



**METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON COUNTY**

Planning Department
Metro Office Building
800 Second Avenue South
Nashville, Tennessee 37201

**Minutes
Of The
Metropolitan Planning Commission**

4/10/2008

4:00 PM

*Metro Southeast at Genesco Park
1417 Murfreesboro Road*

PLANNING COMMISSION:

James McLean, Chairman
Phil Ponder, Vice Chairman
Stewart Clifton
Judy Cummings
Tonya Jones
Ann Nielson
Victor Tyler
Councilmember Jim Gotto

Staff Present:

Rick Bernhardt, Executive Director
Ann Hammond, Asst. Executive Director
David Kleinfelter, Planning Mgr. II
Ted Morrissey, Legal Counsel
Jason Swaggart, Planner I
Bob Leeman, Planner III
Trish Brooks, Admin. Svcs Officer 3
Carrie Logan, Planner I
Craig Owensby, Communications Officer
Brenda Bernards, Planner III
Nedra Jones, Planner II
Brian Sexton, Planner I
Jonathan Honeycutt, Public Works
Steve Mishu, Metro Water

Commission Members Absent:

Andrée LeQuire
Derrick Dalton

I. CALL TO ORDER

The meeting was called to order at 4:03 p.m. The Vice Chairman, Mr. Ponder, presided over the meeting.

II. ADOPTION OF AGENDA

Ms. Hammond announced there was a request to move Item #22--Request to adopt a Planning Commission policy for administrative approval of Motor Vehicle Business Establishment applications, to the beginning of the meeting. She also announced that agenda Item #24, "Select a member of the Planning Commission to serve on a task force to consider provisions regulating electronic signs" was added to agenda as an addendum.

Mr. McLean moved and Mr. Clifton seconded the motion, which passed unanimously, to adopt the agenda as amended. **(6-0)**

III. APPROVAL OF MARCH 27, 2008 MINUTES

Mr. McLean moved and Mr. Gotto seconded the motion, which passed unanimously, to approve the March 27, 2008 meeting minutes as presented. (6-0)

IV. RECOGNITION OF COUNCILMEMBERS

Councilmember Holleman spoke in favor of Item #21, 2005UD-001U-10, Harding Town Center, which was on the Consent Agenda for approval.

Councilmember Claiborne addressed the Commission regarding Item #17, 2008S-073U-14, Bainbridge & Satterfield Resubdivision. He spoke in favor of the applicant's request to include an additional access point on the final plat. He briefly summarized the various points of support and requested that the Commission also consider its approval.

Ms. Cummings arrived at 4:10 p.m.

Councilmember Page spoke regarding Item #22--Request to adopt a Planning Commission policy for administrative approval of Motor Vehicle Business Establishment applications. She spoke in favor of approving the policy as suggested by staff. She expressed concerns regarding Item #23, Motor Vehicle Business Establishment application for 2632 Nolensville Pike. She asked that the Commission apply the proposed policy on this request.

Ms. Nielson arrived at 4:13 p.m.

Councilmember Jameson spoke in favor of Item #9, 2008Z-025T, Replacement of Trees. He gave a brief explanation of the bill and requested its approval.

Councilmember Durbin stated he would address the Commission once his item was presented for discussion.

Councilmember Harrison spoke in favor of approving Item #13, 2008Z-039U-3. He stated that CL zoning for this property would be compatible to the surrounding parcels in this area and requested its approval.

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

1. 2008CP-04G-12 Amend the *Southeast Community Plan: 2004 Update* changing the land use policy from RLM to RM for 15.1 acres at the corner of Edmondson Pike and Cloverland Drive – deferred to May 8, 2008 at the request of the applicant
2. 2008Z-010G-12 A request to rezone from AR2a to RM9 district properties located at 13153, 13159, 13167 Old Hickory Boulevard and Old Hickory Boulevard (unnumbered), approximately 430 feet south of Muci Drive. (See also PUD Proposal No. 2008P-003G-12) – deferred indefinitely at the request of the applicant
3. 2008P-003G-12 A request for preliminary approval for a Planned Unit Development, properties located at 13153, 13159, 13167 Old Hickory Boulevard and Old Hickory Boulevard (unnumbered), approximately 430 feet south of Muci Drive (24.01 acres), zoned AR2a and proposed for RM9 zoning, to permit 211 multi-family units. (See Proposal No. 2008Z-010G-12) – deferred indefinitely at the request of the applicant
6. 2008SP-009G-06 A request to change approximately 39.09 acres from R15 to Specific Plan - Residential (SP-R) zoning property located at Sawyer Brown Road (unnumbered), approximately 540 feet north of Meadow Lane Drive, to permit the development of 130 townhome units – deferred to April 24, 2008 at the request of the applicant

7. 2008SP-010U-12 A request to change approximately 15.1 acres from R40 to Specific Plan - Residential (SP-R) zoning property located at Edmondson Pike (unnumbered), at the northwest corner of Edmondson Pike and Cloverland Drive, to permit the development of 104 dwelling units, requested by LandDesign, Inc. – deferred to May 8, 2008 at the request of the applicant

Mr. McLean moved and Mr. Gotto seconded the motion, which passed unanimously, to approve the Deferred and Withdrawn Items. **(8-0)**

Ms. Hammond announced, “As information for our audience, if you are not satisfied with a decision made by the Planning Commission today, you may appeal the decision by petitioning for a writ of cert with the Davidson County Chancery or Circuit Court. Your appeal must be filed within 60 days of the date of the entry of the Planning Commission’s decision. To ensure that your appeal is filed in a timely manner, and that all procedural requirements have been met, please be advised that you should contact independent legal counsel.”

VI. PUBLIC HEARING: CONSENT AGENDA

FINAL PLANS

15. 2008S-010U-10 A request for final plat approval to remove the reserve parcel status on one lot and to consolidate four lots and a reserve parcel into one lot for property located at 3505 Wimbledon Road, approximately 230 feet west of Grayswood Avenue, zoned RS10. -Approve
16. 2008S-070A-10 A request to amend the rear setback from 30 feet to 20 feet for property located at 4108 Legend Hall Drive, approximately 340 feet north of Hobbs Road, zoned R20 and located within the Legend Hall Planned Unit Development. -Approve

OTHER BUSINESS

21. 2005UD-001U-10 A request to add two positions to the Harding Town Center Urban Design Overlay Advisory Committee, bringing the total number of members to nine, requested by Councilmember Holleman. -Approve
24. Amend employee contract for Brandon Burnette. -Approve

Ms. Nielson moved and Mr. Clifton seconded the motion, which passed unanimously, to approve the Consent Agenda as presented. **(8-0)**

VII. PUBLIC HEARING: COMMUNITY PLANS

1. **2008CP-04G-12**
Amend the *Southeast Community Plan: 2004 Update*
Map172-00, Parcel 009
Subarea 12
Council District 31 - Parker Toler

Amend the *Southeast Community Plan: 2004 Update* changing the land use policy from RLM to RM for 15.1 acres at the corner of Edmondson Pike and Cloverland Drive..

Staff Recommendation: Disapprove Plan Amendment Request from RLM to RM.

The Metropolitan Planning Commission DEFERRED 2008CP-04G-12 to May 8, 2008, at the request of the applicant. (8-0)

VIII. PUBLIC HEARING: PREVIOUSLY DEFERRED ITEMS ON PUBLIC HEARING ZONING MAP AMENDMENTS

2. **2008Z-010G-12**
Map183-00, Parcels 011, 011.01, 012, 012.01, 060
Subarea 12
Council District 31 - Parker Toler

A request to rezone from AR2a to RM9 district properties located at 13153, 13159, 13167 Old Hickory Boulevard and Old Hickory Boulevard (unnumbered), approximately 430 feet south of Muci Drive (24.01 acres), requested by Centex Homes, applicant, for Gene Smith et ux, Shirley Smith, Bruce Gold and Joan Gold Cypress, and Walter Jones et ux, owners (See also PUD Proposal No. 2008P-003G-12).

Staff Recommendation: Disapprove. If approved, the Infrastructure Deficiency Area requirements for this property must be met with any development proposal associated with this zone change.

The Metropolitan Planning Commission DEFERRED Zone Change 2008Z-010G-12 indefinitely at the request of the applicant. (8-0)

3. **2008P-003G-12**
Cane Ridge Villas
Map183-00, Parcels 011, 011.01, 012, 012.01, 060
Subarea 12
Council District 31 – Parker Toler

A request for preliminary approval for a Planned Unit Development, properties located at 13153, 13159, 13167 Old Hickory Boulevard and Old Hickory Boulevard (unnumbered), approximately 430 feet south of Muci Drive (24.01 acres), zoned AR2a and proposed for RM9 zoning, to permit 211 multi-family units, requested by Dale & Associates, applicant, for Gene Smith et ux, Shirley Smith, Bruce Gold and Joan Gold Cypress and Walter Jones et ux, owner (See Proposal No. 2008Z-010G-12).

Staff Recommendation: Disapprove

The Metropolitan Planning Commission DEFERRED Planned Unit Development 2008P-003G-12 indefinitely at the request of the applicant. (8-0)

4. **2008Z-029U-10**
Map 104-14, Parcels 072, 073
Subarea 10
Council District 18 – Keith Durbin

A request to rezone from RS7.5 to R8 district properties located at 2902 and 2904 W. Linden Avenue, approximately 95 feet west of 29th Avenue South (0.70 acres), requested by Dennis and Delia Corrieri, owners.

Staff Recommendation: Approve

APPLICANT REQUEST - A request to change from Single-Family Residential (RS7.5) to One and Two-Family Residential (R8) zoning for property located at 2902 and 2904 W. Linden Avenue, approximately 95 feet west of 29th Avenue, South (0.70 Acres).

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.

Proposed Zoning

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

GREEN HILLS – MIDTOWN COMMUNITY PLAN

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

Consistent with Policy? Yes. The Green Hills - Midtown Community Plan identifies a need for infill and intensification of residential uses. In addition, the R8 zoning district complies with the residential zoning density range of 4 to 9 dwelling units per acre as specified within the Residential Medium Policy.

