



**METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON COUNTY**

Planning Department
Lindsley Hall
730 Second Avenue South
Nashville, Tennessee 37201

**Minutes
Of the
Metropolitan Planning Commission**

July 14, 2005

4:00 PM

Howard School Auditorium, 700 Second Ave., South

PLANNING COMMISSION:

James Lawson, Chairman
Doug Small, Vice Chairman
Stewart Clifton
Tonya Jones
Victor Tyler
James McLean
Councilmember J.B. Loring

Staff Present:

Rick Bernhardt, Executive Director
Ann Hammond, Assistant Director
Margaret Holleman, Legal Counsel
David Kleinfelter, Planning Manager II
Trish Brooks, Administrative Assistant
Kathryn Fuller, Planner III
Adriane Harris, Planner II
Bob Leeman, Planner III
Luis Pereira, Planner I
Jason Swaggart, Planner I
Nekeya Young, Planning Tech I
Jennifer Carlat, Communications
Leslie Thompson, Planner I
Jennifer Regen, Development Relations Mgr.

Commissioners Absent:

Phil Ponder
Ann Nielson
Judy Cummings

I. CALL TO ORDER

The meeting was called to order at 4:02 p.m.

II. ADOPTION OF AGENDA

Mr. Small moved and Mr. McLean seconded the motion, which passed unanimously, to approve the agenda as presented. (6-0)

III. RECOGNITION OF COUNCILMEMBERS

Councilmember Coleman thanked the commission for their service to the community. He spoke in favor of Item #22 2005Z-073T. He stated that this amendment is necessary for enhancements throughout the City.

Councilmember Tygard stated he would reserve his comment on Items #1 and #2 (2004Z-116G-06, 2005P-017G-06) until after they have been presented to the Commission. He spoke in favor of Item #10 2005Z-101G-06. He

stated that he held a neighborhood meeting regarding this proposal and with the various deed restrictions and covenants that will be included as part of the council bill, many of the neighbors were in favor of the proposal.

Councilmember Williams spoke in favor of Item #21 2004Z-020T. She stated that many of the communities are looking for ways of insuring that new construction conforms with existing neighborhoods and incorporating this text amendment will accomplish this task. She did however, express an issue with Section 6A, Item #3 – Parking. She stated that the amendment asks that no parking be permitted between the street and the front of a two family structure. She stated that she will remove this statement from the amendment before it goes to Council due to the fact that her community is not in favor of this statement.

Ms. Jones questioned Councilmember Williams on the effectiveness of the amendment and whether the mass rezonings would be limited in the future.

Councilmember Williams stated that the amendment will slow down the mass rezonings and that it will satisfy many of the communities who are currently living in the R districts as it will manage much of the growth.

Mr. Clifton arrived at 4:08 p.m.

Councilmember McClendon spoke in favor of Item #20 2004P-029U-11. She indicated she was in favor of staff's recommendation, with exception to the issue of the billboard. She would like to allow its existence continue.

Councilmember Summers spoke in favor of staff's recommendation to disapprove Item #8 2005Z-098U-07. He stated that many of his constituents are opposed to this zone change request.

IV. PUBLIC HEARING: ITEMS REQUESTED TO BE DEFERRED OR WITHDRAWN

7. 2005Z-092G-14 Request to change from R10 to CS district property located at Tulip Grove Road (unnumbered) -- deferred to August 11, 2005 at the request of the applicant
9. 2005Z-100G-12 A request to change from AR2a to RS10 district property located at Pettus Road (unnumbered) approximately 475 feet south of Blairfield Drive – deferred indefinitely at the request of the applicant
11. 2005Z-103G-06 A request to change from AR2a to RS20 district property located at 8779 McCrory Lane – deferred to July 28, 2005 at the request of the applicant
12. 2005S-187G-04 Spring Branch Subdivision - Request for preliminary plan approval to create 24 clustered lots located at the northern terminus of Spring Branch Drive -- deferred indefinitely and the applicant has agreed that is item will not be placed back on an agenda until requested approvals have been received by the Planning Department
13. 2005S-188G-06 Woodland Forest, Section 4, Preliminary Plat - Request for preliminary plat approval to create 9 lots located at the eastern terminus of Forrest Valley Drive – deferred indefinitely at the request of the applicant
14. 98S-351 Jocelyn Hills, Sec. 1 – Request for final plat approval to create eight lots abutting the northwest margin of Clearbrook Drive – deferred to August 11, 2005 at the request of the applicant
16. 2005S-185U-05 Cumberland Meadows, Ph 1, Revision - Request for final plat approval with a variance request for sidewalk requirement along three lots located on the east margin of Eastland Avenue – deferred to July 28, 2005 at the request of the applicant
24. 2005M-109U-08 Request to abandon a portion of the right of way and easements on Alley #1609, from 24th Avenue North Northwest to the dead end – deferred to July 28, 2005 at the request of the applicant

Mr. Small moved and Mr. Tyler seconded the motion, which passed unanimously to approve the Deferred and Withdrawn items. **(7-0)**

V. PUBLIC HEARING: CONSENT AGENDA

ZONING MAP AMENDMENTS

- | | | | |
|----|---------------|---|--|
| 3. | 2005Z-033U-03 | Request to change from RS7.5 to RM9 district property located at East Nocturne Drive (unnumbered) | -Approve |
| 4. | 2005P-020U-03 | Request for preliminary approval of a residential Planned Unit Development to be located at East Nocturne Drive (unnumbered) on the south side of East Nocturne Drive Road, to permit the development of 14 townhomes | -Approve w/ conditions |
| 5. | 2005Z-061G-12 | Request to change from AR2A to RS10 district property located at 6503 Holt Road (5.8 acres) | -Approve |
| 6. | 2005P-022G-12 | Request for preliminary approval of a residential Planned Unit Development to be located at 6503 Holt Road, classified AR2A and proposed for RS10 (5.8 acres), to permit the development of 20 single-family lots | - Approve w/ conditions including a variance for street frontage |

FINAL PLATS

- | | | | |
|-----|---------------|--|-------------------------|
| 15. | 2005S-183G-04 | Rock of Ages Sub - A request for final plat approval to create two lots located on the west margin of East Campbell Road | - Approve w/ conditions |
|-----|---------------|--|-------------------------|

PLANNED UNIT DEVELOPMENTS

- | | | | |
|-----|-------------|--|--|
| 18. | 103-79-G-14 | Old Hickory Centre (Formerly Riverfront Shopping Center) - A request for final approval for a portion of a commercial Planned Unit Development district located along the south side of Robinson Road, to develop 24,341 square feet of retail in one building and 9,800 square feet of retail in a second attached building | -Approve w/ conditions including stormwater conditions |
| 19. | 154-79-U-07 | A request to revise a portion of the preliminary plan and for final approval for a portion of the Commercial Planned Unit Development district located along the north side of White Bridge Road, opposite Brookwood Terrace, classified SCC, (9.24 acres), to permit a 2,438 square foot expansion to the existing 123,4003 square foot retail building | Approve w/conditions technical review is completed |

TEXT AMENDMENTS

- | | | | |
|-----|------------|---|-----------|
| 22. | 2005Z-073T | A request to amend the Zoning Regulations to establish submittal requirements and review process for the Specific Plan district, a new zoning district | - Approve |
| 23. | 2005Z-107T | A council bill to amend Section 17.40.060 to prohibit the acceptance of a zoning application if the Metro Government has a lien on the property or if the property owner is delinquent in the payment of property taxes | - Approve |

OTHER BUSINESS

- | | |
|-----|--|
| 25. | Contract Renewal for Brenda Bernards - Approve |
| 26. | Approval of new applications and checklists for subdivisions and PUD's - Approve |
| 27. | Contract for the Ozone Action Program - Approve |

28. Amendment #1 for the Ozone Action Program Contract - Approve

Mr. Small moved and Mr. McLean seconded the motion, which passed unanimously to approve the Consent Agenda as presented. (7-0)

VI. PUBLIC HEARING: PREVIOUSLY DEFERRED ITEMS AND ITEMS ON PUBLIC HEARING ZONING MAP AMENDMENTS

1. **2004Z-116G-06**
Map 155, Parcels 208, 114, 116, 116.02
Map 156, Parcels 27, 27.01, 27.02
Subarea 6 (2003)
District 35 - Charlie Tygard

A request to change from RS40 to CL district properties located at 7751, 8042, 8050, and 8100 Highway 100, and 7821, 7749, and 7751 Old Harding Pike, (10.57 acres), requested by R. Chris Magill- Architects Incorporated, applicant, for William S. O'Neil, A.W. Duke, Harold E. Cunningham, Eva D. and Herman M. Allen, Raymond F. Pyburn, and E.C. Gossett, owners.

Staff Recommendation - *Defer until the associated PUD plan is either consistent with the Community Plan, or is consistent with the Final PUD plan for the adjacent development to the west, Harpeth Village (2005P-008G-06). If applicant does not wish to defer before either of the above conditions are met, then staff recommends disapproval.*

APPLICANT REQUEST - A request to change approximately 10.57 acres, located at 7751, 8042, 8050, and 8100 Highway 100, and 7821, 7749, and 7751 Old Harding Pike from RS40 to CL district.

Existing Zoning

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

Proposed Zoning

CL district - Commercial Limited is intended for a limited range of commercial uses primarily concerned with retail trade and consumer services, general and fast food restaurants, financial institutions, administrative and consulting offices.

BELLEVUECOMMUNITY PLAN POLICY

On December 9, 2004, the MPC approved a change in the land use policy from Residential Low-Medium Density (RLM) to Community Center (CC) for approximately 25 acres and Residential Medium density (RM) policy for approximately 10 acres for 21 properties between Old Harding Pike and Highway 100.

Community Center Policy CC policy is intended for dense, predominantly commercial areas at the edge of a neighborhood, which either sits at the intersection of two major thoroughfares or extends along a major thoroughfare. This area tends to mirror the commercial edge of another neighborhood forming and serving as a "town center" of activity for a group of neighborhoods. Appropriate uses within CC areas include single- and multi-family residential, offices, commercial retail and services, and public benefit uses. An accompanying Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in these policy areas, to assure appropriate design and that the type of development conforms with the intent of the policy.

CC areas can contain a wide range of uses and development intensities and a random development pattern is inappropriate in these areas. The specific arrangement and interrelationship of activities by type intended within CC areas overall should be carefully articulated in detailed design plans prepared for these areas. General design principles are as follows:

- Building setbacks are commonly shallow, or non-existent.

- Sidewalks are essential and should be wide in order to ease pedestrian traffic.
- Loading areas are usually “alley-loaded” buildings with off street parking located to the rear and side of buildings, and not in front.
- Many CC areas are similar to the concept of a “Main Street”, and benefit from being located along major transit and automobile routes.
- Civic activities are encouraged at prominent, highly visible locations.
- Development along the interface with adjoining Structure Plan areas should be designed to provide a smooth, and seamless transition from one area to the other.

Policy Conflict - Yes. As proposed, the associated PUD plan is typical of suburban type development, and does not incorporate any of the design standards associated with the CC policy. Although the proposed uses are consistent with uses that can be found within CC policy that will adequately serve the local area, the design utilizes buildings with deep setbacks, large-area front parking, and an inadequate pedestrian network, which is not in keeping with the “Main Street” concept.

An area in keeping with the “Main Street” concept can consist of number of different elements, but typically they are small geographical areas that easily allow for pedestrian movement between a variety of different uses that adequately serve the local community. These areas are often times the focal point of the community providing not only places of residence, daily commodities and services, but public meeting spaces.

TRAFFIC PUBLIC WORKS’ RECOMMENDATION - A Traffic Impact Study is required prior to rezoning and approval of the associated PUD. The revised TIS was submitted to Public Works on July 1, 2005, and has been reviewed. The conditions are listed in the associated PUD staff report.

Typical Uses in Existing Zoning District: RS40

Land Use (ITE Code)	Acres	Units Per Acre	Total Number of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family detached (210)	10.57	0.93	10	125	17	14

Typical Uses in Proposed Zoning District: CL

Land Use (ITE Code)	Acres	FAR	Total Square feet	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Shopping Center (820)	10.57	0.165	75,971	5554	133	524

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
--				5529	116	510

Maximum Uses in Existing Zoning District: RS40

Land Use (ITE Code)	Acres	Units Per Acre	Total Number of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-family detached (210)	10.57	0.93	10	125	17	14

Maximum Uses in Proposed Zoning District: CL

Land Use (ITE Code)	Acres	FAR	Total Square Feet	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Shopping Center (820)	10.57	0.60	276,257	13096	288	1225

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

Land Use (ITE Code)	Acres	--	Total Square Feet	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--				12971	271	1211

[Note: Items #1 and #2 were discussed by The Metropolitan Planning Commission together. See Item #2 for actions and resolutions.]

2. **2005P-017G-06**
 Shoppes On The Harpeth
 Map 155, Parcels 208, 116, 114, 116.02
 Map 156, Parcels 027, 27.02, 27.01
 Subarea 6 (2003)
 District 35 - Charlie Tygard

A request for preliminary approval for a planned unit development (10.57 Acres), located between Harding Pike and Highway 100 (7751, 8042, 8050, and 8100 Highway 100, and 7821, 7749, and 7751 Old Harding Pike) classified RS40, to permit a 3,000 sq. ft. bank, two restaurants totaling 9,300 sq. ft., 34,500 sq. ft. retail, and 12,000 sq. ft. of office space, requested by Chris Magill, applicant for William S. O'Neil, A.W. Duke, Harold E. Cunningham, Eva D. and Herman M. Allen, Raymond F. Pyburn, E.C. Gossett, property owners.

Staff Recommendation - *Defer until Final PUD plans have been submitted for the adjacent development (Harpeth Village), or disapprove because the proposed PUD is not consistent with the area's Community Center Policy.*

APPLICANT REQUEST - Preliminary PUD

A request for preliminary approval of a Planned Unit Development district located at 7751, 8042, 8050, and 8100 Highway 100, and 7821, 7749, and 7751 Old Harding Pike (10.57 Acres), to permit a 3,000 square feet of bank, 9,300 square feet of restaurant space, 12,000 square feet of office space, and 34,500 square feet of retail space.

PLAN DETAILS

This plan has been revised since it was originally submitted for review. The current plan consists of numerous changes. While the number, size, and location of the retail units remain the same, the revised plan proposes one bank instead of two, and two restaurants instead of three. The revised plan also includes an office building. Although the number of uses has decreased, the square footage of the plan has slightly increased to 58,800 square feet.

The proposal is within a Community Center policy area, and although it should adequately serve local consumer needs, its design and layout is not consistent with area policy guidelines. The design utilizes buildings with deep setbacks, large-area front parking, and an inadequate pedestrian network, which is not in keeping with the "Main Street" concept.

An area in keeping with the "Main Street" concept can consist of number of different elements, but typically they are small geographical areas that easily allow for pedestrian movement between a variety of different uses that adequately serve the local community. These areas are often times the focal point of the community providing not only places of residence, daily commodities and services, but public meeting spaces.

Access/Connections - Four point of access are proposed. Street connections are proposed along Old Harding Pike, and Highway 100. Driveway connections are proposed to the existing Walgreen's to the west, and the planned

Harpeth Village PUD to the east. The access point along Highway 100 has been relocated from its original location to align with another drive on the opposite side of the highway.

