



**Project No.**

**Proposed Amendment to the Bellevue Community Plan: 2003 Update**

**Associated Cases**

None

**Council Bill**

None

**Council District**

35 – Tygard

**School District**

9 – Norris

**Requested by**

Hawkins Partners, Inc., applicant for Westside Property Holdings, LLC, owner

**Deferral**

Deferred from the March 10, 2005, Commission meeting.

**Staff Reviewer**

Wood

**Staff Recommendation**

*Approve with Special Policy*

**APPLICANT REQUEST**

**Change the land use policy from Residential Low Medium Density (RLM) to Residential Medium Density (RM) for approximately 32.8 acres for property located at the southern terminus of Vaughns Gap Road and the southern terminus of Highland Park Drive, including the applicant’s property at 11 Vaughns Gap Road (10.7 acres)**

**Existing Land Use Policy**

Residential Low Medium Density (RLM)

RLM policy is intended for existing and future residential areas characterized by densities of two to four dwelling units per acre. The most common housing type found in these areas is single family detached, although other types may also be found, such as duplexes and low-density townhouses and apartments.

**Proposed Land Use Policy**

Residential Medium Density (RM)

RM policy is intended for existing and future residential areas characterized by densities of four to nine dwelling units per acre. A variety of housing types can be found in RM areas.

**ANALYSIS**

The applicant has requested to change the land use policy of 11 Vaughns Gap Road, site of the Westside Athletic Center, from Residential Low Medium Density to Residential Medium Density in order to develop a condominium building on the site while retaining the athletic center. In reviewing the amendment request, staff has expanded the amendment area to include the two adjacent residential developments that are already built at medium densities but which are currently



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included in the Residential Low medium Density policy area. These are the Harpeth Glen condos (5.27 dus/acre) and Belle Meade Highlands condos (8.83 dus/acre). The graphic shows both the amendment area requested by the applicant and the overall amendment area as expanded by staff.

Staff believes that the policy change would be a reasonable one because the Westside Athletic Center property is sandwiched between existing medium density housing and would be a completion of that pattern. Application of RM policy here would to a large degree recognize a situation that has been in existence for a long time and, if responsive to the existing scale of development and to hillside considerations, would provide for compatible infill.

Staff held a community meeting to discuss the proposal on Thursday, March 3 that was attended by approximately 110 people. Attendees expressed concerns about the design and height of the condo building that is being proposed, increased traffic, the possibility of unstable soils on the property, and stormwater drainage.

Staff is also concerned about height in this setting, given the fact that this proposal is for infill in a stable developed area and the site is highly visible across scenic Highway 100 from Percy Warner Park. Other buildings in this area range from one to three stories, and the height of buildings on this site should be compatible. Staff thus proposes the following policy language:

***Special Policy 7** applies to an approximately 33 acre area at the end of Vaughns Gap Road and Highland Park Drive, adjoining the railroad tracks. Much of this area is already developed with medium density housing and an athletic club. Existing buildings range from one to three stories in height. The intent is for the height of new buildings to be compatible with existing buildings in this area, respect the views from the scenic corridor and nearby park, and respond sensitively to hillside development considerations. Therefore, the height of new buildings in this special policy area shall not exceed three stories anywhere on the site.*






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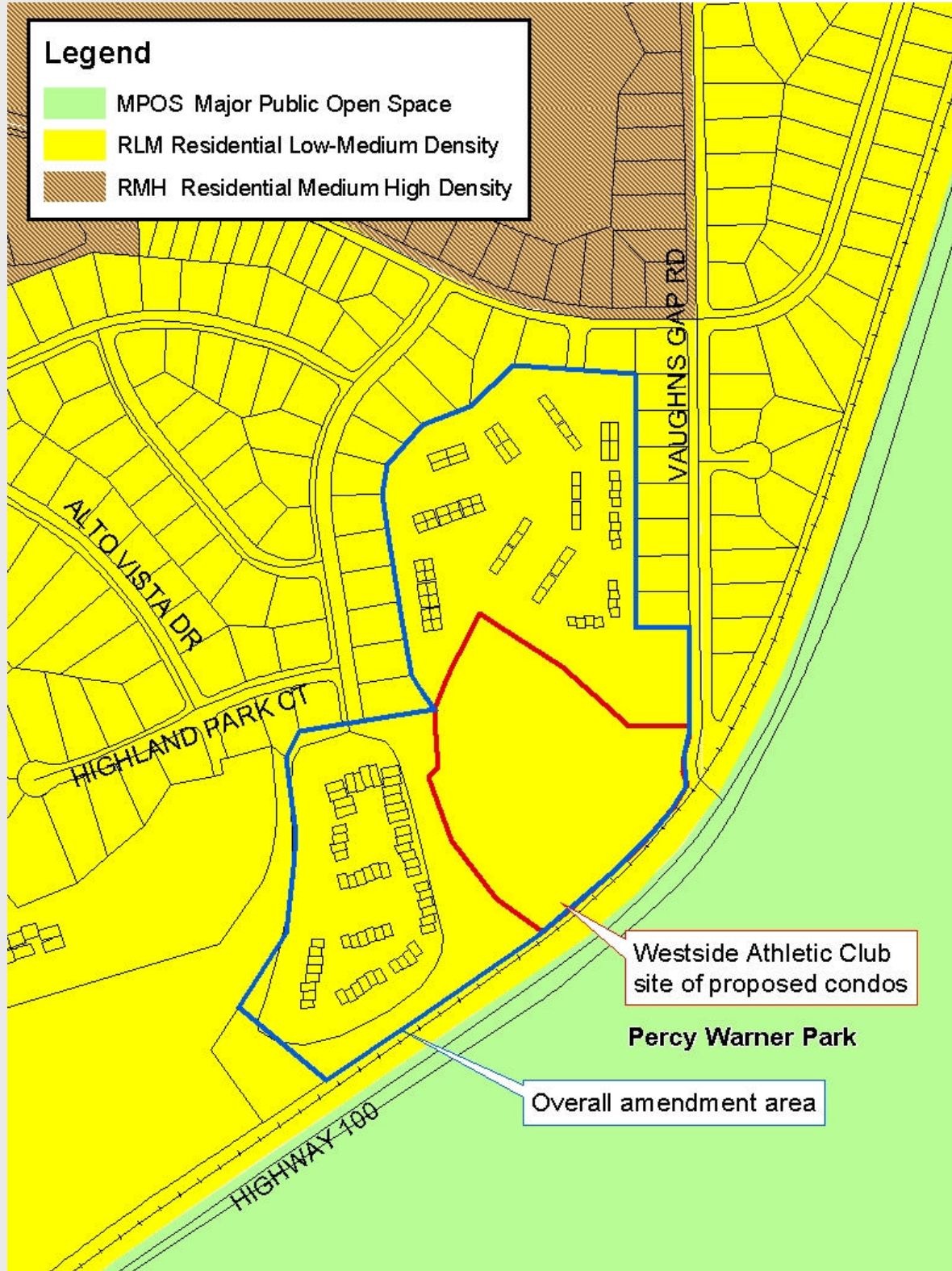
*In addition, applications for changes in zoning in this special policy area shall be accompanied by a Planned Unit Development or other design overlay in order to ensure the compatibility of infill development with surrounding development and with site characteristics such as topography and drainage.*



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## Legend

-  MPOS Major Public Open Space
-  RLM Residential Low-Medium Density
-  RMH Residential Medium High Density





**Project No.**  
**Associated Case**  
**Council Bill**  
**Council District**  
**School Board District**

**Zone Change 2002Z-040U-10**  
None  
BL2005-555  
18 – Hausser  
8 - Harkey

**Staff Reviewer**  
**Deferral**

Covington/Leeman  
This item was deferred at the February 24, 2005, Commission meeting and re-referred to the Planning Commission by Council at the Council’s March public hearing.

**Staff Recommendation**

*Approve, with conditions*

**APPLICANT REQUEST**

**Apply Institutional Overlay (IO) district to 106 parcels on 74.95 acres between 18<sup>th</sup> Avenue South, Belmont Boulevard, Wedgewood and 12<sup>th</sup> Avenue South, including parcels located along Acklen, Bernard, Compton, Delmar, Ashwood and Caldwell Avenues.**

**Proposed Zoning**  
IO district

The purpose of the Institutional Overlay district is to provide a means by which colleges and universities situated wholly or partially within areas of the community designated as residential by the General Plan may continue to function and grow in a sensitive and planned manner that preserves the integrity and long-term viability of those neighborhoods in which they are situated. The institutional overlay district is intended to delineate on the official zoning map the geographic boundaries of an approved college or university master development plan, and to establish by that master development plan the general design concept and permitted land uses (both existing and proposed) associated with the institution.

**SUBAREA 10 PLAN POLICY**

Residential Medium Policy (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.



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### Residential High Policy (RH)

RH policy is intended for new and existing residential development with densities above twenty dwelling units per acre. Any multi-family housing type is generally appropriate to achieve this density. The most common residential type will generally be mid or high-rise structures.

### Policy Conflict

No. The IO district is intended for areas designated as residential by the General Plan.

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### PLAN DETAILS

The plan for the 75-acre campus includes approximately 2.4 million square feet of new floor area, new parking areas, as well as the approximate 1.92 million square feet of the existing campus. The plan establishes activities, design standards, setback standards, and height standards by activity zone. It includes a plan of proposed development sites as well as proposed development capacity by zone. It establishes proposed parking as well as open space, buffering, screening, and lighting standards. The plan also establishes a phasing schedule.

### *Activity Zones*

The campus is divided into five Activity Zones. They are:

- 1) Wedgewood and Magnolia Avenues Grand Entry Zone. The plan states: "The location and design of activities is intended to create a primary entrance for the campus in conjunction with 15<sup>th</sup> Avenue and Magnolia/Acklen Avenues."
- 2) Academic Core Zone. The plan states: "Activities and their related design are complementary with the historic mall in creating pedestrian-oriented green spaces connecting the buildings associated within the zone. The ends of the greenspaces are anchored by architectural focal points in creating a sense of a mall."
- 3) Belmont Boulevard Arts and Entertainment Zone. The plan states: "Activities and their related design are complementary with the existing neighborhood commercial in creating a sense of a "village.""
- 4) South Campus Mixed Use Zone. The plan states: "Activities and their related design comprise an area of



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### *Setback Requirements*

mixed activities that are shaped and accessed by the multiple public streets associated with the zone.”

5) Residential Campus Zone. The plan states: “Activities and their related design are intended to provide a planned residential area.”

Setbacks are proposed to be measured from the property lines. The plan states: “It is the intent of these (activity) zones to address the specific context of the adjoining neighborhoods while providing a unified sense of place and appearance for the overall campus.” In some instances, such as the Arts and Entertainment Zone, the intent of building placement is to create a “village” feel. In other instances, such as the South Campus Mixed Use Zone, the intent of building placement along Ashwood is to match the placement of non-university buildings across the street.

### *Height Requirements*

Heights at the building setback are established for each activity zone by the number of stories.

### *Proposed Development Sites*

The master plan establishes 16 proposed development sites according to activity zone.

### *Proposed Development Capacity*

The master plan establishes the maximum proposed building area per activity zone. The Proposed Development Capacity Per Activity Zone table establishes existing building area, building area to be demolished and proposed building area.

### *Parking*

Parking for proposed development will be provided according to a ratio of spaces to user type. Structured parking is the preferred means of providing additional parking; however, parking lots may be used as long as they are screened from public view. Parking lots with 10 or less spaces may be located to the side of structures. Parking lots with greater than 10 spaces are to be located within the interior of the campus and not at its perimeter.

### **Staff comment:**

On-street parking along 15<sup>th</sup> Avenue shall be monitored as development occurs within the overlay. Because the plan proposes additional on site parking as development occurs, it is anticipated that the current parking concerns along 15<sup>th</sup> Avenue may be diminished.



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### *Vehicular Access and Circulation*

The master plan establishes major and minor vehicular access and circulation to the campus. The major access points are 15<sup>th</sup> Avenue South (off Wedgewood), Delmar Street, Compton Avenue, and Acklen Avenue (off 15<sup>th</sup>).

### *Buffering and Screening*

Proposed development will include landscape buffers as designated in the plan or as required by the Zoning Ordinance. Buffering and screening is required where “a university-related use, other than single family residential, is adjacent to the side or rear of a non-university residential use” as well as where “university-related parking of more than three spaces is opposite and visible from a non-university use sharing a public or private street.” Screening is also required for mechanical equipment, communication equipment, refuse storage, general storage, and fueling areas.

### *Lighting*

Lighting standards are provided according to type. Descriptions of the type of lighting to be used per zone and use are included.

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### **PLAN PURPOSE**

The Zoning Code intends for the application of the Institutional Overlay district to be limited to those land areas encompassed by a college or university master development plan. The plan shall adequately describe the extent of the existing and proposed campus of the institution along with long-range growth objectives and an assignment of institutionally related land uses. The master development plan and accompanying documentation shall be sufficient in detail to provide the public with a good understanding of the developed campus’s impact on the adjoining neighborhood(s).

The master development plan shall distinguish between the following types of generalized campus activities: academic areas, such as classrooms and labs; general administrative offices; support services, such as major parking areas, food services and bookstores; campus-related residential areas, including dormitories, fraternities and sororities; operational areas, such as maintenance buildings, power plants and garages; and athletic areas, including gymnasiums, intramural facilities, stadiums and tracks.

In the approval of a master development plan, the Council may require the inclusion of a phasing plan to





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### RECENT REZONINGS

insure that campus expansion occurs in a manner that can be supported by adequate public services and minimizes disruption to the surrounding residential community.

No.

### TRAFFIC

A Traffic Impact Study (TIS) has been submitted for this request.

### Public Works Findings

Approval

### STAFF RECOMMENDATION

In reviewing the Belmont University Institutional Overlay, staff has determined that the proposed plan meets the general requirements, as outlined by the Metro Zoning Code, for applying the IO district. The applicant has held numerous community meetings over the past several years to gather input as to the design and goals of the master plan. The applicant has also been working with staff to make changes to meet the intent of the Code, as well as to meet basic design standards.