RECENT REZONINGS On April 26, 2007, The Planning Commission recommended approval of a mass down zoning of this area from R8 to RS7.5, requested by Councilmember Hausser. This zone change was passed by Metro Council and became effective May 17, 2007.

PUBLIC WORKS RECOMMENDATION No exception taken.

Maximum Uses in Existing Zoning District: RS7.5

Land Use (ITE Code)	Acres	Density	Total Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached(210)	0.70	4.94	3	29	3	4

Maximum Uses in Proposed Zoning District: R8

Land Use (ITE Code)	Acres	Density	Total Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached(210)	0.70	4.63	3	29	3	4

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

Land Use (ITE Code)	Acres	--		Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--				0	0	0

STAFF RECOMMENDATION - Staff recommends approval. Both the current RS7.5 and proposed R8 zoning are compatible with the land use policy and development pattern of the area.

Mr. Sexton presented and stated that staff is recommending approval.

Mr. Tom Grooms, 2506 Barton Avenue, spoke in opposition to the requested zone change.

Ms. Burkley Allen, 3521 Byron Avenue, spoke in opposition to the requested zone change.

Ms. Jo Doster, 2802 Westwood, spoke in opposition to the requested zone change.

Ms. Mary Matthews, 2900 Westmoreland Drive, spoke in opposition to the requested zone change. She presented a letter to the Commission for the record.

Mr. Mike Bell, 2210 29th Avenue South, spoke in opposition to the requested zone change.

Ms. Dede Corrieri, 2121 Ashwood Avenue, spoke in favor of the requested zone change.

Mr. Scott Weiss, 2910 Westmoreland Drive, spoke in opposition to the requested zone change.

Mr. Donald Coode, 1608A Boscobel Street, spoke in favor of the requested zone change.

Ms. Deena Corrieri, 5008 Whispering Hills Court, spoke in favor of the requested zone change.

Ms. Jeanne Mitchell, 601 Davidson Road, spoke in favor of the requested zone change.

A resident of 2905 Westmoreland Drive spoke in opposition to the requested zone change.

Mr. Cortney Quandt, 3103 Winberry Drive, spoke in favor of the requested zone change.

Mr. Dennis Corrieri, 2121 Ashwood Avenue, spoke in favor of the requested zone change.

Councilmember Durbin briefly explained the process in which these parcels were rezoned from R to RS. He acknowledged the request being made by the applicant as well as the issues and concerns expressed by his constituents. He requested that the Commission consider both sides of the request while deliberating their motion. He stated he would support the majority of the neighbors who would be affected by this proposal.

Ms. Jones reminded the Commission of her concerns on mass rezonings and the issue of not allowing property owners the right to opt out of the rezoning.

Mr. McLean requested clarification on lot comparability and the possibility of subdividing the parcels into three lots under RS7.5 rezoning.

Mr. Bernhardt stated that an analysis for this type of subdivision has not been completed.

Ms. Nielson requested clarification on the Commission's position on allowing property owners to opt out of mass rezonings.

Mr. Bernhardt offered that Council has the authority to determine whether property owners have the right to opt out of a mass rezoning. He further offered that the previous Councilmember was interested in maintaining the diverse housing types located in this area which caused her position to not allow property owners to opt out of this rezoning.

Mr. Clifton acknowledged how the diversity of housing types complimented this area. He too remembered that the former Councilmember was interested in maintaining the existing housing types for this area and that her reasons for not allowing participants to opt out of the rezoning, were for planning purposes. He recognized the concerns of the applicant, however, due to the number of duplexes already in the area and the fact that the rezoning was just completed, he would not be in favor of approving the request.

Ms. Cummings requested additional information on the rezoning the Commission approved on December 14, 2006, as mentioned by staff.

Mr. Sexton explained this was a case very similar to the applicant's request as it was a request to upzone a parcel that was included in a mass rezoning, which was also consistent with the policy for the area.

Mr. Tyler expressed his concerns with not allowing a property owner the ability to opt out of a mass rezoning.

Mr. Gotto briefly explained the difference between a conservation overlay and a downzoning and the ability to opt out of each at the Council level. He acknowledged the concerns expressed by those in opposition as well as the concerns expressed by the applicant. He stated he would not be in favor of removing the rights of a property owner.

Mr. Clifton moved and Ms. Nielson seconded the motion to disapprove Zone Change 2008Z-029U-10.

This motion failed.

Ms. Cummings moved and Mr. Gotto seconded the motion, to approve Zone Change 2008Z-029U-10. ~~(6-2) No Votes – Cummings, Gotto~~ **No Votes – Clifton, Nielson – Amended by MPC on May 8, 2008, See Agenda Item #10**

Resolution No. RS2008-61

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008Z-029U-10 is **APPROVED. (6-2)**

The proposed R8 zoning district is consistent with the Green Hills - Midtown Community Plan’s Residential Medium policy, which is intended for residential development with a density range of four to nine units per acre.”

FINAL PLATS

- 5. **2008S-062U-13**
Town Park Estates, Resub. Lot 61
Map135-05, Parcel 055
Subarea 13
Council District 28 – Duane A. Dominy

A request for final plat approval to create 3 lots on property located at 316 Melvin Jones Drive, approximately 450 feet south of Southwind Drive (1.3 acres), zoned R10, requested by David Waynick, owner, Civil Site Design Group, surveyor.

Staff Recommendation: Defer until a critical lot plan has been submitted and approved by planning staff, and Metro Stormwater has given approval. If critical lot plans are submitted prior to the meeting and Stormwater approves the plan then a revised recommendation will be provided at the meeting.

APPLICANT REQUEST - Final Plat

A request for final plat approval to create 3 lots on 1.3 acres for property located at 316 Melvin Jones Drive, approximately 450 feet south of Southwind Drive, zoned One and Two-Family Residential (R10).

ZONING

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

SUBDIVISION DETAILS The plan calls for the creation of three new lots on an existing lot located at 316 Melvin Jones Drive.

Lot Comparability Section 3-5 of the Subdivision Regulations stipulates that new lots in areas previously subdivided and predominantly developed are to be generally in keeping with the lot frontage and lot size of the existing surrounding lots.

A lot comparability analysis was performed and yielded the following information:

Lot Comparability Analysis		
	Requirements:	
	Minimum lot size (sq. ft.):	Minimum lot frontage (linear ft.):
Melvin Jones Rd.	14,810.40	76.14

As proposed, the three new lots will have the following areas and street frontages:

- Lot 1: 23,345 sq. ft., (.54 acres), with approximately 104 linear ft. of frontage on Melvin Jones Road.
- Lot 2: 18,654 sq. ft., (.43 acres), with approximately 93 linear ft. of frontage on Melvin Jones Road.
- Lot 3: 15,427 sq. ft., (.35 acres), with approximately 95 linear ft. of frontage on Melvin Jones Road.

The three proposed lots meet the minimum requirements for area and frontage, and are consistent with existing lots within the area.

Topography While the lots size is consistent with lots in the area, the property is encumbered with slopes greater than 20% and must be designated as critical lots. To ensure that the lots will meet the critical lot standards, a critical lot plan should be submitted for review. If lots can not meet the critical lot standards then the lots should not be approved.

Sidewalks This request is within the Urban Services District and requires that sidewalks be constructed on two lots, or that a financial contribution to the pedestrian network be made in lieu of constructing the sidewalks.

STORMWATER RECOMMENDATION Defer or disapprove until the following conditions are met:

1. Show and label the stream Tops of Bank
2. With reference to comment #2 above, show and label a Public Drainage Easement for the noted stream.
3. This project will require a Grading Plan for the stream crossing.

PUBLIC WORKS RECOMMENDATION No Exception Taken

STAFF RECOMMENDATION Staff recommends that the request be deferred until a critical lot plan has been submitted and approved by planning staff, and Metro Stormwater has given approval.

CONDITIONS

1. Sidewalk must be constructed on two lots only, or the owner shall make a contribution to the pedestrian network in lieu of construction as specified in Section 3-8 of the Metro Subdivision Regulations.
2. A critical lot plan must be submitted and approved prior to recording. If lots can not meet the critical lot standards then the lots shall not be permitted.
3. Show and label the stream Tops of Bank.
4. With reference to condition #2 above, show and label a Public Drainage Easement for the noted stream.
5. This project will require a Grading Plan for the stream crossing.
6. Prior to recording a note shall be added to the plat showing that it is within the airport impact overlay, and that any homes should be constructed in a manner to reduce noise from air traffic.

Mr. Swaggart presented and stated that staff is recommending approval with conditions.

Mr. Ricky Powell, 338 Ladybird Drive, spoke in opposition to the proposal.

Mr. Ryan Lovelace, 1613 Indian Creek Circle, spoke in favor of the proposal.

Mr. McLean moved and Mr. Gotto seconded the motion, which passed unanimously, to approve Final Plat 2008S-062U-13. **(8-0)**

Resolution No. RS2008-62

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008S-062U-13 is **APPROVED WITH CONDITIONS. (8-0)**

Conditions of Approval:

1. Sidewalk must be constructed on two lots only, or the owner shall make a contribution to the pedestrian network in lieu of construction as specified in Section 3-8 of the Metro Subdivision Regulations.
2. A critical lot plan must be submitted and approved prior to recording. If lots can not meet the critical lot standards then the lots shall not be permitted.
3. Show and label the stream Tops of Bank.
4. With reference to condition #2 above, show and label a Public Drainage Easement for the noted stream.
5. This project will require a Grading Plan for the stream crossing.
6. Prior to recording a note shall be added to the plat showing that it is within the airport impact overlay, and that any homes should be constructed in a manner to reduce noise from air traffic.”

**IX. PUBLIC HEARING:
ZONING MAP AMENDMENTS**

6. **2008SP-009G-06**
Bluffs On Sawyer Brown
Map 128-00, Parcels 045
Subarea 6
Council District 22 – Eric Crafton

A request to change approximately 39.09 acres from R15 to Specific Plan - Residential (SP-R) zoning property located at Sawyer Brown Road (unnumbered), approximately 540 feet north of Meadow Lane Drive, to permit the development of 115 townhome units, requested by Dale & Associates, applicant, for Hodges & Sons Inc., owner.