METRO STORMWATER - Approved Except as Noted

No water quantity area visible (however, site may not need detention). Wetland shown on arcview (however, existing contours do not indicate wetlands)

TRAFFIC PUBLIC WORKS' RECOMMENDATION - A Traffic Impact Study is required prior to rezoning and approval of the associated PUD. The revised TIS was submitted to Public Works on July 1, 2005, and the conditions are as follows:

1. The project roadway improvements shall be coordinated with roadway construction for the Temple Rd TDOT project and the Harpeth Village PUD development. Hwy 100 road improvements shall be approved by TDOT.
2. Developer shall construct a 3 lane cross section including center turn lane on Hwy 100. These improvements shall connect to the existing lanes at the Old Harding Pk intersection and proposed lanes for the TDOT/Temple Rd project and the Harpeth Village PUD.
3. Developer shall construct a 3 lane cross section on Old Harding Pk from Learning Lane to the proposed Harpeth Village PUD access road. The widening shall align with existing laneage at Learning Lane and the proposed road improvements at the Harpeth Village PUD.
4. In accordance with the TIS,
5. 2 . Developer shall dedicate required ROW for the road improvements and reserve additional ROW in accordance with the major street plan Classification S4 for Hwy 100 and U4 for Old Harding Pk.
6. Developer shall install a westbound left turn lane with a minimum 100 ft of storage on Old Harding Pk at access driveway.
7. Developer shall install an eastbound left turn lane with 100 ft of storage on Hwy 100 at access driveway.
8. Developer shall construct a westbound right turn lane with 100 ft of storage on HWY 100 at access driveway. The transition length shall be per AASHTO standards.
9. The transition on Hwy 100 at the adjacent Walgreens drive shall be modified to be in accordance with AASHTO standards.
10. The access driveway at Old Harding Pk. shall be constructed with 2 exit lanes and 1 entering lane. Adequate sight distance shall be provided and documented at development. The first internal drive intersection shall be a minimum of 50 ft from the Old Harding Rd reserved ROW.
11. Based on data included in the TIS,
12. The access driveway at Hwy100 shall be aligned opposite the Church driveway. The access driveway shall be constructed with 2 southbound exit lanes with 80ft of storage and 1 northbound entering lane. The first internal driveways shall be a minimum of 50ft from the reserved HWY 100 ROW. The internal driveways shall be designed to function as right in and right out drives via the use of a median.
13. Cross connection shall be constructed to the adjacent Walgreens and Harpeth Village PUD.
14. Developer shall submit a signal coordination study in order to optimize traffic flow on Old Harding Rd and Hwy 100. This study will be required upon installation of signals at the adjacent Harpeth Village PUD development and completion of 50% of the Shoppes on the Harpeth development.

STORMWATER RECOMMENDATION - Stormwater has approved the Preliminary plan, but notes that the proposal does not indicate any visible water quality area, and wetlands could be located on the property.

RECOMMENDATION - Staff originally recommended deferral of the project until the applicant submitted plans that were coordinated with the adjacent Planned Unit Development (Harpeth Village) to the west, to ensure that the two developments were compatible, and connected. It was also noted in the original staff recommendation that although the proposal was not consistent with Community Center Policy, it was consistent in concept, if not detail, with the adjacent Planned Unit Development to the west that was earlier approved against staff recommendation.

At this time no final PUD plan complying with the Planning Commission conditions of preliminary approval has been submitted for the adjacent Harpeth Village PUD. Although, staff does not anticipate changes to the adjacent development that would make the two plans incompatible, it is difficult for staff to insure their compatibility without deferring this project until final plans have been submitted for Harpeth Village.

Since the revised plans do not comply with the Community Center Policy, and final PUD plans have not been submitted for the adjacent PUD, then staff recommends that either the project be deferred until final PUD plans have been submitted for the adjacent development, or that it be disapproved because it is not in compliance with the Community Center Policy.

CONDITIONS (If approved)

1. All traffic and Public Works conditions shall be bonded and/or completed as required by the Department of Public Works, as listed above.
2. Because sidewalks are located along one side of the street only, all sidewalks must be at least 6 ft. in width, with a 4 ft planting strip between the sidewalk and the street.
3. All medians within intersections must provide adequate and safe crossing, as well as, be ADA compliant.
4. All signs shall be monument type signs, not to exceed 5 ft. in height. No free standing sign shall be allowed along Old Harding Pike.
5. Connection with the adjacent properties must be maintained.
6. Although water quality devices are not identified on the preliminary, Stormwater review of the final may determine that some type of water quality device is needed requiring minor or even significant changes. Significant changes that meet certain thresholds specified in Section 17.40.120 of the Metro Zoning Code will require Council approval.
7. Prior to the issuance of any permits, confirmation of preliminary approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services and the Traffic Engineering Sections of the Metropolitan Department of Public Works.
8. Subsequent to enactment of this planned unit development overlay district by the Metropolitan Council, and prior to any consideration by the Metropolitan Planning Commission for final site development plan approval, a paper and electronic print of the final boundary plat for all property within the overlay district must be submitted, complete with owners signatures, to the Planning Commission staff for review.
9. The requirements of the Metropolitan Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
10. The project roadway improvements shall be coordinated with roadway construction for the Temple Rd TDOT project and the Harpeth Village PUD development. Hwy 100 road improvements shall be approved by TDOT.

11. Developer shall construct a 3 lane cross section including center turn lane on Hwy 100. These improvements shall connect to the existing lanes at the Old Harding Pk intersection and proposed lanes for the TDOT Temple Rd project and the Harpeth Village PUD.
12. Developer shall construct a 3 lane cross section on Old Harding Pk from Learning Lane to the proposed Harpeth Village PUD access road. The widening shall align with existing laneage at Learning Lane and the proposed road improvements at the Harpeth Village PUD.
13. Developer shall dedicate required ROW for the road improvements and reserve additional ROW in accordance with the major street plan Classification S4 for Hwy 100 and U4 for Old Harding Pk.
14. Developer shall install a westbound left turn lane with a minimum 100 ft of storage on Old Harding Pk at access driveway.
15. Developer shall install an eastbound left turn lane with 100 ft of storage on Hwy 100 at access driveway.
16. Developer shall construct a westbound right turn lane with 100 ft of storage on HWY 100 at access driveway. The transition length shall be per AASHTO standards.
17. The transition on Hwy 100 at the adjacent Walgreens drive shall be modified to be in accordance with AASHTO standards.
18. The access driveway at Old Harding Pk. shall be constructed with 2 exit lanes and 1 entering lane. Adequate sight distance shall be provided and documented at development. The first internal drive intersection shall be a minimum of 50 ft from the Old Harding Rd reserved ROW.
19. The access driveway at Hwy100 shall be aligned opposite the Church driveway. The access driveway shall be constructed with 2 southbound exit lanes with 80ft of storage and 1 northbound entering lane. The first internal driveways shall be a minimum of 50ft from the reserved HWY 100 ROW. The internal driveways shall be designed to function as right in and right out drives via the use of a median.
20. Cross connection shall be constructed to the adjacent Walgreens and Harpeth Village PUD.
21. Developer shall submit a signal coordination study in order to optimize traffic flow on Old Harding Rd and Hwy 100. This study will be required upon installation of signals at the adjacent Harpeth Village PUD development and completion of 50% of the Shoppes on the Harpeth development.

Mr. Swaggart presented and stated that staff is recommending deferral or disapproval until the associated PUD plan is either consistent with the Community Plan, or is consistent with the Final PUD plan for the adjacent development to the west, Harpeth Village (2005P-008G-06).

Mr. Shawn Henry, 315 Deadrick Street, spoke in favor of the proposal.

Mr. Chris Magill, 5238 Granny White Pike, spoke in favor of the proposal.

Ms. Gillian Fischbach spoke in favor of the proposal.

Mr. Dudley Parker, 2037 Fransworth, spoke in favor of the proposal.

Councilmember Tygard spoke in favor of the proposal. He stated that he has held many community meetings regarding the proposed development and that many of his constituents are in favor of the proposal. He further stated that the developer has worked closely with the community and has agreed to improvements that would aesthetically improve the development. He also mentioned that the developer has agreed to work with the Barclay Group on the funding of the Temple Road extension. He summarized by stating that this development is consistent and compatible with the Harpeth Village development.

Ms. Phyllis Bauman, 103 Fox Hunt Pointe, spoke in opposition to the proposal.

Ms. Mary O'Neil, 6611 Fox Hollow Road, spoke in support of the proposal.

Ms. Margaret Gossett, 7749 Old Haring, spoke in support of the proposal.

Mr. Tyler requested additional information regarding the consistency of the Harpeth Village project in relation to the proposed development.

Mr. Clifton requested additional clarification on the approved Harpeth Village development and whether the proposed development is more consistent with the CC policy.

Mr. Bernhardt explained that the proposed development is more of a conventional suburban development and the policy is requesting a more pedestrian town center development.

Mr. Clifton suggested that if the proposal is approved, the same conditions that were placed on the Harpeth Village proposal should be included for this proposal as well.

Mr. McLean requested further clarification regarding sidewalks included in this plan and how they would be configured if the policy was amended, and how it would affect the building setbacks.

Mr. Small questioned whether the buildings would front Hwy. 100.

Mr. Bernhardt explained that the sites would be sold as out parcels and he could not say for sure which way the buildings would be set.

Mr. McLean questioned whether any control could be placed on building frontages.

Councilmember Tygard added that the Barclay Group has agreed to the Temple Road extension that will provide building frontages for the Harpeth Village development. He stated that this proposal does not contain frontage along Temple Road.

Mr. Small spoke in favor of approving the development. He stated that the Commission should consider changing the policy for the area so long as the change will not affect and allow the developers to change what has already been approved under preliminary.

Ms. Jones suggested that the developer work with staff to insure consistency and compatibility of both proposals for the area.

Mr. Loring spoke in favor of the proposal. He mentioned the many meetings held by Councilmember Tygard and his commitment to insuring the project's compatibility and he moved to approve the development.

Mr. Loring moved, and Mr. McLean seconded the motion, to approve Zone Change 2004Z-116G-06, as well as the preliminary Planned Unit Development 2005P-017G-06, which includes the 21 recommended staff conditions, with the understanding that staff is to make sure that the connectivity is optimized between the two developments and also that staff is to bring back a recommendation on the appropriate land use classification that reflects these plans.

There was a brief discussion regarding the aesthetic improvements mentioned by Councilmember Tygard.

It was determined that the improvements associated with the aesthetics of the proposal should be included as covenants on the council bill.

(6-1) No Vote – Tyler

Resolution No. RS2005-244

“BE IT RESOLVED by The Metropolitan Planning Commission that 2004Z-116G-06 is **APPROVED WITH CONDITIONS (6-1)**, including that the applicant work with Planning Department staff on forging connectivity between this development and the adjacent Harpeth Village development. Staff is also directed to determine if the land use policy for this area should be revised.

The land uses allowed in the proposed CL zoning district are consistent with the Bellevue Community Plan’s Community Center (CC) policy calling for neighborhood scale commercial and office uses at the edge of a neighborhood, which either sits at the intersection of two major thoroughfares or extends along a major thoroughfare. The applicant will work with staff to incorporate more of the CC policy’s design features into the final PUD plan. If at the final PUD stage, it is determined that this cannot be accomplished, the Commission may consider changing the policy to a more standard commercial policy.”

Resolution No. RS2005-245

“BE IT RESOLVED by The Metropolitan Planning Commission that 2005P-017G-06 is **APPROVED WITH CONDITIONS (6-1)**, including that the applicant work with Planning Department staff on forging connectivity between this development and the adjacent Harpeth Village development. Staff is also directed to determine if the land use policy for this area should be revised.

Conditions of Approval:

1. All traffic and Public Works conditions shall be bonded and/or completed as required by the Department of Public Works, as listed above.
2. Because sidewalks are located along one side of the street only, all sidewalks must be at least 6 ft. in width, with a 4 ft planting strip between the sidewalk and the street.
3. All medians within intersections must provide adequate and safe crossing, as well as, be ADA compliant.
4. All signs shall be monument type signs, not to exceed 5 ft. in height. No free standing sign shall be allowed along Old Harding Pike.
5. Connection with the adjacent properties must be maintained.
6. Although water quality devices are not identified on the preliminary, Stormwater review of the final may determine that some type of water quality device is needed requiring minor or even significant changes. Significant changes that meet certain thresholds specified in Section 17.40.120 of the Metro Zoning Code will require Council approval.
7. Prior to the issuance of any permits, confirmation of preliminary approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services and the Traffic Engineering Sections of the Metropolitan Department of Public Works.
8. Subsequent to enactment of this planned unit development overlay district by the Metropolitan Council, and prior to any consideration by the Metropolitan Planning Commission for final site development plan approval, a paper and electronic print of the final boundary plat for all property within the overlay district must be submitted, complete with owners signatures, to the Planning Commission staff for review.
9. The requirements of the Metropolitan Fire Marshal’s Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
10. The project roadway improvements shall be coordinated with roadway construction for the Temple Rd TDOT project and the Harpeth Village PUD development. Hwy 100 road improvements shall be approved by TDOT.

11. Developer shall construct a 3 lane cross section including center turn lane on Hwy 100. These improvements shall connect to the existing lanes at the Old Harding Pk intersection and proposed lanes for the TDOT Temple Rd project and the Harpeth Village PUD.
12. Developer shall construct a 3 lane cross section on Old Harding Pk from Learning Lane to the proposed Harpeth Village PUD access road. The widening shall align with existing laneage at Learning Lane and the proposed road improvements at the Harpeth Village PUD.
13. Developer shall dedicate required ROW for the road improvements and reserve additional ROW in accordance with the major street plan Classification S4 for Hwy 100 and U4 for Old Harding Pk.
14. Developer shall install a westbound left turn lane with a minimum 100 ft of storage on Old Harding Pk at access driveway.
15. Developer shall install an eastbound left turn lane with 100 ft of storage on Hwy 100 at access driveway.
16. Developer shall construct a westbound right turn lane with 100 ft of storage on HWY 100 at access driveway. The transition length shall be per AASHTO standards.
17. The transition on Hwy 100 at the adjacent Walgreens drive shall be modified to be in accordance with AASHTO standards.
18. The access driveway at Old Harding Pk. shall be constructed with 2 exit lanes and 1 entering lane. Adequate sight distance shall be provided and documented at development. The first internal drive intersection shall be a minimum of 50 ft from the Old Harding Rd reserved ROW.
19. The access driveway at Hwy100 shall be aligned opposite the Church driveway. The access driveway shall be constructed with 2 southbound exit lanes with 80ft of storage and 1 northbound entering lane. The first internal driveways shall be a minimum of 50ft from the reserved HWY 100 ROW. The internal driveways shall be designed to function as right in and right out drives via the use of a median.
20. Cross connection shall be constructed to the adjacent Walgreens and Harpeth Village PUD.
21. Developer shall submit a signal coordination study in order to optimize traffic flow on Old Harding Rd and Hwy 100. This study will be required upon installation of signals at the adjacent Harpeth Village PUD development and completion of 50% of the Shoppes on the Harpeth development.

The proposed PUD plan is consistent with the surrounding development pattern, while the proposed uses are consistent with uses that can be found within CC policy areas. The plan is also consistent with the uses found in the area, specifically, with the approved PUD to the east of this site. The approval is conditioned upon the final PUD plan being revised to be more consistent with the Community Center Policy, and to optimize connectivity.”

VII.PUBLIC HEARING: ZONING MAP AMENDMENTS

3. **2005Z-033U-03**
Map 070-04, Parcel 150
Subarea 3 (2003)
District 2 - Jamie D. Isabel

A request to change from RS7.5 to RM9 district property located at East Nocturne Drive (unnumbered), at the southern terminus of Old Matthews Road (2.02 acres), requested by Kevin K. Hemphill, owner.