The staff understands that the community and the district council member continue to work with the University to address additional concerns. If conditions are added to the Council bill, the Council may wish to re-refer the plan to the Planning Commission. Based on discussions with the university, the community, and the district Council member, staff has the following conditions in addition to any traffic conditions required by Public Works.

### CONDITIONS

Prior to Third Reading by the Metro Council, the following updates must be made to the Master Plan.

1. There shall be no parking allowed in front of buildings, excluding existing parking and on-street parking, in the Arts and Entertainment Zone.
2. Add the following intent language to the "Lighting" section: Lighting shall be internally directed and shall minimize light trespass and pollution onto adjacent residential properties.
3. Temporary buildings shall be limited to those associated with construction. Placement of



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temporary buildings shall be reviewed by Planning Department.

4. The University shall not count on-street parking in meeting parking requirements for new development.
5. When there is a change in the use of a building, a study shall be conducted to determine if there is a need for additional parking related to the new use. Such study shall consider available parking.
6. Access to the proposed parking structure near Bruin Hills shall be limited to 12<sup>th</sup> Avenue and 15<sup>th</sup> Avenue.
7. Belmont and East Belmont Circle shall remain open to vehicular access and parking for the University.
8. The architectural guidelines for development along 15<sup>th</sup> Avenue and Ashwood shall extend the entire length of 15<sup>th</sup> Avenue, with the exception of any new building situated on the corner of 15<sup>th</sup> Avenue and Wedgewood. Buildings in this location shall follow the general requirements of the Wedgewood and Magnolia Grand Entry Activity Zone and the vertical articulation requirements of the architectural guidelines.
9. Provide a minimum of the 5 foot wide B-5 landscape buffer to non-university owned properties adjacent to the new Health Sciences building and the proposed parking structure at the Bruin Hills dormitory.
10. When development site 3 is redeveloped, the maximum building height shall not exceed that of the existing apartment building.
11. As new development occurs, buildings at the corners of Belmont and Ashwood as well as 15<sup>th</sup> Avenue and Ashwood shall be configured so as to create a "pocket park" with a minimum area of 1,500 square feet for university and public use.
12. Loading and refuse areas shall not face public streets along the perimeter of the overlay district.



**Project No.**  
**Project Name**  
**Associated Cases**  
**Council District**  
**School District**  
**Requested By**

**Subdivision 2005S-051G-06**  
**Avondale Park Subdivision**  
None  
35 – Tygard  
9 - Warden  
Civil Site Design Group, LLC, for Avondale Park Partnership, owner.

**Deferral**

Deferred from the March 24, 2005, Commission meeting.

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

Leeman  
*Disapprove because a second, non-emergency, point of access is not provided.*

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**APPLICANT REQUEST**  
**Preliminary Plat**

**Subdivide approximately 262 acres into 564 single-family lots along the north side of McCrory Lane and the south side of Interstate 40.**

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**ZONING**  
**RS15 District**

RS15 district, requiring a minimum lot size of 15,000 square feet and intended for single-family dwellings at an overall density of 2.47 dwelling units per acre. The RS15 district would permit a maximum of 647 single-family lots, while 564 are proposed.

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**CLUSTER LOT OPTION**

The cluster lot option allows the applicant to reduce minimum lot sizes two base zone districts from the base zone classification of RS15 (minimum 15,000 sq. ft. lots) to RS7.5 size lots (minimum 7,500 sq. ft. lots).

Pursuant to Section 17.12.080 (D) of the Metro Zoning Ordinance, cluster lot subdivisions require a minimum of 15% open space per phase. The plan proposes 116 acres of open space (44%), which complies with this provision.

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**SUBDIVISION DETAILS**  
*Access*

The project proposes one main access point via a public road from McCrory Lane, and one secondary emergency access under Interstate 40 to Newsom Station Road. The plan also proposes 222 lots on the north side of the CSX Railroad line that bisects the property. This plan proposes a bridge over the railroad track that will be constructed by the developer.



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Staff recommends disapproval of the proposed plan since it does not comply with the Bellevue Community Plan's Long Range Transportation Plan, which calls for a bridge connection over the Harpeth River to Coley Davis Road (Figure 6, page 45). Furthermore, it is not consistent with Priority Four under the Infrastructure Transportation portion of the plan, which states: "Pursue connectivity of roads to disperse traffic, decrease congestion" (Page 11). A secondary point of access to this proposed subdivision is needed to reduce traffic congestion on McCrory Lane and to disperse traffic. It is also needed to allow this subdivision to function safely.

Although there was significant neighborhood discussion during the Subarea Plan Update in 2003, the Planning Commission ultimately adopted the Long Range Transportation plan calling for the connection of Coley Davis Road over the river at this location. Staff has requested the applicant to revise the plan to provide either a bridge connection or a full-service, secondary access point at another location so all 564 lots have more than one primary point of access. As of the writing of this staff report, the applicant has not provided this second access point.

### *School Site Dedication*

The plan also proposes a seven acre school site dedication along the frontage of McCrory Lane at the entrance to this subdivision. The Metro School Board has agreed to the proposed location, but with a 10 acre site. The following conditions have been requested by the School Board:

1. School site increased to 10 acres with drawing showing it.
2. Option to contribute to the School Board the equivalent of the cost of 10 acres, which would be the value (price per acre), paid for the property.

### *Greenway Easement*

The required Greenway/Conservation Easement is provided along the Harpeth River. Metro Greenways is requesting that the proposed trail along the main entrance road be extended to the river and along the Harpeth River on this property.



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### **Variances**

Section 2-6.1 (Sidewalks)

The applicant is requesting a variance to the sidewalk provisions of the Subdivision Regulations for the main entrance road into the project. The Regulations require sidewalks along both sides of all new roads, while the plan only proposes one on the west side of the main entrance road. The plan proposes a 6-foot wide meandering trail along the east side of the main entrance road, which leads to the development and possibly to the future greenway along the Harpeth River. Staff supports the proposed variance since adequate pedestrian connectivity is provided.

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### **TRAFFIC PUBLIC WORKS' RECOMMENDATION Traffic Comments**

1. Approvals are subject to Public Works review and approval of construction plans.
2. Show and dimension right of way along McCrory Lane at property corners. Label and dedicate right of way 30 feet from centerline, [when applicable the following] and amount necessary to accommodate required turn lane(s). Label and show reserve right of way strip 58 feet from centerline to property boundary, consistent with the approved major street plan (S4 - 116' minimum functional ROW).
3. Revise roadway detail: Residential High Density Roadway. Show pavement schedule per Metro ST-253 Residential - Medium Density Collector or High Density Local Street.
4. Show proposed road names and classifications of all proposed streets.
5. Show centerline horizontal curve data for the public streets. Include a minimum of four (4) references.
6. The minimum centerline radius of curved segments shall be in accordance with the AASHTO Manual, current edition.
7. Placement of sidewalks shall be in accordance with the Subdivision Regulations of the Metropolitan Planning Commission, latest revision. Show



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sidewalk, as required by Planning. Sidewalks to be constructed per Metro ST-210: Sidewalk Construction.

8. Locate asphalt trail outside of right of way.
9. Show and dimension 41.5' minimum radius right of way at all circular turnarounds. Right of way of all circular turnarounds to accommodate edge of pavement, curb and gutter, 4' grass area/furnishing zone and 5' sidewalk.
10. Label alley as public or private.
11. Above grade crossings will require Public Works review and approval of bridge plans. Approvals to include agreement with railroad, and City Council approval.
12. Developer shall construct a collector cross section with median for the main access road. Median shall be redesigned in order to provide appropriate alignment and sight distance if a future traffic signal is installed at the intersection of the access road and McCrory Lane. This cross section shall allow the future installation of northbound left turn lane striping on the access road at the new school access driveway.
13. Dedicate ROW 30 feet from centerline and additional ROW as necessary for required eastbound left turn lane on McCrory lane, (S4) classification.
14. Developer shall construct a 3-lane cross-section with transitions per AASHTO standards, along McCrory lane property frontage and install an eastbound left turn lane with 125 ft of dedicated storage at the intersection with project access road.
15. Developer shall construct 2 exit lanes with 200 feet of storage and transitions per AASHTO design on access road at McCrory lane.
16. Install northbound dedicated left turn lanes with 75ft of storage on Access Rd. at intersections with cross streets.



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17. Bridge over railroad shall be designed to provide adequate sight distance and a minimum of two 12 ft wide travel lanes with 6 ft shoulders and sidewalks on each side. Final design to be per the approved construction plans. Bridge design and construction shall be coordinated with the Railroad Company.
18. Traffic circles will be allowed only at street intersections. Road design around landscape islands shall be in accordance with PW standards.
19. It is desirable to provide a secondary access due to the number of lots (580). Developers shall determine the feasibility of an additional access point from McCrory lane along the proposed school site property and intersecting with an internal residential street. If a different secondary access is required by MPC, then additional analysis shall be required to study the impacts of the revised traffic distribution and conditions may be modified.
20. Allow cross-access to eastern property in the vicinity of the 1<sup>st</sup> intersecting road with main access road.
21. Developer shall construct a southbound left turn lane with 150 ft of storage on McCrory at the eastbound interstate ramps by relocating guardrails and widening McCrory Lane.
22. The developer shall construct a northbound left turn with 100 feet of storage on McCrory lane at the I-40 westbound ramp by relocating guardrails and widening McCrory Ln.
23. Developer shall remove vegetation at the Poplar Creek Rd /McCrory lane intersection in order to provide adequate sight distance in coordination with Metro Public Works.
24. Developer shall conduct traffic counts and submit signal warrant analysis after issuance of use and occupancy permits at 50 %, 75% and 100% of project. Upon approval by the Metro Traffic Engineer, Developer shall install a traffic signal at



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access road and McCrory Lane. Developer shall submit signal plan for approval.

25. Construct standard alley pavement width. The alleys shall satisfy PW standards in order to accommodate refuse trucks. The alley is too close to the road intersection and shall be a minimum of 50 ft from the intersection.
26. Provide adequate access to proposed Greenway and provide area for adequate parking for future Greenway.
27. Clarify continuation of ROW which is being abandoned on sheet C1.02

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### CONDITIONS (If Approved)

1. All traffic conditions listed above must be completed or bonded prior to the recording of the first final plat, unless a specific phasing plan is approved by Public Works.
2. A school site should be offered for dedication that is acceptable to the Metro School Board, prior to or in conjunction with the first final plat.
3. The 6 foot wide meandering trail along the main entrance road shall be extended to the Harpeth River to connect to a future greenway. The applicant will be required to construct the greenway trail along the river when the Metro Greenway's Commission obtains approval for an at-grade pedestrian crossing over the railroad tracks.





**Project No.**  
**Project Name**

**Planned Unit Development 103-79-G-14**  
**Riverfront Shopping Center (Dollar**  
**General) (Old Hickory Centre)**

**Council District**  
**School District**  
**Associated Case**  
**Requested By**

11 - Brown  
4 - Nevill  
None  
Waste Water Engineering, applicant, for Old Hickory  
Partnership, LTD, owner

**Deferral**

Deferred from the April 14, 2005, Commission  
meeting.

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

Fuller  
*Defer to May 12, 2005, due to lack of approval from*  
*Stormwater Division.*

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**APPLICANT REQUEST**  
**Final PUD**

**A request for final approval of a portion of the Commercial Planned Unit Development district located along the south side of Robinson Road, classified R10, (3 acres), to permit the extension of infrastructure, as well as grading to a remaining portion of undeveloped property. Final PUDs including building site plans will need to be approved before building permits can be issued.**

This plan matches the revision to preliminary PUD plan that was approved by the Commission on March 10, 2005. That revision reconfigured previously approved retail and office uses and included buildings along Robinson Road where a large unbroken parking lot had previously been approved. The parking and landscaping were adjusted to meet the current regulations and the access drives were aligned with Martingale Drive and the existing Eckerd's access drive on the opposite side of Robinson Road.

Planning staff has not received a recommendation from the Stormwater Division for this final PUD application. Staff recommends that the Commission defer consideration of this approval until a recommendation has been received from Stormwater.

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**PUBLIC WORKS'**  
**RECOMMENDATION**

Approvals are subject to Public Works review and approval of construction plans.



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### CONDITIONS (if approved)

1. 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 and the Traffic Engineering Section of the Metropolitan Department of Public Works.
2. This approval does not include any signs. Business accessory or development signs in commercial or industrial planned unit developments must be approved by the Metropolitan Department of Codes Administration except in specific instances when the Metropolitan Council directs the Metropolitan Planning Commission to approve such signs.
3. 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. If any cul-de-sac is required to be larger than the dimensions specified by the Metropolitan Subdivision Regulations, such cul-de-sac must include a landscaped median in the middle of the turn-around, including trees.



**Project No.**  
**Project Name**  
**Associated Cases**  
**Council District**  
**School District**  
**Requested By**

**Planned Unit Development 99-85P-14**  
**Briley Corners**  
None  
15 – Loring  
04 – Nevill  
Little John Engineering, applicant for Boyle  
Craigmead, LP, and Boyle Investment Co., owners  
Deferred from the April 14, 2005, Commission  
meeting.

**Deferral**

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

Swaggart  
*Approve with conditions*

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

**Revise the preliminary master plan and for final approval of a Planned Unit Development district (Briley Corners) to permit the addition of a 225 parking spaces.**

**PLAN DETAILS**

The current plan proposes the addition of 225 parking spaces, which will be provided in two separate lots. This request is associated with proposal 2005S-079U-14, a final plat application to adjust lot lines within the PUD. The adjustment is required to provide adequate area for the additional parking areas.