Staff Recommendation: Disapprove

The Metropolitan Planning Commission DEFERRED Zone Change 2008P-009G-06 to April 24, 2008, at the request of the applicant. (8-0)

7. **2008SP-010U-12**
Cloverland & Edmonson
Map 172-00, Parcel 009
Subarea 12
Council District 31 – Parker Toler

A request to change approximately 15.1 acres from R40 to Specific Plan - Residential (SP-R) zoning property located at Edmondson Pike (unnumbered), at the northwest corner of Edmondson Pike and Cloverland Drive, to permit the development of 104 dwelling units, requested by LandDesign, Inc., applicant, for Thoroughbred Lane Investment Company, LLC, owner.

Staff Recommendation: Disapprove

The Metropolitan Planning Commission DEFERRED Zone Change 2008SP-010U-12 to May 8, 2008, at the request of the applicant. (8-0)

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8. **2008Z-012T**

Fee for Minor Changes to Overlay Districts/SP

A proposed resolution to establish an alternative, lower fee for applications requesting minor changes to an adopted overlay district or specific plan district that must be approved by the Metro Council.

Staff Recommendation: Approve

Mr. Leeman presented and stated that staff is recommending approval.

Mr. Clifton stepped out of the meeting at meeting at 5:35 p.m.

Ms. Cummings questioned whether the proposed fee would be comparable to other Metropolitan areas.

Mr. Leeman stated it was a reasonable fee for the suggested change and it was comparable to other metropolitan areas.

Ms. Nielson questioned whether there were fees that distinguished between major and/or minor amendments.

Mr. Leeman stated that the Zoning Code currently distinguishes between major and minor amendments. He explained that the proposed fee is more of a housekeeping fee for minor changes being made to an adopted overlay district, or specific plan district that must be approved by Council.

Mr. Gotto spoke of additional needs to further study this bill. He stated that he would like to meet with staff to ensure that the proposed fee is appropriate. He suggested that the Commission defer the bill indefinitely.

Mr. Gotto moved, and Ms. Cummings seconded the motion, which passed unanimously, to defer 2008Z-012T indefinitely, to allow additional time to further review the bill. **(7-0) Clifton was not present.**

Mr. Clifton returned to the meeting at 5:40 p.m.

Resolution No. RS2008-63

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008Z-012T is **DEFERRED INDEFINITELY. (7-0)**”

9. 2008Z-025T
Replacement of Trees

A council bill to amend Section 17.24.100.A (Replacement of Trees) as to calculation of tree density, sponsored by Councilmember Mike Jameson.

Staff Recommendation: Approve

APPLICANT REQUEST - A council bill to amend the Zoning Code, Section 17.24.100.B (Replacement of Trees) as to the calculation of tree density.

ANALYSIS

Existing Law Article II of Chapter 17.24 of the Zoning Code addresses tree protection and replacement. To minimize tree removal and encourage preservation of existing trees, the Code requires properties to achieve a “tree density” factor of at least 14 units per gross acre using both existing (protected) and new (replacement) trees. A “unit” represents a numerical value assigned to existing trees based on the tree’s diameter at breast height (approximately 4.5 feet above the ground) and to new trees based on their caliper size (a tree’s diameter measured 1 foot off the ground). Both measurements are made from the uphill side of the tree.

When calculating the tree density factor, the Zoning Code allows deductions from a project’s gross acreage area for property now or proposed in the future to be covered by a lake or pond year round, any fenced athletic field, or any

structures located on the property. A “structure” was interpreted in a recent court opinion to include buildings, parking areas, drive aisles, and loading areas.

Proposed Bill The proposed bill would delete the word “structures” and insert in its place “buildings” and modify the list of deductions from gross acreage to include semi-trailer and tractor-trailer service areas, drive aisles and parking and loading areas. As written, the bill would make it clear that an employee parking and loading area cannot be considered a “structure.”

Proposed Text This council bill proposes to amend Section 17.24.100.B (Replacement Trees) as follows:
B. Each property shall attain a tree density factor of at least fourteen units per acre using protected or replacement trees, or a combination of both. Compliance with this provision shall be calculated using gross acreage of the property minus the portion of the land area currently or proposed to be covered by buildings structures, minus the fenced area of any athletic field, minus the area of a lake or pond which is covered by water year round, minus semi-trailer and tractor-trailer service areas, drive aisles, parking and loading areas, and excluding open areas of golf facilities. Protected and replacement trees shall contribute toward the tree density.

Analysis The proposed bill would ensure the tree protection and replacement provisions of the Zoning Code apply to any employee parking and loading area, regardless of the principal and accessory uses located on the same property or campus. It would treat all businesses in Davidson County equally and equitably. No one business would singularly be required to provide a greater tree density factor than another business with a similar sized employee and customer parking area.

From a quality of life perspective, providing trees, even dispersed and clustered within a parking lot, reduce the “urban heat island” effect associated with large parking lot expanses. The phrase “urban heat island” refers to the difference between the ambient temperature within an urban area vs. the rural area surrounding it. Collectively, urban heat islands impact our physical space and personal health by increasing demand for air conditioning, producing more gas emissions, and creating the right conditions suitable for the spread of vector-borne diseases. To quantify the urban heat island effect, NASA in the mid-1990’s did an evaluation of a mall parking lot in Huntsville, Alabama. It found a temperature difference of nearly 60 degrees between the uncovered space in the middle of the mall parking lot and in the shade of a small tree island in the same parking lot. The cities of Atlanta, Phoenix, and Houston have had similar studies done corroborating NASA’s work on the cooling effect of trees and vegetation.

Trees add to a community’s character in residential neighborhoods and to the appeal of office, commercial, and industrial properties. The more attractive the area looks, the more desirable it is to live and work there, increasing residential and commercial property values. Trees in existing and new developments serve a vital role in shaping a community’s economic health.

STAFF RECOMMENDATION Staff recommends approval of the bill as it strengthens Nashville’s commitment to tree protection and replacement. The bill ensures all properties contribute towards making Nashville a more attractive place to live and work. Trees remove pollutants from the air, reduce surface temperatures through shading, and reduce stormwater run-off by slowing both the movement and volume of water. They serve a critical role in shaping a community’s economic and physical health by creating a more desirable place to live and work.

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

Mr. Gotto moved and Ms. Cummings seconded the motion, which passed unanimously, to approve 2008Z-025T. **(8-0)**

Resolution No. RS2008-64

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008Z-025T is **APPROVED. (8-0)**”

10. 2008Z-031T
Zoning Application Property Owner Signatures

A council bill to amend Section 17.40.060 (Applications) to require the signature of all property owners on a zone change application, yet permit the waiver of this requirement by Metro Council resolution provided 27 affirmative votes are obtained, sponsored by Councilmember Eric Crafton.

Staff Recommendation: Disapprove

REQUEST A council bill to amend Section 17.40.060 (Applications) to require the signature of all property owners on a zone change application, yet permit the waiver of this requirement by Metro Council resolution provided 27 affirmative votes are obtained.

ANALYSIS

Existing Law - Section 17.40.060 of the Zoning Code allows an application to amend the official zoning map to be initiated by the property owner, the Metropolitan Planning Commission, or a Councilmember. The Zoning Code does not specify that all owners must sign the application for Councilmember initiated rezonings.

Proposed Bill This bill would require the written consent of all property owners of record for a property to be rezoned. It includes the ability to waive this requirement with a resolution of the Council if that resolution receives 27 votes in favor. All signatures or the resolution waiver would be required in order to submit a rezoning application for consideration by the community, the Planning Commission, or the Council.

Proposed Text Amend subsection A. by adding the following provision at the end of the section:

“Further, no application to amend the official zoning map shall be accepted by the planning commission or the metropolitan clerk unless written consent of all property owners of record for the property to be rezoned is submitted with the application. This provision requiring property owner consent may be waived by resolution of the metropolitan council receiving twenty-seven (27) affirmative votes.”

Analysis It is the practice of the Planning Commission to require written consent of all property owners of record for the property to be rezoned when accepting an application that is not initiated by a councilmember or the Planning Commission. Generally, these zone changes involve a limited number of properties and owners. Applications initiated by the Planning Commission and Councilmembers tend to involve a wider area with numerous properties and property owners.

Applications initiated by the Planning Commission generally come from one of four sources:

- Through the community planning process, which may result in a zone change to implement newly adopted policies of a community plan.
- At the request of a Councilmember or group of Councilmembers. Recent examples include the Gallatin Road SP and the Myatt Drive SP.
- At the request of another Department such as the Historical Commission to implement a Neighborhood Conservation overlay district.
- On behalf of property owners to correct an error or to initiate an agreed upon community plan driven zone change.

The most significant impact this bill will have on the Planning Commission is in its ability to implement the policies of the community plans. The Planning Commission will be severely limited in its ability to propose rezonings that implement the community plans. No application could be submitted or considered by the Commission until all signatures were obtained or a resolution to waive the signature requirement was adopted by the Council with a 27-vote supermajority.

As noted above, rezonings initiated by the Planning Commission tend to involve numerous properties and property

owners. Gathering the signatures for the number of properties involved in the above types of rezonings will require significant effort and it is unlikely that 100% of the property owner signatures can be obtained. This leaves the Planning Commission in the position of recommending to rezone only a portion of properties involved or, before initiating any rezoning to implement a community plan, receiving from the Council, a waiver of this requirement through a resolution receiving 27 affirmative votes.

In addition to the difficulty of gathering signatures, this amendment could have a significant impact on the intake process for rezoning applications from either the Planning Commission or a Councilmember due to the need to verify the signatures. Staff uses Tax Assessor records to determine property ownership. These records can be outdated as there is a time lapse between change of ownership and the updating of data bases. Currently, an applicant will submit a current deed with an application if a property has recently changed hands. Property owners do not always make changes to a deed when life circumstances change, such as a death, and obtaining a death certificate can be difficult. At this time, it is the responsibility of the applicant to get the necessary signatures or certificates when submitting a zone change request.