Staff Recommendation - Approve

APPLICANT REQUEST- A request to change 2.02 acres from residential single-family (RS7.5) to residential multi-family (RM9) district property located at East Nocturne Drive (unnumbered), at the southern terminus of Old Matthews Road.

Existing 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. This district would currently allow approximately 10 homes on this site.

Proposed Zoning

RM9 district - RM9 is intended for single-family, duplex, and multi-family dwellings at a density of 9 dwelling units per acre. This district would allow for approximately 18 units on the site.

Bordeaux/Whites Creek Community Plan Policy

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

Policy Conflict - No. RM policy is intended for residential development at a density of four to nine homes per acre. The proposed RM9 district is consistent with the RM policy. There are existing apartments to the northeast, and single-family homes have been recently constructed to the north along Old Matthews Road. A large tract of undeveloped land directly to the east is also located in the RM policy and is expected to develop with consistent density in the future. The associated PUD is proposed for 14 townhomes, which is only 2 more than would be allowed by RM6 zoning. The plan also provides for open space abutting the rears of the existing single family homes located on Iloilo Street.

METRO SCHOOL BOARD REPORT

Projected student generation 3 Elementary 2 Middle 2 High

Schools Over/Under Capacity-Students would attend Joelton Elementary School, Joelton Middle School, or Whites Creek High School. Joelton Middle has been identified as being full, but not overcrowded by the Metro School Board. There is capacity at another middle school within the cluster.

This information is based upon data from the school board last updated February 3, 2005.

RECENT REZONINGS -This zone change was acted on by the Planning Commission at the March 10, 2005, meeting. The commission approved RM6 because RM9 was not appropriate without a Planned Unit Development.

TRAFFIC PUBLIC WORKS' RECOMMENDATION - No exceptions taken.

Typical Uses in Existing Zoning District: RS7.5

Land Use (ITE Code)	Acres	Density per Acre	Total Number of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single Family Detached(210)	2.02	4.94	10	124	17	14

Typical Uses in Proposed Zoning District: RM9

Land Use (ITE Code)	Acres	Density	Total Number of Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Residential Condo/townhome (230)	2.02	9	18	215	22	23

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
--			+8	91	5	9

Approved (7-0), *Consent Agenda*

Resolution No. RS2005-246

“BE IT RESOLVED by The Metropolitan Planning Commission that 2005Z-033U-03 is **APPROVED. (7-0)**

The proposed RM9 district is consistent with the Bordeaux/Whites Creek Community Plan’s Residential Medium (RM) land use policy on the site, which is intended for residential development at a density of four to nine homes per acre. There are existing apartments to the northeast, single-family homes to the north, and a large tract of undeveloped land to the east with RM policy.”

4. **2005P-020U-03**
 Hemphill Townhomes
 Map 70-4, Parcel 150
 Subarea 3 (2003)
 District 2 - Jamie D. Isabel

A request for preliminary approval of a residential Planned Unit Development to be located at East Nocturne Drive (unnumbered) on the south side of East Nocturne Drive Road, east of Iloilo Street, classified RS7.5 and proposed for RM9 (2.02 acres), to permit the development of 14 townhomes, requested by Dale and Associates, applicant for Kevin Hemphill, owner.

Staff Recommendation - Approve with conditions

APPLICANT REQUEST - Preliminary PUD

A request for preliminary approval of a residential Planned Unit Development to be located at East Nocturne Drive (unnumbered) on the south side of East Nocturne Drive Road, east of Iloilo Street, to permit the development of 14 townhomes, requested by Dale and Associates, applicant for Kevin Hemphill, owner.

PLAN DETAILS

Site Design - The townhouse units are located along the east side of the property, to provide open space behind the existing single family homes facing Iloilo Street. Staff worked with the applicant to reduce the number of units to create more open space for the residents of this development, to increase the buffer to the adjacent single family homes, and to keep development away from the area of steep slope.

STORMWATER - Approve Preliminary PUD.

METRO PUBLIC WORKS’ RECOMMENDATION - Following are review comments for Hemphill PUD (2005P-011G-07) received June 2, 2005. Public Works' review comments are as follows:

1. Approvals are subject to Public Works' review and approval of construction plans submitted with their final PUD.
2. Show ST-324 driveway ramp for access from a public street.
3. Document adequate sight distance at project access. Recommended minimum intersection sight distance is 300'. Provide field run profile for further evaluation.

CONDITIONS

All Public Works Conditions as listed above.

1. Prior to the issuance of any permits, confirmation of preliminary approval of this proposal shall be

forwarded to the Planning Commission by the Stormwater Management division of Water Services and the Traffic Engineering Sections of the Metropolitan Department of Public Works.

2. Subsequent to enactment of this planned unit development overlay district by the Metropolitan Council, and prior to any consideration by the Metropolitan Planning Commission for final site development plan approval, a paper and electronic print of the final boundary plat for all property within the overlay district must be submitted, complete with owners' signatures, to the Planning Commission staff for review.
3. 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.
4. The requirements of the Metropolitan Fire Marshal's Office for emergency vehicle access and fire flow water supply during construction must be met prior to the issuance of any building permits.
5. This preliminary plan approval for the residential portion of the master plans is based upon the stated acreage. The actual number of dwelling units to be constructed may be reduced upon approval of a final site development plan if a boundary survey confirms there is less site acreage.

Approved with conditions (7-0), *Consent Agenda*

Resolution No. RS2005-247

"BE IT RESOLVED by The Metropolitan Planning Commission that 2005P-020U-03 is **APPROVED WITH CONDITIONS. (7-0)**

Conditions of Approval:

1. Approvals are subject to Public Works' review and approval of construction plans submitted with their final PUD.
2. Show ST-324 driveway ramp for access from a public street.
3. Document adequate sight distance at project access. Recommended minimum intersection sight distance is 300'. Provide field run profile for further evaluation.
4. Prior to the issuance of any permits, confirmation of preliminary approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services and the Traffic Engineering Sections of the Metropolitan Department of Public Works.
5. Subsequent to enactment of this planned unit development overlay district by the Metropolitan Council, and prior to any consideration by the Metropolitan Planning Commission for final site development plan approval, a paper and electronic print of the final boundary plat for all property within the overlay district must be submitted, complete with owners' signatures, to the Planning Commission staff for review.
6. 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.
7. The requirements of the Metropolitan Fire Marshal's Office for emergency vehicle access and fire flow water supply during construction must be met prior to the issuance of any building permits.
8. This preliminary plan approval for the residential portion of the master plans is based upon the stated acreage. The actual number of dwelling units to be constructed may be reduced upon approval of a final site development plan if a boundary survey confirms there is less site acreage.

This application accompanies the request to rezone the property to RM9 zoning, which is consistent with the Residential Medium land use policy. There are existing apartments to the northeast, single-family homes to the north, and a large tract of undeveloped land to the east also with RM policy. This PUD plan proposes provides open space next to the rears of the existing single family homes located on Iloilo Street, and provides internal open space areas that will help to make it compatible with existing development in the area.”

5. 2005Z-061G-12
 Map 180, Parcel 22
 Subarea 12 (2004)
 District 31 - Parker Toler

A request to change from AR2A to RS10 district property located at 6503 Holt Road (5.8 acres), requested by Rick Blackburn, applicant for owner, Paul B. Campanis.

Staff Recommendation - *Approve with conditions*

APPLICANT REQUEST - A request to change 5.8 acres from agricultural and residential (AR2a) to residential (RS10) located at 6305 Holt Road.

Existing Zoning

AR2A district - Agricultural/residential requires a minimum lot size of 2 acres and intended for uses that generally occur in rural areas, including single-family, two-family, and mobile homes at a density of one dwelling unit per 2 acres.

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.

Southeast Community Plan

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

Natural Conservation (NCO) - NCO is a category designed for mostly undeveloped areas characterized by the widespread presence of steeply sloping terrain, unstable soils, floodplains or other environmental features that are constraints to development at urban or suburban intensities. NCO areas are intended to be rural in character, with very low intensity development. Development should be clustered on the less physically constrained area of a site. In addition, clustering should be used to preserve important features such as viewsheds and stands of mature trees.

Policy Conflict - No. The associated PUD plan proposes to develop a 20-lot subdivision with a density of 3.4 lots per acre. This tract could actually support a total of 23 lots under the RS10 zoning, but the applicant is only providing 20 lots so as to minimize impacts on the adjacent floodplain and floodway of Holt Creek. Staff recommends approval of the zone change since the density and development pattern of the proposed PUD are supported by the RLM policy, and since the entire NCO area is being preserved from development.

RECENT REZONINGS - Yes. The adjacent property to the west was recently recommended for approval by the Planning Commission and approved for a similar type development earlier this year.

TRAFFIC PUBLIC WORKS' RECOMMENDATION

See PUD report (2005P-022G-12)

Typical Uses in Existing Zoning District: AR2a

Land Use (ITE Code)	Acres	Density	Total Number of lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour

A request to apply a Residential Planned Unit Development district to 5.8 acres located at 6503 Holt Road, to permit the development of 20 single-family lots.

PLAN DETAILS

The plan proposes 20 single-family lots. Six of the lots will be double frontage lots, with their primary frontage being along a new public street, and secondary frontage along Holt Road. Homes will be oriented towards the new public street. The remaining 14 lots are located in the center portion of the tract and front an Open – Space/Village Green area with a rear, private alley that loops behind the 14 lots providing access. Sidewalks are being provided along Holt Road and along both sides of the new public street. In lieu of a sidewalk being provided along the rear-access alleyway, a meandering sidewalk is provided through the center Open Space/Village Green area.

Access/Connections - Access to Holt Road will be provided through the adjacent development to the west (Rosedown). The proposed public street will be stubbed to the eastern property line to provide a connection for future development.

Environmental - Floodplain associated with Holt Creek is located along the southernmost portion of the tract. This area is located within Natural Conservation land use policy and is proposed to be completely preserved from development. Prior to final PUD approval, a flood study will be required to established floodway, floodway buffer, and 100-year floodplain. The results could impact the projects lot count and/or arrangement.

SUBDIVISION DETAILS

Lot Frontage Sec. 2-4.2a- The Metro Subdivision Regulations require that each [new] lot shall have frontage on a public street or, where permitted, on a private street to enable vehicular access to be provided.

Staff Analysis - Based on the PUD plan that was submitted, adequate vehicular access is provided via the rear-access alley that is proposed to run behind the lots served from the alley and will have frontage onto a large Open Space / Village Green area. Staff recommends approval of this variance from the Subdivision Regulations.

TRAFFIC PUBLIC WORKS' RECOMMENDATION

1. Approvals are subject to review and approval of construction plans.
2. Locate proposed sidewalks within ROW, and identify curb and gutter, 4 foot furnishing/grass area, and 5 foot sidewalk.
3. Identify ½ of collector section of Holt Road with curb and gutter, and sidewalk.
4. All roadway geometry shall support navigation by SU30 (service and fire) design vehicles.
5. Upgrade private alley. Show Pavement Schedule per Metro ST-251, and section with post curbs as agreed to by Public Works.
6. All roadways must be at least one foot above the 100-year flood plain elevation.
7. Additional ROW dedication and/or reservation may be required along existing street(s) at development.

STORMWATER RECOMMENDATION - Approved Except as Noted. Sufficient for preliminary PUD. Prior to final PUD and plan approval a flood study will be required to establish floodway, floodway buffer, and 100 yr floodplain. The result could affect the projects lot arrangement.

CONDITIONS

1. The alley connection located between Rosedown, and Rosedown II must be redesigned to form a “T” intersection.
2. Prior to final PUD approval, a flood study will be required to established floodway, floodway buffer, and 100-year floodplain. The results could impact the projects lot count and/or arrangement.

3. Prior to the issuance of any permits, confirmation of final approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services and the Traffic Engineering Section of the Metropolitan Department of Public Works.
4. 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.
5. The requirements of the Metropolitan Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits. 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. The required turnaround may be up to 100 feet diameter.
6. If this final approval includes conditions which require correction/revision of the plans, authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four (4) copies of the corrected/revised plans have been submitted to and approved by staff of the Metropolitan Planning Commission.
7. Authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four (4) additional copies of the approved plans have been submitted to the Metropolitan Planning Commission.
8. These plans as approved by the Planning Commission will be used by the Department of Codes Administration to determine compliance, both in the issuance of permits for construction and field inspection. Significant deviation from these plans will require reapproval by the Planning Commission.
9. Approvals are subject to review and approval of construction plans.
10. Locate proposed sidewalks within ROW, and identify curb and gutter, 4 foot furnishing/grass area, and 5 foot sidewalk.
11. Identify ½ of collector section of Holt Road with curb and gutter, and sidewalk.
12. All roadway geometry shall support navigation by SU30 (service and fire) design vehicles.
13. Upgrade private alley. Show Pavement Schedule per Metro ST-251, and section with post curbs as agreed to by Public Works. The alley width will be as specified on the plan (20 feet of pavement).
14. All roadways must be at least one foot above the 100-year flood plain elevation.

Approved with conditions (7-0), *Consent Agenda*

Resolution No. RS2005-249

“BE IT RESOLVED by The Metropolitan Planning Commission that 2005P-022G-12 is **APPROVED WITH CONDITIONS (7-0), including a variance for street frontage.**

Public Works Conditions:

1. Approvals are subject to review and approval of construction plans.
2. Locate proposed sidewalks within ROW, and identify curb and gutter, 4 foot furnishing/grass area, and 5 foot sidewalk.
3. Identify ½ of collector section of Holt Road with curb and gutter, and sidewalk.

4. All roadway geometry shall support navigation by SU30 (service and fire) design vehicles.
5. Upgrade private alley. Show Pavement Schedule per Metro ST-251, and section with post curbs as agreed to by Public Works.
6. All roadways must be at least one foot above the 100-year flood plain elevation.
7. Additional ROW dedication and/or reservation may be required along existing street(s) at development.

Stormwater Conditions:

1. Sufficient for preliminary PUD. Prior to final PUD and plan approval a flood study will be required to establish floodway, floodway buffer, and 100 yr floodplain. The result could affect the projects lot arrangement.

Conditions of Approval:

1. The alley connection located between Rosedown, and Rosedown II must be redesigned to form a “T” intersection.
2. Prior to final PUD approval, a flood study will be required to established floodway, floodway buffer, and 100-year floodplain. The results could impact the projects lot count and/or arrangement.
3. Prior to the issuance of any permits, confirmation of final approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services and the Traffic Engineering Section of the Metropolitan Department of Public Works.
4. 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.
5. The requirements of the Metropolitan Fire Marshal’s Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits. 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. The required turnaround may be up to 100 feet diameter.
6. If this final approval includes conditions which require correction/revision of the plans, authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four (4) copies of the corrected/revised plans have been submitted to and approved by staff of the Metropolitan Planning Commission.
7. Authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four (4) additional copies of the approved plans have been submitted to the Metropolitan Planning Commission.
8. These plans as approved by the Planning Commission will be used by the Department of Codes Administration to determine compliance, both in the issuance of permits for construction and field inspection. Significant deviation from these plans will require reapproval by the Planning Commission.
9. Approvals are subject to review and approval of construction plans.
10. Locate proposed sidewalks within ROW, and identify curb and gutter, 4 foot furnishing/grass area, and 5 foot sidewalk.
11. Identify ½ of collector section of Holt Road with curb and gutter, and sidewalk.