**TRAFFIC**  
**PUBLIC WORKS**  
**RECOMMENDATION**

No exceptions taken

**STORMWATER**  
**RECOMMENDATION**

1. NPDES # on cover sheet and two (2) copies of the NOC.
2. Dedication of Easement for the water quality unit. Following statement to include below easement description: "Grantor agrees to provide Metro Water Services sufficient and unencumbered ingress and egress at all times in order to maintain, repair, replace, and inspect any stormwater facilities within the aforesaid property."
3. Construction entrance detail to show filter fabric and 20' minimum width.
4. Silt fence is ineffective when running perpendicular to contours, please revise.



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5. Provide detail showing how rock check dams are to be properly spaced.
6. Replace straw bale filter shown with rock check dam.
7. BMP details should state: "Metro Stormwater Management Manual Volume 4 Section TCP-##" as opposed to "TCP-##".
8. No contours shown on the pre and post development maps. Delineate the travel path used to calculate your time of travel.
9. Submit a drainage map showing the individual drainage areas to each structure.
10. Plans show a broken concrete flume leaving the pond? What problems does this pose, and how will it be addressed?
11. Is there an existing easement for the existing detention pond the 30" culvert?
12. Add detail of vortech units. State the design and bypass capacity of the unit along with the detail.
13. Next two downstream structures?
  - Place following note on place: "As-builts are required for underground detention and water quality structures prior to issuance of the U&O permit." Certification must include, at a minimum, the following information:
    - a. Manufacture and model number of unit;
    - b. Sales receipt;
    - c. Attached shop drawings on installed unit;
    - d. Date of field inspection by Engineer (before backfilling structure); and
    - e. Engineer stamp and date.

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### CONDITIONS (if approved)

1. 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 and the Traffic Engineering Section of the Metropolitan Department of Public Works.
2. This approval does not include any signs. Business accessory or development signs in commercial or



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industrial planned unit developments must be approved by the Metropolitan Department of Codes Administration except in specific instances when the Metropolitan Council directs the Metropolitan Planning Commission to approve such signs.

3. 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.
4. 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 copies of the corrected/revised plans have been submitted to and approved by staff of the Metropolitan Planning Commission.
5. Authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four additional copies of the approved plans have been submitted to the Metropolitan Planning Commission.
6. 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 re-approval by the Planning Commission.



**Project No.**  
**Project Name**  
**Council Bill**  
**Council District**  
**School District**  
**Associated Case**  
**Requested By**

**Planned Unit Development 2004P-024G-12**  
**Christiansted Valley Subdivision**  
None  
31 - Toler  
2 - Blue  
None  
Lose and Associates, Inc., applicant, for Turnberry Homes, owner.

**Deferral**

Deferred from the April 14, 2005, Commission meeting.

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

Pereira  
*Defer to May 12, 2005 due to lack of approval from Stormwater Division.*

**APPLICANT REQUEST**  
**Final PUD**

**Final approval of a Planned Unit Development on 20 acres located at 251 Holt Hills Road and Holt Hills Road (unnumbered), at the terminus of Palomar Court and Christiansted Lane, classified RS15 cluster lot, to permit 49 single-family lots.**

**PLAN DETAILS**  
*Site Design & Access*

The plan proposes 49 single-family lots at an extension of Palomar Court and Christiansted Lane. The current final PUD plans match the plans that were re-referred from Council and approved with conditions by the Commission on the December 9, 2004 meeting.

Original Plan

The original plan, approved by the Planning Commission at the September 24, 2004, Commission meeting, provided circuitous connectivity to the easternmost property line at the Holt Hills Road private roadway easement as is called for in the current Community plan. As part of the Southeast Community Plan update, the Planning Commission required that "special consideration" be given to this area with regards to traffic improvements and street connectivity. The street layout provided for non-direct connectivity of streets that would provide for traffic calming. These roadways, designated as local streets with 50 feet of right-of-way, were planned to eventually provide a necessary connection to Bradford Hills Drive.

Re-referred Plan from Council

Staff recommended disapproval of the preliminary PUD plan because it did not provide the required stub-out connection to the east (to Holt Hills Road). The re-



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### *Topography*

referred plan from Council did not include the stub-out connection to the east, as is called for in the Southeast Community Plan. The final PUD plans are consistent with the plans approved by Council.

There are hillside/slope constraints associated with this subdivision proposal. The applicant is using the cluster option to reduce lot sizes so as to avoid areas of slope that exceed 25% slope.

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### **PUBLIC WORKS' RECOMMENDATION**

No Exceptions Taken.

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### **METRO STORMWATER DEPARTMENT COMMENTS:**

Under technical review.

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### **CONDITIONS (if approved):**

1. 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 and the Traffic Engineering Section of the Metropolitan Department of Public Works.
2. This approval does not include any signs. Business accessory or development signs in commercial or industrial planned unit developments must be approved by the Metropolitan Department of Codes Administration except in specific instances when the Metropolitan Council directs the Metropolitan Planning Commission to approve such signs.
3. 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. If any cul-de-sac is required to be larger than the dimensions specified by the Metropolitan Subdivision Regulations, such cul-de-sac must include a landscaped median in the middle of the turn-around, including trees.
4. If this final approval includes conditions which require correction/revision of the plans, authorization for the issuance of permit applications



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will not be forwarded to the Department of Codes Administration until four copies of the corrected/revised plans have been submitted to and approved by staff of the Metropolitan Planning Commission.

5. Authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four additional copies of the approved plans have been submitted to the Metropolitan Planning Commission.
6. 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 re-approval by the Planning Commission.





<b>Project No.</b>	<b>Zone Change 2004Z-005T</b>
<b>Associated Case</b>	None
<b>Council Bill</b>	BL2005-628
<b>Council District</b>	Countywide
<b>School District</b>	n/a
<b>Requested by</b>	Councilmember Michael Jameson and Councilmember Tommy Bradley
<b>Staff Reviewer</b>	Regen
<b>Staff Recommendation</b>	<i>Approve</i>

**APPLICANT REQUEST**

**Amend Zoning Code to require all utilities to be placed underground for new residential subdivisions.**

**ANALYSIS**

**Existing Law**

The Zoning Code and the Subdivision Regulations currently do not require any utilities to be placed underground. Water, sewer, and natural gas lines are placed underground as part of an industry standard.

**Proposed Text Change**

The proposed amendment (see attached bill) would require all utilities to be underground for new residential subdivisions with new public or private streets, or along any existing public or private street where utilities are already located underground. The bill does include several exceptions, which will be discussed below.

**Analysis**

For the past year, Metro has worked with a variety of stakeholders in developing this ordinance, including NES, BellSouth, Comcast, the Utilities Caucus, M.D.H.A. (affordable housing), various private developers, the homebuilder's association, Metro Public Works, Metro Water Services, the Suburban Caucus of the Metro Council, the Mayor's Office, and individual Council members. All parties involved have become more familiar with the technical standards and requirements each utility must work within to provide water, sewer, gas, electricity, cable, and telephone services.

The genesis of the underground utility proposal was the undesirable aesthetic impact of above-ground utilities, their placement in the public right-of-way, particularly sidewalks, and the greater variety of street trees



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possible with underground utilities. Nearly 75% of new residential subdivisions in Davidson County currently utilize underground utilities. Nationally, nine out of ten new subdivisions place utilities underground. Locally, the communities of Hendersonville, Brentwood, Mt. Juliet, and Sumner County require underground utilities.

While undergrounding utilities is not optional under the proposed amendment, recognizing the county's topography, the bill does provide 16 exemptions. Thirteen of these exemptions are automatic while three are discretionary waivers subject to Planning Commission review and approval on a case-by-case basis. In the event an applicant waiver were disapproved by the Planning Commission, an applicant retains the right to seek a variance from the Board of Zoning Appeals (BZA).

The attached analysis provides a more in-depth review of this proposed bill.

### **Staff Recommendation**

Approve. This text amendment provides for a one-time investment to produce aesthetic returns to the Nashville community for generations. It does so in three principle ways: 1) A greater variety of street trees can be planted allowing trees to grow to their natural canopy; 2) By improving the aesthetic quality of streetscapes and neighborhoods, it may encourage a more active and healthy life for Davidson County residents via walking and running on uncluttered sidewalks with shade trees; and 3) By improving the visual quality of neighborhoods, undergrounding utilities may contribute to increased property values.



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# Underground Utilities Ordinance

(2004Z-005T; BL2005-628)

## ANALYSIS

- 1) **What are the benefits of the bill?**
  - a. Improves the visual and aesthetic appearance of Nashville's residential subdivisions;
  - b. Permits a greater variety of street trees to be used, and allows them to grow to their natural canopy without the expense of tree trimming and overhead wire maintenance;
  - c. Creates more attractive streetscapes for pedestrians and motorists; and,
  - d. Decreases the frequency of power outages due to accidents and weather.
- 2) **Is this ordinance mandatory, in that "utilities shall be underground"?**

Yes, it is mandatory. However, recognizing situations may arise where utilities cannot be placed underground, the bill contains a list of exemptions and a variance process (see below).
- 3) **What kind of utilities must be underground?**

All electrical and communication systems must be located underground (e.g. phone, cable, street lighting). Gas pipelines are already placed below ground.
- 4) **What kinds of development would be required to underground utilities?**
  - Any residential subdivision where new public or private streets are proposed; or
  - Any residential subdivision along an existing public or private street where utilities are already located underground.
- 5) **Would this apply to office, commercial, mixed-use, or industrial developments?**
  - No, it would not apply to offices, commercial or industrial developments.
  - Yes, it would apply to any residential portions of a mixed-use development, or as otherwise provided in any Council approved overlay district or development plan.
- 6) **What other nearby Tennessee communities require underground utilities?** Cities of Hendersonville, Brentwood, and Mt. Juliet as well as Sumner County.
- 7) **When would this ordinance take effect?** July 1, 2005 (anticipated)
- 8) **Who is responsible for placing and paying for undergrounding utilities?**

The residential developer or builder shall pay all costs to the respective utility companies.
- 9) **What if the utilities just can't be placed underground (e.g. too much rock), what appeal process is there?** The bill provides 16 exemptions, 13 of which are automatic and three (3) of which are at the Metro Planning Commission's (MPC) discretion. If an applicant's exemption request were to be disapproved by the MPC, an applicant could apply to the Board of Zoning Appeals (BZA) for a variance as set forth in Section 17.40.350 of the Zoning Code.

**Exemptions** – The following exemptions are contained in the bill:

D. Exemptions. The following items shall be exempt from complying with the provisions of this title, except those noted with an asterisk (\*). Items with an asterisk (\*) shall be considered on a case-by-case basis for exemption by the Metro Planning Commission, based on a property's location and topography.



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1. Any new preliminary or amended planned unit development application or any new or amended urban design overlay district application, submitted to the Metropolitan Government of Nashville and Davidson County before July 1, 2005.
2. Any preliminary or revised preliminary subdivision plat application, submitted to the Metropolitan Government of Nashville and Davidson County before July 1, 2005.
3. Any residential lot or parcel greater than 40,000 square feet in size.
4. Above ground utility equipment installed, maintained, and utilized by utility companies for a period not to exceed thirty (30) days in order to provide emergency utility services. The time limitation may be extended, if warranted, by the Metro Planning Commission.
5. Utility equipment utilized for street lighting purposes.
6. Utility equipment utilized exclusively for vehicular and pedestrian traffic control purposes.
7. Utility equipment appurtenant to underground facilities and which meet the requirements of Section 17.28.103.B.3, such as service-mounted, pedestal-mounted, or pad-mounted transformers, terminal boxes, meters, cross boxes, cabinets, vaults, electronic enclosures, pedestals, flush-to-grade hand holes, splice closures.
8. Temporary utility equipment utilized or to be utilized exclusively in conjunction with construction projects, seasonal, or special event installations. Upon installation of permanent utility service, above ground service shall be removed.
9. Fire hydrants, fireplugs, and other utility equipment utilized exclusively for firefighting purposes.
10. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building, or to an adjacent building or to the alley, without crossing any public street.
11. Antennas, associated equipment and supporting structures, used by a utility for furnishing communication services.
12. Electrical distribution lines on major streets as shown on the Major Street Plan, electrical transmission lines, or switch gear.
13. Equipment installed by the utility which should not be installed underground for engineering, safety, or environmental regulatory reasons.
- 14\*. Utility lines with a length of less than 300 feet and where utility lines have not been placed underground within the proposed new subdivision, on any property abutting the subdivision, or within any approved but not yet built abutting subdivision where a final plat has been approved.
- 15\*. Utility lines where severe disruption of existing improvements, diminished quality of service, or undue difficulty in repair would occur.
- 16\*. Utility lines where an affected adjoining property owner will not consent to modification of easements.



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### ORDINANCE NO. BL2005-

An ordinance to amend various sections of Title 17 of the Metropolitan Code of Laws, the Zoning Ordinance of the Metropolitan Government of Nashville and Davidson County, relative to undergrounding utilities in any residential subdivision where a new public or private street is to be constructed, all of which is more particularly described herein (Proposal No. 2004Z-005T).

WHEREAS, overhead utilities exist in many portions of Metropolitan Government of Nashville and Davidson County (“Metro”);

WHEREAS, overhead utilities can have an undesirable aesthetic impact upon the character and quality of the neighborhoods in Metro;

WHEREAS, as a prominent part of the streetscape, overhead utility lines may detract from the visual quality of the neighborhoods;

WHEREAS, a one-time investment by a developer or property owner to underground utilities produces aesthetic returns to the Nashville community for generations;

WHEREAS, undergrounding utilities may encourage a more active and healthy life for Davidson County residents by creating more attractive streetscapes for pedestrians;

WHEREAS, use of underground utilities allows a greater variety of street trees to be planted and to grow to their natural canopy thereby reducing maintenance costs attributable to tree trimming and improving the aesthetic quality of streetscapes and neighborhoods;

WHEREAS, undergrounding utilities may contribute to increased property values in affected areas; and,

WHEREAS, the Metro Council finds for all of the foregoing reasons, and to promote the welfare of residents with respect to the aesthetic quality of subdivisions, the electric and communication distribution facilities should be located underground, where feasible, without affecting the quality of utility services.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

SECTION 1. By amending Section 17.04.060 (Definitions of General Terms), by **adding** the following definitions in alphabetical order:

**Above ground** means visible from the surface of the earth.



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**Electrical Service Lines** means an electrical line serving limited geographic areas of residential neighborhoods by providing electrical power directly to a residence, or group of residences, and not designed to extend service more than one half-mile.

