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**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**

12/11/2008

4:00 PM

***Metro Southeast at Genesco Park
1417 Murfreesboro Road***

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

PLANNING COMMISSION:

James McLean, Chairman
Phil Ponder, Vice Chairman
Stewart Clifton
Judy Cummings
Derrick Dalton
Tonya Jones
Hunter Gee
Victor Tyler
Councilmember Jim Gotto
Andrée LeQuire, representing Mayor Karl Dean

Staff Present:

Rick Bernhardt, Executive Director
Ted Morrissey, Legal Counsel
David Kleinfelter, Planning Mgr. II
Jason Swaggart, Planner II
Bob Leeman, Planner III
Trish Brooks, Admin. Svcs Officer 3
Craig Owensby, Public Information Officer
Brenda Bernards, Planner III
Brian Sexton, Planner I
Steve Mishu, Metro Water
Jonathon Honeycutt, Public Works

I. CALL TO ORDER

The meeting was called to order at 4:04 p.m. Mr. McLean read the mission statement to the audience.

II. ADOPTION OF AGENDA

Mr. Kleinfelter explained that Item #20 contained an additional new employee contract for Mary Beth Stephens.

Mr. Bernhardt explained the process in which the Chairman was proposing that the Commission follow for Item #18, 2002P-003U-03, Park Preserve.

Mr. Ponder moved and Mr. Clifton seconded the motion, which passed unanimously to adopt the agenda as amended, and to adopt the proposed process for hearing Item #18, Park Preserve. **(7-0)**

III. APPROVAL OF NOVEMBER 13, 2008, MINUTES

Mr. Clifton moved and Mr. Gotto seconded the motion, which passed unanimously, to approve the November 13, 2008, minutes as presented. **(7-0)**

Mr. Gotto requested that the Commission suspend their Rules and Procedures to allow Ms. Karen Johnson, Metro Nashville School Board member, address the Commission on Item #18, 2002P-003U-03, Park Preserve.

Mr. Gotto moved, and Mr. Clifton seconded the motion, which passed unanimously to suspend their Rules and Procedures to allow an elected School Board member address the Commission. **(7-0)**

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IV. RECOGNITION OF COUNCILMEMBERS

Ms. Karen Johnson, Metro Nashville School Board, addressed the Commission on Item #18, 2002P-003U-03, Park Preserve. She spoke of and briefly explained the importance of equally dispersing equitable housing and development throughout the entire City so as to create strong neighborhoods and communities that will better support the school system. She requested that the Commission revert the Planned Unit Development back to its base zoning, and refer it back to Metro Council for any future approvals and further discussions.

Councilmember Tygard also addressed the Commission on Item #18, 2002P-003U-03, Park Preserve. He briefly spoke on the Planned Unit Development review ordinance adopted by Council, and the compromises that were included in the bill. He then explained how this enacted ordinance would support an active status on the Park Preserve PUD. He recognized the need for further research and review on the placement of affordable workforce housing throughout Nashville, however closed by requesting that the Commission find the PUD active as it was supported by legislation.

Ms. Cummings arrived at 4:18 p.m.

Councilmember Claiborne spoke in favor of Item #17, 148-74-U-14, Century City, which was on the Consent Agenda for approval with conditions. He also thanked the Commission for their service to the community.

Mr. Dalton arrived at 4:21 pm.

Councilmember Holleman provided a brief explanation on his request to defer Item #1, 2008Z-079U-10, Whitland Avenue, until February 26, 2009. He then spoke in favor of Item #4, 2008SP-030U-10, Abe's Garden at Park Manor. He stated that there were some outstanding issues still associated with the proposal and that the developer would continue meeting with community members affected by the development in the hopes that the issues can be resolved prior to its third reading at Council.

Mr. McLean announced that Commissioner Judy Cummings had recently received her doctorate and congratulated her for her accomplishment.

Mr. Kleinfelter 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."

