boulevard is constructed. The site consists of dense woods, and open field. A stream runs across a portion of the property closer to the eastern site boundary.

Site Plan

The preliminary plan was originally approved in 1974. The last revision and final site plan approved for this portion of the PUD was in 1999. The 1999 plan included three two-story office buildings totaling 110,000 square feet of floor area.

The proposed plan calls for a 31,500 square foot office building and various incidental accessory uses. Accessory uses include a 13,600 square foot warehouse which is attached to the office building, a 9,600 square foot maintenance facility, and a 1.6 acre service vehicle parking area.





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Access to the site is from Century Boulevard which has direct access onto McGavock Pike, and indirect access to Royal Parkway. Century Boulevard south of the intersection with Perimeter Place Drive is proposed to be a private road. A mandatory referral to abandon the ROW has been approved by the Planning Commission and will be on the Metro Council's agenda for approval on 3rd reading on December 16, 2008. The ROW must be abandoned by the Metro Council prior to approval of any final site plan.

A gravesite is present on the property. State law prohibits the disturbance of the grave site and requires a buffer around the perimeter of the gravesite. State law also prohibits the restriction of access to a grave site. Since access onto the site will be restricted then an alternative secondary access point will be required for the grave site. The final site plan must identify an appropriate means to access the grave site and the final site plan can not be approved unless adequate access is identified.

Staff Analysis

The proposed floor area is within the area last approved for this site. While the accessory uses would not be allowed under the ORI base district, this PUD was originally approved under the previous zoning ordinance (COMZO). Under COMZO the proposed accessory uses could be classified as commercial under Public and Public Utility Corporation Truck Yard. Since this is a commercial PUD and the proposed user is a public utility corporation, then the proposed accessory uses are appropriate under the original PUD and can be considered a revision. If the proposed use were industrial then the PUD would need to be amended and a base zone change would be required.

PUBLIC WORKS RECOMMENDATION

The developer's construction drawings shall comply with the design regulations established by the Department of Public Works. Final design may vary based on field conditions.

STORMWATER RECOMMENDATION

Preliminary PUD approved.



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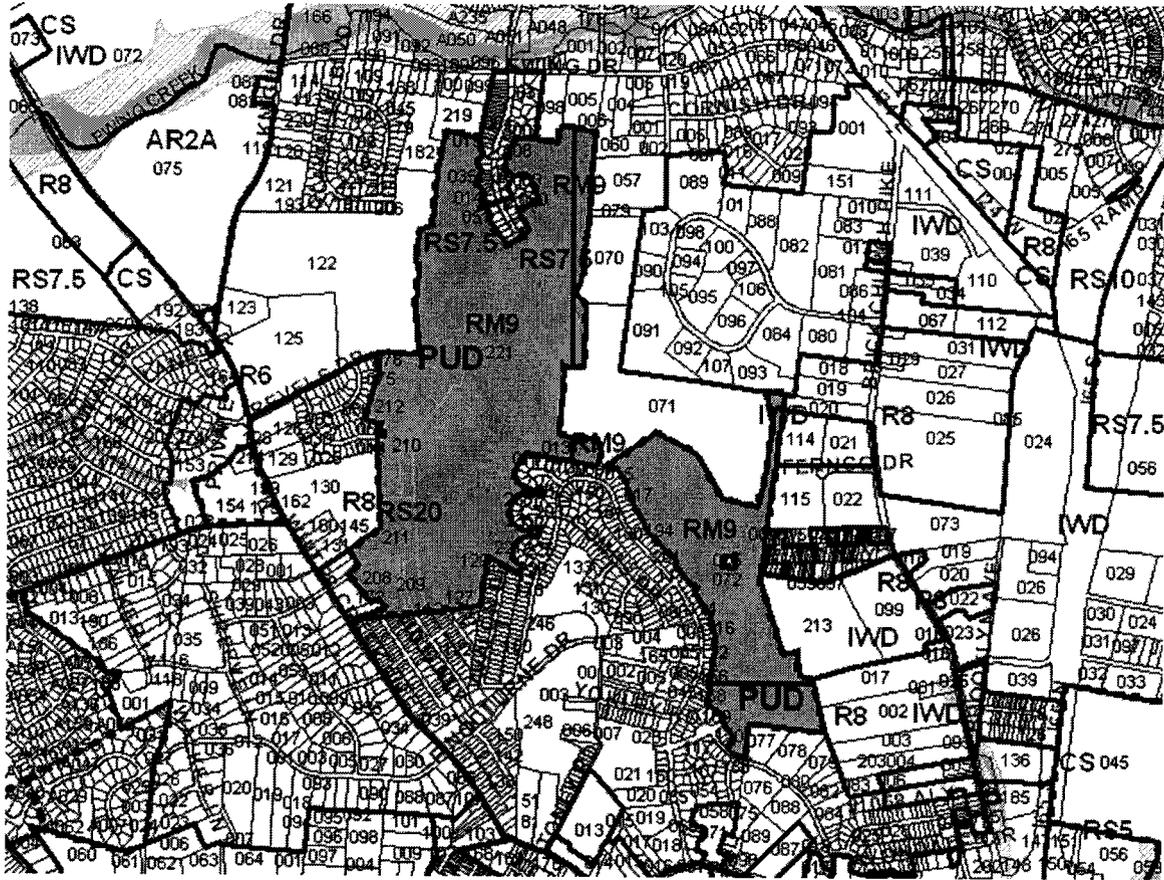
STAFF RECOMMENDATION