**Electrical Distribution Lines** means an electrical line designed to distribute electric power to, and through, agricultural, residential, commercial, and industrial areas.

**Electrical Transmission Lines** means electrical power lines, feeder circuits, or networks designed to transmit electrical power for regional use.

**Subdivision** means any subdivision of land as provided in Section 13-3-401 et seq. and Section 13-4-301 et seq., Tennessee Code Annotated.

**Switch Gear** means a high voltage electrical device used to switch main feeder circuits and to provide fuse protection for distribution of currents to customers.

**Underground** means not visible from the surface of the earth.

**Utility Companies** means any person, governmental body, organization, or entity of any type, and their agents, representatives, and employees, supplying electricity, natural gas, water, communications, or similar or associated services to the residential areas of Metropolitan Nashville and Davidson County.

**Utility Equipment** means poles, towers, supports, wires, conductors, conduits, guys, stubs, cross arms, braces, transformers, insulators, cut-outs, switches, communication circuits, used or useful in supplying electricity, natural gas, water, communication or similar or associated services to the residential areas of Metropolitan Nashville and Davidson County.

SECTION 2. By amending Section 17.28.080.B (Operational Performance Standards: Applicability) by **modifying** the text as follows:

17.28.080 Applicability.

B. When an existing land use or structure is expanded, enlarged or otherwise reconstructed after the effective date of the ordinance codified in this title, the applicable performance standards shall apply to the expanded, enlarged or reconstructed portion, with the exception of undergrounding utilities; see Section 17.28.103 below.

SECTION 3. By amending Section 17.28.103 (Compliance Certification) by **renumbering** it as Section 17.28.104, and **adding** as Section 17.28.103 (Underground Utilities) as follows:



## Metro Planning Commission Meeting of 4/28/05

### 17.28.103 Underground Utilities.

- A. **Applicability.** Effective July 1, 2005, these standards shall apply to any application for residential development submitted to the Metropolitan Government of Nashville and Davidson County for approval, wherein a new public or private street is to be constructed now or in the future, or where an existing public or private stub street, is to be extended, as follows:
1. Any application for a new or amended preliminary planned unit development;
  2. Any new or amended preliminary urban design overlay district; or
  3. Any new or revised preliminary subdivision plat; and in the case of a proposed revised preliminary plat, these provisions shall only apply to those plats deemed to be a major modification by the Executive Director of the Metro Planning Department, as provided in the Subdivision Regulations.
- B. **Utility Services.**
1. A public utility easement shall be provided along all public and private streets and alleys by the property owner.
  2. All public and private utility services installed after the effective date of this ordinance shall be underground, including the conduit (raceway) from service equipment, except as provided in Sections 17.28.103.C, 17.28.103.D, and 17.28.103.F below. Such conduit (raceway) shall be placed underground to the curbline and/or utility right-of-way, including but not limited to, electric, telephone, communication, exterior lighting and television cable.
  3. Related equipment such as transformers, meters, etc., shall be above ground, preferably within the furnishing zone between the curb and sidewalk, within the public utility easement, or within the required front yard setback or side yard setback adjacent to the street; equipment placed in the street right-of-way shall be subject to all applicable laws and ordinances.
- C. **Previously Approved Streets and Utilities:** Where a subdivision abuts an existing public or private street, or one shown on an approved final plan with an overlay district, recorded final plat, or on the Metro Government Official Street and Alley Map, then no undergrounding shall be required of existing utilities or new utilities proposed along that existing portion of the public or private street, unless underground utilities already exist.
- D. **Exemptions.** The following items shall be exempt from complying with the provisions of this title, except those noted with an asterisk (\*). Items with an asterisk (\*) shall be considered on a case-by-case basis for exemption by the Metro Planning Commission, based on a property's location and topography.



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1. Any new preliminary or amended planned unit development application or any new or amended urban design overlay district application, submitted to the Metropolitan Government of Nashville and Davidson County before July 1, 2005.
2. Any preliminary or revised preliminary subdivision plat application, submitted to the Metropolitan Government of Nashville and Davidson County before July 1, 2005.
3. Any residential lot or parcel greater than 40,000 square feet in size.
4. Above ground utility equipment installed, maintained, and utilized by utility companies for a period not to exceed thirty (30) days in order to provide emergency utility services. The time limitation may be extended, if warranted, by the Metro Planning Commission.
5. Utility equipment utilized for street lighting purposes.
6. Utility equipment utilized exclusively for vehicular and pedestrian traffic control purposes.
7. Utility equipment appurtenant to underground facilities and which meet the requirements of Section 17.28.103.B.3, such as service-mounted, pedestal-mounted, or pad-mounted transformers, terminal boxes, meters, cross boxes, cabinets, vaults, electronic enclosures, pedestals, flush-to-grade hand holes, splice closures.
8. Temporary utility equipment utilized or to be utilized exclusively in conjunction with construction projects, seasonal, or special event installations. Upon installation of permanent utility service, above ground service shall be removed.
9. Fire hydrants, fireplugs, and other utility equipment utilized exclusively for firefighting purposes.
10. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building, or to an adjacent building or to the alley, without crossing any public street.
11. Antennas, associated equipment and supporting structures, used by a utility for furnishing communication services.
12. Electrical distribution lines on major streets as shown on the Major Street Plan, electrical transmission lines, or switch gear.
13. Equipment installed by the utility which should not be installed underground for engineering, safety, or environmental regulatory reasons.
- 14\*. Utility lines with a length of less than 300 feet and where utility lines have not been placed underground within the proposed new subdivision, on any property abutting the subdivision, or within any approved but not yet built abutting subdivision where a final plat has been approved.
- 15\*. Utility lines where severe disruption of existing improvements, diminished quality of service, or undue difficulty in repair would occur.
- 16\*. Utility lines where an affected adjoining property owner will not consent to modification of easements.





## Metro Planning Commission Meeting of 4/28/05

- E. **Variance.** A property owner and/or developer may appeal to the Board of Zoning Appeals indicating why undergrounding utilities are not feasible in accordance with the procedures set forth in Section 17.40.350. The Board shall not act upon such a request without first receiving a recommendation from the Metro Planning Commission, as provided in Section 17.40.340.
- F. **Alleys.** Where a subdivision proposes alleys, utilities may be located above or below ground in these alleys. If utilities are located above ground, then all utilities serving the proposed lots shall be placed in the alleys, except any street light system. Utilities connecting one alley to another alley may cross a public or private street above ground.
- H. **Property Owner Responsibility.** The property owner and/or developer installing, requesting, or requiring the construction of the improvement, and not the Metropolitan Government or the utility, shall be responsible for the cost of placing utility lines underground and shall make the necessary arrangements with the serving utility companies. The utility shall have no obligation to underground facilities unless and until it receives full payment for costs to do so.
- I. **Non-Conforming Utility Equipment.** Any utility equipment approved or installed, and operating prior to the effective date of this ordinance, may be maintained in its present condition and may be upgraded to conform to new technologies and regulatory requirements.
- J. **Existing City Franchises Not Affected.** The provisions of this section do not and shall not be interpreted to waive any right enjoyed by Metro with respect to any franchisee, nor to waive the obligations created by any franchise. In the event that any provision of this section conflicts with any provision of a franchising agreement or ordinance, said franchise provision shall control. The provisions of this section likewise are not intended to create any conflict with the rights granted pursuant to T.C.A. §§ 65-21-201, *et seq.* and 65-21-107.
- H. **Relationship to Other Requirements.** In case of conflict between the standards of this section and any other standards, rules, or regulations adopted by any other applicable Metro governmental department or agency, the provisions of this article shall control.

If any section, clause, provision or portion of this section is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this section.

SECTION 4. By amending Section 17.40.340 (Limits to Jurisdiction) by **adding** after the phrase “variance application” and before the phrase “within a planned unit development” the phrase “concerning underground utilities or”.



## Metro Planning Commission Meeting of 4/28/05

SECTION 5. BE IT FURTHER ENACTED, That this ordinance take effect immediately after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

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Councilmember Tommy Bradley

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Councilmember Jim Shulman

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Councilmember Ginger Hausser

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Councilmember Michael Jameson



<b>Project No.</b>	<b>Zone Change 2004Z-011T</b>
<b>Associated Case</b>	BL2004-224
<b>Council Bill</b>	BL2005-629
<b>Council District</b>	Countywide
<b>School District</b>	n/a
<b>Requested by</b>	Councilmember John Summers
<b>Staff Reviewer</b>	Regen
<b>Staff Recommendation</b>	<i>Approve</i>

**APPLICANT REQUEST**

**Amend Zoning Code to require that any planned unit development (PUD), or phase of a PUD, that is inactive for six or more years be reviewed by the Planning Commission and Metro Council for approval, amendment, or cancellation, prior to the issuance of any building or grading permits.**

**ANALYSIS**

**Background**

In 2004, Councilmember John Summers introduced an ordinance requiring all modifications to PUDs more than four years old be submitted to the Council for approval. That bill also required submission to the Council for approval prior to the issuance of any building or grading permit, any PUD in existence for more than eight years in which a permit had not been issued. The bill was deferred indefinitely by the Council on January 4, 2005, so that PUD modifications could be addressed more comprehensively. A new bill has been introduced by Councilmember Summers, with the assistance of planning staff, to better address the various PUD development situations. That bill is analyzed in this staff report.

**Existing Law**

The Zoning Code currently does not sunset any old PUDs. Any PUD plan approved six or more years ago, whether any site development has ever taken place or not, is still considered effective.

**Proposed Text Change**

The proposed amendment would require any PUD plan, or phase of a PUD, that is inactive for six or more years to be reviewed by the Planning Commission and Metro Council for approval, amendment, or cancellation, prior to the issuance of any building or grading permits. See attached bill.



## Metro Planning Commission Meeting of 4/28/05

### Analysis

PUDs are not intended for speculative development, but only by applicants with a firm intention to develop according to a master plan with a master development schedule. There are 60 unbuilt PUDs in Davidson County that have been approved by the Metro Council, but never built. These undeveloped PUDs, and those that are even partially developed, lead to inaccurate perceptions about the development future of sites that appear vacant and in a natural state. These PUDs also are unreliable predictors of improvements needed in public services and infrastructure. See fact sheet below for more information.

### Staff Recommendation

Approve. This bill addresses a major concern of neighborhoods and the community, that being, undeveloped PUDs lead to inaccurate perceptions about the character and nature of a neighborhood or community. They make land appear to be vacant and natural, even rural, when in reality development has been approved five, ten, or even twenty years ago on the property. Further, the bill establishes a fair and equitable way to review these older developments to ensure what was previously approved still makes sense today based on the general plan and community input.



## Metro Planning Commission Meeting of 4/28/05

# Planned Unit Development (PUD) Review Ordinance

## FACT SHEET

### 1. Proposed Solution – PUD Review

The revised PUD Review ordinance would require that any PUD or phase of a PUD approved by the Metro Council that has been inactive for six or more years be reviewed by the Planning Commission and resubmitted to the Metro Council for approval, amendment or cancellation by ordinance before any building or grading permits are issued.

### 2. When is a PUD or phase of PUD considered “inactive”?

A PUD, or a phase of a PUD, is considered “inactive” if one or more of the following three criteria apply:

- a) Six years have passed since the ordinance enacting the PUD or PUD phase was passed and no building has been constructed, no legal and unexpired building permit exists for the construction of a building and no substantial work on the ground has been completed (site grading *does not* count as substantial work), or
- b) Less than 60 percent of the non-residential floor area allowed by the PUD or PUD phase has been constructed and six years have passed since the most recent newly-constructed non-residential building received its final certificate of use and occupancy, or
- c) Fewer than 75 percent of the residential units allowed by the PUD or PUD phase have been constructed and six years have passed since the most recent newly-constructed residential building received its final certificate of use and occupancy.

### 3. Are there any exceptions?

There is one exception for PUDs with phasing schedules exceeding six years. The developer can provide evidence to the Executive Director of the Metro Planning Department that the multi-phase PUD has followed its approved development schedule and construction of buildings and uses has been “uninterrupted.” Uninterrupted is defined as demonstrating that there has been no period of 12 months or more when a final certificate of use and occupancy has not been issued for a newly constructed building somewhere within the PUD, ignoring the lines drawn for individual PUD phases. If the Executive Director finds that the development has followed its approved schedule and has met the definition of uninterrupted development, then even if individual phases of the PUD are “inactive” according to the criteria in (a) through (c) above, the PUD or the PUD phases will not be classified as “inactive.”

### 4. If a PUD or phase of PUD is determined to be inactive, what happens next?

No grading permit or any building permit will be issued until the PUD or PUD phase has been reviewed by the MPC and the Metro Council takes final action on the matter.

### 5. How does the review of the inactive PUD or phase of a PUD begin?

There are four ways to begin the review process for inactive PUDs or phases of PUDs:

- a) The MPC can choose to review an inactive PUD or phase of PUD,
- b) A member of Metro Council can refer an inactive PUD or phase of PUD to the MPC for review,
- c) Any Metro Nashville/Davidson County Department that issues building or development permits can refer an inactive PUD or phase of PUD to the MPC for review, or
- d) The property owner or agent of the inactive PUD or phase of PUD can refer it to the MPC for review.



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### 6. How will the MPC review an inactive PUD or phase of PUD?