The volume of applications submitted by the Planning Commission and Councilmembers varies. There may be none for a particular filing deadline or there may be several. Recently, seven requests were received for one filing deadline, including three residential downzonings, two neighborhood conservations overlays, a UDO and an amendment to the Gallatin Pike SP. This represents in excess of 1,700 properties. The Planning Commission does not have the staff capacity to verify the volume of signatures generally involved in Councilmember rezoning initiatives.

A Councilmember seeking to initiate a rezoning action in his or her district would need to obtain a resolution of the Council, with 27 votes supporting the initiative, in order to avoid the burden of collecting and verifying of signatures each time they wanted to submit an application to initiate a rezoning action in their district.

STAFF RECOMMENDATION Staff recommends disapproval of this bill. The requirement to obtain signatures of all property owners for any rezoning severely limits the Planning Commissions ability to implement the policies of the community plans. In addition, that there is not the staffing capacity available to verify that all necessary signatures have been obtained.

Ms. Bernards presented and stated that staff is recommending disapproval.

Mr. McLean stepped out of the meeting at 5:52.

Ms. Nielson moved and Mr. Clifton seconded the motion, which passed unanimously to disapprove 2008Z-031T. **(7-0) McLean was not present.**

Resolution No. RS2008-65

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008Z-031T is **DISAPPROVED. (7-0)**”

11. 2008Z-032T
Check Cashing, Pawnshop, Cash Advance, and Title Loan

A council bill to amend Chapters 17.04, 17.08 and 17.16 of the Zoning Code to create new definitions, modify the land use table, and establish conditions for financial institution, check cashing, pawnshop, title loan, and cash advance uses, sponsored by Councilmember Erik Cole.

Staff Recommendation: Approve

APPLICANT REQUEST A council bill to amend Chapters 17.04, 17.08 and 17.16 of the Zoning Code to create new definitions, modify the land use table, and establish conditions for financial institution, check cashing, pawnshop, title loan, and cash advance uses.

APPLICATION DETAILS In the current Zoning Ordinance, there are no definitions for “financial institution,” “check cashing,” “pawnshops,” “title loan,” and “cash advance” uses. Financial institution is currently listed in the land use table, which determines in which districts certain uses are permitted by right, permitted subject to specific conditions, permitted by special exception, permitted as an accessory use, or permitted only within an overlay district. The Zoning Administrator currently considers check cashing, title loan, and cash advance uses to be financial institutions and considers pawnshops to be a retail use.

This Zoning Code text amendment would add definitions for financial institution, check cashing, title loan, pawnshop, and cash advance. The definition for financial institution is intended to remedy the current situation, where the use is listed in the land use table, but not defined. Each of the other definitions is based on the section of the Tennessee Code that regulates the specific use. The intent of the legislation is to permit or permit with conditions check cashing, title loan and cash advance uses in the same zoning districts in which financial institution is currently permitted or permitted with conditions. In addition, the ordinance is intended to permit or permit with conditions pawnshop in the same zoning districts in which retail is permitted or permitted with conditions. The conditions remain the same as the conditions for financial institution and retail uses.

STAFF RECOMMENDATION Staff recommends approval of the proposed ordinance.

ORDINANCE NO. BL2008-169

An Ordinance amending Chapters 17.04, 17.08 and 17.16 of Title 17 of the Metropolitan Code, Zoning Regulations, pertaining to check cashing, title loan, pawnshops, and cash advance establishments, all of which is more specifically described herein (Proposal No. 2008Z-032T).

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

Section 1. That Section 17.04.060 of the Code of The Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended by adding the following new definitions:

“Financial institution” means any building, room, space or portion thereof where an establishment provides a variety of financial services, including generally, banks, credit unions, and mortgage companies.

“Check cashing” means any building, room, space or portion thereof where checks are cashed in exchange for a fee, as regulated by Title 45, Chapter 18, of the Tennessee Code Annotated.

“Title loan” means any building, room, space or portion thereof where a business operates that makes loans in exchange for possession of the certificate of title to property or a security interest in titled property, as regulated by Title 45, Chapter 15, of the Tennessee Code Annotated.

“Pawnshop” means any building, room, space or portion thereof where a pawnbroker regularly conducts business, as regulated by Title 45, Chapter 6, of the Tennessee Code Annotated.

“Cash advance” means any building, room, space or portion thereof where unsecured, short-term cash advances are provided, including those made against future pay checks, as regulated by Title 45, Chapter 17, of the Tennessee Code Annotated.

Section 2. That Section 17.08.030, District Land Use Tables, of the Code of The Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended as follows:

1. By adding “Check cashing”, “Title loan” and “Cash Advance” under Office uses as a permitted use (P) in the MUL, MUG, MUI, OL, OG, OR20, OR40, ORI, CN, CL, CS, CA, CF, CC, SCN, SCC, SCR and IWD districts, and as use permitted with conditions (PC) in the MUN and ON districts.

2. By adding “Pawnshop” under Commercial Uses as a permitted use (P) in the MUL, MUG, MUI, CL, CS, CA, CF, CC, and SCR districts, and as use permitted with conditions (PC) in the MUN, ORI, CN, SCN, SCC, IWD, IR and IG districts.

Section 3. That Chapter 17.16 of the Code of The Metropolitan Government of Nashville and Davidson County,

Zoning Regulations, is hereby amended as follows:

1. By amending Section 17.16.050 by deleting subsection A. in its entirety and substituting in lieu thereof the following new subsection A.

“A. Financial Institution, Cash Advance, Check Cashing and Title Loan. A financial institution, cash advance, check cashing or title loan office shall be limited to two thousand five hundred square feet of gross floor area per establishment.”

2. By amending Section 17.16.070 by inserting the following as subsection M., and relettering the remaining subsections accordingly:

“M. Pawnshop.

1. In the MUN, ORI and CN zone districts, each establishment shall be limited to five thousand square feet of gross floor area, maximum.

2. In the IWD, IR and IG zone districts, each establishment shall be limited to two thousand five hundred square feet of gross floor area, maximum.”

Section 4. That this Ordinance shall take effect five (5) days from and after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

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

Mr. Clifton moved and Mr. Gotto seconded the motion, which passed unanimously, to approve 2008Z-032T. **(7-0) McLean was not present.**

Resolution No. RS2008-66

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008Z-032T is **APPROVED. (7-0)**”

12. 2008Z-034T
Religious Institution in SCR District

A council bill to amend Section 17.08.030 of the Zoning Code to permit by right a "Religious Institution" in the SCR zoning district, sponsored by Councilmember Sam Coleman.

Staff Recommendation: Approve

APPLICANT REQUEST A council bill to amend Section 17.08.030 of the Zoning Code to permit by right a "Religious Institution" in the SCR zoning district.

ANALYSIS

Existing Law Section 17.04.060 of the Zoning Code defines "Religious institution" as “any structure or site used primarily for religious practices.” Religious institutions are permitted by right in all agricultural, mixed-use, office, commercial, and industrial zoning districts and are permitted by special exception in all residential zoning districts. They are not permitted in shopping center districts.

The Shopping Center Regional (SCR) zoning district is intended for high intensity retail, office, and consumer service uses for a regional market area and implements the super community and regional activity center policies of the general plan.

Proposed Bill The proposed bill would permit, by-right, religious institutions in the SCR zoning district.

Analysis The SCR district is described in Section 17.08.020 of the Zoning Code as a district intended for very large, regional shopping and activity centers such as Bellevue Mall, Green Hills Mall, Rivergate Mall, Hickory Hollow Mall, Nashville West, Hill Center at Green Hills, and the Bellevue West Shopping Center. It also is a zoning district applied to large-scale shopping centers at major intersections such as Nolensville Pike/Old Hickory, I-65/Old Hickory, and Nolensville Pike/Harding Place.

Churches are an appropriate use in this zoning district. A number of churches are as large as, or larger than, some major retail tenants within regional shopping centers and have many of the same design elements, including access and parking. Churches provide an option for reusing vacant or underutilized shopping centers.

Within Metro, there are 399 parcels zoned SCR encompassing 1,362 acres of land; 61% of these parcels are located in 36 planned unit developments (PUD).

Currently, in order for a church to locate within an existing PUD with SCR as a base zoning district, a zone change and an amendment to the PUD would be required if the PUD was not previously approved for a religious institution use. The request to change the PUD would require Council approval. Amending a PUD may also trigger new Zoning Code requirements. For existing PUDs with SCR base zoning, permitting churches as a use within the SCR district would still require a PUD revision.

The SCR zoning is primarily found in areas identified as Regional Activity Centers (RAC). The various Community Plans with RAC policy call out civic and public benefit uses as appropriate uses within these centers. Many churches generate activity seven days a week with uses that can include child care, retail, classes, social events and even broadcasting for the largest tier of churches. A church can provide vitality in a space that suffers from low levels of activity and can attract other uses.

Currently, churches are permitted by right or by special exception in all zoning districts except SCR, Shopping Center Community (SCC), and Shopping Center Neighborhood (SCN). In considering this text amendment, staff also considered the possibility of permitting churches in the SCC and SCN zoning districts. The observed trend of uses moving into obsolete shopping center space includes vocational schools, business schools and churches. These uses are generally looking for large spaces with economical lease rates. Centers zoned SCC and SCN offer smaller spaces and serve smaller market areas than does SCR. These areas are generally not large enough to accommodate a church use and still provide adequate neighborhood and community services. Staff has determined that limiting the expansion of churches as permitted uses to the SCR zoning district is appropriate.

STAFF RECOMMENDATION Religious institutions are an appropriate use in the SCR zoning district, as a number of churches are as large, or larger, than some major retail tenants within regional shopping centers and have many of the same design elements and requirements, including access and parking. Staff recommends approval of this text amendment that would permit religious institutions in the SCR zoning district.

Mr. McLean returned to the meeting at 5:54 p.m.

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

Ms. Cummings moved and Mr. Clifton seconded the motion, which passed unanimously, to approve 2008Z-034T. **(8-0)**

Resolution No. RS2008-67

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008Z-034T is **APPROVED. (8-0)**”

- 13. 2008Z-039U-03**
Map 071-01, Part of Parcel 087
Subarea 3
Council District 2 – Frank Harrison

A request to rezone from RS7.5 to CL district a portion of property located at 415 W. Trinity Lane, approximately 560 feet west of Monticello Drive (4.10 acres), requested by Leslie and Lori Y. Stratton, applicant, for Greater Grace Temple Community Church, owner.