12. All roadway geometry shall support navigation by SU30 (service and fire) design vehicles.
13. Upgrade private alley. Show Pavement Schedule per Metro ST-251, and section with post curbs as agreed to by Public Works. The alley width will be as specified on the plan (20 feet of pavement).
14. All roadways must be at least one foot above the 100-year flood plain elevation.

The proposed PUD plan is consistent with the Southeast Community Plan’s RLM and NCO policies, while the plan provides protection of the floodplain associated with Holt Creek, located along the southernmost portion of the tract. Because of the limited space for development and streets, given the long, narrow shape of the property and the floodplain, the plan requires a variance to street frontage. The plan provides an internal open space area with houses fronting the open space. A variance for street frontage will allow the homes to front the open space, while preserving the floodplain. Prior to final PUD approval, a flood study will be required to established floodway, floodway buffer, and 100-year floodplain. The results could impact the projects lot count and/or arrangement.”

-
7. **2005Z-092G-14**
Map 076-01, Parcel 115
Subarea 14 (2004)
District 12 - Jim Gotto

A request to change from R10 to CS district property located at Tulip Grove Road (unnumbered), approximately 150 feet south of the southeast intersection of Tulip Grove Road and Lebanon Pike (1.16 acres), requested by The Oaks of Lakeview, LLC, owner.

The Metropolitan Planning Commission DEFERRED Zone Change 2005Z-092G-14 to August 11, 2005 meeting at the request of the applicant. (7-0)

8. **2005Z-098U-07**
Map 102-08, Parcel 012
Subarea 7 (2000)
District 24 - John Summers

A request to change from RS40 to SCN district property located at 6465 Charlotte Pike, at the southeast intersection of Charlotte Pike and Russleo Drive (0.57 acres), requested by Loc D. Nguyen, owner.

Staff Recommendation - Disapprove

APPLICANT REQUEST - Request to change 0.57 acres from residential single-family (RS40) to shopping center neighborhood (SCN) district property located at 6465 Charlotte Pike, at the southeast intersection of Charlotte Pike and Russleo Drive.

Existing Zoning

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

Proposed Zoning

SCN district: Shopping Center Neighborhood is intended for a limited range of retail, office, and consumer service uses which provide for the recurring shopping needs of nearby residential areas.

SUBAREA 7 PLAN POLICY

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

RL Area 3A in Subarea 7 Plan - The overall intent of this RL area is to “conserve the prevailing densities and

predominantly single family character of this area.”

Policy Conflict Yes. The proposed SCN district is inconsistent with the RL policy, due to the retail, office, and consumer service uses that this zoning allows. The SCN district would set a bad precedent for this area by introducing commercial zoning along a major arterial roadway in a predominantly residential area.

RECENT REZONINGS - None.

TRAFFIC PUBLIC WORKS’ RECOMMENDATION - A TIS may be required at development.

Typical Uses in Existing Zoning District: RS40

Land Use (ITE Code)	Acres	Density	Total No. of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached(210)	0.57	0.93	1	10	1	2

Typical Uses in Proposed Zoning District: SCN

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Shopping Center(820)	0.57	0.128	3,178	721	20	65

Change in Traffic Between Typical Use in Existing and Proposed Zoning District

Land Use (ITE Code)	Acres	--		Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--				711	19	63

Maximum Uses in Existing Zoning District: RS40

Land Use (ITE Code)	Acres	Density	Total No. of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached(210)	0.57	0.93	1	10	1	2

Maximum Uses in Proposed Zoning District: SCN

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Shopping Center (820)	0.57	1.0	24,829	2698	67	245

Change in Traffic Between Maximum Use in Existing and Proposed Zoning District

Land Use (ITE Code)	Acres	--		Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--				2688	66	243

Mr. Pereira presented and stated that staff is recommending disapproval.

Ms. Sarah Jane Boyd, 849 Russleo Drive, spoke in opposition to the proposed zone change. She submitted a petition into the record.

Mr. Larry Gavins, 841 Russleo Drive, spoke in opposition to the zone change.

Ms. Susan Simmons, 814 Russleo Drive, spoke in opposition to the proposed zone change.

Mr. Small moved and Mr. Clifton seconded the motion, which passed unanimously to disapprove Zone Change 2005Z-098U-07. (7-0)

Resolution No. RS2005-250

“BE IT RESOLVED by The Metropolitan Planning Commission that 2005Z-098U-07 is **DISAPPROVED**. (7-0)

The uses allowed by the proposed SCN district are inconsistent with the West Nashville Community Plan’s Residential Low policy, due to the retail, office, and consumer service uses that this zoning allows. The SCN district would set a bad precedent for this area by introducing commercial zoning along a major arterial roadway in a predominantly residential area.”

9. **2005Z-100G-12**
Map 174, Parcel 075
Subarea 12 (2004)
District 32 - Sam Coleman

A request to change from AR2a to RS10 district property located at Pettus Road (unnumbered), approximately 475 feet south of Blairfield Drive (10.0 acres), requested by Dale & Associates, engineer, from R.J. Rentals, owner.

The Metropolitan Planning Commission DEFERRED Zone Change 2005Z-100G-12 indefinitely at the request of the applicant. (7-0)

10. **2005Z-101G-06**
Map 126, Parcel part of 060, part of 142
Subarea 6 (2003)
District 35 - Charlie Tygard

A request to change from AR2a to RS10 a portion of district properties located at McCrory Lane (unnumbered), on the east margin of McCrory Lane, approximately 800 feet north of Newsom Station Road (43.70 acres), requested by Civil Site Design Group, engineer, for William and Robert Travis, owners.

Staff Recommendation - Disapprove RS10, but Approve RS20

APPLICANT REQUEST - Request to change 43.70 acres from agricultural and residential (AR2a) to residential single-family (RS10) district a portion of properties located at McCrory Lane (unnumbered), on the east side of McCrory Lane, approximately 800 feet north of Newsom Station Road.

Existing Zoning

AR2a district: Agricultural/residential requires a minimum lot size of 2 acres and intended for uses that generally occur in rural areas, including single-family, two-family, and mobile homes at a density of one dwelling unit per 2 acres. The existing zoning permits 22 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. The proposed zoning would permit 162 single-family lots.

Staff Recommendation

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. The RS20 district would permit 81 single-family lots.

BELLEVUE COMMUNITY PLAN POLICY

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

Policy Conflict - Although the proposed residential density as allowed by the RS10 district *is* consistent with the upper end of the density range permitted by RLM policy, RS10 zoning is *not* consistent with the RS20-zoned residential PUD immediately to the east of these parcels, to which the applicant has indicated an intent to connect.

Topography - The site has some moderately steep slopes around the perimeter of the property (10-20%), and some particularly steep slopes in the middle of the property (20-25% and some areas with over 25% slope). A Planned Unit Development overlay was suggested to the applicant to accompany this rezoning to allow greater flexibility in terms of maintaining a similar density of development, with smaller lot sizes, in exchange for greater protection of the site's steep slopes. The applicant opted not to submit a PUD, or modify his zoning request to RS20. If this property is developed, it should be at the RS20 density range, or with a Planned Unit Development to insure sensitive placement of lots and roads in an area of steep topography.

RECENT REZONINGS - None.

TRAFFIC PUBLIC WORKS' RECOMMENDATION - No Exception Taken.

Typical Uses in Existing Zoning District: AR2a

Land Use (ITE Code)	Acres	Density per Acre	Total Number of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single Family Detached(210)	43.70	0.5	22	258	25	28

Typical Uses in Proposed Zoning District: RS10

Land Use (ITE Code)	Acres	Density	Total Number of Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-family detached (210)	43.70	3.7	162	1636	123	164

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
--			140	1378	98	136

METRO SCHOOL BOARD REPORT

Projected student generation 18 Elementary 13 Middle 12 High

Schools Over/Under Capacity - Students would attend Gower Elementary School, Hill Middle School, or Hillwood High School. Hillwood High School has been identified as being full, but not overcrowded; Whites Creek, Hillsboro, and Pearl-Cohn are adjacent clusters with capacity, as identified by the Metro School Board. This information is based upon data from the school board last updated Feb. 3, 2005.

Mr. Pereira presented and stated that staff is recommending disapproval of RS10, but approval of RS20.

Ms. Misty Emory, 1017 Valley Cove Court, spoke in opposition to the zone change and requested deferral.

Mr. Steve Cooke, 8456 Beautiful Valley Drive, spoke in opposition to the proposal. He submitted a photograph to

the Commission for their review.

Mr. Jim Harrison, 119 West Ridge Drive, of Civil Site Design, spoke in favor of the RS10 zoning.

Mr. Greg Jones, 7874 McCrory Lane, spoke in favor of the RS10 zone change.

Mr. Loring spoke in support of the proposal as requested by the developer. He stated that the issues mentioned by the constituents could be addressed at the final stages of development.

Ms. Jones expressed an issue with the number of units that could be developed as requested by the developer under RS10.

Mr. Small spoke in favor of staff's recommendation regarding the total number of units that could be built with RS10 zoning. He stated that this rezoning would be more compatible to the adjacent community and also accommodate the topography of the site.

Mr. Clifton spoke in support of staff recommendation.

Mr. Small moved and Ms. Jones seconded the motion to adopt staff's recommendation to disapprove Zone Change 2005Z-101G-06 for RS10 zoning, but to approve Zone Change 2005Z-101G-06 for RS20 zoning. **(6-1) No Vote - Loring**

Resolution No. RS2005-251

“BE IT RESOLVED by The Metropolitan Planning Commission that 2005Z-101G-06 is **DISAPPROVED RS10, APPROVED RS20. (7-0)**

Although the proposed residential density as allowed by the RS10 district is consistent with the upper end of the density range permitted by the Bellevue Community Plan's Residential Low Medium land use policy for the site, RS10 zoning is not consistent with the RS20-zoned residential PUD immediately to the east of these parcels, to which the applicant has indicated an intent to connect. In addition, because the site also has some moderately steep slopes around its perimeter, and some particularly steep slopes in the middle (20-25% and some areas with over 25% slope), a Planned Unit Development overlay was suggested to the applicant to accompany this rezoning to allow greater flexibility in terms of maintaining a similar density, with smaller lot sizes, in exchange for greater protection of these slopes. The applicant opted not to submit a PUD, or modify his zoning request to RS20.”

- 11. 2005Z-103G-06**
Map 155, Parcel 219
Subarea 6 (2003)
District 35 - Charlie Tygard

A request to change from AR2a to RS20 district property located at 8779 McCrory Lane (5.1 acres), requested by John P. and Jane B. Chaffin, owners.

The Metropolitan Planning Commission DEFERRED Zone Change 2005Z-103G-06 to July 28, 2005 meeting at the request of the applicant. (7-0)

VIII. PRELIMINARY SUBDIVISION PLATS

- 12. 2005S-187G-04**
Spring Branch Subdivision
Map 034-03, Parcel 064

Subarea 4 (1998)
District 10 - Rip Ryman

A request for preliminary plan approval to create 24 clustered lots located at the northern terminus of Spring Branch Drive, approximately 690 feet north of Twin Hills Drive (12.11 acres), classified within the R20 District, requested by Glenn Nabors, owner, Batson & Associates, surveyor.

The Metropolitan Planning Commission DEFERRED Preliminary Subdivision Plat indefinitely at the request of the applicant. (7-0) The applicant has agreed that is item will not be placed back on an agenda until requested approvals have been received by the Planning Department

13. **2005S-188G-06**
Woodland Forest, Section 4, Preliminary Plat
Map128, Parcel 151
Subarea 6 (2003)
District 22 - Eric Crafton

A request for preliminary plat approval to create 9 lots located at the eastern terminus of Forrest Valley Drive, along the western margin of I-40W (7.34 acres), classified with the R15 Planned Unit Development District, requested by Eagle Crest Partners, owner/developer, Kevin L. Birdwell of Ragan Smith and Associates.

The Metropolitan Planning Commission DEFERRED Preliminary Subdivision Plat 2005S-188G-06 indefinitely the request of the applicant. (7-0)

IX. FINAL PLATS

14. **98S-351U**
Jocelyn Hills, Sec.1
Map 129-02, Parcel 045
Map129-06, Parcel 050, 051, 057 &
Map129-06, Parcel part of 010 & 011
Subarea 7 (2000)
District 23 - Chris Whitson

A request for final plat approval to create eight lots abutting the northwest margin of Clearbrook Drive and the northeast margin of Baskin Drive (20.44 acres), classified within the RS40 District, requested by Allen Cargile, owner/developer, Turner Engineering Company, surveyor.

The Metropolitan Planning Commission DEFERRED Final Plat 98S-351U to August 11, 2005 at the request of the applicant. (7-0)

15. **2005S-183G-04**
Rock of Ages Sub
Map 042, Parcel 026
Subarea 4 (1998)
District 4 - Michael Craddock

A request for final plat approval to create two lots located on the west margin of East Campbell Road, at the western terminus of Woods Lake Drive (3.24 acres), classified within the RS20 District, requested by Rock of Ages Evangelical Lutheran Church, owner, Steven D. Delle, surveyor.

Staff Recommendation- *Approve with conditions, including an exception to the Lot Comparability standards*

APPLICANT REQUEST - Final Plat

Request for final plat approval to split approximately 3.24 acres into two separate lots, located along the west side of Campbell Road, at Woods Lake Drive.

Zoning

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.

SUBDIVISION DETAILS - As proposed the request will create two new lots along the west side of East Campbell Road with the following area(s), and street frontage(s):

- Lot 1: 114,947 Sq. Ft., and 491 Ft. of frontage,
- Lot 2: 26,216 Sq. Ft., and 179 Ft. of frontage.

Lot Comparability - Section 2-4.7 of the Subdivision Regulations stipulates 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. An exception can be granted if the lot fails the lot comparability analysis (is smaller in lot frontage and size) if the new lots would be consistent with the General Plan.

The lot comparability analysis yielded a minimum lot area of 29,874 Sq. Ft. and a minimum allowable lot frontage of 150 linear feet. Lot 1 passes for area and frontage, and lot 2 passes for frontage, but fails for area.

The policy for the area is Residential Low, and is designed for low density development of one to two dwelling units per acre.

Staff recommends that an exception be granted, because the request is consistent with the Residential Low Policy, and, although the area for lot 2, fails the Lot Comparability Analysis, the lot is not significantly smaller than lots within the area. Also, the lot is currently developed with a church and a house, and the proposal will separate the two different uses.

TRAFFIC PUBLIC WORKS' RECOMMENDATION - No Exceptions Taken

CONDITIONS

The following conditions must be addressed prior to plat recordation:

1. Drain to the south is a blue line and also carries >40 acres of drainage area. A buffer that is 25 feet from top of bank or 30 feet from centerline, whichever is greater, is required, and any portion of this buffer that falls on the platted property must be identified.
2. Identify any portion of the drainage easement for the ditch to the south that falls on the platted property.
3. Change the roadside PUE to a PUDE, in order to cover the roadside ditch with a drainage easement.
4. Correct parcel numbers must be identified.

Approved with conditions (7-0), *Consent Agenda*

Resolution No. RS2005-252

“BE IT RESOLVED by The Metropolitan Planning Commission that 2005S-193G-04 is **APPROVED WITH CONDITIONS, including an exception to lot comparability. (7-0)**

Conditions of Approval:

1. Drain to the south is a blue line and also carries >40 acres of drainage area. A buffer that is 25 feet from top of bank or 30 feet from centerline, whichever is greater, is required, and any portion of this buffer that falls on the platted property must be identified.
2. Identify any portion of the drainage easement for the ditch to the south that falls on the platted property.