The MPC has ninety days from the day the PUD review is requested to give the Metro Council recommended legislation that states the MPC's findings on the following issues:

- a) A decision on whether the PUD or a phase of the PUD is, in fact, "inactive" and subject to review,
- b) An opinion on whether or not it is appropriate to allow the PUD or phase of PUD to be developed as it was originally proposed. This opinion will consider current conditions and circumstances. The opinion will include a recommendation on the appropriate base zoning necessary to implement the PUD as it was originally proposed,
- c) Any recommendations to amend the PUD or phases of the PUD to fit the existing conditions and circumstances, and appropriate base zoning if the PUD or any phase of the PUD is removed by Council.

If the MPC does not give Metro Council a recommendation within ninety days, then it is assumed that the MPC recommends that the existing PUD and base zoning be left "as is" without any changes.

### 7. What happens at Metro Council?

From the day the Metro Council receives the MPC's recommendation, the Council has six months to take final action on the PUD or phase of PUD. The Metro Council may take one of four actions:

- a) Re-approve the existing PUD or phase of PUD and place the appropriate zoning on the land to implement the existing PUD, if the appropriate base zoning is not already in effect,
- b) Amend the PUD or phase of PUD, including changes to the base zoning if required to implement the amended PUD,
- c) Cancel the PUD or phase of PUD, and make any changes necessary to the underlying base zoning district, or
- d) Take no action, in which case the property may be developed following the master plan last approved by the Metro Council (the PUD) until such time that the Council takes action to change the zoning of the property.



## Metro Planning Commission Meeting of 4/28/05

### ORDINANCE NO. BL2005-629

**An ordinance amending Title 17 of the Metropolitan Code, zoning regulations, by amending Section 17.40.120 to require that all planned unit developments inactive for more than six years be submitted to the Metro Council for approval prior to the issuance of any building or grading permit (Proposal No. 2004Z-011T).**

WHEREAS, there are a number of planned unit developments (PUDs) within Davidson County that have never been built according to the council-approved master development plan; and

WHEREAS, undeveloped or partially developed PUDs lead to inaccurate perceptions about the development future of sites that appear vacant and in a natural state; and

WHEREAS, unbuilt and obsolete PUD master plans are unreliable predictors of improvements needed in public services and infrastructure.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the codification of Title 17 of the Code of The Metropolitan Government of Nashville and Davidson County, Zoning Regulations, be and the same is hereby amended by amending Section 17.40.120 as follows:

1. By adding the following new subsection H.:

"H. Inactive Planned Unit Developments.

1. A planned unit development overlay district is not intended for speculative development projects, but represents the applicant's firm intention to develop according to a master development plan in a single development operation, or in a phased series of development operations according to a development schedule submitted in accordance with Section 17.36.040.C.5.

2. Any planned unit development, or any phase of a planned unit development, approved by the metropolitan council shall be classified inactive if:

a. Six years following the date of the enacting ordinance or Council action per section 6 below, there is no valid building permit in effect and substantial construction has not begun; for the purposes of this subsection H, substantial construction shall not include site grading; or

b. Less than 60% of the non-residential floor area allowed by the planned unit development has been constructed, and six years have expired since the most recent newly constructed non-residential building received a final certificate of use and occupancy; there is no valid building



## Metro Planning Commission Meeting of 4/28/05

permit in effect, and substantial construction to resume building activity has not begun; substantial construction shall not include site grading; or

c. Fewer than 75% of the residential units allowed by the planned unit development have been constructed, and six years have expired since the most recent newly constructed residential building received a final certificate of use and occupancy; there is no valid building permit in effect, and substantial construction to resume building activity has not begun; substantial construction shall not include site grading.

Exception for planned unit developments with phasing schedules exceeding six years: If the developer provides evidence, and the Executive Director makes findings, that a multi-phase planned unit development has adhered to the approved development schedule required by Section 17.36.040.C.5, and that construction of buildings and uses has been uninterrupted, then the failure to meet the construction targets of subsection 2., a. through c. on one or more individual phases shall not cause said phases to be classified inactive. For purposes of this section, construction is uninterrupted when there is no interval of 12 or more months when a final certificate of use and occupancy has not been issued for a newly constructed building somewhere in the planned unit development, without regard to phase lines.

3. No grading permit nor any building permit for new building construction shall be issued for an inactive planned unit development, or for any inactive phase(s) of a planned unit development, until the planned unit development is reviewed by the planning commission and the metropolitan council takes final action as outlined in subsection 6.

4. Review of an inactive planned unit development, or any inactive phase(s) of a planned unit development, may be initiated by the planning commission in one of the following ways:

a. By the planning commission, on its own initiative;

b. Upon referral to the planning commission by a member of the metropolitan council;

c. Upon referral to the planning commission by any department of metropolitan government that issues building or development permits;

d. Upon request of the property owner(s) or agent.

5. Within ninety days from the initiation of the review, the planning commission shall provide recommended legislation to the metropolitan council which reflects its findings on issues a., b., and c., below. Failure of the planning commission to provide the metropolitan council with a recommendation within ninety days from the initiation of the review shall be considered a recommendation to approve by ordinance the retention of the existing planned unit development overlay and base zoning district(s) without alteration.

a. Whether, in the planning commission's opinion, the planned unit development or the phase(s) under review has become inactive, according to the application of criteria set out in 170.40.120 H.2; and





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b. The appropriateness of the continued implementation of the planned unit development or phase(s) as adopted, based on current conditions and circumstances, including the appropriate base zoning district necessary to implement the planned unit development as it exists; and

c. Any recommendation to amend the planned unit development overlay district or individual phase(s) to properly reflect existing conditions and circumstances, and the appropriate base zoning classification(s) should the planned unit development overlay district be removed, in whole or in part, from the area of the inactive planned unit development district or the area of any inactive phase(s).

6. Within six months of the planning commission's deadline for submitting a recommendation regarding the continued appropriateness of the PUD, the council shall take final action to re-approve the existing PUD master plan, amend the PUD master plan, or cancel the PUD overlay district, including any change(s) to the underlying base zoning district. Otherwise the property may be developed in accordance with the master development plan last approved by the metropolitan council until such time as the council takes action to alter the zoning of the property.

7. The procedures of Article III of this chapter and the rules and procedures of the metropolitan planning commission shall apply to deliberations and decisions on inactive planned unit developments."

Section 2. That this Ordinance shall take effect five (5) days from and after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.



<b>Project No.</b>	<b>Zone Change 2005Z-024U-10</b>
<b>Associated Case</b>	None
<b>Council Bill</b>	BL2005-615
<b>Council District</b>	25 – Shulman
<b>School District</b>	9 – Norris
<b>Requested by</b>	Metro Historical Commission, applicant
<b>Staff Reviewer</b>	Swaggart
<b>Staff Recommendation</b>	<i>Approve</i>

**APPLICANT REQUEST**

**To apply the Neighborhood Conservation Overlay District to an area between West End Avenue and Richardson Ave in the Elmington Place area.**

**Existing Zoning**  
R8

R8 requires a minimum 8,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 5.41 dwelling units per acre including 25% duplex lots.

RM40

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.

**SUBAREA 10 PLAN POLICY**

Residential Medium Policy (RM)

RM policy is intended to conserve residential development, as well as, provide opportunities for new residential development with a density of four to nine dwelling units per acre.

**Policy Conflict**

None. The Neighborhood Conservation Overlay District is not in conflict with the RM policy for this area. The plan notes the variety of historical homes and districts within the subarea, and states that “preserving the city’s heritage through their uniqueness is a critical component in meeting the subareas housing needs” (p. 21). Also, this area was specifically identified as “Worthy of Conservation” during the planning process (Historic Resources, Fig. 8, p. 17 & A7).

**RECENT REZONINGS**

None.

**TRAFFIC**

No Exception Taken



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

**Zone Change 2005Z-025U-12**  
None  
BL2005-607  
26 – Adkins & 27- Foster  
2 – Blue  
Councilmember Greg Adkins

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

Harris  
*Approve*

**APPLICANT REQUEST**

**Rezone 1359.61 acres from R10, R15, R20, and R40 to RS10, RS15, RS20, and RS40 districts in the Crieve Hall area.**

**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.

R15 district

R15 requires a minimum 15,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 3.09 dwelling units per acre including 25% duplex lots.

R20 district

R20 requires a minimum 20,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 2.31 dwelling units per acre including 25% duplex lots.

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**  
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.

RS15 district

RS15 requires a minimum 15,000 square foot lot and is intended for single-family dwellings at a density of 2.47 dwelling units per acre.

RS20 district

RS20 requires a minimum 20,000 square foot lot and is intended for single-family dwellings at a density of 1.85 dwelling units per acre.



## Metro Planning Commission Meeting of 4/28/05

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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### SOUTHEAST COMMUNITY PLAN POLICY

Residential Low Policy (RL)

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

Residential Low Medium Policy (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.

Residential Medium Policy (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.

Open Space Policy (OS)

OS policy is intended to encompass public, private not-for-profit, and membership-based open space and recreational activities. The OS designation indicates that recreational activity has been secured for an open space use.

### Policy Conflict

No. The proposed RS10, RS15, RS20, and RS40 districts are consistent with the Southeast Community Plan's RL, RLM, RM, and OS policies intending for residential development ranging from one to nine units/homes per acre, with the exception of the OS policy. The OS policy is intended for public benefit uses and are generally applied to existing public benefit uses such as the Ellington Agricultural Center along Edmondson Pike. This rezoning does not significantly alter the intensity of overall land uses within the area.

Out of the 1,583 properties, there are 38 vacant or other type of land use lots, 1,505 single-family lots, and 41 two-family dwellings.



## Metro Planning Commission Meeting of 4/28/05

The 41 two-family dwellings in this area will be considered nonconforming and will be allowed to remain. The Zoning Code states “a structure containing a two-family *nonconforming* use within an RS district may be restored within one year regardless of percentage of damage or destruction.”

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### RECENT REZONINGS

None.

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### TRAFFIC

No Exception Taken.

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### METRO SCHOOL BOARD REPORT

This rezoning is not expected to have a significant effect on student generation projections.



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

**Zone Change 2005Z-051T**  
None  
BL2005-629  
Countywide  
n/a  
Councilmember Amanda McClendon

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

Regen  
*Approve*

**APPLICANT REQUEST**

**Amend Zoning Code to add “Animal Hospital” as a “P” (permitted use) in the IWD and IR zoning districts.**

**ANALYSIS**

**Existing Law**

The Zoning Code currently does not have a land use that encompasses the diagnostic testing, treatment, and convalescence of animals.

**Proposed Text Change**

The proposed amendment would add a new land use to the Zoning Code called “Animal Hospital” (see below). Such a facility would be permitted by right (P) in the IWD and IR zoning districts.

*"Animal Hospital" means an enterprise for the care and treatment of the diseases and injuries of animals, and where animals may be boarded during their treatment and convalescence."*

**Analysis**

This text amendment was prompted by a private group of veterinarians seeking a location in middle Tennessee for an “Animal Hospital.” The breadth of care, diagnostic testing, diagnostic imaging, and diagnostic services provided at such a hospital is currently available in the State of Tennessee at the University of Tennessee (Knoxville), and outside of Tennessee, but within a day’s drive, at Auburn University in Alabama. Given the number of pet and animal owners within the middle Tennessee area, such a facility in Nashville is appropriate.

**Staff Recommendation**

Approve. This text amendment provides a much needed medical service in the Nashville community.



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

**Zone Change 2005Z-052U-12**  
None  
27 - Foster  
2 - Blue  
John M. Smith, owner/applicant.

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

Pereira  
*Approve with conditions, including that the applicant extend the existing cross access on parcel 229 across this property, as well as provide an ingress/egress easement to the rear of this property.*

---

**APPLICANT REQUEST**

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**Request to change 0.43 acres from R10 to OL district zoning at 5433 Edmondson Pike, approximately 850 feet south of Brentwood Place.**

**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. A maximum of 1 lot is allowed on this property under R10 zoning.

**Proposed Zoning**  
OL zoning:

Office Limited is intended for moderate intensity office uses.

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**CRIEVE HALL/TUSCULUM COMMUNITY PLAN POLICY**

Natural Conservation Policy (NCO)

NCO policy is intended for undeveloped areas with the presence of steep terrain, unstable soils, and floodway/floodplain. Low intensity community facility development and very low density residential development (not exceeding one dwelling unit per two acres) may be appropriate land uses.

Residential Medium Policy (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.



## Metro Planning Commission Meeting of 4/28/05

*Special Policy Area 8 of the Crieve Hall/Tusculum Plan*

This special policy applies to the area on the west side of Edmondson Pike, north of the branch library (parcel 029), and the area may be developed in accordance with Residential Medium Density policy, or alternatively with ON Office Neighborhood or OL Office Limited zoning. The special policy calls for coordinated parking, access and building locations that enhance the environmental qualities of the site.

### **Policy Conflict**

No. The proposed OL district is consistent with the OL policy as called for by Special Policy Area 8 of the Crieve Hall/Tusculum Plan, but not consistent with the Natural Conservation policy on this site just east of the stream.

*Site access and stream*

The applicant has indicated their intent to construct an office building on this property in conjunction with parcel 229 (already zoned OL), and has agreed to the consolidated joint cross access easement as mandated by Metro Public Works and the Planning Department. The Planning Department also requires that the applicant plat an ingress/egress easement for the existing building that is to remain at the rear of the property.

The site also has a stream that runs through the property, from the north to the south. The applicant has indicated the intent to grade in front of the stream, and upon development, a stream buffer shall be required by the Stormwater Department.

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### **RECENT REZONINGS**

Adjacent parcel 229 was approved by the Planning Commission for rezoning to OL on October 28, 2004, and was subsequently passed on third reading by the Metro Council on January 18, 2005.

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### **TRAFFIC PUBLIC WORKS' RECOMMENDATION**

1. A TIS may be required at development.
2. Reserve Right-of-way as per the Major Street Plan.
3. Allow cross access to parcel 229 and 028.