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

1. 2008Z-079U-10 A request to apply a Neighborhood Conservation Overlay for various properties on both sides of Whitland Avenue between Wilson Boulevard South and Bowling Avenue, zoned R8 – deferred to February 26, 2009, at the request of the applicant
2. 2008Z-088T A council bill to amend the Metro Zoning Code, Section 17.04.060 to modify the definition of "mobile vendor" to exempt vending activity along Cleveland Street between Dickerson Pike and McFerrin Avenue – deferred to February 12, 2009, at the request of the applicant.
7. 2008Z-085U-03 A request to rezone from CL to RS7.5 zoning a portion of property located at 415 W. Trinity Lane withdrawn at the request of the applicant.

Mr. Clifton moved and Mr. Gotto seconded the motion, which passed unanimously, to approve the Deferred and Withdrawn items as presented. **(9-0)**

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VI. PUBLIC HEARING: CONSENT AGENDA

SPECIFIC PLANS

- | | | | |
|----|----------------|---|---|
| 3. | 2007SP-037U-12 | A request to change from AR2a and RM20 to SP – MU zoning properties located at 1452, 1450, 1448, 1446 ,and 1444 Bell Road, approximately 3,515 feet west of Blue Hole Road (40.21 acres), to permit the development of multi-family dwelling units, commercial, office and retail uses. | Approve with conditions, and the applicant has agreed to prohibit residential uses in District One and a new plan will be submitted. The final site plan will go back to the Commission for approval. |
| 4. | 2008SP-030U-10 | A request to change from R10 and RM20 to SP-MR zoning properties located at 115 Woodmont Boulevard, to permit an independent living, assisted-care and nursing home facility comprised of 400,000 square feet within a proposed 2-story south tower containing a senior day-care facility and 80 beds, an existing 7-story central tower containing 32 beds and 85 units, a proposed 12-story west tower containing 128 units and a 3-story multi-purpose building. | -Approve w/conditions, including a revision to condition #4 so that uses in the SP shall be limited to independent living, assisted-care, nursing home facilities and a senior day care. |
| 5. | 2008SP-031U-11 | A request to change from CS to SP-R zoning for properties located at 416 Murfreesboro Pike and 811 Elm Hill Pike, to permit a boarding house with 32 living units with kitchens in an existing 32 room motel facility. | -Approve w/conditions |
| 6. | 2008SP-035U-09 | A request to change from CF to SP-MU zoning for properties located at the southeast corner of Demonbruen Street and 12 th Ave South, to permit the development of a maximum 24-story mixed-use building. | -Approve w/conditions |

ZONING MAP AMENDMENTS

- | | | | |
|-----|----------------|---|-----------------------|
| 10. | 2008Z-092U-10 | A request to rezone various properties from R10 to RS10 zoning along Clairmont Place, between Belmont Boulevard and Woodmont Boulevard. | -Approve |
| 11. | 6-74-G-14 | A request to amend a portion of the Commercial Planned Unit Development district located at 3887 Central Pike, to permit a 4-story, 67 room hotel where a 2-story, 47 room hotel was previously approved. | -Approve w/conditions |
| 12. | 2002UD-001U-10 | A request to amend the existing Green Hills Urban Design Overlay (UDO) District to add properties located at 2000 and 2002 Richard Jones Road, to require all provisions of the Green Hills UDO to apply to these properties. | -Approve |

FINAL PLATS

- | | | | |
|-----|---------------|---|--|
| 13. | 2007S-312U-13 | A request for final plat approval to create 10 lots located at 2520, 2530, 2532, 2534, 2538 and 2540 Murfreesboro Pike near the intersection of Dover Glen Drive and Murfreesboro Pike (9.97 acres), zoned Commercial Service (CS) and Mixed Use Limited (MUL). | -Approve with the elimination of the two conditions in the staff report |
| 14. | 2008S-181U-07 | A request for final plat approval to shift lot lines between 2 lots located at 4507 and 4509 Illinois Avenue. | -Approve with a variance to the Subdivision Regulations for lot depth to width ratio. |