Staff Recommendation: Disapprove

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

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.

Proposed Zoning

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

BORDEAUX/WHITES CREEK COMMUNITY PLAN

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

Consistent with Policy? No. The uses allowed in the Commercial Limited district would be incompatible with the Residential Medium policy. Areas designated RM are suitable for residential development, civic and public benefit activities, and small open spaces, such as parks, greens, squares and plazas. The uses surrounding this site on the West, North, and Northeast are predominantly residential or vacant land. Commercial Mixed Concentration (CMC) policy, with zoning that supports commercial development, is concentrated to the east, along both sides of Trinity Lane, extending to the interchange of I-65 and Brick Church Pike. Several commercially zoned properties in the area are vacant and others are underutilized, so opportunities already exist to expand and intensify commercial development, without permitting the intrusion of commercial zoning into residential areas to the west.

PUBLIC WORKS RECOMMENDATION TIS may be required at time of development

Typical and Maximum Uses in Existing Zoning District: RS7.5

Land Use (ITE Code)	Acres	Density	Total Dwelling Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached(210)	4.10	4.94	20	192	15	21

Typical Uses in Proposed Zoning District: CL

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Gasoline Service Station/Convenience Market (945)	2.10	0.06	5,488	NA	426	529

Typical Uses in Proposed Zoning District: CL

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Strip Shopping (814)	2.0	0.10	8,712	411	15	43

Maximum Uses in Existing Zoning District: CL

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Strip Shopping (820)	4.10	0.60	107,157	7104	164	656

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

Land Use (ITE Code)	Acres	--		Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--				6912	+149	+635

STAFF RECOMMENDATION Staff recommends disapproval of the request to rezone 4.10 acres from RS7.5 to CL. The uses permitted in the Commercial Limited district are incompatible with the medium density residential uses in the surrounding area, and the development intensities encouraged by RM policy.

Ms. Nedra Jones presented and stated that staff is recommending disapproval.

Mr. Leslie Stratton, 842 Loretta Drive, spoke in favor of the proposed rezoning.

Ms. Nielson expressed issues with the possibility of setting a precedent if the request is approved.

Mr. Clifton requested clarification on the actual size of the parcel being requested for the CL zoning.

Ms. Nedra Jones explained the portion of the parcel that would be rezoned.

Mr. Clifton spoke of the policy of the area and the issue of zoning the parcel to CL. He requested clarification on whether there was any type of future developments planned for this area.

Ms. Nedra Jones explained that MDHA would be proposing a residential development for the property adjacent to this request. She further explained that due to this development, the applicant would not be rezoning the back portion of the property, and that it would remain RS7.5.

Mr. Clifton expressed issues with allowing this rezoning due to its incompatibility with the plan for the area.

Ms. Cummings requested clarification on the existing land uses for this area in relation to current tenants.

Ms. Nedra Jones offered that most of the area is undeveloped.

Ms. Cummings requested clarification on the potential development of the portion of the parcel that would remain RS7.5.

Mr. Bernhardt offered that the size of the remaining portion of the lot would be consistent with the single-family lots that are located along Monticello Drive.

Mr. Bernhardt also stated that extending the commercial uses in this area would undermine the policy that was intended for this area.

Ms. Cummings requested clarification on the parcel that was zoned CN and whether there was a tenant on the property.

Mr. Bernhardt explained the uses of CN to the Commission.

Ms. Nedra Jones stated she was unsure as to the tenant located on this parcel.

Mr. Clifton requested that the applicant explain who the tenant was for this parcel.

Mr. Leslie Stratton stated that there was a Dollar General Store located on this parcel. He also offered that it was his intention to build a residential home on the remaining portion of the parcel and that it would be consistent with the homes being proposed by MDHA.

Ms. Jones expressed issues with approving the parcel to CL due to its size and the affect it would have on the original intentions planned for this area.

Mr. Tyler also had issues with approving the parcel to CL zoning.

Mr. Gotto questioned whether additional study was needed on the land use plan for this area.

Mr. Bernhardt briefly explained the issues with the requested rezoning and the effects it would have on the general plan and any future developments for the area.

There was a brief discussion on the possibilities of SP zoning for the parcel.

Mr. Clifton reminded the Commission of the difficulties associated with approving zone changes on parcels based solely on their intended uses. He suggested the request be disapproved until the requested rezoning could be validated and compatible with the general plan for the area.

Mr. Gotto suggested that the Commission explore the possibility of deferring the request.

Mr. Bernhardt stated there was bill in Council on this request that would be heard the second meeting in May.

Mr. Gotto moved and Ms. Cummings seconded the motion, which passed unanimously, to defer Zone Change 2008Z-039U-03 to April 24, 2008, in order to allow time for the staff to meet with the applicant to discuss alternative zoning. **(8-0)**

Resolution No. RS2008-68

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008Z-039U-03 is **DEFERRED to the April 24, 2008, Planning Commission meeting in order for staff to discuss alternative zoning with the applicant. (8-0)**”

The Commission recessed a 6:15 p.m.

Mr. Ponder left the meeting at 6:15 p.m.

Mr. Clifton left the meeting at 6:15 p.m.

The Commission resumed at 6:40 p.m. and Mr. McLean presided as Chair for the remaining portion of the meeting.

14. 2008Z-048T
Rehabilitation Services

A council bill to amend Chapter 17.08 of the Metro Zoning Code by adding "Rehabilitation Services" as a permitted use in the AG and AR2a districts, requested by the Metropolitan Planning Department on behalf of the Department of Law.

Staff Recommendation: Approve

APPLICANT REQUEST - A council bill to amend Chapter 17.08 of the Metro Zoning Code by adding "Rehabilitation Services" as a permitted use in the Agricultural (AG) and Agricultural/Residential (AR2a) districts.

History Council adopted BL2006-1260 in February 2007, which removed Rehabilitation Services as a permitted use in the AG and AR2a zoning districts. The Metro Planning Commission recommended disapproval of this bill at its December 12, 2006, meeting.

ANALYSIS

Existing Law Section 17.08 of the Zoning Code defines “**Rehabilitation Services**” as “the provision of treatment for addictive, mental or physical disabilities on either (a) twenty-four hour a day or outpatient basis.” The Zoning Code

allows “rehabilitation services” in all of the mixed use districts and most of the office, commercial, and shopping center zoning districts. The use is not permitted under the Code in the agricultural districts.

Proposed Bill The proposed bill would once again reestablish rehabilitation services as permitted uses in the Agricultural (AG) and Agricultural/Residential (AR2a) districts as they were prior to the adoption of BL2006-1260. Staff continues to support this use in these districts as rural areas can provide safe, secluded settings appropriate for rehabilitation services for people with addictive, mental or physical disabilities. Such settings offer an alternative to the institutional environments more common in the mixed use, office and commercial zoning districts. Cumberland Heights, located on River Road, is a local example of a rehabilitation facility in an agricultural zoning district.

STAFF RECOMMENDATION Rural areas can provide safe, secluded settings appropriate for rehabilitation services. Staff recommends approval of this text amendment that would add back “rehabilitation services” as a permitted use in the AG and AR2a districts.

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

Ms. Nielson moved and Mr. Gotto seconded the motion, to approve 2008Z-048T. **(4-2) No Votes – Cummings, Tyler**

Resolution No. RS2008-69

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008Z-048T is **APPROVED. (4-2)**”

X. PUBLIC HEARING:
FINAL PLANS

- 15. 2008S-010U-10**
Woodmont Acres, Rev.Lots 35-38 & Foxhall Close Reserve Parcel
Map 117-09-A, Parcel 036
Map 117-09, Parcel 010
Subarea 10
Council District 25 – Sean McGuire

A request for final plat approval to remove the reserve parcel status on one lot and to consolidate four lots and a reserve parcel into one lot for property located at 3505 Wimbledon Road, approximately 230 feet west of Grayswood Avenue (0.55 acres), zoned RS10, requested by Galyon Northcutt, surveyor, for Kevin and Hilary Doherty, owners.

Staff Recommendation: Approve

APPLICANT REQUEST - Final Plat

A request for final plat approval to remove the reserve parcel status on one lot and to consolidate four lots and a reserve parcel into one lot for property located at 3505 Wimbledon Road, approximately 230 feet west of Grayswood Avenue (0.55 acres), zoned Single-Family Residential (RS10)

ZONING

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

SUBDIVISION DETAILS The final plat combines four lots and one reserve parcel to create one lot. The site consists of 0.55 acres. An existing single-family dwelling will remain on the property. According to the Metro Subdivision Regulations, reserve parcels may be converted into a building site with the recording of a plat. The reserve parcel contains 0.18 acres and was originally platted within Foxhall Close Subdivision. Since the original plat did not specify why the parcel was put in a reserve status, the Subdivision Regulations require that the reserve status be removed by the Planning Commission.

The applicants acquired the reserve parcel in 2000, and intend to combine it with the other four lots to allow for an

addition onto the existing dwelling.

Although originally platted as four lots, they have been combined into one parcel since they were all in common ownership. This allows the owner to receive one tax statement.

PUBLIC WORKS RECOMMENDATION No Exception Taken

STORMWATER RECOMMENDATION Approved

STAFF RECOMMENDATION Staff recommends approval of the final plat to consolidate four lots and one reserve parcel into one lot.

Approved, (8-0) *Consent Agenda*

Resolution No. RS2008-70

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008S-010U-10 is **APPROVED. (8-0)**”

- 16. 2008S-070A-10**
Legend Hall, Lot 4108 Setback Amendment
Map 131-01-0-A, Parcel 159
Subarea 10
Council District 34 – Carter Todd

A request to amend the rear setback from 30 feet to 20 feet for property located at 4108 Legend Hall Drive (0.21 acres), approximately 340 feet north of Hobbs Road, zoned R20 and located within the Legend Hall Planned Unit Development, requested by Katherine Hall, owner.