## Metro Planning Commission Meeting of 4/28/05

### Typical Uses in Existing Zoning District: R10

Land Use (ITE Code)	Acres	Units per acre	Total No. of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached (210)	0.43	3.7	2	28	11	4

### Typical Uses in Proposed Zoning District: OL

Land Use (ITE Code)	Acres	FAR	Total	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	0.43	0.201	3,765	107	14	83

### Maximum Uses in Proposed Zoning District: OL

Land Use (ITE Code)	Acres	FAR	Total	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Walk In Bank (911)	0.43	0.75	14,048	2199	57	466

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

Land Use (ITE Code)	Acres	--	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--				79	3	79



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

**Zone Change 2005Z-053U-08**  
BL2005-626  
19 - Wallace  
7 - Kindall  
Phillip Piercy, engineer/applicant for William Witt, owner

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

Pereira  
*Disapprove CS, but approve OR20*

**APPLICANT REQUEST**

**Request to change 0.08 acres from R6 to CS district zoning for a portion of property at 1800 Charlotte Avenue, on the northwest corner of Charlotte Avenue and Dr. DB Todd Jr. Boulevard.**

**Existing 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 7.72 dwelling units per acre including 25% duplex lots.

**Proposed Zoning**  
CS zoning:

Commercial Service is intended for a variety of commercial uses, including retail trade, consumer services, financial institutions, general and fast food restaurants, auto-repair, auto sales, self-storage, and light manufacturing and small warehouse uses.

**NORTH NASHVILLE  
COMMUNITY PLAN POLICY**

Neighborhood Urban Policy (NU)

NU is intended for fairly intense, expansive areas that are intended to contain a significant amount of residential development, but are planned to be mixed use in character. Predominant uses in these areas include a variety of housing, public benefit uses, commercial activities and mixed-use development.

*Watkins Park Detailed Neighborhood Design Plan Policy*  
Mixed Use in Neighborhood Urban (MxU in NU)

MxU in NU policy allows for many residential uses and envisions a compatible mixture of uses. It recognizes that the light mixed industrial areas, commercial uses and residential uses can coexist in the same neighborhood with appropriate design relationships.

**Policy Conflict**

The proposed CS is consistent with the Neighborhood Urban and MxU in NU policies only as it fulfills the



## Metro Planning Commission Meeting of 4/28/05

commercial intent of these policies. However, CS allows automobile repair and automobile service, vehicular sales, laundry plants, general retail, and fast food restaurant uses (among others), which are more intensive commercial uses and less appropriate for this parcel, given the existing land use pattern. A rezoning to CS would also extend CS down Dr. DB Todd Boulevard, which is beyond the limits of the Community Center policy threshold that exists along Charlotte Pike.

### Staff Recommendation

Given that the portion of the parcel proposed for rezoning is adjacent to existing OR20 zoning, OR20 would be a natural extension of this district, and would exclude the less intensive commercial uses as noted above. OR20 specifically allows medical office and parking uses, which the applicant has indicated is the development intent of the property.

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### RECENT REZONINGS

None.

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### TRAFFIC PUBLIC WORKS' RECOMMENDATION

1. A TIS may be required at development.
2. Reserve Right-of-way as per the major street plan.
3. Allow cross access to parcel 018 and 010.

#### Typical Uses in Existing Zoning District: R6

Land Use (ITE Code)	Acres	Density	Total No. of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached (210)	0.08	6.18	0	0	0	0

#### Typical Uses in Proposed Zoning District: CS

Land Use (ITE Code)	Acres	FAR	Total	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Shopping Center (820)	0.08	0.420	1,464	436	13	39

#### Maximum Uses in Proposed Zoning District: CS

Land Use (ITE Code)	Acres	FAR	Total	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Convenience Market (851)	0.08	0.6	2,091	1543	141	110

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

Land Use (ITE Code)	Acres	--	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--				436	13	39



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

**Zone Change 2005Z-056T**  
None  
BL2005-633  
Countywide  
n/a  
Councilmember J. B. Loring

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

Regen  
*Disapprove*

**APPLICANT REQUEST**

**Amend Zoning Code to increase the number of signs along interstates and controlled-access highways.**

**ANALYSIS**

**Existing Law**

The Zoning Code currently prohibits using a property's frontage, along a controlled-access highway such as Briley Parkway or an interstate, to be used in calculating sign area. Presently, only the lot/parcel's frontage along a street is used in such calculations. A lot's frontage is defined in the Zoning Code through its depiction in Section 17.040.060, Diagram 17.04E.

**Proposed Text Change**

The proposed amendment would permit either the lot frontage or the controlled-access highway frontage to be used in calculating sign area, whichever results in the largest sign area.

Amend Note 3 under Table 17.32.130D as follows:

Note 3: In addition to the number of ground signs permitted by Table 17.32.130D. [formerly 8. 13], properties directly abutting a controlled access highway may install an additional on-premise ground sign along the frontage of that highway at the rate of one sign per one thousand feet of highway frontage. Such signs shall be spaced a minimum of one thousand feet apart. ~~A sign oriented to a controlled access highway may be as large as the maximum size of a sign otherwise permitted by Table 17.32.130D.~~ **A sign oriented to a controlled access highway may be as large as the greater of (1) the maximum size of a sign otherwise permitted by Table 17.32.130D, or (2) the maximum size of a sign otherwise permitted by Table 17.32.130D as determined by substituting 'Controlled Access Highway Footage Frontage in Feet', in lieu of 'Lot Frontage in Feet'.** The maximum height of a highway oriented sign shall be fifty feet as measured from the average grade of the



## Metro Planning Commission Meeting of 4/28/05

### Analysis

sign foundation, or thirty feet above the finished elevation of the nearest travel lane of the highway, whichever is greater.

The Zoning Code purposefully does not permit counting controlled-access highway frontage in sign calculations. If this amendment were adopted, many businesses with frontage on a controlled-access highway may be encouraged to install such signs. Those with smaller signs may be encouraged to install new and larger signs. There are 267 miles of interstate and controlled-access highways in Davidson County with 13,000 properties having frontage on them. This text amendment would likely increase the size and number of signs in Davidson County.

### Staff Recommendation

Disapprove. This proposed text amendment will lead to a greater number as well as larger signs along interstates and limited-access highways in Davidson County. Where vehicles are driving at high-speeds, drivers should not be distracted by increased unusual larger clutter from and more frequent signs.



# Single-Family Non-Conforming Ordinance

(2005Z-057T; BL2005-631)

## FACT SHEET

- 1) **What are the benefits of the bill?**
  - a. Provides property owners the ability to sell or refinance their property. Currently, owners or prospective buyers cannot get a mortgage because the Zoning Code does not permit the home to be rebuilt in the event it is involuntarily destroyed or damaged.
  - b. Provides more affordable housing options for buyers.
- 2) **How many single-family uses are located in non-residential zoning districts within Davidson County?**  
1,003 properties
- 3) **What zoning districts are these single-family uses located?**  
CN, CL, CS, CF, SCC, IWD, IR, and IG
- 4) **What zoning districts have the most non-conforming, single-family residential uses?**

Zoning District	# of Non-Conforming Single-Family Uses
CS	476
IWD	257
CL	97
IR	76
CN	40
CF	23
OL	20
OG	12
IG	1
SCC	1
<b>TOTAL</b>	<b>1,003</b>

- 5) **Where are the properties located within the urban services district (USD) and general services district (GSD)?**  
The great majority of these properties lie within USD (78%) with 22% in the USD.
- 6) **What council districts have the most non-conforming, single-family properties? What percentage of the total number of non-conforming, single-family residential properties do they represent?**  
The five council districts listed in the table below contain 46% of all the properties within the county.

### TOP FIVE COUNCIL DISTRICTS

Council District	Councilmember	# of Non-Conforming Single-Family Uses
17	Greer	168



## Metro Planning Commission Meeting of 4/28/05

2	Isabel	86
5	Murray	78
19	Wallace	69
11	Brown	59
	<b>TOTAL</b>	<b>460</b>

- 6) **By council district, how many non-conforming, single-family uses are there?**  
See table below.

Council District	Councilmember	# of Non-Conforming Single-Family Uses
17	Greer	168
2	Isabel	86
5	Murray	78
19	Wallace	69
11	Brown	59
28	Alexander	58
20	Walls	55
8	Hart	42
9	Forkum	39
10	Ryman	39
24	Summers	36
15	Loring	32
21	Whitmore	32
16	McClendon	30
3	Craddock	27
35	Tygard	24
4	Baldwin-Tucker	22
6	Jameson	20
1	Gilmore	18
32	Toler	14
29	Wilhoite	12
33	Bradley	8
7	Cole	6
14	White	6
23	Whitson	6
13	Burch	4
27	Foster	4
31	Coleman	3
22	Crafton	2
30	Kerstetter	2
12	Gotto	1
26	Adkins	1
18	Hausser	0
25	Shulman	0
34	Williams	0
	<b>TOTAL</b>	<b>1,003</b>



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

**Zone Change 2005Z-057T**  
None.  
BL2005-631  
Countywide  
n/a  
Councilmember Ronnie Greer and  
Councilmember Ludy Wallace

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

Regen  
*Approve*

**APPLICANT REQUEST**

**Amend Zoning Code to permit non-conforming single-family dwellings located in non-residential zoning districts to be rebuilt, within one year from the date of destruction, if involuntarily damaged or destroyed.**

**ANALYSIS**

**Existing Law**

The Zoning Code currently does not permit a non-conforming single-family dwelling in the OL, OG, CN, CL, CS, CF, IWD, and IR districts to be rebuilt if damaged or destroyed by fire – regardless of cause.

**Proposed Text Change**

The proposed amendment would permit non-conforming single-family dwellings to be rebuilt, within one year from the date of destruction, if involuntarily damaged or destroyed.

The bill amends Section 17.40.650.E (Damage or Destruction of a Structure Containing a Non-Conforming Use), by adding the following as E.3:

- 3. In any non-residential district, any single-family dwelling that is damaged or destroyed involuntarily may be restored within one year of the date of damage, regardless of the percentage of damage or destruction. The setbacks of the original dwelling shall apply to any reconstructed residential dwelling.**

**Analysis**

Increasingly, planning and codes staff have received phone calls from property owners, banks, or mortgage companies requesting “Official Zoning Letters” indicating a property is properly zoned to permit residential use. Providing such letters is not possible





## Metro Planning Commission Meeting of 4/28/05

when the Zoning Code prohibits such uses. In the case of single-family dwellings located in non-residential zoning districts, there is no provision under local or state law for such homes to be rebuilt in the event of a fire, tornado, ice-storm, etc. Hence, banks and mortgage companies will not lend money to purchase these homes or refinance them. Unlike the protection afforded duplexes under state law, where they are considered “commercial” property for purposes of their non-conforming status, and hence can be rebuilt, single-family dwellings have no such protection.

There are 1,003 non-conforming single-family dwellings within Davidson County. That is, the zoning today permits commercial, retail, office, and/or industrial uses – but not residential. These 1,003 single-family dwellings have been continuously used as residences since they were constructed. Within the county, 73% of these homes lie within the CS district (476 homes) and IWD district (257 homes). Nearly 78% of the homes are located in the USD, and 46% of them (490 homes) are located in five council districts (Greer, Isabel, Murray, Wallace, and Brown). See attached fact sheet for further information.

### Staff Recommendation

Approve. Provides property owners the ability to sell or refinance their property. Currently, owners or prospective buyers cannot get a mortgage because the Zoning Code does not permit the home to be rebuilt in the event it is involuntarily destroyed or damaged. The amendment also provides more affordable housing options for buyers.



# Single-Family Non-Conforming Ordinance

(2005Z-057T; BL2005-631)

## FACT SHEET

- 1) **What are the benefits of the bill?**
  - a. Provides property owners the ability to sell or refinance their property. Currently, owners or prospective buyers cannot get a mortgage because the Zoning Code does not permit the home to be rebuilt in the event it is involuntarily destroyed or damaged.
  - b. Provides more affordable housing options for buyers.
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- 5) **Where are the properties located within the urban services district (USD) and general services district (GSD)?**  
The great majority of these properties lie within USD (78%) with 22% in the USD.
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## Metro Planning Commission Meeting of 4/28/05

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11	Brown	59
	<b>TOTAL</b>	<b>460</b>

- 6) **By council district, how many non-conforming, single-family uses are there?**  
See table below.

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8	Hart	42
9	Forkum	39
10	Ryman	39
24	Summers	36
15	Loring	32
21	Whitmore	32
16	McClendon	30
3	Craddock	27
35	Tygard	24
4	Baldwin-Tucker	22
6	Jameson	20
1	Gilmore	18
32	Toler	14
29	Wilhoite	12
33	Bradley	8
7	Cole	6
14	White	6
23	Whitson	6
13	Burch	4
27	Foster	4
31	Coleman	3
22	Crafton	2
30	Kerstetter	2
12	Gotto	1
26	Adkins	1
18	Hausser	0
25	Shulman	0
34	Williams	0
	<b>TOTAL</b>	<b>1,003</b>



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

**Zone Change 2005Z-067U-10**  
None  
24 - Summers  
8 - Harkey  
Tony Giarratana of BMT Holdings, LLC, applicant for Ridgefield Properties, owner

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

Pereira  
*Approve with conditions, including a condition that prior to or in conjunction with the approval of this zone change on third reading at Council, the associated Harding-White Bridge Town Center Urban Design Overlay (the "Harding Town Center UDO"), or another design overlay containing the requirements of that UDO, is approved. If such an overlay is not adopted, then the recommendation is to disapprove.*

**APPLICANT REQUEST**

**Request to change 3.95 acres from CS, OR20, and RM40 zoning to MUL district properties at 4301 Harding Pike and 4313 Harding Pike.**

**Existing Zoning**  
CS zoning:

Commercial Service is intended for a variety of commercial uses, including retail trade, consumer services, financial institutions, general and fast food restaurants, auto-repair, auto sales, self-storage, and light manufacturing and small warehouse uses.

OR20 zoning:

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

RM40 zoning:

RM40 is intended for single-family, duplex, and multi-family dwellings at a density of 40 dwelling units per acre.