Staff recommends that the request be approved with conditions.

CONDITIONS

1. The final site shall identify adequate access to the grave site located on the property.
2. Abandonment of the Century Boulevard ROW shall be approved by Metro Council prior to approval of any final site plan.
3. This approval does not include any signs. Signs in planned unit developments must be approved by the Metro Department of Codes Administration except in specific instances when the Metro Council directs the Metro Planning Commission to review such signs.
4. The requirements of the Metro 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.
5. If the PUD final site plan or final plat indicates that there is less acreage than what is shown on the approved preliminary plan, the final site plan shall be appropriately adjusted to show the actual total acreage, which may require that the total number of dwelling units or total floor area be reduced.

**PLANNED UNIT
DEVELOPMENT REVIEW**



2002P-003U-03

Park Preserve

Map: 059-00 Parcels:208, 209, 210, 211, 212

Map: 060-00 Parcel: 072

Bordeaux/Whites Creek Community Plan

Council District 2 – Frank Harrison



Project No.
Project Name
Council Bill
Council District
School Board District
Requested By

Planned Unit Development 2002P-003U-03
Park Preserve PUD Review

None
2 – Harrison
1 – Gentry
Councilmember Frank Harrison, applicant; Habitat for Humanity and Harding Corporation, owners

Staff Reviewer
Staff Recommendation

Jones
Staff recommends that the Commission:
1. Find that the PUD is “inactive,” and
2. Recommend to the Metro Council that the PUD be re-approved with no amendments or changes to the existing base zoning.

APPLICANT REQUEST
PUD Review

A request to the Metro Planning Department to conduct a periodic review of the Park Preserve Planned Unit Development per Section 17.40.120.H of Metro Zoning Code for property located at Whites Creek Pike (unnumbered) and Brick Church Pike (unnumbered), between Brick Church Pike and Whites Creek Pike (260.43 acres), zoned Multi-Family Residential (RM9), approved for 327 multi-family units and 416 single-family lots.

Section 17.40.120

Section 17.40.120 H of the Metro Zoning Ordinance authorizes a councilmember to request and the Metropolitan Planning Commission to review any Planned Unit Development (PUD) overlay district, or portion thereof, to determine whether the PUD is “inactive,” and if so, to recommend to the Council what action should be taken with respect to the PUD. The Commission determines whether the PUD is “inactive” by examining whether development activity has occurred within six years from the date of the initial enactment, subsequent amendment, or re-approval by the Metro Council. If the Planning Commission determines the PUD to be inactive, the Commission is required to recommend legislation to the Council to re-approve, amend, or cancel the PUD.

In consideration of a recommendation to the Council, the Commission shall:

1. Determine whether the existing PUD is consistent with the goals, policies, and objectives of the



Park Preserve

**Revision Approved 4-24-08
by the Planning Commission**



Metro Planning Commission Meeting of 12/11/2008

General Plan and any applicable specific redevelopment, historic, neighborhood, or community plans adopted by the Metropolitan Government.

2. Recommend legislation to re-approve, amend, or cancel the existing overlay district, including as required:

- (a) The appropriate base zoning district(s), if different from current base zoning, to retain and implement the PUD overlay district as it exists.

- (b) Any amendment(s) to the inactive PUD's master development plan and base zoning district(s) to reflect existing conditions and circumstances, including the land use policies of the general plan and the zoning of properties in the area.