Staff Recommendation: Approve

APPLICANT REQUEST - A request to amend the rear setback from 30 feet to 20 feet for property located at 4108 Legend Hall Drive (0.21 acres), approximately 340 feet north of Hobbs Road zoned One and Two-Family Residential (R20) and located within the Legend Hall Planned Unit Development.

ZONING

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

SUBDIVISION DETAILS The property is located within the Legend Hall Planned Unit Development. The applicant has requested that the platted rear setback be amended from 30 feet to 20 feet in order to allow for the addition of a sunroom.

The Zoning Code requirements for setbacks for single-family and two family dwelling units is 20 feet. This request is consistent with the Zoning Code and is consistent with other rear setbacks in this area.

STORMWATER RECOMMENDATION Approved

PUBLIC WORKS RECOMMENDATION No Exception Taken

STAFF RECOMMENDATION Staff recommends approval of rear setback amendment.

Mr. Sexton presented and stated that staff is recommended approval.

Mr. Bill Heim, 4112 Baldwin Arbor, spoke in opposition to the proposed amendment.

Ms. Katherine Hall, 4108 Legend Hall, spoke in favor of the proposed amendment.

Mr. Tyler requested clarification on the rear setbacks for this subdivision.

Mr. Sexton explained the setbacks as required by Codes for this area.

Mr. Gotto requested clarification on the property line of the applicant.

Mr. Sexton gave additional information regarding the property line.

Ms. Nielson questioned the location of the addition of the applicant's house in relation to the rear setback of the property.

The Commission requested that the applicant provide additional information on the addition of her home.

Ms. Hall provided this information to the Commission.

Mr. Gotto moved and Ms. Cummings seconded the motion to approve Final Plan 2008S-070A-10. **(4-2) No Votes – Tyler, Nielson**

Resolution No. RS2008-71

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008S-070A-10 is **APPROVED. (4-2)**”

- 17. 2008S-073U-14**
Bainbridge & Satterfield Resub. Lot 13
Map 084-16, Parcel 024
Subarea 14
Council District 15 – Phil Claiborne

A request for final plat approval to revise a previously recorded plat to add a second access point for properties located at 150 McGavock Pike, approximately 600 feet north of Lebanon Pike (2.13 acres), zoned CL, requested by Kroger Limited Partnership I and Theodore F. Bertuca, owners, Michael Abernathy, surveyor.

Staff Recommendation: Disapprove

APPLICANT REQUEST - Final Plat

A request for final plat approval to revise a previously recorded plat to add a second access point for properties located at 150 McGavock Pike, approximately 600 feet north of Lebanon Pike (2.13 acres), zoned Commercial Limited (CL).

ZONING

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

HISTORY On April 12, 2007, the Metro Planning Commission approved a final plat request to modify the lot lines between two existing commercial lots located at 148 and 150 McGavock Pike, with one of the two lots having no street frontage but an access easement from McGavock Pike.

PLAN DETAILS McGavock Pike is identified on the Major Street and Collector Plan as a four-lane urban arterial street with automobile speeds of 30 to 40 mph. The applicant proposes to create an additional access point along McGavock Pike. The final plat shows an existing access easement at the north end of the property. This access was designed to be aligned with the driveway access of the commercial lot across the street. The proposed second access point would be located to the south of the existing access. There is no similar access across the street.

Section 3-4.4

Access from Arterial and Collector Streets - While the Zoning Code would permit up to two driveways along McGavock Pike, Section 3-4.4 of the Subdivision Regulations gives the Planning Commission the authority to limit the number of driveways accessing an arterial street. This section states that when property is divided along an

existing street, the Planning Commission may require that lots shall not, if avoidable, derive access from arterial or collector streets. Where driveway access from arterial or collector streets may be necessary, the Planning Commission may require that lots be served by combined driveways or by a private access drive serving more than two lots in order to limit driveway entrances and potential traffic hazards. When the Planning Commission approved the subdivision in April 2007, only one access to McGavock Pike was included.

Given the commercial arterial nature of McGavock Pike at this property, particularly between Park Drive to the north and Lebanon Pike, controlled access along this stretch of arterial is important to ensure the safe and continuous flow of traffic. The creation of a second access point would create a potential traffic conflict point along McGavock Pike.

PUBLIC WORKS RECOMMENDATION No Exceptions Taken

STORMWATER RECOMMENDATION Approved

STAFF RECOMMENDATION Staff recommends disapproval of the second access point and that access to McGavock Pike be limited to the current access easements shown on the plat.

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

Mr. John Corbitt, 2620 Elm Hill Pike, spoke in favor of the proposed development.

Mr. Phillip Piercy, 1935 21st Avenue South, spoke in favor of the proposed development.

Mr. Bob Murphy, 214 Centerview Drive, spoke in favor of the proposed development.

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

Mr. Bernhardt explained that due to conflicting reports provided by Public Works, he requested that Mr. Jonathan Honeycutt, of Public Works, further explain their policy used to determine the driveway access points contained in this proposal; in particular, the distance between the points.

Mr. Jonathan Honeycutt, Public Works, explained that during the discussions of access control for McGavock Pike, the applicant was instructed to align their access points with existing connections across the street. He stated that traffic studies were completed on the proposal and that Public Works had no issues with the proposed driveways.

Mr. Gotto offered information on another business located off of McGavock Pike and the fact that there is not much traffic that moves in or out of that location.

Mr. Tyler requested clarification on the distance between the access point located on the McDonalds Restaurant parcel and the proposed second access point for this development.

Mr. Bernhardt stated that according to the drawings the distance is approximately 40 feet.

Mr. Tyler expressed concern with the distance between these access points.

Ms. Cummings agreed that a second access point was needed for the type of traffic that would be accessing this development, however, stated that if the additional access would be problematic, the development should be further reviewed.

Ms. Nielson expressed a concern that a precedent may be set for other developments with similar issues.

Ms. Jones too spoke of the need for additional accesses for this type of development. She stated she would support the request on the basis of the approval by the Public Works Department.

Ms. Cummings moved and Ms. Jones seconded the motion to approve Final Plat 2008S-073U-14, as submitted by

the applicant. (4-2) No Votes - Nielson, Tyler

Resolution No. RS2008-72

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008S-073U-14 is **APPROVED. (4-2)**”

18. 2008S-075U-10
Cottage Cove
Map 118-01, Parcel 385
Subarea 10
Council District 17 – Sandra Moore

A request for final plat approval to create 2 lots on properties located at 2412 9th Avenue South, approximately 300 feet north of Montrose Avenue (.43 acres), zoned R8, requested by Kelvin Pennington, owner, Jason Smith, surveyor.

Staff Recommendation: Approve, including a variance to Section 3-4.2(f) of the Metro Subdivision Regulations for the lot depth to width ratio.

APPLICANT REQUEST - Final Plat

A request for final plat approval to create 2 lots on property located at 2412 9th Avenue South, approximately 300 feet north of Montrose Avenue (0.43 acres), zoned One and Two Family Residential (R8).

ZONING

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

PLAN DETAILS This final plat subdivides one existing lot into two lots. Each lot complies with the minimum lot size requirements for R8 zoning. Lot 1 contains 9,713 square feet and Lot 2 consists of 10,025 square feet. An existing single-family dwelling is located on Lot 2 and is planned for demolition.

Variance Section 3-4.2 (f) of the Subdivision Regulations states the lot frontage shall be greater than 25 percent of the average lot depth. The applicant is requesting a variance to this section of the regulations stating the irregular lot configuration of the original lot makes it impossible to comply with this requirement.

Lot Comparability Section 3-5.1 of the Subdivision Regulations states that new lots in areas that are predominantly developed are to be generally in keeping with the lot frontage and lot size of the existing surrounding lots.

Lot comparability analysis was performed and yielded the following information:

Lot Comparability Analysis		
Street	Requirements	
	Minimum lot size (sq. ft.)	Minimum lot frontage (linear ft.)
9th Avenue	7,543	52

As proposed, the two new lots have the following areas and street frontages:

- Lot 1: 9,713 sq. ft. with 60.9 ft. of frontage
- Lot 2: 10,025 sq. ft. with 60.9 ft. of frontage

Each of the proposed lots meets the minimum requirement for lot size and frontage.

PUBLIC WORKS RECOMMENDATION No exception taken.

STORMWATER RECOMMENDATION Approved.

STAFF RECOMMENDATION Staff recommends approval of the final plat to create two lots, including a variance for the lot depth to width ratio.

Ms. Nedra Jones presented and stated that staff is recommending approval, including a variance to Section 3-4.2(f) of the Metro Subdivision Regulations for the lot depth to width ratio.

Ms. Melvina Golden-Collier, 811 Halcyon, spoke about questions she had about the proposed development.

Mr. Kelvin Pennington spoke in favor of the proposed development.

Ms. Nielson moved and Mr. Gotto seconded the motion, which passed unanimously, to approve Final Plat 2008S-075U-10, including a variance to Section 3-4.2(4) of the Metro Subdivision Regulations for the lot depth to width ratio. **(6-0)**

Resolution No. RS2008-73

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008S-075U-10 is **APPROVED, including a variance to Section 3-4.2(f) of the Subdivision Regulations for the lot depth to width ratio. (6-0)”**

**XI. PUBLIC HEARING:
REVISIONS AND FINAL DEVELOPMENT PLANS**

- 19. 96-72-U-06**
Bellevue Plaza Shopping Center: McDonald’s
Map 142-00, Parcel 020
Subarea 6
Council District 22 – Eric Crafton

A request to revise the preliminary plan and for final site plan approval for a portion of a Planned Unit Development located at 7100 Highway 70 South, at the northwest corner of Highway 70 South and Old Hickory Boulevard (0.84 acres), zoned SCC, to permit a 4,052 square foot restaurant, replacing a 3,433 square foot restaurant, requested by BA Engineering, applicant, for McDonald's Corporation, owner.

Staff Recommendation: Disapprove

APPLICANT REQUEST - Revise Preliminary & PUD Final Site Plan

A request to revise the preliminary plan and for final site plan approval for a portion a Planned Unit Development located at 7100 Highway 70 South, at the northwest corner of Highway 70 South and Old Hickory Boulevard (0.84 acres), zoned Shopping Center Community (SCC), to permit a 4,052 square foot restaurant, replacing a 3,433 square foot restaurant.