**Proposed Zoning**  
MUL zoning:

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

**GREEN HILLS/MIDTOWN  
COMMUNITY PLAN POLICY**

Mixed Use Policy (MU)

MU is intended for buildings that are mixed horizontally and vertically. The latter is preferable in creating a more pedestrian-oriented streetscape. This



## Metro Planning Commission Meeting of 4/28/05

*Mixed Use Area 8E in Green Hills/  
Midtown Community Plan*

### **Policy Conflict**

category allows residential as well as commercial uses. Vertically mixed-use buildings are encouraged to have shopping activities at street level and/or residential above.

This subsection of the Green Hills/Midtown Plan calls for a balance of residential, retail, and office uses.

No. The proposed MUL zoning is consistent with the Mixed Use policy intended for this site.

### **Staff Recommendation**

This rezoning to MUL shall comply with the design provisions and conditions included in the Harding-White Bridge Town Center Urban Design Overlay (2005UD-001U-10) that was approved by the Planning Commission on February 10, 2005. The UDO provisions applicable to this property must be adopted by Council prior to or in conjunction with this proposed MUL zoning. If the UDO is not adopted, then a PUD or other design overlay must be adopted along with the proposed MUL zoning.

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### **RECENT REZONINGS**

None.

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### **TRAFFIC PUBLIC WORKS' RECOMMENDATION**

1. Development shall incorporate the roadway improvements identified in the Harding Town Center transportation plan or conduct a TIS prior to rezoning.



# Metro Planning Commission Meeting of 4/28/05

## Typical Uses in Existing Zoning District: CS, OR20 and RM40

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	3.95	0.899	154,684	1864	265	253

## Typical Uses in Proposed Zoning District: MUL

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Shopping Center (820)	3.95	0.616	105,990	7045	163	652

## Maximum Uses in Proposed Zoning District: MUL

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Shopping Center (820)	2.95	1.0	128,502	8,023	182	735

## Maximum Uses in Proposed Zoning District: MUL

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Gas Station With Conv. Market (853)	1.0	0.2*	8,712	7367	397	528

\*Adjusted as per use

## Change in Traffic Between Typical Uses in Existing and Proposed Zoning District

Land Use (ITE Code)	Acres	--		Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--				5181	-102	399

## METRO SCHOOL BOARD REPORT

**Projected student generation \***

**2 Elementary    2 Middle    2 High**

**Schools Over/Under Capacity**

Students would attend Eakin Elementary School, West End Middle School, and Hillsboro High School. All three have been identified as having capacity by the Metro School Board. This information is based upon data from the school board last updated February 3rd, 2005.

\*The student generation figures were generated assuming a 1,500 square foot residential unit and the maximum FAR allowed by MUL.



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

**Subdivision 2005S-095G-12**  
**Mt. Pisgah Hills Subdivision**  
31 – Toler  
2 - Blue  
Genady Prutianov & Kanneth Chumbley et al, owners,  
Walter H. Davidson, surveyor.

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

Harris  
*Disapprove*

**APPLICANT REQUEST**  
**Preliminary Plat**

**This request is to create 5 single-family lots on 2.06 acres at the northern terminus of Bryce Road and on the north side of Mt. Pisgah Road.**

**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.

**SUBDIVISION DETAILS**

Five single-family lots are proposed along Mt. Pisgah Road with no future connection to the north and west of the property. The Commission recommended approval of a zone change from AR2a to RS10 in October 2004, with a condition that prior to the approval of a preliminary or final plat, coordinated access may be required to be provided to various properties in the area. This condition was made a part of the council bill and approved in January 2005 by Metro Council.

Coordinated access has not been provided with this plat. Each lot is proposed with separate access and a stub street connection has not been provided to the north and west of the property. The driveways of each lot may cause sight distance problems since it is within the curve of Mt. Pisgah Road. A joint access easement to the rear of the proposed lots may be more appropriate to address connectivity and sight distance issues along Mt. Pisgah Road.

*Sidewalks*

A sidewalk variance has been requested, but is not necessary since the property is located outside of the Urban Services District and is in an area where the Sidewalk Priority Index is less than 20.

**PUBLIC WORKS**  
**RECOMMENDATION**

Approvals are subject to Public Works' review and approval of construction plans.



**Project No.**  
**Project Name**  
**Associated Cases**  
**Council District**  
**School Board District**  
**Requested By**  
**Deferral**

**Subdivision 2005S-026U-05**  
**Burkett Subdivision**  
None  
7 – Cole  
5 - Hunt  
Todd Burkett, owner, Tommy Smith, surveyor  
This item was deferred from the March 10, 2005, Commission meeting.

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

Harris  
*Approve, including variance for lot size, but disapprove sidewalk variance.*

---

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

**This request is to create 2 lots on 2.31 acres along the north side of Kenmore Place at the terminus of Oxford Street.**

**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.

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**SUBDIVISION DETAILS**

*Lot Comparability*

Section 2-4.7 of the Subdivision Regulations state that new lots in areas that are predominantly developed are to be generally in keeping with the lot frontage and lot size of the existing surrounding lots.

A lot comparability test was conducted and both lots pass for lot area and frontage.

*Lot Size Variance*

Section 2-4.2 (D) of the Subdivision Regulations states that the proposed lot area is not to exceed three times the minimum lot size required by the Zoning Ordinance for the zone district where the proposed subdivision is located.

The zoning district in this area is RS7.5, which requires a minimum lot size of 7,500 square feet and the under the Regulations allows a maximum of 22,500 square feet. The plan proposes a 87,873 square foot lot for Lot 2, which exceeds the maximum lot size requirement under the Regulations.





## Metro Planning Commission Meeting of 4/28/05

### *Setback Variance*

Staff recommends approval of this variance. The existing parcel is 1.83 acres or 79,715 sq. ft., which already exceeds the maximum lot size requirement for RS7.5 zoning. This subdivision also creates a better situation since it would consolidate one parcel that has no street frontage into a lot with existing street frontage onto Kenmore Place.

The existing house is located on the proposed Lot 1 of the subdivision, but it does not meet the rear setback requirement of 20 feet. The Board of Zoning Appeals (BZA) approved a setback variance on April 21, 2005.

### *Sidewalk Variance*

The applicant has requested a variance for sidewalks on both Kirkland Avenue and Kenmore Place. Although sidewalks are shown on the plan, the applicant has confirmed that a sidewalk variance is being requested because of a guardrail that has been placed within the curve of Kenmore Place.

Staff recommends disapproval of the sidewalk variance. Sidewalks would only be required on Lot 2 because Lot 1 has an existing house on it and no new development rights are being created for that lot. The applicant has the option of constructing the sidewalks or making a financial contribution to the Metro Sidewalk Fund.

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### **PUBLIC WORKS**

**RECOMMENDATION**      No Exception Taken.



**Project No.**  
**Project Name**  
**Associated Cases**  
**Council District**  
**School Board District**  
**Requested By**

**Subdivision 2005S-048U-08**  
**Hallmark at Fisk Apartments Subdivision**  
None  
19 – Wallace  
7 - Kindall  
Ros Ashe, surveyor/applicant for Hallmark at Fisk Apartments, LP, owner.

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

Pereira  
*Defer to the May 12, 2005, Commission meeting as the plat has not received Stormwater technical review comments.*

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

**This request is to create 2 lots along the east margin of 17th Avenue North, approximately 240 feet south of Herman Street (3.44 acres).**

**ZONING**  
MUL District

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

**SUBDIVISION DETAILS**

This subdivision proposes to resubdivide three parcels into two lots (Lot 1 (2.89 acres) and lot 2 (0.89 acres)). Lot 1 has frontage on 17<sup>th</sup> Avenue North, while lot 2 does not have frontage on 17<sup>th</sup> Avenue North. The existing structure on lot 2 will remain.

*Sidewalks*

As this is in the Urban Services District and there is an existing sidewalk on a portion of the property frontage along 17<sup>th</sup> Avenue North, sidewalk extensions must be constructed to fill in the current gaps, as well as sidewalk repairs to bring the existing sidewalk up to the Metro standard. This has been indicated on the plat.

*Lot frontage requirement*

Subdivision Regulation 2-4.2 states that each lot should have lot frontage on a public street or private street (where permitted), and flag lots shall not be generally permitted.

The applicant has proposed the continuing use of an existing joint access easement (i.e. shared driveway) along the southern boundaries of lot 1 and 2. Public Works has required that this joint access drive be limited to the exclusive use by lot 2.



## Metro Planning Commission Meeting of 4/28/05

### *Lot frontage variance request*

The applicant has requested a variance from having public street frontage for one of the two lots created with this plat. While the proposed Lot 1 has street frontage on 17<sup>th</sup> Avenue North, the proposed Lot 2 does not.

Section 1-10 of the Subdivision Regulations addresses the conditions that must apply for the Planning Commission to grant a variance. If “the conditions upon which the request for a variance are based are unique to the property for which the variance is sought,” and they are “not applicable generally to other property,” a variance may be granted. This property is uniquely located between two railroad tracks (the Louisville and Nashville Railroad on the south and the Illinois Central Gulf Railroad on the north), and there is a proposed 25’ joint access easement parallel to the southern railroad for Lot 2. Section 2-4.2 of the Subdivision Regulations requires a 25-foot buffer along railroad tracks in residential districts. While this is a mixed use district and lot 1 is to be developed as multifamily housing, this 25-foot joint access drive can act as a buffer between Lot 1 on the north and the railroad on the south. In addition, the structure on lot 2 is to remain.

Another factor to consider in granting a variance is the hardship the owner will experience if not granted a variance. The applicant has indicated the developer’s intent to construct a 90-unit brick apartment complex for medium and low-income families on Lot 1. Without the variance that allows Lot 2 to not have lot frontage, the project would be limited to 48 units, a substantial reduction. In addition, this area is largely industrial and the developer intends to encourage area revitalization.

Based on these considerations, staff recommends approval of the requested variance for the street frontage requirements to allow Lot 2 to have no street frontage. This site has unique conditions not generally applicable to other properties, and therefore meets the technical requirements for a variance.

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### **PUBLIC WORKS’ RECOMMENDATIONS**

No Exceptions Taken.



## Metro Planning Commission Meeting of 4/28/05

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### **STORMWATER DEPARTMENT RECOMMENDATIONS**

Plat was deemed sufficient for technical review on 4/6/05. The Stormwater reviewer has indicated that comments will be forthcoming prior to the April 28, 2005, Commission meeting.

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### **CONDITIONS IF APPROVED:**

1. Final plat must comply with all conditions of the Stormwater Department.



**Project No.**  
**Project Name**  
**Associated Cases**  
**Council District**  
**School Board District**  
**Requested By**

**Subdivision 2005S-096U-10**  
**Lindawood Corner Subdivision**  
None  
34 – Williams  
8 - Harkey  
HR Properties, owner, Cherry Land Surveying, surveyor

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

Harris  
*Disapprove*

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

**This request is to create 2 single-family lots on 0.91 acres at the corner of Lindawood Drive and Castleman Drive.**

**ZONING**  
R20 District

R20 requires a minimum 20,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 2.31 dwelling units per acre including 25% duplex lots.

**SUBDIVISION DETAILS**

*Lot Comparability*

Section 2-4.7 of the Subdivision Regulations states that new lots in areas that are predominantly developed are to be generally in keeping with the lot frontage and lot size of the existing surrounding lots.

A lot comparability test was conducted and both lots fail for lot area and lot frontage. The required lot area was determined to be 31,155 sq. ft., while the required lot frontage is 126 feet. The lots are proposed for 20,128 and 20,044 sq. ft., while the lot frontage is proposed for 100 feet on lot 1B and 90 feet on 1A.

Staff recommends disapproval of a lot comparability waiver since the proposed lots are not consistent with the land use policy in the area. With respect to this area, the current Subarea 10 plan recommends that “the prevailing character and densities of these areas be conserved. Any resubdivisions should result in densities close to what exist in the surrounding area” (p.50). The subarea plan also calls for Residential Low policy, which is intended for residential development within a density range of one to two units/homes per acre.



## Metro Planning Commission Meeting of 4/28/05

### *Sidewalks*

Sidewalks are required since the property is located within the Urban Services District, however, they are not shown on the plat. If the subdivision is approved, the applicant can either construct the sidewalks or make a financial contribution in lieu of constructing the sidewalks to Metro Government. The plat must be revised either to show the sidewalk, or a note must be added to indicate that the required fee has been paid.

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### **PUBLIC WORKS RECOMMENDATION**

No Exception Taken.



**Project No.**  
**Project Name**  
**Council Bill**  
**Council District**  
**School District**  
**Associated Case**  
**Requested By**

**Planned Unit Development 122-83-U-12**  
**The Woodlands PUD**  
None  
31 – Toler  
2 - Blue  
None  
Civil Site Design, engineer, Prestige Homes, owner.

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

Harris  
*Disapprove or defer because of lack of approval from the Stormwater Division and concerns from Public Works and Planning Staff about excessively high retaining wall abutting public right-of-way.*

---

**APPLICANT REQUEST**  
**Final PUD**

**Request for final PUD approval for Phases IB, 2, and 3 to permit 112 single-family lots at the terminus of Woodlands Avenue.**

*Zoning (R15 district)*

R15 requires a minimum 15,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 3.09 dwelling units per acre including 25% duplex lots.

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**PLAN DETAILS**

*Site Design*

The plan proposes 112 single-family lots connecting to Woodlands Avenue. The plan is consistent with the preliminary plan that was conditionally approved by the Commission on December 9, 2004, with the condition stating that a buffer shall be shown on the final plan along Cedar Way Drive. The required landscape buffer is shown on the final plan.