3. Change the roadside PUE to a PUDE, in order to cover the roadside ditch with a drainage easement.
4. Correct parcel numbers must be identified.”

-
- 16. 2005S-185U-05**
Cumberland Meadows, Ph 1, Revision
Map 084-05, Parcel 072-074
Subarea 5 (1994)
District 7 - Erik Cole

A request for final plat approval with a variance request for sidewalk requirement along three lots located on the east margin of Eastland Avenue, approximately 435 feet south of Tiffany Drive (0.95 acres), classified within the R10 District, requested by B.I.G. Development, owner/developer, Dale & Associates, surveyor.

The Metropolitan Planning Commission DEFERRED Final Plat 2005S-185U-05 to July 28, 2005 at the request of the applicant. (7-0)

- 17. 2005S-193G-10**
High Ridge, Phase 2 Critical Lot #17
Map 159-03, Parcel 029
Subarea 10 (1994)
District 34 - Lynn Williams

A request for critical lot approval with a variance request for driveway slope of 16%, on one lot located at the eastern terminus of Camelot Road, approximately 2,500 feet east of Granny White Pike (2.38 acres), classified within the R40 District, requested by Telfer Investments, owner, Alley & Associates, surveyor.

Ms. Thompson presented and stated that staff is recommending disapproval of the submitted plan containing a driveway slope of 16%. However, staff would recommend conditional approval of a plan containing a driveway slope of 12% or less, and with the design and location of the retaining walls to be certified by a licensed geotechnical engineer.

Mr. Bill Fresch, General Contractor, spoke in support of the proposal.

Mr. Lawson requested clarification regarding the requested certification of the geotechnical engineer in relation to the proposal.

Mr. Lawson stated that the Commission could approve the driveway slope and possibly defer action on the walls requiring certification.

Mr. Bernhardt explained that the walls included in the proposal need to be certified by a certified engineer. He explained that the plans contain a disclaimer that states that the property owner/contractor obtain the services of a geotechnical engineer to evaluate the site and verify the accuracy of the wall design shown.

Mr. Tyler agreed with staff recommendation regarding the need for certification on the walls. He stated that the engineer who placed the disclaimer on the plan has suggested certification by a geotechnical engineer to insure stability of the retaining walls.

The Commission briefly discussed their options regarding their actions on this proposal.

Mr. Clifton requested that Mr. Fresch again speak to the issues of the geotechnical report.

Mr. Fresch indicated that the environmental engineer has requested the geotechnical certification, which has been submitted.

Ms. Hammond explained that the staff has just received a geotechnical report today.

Mr. Small suggested that the Commission defer this item in order to allow time for staff to review the information recently submitted on this proposal.

Ms. Jones suggested that the Commission be charged with reviewing critical lots with or without substandard slopes.

Mr. Small moved and Ms. Jones seconded the motion, which passed unanimously, to defer Preliminary Subdivision Plat 2005S-193G-10 until July 28, 2005 to allow additional staff review of the proposal. (7-0)

Resolution No. RS2005-253

“BE IT RESOLVED by The Metropolitan Planning Commission that 2005S-193G-10 is DEFERRED TO THE JULY 28, 2005, COMMISSION MEETING. (7-0)”

X. PLANNED UNIT DEVELOPMENTS

- 18. 103-79-G-14**
Old Hickory Centre (Formerly Riverfront Shopping Center)
Map 53, Parcel Part of 42
Subarea 14 (2004)
District 11 - Feller Brown

A request for final approval for a portion of a Commercial Planned Unit Development district located along the south side of Robinson Road, classified R10, (3 Acres), to develop 24,341 square feet of retail in one building and 9,800 square feet of retail in a second attached building, requested by Neuhoff Taylor Architects, for Old Hickory Centre, owner.

Staff Recommendation - *Approve with conditions*

APPLICANT REQUEST -Final PUD

A request for final approval for a 3 acre portion of a Commercial Planned Unit Development district located along the south side of Robinson Road, to develop 24,341 square feet of retail in one building and 9,800 square feet of retail in a second attached building.

PLAN DETAILS - The proposed final PUD plan matches the revised preliminary plan that was approved at the March 10, 2005, Planning Commission meeting. This plan is for a Dollar General Market and retail shops. The proposed buildings are located within the PUD off an internal driveway south of Robinson Road.

PUBLIC WORKS' RECOMMENDATION - No exceptions taken.

STORMWATER RECOMMENDATION - Comments will be available prior to the Planning Commission Meeting.

FIRE MARSHAL - Fire Hydrants should flow at least 1,000 gallons per minute at 40 psi.

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.

Approved with conditions (7-0), *Consent Agenda*

Resolution No. RS2005-254

"BE IT RESOLVED by The Metropolitan Planning Commission that 103-79-G-14 is **APPROVED WITH CONDITIONS (7-0), including Stormwater conditions of approval.**

Conditions of Approval:

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. Submit copy of the TDEC NPDES General Permit for Stormwater discharge prior to final plan approval.
5. Stormwater Detention Agreement signed and notarized by owner. The agreement is required to be recorded prior to final plan approval. You may submit a check for \$22 made out to Register of Deeds and MWS Easements will have the agreement recorded.
6. Drainage easements will be required to be recorded, either by plat or by separate instrument, for the stormwater water quality pond and any pipes or channels conveying offsite runoff (pipes CB8 to HW4 need to be in a drainage easement). If this property will not be platted through the Metropolitan Planning Commission, then you must submit a completed Dedication of Easement Form. The grading plan cannot be approved until the easement is reviewed and approved by Ron Sweeny's office. The following note needs to be included in the legal description of the document or recorded plat: "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 Storm water facilities within the aforesaid property." This clause would replace the sometimes lengthy and costly ingress and egress easement.
7. Will the existing detention pond downstream of this site serve as a temporary sediment pond during construction? If so, the pond and outlet control structure needs to be shown on the erosion control plan as well as a plan showing how the runoff will be diverted to the pond. If the water quality pond is to be installed as a temporary sediment pond during construction then the requirements stated above need to be shown as well.
8. The pipe capacity for the proposed drainage system must be based on Manning's equation, see procedures outlined in Volume 2, Chapter 6 of the Stormwater Management Manual. Energy losses and entrance/exit losses must be taken into account when determining the hydraulic grade line at each structure, see procedures outlined in Volume 2, Chapter 6 of the Stormwater Management Manual. The design calculations for the pipes needs to be re-visited since it appears the pipes are undersized for the design flows.

9. Add 20% sediment storage to the live pool volume determined in PTP-03. This is the required live pool volume in the water quality pond.
10. An orifice coefficient of 0.80 should be used in the single orifice equation in PTP-03 when the material is thicker than the orifice diameter.
11. Detention for this site will be met in the existing detention pond immediately downstream of the property. This detention pond is being modified to meet the detention requirements for the overall development of Old Hickory Centre. The design of the pond is currently being reviewed and has not yet been approved. This project can be approved once the plan is approved for the detention pond.”

- 19.** **154-79-U-07**
 Lions Head Village West
 Map 103-14, Parcel 115
 Subarea 7 (2000)
 District 24 - John Summers

A request to revise a portion of the preliminary plan and for final approval for a portion of the Commercial Planned Unit Development district located along the north side of White Bridge Road, opposite Brookwood Terrace, classified SCC, (9.24 acres), to permit a 2,438 square foot expansion to the existing 123,403 square foot retail building, requested by CEI Engineering, for the Dayton Hudson Corporation, owner

Staff Recommendation - *Disapprove unless a technical review is completed by Stormwater by July 14, 2005, and that no major revisions are required from the review.*

APPLICANT REQUEST - Revise Preliminary and Final

Request to revise a portion of the preliminary plan, and for final approval for a portion of the Commercial Planned Unit Development district located along the north side of White Bridge Road, to permit a 2,438 square foot expansion to the existing 123,403 square foot retail building (Target Store).

PLAN DETAILS - The request is for the addition of 2,438 square feet of floor space to the existing Target retail store. As proposed, the expansion will consist of two separate additions located along the front of the existing building. The plan is part of a major remodeling project that is being done to many Targets throughout the country to spruce up the façade, and to provide additional room for buggy storage.

TRAFFIC PUBLIC WORKS RECOMMENDATION - No Exceptions Taken

STORMWATER RECOMMENDATION - Requires technical review

STAFF RECOMMENDATION - Before staff reports were mailed, the applicant was asked to defer, however, the applicant wished to stay on the agenda even after being advised by staff that if the technical review had not been completed staff would recommend disapproval. If for some reason technical review is completed on or before July 14, and no changes are required, then staff can recommend approval of the project. If a technical review is not complete, then staff recommends disapproval.

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.

Development 2004P-029U-11 until August 11, 2005, as requested by the applicant. (7-0)

Resolution No. RS2005-256

“BE IT RESOLVED by The Metropolitan Planning Commission that 2004P-029U-11 is **DEFERRED TO THE AUGUST 11, 2005 COMMISSION MEETING. (7-0)**”

XI. TEXT AMENDMENTS

21. 2004Z-020T

A request to amend various sections of the Metro Zoning Code relative to facilitating the appropriate placement and design of two-family dwelling units, requested by Councilmembers Edward Whitmore, Mike Jameson, and Lynn Williams.

Staff Recommendation - Approve

REQUEST - Amend Zoning Code sections 17.04.060.B, 17.08.020.B.2, 17.12.020.A, 17.12.030.A, 17.16.030.D, 17.40.340, and 17.40.660.C to develop criteria for the appropriate location and design of two-family structures.

Amend 17.04.060.B Definitions of general terms - Add “comparable structures” to the list of general terms to define structures to be used to determine the block character for purposes of comparability studies.

Expand the definition of “two-family” structures to include two detached dwelling units separated by at least ten ft. or less than ten ft. if the facing walls on both units meet the Standard Building Code.

Amend 17.08.020.B.2 One and Two-Family (R) Districts - Add text noting the value of two-family structures in Nashville/Davidson County’s housing mix.

Amend 17.12.020.A District Bulk Tables - Amend to require that in zoning districts R40, R30, R20, R15, R10, R8, and R6, the minimum lot size for two-family structures be 120 percent of the minimum lot size for single-family structures.

Amend 17.12.030.A Street Setbacks - Amend to require the same street setbacks for two-family structures as for single-family structures. Amend to prohibit development of two-family structures that allows back-up movements from the driveway onto collector and arterial streets.

Delete Section 17.16.030.D Residential Uses: - Delete the current section in its entirety and replace with text regulating: Two-Family Dwelling

- 1) the eligibility of lots for two-family structures and
- 2) the design of two-family structures including development plan review for especially large two-family structures. This section explained in greater detail in *Analysis – Proposed Text* below.

Amend 17.40.340 - Amend to prohibit the Board of Zoning Appeals from Variances: Limits to jurisdiction granting variances within a two-family structure development plan.

Amend 17.40.660.C - Amend to require development plan review for any existing Nonconforming structures two-family structures that are currently nonconforming structures and are proposed to be constructed, altered, reconstructed, renovated or modified in any way where the total gross floor area proposed is greater than 5,000 sq. ft. or 30 percent of the lot area, whichever is less.

BACKGROUND - In recent years, the Metro Council has heard from constituents concerned about the impact of two-family structures on their neighborhoods. Neighbors are concerned that the concentration of two-family structures will increase traffic and on-street parking, and that the over-concentration of two-family structures and

lack of upkeep of the structures might negatively impact the neighborhood’s character and property values.

Councilmembers have responded to these concerns by undertaking mass rezonings of portions of their districts from “R” zoning (which allows for single- and two-family structures) to “RS” zoning (which only allows for single-family structures).

While mindful of residents’ concerns, the Planning Department maintains that it is crucial to keep two-family structures in Davidson County’s housing mix as a viable housing option for individuals and families desiring this housing form due to location, cost, convenience, and need.

ANALYSIS

Existing Law - Currently, the Zoning Code is vague on the value and desirability of two-family structures in the R districts. The Code limits two-family structures in new subdivisions of four or more lots to 25 percent of the subdivision. The Code does not currently address the number of two-family structures in existing neighborhoods or the design of two-family structures.

Proposed Text - The proposed changes to the Zoning Code note the value and desirability of two-family structures while addressing concerns about over-concentration of and lack of design control on two-family structures.

Section 17.16.030D (Residential Uses: Two-Family Dwellings) is deleted in its entirety and replaced with the text which addresses concentration of two-family structures by regulating eligibility of lots for two-family structures and addresses the design of two-family structures built by providing basic design standards for all two-family structures and requiring development plan review for two-family structures of a certain size.

Changes to address location of two-family structures

- 1) **Two-Family Eligibility** – Lots eligible for two-family structures include parcels, subdivision plats marked as “two-family structure” or “duplex,” lots within overlay districts authorized for two-family structures, and lots that previously had a two-family structure that was destroyed or damaged due to act of nature or demolition.
- 2) **Two-Family Location** – This section regulates how many two-family structures would be allowed per block. A maximum of four lots, per block face, are allowed to have two-family structures, and existing two-family and multi-family structures count toward the maximum. In no circumstance will there be more than two lots with two-family structures abutting each other. The following table will be made part of the Zoning Code as Table 17.16.030A

No. of Corner Lots	No. of Non-Corner Lots	No. of Non-Corner Lots Eligible for Two-Family Structures	Maximum No. of Lots Eligible for Two-Family Structures
1 - 2	0 – 3	0	2 (only corner lots are eligible)
1 - 2	4 – 7	1	3 (each corner and one non-corner)
1 - 2	8 – 11	2	4 (each corner and two non-corner)
1 - 2	12 or more lots	3	4 (a combination of two corner and two non-corner OR one corner and three non-corner)

Changes to address design of two-family structures - The ordinance applies basic design standards to **all** two-family structures, under the subsection “Building Design.”

Building Design – This section states that proposed two-family structures must be compatible with comparable structures with regard to entrances, garages, driveways, etc.

- a. **Entrances** – If more than one entrance is proposed: one must face the street, the other must be designed and located to compliment the neighborhood’s character.

- b. Garages – If one or more garages are proposed and they are intended to face the street, they must be recessed from the front façade by 5 ft. or more and must be designed and located to compliment the neighborhood’s character.
- c. Parking – No parking areas are allowed between the street and the front of the structure.
- d. Driveway Access – If a lot is served by an improved alley, no driveway access is allowed to the street, unless 50 percent of the lots on the same block face have driveway access to the street.

Development Plan Review In addition to the basic urban design standards applied to all two-family structures, proposed two-family structures of a certain size must also undergo development plan review and meet the design standards explained below under “Building Location and Massing” and “Landscape Preservation.”

The development plan review is required of proposed two-family structures where the gross floor area of the two-family structure and accessory structures is 5,000 sq. ft. or 30 percent of the lot size, whichever is less.

Building Location and Massing - The proposed two-family structure and accessory structures shall be of similar height, roof pitch, massing, building placement and building materials as comparable structures.

Landscape Preservation – This section requires developers of proposed two-family structures to preserve the existing landscape by minimizing grade changes and vegetation and soil removal, except as necessary to meet stormwater regulations.