PLAN DETAILS There is currently a 3,433 square foot drive-thru restaurant on this site with the shorter side of the building oriented towards Highway 70S. This plan proposes a new drive-thru restaurant that will shift the footprint of the building so that the shorter side is oriented towards Old Hickory Boulevard. It also increases the square footage of the building from 3,433 square feet to 4,052 square feet.

Urban Forester RecommendationThe Urban Forester has requested that the applicant preserve and incorporate existing trees into the site plan. The applicant has elected not to revise the plans to incorporate the existing trees. There are two large and healthy trees currently on the site. The first is an approximately 30 DBH (diameter at breast height) Cottonwood, which the Urban Forester describes as being in surprisingly good health. The Urban Forester has said that Cottonwoods are not known to deal with root disturbance very well and to see one doing so well is encouraging. The second tree is an approximately 15 DBH weeping mulberry that is also in very good health.

Intent of PUDs The existing layout of this site incorporates a particularly exceptional tree. Planned Unit Developments provide for flexibility in design. The Zoning Ordinance states that “[i]n return, the PUD district provisions require a high standard for the protection and preservation of environmentally sensitive lands, well-

planned living, working and shopping environments, and an assurance of adequate and timely provision of essential utilities and streets.” Staff has determined that the destruction of the tree would not be consistent with the requirement for “the protection and preservation of environmentally sensitive lands,” or the requirement for “well-planned living, working and shopping environments.” The presence of this tree is an essential element in creating a pleasant, well-planned shopping environment. Absent a showing that the property cannot reasonably be developed without removal of the tree, staff recommends to the Commission that preservation of the tree should be included as a condition of approval for any revision of the PUD.

PUBLIC WORKS RECOMMENDATION All Public Works' design standards shall be met prior to any final approvals and permit issuance. Final design and improvements may vary based on field conditions.

Submit plan for solid waste disposal and recycling collection.

STORMWATER RECOMMENDATION

1. The construction entrance/exit requirements have been updated in the 2006 Metro Stormwater Regulations, Volume 1, Section 6.10.7. The minimum length is now 100 feet in length.
2. A note shown on several sheets of the plans covers the TDEC General Construction Stormwater Permit NOI submission to TDEC. Add or substitute MWS's Note No. 2 from MSMM Volume 1, Appendix A, page 8.
3. MWS requires a certification letter from Contech Stormwater Solutions, Inc. on the Stormfilter design. Contech is aware of the certification requirement. The letter is to state the information provided to Contech: Total Drainage Area, Percent Impervious, Average runoff coefficient, Water Quality Volume, and Total Detention Volume for 100 year event.
4. Show the detention access manholes for the Underground Detention System on the plans.
5. The sanitary sewer and water lines are not shown on the final Grading Plan. The sanitary sewer lines shown on Sheet C-5 appear to interfere with the proposed discharge pipe to the storm sewer. Show the existing pipe elevations and the proposed discharge storm elevations. Metro Water Services does not supply water and sanitary sewer to the portion of the county containing the proposed development. The local utility is Harpeth Valley Utility District. Their phone number is 615.352.7076.
6. Five versions of BMP TCP-24 are shown on Detail Sheet SD-5. If different arrangements of the BMP are to be used, show the Inlet Protection version to be used on Sheet C-4A. Note: Straw Bales as a temporary BMP are no longer acceptable.
7. Provide easement widths and locations for Metro access to the stormwater structures in the Long Term Maintenance Plan on the plan drawings. The Long Term Maintenance Plan should contain, at a minimum, the following items:
 - a. Description and locations of stormwater system components to be inspected, prepared by the engineer.
 - b. Schedule of inspections and the techniques used to inspect and maintain the stormwater system BMPs.
 - c. Where and how the trash, sediment and other pollutants removed from the stormwater system will be disposed.
 - d. Schematics of BMPs located on the site.
 - e. Person(s) and phone number(s) of who will be responsible for inspection and maintenance.
 - f. Provisions for permanent access and maintenance easements.
 - g. Completed and notarized *Long Term Operations Inspections and Maintenance Agreement*.
8. The stormwater easements will require a completed *Agreement for Dedication of Easement*. A file of the blank document is attached to this document's email. After the Long Term Maintenance Plan and this form are completed, charges to the Davidson County Register of Deeds will be assessed prior to final grading plan approval.

STAFF RECOMMENDATION Staff recommends disapproval.

CONDITIONS (if approved)

1. Revise the plan to incorporate the existing trees.
2. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be

forwarded to the Planning Commission by the Stormwater Management division of Water Services.

3. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Traffic Engineering Sections of the Metro Department of Public Works for all improvements within public rights of way.
4. This approval does not include any signs. Signs in planned unit developments must be approved by the Metro Department of Codes Administration except in specific instances when the Metro Council directs the Metro Planning Commission to review such signs.
5. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
6. Authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four additional copies of the approved plans have been submitted to the Metro Planning Commission.
7. The PUD final site plan 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 may require reapproval by the Planning Commission and/or Metro Council.
8. A corrected copy of the PUD final site plan incorporating the conditions of approval by the Planning Commission shall be provided to the Planning Department prior to the issuance of any permit for this property, and in any event no later than 120 days after the date of conditional approval by the Planning Commission. Failure to submit a corrected copy of the final PUD site plan within 120 days will void the Commission's approval and require resubmission of the plan to the Planning Commission.

Ms. Logan presented and stated that staff is recommending disapproval.

Mr. Bernie Auld, BA Engineering, spoke in favor of the proposed development.

Ms. Jones acknowledged the issue of trying to remodel the existing building while preserving the older trees located on the parcel. She suggested various solutions such as a smaller building or reconfiguration of the building site.

Ms. Logan offered that staff suggested making alterations to the plan to accommodate the existing trees, however, the applicant was concerned with the issue of losing parking spaces.

The construction manager for McDonalds explained that his company has studied various building alterations for the remodeling of this building. He spoke of the various issues inhibiting their final plan if the trees were to be preserved.

Ms. Cummings spoke in favor of modifying the building plans in order to preserve the trees on the parcel.

Mr. Gotto questioned if there were additional trees to be added to the parcel as a result of the development; and if so, how many trees would be required.

Ms. Logan stated the applicant would have to meet the tree density requirement.

Mr. Stephen Kivett, Codes Department, stated that the applicant would have to meet the tree requirement of 14 units per acre which is similar to any new development. He further explained that if the existing trees would remain, they would not have to meet any additional requirements.

Ms. Jones offered that she would only favor removing the existing tree from the parcel if the tree requirement would provide the necessary amount of trees that would enhance the development.

Ms. Nielson questioned where the newer trees would be located on the parcel.

Mr. Kivett explained where the trees would be placed to the Commission.

Ms. Jones suggested that the Commission recommend larger trees be incorporated on the site and in accordance with the tree replacement requirement.

A discussion ensued regarding the total number of trees as well as the caliber of the trees that would be recommended for the parcel if the existing trees were removed.

Mr. Gotto moved and Ms. Nielson seconded the motion, to approve with the condition that all trees required by the Zoning Code shall be a minimum of 4 inches in caliper and shall be installed under the direction of the Urban Forester; and that the weeping mulberry tree should also be preserved. (6-0)

Resolution No. RS2008-74

“BE IT RESOLVED by The Metropolitan Planning Commission that 96-72-U-06 is **APPROVED WITH CONDITIONS THAT ALL TREES REQUIRED TO BE INSTALLED TO COMPLY WITH THE ENTIRE LANDSCAPE REQUIREMENTS OF THE ZONING CODE SHALL BE A MINIMUM OF 4 INCHES IN CALIPER AND SHALL BE INSTALLED UNDER THE DIRECTION OF THE URBAN FORESTER AND THAT THE WEEPING MYRTLE TREE IS TO BE PRESERVED. (6-0)**”

XII. PUBLIC HEARING:
MANDATORY REFERRAL

20. **2008M-049U-08**
Alley #616
Map 092-11, Parcel 058
Subarea 8
Council District 19 – Erica Gilmore

A request to abandon a portion of Alley #616 from Spruce Street to Jo Johnston Avenue between Charlotte Avenue and Pearl Street, requested by Spruce Street Baptist Church.

Staff Recommendation: Disapprove

APPLICANT REQUEST -A request to abandon a portion of Alley Number 616 from Spruce Street to Jo Johnston Avenue between Charlotte Avenue and Pearl Street.

DEPARTMENT AND AGENCY COMMENTS

Planning Alleys (service lanes) are an important structural element to the transportation network in this area of north Nashville. These facilities as well as streets, bikeways, sidewalks and pedestrian ways directly affect mobility to and from the community and within it. Alley number 616 is vital to the efficient movement of goods and people in the area as it provides alternative access and reduces the need to use Charlotte Avenue. The North Nashville Community Plan envisions Mixed Housing and Mixed Use development which would support “rear-loaded” or “alley-loaded” type activities on the properties that now have access to the alley.

Public Works Public Works is recommending disapproval of the alley closure indicating that the alley provides access to the rear of parcels 58 and 59.

STAFF RECOMMENDATION Staff recommends disapproval of the request to abandon a portion of Alley Number 616.

Ms. Nedra Jones presented and stated that staff is recommending disapproval.

Mr. Tom McNeil, 6610 Hwy. 100, spoke in favor of approving the mandatory.

Ms. Nielson requested clarification on the recommendation of disapproval being made by staff.

Mr. Bernhardt stated that the properties that front on Charlotte Avenue would eventually need alley access and if the alley were closed, all access and service to the properties would have to be done from the streets.

Ms. Cummings requested clarification on how the alley was currently being used by the various tenants located in this immediate area.

Ms. Nedra Jones explained the uses to the Commission.

Mr. Gotto questioned the various reasons for which this request was being made.

Ms. Nedra Jones explained that the reasons included issues of vagrancy, homelessness and illegal activities taking place in the alley.

Ms. Cummings moved and Mr. Gotto seconded the motion to approve Mandatory 2008M-049U-08 as requested by the applicant.

This motion failed.