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15. 2008S-183U-13 A request for a variance to remove a 950 foot long, unbuilt sidewalk along the north side of Brookstone Court within the Hickory Woods Estates Planned Unit Development, and to build a 530 foot long sidewalk along the north side of Lavergne-Couchville Pike between Murfreesboro Pike and Hickory Way. -Approve variance w/ conditions

REVISED SITE PLANS

16. 128-78-G-14 A request for a variance to Section 17.32.130.D of the Zoning Code for property within the Hermitage Business Center Commercial Planned Unit Development district located at 4101 Lebanon Pike, to recommend approval to the Board of Zoning Appeals on a sign variance to permit an encroachment into the required side yard setback. -Approve
17. 148-74-U-14 A request to revise the preliminary plan for a portion of the Century City Planned Unit Development Overlay located on various properties at McGavock Pike (unnumbered), approximately 800 feet east of McGavock Pike, to permit the development of 31,500 square feet of office for a public utility corporation and associated accessory uses. -Approve w/conditions

OTHER BUSINESS

19. Contract between the Metropolitan Planning Commission on behalf of the Metropolitan Planning Organization with RPM Transportation Consultants, LLC for the Southwest Area Transportation & Land Use Study.
20. Employee contract renewal for Brenda Bernards and a new employee contract for Mary Beth Stephens

Mr. Gee requested that Item #3, 2007SP-037U-12 be removed from the Consent Agenda.

Ms. LeQuire requested that the final site plan for Item #3 be reviewed by the Commission.

Mr. Bernhardt acknowledged these requests and suggested that the Commission add a condition that would require the Commission's review of the final site plan for 2007SP-037U-12.

Mr. Gee withdrew his request to remove Item #3 from the Consent Agenda.

Mr. Ponder moved, and Mr. Gotto seconded the motion, which passed unanimously to adopt the Consent Agenda and to include the additional condition for Item #3, 2007SP-037U-12. **(8-0-1)** Abstained – McLean

VII. PREVIOUSLY DEFERRED ITEMS

1. **2008Z-079U-10**
Whitland Avenue
Map: 103-16 Parcels: Various
Map: 104-09, 104-09-Q Parcels: Various
Map: 104-13 Parcels: Various
Green Hills/Midtown Community Plan
Council District 24 – Jason Holleman
Staff Reviewer: Carrie Logan

A request to apply a Neighborhood Conservation Overlay for various properties on both sides of Whitland Avenue between Wilson Boulevard South and Bowling Avenue, zoned R8 (19.61 acres), requested by Councilmember Jason Holleman, applicant, for various owners.

Staff Recommendation: Approve

The Metropolitan Planning Commission DEFERRED Zone Change 2008Z-079U-10 to January 22, 2009, at the request of the applicant. (9-0)

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2. **2008Z-088T**
Mobile Vendors on Cleveland Street
Staff Reviewer: Jennifer Regen

A council bill to amend the Metro Zoning Code, Section 17.04.060 to modify the definition of "mobile vendor" to exempt vending activity along Cleveland Street between Dickerson Pike and McFerrin Avenue, sponsored by Councilmember Pam Murray.

Staff Recommendation: Disapprove

The Metropolitan Planning Commission DEFERRED Zone Change 2008Z-088T to February 12, 2009, at the request of the applicant. (9-0)

VIII. PUBLIC HEARING: PREVIOUSLY DEFERRED ITEMS ON PUBLIC HEARING

3. **2007SP-037U-12**
Forest View
Map: 162-00 Parcels:115, 219, 221, 220, 223
Southeast Community Plan
Council District 32 – Sam Coleman
Staff Reviewer: Brian Sexton

A request to change from AR2a and RM20 to SP – MU zoning properties located at 1452, 1450, 1448, 1446 ,and 1444 Bell Road, approximately 3,515 feet west of Blue Hole Road (40.21 acres), to permit the development of multi-family dwelling units, commercial, office and retail uses, requested by Dale & Associates, applicant, for Charles Leach, Ben Odom, Joanne Davis, F. West, and GTA Investments, owners.