Development Plan Review Process

- 1) Pre-Application Conference – Applicants are encouraged, but not required, to meet with Metro Planning before submitting their development plan.
- 2) Application – Content and fee to be determined by Metro Planning Commission.
- 3) Notice – Upon receiving the development plan, Metro Planning Department will notify the owners of comparable structures and the area councilmember.
- 4) Construction and Occupancy Permits - No site alteration or site development work will begin, nor shall any building, grading or occupancy permit be issued, until the Metro Planning Department has approved the development plan.
- 5) Metro Historic Zoning Commission Action – If the proposed two-family structure is located in an area listed on or eligible for the National Register of Historic Places, then the proposal will be reviewed by MHZC, which will provide a recommendation to Metro Planning. (NOTE: Proposed two-family structures in historic overlay zoning districts are reviewed by MHZC and are not subject to the development plan review provisions of this ordinance.)
- 6) Metro Planning Action – The Executive Director of Metro Planning will review the development plan for its conformance to the section and title. The Executive Director shall approve, approve with conditions or disapprove.
- 7) Appeal – The applicant proposing the two-family structure or the owners of any comparable structures can appeal the decision within thirty (30) days of the action. The appeal will be heard by the Metro Planning Commission. The appeal can allege that the Executive Director’s decision was in error, or that the decision is accurate, but that the neighborhood is positioned for redevelopment and the two-family structure should be allowed to further redevelopment.
- 8) Changes to the Development Plan – Changes can be submitted to the Executive Director of Metro Planning and will be considered in light of how the proposal conforms to the section and title.

Analysis - The proposed amendment represents nearly a year of work with neighborhood and development representatives, Councilmembers and Metro Departments. The amendment seeks to preserve neighborhood character and keep two-family structures among the housing options available for current and new residents in Nashville/Davidson County.

The amendment proposes to guide the location of two-family structures in three ways:

- 1) As is currently the case, a lot must have appropriate (R) zoning.
- 2) The minimum lot size requirement reduces the number of lots eligible for two-family structures. Metro Planning Department estimates that roughly 15 percent of all properties in the county would meet both the R zoning

district and the 120 percent minimum lot size requirements. This figure *does not* include properties in AR2A or AG districts, which, it is assumed, are large enough to be subdivided, thus providing additional opportunities for two-family structures.

3) Finally, because four two-family structures are allowed per block face, the ordinance will ensure that the city does not have large concentrations of two-family structures.

The amendment proposes to address concerns about design of two-family structures by instituting

- 1) basic design (how the structure interacts with the street and with other homes) for *all* two-family structures and
- 2) development plan review for larger two-family structures.

Throughout all of the design requirements, the ordinance is written to compare the proposed two-family structure to “comparable structures” that are neighbors to the proposed two-family structure. Rather than instituting one-size-fits-all design guidelines, the ordinance encourages development that is sensitive to, and compliments, the neighborhood.

Recommendation - Approve. This text amendment offers a “third way” between over-concentration of two-family structures that are not designed to compliment the neighborhood and downzoning entire neighborhoods to ban two-family structures. By offering a balanced approach, the text amendment provides Councilmembers an additional option in addressing housing choice and neighborhood preservation in their districts.

ORDINANCE NO. BL2005 – XXX

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 the placement and design of two-family dwelling units, all of which is more particularly described herein (Proposal No 2004Z-020T).

WHEREAS, it is necessary for the Metropolitan Government of Nashville and Davidson County to provide two-family dwelling units within the county’s housing stock to maintain a healthy mix of housing options for residents of all ages and incomes;

WHEREAS, developing two-family structures in Davidson County can be accomplished through a development review process to preserve opportunities for developers and builders while ensuring such structures contribute to, and do not detract from, a neighborhood’s established or emerging character;

WHEREAS, it is reasonable for the Metropolitan Government of Nashville and Davidson County to require two-family dwellings to be designed and constructed so as to reflect the neighborhood character and residential building-scale in which they are located.

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.B “Definitions of general terms: General Terms” by **adding** “Comparable structures” to the list of general terms in alphabetical order, and defining it as follows: Comparable structures means the structures described in (1) and (2) below shall be used to determine the block character for purposes of comparing proposed structures to existing structures for compatibility:

1. On an interior (non-corner) lot, the comparable structures include
 - a. the structures on the two lots on either side of the proposed structure,
 - b. the structures on all lots either partially or wholly located directly across the street from the proposed structure,
 - c. the structures on the lots on either side of the lot(s) either partially or wholly located directly across the street from the proposed structure, and
 - d. the structures on the lot either partially or wholly located directly to the rear of the lot with the proposed structure.
2. On a corner lot, the comparable structures include
 - a. the structures on the lot on either side of the proposed structure on both of the intersecting streets,

- b. the structures on all lots, partially or wholly located adjacent to the proposed structure across the intersecting streets, and
- c. the structures on the lots partially or wholly located adjacent the proposed structure on the other corners of the intersection.
- d. If the corner lot is on a “T” intersection, then the comparable structures include those in (1)(b) through (1)(d) and in (2)(a) through (2)(c) above.

SECTION 2 By amending Section 17.04.060.B. by amending the definition of ‘Two-family’ by adding the following provision at the end thereof:

“; or two detached dwelling units separated by at least ten feet, provided that the distance can be less than ten feet if the facing walls on both units are rated according to the Standard Building Code as adopted by the Metropolitan Government pursuant to Chapter 16.08 of the Metropolitan Code of Laws.”

SECTION 3 By amending Section 17.08.020.B “Zoning districts described: Residential Districts” by **deleting** 17.08.020.B.2 (“One and Two-Family (R) Districts”) in its entirety and inserting

2. One and Two-Family (R) Districts. The R districts are intended for established residential subdivisions where the development pattern contains a mixture of one-and two-family structures. These districts may also be applied to new residential subdivisions at densities and locations recommended in the general plan. A dispersed pattern of two-family structures is desirable and intended in these districts.

SECTION 4. By amending Section 17.12.020.A “District Bulk Tables: Single-Family and Two-Family Dwellings” by **modifying** the column heading for “Minimum Lot Area (in sq ft)” to “Single-Family Minimum Lot Area (in sq ft)” and by **adding** a new column entitled “Two-Family Minimum Lot Area (in sq ft)” and the following lot areas:

Zoning District	Two-Family Minimum Lot Area (in sq ft)
AG	5 acres
AR2a	2 acres
RS80, R80	80,000
RS40, R40	48,000
RS30, R30	36,000
RS20, R20	24,000
RS15, R15	18,000
RS10, R10	12,000
R8	9,600
RS7.5	n/a
R6	7,200
RS5	n/a
RS3.75, OR40	3,750 (n/a in RS3.75)
RM2	20,000
RM4	10,000
RM6	6,000
RM9	5,000
RM15	5,000
RM20,OR20	3,750
RM40, RM60, I MUN, MUL, MUG, MUI, ON, OR40, ORI	3,750

SECTION 5. By amending Section 17.12.030.A “Street Setbacks: Street Setbacks for Single and Two-Family Structures” by **deleting** footnote “(1)” and renumbering footnote “(2)” to footnote “(1)” and by **renumbering** the footnote reference in the heading for column 3 (which reads “All Other Streets”) from “(2)” to “(1)”.

SECTION 6. By amending Section 17.12.030.A. “Street Setbacks: Street Setbacks for Single and Two-Family Structures” by **modifying** footnote (1) as follows:

- (1) Lots having vehicular access to collector and arterial streets shall develop in a manner which avoids back-up

movements into the public street.

SECTION 7. By amending Chapter 17.16 “Land Use Development Standards,” Article II “Uses Permitted with Conditions (PC),” Section 17.16.030.D “Residential Uses: Two-Family Dwellings” by **deleting** Section D in its entirety and **inserting** in its place the following:

D. Two-Family Dwellings. In the AG, AR2a, R80, R40, R30, R20, R15, R10, R8 and R6 districts, two-family dwellings in a single residential structure shall be permitted on any lot as follows:

1. Two-Family Eligibility. A property shall meet at least one of the following requirements below to be eligible for a two-family dwelling use.

a. Parcel. The property is not a lot, but complies with Section 17.40.670 of this title and was legally created prior to September 1, 1964; or the property is a parcel of land created between September 1, 1964 and March 1976 and contains three acres of land, or the property was created after March 1976 and contains five acres of land. For purposes of this section, a parcel shall mean a lot as defined in Section 17.04.060.

b. Subdivision Plat. The lot was legally created prior to August 1, 1984, or the lot is designated as a "two-family structure" or “duplex” lot on a subdivision plat approved by the Metropolitan Planning Commission between August 15, 1984 and the effective date of this ordinance, or the lot was created after the effective date of this ordinance, and recorded in the office of the county register.

c. Overlay District. The lot is part of an overlay district specifically authorizing a two-family structure on the property.

d. Replacement (Involuntary). The lot contains, or contained, a legal two-family structure on or after the effective date of this ordinance that was involuntarily caused to be destroyed or damaged beyond 50 percent of its replacement value, and a building permit for its replacement has been, or will be, issued within one year from the date of damage or destruction.

e. Replacement (Voluntary). The lot contains a legal two-family structure on or after the effective date of this ordinance that is proposed to be demolished and replaced, and a building permit for its replacement has been, or will be, issued within one year from the date the existing structure was demolished.

2. Two-Family Location. On all eligible properties identified in Sections 17.16.030.D.1, a two-family structure may be constructed or a single-family residence converted to a two-family structure provided the structure complies with the following requirements:

a. Corner Lot. The lot lies adjacent to the intersection of two streets.

b. Non-Corner Lot. The lot lies along a street where there are four or more lots within the same block face none of which are corner lots. Within that same block face, the number of lots eligible for a two-family structure shall be as follows:

Table 17.16.030 A

No. of Corner Lots	No. of Non-Corner Lots	No. of Non-Corner Lots Eligible for Two-Family Structures	Maximum No. of Lots Eligible for Two-Family Structures
1 - 2	0 – 3	0	2 (only corner lots are eligible)
1 - 2	4 – 7	1	3 (each corner and one non-corner)
1 - 2	8 – 11	2	4 (each corner and two non-corner)
1 - 2	12 or more lots	3	4 (a combination of two corner and two non-corner OR one corner and three non-corner)

c. Unit Dispersal. Within the same block face, there shall be a maximum of four lots containing any proposed or existing two-family or multi-family dwellings, including corner lots. In no circumstance shall there be more than two lots with two-family structures abutting each other.

3. Development Plan. A development plan shall be required, as provided in Section 17.16.030.D.6 below, whenever a two-family structure outside of a historic zoning district is proposed to be constructed, altered, reconstructed, renovated, or modified in any way such that the total gross floor area proposed for a two-family structure plus any accessory structure(s) exceeds 5,000 square feet or 30% of the lot area, whichever is less.

4. Notice. Whenever a proposed two-family structure is required to submit a development plan, the owner of all comparable structures and district councilmember shall be notified in writing by the Metro Planning Department within five (5) business days of the application's submittal.

5. Construction and Occupancy Permits. Whenever a proposed two-family structure is required to submit a development plan, no site alteration or site development work on a lot including, but not limited to the removal of vegetation, soil excavation, or receipt of any building or grading permit, or occupancy permit shall occur in preparation for, or anticipation of, Planning Department, or, if applicable Metro Historic Zoning Commission, approval of a development plan.

6. Two-Family Structure Design. All two-family structures shall be designed as provided in 6a below. In addition, where an applicant is seeking to construct, alter, reconstruct, renovate or modify a two-family structure or is required to submit a development plan, the applicant shall provide all information noted in 6a through 6c below. For two-family structures located within an overlay or redevelopment district, these design standards shall apply to the extent they do not conflict with any of the overlay or redevelopment district requirements approved by the Metro Council.

a. Building Design. So as not to detract from the use and enjoyment of proposed and adjacent buildings and structures, the proposed structure's entrances, ramps, walkways, vehicular drives, parking areas, and access points should be designed and arranged to reflect the current design of these elements in comparable structures. The development should, serve to enhance the system of public facilities and services such as conservation areas, recreation facilities, footpaths or bicycle paths, streets, transportation systems or utility systems.

i. Entrance. If more than one front entrance is proposed for the structure, one must face the street and the second entrance shall be designed and located to compliment and enhance the neighborhood's development character by considering the entrances on comparable structures and/or any adopted community or detailed neighborhood design plans;

ii. Garage. If one or more garages are proposed for the structure, and the garages are intended to face the street, each unit's garage(s) shall be recessed from the front façade of the principal structure a minimum of 5 feet, and shall be designed and located to compliment and enhance the neighborhood's development character by considering the entrances on comparable structures and/or any adopted community or detailed neighborhood design plans;

iii. Parking. No parking (required or otherwise) shall be permitted between the street and the front of the two-family structure.

iv. Driveway Access. Where a two-family structure is proposed and an improved alley or rear lane exists, driveway access from a street shall not be permitted unless more than 50% of the lots along the same block face have driveway access to the street.

b. Building Location and Massing. Any proposed two-family structure and accessory structures located on the same lot shall be of similar height, roof pitch, massing, building placement and building materials as other comparable structures. In determining building placement, consideration shall be given to setbacks and spacing between existing comparable structures, notwithstanding the provisions of Sections 17.12.020 and 17.12.030.

c. Landscape Preservation. Existing landscaping on a lot shall be preserved in its natural state insofar as

practical by minimizing any grade changes, vegetation and soil removal, except as needed for stormwater regulation compliance.

d. Review Considerations. The following items may be considered in the review and approval of a two-family structure, as unique site conditions for a development plan that does not strictly comply with the provisions of this title and section.

- i. Mature trees and other vegetation on the property effectively mitigate the appearance of excessive height and mass of the structure and as a result, the proposed development is in keeping with the streetscape and comparable structures,
- ii. Proposed structure or additions will not have a significant negative impact on the light to, and views from, neighboring homes.
- iii. The property is adjacent to land used and zoned as permanent open space, a Conservation Easement, or a detention pond and the structures are sited in a manner that allows the open area to mitigate the appearance of mass of the buildings from the streetscape and from neighboring properties.
- iv. The comparable structures used to evaluate the proposed two-family structure are not representative of the neighborhood character, and alternative structures offered for comparison are more reflective of the neighborhood's building mass, design, and landscaping.

7. Development Plan. All two-family structures subject to development plan review, as provided in Section 17.16.030.D.3, shall comply with the following:

a. Pre-Application Conference. Prior to the submittal of a development plan application for a two-family structure, all applicants are encouraged to meet with a planning department representative for guidance on the eligibility, design and review requirements.

b. Application. A development plan application shall be submitted in a form and content established by the planning commission, along with a processing fee. All items must be submitted, at the time of application, for the application to be deemed complete for review. Any omission of a required submittal item shall be identified, and its reason for omission explained in the development plan, including any application submittal waivers granted by the executive director of the planning department.

c. Metro Historic Zoning Commission Action. Any proposed two-family structure or any addition to a structure located in an area listed on or considered eligible for listing on the National Register of Historic Places, shall first be referred to and reviewed by the metropolitan historic zoning commission. The commission shall provide a written recommendation to the executive director of the planning department on the effect any alterations proposed to the property would have on its historically significant characteristics. This recommendation shall be made by applying the Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings.

d. Planning Department Action. The executive director shall review a proposed development plan application for conformance and consistency with this section and title and/or with any adopted community or detailed neighborhood design plans. The director shall act to approve, approve with conditions, or disapprove the application. Within ten working days of an action, the director shall transmit in writing the action to the applicant, the zoning administrator and all other appropriate governmental departments.

i. Approval. Approval of the development plan shall be based on findings that the standards and requirements of this section have been satisfied.

ii. Conditional Approval. The executive director may recommend approval of a development plan application subject to any conditions deemed necessary to satisfy the standards and requirements of this section. All conditions shall be transmitted in writing to the applicant. The application will not be considered approved until the applicant provides all prescribed amendments to the application.

iii. Disapproval. If the executive director acts to disapprove an application, the reasons for that disapproval shall be stated in writing and transmitted to the applicant.

e. Appeal of Planning Department Action. A two-family development plan action by the executive director of the planning department may be appealed by an applicant or the owner or designated agent of a comparable structure to the Metro Planning Commission within thirty (30) days of said action. In the appeal, it may be alleged,

that the executive director's determination is in error, or the determination is accurate, however, the neighborhood is positioned for redevelopment and the two-family structure should be allowed to further that redevelopment.