Ms. Jones moved and Ms. Nielson seconded the motion, to disapprove Mandatory 2008M-049U-08. **(4-2) No Votes – Cummings, Gotto**

Resolution No. RS2008-75

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008M-049U-08 is **DISAPPROVED. (4-2)**”

XIII. OTHER BUSINESS

- 21. 2005UD-001U-10**
Harding Town Center
Map 103-15, Parcels Various
Map 103-16, Parcels Various
Map 116-03, Parcels Various
Subarea 10
Council District 24 – Jason Holleman

A request to add two positions to the Harding Town Center Urban Design Overlay Advisory Committee, bringing the total number of members to nine, requested by Councilmember Holleman.

Staff Recommendation: Approve

APPLICANT REQUEST - A request to add two positions to the Harding Town Center Urban Design Overlay (UDO) Advisory Committee, bringing the total number of members to nine, requested by Councilmember Holleman.

REQUEST DETAILS The Harding Town Center UDO Advisory Committee was created for three purposes. The first is to monitor the success of the UDO guidelines in carrying out the purpose and intent of the UDO district. Where the Committee finds the guidelines to be ineffective or insufficient, they are to make recommendations for amendment of the guidelines. The second is to monitor the Planning Department’s administration of the guidelines and provide feedback where the guidelines are vague or the applicability is not clear. The third is to encourage applicants for construction projects to upgrade their proposals in order to carry out the purpose and intent of the UDO guidelines at a higher level than the regulatory minimum standards.

Currently, there are seven positions on the Committee. The positions are evenly distributed among varied interests within the UDO and the immediately surrounding area. Surrounding neighborhood associations occupy three positions, business/property owners occupy three positions, and St. Thomas Hospital occupies one position. In order to maintain this even distribution of representation, the two new positions will be split between business interests and neighborhood associations.

The addition of two members to the Committee will bring the membership to nine, allowing for an odd number of voting members. Staff considers nine members to be the upper limit for a manageable advisory committee.

This request to add additional members to the Committee was made in order to incorporate the previously unrepresented Woodlawn Area Neighborhood Association along with an additional business interest within the UDO or immediately surrounding area. The boundaries of this Woodlawn Area Neighborhood Association include a portion of the UDO area, making this association an appropriate addition to the committee. Additional details of the make up of the Committee are attached to this report.

STAFF RECOMMENDATION Staff recommends approval of the request to add two positions to the Harding Town Center UDO Advisory Committee.

Harding Town Center UDO Design Review Advisory Committee
Recommended Language (Amendments underlined)

Recognizing that interpretation of the intent of design guidelines of various Urban Design Overlay districts (UDO) from time to time requires the exercise of judgment in the approval of final construction plans and recognizing that feedback from affected community representatives may provide valuable insight in the exercise of that judgment, the Planning Commission hereby establishes an advisory committee for the Harding Town Center Urban Design Overlay district.

- a. The design review committee shall consist of nine (9) members, who shall be:
- i. Four (4) Harding Town Center UDO retail, office, and/or commercial property/business representatives
 - ii. A St. Thomas Hospital representative
 - iii. Kenner Avenue Neighborhood Association President or designee
 - iv. Historic Woodlawn West Neighborhood Association President or designee
 - v. A president or their designee from a neighboring condominium development including, but not limited to, Windsor Tower, Royal Oaks, Wellington Arms, or Lions Head Condominium Associations.
 - vi. Woodlawn Area Neighborhood Association representative

At least five (5) of the committee members shall represent property or businesses owners or their associated designee within the Harding Town Center UDO.

- b. The design review committee shall be approved by resolution of the Planning Commission. The Metropolitan Council member(s) who represents the Harding Town Center UDO shall be provided the opportunity to recommend representatives for service on the design review committee and to recommend institutional, business, and specific neighborhood organization or association representatives in the event those organizations do not furnish nominations or a limited number of designees from multiple organizations is required. Upon its approval by the Planning Commission, the committee may elect officers and establish any rules determined necessary by a majority of its members. The Planning Department shall provide staff as necessary to assist the committee in performing its functions.
- c. The committee shall convene by whatever means it deems appropriate within ten (10) working days of being notified by the Planning Department that an application is pending or has been received or the Planning Department shall consider that the committee has no comments or recommendations for consideration. A recommendation of the design review committee shall reflect a majority vote of the members of the committee. In the event that a recommendation of the committee differs from the Planning Department's determination of compliance with the UDO guidelines, the matter shall be referred to the

Planning Commission for a final determination.

Name

Phone/Email

Harding Town Center UDO retail, office, and/or commercial property representative

Harding Town Center UDO retail, office, and/or commercial property representative

Harding Town Center UDO retail, office, and/or commercial property representative

Harding Town Center UDO retail, office, and/or commercial property representative

St. Thomas Hospital representative

Kenner Avenue Neighborhood Association President or designee

Historic Woodlawn West Neighborhood Association President or designee

Neighboring Condominium Association President or designee

Woodlawn Area Neighborhood Association representative

Approved, (8-0) *Consent Agenda*

Resolution No. RS2008-76

“BE IT RESOLVED by The Metropolitan Planning Commission that 2005UD-001U-10 is **APPROVED. (8-0)**”

- 22.** Request to adopt a Planning Commission policy for administrative approval of Motor Vehicle Business Establishment applications.

Mr. Kleinfelter presented the proposed policy to the Commission.

Mr. Gotto requested clarification on the legality of the proposed policy.

Mr. Morrissey offered that the proposed policy would be legal as it would be providing guidelines for the Commission to follow in order to adhere to the new state law regarding these applications

Mr. Gotto requested clarification as to how SP zoning would be implemented for those applications that did not meet the requested criteria of the Commission.

Mr. Kleinfelter offered that the Commission could either approve or disapprove the applications based on whether the applicant had met all of the criteria set in the new policy. He further explained that SP zoning could be considered as an alternate form of zoning for those applicants who did not meet all of the criteria.

Mr. Gotto requested that staff include disposition information when reporting incidents or violations for these applications.

Ms. Cummings agreed with the proposed policy as submitted by staff.

Mr. Clifton moved and Mr. Gotto seconded the motion, which passed unanimously, to approve the Planning Commission policy for administrative approval of Motor Vehicle Business Establishment applications. **(8-0)**

Resolution No. RS2008-77

“BE IT RESOLVED by The Metropolitan Planning Commission that the Request to Adopt a Planning Commission Policy for Administrative Approval of Motor Vehicle Business Establishment Applications is **APPROVED. (8-0)**”

23. Motor Vehicle Business Establishment application for 2632 Nolensville Pike, Marco Juarez, owner. (Proposal No. 2008Z-033U-11)

Mr. Kleinfelter presented information in accordance to the adopted policy for this application.

Ms. Jones expressed various concerns with the method that will be used to determine whether or not the applicant would be able to show cause for their application. In particular, she mentioned the fact that the data provided by staff would reflect violations for both the owner of the property and the tenant, as well as any previous tenants.

Mr. Bernhardt offered that the Commission has the authority to use either the records for the owner or the tenant when trying to make their determination.

Mr. Gotto offered additional ways in which the Commission could use the data provided on the owners, to determine the type of control they have on their tenants.

Mr. Bernhardt offered information on the direction that Metro Council has provided the Commission regarding use car facilities throughout the City.

Mr. McLean requested that staff formulate the information into a matrix which would better display the violations for each the owner and the tenant.

Mr. Gotto reminded the Commission of the alternative method of SP zoning that the applicant could pursue if the application were denied.

Mr. Morrissey advised that it would be appropriate to hear from the applicant since the state law references that the applicant should show cause for their application.

Ms. Susan Brandt, Stanton & Associates, spoke in favor of approving the requested application.

Mr. Marco Juarez spoke in favor of approving the requested application. He explained that he owns two locations and due to the workload, it was necessary to find a tenant to run the second property. He stated he had his license for his used car business.

Ms. Brandt offered additional information regarding Mr. Juarez' case.

Ms. Cummings requested clarification on whether Mr. Juarez had any violations on his property.

Mr. Kleinfelter provided this information to the Commission, as well as additional information on another property that was owned by Mr. Juarez since 1999.

The applicant, who resides at 5001 Crosby Lane addressed the Commission and spoke in favor of the application. He briefly explained the reasons for the violations at his previous business address to the Commission.

Mr. McLean reiterated the need for staff to provide a matrix outlining the information needed for the Commission to make an informed decision on these applications.

After a brief discussion, it was determined by the Commission to possibly defer this application so that staff could provide the information that was necessary for them to make an informed decision.

Mr. Gotto moved and Ms. Cummings seconded the motion, to defer Motor Vehicle Business Establishment application for 2632 Nolensville Pike to April 24, 2008, and that the item be heard first on the agenda. **(5-1) No Vote – Jones**

Resolution No. RS2008-78

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008Z-033U-11 is DEFERRED TO THE APRIL 24, 2008, Planning Commission Meeting, and will be placed first on the agenda. (6-0)”

24. Select a member of the Planning Commission to serve on a task force to consider provisions regulating electronic signs. This task force is organized by Councilmember Tygard to deal comprehensively with electronic and LED sign issues.

Mr. Ponder was appointed as the Planning Commission representative by the Chairman.

Resolution No. RS2008-79

“BE IT RESOLVED by The Metropolitan Planning Commission that Phil Ponder shall be the Planning Commission representative. (8-0)”

25. Amend employee contract for Brandon Burnette.

Approved, (8-0) *Consent Agenda*

26. Executive Director Reports

27. Legislative Update

XIV. ADJOURNMENT

The meeting adjourned at 8:35 p.m.

Chairman

Secretary



The Planning Department does not discriminate on the basis of age, race, sex, color, national origin, religion or disability in access to, or operation of its programs, services, activities or in its hiring or employment practices. **ADA inquiries should be forwarded to:** Josie L. Bass, Planning Department ADA Compliance Coordinator, 800 Second Avenue South, 2nd Floor, Nashville, TN 37201, (615)862-7150. **Title VI inquiries should be forwarded to:** Michelle Lane, Metro Title VI Coordinator, 222 Third Avenue North, Suite 200, Nashville, TN 37201, (615)862-6170. **Contact Department of Human Resources for all employment related inquiries** at (615)862-6640.