Staff Recommendation: Approve with conditions

APPLICANT REQUEST - Preliminary SP

A request to rezone from Agricultural/Residential (AR2A) and Multi-Family Residential (RM20) to Specific Plan-Mixed Use (SP-MU) zoning properties located at 1452, 1450, 1448, 1446, and 1444 Bell Road, approximately, 3,515 feet west of Blue Hole Road (40.21 acres), to permit the development of multi-family dwelling units, commercial, office, and retail uses.

Existing Zoning

AR2A District - Agricultural/Residential requires a minimum lot size of 2 acres and intended for uses that generally occur in rural areas, including single-family, two-family, and mobile homes at a density of one dwelling unit per 2 acres. The AR2a district is intended to implement the natural conservation or interim nonurban land use policies of the general plan.

RM20 District - RM20 is intended for single-family, duplex, and multi-family dwellings at a density of 20 dwelling units per acre.

Proposed Zoning

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

SOUTHEAST COMMUNITY PLAN

Neighborhood Center (NC) NC is intended for small, intense areas that may contain multiple functions and are intended to act as local centers of activity. Ideally, a neighborhood center is a "walk-to" area within a five minute walk of the surrounding neighborhood it serves. The key types of uses intended within NC areas are those that meet daily convenience needs and/or provide a place to gather and socialize.

Neighborhood General (NG) NG is intended to meet a spectrum of housing needs with a variety of housing that is carefully arranged, not randomly located. An accompanying Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in these policy areas, to assure appropriate design and that the type of development conforms with the intent of the policy.

Consistent with Policy? Yes. The portion of the property proposed for District One is consistent with the NC policy as the
Last printed 1/5/2009 8:22:00 AM

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proposed uses that will function as centers of activity. The proposed residential uses in District Two and open space in District Three are consistent with NG policy.

PLAN DETAILS The proposed SP includes three districts, each with its own land uses and bulk standards. A site plan was provided for District Two only. A set of development standards was provided for District One. While the site plan for District One shows a new public street, this is meant to be illustrative only and no specific streets are being proposed within this rezoning request. The site plan for District Two will likely require revisions in order to accommodate a stream corridor that runs through the property.

District One District One, approximately 12 acres in area, is proposed for 60 residential units as well as commercial, retail, and office uses fronting Bell Road from the northern property line to the TVA easement. For any development in this District, a minimum of 40% of the building square footage will be commercial and/or retail tenants. The uses and bulk standards for this district will be similar to those for the MUL zoning district with the following uses excluded: bars, night clubs, and detached single family residences. Building heights are to be three stories and the maximum floor area ratio (FAR) is proposed to be 1.00.

A standard B Buffer is proposed along the western property line in order to provide additional buffering for the existing residential property. Details of the proposed landscaping have been provided, but a list of proposed trees and shrubs species consistent with the Urban Forster's tree density requirement is needed.

District Two District Two, approximately 28 acres in area, is proposed for 11 multi-family apartment buildings containing 248 units. District Two also includes an administrative office and pool house. Uses permitted within this sub-district are those allowed under the multi-family (RM15) zoning district. Building heights are limited to three stories. The bulk standards of the RM15 zoning district will apply in District Two.

A standard C buffer is identified along the west and south perimeter of District Two. As is the case for District One, details of the proposed landscaping have been provided, but a list of proposed trees and shrubs species consistent with the Urban Forster's tree density requirement is needed.

District Three District Three is approximately 10 acres in area and is proposed for open space. Uses in this portion of the SP are limited to maintenance of the open space.

The buffers in District One and Two, and the open space in District Three, will be managed and maintained through an association set up for this purpose. No details of this association have been provided and will be required prior to Final Site Plan approval for the first phase of this proposed development.