- (c) Base zoning district(s) consistent with the adopted general plan, should the PUD overlay district be recommended for cancellation.

HISTORY

In 2002, PHP Ministries, Inc., requested a rezoning from single-family residential (RS7.5) to Multi-Family Residential (RM4) on approximately 260.43 acres on the east side of Whites Creek Pike between Malta Drive and Haynie Avenue. Planning staff recommended disapproval of that initial zone change request because the property contains steep topography and a straight zone change could result in development that was not sensitive to the hillsides.

PHP Ministries subsequently worked with Planning staff to develop a plan that was consistent with the goals of the adopted community plan. That plan was presented to the Planning Commission as a Planned Unit Development application along with a request to rezone the property to RM9 at the Commission's May 23, 2002, meeting. The PUD plan consisted of 839 units, including 469 multi-family units and 370 single-family lots. At the May 23, 2002, meeting, the Planning Commission recommended the PUD plan and RM9 rezoning to the Metro Council for approval with conditions. On July 16, 2002, the Metro Council approved the PUD plan and RM9 rezoning as recommended by the Planning Commission, but with a



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reduction in the number of units to 743 total units, including 327 multi-family and 416 single family lots.

In 2003, PHP Ministries applied for a revision to the preliminary plan for Phases 1 and 3 of the PUD and for final site plan approval for Phase 1. The proposed revisions slightly altered the number of living units in Phases 1 and 3, replacing the Council-approved 327 multi-family units with 325 multi-family units and increasing the single-family lots in these phases from 25 to 29. Both the revisions to the preliminary PUD and the final site plan were approved by the Planning Commission on the consent agenda of the Commission's June 26, 2003, meeting.

On September 25, 2003, the Planning Commission approved the 2003 update of the Bordeaux-Whites Creek Community Plan. That Community Plan applied the Residential Medium (RM) land use policy to the PUD site and the surrounding land. The zoning districts in place at the time of the plan's adoption included RS7.5, R8 and RM9, which support densities between 4 and 9 units an acre.

In the spring of 2008, the Harding Corporation, as owner of the PUD property, applied for another revision to the preliminary PUD plan. The revised preliminary PUD plan was approved by the Planning Commission on the consent agenda of the Commission's April 24, 2008, agenda.

The April 24, 2008, revisions included the following:

- Some buildings, as well as intersections, were rearranged in order to minimize grading and preserve slopes. Several lots on the east side of Park Preserve Way, which were in steep slopes, were removed.
- A stub street was added to the north, where a cul-de-sac was previously located. The street will eventually connect to Ewing Drive.
- The intersection off of Whites Creek Pike was modified. Park Preserve Way changed from a through street to a T-intersection, which minimizes grading in this location.



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- A common open space area was identified as a possible public park if accepted by Metro Parks.

The April 24, 2008, revisions superseded the revisions and final site plan approved by the Planning Commission in June 2003. The currently approved PUD plan, therefore, includes all provisions approved by the Metro Council in July 2002, as revised by the Planning Commission on April 24, 2008. The final site plan approved by the Planning Commission in June 2003 is no longer effective.

PLAN DETAILS

The Council approved plan for the Park Preserve PUD, as revised by the Planning Commission, consists of both single-family and multi-family units on 260.43 acres. The applicant was working with Metro to obtain an additional 65 acres of land owned by Metro (parcels 070 and 071), but has indicated that they are no longer pursuing adding additional land. The PUD is designed to protect the environmental features of the site and fit into the existing residential fabric of the surrounding area through location of housing types, street connections and open space. The single family lots are concentrated to the north and southwest portion of the PUD, while the multi-family units are located to the southeast. The multifamily units are designed as one, two and three-story buildings ranging from seven to ten units.

Environmental Features and Open Space

Approximately 140 acres (53%) are designated for open space. The plan is designed to preserve large areas of severe slope by clustering the units on portions of the site that were not as environmentally constrained. The open space areas help to maintain the existing tree mass, and provide passive recreation use in the form of walking trails that meander throughout the development and within open space shown at the rear of the single family lots.

Access

Access to the PUD is provided by connections to Vista Lane to the north, Adlai Street to the south, Revels Drive and Malta Drive to the east, and Trinity Hills Drive to the west. All internal streets are designed in a curvilinear pattern and provide connections throughout the PUD and to adjacent sites. Some streets are designed to terminate in either a permanent or



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temporary cul-de-sac. Sidewalks and street trees are also planned within the public right of way.