For purposes of defining construction activity and the effect of any permits already issued, the planning commission shall use Section 17.04.030.A.1

f. Changes to a Development Plan. An application to modify a development plan, in whole or in part, shall be filed with, and considered by, the executive director of the planning department according to the provisions of this section. The executive director shall have the authority to grant approval to any changes, including but not limited to, the geographic boundary of the development plan, the modification of specific performance criteria, design standards, or other requirements as shown, described, illustrated, identified, or noted on the last approved development plan.

g. Final Site Plan. The development plan shall serve as the final site plan for purposes of Sections 17.40.170.A. and 17.40.170.B of this title.

h. Development Approvals and Permits. Approval of a two-family development plan does not relieve an applicant of any subdivision plat, building permit, or other Metro department reviews and approvals. However, all such reviews and permits shall only be issued in conformance with the provisions of the approved two-family development plan.

SECTION 8. By amending Section 17.40.340, "Limits to Jurisdiction", by **adding** within the first sentence the following text: "The board shall not grant variances within a two-family structure development plan or...."

SECTION 9. By amending Section 17.40.660.C "Nonconforming Structures" by **adding** to the end of Section C the following:

Whenever a two-family structure located outside of a historic overlay district is proposed to be constructed, altered, reconstructed, renovated, or modified in any way such that the total gross floor area proposed for a two-family structure plus any accessory structure(s) exceeds 5,000 square feet or 30% of the lot area, whichever is less, a development plan shall be submitted and reviewed by the planning department in accordance with Section 17.16.030.D.6, prior to the commencement of any work or issuance of any permits as set forth in Sections 17.16.030.D.4 and 17.16.030.D.6.g.

SECTION 10. 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.

Two-Family Structure Draft Ordinance

FACT SHEET

(Last Updated June 22, 2005)

History

In recent years, the Metro Council has heard from constituents concerned about the impact of two-family structures including increased traffic and on-street parking as well as the impact on the neighborhood's character and property values caused by the concentration of two-family structures and the lack of upkeep of the homes.

Some Councilmembers responded to these concerns by undertaking mass down-zonings of portions of their districts from "R" zoning (which allows single- and two-family structures) to "RS" zoning (which allows only single-family structures). Since November 2003, over 2,200 acres of Davidson County have been down-zoned. A request to down-zone an additional 1,630 acres is currently before Metro Council.

Challenge

While acknowledging residents' concerns, the Planning Department maintains that it is crucial to keep two-family structures in Nashville/Davidson County's housing mix as a viable housing option for individuals and families desiring this housing form due to location, cost, convenience, and need.

Proposed Solution

The ordinance seeks to address neighbors' concerns while maintaining a diverse housing mix. It does so by

1. *limiting concentration of two-family structures*, and by
2. *applying design standards* including development plan review for larger two-family structures.

Changes to Zoning Code

New type of two-family structure allowed – *detached two-family structures*

The ordinance would expand the current definition of two-family structures by including two *detached* dwelling units separated by at least ten feet, or less than ten feet if the facing walls on both units meet building code requirements.

Minimum lot size requirements

In zoning districts R40, R30, R20, R15, R10, R8, and R6, the minimum lot size for TFS will be 120 percent of the minimum lot size for single-family structures. Increasing the minimum lot size reduces the number of parcels eligible for TFS and reduces the likelihood that a TFS will look “crowded” onto a smaller lot.

Zoning District	Two-Family Minimum Lot Area (in sq ft)	Single-Family Minimum Lot Area (in sq ft)
AG	5 acres	5 acres
AR2a	2 acres	2 acres
R80	80,000	80,000
R40	48,000	40,000
R30	36,000	30,000
R20	24,000	20,000
R15	18,000	15,000
R10	12,000	10,000
R8	9,600	8,000
R6	7,200	6,000

NOTE: The minimum lot size requirement applies to all lots, regardless of when they were subdivided. However, lot size may still be modified through a Planned Unit Development (PUD) or Urban Design Overlay (UDO), which are two planning processes that require Metro Council approval, involve public comment and can include higher design standards for development.

Street setbacks

Street setbacks for TFS will be the same for TFS as for single-family structures, which will maintain the existing character of the neighborhood. Furthermore, TFS built on collectors and arterials will not develop driveways in a way that encourages back-up movements into the public street.

Land use development standards

Concentration of TFS – These changes reduce the concentration of TFS.

- 1) Two-Family Eligibility – The following lots can have TFS on them: parcels, subdivision plats, lots in overlay districts and lots that previously had TFS destroyed due to act of nature or demolition.
- 2) Two-Family Location – This section describes the maximum number of TFS that will be allowed on a block and where they are allowed to be placed. The current ordinance limits concentration of TFS only in *new* subdivisions, regulating that no more than 25 percent of the subdivision can be TFS.
 - a. The ordinance encourages TFS on corner lots.
 - b. The ordinance limits the concentration of TFS on non-corner lots.
 - c. The ordinance limits the total number of proposed multi-family structures on a block to

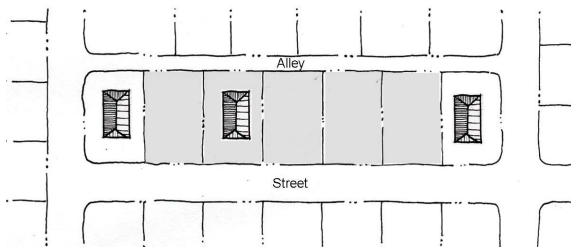
four. Pre-existing two-family and multi-family structures count toward the total of four allowed. Finally, no more than **two** TFS can be built next to one another.

With the limits on the number of TFS on non-corner lots [under (b)] and the overall cap [under(c)], then following is the possible concentration of TFS per block (including corner and non-corner lots)

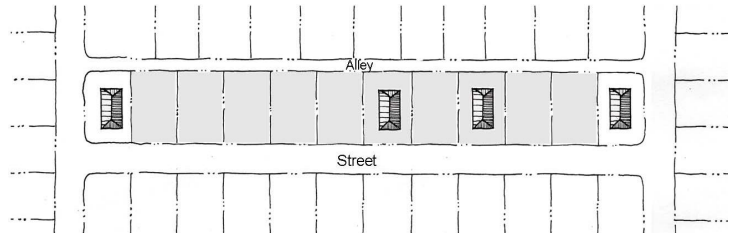
No. of Corner Lots	No. of Non-Corner Lots	No. of Non-Corner Lots Eligible for Two-Family Structures	Maximum No. of Lots Eligible for Two-Family Structures
1 - 2	0 – 3	0	2 (only corner lots are eligible)
1 - 2	4 – 7	1	3 (each corner and one non-corner)
1 - 2	8 – 11	2	4 (each corner and two non-corner)
1 - 2	12 or more lots	3	4 (a combination of two corner and two non-corner OR one corner and three non-corner)

Examples of Possible TFS Locations

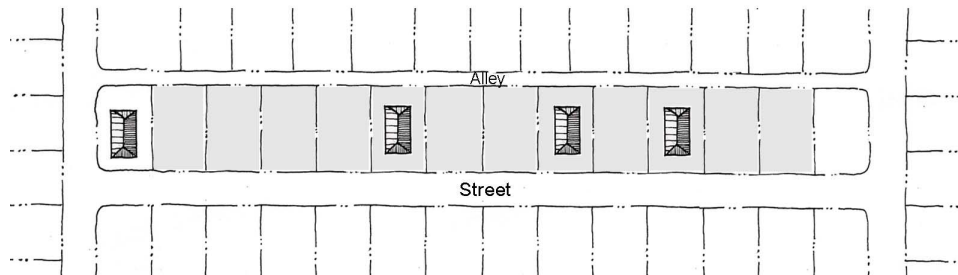
Two-Family Location – 4 to 7 Interior Lots



Two-Family Location – 8 to 11 Interior Lots



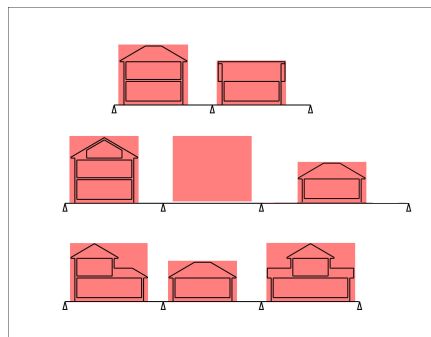
Two-Family Location – 12 or More Interior Lots



- 3) Development Plan Review – Developers and owners who want to build a TFS or add on to an existing TFS will have to submit a development plan **whenever the total gross floor area for the proposed TFS is greater than 5,000 sq. ft. or 30 percent of the lot area, whichever is less.** Note that the size is the trigger for development plan review. The proposed size triggers development plan review, regardless of whether the TFS is new or an addition. If the proposed TFS is in a historic zoning district, then the developer/owner will submit a development plan to Metro Historic Zoning Commission, not Metro Planning.

- 4) Permits, Grading & Construction – No work on the TFS or the lot can take place until Metro Panning has approved the development plan.
- 5) Design Standards – **The design standards in (a) apply to all TFS. The design standards in (b) through (c) apply to TFS that must submit a development plan review.** These are basic design standards, not architectural design standards.
 - a. Building Design – The proposed TFS must be compatible to “comparable structures” (see definition below) with regard to: entrances, ramps, walkways, vehicular drives, parking areas and access points.
 - i. Entrances – If more than one entrance is proposed:
 - One entrance must face the street,
 - The other entrance must be designed and located to compliment the neighborhood’s character,
 - This will be determined by looking at comparable structures and/or any adopted community or detailed neighborhood design plan.
 - ii. Garages – If more than one garage is proposed and garage(s) will face the street:
 - Garages must be recessed from the front façade by 5 feet,
 - Garages must be designed and located to compliment the neighborhood’s character,
 - This will be determined by looking at comparable structures and/or any adopted community or detailed neighborhood design plan.
 - iii. Parking – No parking is allowed between the street and the front of the TFS.
 - iv. Driveway Access – Driveway access is not allowed for any lot with an improved alley, **unless** more than 50 percent of the lots along the same block face have driveway access to the street.
 - b. Building Location and Massing (Size) – This applies only to TFS required to submit a Development Plan. Compared to the “comparable structures” and/or the community plan and neighborhood design plan, the proposed TFS must have similar:
 - height,
 - roof pitch,
 - massing,
 - building placement (considering setbacks and spacing between structures), and
 - building materials.

Example of comparison of height and massing



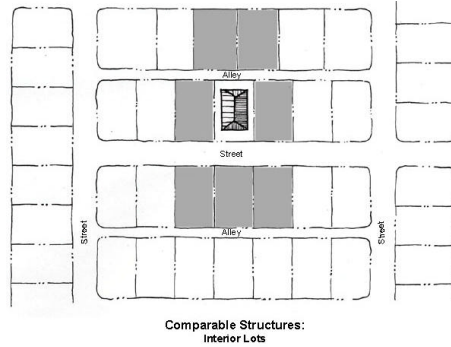
Consider the diagram to the left and imagine that the square in the center is the proposed TFS. The structures surrounding it are the “comparable structures” to which it will be compared in terms of height and massing (size). The shaded outline is the “building envelope” for each of the comparable structures. A complimentary building envelope would be required of the proposed TFS.

- c. Landscape Preservation – Requires developers/owners of proposed TFS to preserve the existing landscape by minimizing grade changes, and vegetation and soil removal, except as necessary to meet stormwater regulations.
- d. Considerations – When reviewing proposed TFS, the Planning Department can consider the following situations when the proposed TFS doesn’t completely meet the rules

outlined above, but could still be compatible with comparable structures:

- i. The site has trees and vegetation that mitigate the appearance of excessive height and mass of the proposed TFS,
- ii. The proposed TFS would not have a significant negative impact on the light to and views from neighboring homes,
- iii. The lot for the proposed TFS is beside open space which mitigates the appearance of excessive mass of the proposed TFS, and/or
- iv. The comparable structures used to evaluate the proposed TFS are not representative of the neighborhood character, in which case, alternative structures that are more representative of the neighborhood can be used for comparison.

6) Defining Comparable

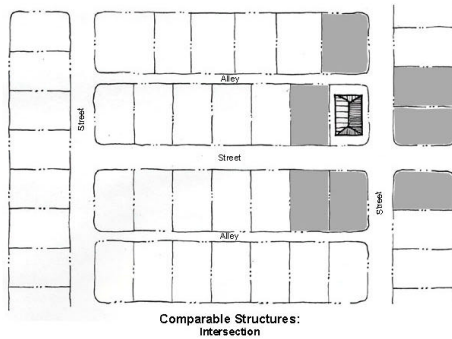


Structures (described in section 1 of the ordinance)

The Two-Family Structure (TFS) ordinance calls for larger TFS to be subject to development plan review. During the plan review, the proposed TFS will be compared to “comparable structures,” which include:

Comparable structures on interior (non-corner) lots:

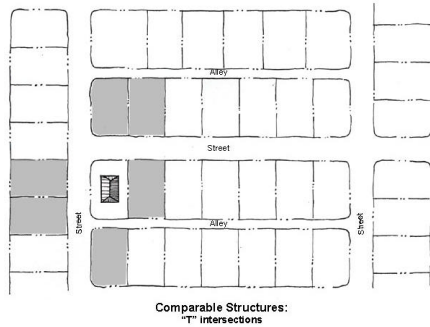
1. structures on the two lots to the right and left of the proposed TFS,
2. structures on the lot(s) directly across the street from the proposed TFS,
3. structures on one lot on either side of the lot(s) directly across the street from proposed TFS,
4. structures on the lot(s) directly to the rear of the proposed TFS.



Comparable structures on corner lots:

1. structures on the lot to the sides of the proposed TFS on both of the intersecting streets,
2. structures on the lots adjacent to the proposed TFS across the streets,
3. structures on the lots adjacent to the proposed TFS on the other corners of the intersection, and

if the corner lot is on a “T” intersection, then compare to the structures in 2, 3, and 4 under “interior lots” and 1, 2, and 3, under “corner lots.”



- 7) Development Plan – A Development Plan is required of proposed TFS whenever the total gross floor area for the proposed creation or addition is greater than 5,000 sq. ft. or 30 percent of the lot area, whichever is less. The process for development plan review is as follows:
- a. Pre-Application Conference with the Planning Department (optional).
 - b. Application – Content and processing fee established by the Planning Department.
 - c. Notice – Whenever a development plan is submitted, the owners of all comparable structures and the Councilmember will be notified in writing by the Planning Department of the proposed development.
 - d. Metro Historic Zoning Commission (MHZC) Action – If the proposed new TFS or addition to a TFS is on a site listed on the national register of historic places, or eligible for that register, then the proposal will be reviewed by MHZC. MHZC will provide a written recommendation to the Planning Department on the proposed structure and any alterations to the property.
 - e. Planning Department Action – The Executive Director of the Planning Department will review the proposed development plan, considering how the proposal conforms to the rules above and/or the community plan and neighborhood design plans in effect. The Executive Director can approve, approve with conditions that must be met before development proceeds, or disapprove the proposal.
 - f. Right to Appeal – The applicant proposing the TFS and/or the owners of any of the comparable structures can appeal the Executive Director’s decision on a proposed TFS.
 - The appeal must be submitted within 30 days of action by the Executive Director.
 - The appeal may allege that the Executive Director’s decision was in error, or that the decision is accurate, but the neighborhood is positioned for redevelopment and the TFS should be allowed to further redevelopment.
 - The appeal will be heard by the Metro Planning Commission per the regular rules for appeals.
 - g. Changes to the Development Plan – The developer/owner of the proposed TFS can submit an application to the Planning Department’s Executive Director to change the proposed development plan. The changes will be considered in light of how the proposal conforms to the rules above.