Streets Network and Sidewalks Development Standards were provided for the street network in District One. Parallel parking will be provided along all public streets (excluding Bell Rd.) in front of buildings with frontage on the public street. An east-west public street will be constructed within the mixed-use portion of this SP to provide connection opportunities to adjacent parcels to the east and west. The plan includes multi-use paths with a minimum width of 12 feet in District One to serve pedestrians and bicyclists. The multi-use paths will penetrate the property perimeters in several places to accommodate pedestrian accessibility to adjacent sites. In addition, a network of walking trails, connecting the District One with District Two are proposed.

Access Management Development standards were provided for access management within District One. The plan proposes the following requirements:

- Driveway connections to the new public streets on the east side of the property shall be provided at approximately 400 feet south of the Bell Road property line and shall be consistent with the alignment shown on drawings dated September 9, 2008 for the Forest View SP.
- The northern portion of this SP shall provide a minimum of two street and/or driveway connections to both the east and west property lines for a total of four connection points.

In District Two, the plan shows a 30 foot wide vehicular entrance from a public road.

Parking The number of parking spaces required for each use will be governed by the standards of the Zoning Code. Development standards were provided for the location of parking within District One and will meet the following requirements:

- Parking shall be set back a minimum 100 feet from northern-most Bell Road property line

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- There shall be a minimum parking setback of 70 feet from the property line designated along the north/south Public Street.
- All surface parking lots shall be sited behind buildings for screening purposes from Bell Road and all Public Streets.
- Additional parking in the interior of District One shall have a minimum 15 foot setback along all proposed public street frontages.
- Parking spaces within driveways along building frontages shall be parallel to the driveway.

The plan does not provide the number of proposed bedrooms per unit for any of the multi-family buildings. As parking in multi-family developments is determined by the number of bedrooms, this detail is required prior to Final Site Plan approval in order to determine if sufficient parking is provided. All parking in District Two shall satisfy parking requirements as required by the Zoning Code. The plan shows perpendicular parking spaces within the driveways along building frontages. These parking spaces need to be parallel to the driveway.

Building Orientation The development standards submitted by the applicant provide setbacks and building orientation for District One. The plan proposes the following standards:

- Buildings shall have a build-to zone of 30 to 40 feet from the northern-most Bell Road property line extended along Bell Road.
- Front building facades must occupy a minimum of 60% of the length of the build-to zone along public streets.
- Build-to zones for public streets north and south shall be 0 to 15 feet from the property line designated along new public streets.
- In District Two, the plan shows apartment buildings facing common internal parking areas, common space and a public road.

Building Form Requirements The proposed plan provides detail regarding building form in District One. The plan proposes the following standards:

- In District One, minimum ground floor height on commercial and mixed use buildings shall be 14 feet.
- Maximum impervious surface ratio shall be 90%.
- All buildings with frontage along a public street shall provide fenestration for a minimum of 40% of the first floor facade, measured from grade to the 2nd floor FFE.
- All buildings with frontage along a public street shall provide a public entrance facing the public street. Awnings shall be the only type of encroachments allowed.

Signs Sign details were included in this SP. Signs for District One shall be based on the standards of the MUL Zoning District and signs for District Two shall be based on the RM15 zoning district standards. There are no signage standards proposed for District Three. Signs in District Three will also be based on the RM15 zoning district standards but limited to what are necessary to support the open space functions only. In addition to signs prohibited by Section 17.32.050 of the Metro Zoning Ordinance, prohibited signs include roof mounted signs, pole mounted signs, billboards, and signs that flash, rotate, scintillate, blink, flicker or vary in intensity or color, including all electronic signs. Permitted signs in District One include building signs only and freestanding ground signs are permitted in District Two. Building signs are attached directly to, or supported by brackets attached directly to a principal building. Freestanding ground signs are supported by structures or supports that are anchored in the ground and that are independent of any building or other structure and are a maximum six feet in height. Wall mounted building signs shall have a maximum sign area of 30 square feet.