STAFF ANALYSIS

Classification of PUD as "Inactive"

Under 17.40.120 H., the Commission is first required to determine whether the Park Preserve PUD is "inactive" by examining whether development activity has occurred within six years from the date of the initial enactment, subsequent amendment, or re-approval by the Metro Council. The initial enacting ordinance for the Park Preserve Planned Unit Development (PUD) became effective July 17, 2002. There have been no amendments to the PUD requiring Metro Council approval since the initial enacting date.

Within the past six years, there has been no evidence of any physical improvement on the site to indicate construction has begun or is underway. Nor have there been any off-site improvements initiated or completed that were conditions of the PUD approval.

Section 17.40.120 H.3.a. of the Metro Code requires the Planning Commission to make three findings in order to determine whether a PUD has been "inactive" and is subject to review under 17.40.120 H.

- i. Six or more years have elapsed since the latter of
 - (1) The effective date of the initial enacting ordinance of the PUD,
 - (2) The effective date of any ordinance approving an amendment to the PUD,
 - (3) The effective date of any ordinance re-approving or amending a PUD after it has been reviewed and decided in accordance with subsection 5.a. or b. of this section, or
 - (4) The deadline for action by the metropolitan council in accordance with subsection 5.d. of this section, and

- ii. Construction has not begun on the portion of the PUD under review; construction shall mean physical improvements such as, but not limited to, water and sewer lines, footings, and/or



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foundations developed on the portion of the PUD under review; clearing, grading, the storage of building materials, or the placement of temporary structures shall not constitute beginning construction, and

iii. Neither right-of-way acquisition from a third party nor construction has begun on off-site improvement(s) required to be constructed by the metropolitan council as a condition of the PUD approval.

Staff has reviewed each of these three issues and determined that the Park Preserve PUD meets all three criteria. Accordingly, staff recommends that the Planning Commission make the finding that under each of the three criteria, the Park Preserve PUD is “inactive” for purposes of 17.40.120 H.

Section 17.40.120 H.3.a. states that the Commission “may also take into consideration the aggregate of actions, if any, taken by the owner of the PUD within the prior 12 months to develop the portion of the PUD under review.” The owner of the PUD argues that this provision allows the Commission to determine that the Park Preserve PUD has been “active” within the past six years, regardless of whether the three criteria listed above have been met.

Staff has reviewed all Metro records related to this PUD and the materials provided by the owner. Staff does not believe that the “aggregate of the actions” demonstrate that the PUD has been “active” for purposes of this Code section. No actions have been taken by the owner other than purchasing the property and the preliminary research and planning that is done when any party is contemplating development of property. For that reason, staff recommends that the Planning Commission not find that the Park Preserve PUD is “active” as a result of the aggregate of actions taken by the owner within the prior 12 months to develop the PUD.



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Planning Commission Recommendation to Metro Council

If the Planning Commission determines the PUD to be inactive, the Commission is required to recommend legislation to the Council to re-approve, amend, or cancel the PUD.

With respect to the legislation to be recommended to the Metro Council, the Planning Commission is directed by the Code to take two distinct steps. First, the Commission is to determine whether the "existing PUD is consistent with the goals, policies, and objectives of the General Plan and any applicable specific redevelopment, historic, neighborhood, or community plans." Second, the Commission is to recommend the legislation, and include, as required:

- (a) The appropriate base zoning district(s), if different from current base zoning, to retain and implement the PUD overlay district as it exists.
- (b) Any amendment(s) to the inactive PUD's master development plan and base zoning district(s) to reflect existing conditions and circumstances, including the land use policies of the general plan and the zoning of properties in the area.
- (c) Base zoning district(s) consistent with the adopted general plan, should the PUD overlay district be recommended for cancellation.

Consistency with Policy

The RM9 district together with the requirements and limitations of the residential PUD overlay district are consistent with the Residential Medium (RM) land use policy and other policies as designated by the Bordeaux-Whites Creek Community Plan.

The RM policy supports a variety of housing types within a density range of four to nine dwelling units per acre. The most common housing types include compact, single-family detached units, town-homes, and walk-up apartments. The Park Preserve PUD was approved at an overall density of 2.85 units per acre. The land use policy and the current zoning encourage a much higher density than the PUD plan provides, but in order to maintain tree mass and protect steep slopes, the site is not completely built-out, and instead developed to



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respect its environmental features. Even with the preservation of the hillsides and open space areas, the land use policies could possibly support a PUD of higher density. The addition of any lots or multifamily units beyond what was previously approved by Council, however, would require a PUD Amendment.