The remaining sections of the ordinance ensure that the ordinance conforms to the rest of the zoning code and Metro processes for issuing permits for development/construction.

Ms. Carlat presented and stated that staff is recommending approval.

Mr. Adam Epstein, 3704 Hobbs Road, expressed issues with the text amendment.

Ms. Melinda Pate, 2160 Golf Club Lane, spoke in support of the text amendment.

Mr. Frank Brind, 50 Music Square West, expressed issues with the amendment.

Mr. Edwin Sanders, 3514 Geneva Circle, expressed issues with the amendment.

Mr. Small mentioned that amendment does provide framework, but it also provides subjectivity. He mentioned the various issues he had regarding the amendment.

Mr. Jones also expressed issues with the subjectivity of the amendment in relation to the various neighborhoods within the City.

Mr. Loring spoke in favor of text amendment. He stated that the text amendment could be improved and amended with time.

Mr. Tyler stated that the text amendment contains the basic guidelines, but stated that there will be issues associated with it as it is applied to the various neighborhoods.

Mr. Clifton stated the text amendment will work as a tool and will assist in the planning of various neighborhoods.

Mr. McLean stated he was in favor of the amendment. He stated that it would and probably will be amended in the future.

Mr. Loring moved and Mr. McLean seconded the motion, to approve Text Amendment 2004Z-020T. **(5-2) No Votes – Jones, Small**

Resolution No. RS2005-257

“BE IT RESOLVED by The Metropolitan Planning Commission that 2004z-020T is **APPROVED. (5-2)**”

22. 2005Z-073T

A request to amend the Zoning Regulations to establish submittal requirements and review process for the Specific Plan district, a new zoning district, requested by Councilmember Sam Coleman.

Staff Recommendation- Approve

REQUEST - Amend Zoning Code sections 17.08.010, 17.08.020, 17.08.030, 17.40 Article III, 17.40.170.B, 17.40.170C, and 17.40.340. Amend Zoning Code tables 17.12.020.C, 17.12.030.A, and 17.12.030.B. The amendments are necessary to establish a new “Specific Plan” (SP) zoning district to provide additional flexibility in designing innovative projects while assuring greater certainty for the Councilmember and the community as to the final product.

Amend 17.08.010 - Delete “C. Institutional district: I,” which is no longer in use, Zoning districts established and replace it with “C. SP” for Specific Plan district – a new base zoning district.

Amend 17.08.020 Zoning districts described - Add under “C” the description of the SP district.

Amend 17.08.030 Zoning district land use tables - Add “SP” as a zoning district after the mobile home park district, with the following notation: “Land uses shall be as specifically listed in the site specific SP ordinance.”

Amend Table 17.12.020.C District bulk tables - Delete the “I” (Institutional) district and all information pertaining to it. Add “SP” to the table in its place. For each bulk regulation, a footnote will state “Development standards shall be as specifically listed in the site specific SP ordinance.”

Amend Table 17.12.030.A - Delete the “I” (Institutional) district and add “SP” to the Street setbacks for single and table, noting that “Street setbacks shall be as specifically two-family structures listed in the site specific SP

ordinance.”

Amend Table 17.12.030.B Non-residential districts - Delete the “I” (Institutional) district and add “SP” to the Street setbacks for multi-family and table, noting that “Street setbacks shall be as specifically listed in the site specific SP ordinance.”

Amend Chapter 17.40, Article III Amendments to Zoning Code or Official Zoning Map - Add a new section, 17.40.105, which states the purpose and intent of the SP District – to serve as a new base zoning, which will be required to submit a site specific development plan to address the land uses and alternative design standards that may be needed to address the unique characteristics of the property.

Add a new section, 17.40.106 that describes the development plan process, the required contents of the development and the standards by which it will be evaluated and by which it will be reviewed in the future and may be changed. This section explained in greater detail in *Analysis – Proposed Text* below.

Amend 17.40.170.B Final approval by the Planning - Add SP District development plans to the list of development plans requiring final site plan approval by final site plan Metro Planning Commission.

Amend 17.40.170.C Development under a unified plat - Add SP District to the list of final site plans for which the Metro Planning Commission exercise design of subdivision flexibility within the unified plat of subdivision.

Amend 17.40.340 Limits to jurisdiction - Add to the section that the Board of Zoning Appeals may not grant variances within a SP district.

BACKGROUND - In recent years, development professionals in Nashville/ Davidson County have called for additional flexibility to create developments that meet market demands, address neighborhood concerns and are suitable to the surroundings.

Meanwhile, Metro Council and its constituents have called for greater certainty that the residential, office, commercial, and industrial developments that are built actually match the plans promised to the community and that they are completed in a timely fashion.

In response, Metro Planning Department has proposed a new zoning district. The Specific Plan (SP) District is a new base zoning district that gives developers additional flexibility up front and gives Councilmembers and their constituents greater certainty as to the resulting project.

ANALYSIS

Existing Law & Practice - Currently, if a zone change is required for a development, the applicant, often working with the district Councilmember and the Metro Planning Department staff, chooses the base zoning district that best fits their development plan.

Each base zoning district has basic development standards attached to it. At best, these are parameters that the development plan must fit within. This one-size-fits-all approach has proven especially difficult for innovative development projects, urban infill projects, and for sites where creativity is needed to address topography or natural features.

Many Councilmembers have turned to Planned Unit Developments or PUDs for added flexibility. PUDs are an overlay, which can apply additional design standards to the base zoning. Unfortunately, many of the design standards that have been added as “conditions” on PUDs are unenforceable by Metro Government.

Likewise, some Councilmembers have used Urban Design Overlays or UDOs, to achieve a higher level of design standard. Again, though, the UDO does not have the flexibility that the SP District provides, because it still overlays base zoning, which still requires observance of some standards in the base zoning district.

The SP district will allow applicants and Councilmembers to formulate a development plan that suits the site, the neighborhood and the community and to put that plan, with its development standards, into the Zoning Code as law.

The SP district also requires that a timeline for development be included in the plan, so the district is not used for speculative rezoning.

Proposed Text - Amendments to Sections 17.08.010 and 17.08.020 establish the SP District as a base zoning option.

Amendments to Section 17.08.030, and Tables 17.12.020.C, 17.12.030.A, and 17.12.030.B state that in the SP district the land uses, setbacks and bulk regulations (including, but not limited to, height, minimum lot area, floor area ration, impervious surface ratio, etc.) will be established in the site specific plan required of the SP district.

Amendments to Chapter 17.40, Article III (Amendments to Zoning Code or Official Zoning Map) outline how the SP district will work.

Purpose and Intent - From the ordinance - “The specific plan (SP) district is an alternative zoning process that may permit any land uses, mixture of land uses, and alternative design standards, as may be required to address the unique characteristics of an individual property through a site specific plan. In return, a SP district requires the site specific plan to be designed such that, at a minimum, the location, integration and arrangement of land uses, building, structures, utilities, access, transit, parking, and streets collectively avoid monotony, promote variety, and yield a context sensitive development.”

Development Plan Process

1. Required Pre-Application Conference – Held with Planning Department Executive Director or designee
2. Application Submittal – The Planning Commission will determine the content of the application. At a minimum, the application must include:
 - a. A development plan,
 - b. A description of existing conditions on the site,
 - c. An explanation of the purpose and intent of the proposed SP District,
 - d. An explanation of the proposed plan’s consistency with the goals/objectives of the General Plan,
 - e. A design plan for the development,
 - f. A list of allowable uses,
 - g. Illustrations of proposed building types,
 - h. Site specific development standards, and
 - i. A development phasing and construction schedule.
3. Metro Historic Zoning Commission (MHZC) and Metro Development & Housing Agency (MDHA) Action

MHZC will review the proposal if the SP district is

- a. Within an historic overlay district (historic or conservation zoning overlay),
- b. Listed on, or eligible for, the national register or historic places or
- c. Identified as being worthy of conservation.

MDHA will review the proposal if the SP district is within a redevelopment district.

MHZC & MDHA will provide recommendations to the Planning Commission for any necessary alterations per their guidelines.

Use of SP District does not relieve the applicant of responsibility for the regulations or guidelines in the historic or redevelopment district. The more stringent regulations or guidelines control.

4. Metro Planning Commission (MPC) Action –

SP District proposals will be evaluated on consistency with the plan’s stated purpose and intent and on consistency with the goals and objectives of the General Plan. Note that the land uses and the density of the development will be determined in the specific development plan, but these elements must be consistent with the General Plan.

Metro Planning Commission may approve, approve with conditions or disapprove, as it would with any other zone change.

5. Metro Council Action –

Same procedure as all zone change requests.

6. Final Site Plan Review –

May be handled administratively if the final site plan does not vary significantly from the approved development plan.

Approval based on the final site plan’s conformance with approved development plan.

7. Development Approvals and Permits -

Approval of SP district does not relieve the applicant of a subdivision plat, final site plan, building permit or other Metro Department reviews or approvals. The SP district plan must fully comply with stormwater regulations as well as adopted subdivision regulations.

8. Changes to the SP district -

An applicant can submit an application to modify the SP district. The Executive Director of the Planning Department will have authority to grant minor modifications. Major modifications will go to the Metro Planning Commission and the Metro Council for consideration. Major modifications include:

- Any change in the geographic boundary of the SP district,
- Modifications to the specific performance criteria (the standards set in the SP district),
- Changes in the design standards,
- Changes to the land uses, and
- Changes to the development types.

9. Review of the SP district –

SP district projects will be reviewed by the Metro Planning Commission every four years after they are approved. MPC will evaluate the project’s progress and will provide a written report to Council recommending that the SP District remain, be amended, or that the property be rezoned.

Analysis - Nashville/Davidson County is currently experiencing new trends in development:

- Throughout the County, there are examples of redevelopment of outdated or economically obsolete developments,
- There is a growing interest in “infill” development in pre-existing communities,
- With many of the easy-to-develop sites already taken, the remaining development sites often face topographical or other natural challenges,
- Innovative development products are being offered by area developers and demanded by community members, and
- Stakeholder groups are increasingly calling for development that enhances the neighborhood.

Despite the changing nature of development with the added emphasis on site-specific development standards, the base zoning districts available allow only uniform development.

The SP district will allow land uses, density and intensity, and urban design standards to be specifically tailored to fit the site and its opportunities, and to respect the surrounding neighborhood and community.

The SP district still holds the development plan to the standards set in the General Plan and its goals and principles. However, the added flexibility will be beneficial to the developer, the community and the Councilmember as they work to create a project well-suited to the site. Meanwhile, development interests will find that the SP District gives them the additional flexibility and saves them time because SP is the base zoning, unlike the current PUD tool, which is a separate overlay with a separate approval process.

Recommendation - Approve. The addition of the SP district to the options of base zonings for applicants will provide Nashville/Davidson County with the opportunity to seek and secure innovative development projects that can be tailored to fit the site, the neighborhood and the community.

Approved (7-0), *Consent Agenda*

Resolution No. RS2005-258

“BE IT RESOLVED by The Metropolitan Planning Commission that 2005Z-073T is **APPROVED. (7-0)**”

23. 2005Z-107T
Council Bill BL2005-713

A council bill to amend Section 17.40.060 to prohibit the acceptance of a zoning application if the Metro Government has a lien on the property or if the property owner is delinquent in the payment of property taxes, sponsored by Councilmember Vivian Wilhoite.

Staff Recommendation - *Approve*

APPLICANT REQUEST - Amend Zoning Code to require all delinquent property taxes and liens to be paid on a property prior to submittal of a zone change or zoning overlay application.

ANALYSIS

Existing Law The Zoning Code currently does not require the payment of property taxes or liens prior to the submittal of any application to Metro Government.

Proposed Text Change The proposed text amendment would require the payment of all property taxes and liens, prior to the submittal of a zone change, PUD, neighborhood landmark overlay or urban design overlay application to Metro Government.

Analysis Council Rule #20 - This text amendment essentially makes law Council Rule #20 which states all property taxes have to be paid prior to adoption of a rezoning bill on 2nd reading by the Metro Council. Over the years, planning staff and the Metro Clerk's office have reviewed properties to be rezoned, using the Land Information System (LIS) database, prior to 2nd reading to ensure all taxes have been paid; LIS identifies property taxes and liens owed and paid. When property taxes and liens are delinquent, the district councilmember and the Council Office have been informed of the amount owed. It has been left to the discretion of the district councilmember as to whether the bill should be deferred on 2nd reading until payment of all property taxes.

Metro Resources & Public Participation When applicants are not required to pay the delinquent taxes until hours before the Council public hearing is held, and they either forget or don't have the funds to do so, significant Metro resources have been expended to review an application not ready for Council consideration (e.g. staff time, public hearing signs, public hearing notices). In addition, those attending a public hearing are inconvenienced when the hearing is canceled, after they have been seated and patiently waited for their item to be heard by the Council.

Current Practice During the past year, the planning staff has been rejecting zoning applications at the time of submittal, where delinquent property taxes exist. Staff has done this to facilitate more efficient processing of applications. Applicants are required to show a receipt from the Trustee's Office as proof of tax payment. No applicants have ever argued they should not have to pay the delinquent taxes. Some have admitted they don't have the funds to pay the taxes, but do have the funds to pay the minimum rezoning application fee of \$854.

Staff Recommendation - Approve. This text amendment improves the efficiency of application review, ensures applications are ready for Metro Planning Commission and Metro Council consideration, and ensures the public will not be unnecessarily inconvenienced.

Approved (7-0), *Consent Agenda*

Resolution No. RS2005-259

"BE IT RESOLVED by The Metropolitan Planning Commission that 2005Z-107T is **APPROVED. (7-0)**"

XII. MANDATORY REFERRALS

24. 2005M-109U-08
Map 81-6, Parcels 281, 283, 285, 286, 287, 288
District 2 - Jamie Isabel

A request to abandon a portion of the right of way and easements on Alley #1609, from 24th Avenue North Northwest to the dead end, requested by Raggedy, Inc, applicant.

XIII. OTHER BUSINESS

25. Contract Renewal for Brenda Bernards

Approved (7-0), *Consent Agenda*

26. Approval of new applications and checklists for subdivisions and PUD's.

Approved (7-0), *Consent Agenda*

27. Contract for the Ozone Action Program

Approved (7-0), *Consent Agenda*

28. Amendment #1 for the Ozone Action Program Contract

Approved (7-0), *Consent Agenda*

29. Executive Director Reports

Mr. Bernhardt explained that the Commission had received a memo from staff pertaining to Common Open Space requirements in Cluster Lot Subdivisions. He further explained that he would like to receive permission from the Commission to move forward on publishing this information and posting a Public Hearing to receive public input. Mr. Bernhardt also provided information pertaining to the number of cluster lots since 1999 as requested by Council Lady Baldwin Tucker at the June 23, 2005 meeting.

Mr. McLean moved and Mr. Loring seconded the motion, which passed unanimously to approve the request to the Planning staff to proceed. (7-0)

30. Legislative Update

XIV. ADJOURNMENT

The meeting adjourned at 6:20 p.m.



Chairman

Secretary