Signs shall be externally lit with steady, stationary, down directed, and completely shielded light sources or may be internally illuminated or back-lit with a diffused or shielded light source. Sign backgrounds shall be opaque, only letters and logos may be internally illuminated. Free standing ground signs may be lit from a ground lighting source. All signs in District One and Two shall be constructed using high-quality durable materials such as metal, stone, brick, and hardwood, and shall complement materials and features of buildings on the same property. The design and alignment of signs on multiple use buildings shall compliment each other such that visual unity effect is achieved.

Any phase of development in District One that will include multiple stories and/or tenants shall submit an overall sign program with the final site plan.

STORMWATER RECOMMENDATIONS Preliminary SP approved except as noted:

- Offsite runoff traverses the property. This runoff should be located within an easement with no building encroachments.

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FIRE MARSHAL RECOMMENDATION Reviewed: Conditional Approval

- Approved based on earlier and current comments being met. More than one fire department access road shall be provided when it is determined by the AHJ that access by a single road could be impaired by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access.

NES RECOMMENDATION NES requires a 20' Public Utility Easement parallel to "Public Road."

- No NES overhead electric utility equipment shall be permitted in the TVA easement.
- Developer shall provide a drawing showing any existing utility easements and utility equipment/facilities on property.
- Public Utility Easement required adjacent to all public rights of way and all NES conduits shall lie inside a PUE (width to be determined).
- 20-foot wide PUE centered on NES underground conduit system and pad-mounted equipment. In some cases, additional easements may be required
- NES Engineering staff can meet with developer/engineer upon request to determine electrical service options.
- Developer to provide to NES all plans for road improvements required by Metro Public Works.
- NES follows the National Fire Protection Association (NFPA) rules; Refer to NFPA 70 article 450-27; and NESC Section 15 - 152.A.2 for complete rules See www.nespower.com to reference The "Builders and Contractors Section" of the NES web site has the Guidelines and Manuals tab for the developer's Engineers to reference for their site planning.
- Developer to provide high voltage layout for underground conduit system and proposed transformer locations for NES review and approval.
- Developer to provide construction drawings and a digital .dwg file in State Plane coordinates (TN83F) containing the civil site information when requesting service from NES.
- Civil site plans shall be provided with approved revisions requested by Metro Planning with all changes from other departments (i.e., road, drainage, etc).
- Any 3-phase transformer locations must be indicated on preliminary layout drawings (i.e. pump services, office buildings, etc).

PUBLIC WORKS RECOMMENDATION

- The developer's construction drawings shall comply with the design regulations established by the Department of Public Works. Final design may vary based on field conditions.
- No direct access will be allowed to Bell Road other than from the single proposed public road.
- All references to future roadway or driveway connections should be removed from the submitted sketch.
- The proposed public road should align with the existing commercial driveway on the north side of Bell Road.

With the construction of District One:

- In the absence of a proposed development plan and prior to any approvals in District One, a comprehensive development plan and traffic study must be submitted and approved by the Department of Public Works to determine the number and location of access points, the number of required parking spaces, and any off-site improvements that may be required.
- Construct all improvements as identified for District Two, including any additional off-site improvements as determined by the Department of Public Works.

With the construction of District Two:

- Construct the site access road at Bell Road with one entering and two exiting lanes (LT and RT) each with a minimum of 150 ft of storage and transitions per AASHTO/MUTCD standards.

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- Construct an eastbound right turn lane on Bell Road at the site access road with 150 ft of storage and transitions per AASHTO/MUTCD standards.
- Prior to the preparation of construction plans, document adequate sight distance at project access locations. Indicate the available and required sight distance at the project entrance for the posted speed limit per AASHTO standards.
- Developer shall conduct a signal warrant analysis on Bell Road at the intersection of the proposed public road, with the submittal of any and all final SP plans or as directed by the Metro Traffic Engineer. The warrant analysis and traffic counts shall be submitted to the Metro Traffic Engineer for review and approval. The developer shall design and install a traffic signal when approved by the Traffic and Parking Commission.