The Bordeaux-Whites Creek Community Plan supports the infill of residential uses in this area. Specific issues raised during the development of the structure plan resulted in the following goals:

- ***Provide New Residential Growth*** – encourage new residential growth to support desired services.
- ***Prevent Additional Industrial Zoning*** – prevent additional industrial or other similar uses in the community. Provide additional land for residential growth
- ***Improve Housing Choices*** – provide locations for condominiums, townhouses, and apartments to allow for greater diversity in the housing stock in the community. Attract young professionals, empty-nesters, or retired persons.

Most of the property abutting the current PUD is currently zoned RS7.5, which allows single-family residential development on lots with a minimum size of 7,500 square feet. RS7.5 zoning allows development at up to 4.94 units per acre, which would allow approximately 1,284 single family units on the 260 acres that are included within the Park Preserve PUD. These numbers assumes that 15% of the area would be used for roads and other infrastructure.

Recommended Legislation

The existing Park Preserve PUD and base zoning are consistent with and support the residential goals and objectives outlined by the Bordeaux-Whites Creek Community Plan. Re-approval of the current PUD plan would contribute to the residential growth needed to support commercial services and improvements to public facilities and services. The housing mix also advances the goal of providing choice. The mixture of housing types will accommodate families, single



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households as well as seniors. Staff notes that increasing the diversity of housing types and mixing market-rate housing with affordable housing would be a positive addition to the current approved PUD plan. These changes are not necessary for the PUD to be consistent with the adopted Community Plan, however. In sum, staff recommends that the Council re-approve the PUD in its current form, including all revisions approved by the Planning Commission on April 24, 2008, and that no changes be made to the existing base zoning.

PUBLIC WORKS RECOMMENDATION

Public Works approved construction plans in 2003. However, it appears the approved work did not commence.

STORMWATER RECOMMENDATION

A pre-construction meeting was held on October 7, 2003. The applicants were to obtain a grading permit within six months and complete within one year. The project was tracked until July 22, 2005. At that time, a grading permit had not been issued. The project has been archived and a re-submittal would be required.

WATER SERVICES RECOMMENDATION

A letter confirming water and sewer availability for 416 single family lots and 327 multi-family units was issued on April 1, 2008. No capacity was purchased for the proposed development and the availability letter expired 90 days later. There is a credit for sewer capacity credit in the amount of \$41,550 which was paid in September 2003.

FIRE MARSHAL RECOMMENDATION

Research shows that plans were approved by this office September 4, 2003 to install water mains and fire hydrants. The initial approval has expired given no work has taken place.



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STAFF RECOMMENDATION

Code Requirements for Planning Commission Recommendation

Section 17.40.120 H of the Code requires the Planning Commission first to determine whether a PUD under review is "inactive" under the requirements of 17.40.120 H.3.a, then, if the PUD is determined to be inactive, further to recommend action to the Metro Council. The Commission "shall recommend legislation to the metropolitan council to re-approve, amend, or cancel the PUD, or portion thereof that is determined to be inactive, including conforming changes to the base zoning district if necessary."

Staff Recommendation

In accordance with the requirements of 17.40.120 H, staff recommends that the Planning Commission:

1. Find that the PUD is "inactive," and
2. Recommend to the Metro Council that the PUD be re-approved in its current form, including all revisions approved by the Planning Commission on April 24, 2008, and with no changes to the existing base zoning.

Section 17.40.120 H:

H. Periodic Review of Planned Unit Developments.

1. Authorization to Review. The metropolitan planning commission is authorized to review any planned unit development overlay district (PUD), or portion thereof, to determine whether development activity has occurred within six years from the date of the latter of initial enactment, subsequent amendment, or re-approval by the metropolitan council, and, if determined inactive in accordance with subsection 4.a. of this section, to recommend legislation to the council to re-approve, amend or cancel the PUD and make conforming changes to the base zoning if necessary.

2. Initiation. Review of a PUD or portion thereof to determine inactivity may be initiated by the metropolitan planning commission

- a. On its own initiative,*
- b. By written request of a member of the metropolitan council, or*
- c. By written request of a property owner within the area of the PUD overlay requested for review.*
- d. Notice of Review. Within five business days of the initiation of a review, the planning commission shall send written notice to the district councilmember(s) for the district(s) in*



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which the PUD is located, to the zoning administrator, and to the owner(s) of property in the portion of the PUD overlay district to be reviewed.