Preliminary PUD plans are concept plans that do not typically provide grading details. The grading plans for this project, therefore, are being reviewed for the first time with this final PUD submittal. Several of the lots in this phase are labeled as critical lots due to steep slopes on the property. The applicant’s proposed grading of the property to attempt to manage the steep slopes and produce buildable lots has created highly undesirable cuts, fills and retaining walls. Two retaining walls greater than 20-feet tall are proposed. One of the excessively tall retaining walls is adjacent to the right-of-way for Cedarway Lane. A proposed lot



## Metro Planning Commission Meeting of 4/28/05

*Stormwater*

included 25% slopes that fall towards the top of the wall, leading to the 20-foot drop to the Cedarway Lane right-of-way. Both Planning Staff and Metro Public Works cannot recommend approval of these excessively tall retaining walls.

Patterson cemetery is also located on the southern boundary of the property. Access shall be provided to the cemetery according to State Law.

Metro Water Services (Stormwater Division) has the plan under technical review and has not given final approval.

---

### **TRAFFIC PUBLIC WORKS' RECOMMENDATION**

1. Due to the severity of grades, show soils overlay.
2. Public Works does not recommend approval of the use of a retaining wall with excessive height, greater than 20 feet in locations, adjacent to right of way, and greater than 20 feet at detention pond #1.
3. Identify road names.

---

### **STAFF RECOMMENDATION**

Staff recommends deferral to allow time for Metro Water Services (Stormwater Division) and Public Works comments to be addressed by the applicant. A geotechnical or structural engineer's report is recommended at a minimum if this application is approved by the Commission in order to address the retaining walls of excessive height. Metro Public Works and Stormwater's approval is needed prior to final PUD approval by the Commission. If these issues have not been resolved by the time of the meeting, staff recommends disapproval. Staff is especially concerned about the excessively high retaining walls.





**Project No.**  
**Project Name**  
**Council Bill**  
**Associated Case**  
**Council District**  
**School District**  
**Requested By**

**Planned Unit Development 310-84-G-03**  
**Hemphill Brothers Coach**  
None  
None  
3 - Tucker  
3 - Garrett  
Dale and Associates, applicant for Hemphill Brothers Coach, owner.

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

Fuller  
*Approve with conditions*

**APPLICANT REQUEST**  
**Cancel PUD**

**Request to cancel an existing Planned Unit Development, approximately 8.98 acres in size, located along the north side of Old Hickory Boulevard, just west of Interstate 24.**

**DETAILS OF REQUEST**

*History*

The approved preliminary PUD plan allowed for the construction of a 20,000-square foot custom coach (bus) sales and service facility. In 1994, the PUD was revised to construct such facility, but was only constructed on parcel 30. In May of 2004, the Planning Commission approved a request to cancel a 4 acre portion of the PUD (Parcel 028). This request will cancel the remainder of the PUD.

*Subarea 3 Plan Policy*

The subject site is located within Commercial Mixed Concentration (CMC) calling for major concentrations of mixed commercial development providing both consumer goods and services and employment. Unlike strictly retail concentrations, CMC areas may contain an equal or greater proportion of other commercial uses such as offices.

*Recommendation*

Because the current zoning of the property, Commercial Services (CS), is consistent with the CMC land use policy, staff recommends approval of the request to cancel the remaining portion of the existing Planned Unit Development.

**PUBLIC WORKS**  
**RECOMMENDATIONS:**

Public Works comments for a PUD cancellation are as follows:



## Metro Planning Commission Meeting of 4/28/05

1. Existing driveway for this PUD shall be a shared driveway with any new development. No additional driveway will be allowed.

2. An access study will be required at development of undeveloped parcel.

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### CONDITIONS

All conditions listed under "Public Works Recommendations" are recommended by staff as conditions of approval for cancellation of this PUD.



**Project No.**  
**Project Name**  
**Associated Cases**  
**Council District**  
**School District**  
**Requested By**

**Planned Unit Development 60-86-P-14**  
**North Lake Village**  
None  
12 – Gotto  
4 – Nevill  
Civil Site Design Group, applicant for Regency Centers, Corp., owners

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

Swaggart  
*Approve with conditions*

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

**Revise the preliminary master plan and final approval for a Planned Unit Development district (Northlake Village) to permit the construction of a 4,305 sq. ft. bank, to include 22 additional parking spaces, a 6,097 sq. ft. restaurant, and an additional 3,600 sq. ft. of retail space.**

**PLAN DETAILS**

Applicant proposes to construct a 4,305 square foot bank (Fifth Third), and demolish an existing structure, to be replaced with a 6,097 sq. ft. restaurant (Panera Bread), and 3,600 sq. ft. of retail space.

As proposed the bank will include 4 drive-through teller lanes, and 22 additional parking spaces. The proposed design incorporates 2 striped, raised crosswalks, which should enhance pedestrian movement between uses within the area of the proposal. The development was approved for 203,189 sq. ft. in 1991. The current proposal will bring the total area of the development to 168,883 sq. ft. While the current proposal increases the total retail area over 16,853 sq. ft., which was approved in 1999, it does not exceed the approved total area of 203,189 sq. ft.

**TRAFFIC**  
**PUBLIC WORKS**  
**RECOMMENDATION**

No Exceptions Taken

**STORMWATER**  
**RECOMMENDATION**

1. Provide easement and easement dedication for water quality unit.



## Metro Planning Commission Meeting of 4/28/05

2. Sign EPSC note.
3. BMP details to reference regulations as specified in Stormwater Management Manual 4.
4. Add note to grading or detail sheet: "As-builts are required for underground detention and water quality structures prior to issuance of the U&O permit. Certification must include, at a minimum, the following information:
  - a. Manufacture and model number of unit;
  - b. Sales receipt;
  - c. Attached shop drawings of installed unit;
  - d. Date of field inspection by Engineer (before backfilling structure);
  - e. Engineer stamp and date;
  - f. Remove 'or equal' from the stormceptor detail.
  - g. Calculations faxed on 3/23/05 must have professional stamp on the cover sheet.

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### CONDITIONS

1. 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 and the Traffic Engineering Section of the Metropolitan Department of Public Works.
2. This approval does not include any signs. Business accessory or development signs in commercial or industrial planned unit developments must be approved by the Metropolitan Department of Codes Administration except in specific instances when the Metropolitan Council directs the Metropolitan Planning Commission to approve such signs.
3. 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.
4. 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 copies of the corrected/revised plans have been submitted to and



## Metro Planning Commission Meeting of 4/28/05

approved by staff of the Metropolitan Planning Commission.

5. Authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four additional copies of the approved plans have been submitted to the Metropolitan Planning Commission.
6. 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 re-approval by the Planning Commission.



**Project No.**  
**Project Name**  
**Associated Cases**  
**Council District**  
**School District**  
**Requested By**

**Planned Unit Development 2004P-021U-12**  
**President’s Reserve at Brentwood**

31 – Toler  
2 – George Blue  
Hawkeye Contractors, LLC

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

Swaggart  
*Defer due to lack of approval from Stormwater Division.*

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

**A request to revise the preliminary and for final approval for a portion of a planned unit development district to permit the construction of 12,960 square feet of office space, and 16 residential units, including 88 parking spaces, and a variance from the required landscape buffer yard.**

**PLAN DETAILS**

Applicant proposes to construct 12,960 square feet of office space, which will be distributed among two separate structures, and 16 residential units. Residential units will be distributed amongst four separate structures. Two of the residential structures will consist of five, three-bedroom units, while the remaining two residential structures will consist of three single bedroom units each. The plan incorporates 88 parking spaces.

The Preliminary PUD plan was approved for 12,015 square feet of office space and 16 residential units. Because the final plan calls for 12,960 square feet of office space, a revision to the preliminary is required. Also, due to Stormwater issues and Fire Department concerns, the layout of the final is slightly different than the approved preliminary plan, but the changes do not conflict with the general development concept of the approved preliminary PUD.

Access

The proposed development is not connected by a through street, but is divided into two individual sections. The southwestern section is accessed from Cloverland Road, and the northeastern section is accessed from two points along Old Hickory Boulevard. All driveways within the development will be private.



## Metro Planning Commission Meeting of 4/28/05

Future Phase

A portion of area along the southeastern corner of the PUD is proposed for future development. It will be accessed from the private drive off of Old Hickory Boulevard. Because the present proposal includes all of the units allowed by the preliminary plan, the future phase will, most likely, require an amendment to the preliminary, which will require Council approval.

### Variance Request

Buffer Yard

The applicant is requesting a variance from a C-3, 20' buffer yard that is required along the northwestern boundary between this PUD classified with a MUL zoning and the adjacent R4 zoning district. The applicant proposes to use a B-3, 10' buffer yard.

The applicant's written justification for the request is that buffer requirements for a stream which bisects the property limit development on the site. Further, the applicant states that "the stream is much further west than Metro topo maps originally revealed", which required a different layout than what was on the approved preliminary. Because of the stream's actual location, the applicant states that the approved development can not be accomplished because it "won't fit".

Section 17.36.060.G.3 of the Zoning Code stipulates that amongst other criteria for development standards, PUDs must meet the landscape buffer yard standards of Chapter 17.24.

Section 17.24 establishes buffer yards standards designed to diminish the impact of varying uses and designs between adjacent properties and zoning districts.

The PUD is classified with a MUL zoning. The adjacent property to the north is classified as R40. Table 17.24.230 stipulates that a "C" class buffer is required, and the Preliminary PUD was approved with a C-3, 20' buffer yard.

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**TRAFFIC  
PUBLIC WORKS'  
RECOMMENDATION**

No Exceptions Taken



## Metro Planning Commission Meeting of 4/28/05

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### STORMWATER RECOMMENDATION

Passed sufficiency review, and requires technical review.

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### RECOMMENDATION

Defer until Stormwater staff has completed technical review.

If Stormwater has reviewed and approved the application prior to the Commission meeting, then staff recommends approval, subject to the conditions below. Staff recommends disapproval of the requested variance from the landscape buffer requirements because no hardship has been demonstrated. While the required landscape buffer may limit development, it is not prevented from being constructed by conditions unique to the property, nor does it limit development to a point where a true hardship exists.

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### CONDITIONS

1. This approval does not include any signs. Business accessory or development signs in commercial or industrial planned unit developments must be approved by the Metropolitan Department of Codes Administration except in specific instances when the Metropolitan Council directs the Metropolitan Planning Commission to approve such signs.
2. 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. If any cul-de-sac is required to be larger than the dimensions specified by the Metropolitan Subdivision Regulations, such cul-de-sac must include a landscaped median in the middle of the turn-around, including trees.





**Project No.**

**Revised Planning Commission Rules**

**Staff Reviewer**

Kleinfelter

**Staff Recommendation**

*Approve revised rules.*

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**PROPOSAL**

**Adopt revised Rules and Procedures of the Metropolitan Planning Commission**

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**ANALYSIS**

**Authority**

Both the Metro Charter and Tennessee state law authorize the Commission to adopt rules to deal with procedural issues. These rules are separate from the Commission’s substantive regulations and do not set any standards for the review of applications considered by the Commission.

**Proposed Rules**

Staff has discussed the proposed revised rules with the Commission at two separate work sessions and at the April 14, 2005, regular Planning Commission meeting. The latest draft of the revised rules was distributed to the Commission at the April 14 Commission meeting. A copy of the proposed revised rules is enclosed with this staff report.

**Remaining Issues**

There are three issues the Commission needs to consider before adopting the proposed rules.

1. Conflicts of Interest -- The proposed rules include new language under Section IV. ETHICAL STANDARDS to clarify the requirements for conflicts of interest.
  - B. **Conflict of Interest** Any member who has a direct or indirect interest in any property that is the subject matter of a decision of the Commission is disqualified from participating in the discussion, decision, and/or proceedings of the Commission in connection with that property. The Commission member shall disclose the interest prior to any hearing on the matter.

Staff has been asked to clarify what type of “interest” would cause a conflict to arise. In order to make this provision more clear, staff has added the word “financial” to the proposed rule. Conflicts of interest, therefore, arise when a member of the Commission “has a direct or indirect **financial** interest in any property that is the subject matter of a decision of the Commission . . . .”

2. Provision of Documents to Commissioners -- The proposed rules also include a provision that requires documents that are to be provided by applicants or the public to



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Commissioners to be received by the Planning Department at least four hours before the beginning of the Commission meeting.

**VI. G. DOCUMENTS FOR COMMISSIONERS.** All communication that is delivered to the Planning Department for delivery to the Metropolitan Planning Commission for consideration during any regularly scheduled or called meeting must be received by the secretary at least four hours before the beginning of the meeting. Copies of the correspondence will be made for each of the Planning Commission members to be reviewed at the appropriate time during the meeting. Persons addressing the Commission also may bring copies of documents and distribute them to Commissioners at the meeting. Two additional copies of the documents shall be provided to Commission staff for the minutes and the official file for the item under consideration. The Planning Commission will decide by consensus the appropriate use or disposition of the information provided.

The rules currently in effect require documents to be delivered to staff 24 hours prior to the meeting, but current practice is that staff attempts to copy and distribute any document delivered to staff up until minutes before the Commission meeting.

Some Commissioners have expressed concerns that receiving documents for the first time at a Commission meeting does not allow the individual Commissioners sufficient time to review the documents. During the Commission work sessions, however, staff and the Commission were unable to arrive at a solution to this problem. Staff recommends that the Commission adopt the rules with the proposed four-hour provision. If desired by the Commission, then staff can continue to explore other options that would allow the Commission to receive documents in advance of Commission meetings, but not limit the public's ability to provide documents to the Commission.

3. Public Hearing Signs – The proposed rules include a provision that provides a clear requirement that applicants post public hearing signs on their property. The new provision reads: “Signs shall be removed by the applicant within three days after the public hearing.” The question has been raised whether the rules also should include a provision to provide for enforcement of this requirement. Among the possibilities are requiring an applicant to provide funds to be held by staff until the applicant returns the signs to the Department.

Staff does not object to the principal of providing an enforcement mechanism for removal of public hearing signs. Because this provision has not been discussed by the full Commission, however, staff recommends that the Commission adopt the rules at this time without such a provision. If requested by the full Commission, staff will develop a proposal for enforcement of the requirement for removal of public hearing signs, which can be adopted by the Commission at a later date.