3. *Metropolitan Planning Commission Procedure. Within 90 days from the initiation of its review, the planning commission shall hold a public hearing in accordance with the planning commission's adopted Rules and Procedures to concurrently consider if the PUD or portion thereof should be classified as inactive and, if found inactive, provide a recommendation to the metropolitan council on legislation to re-approve, amend or cancel the PUD and make conforming changes to the base zoning district if necessary.*
 - a. *Determination of Inactivity. To determine that a PUD or portion thereof is inactive, the planning commission shall establish each of the findings i. through iii. below. The planning commission may also take into consideration the aggregate of actions, if any, taken by the owner of the PUD within the prior 12 months to develop the portion of the PUD under review.*
 - i. *Six or more years have elapsed since the latter of*
 - (1) *The effective date of the initial enacting ordinance of the PUD,*
 - (2) *The effective date of any ordinance approving an amendment to the PUD,*
 - (3) *The effective date of any ordinance re-approving or amending a PUD after it has been reviewed and decided in accordance with subsection 5.a. or b. of this section, or*
 - (4) *The deadline for action by the metropolitan council in accordance with subsection 5.d. of this section, and*
 - ii. *Construction has not begun on the portion of the PUD under review; construction shall mean physical improvements such as, but not limited to, water and sewer lines, footings, and/or foundations developed on the portion of the PUD under review; clearing, grading, the storage of building materials, or the placement of temporary structures shall not constitute beginning construction, and*
 - iii. *Neither right-of-way acquisition from a third party nor construction has begun on off-site improvement(s) required to be constructed by the metropolitan council as a condition of the PUD approval.*
 - b. *Recommendation to Metropolitan Council. If the planning commission determines that the PUD or portion thereof under review is inactive, the commission shall recommend legislation to the metropolitan council to re-approve, amend, or cancel the PUD, or portion thereof that is determined to be inactive, including conforming changes to the base zoning district if necessary. In recommending legislation, the planning commission shall:*
 - i. *Determine whether the existing PUD is consistent with the goals, policies, and objectives of the General Plan and any applicable specific redevelopment, historic, neighborhood, or community plans adopted by the metropolitan government.*
 - ii. *Recommend legislation to re-approve, amend, or cancel the existing overlay district, including as required:*
 - (a) *The appropriate base zoning district(s), if different from current base zoning, to retain and implement the PUD overlay district as it exists.*
 - (b) *Any amendment(s) to the inactive PUD's master development plan and base zoning district(s) to reflect existing conditions and circumstances, including the land use policies of the general plan and the zoning of properties in the area.*
 - (c) *Base zoning district(s) consistent with the adopted general plan, should the PUD overlay district be recommended for cancellation.*



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Failure of the planning commission to act within 90 days from the initiation of a review shall be considered a recommendation to re-approve by ordinance the existing PUD overlay district without alteration.

- c. When Inactivity Not Established. If the planning commission determines that the PUD or portion thereof under review does not meet the criteria of Section 17.40.120.H.4.a for inactivity, the PUD review is concluded, the limitations of subsection 5 are terminated, and a re-review of the PUD shall not be initiated in the manner of subsection 2 of this section for 12 months following the commission's determination.*
- 4. Metropolitan Council Consideration. The procedures of Article III of this chapter (Amendments) shall apply to metropolitan council consideration of ordinance(s) to:*
 - a. Re-approve the existing PUD master plan and apply the appropriate base zoning district(s), if different from current base zoning,*
 - b. Amend the PUD master plan, or*
 - c. Cancel the PUD overlay district, including any change(s) to the underlying base zoning district.*
 - d. Decline to take action by ordinance. If the metropolitan council does not act to re-approve, amend, or cancel the PUD within six months of receipt of the planning commission's recommended legislation, the property may be developed in accordance with the master development plan last approved by the metropolitan council, or subsequently revised by the planning commission.*
- 5. No grading permit nor any building permit for new building construction shall be issued within the PUD overlay district or portion thereof for which a review has been initiated until the earlier of:*
 - a. The metropolitan council's final action to re-approve, amend or cancel the PUD overlay district, or*
 - b. Six months following the planning commission's submission of a recommendation to the metropolitan council, or the deadline for that submission should the commission fail to act.*