Maximum Uses in Existing Zoning District: RM20

Land Use (ITE Code)	Acres	Density	Total Number of units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Residential Condo/Townhome (230)	13	20	260	1447	111	132

Maximum Uses in Existing Zoning District: AR2a

Land Use (ITE Code)	Acres	Density	Total Number of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family detached(210)	27	0.5	13	125	10	14

Maximum Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Retail(814)	40	N/A	45,000	1963	43	130

Maximum Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	Density	Total Density	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Residential Condo/townhome (230)	40	N/A	460	2349	176	211

*Assumes a 1,200 square foot dwelling unit

Maximum Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Shopping Center(820)	40	N/A	64,000	5082	120	467

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
--				+7822	+218	+662

METRO SCHOOL BOARD REPORT

Projected student generation 44 Elementary 25 Middle 25 High

Schools Over/Under Capacity Students would attend Maxwell Elementary School, Marshall Middle School, or Cane Ridge High School. Maxwell Elementary School has been identified as being over capacity by the Metro School Board. There is no capacity for elementary school students within this cluster.

Fiscal Liability The fiscal liability for 44 elementary students is \$880,000. This is for informational purposes to show the

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potential impact of this proposal. It is not a staff condition of approval. This information is based upon data from the school board last updated June 2008.

STAFF RECOMMENDATION The proposed SP plan is consistent with the NC and NG policies and staff is recommending approval with conditions.

CONDITIONS

1. This SP is limited to retail, office, and residential uses in District One, residential in District Two, and open space in District Three.
2. Commercial and/or retail tenants shall be a minimum of 40% of the built square footage in District 1.
3. Prior to final site plan approval, the SP plan shall provide a tree density table and plant species list for Districts One and Two to be approved by the Urban Forester
4. Prior to final site plan approval of the first phase of this development, an association to manage and maintain the landscape buffer yards shall be established and a management plan shall be prepared by the applicant and approved by the Urban Forester.
5. Any Final Site Plan for any phase of the SP containing multi-family units shall include the number of proposed bedrooms per units in order to determine if sufficient parking is provided.
6. The requirements of the Public Works Department shall be completed, bonded or satisfied as specifically required by Public Works.
7. All Final Site Plans for any phase of development shall located offsite runoff within an easement with no building encroachments.
8. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, District One shall be subject to the standards, regulations and requirements of the MUL zoning district, District Two shall be subject to the standards, regulations and requirements of the RM15 zoning district. District Three shall be subject to the standards, regulations and requirements of the AR2A zoning district.
9. A corrected copy of the preliminary SP plan incorporating the conditions of approval by the Planning Commission and Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.
10. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
11. 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.

Approved with conditions, and the applicant has agreed to prohibit residential uses in District One and a new plan will be submitted. The final site plan will go back to the Commission for approval, *(8-0-1) Consent Agenda*

Resolution No. RS2008-243

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“BE IT RESOLVED by The Metropolitan Planning Commission that 2007SP-037U-12 is APPROVED WITH CONDITIONS, the applicant has agreed to prohibit residential uses in District One and a new plan will be submitted. All final site plan shall be presented to the Commission for approval. (8-0-1)

Conditions of Approval:

1. This SP is limited to retail, office, and residential uses in District One, residential in District Two, and open space in District Three.
2. Commercial and/or retail tenants shall be a minimum of 40% of the built square footage in District 1.
3. Prior to final site plan approval, the SP plan shall provide a tree density table and plant species list for Districts One and Two to be approved by the Urban Forester
4. Prior to final site plan approval of the first phase of this development, an association to manage and maintain the landscape buffer yards shall be established and a management plan shall be prepared by the applicant and approved by the Urban Forester.
5. Any Final Site Plan for any phase of the SP containing multi-family units shall include the number of proposed bedrooms per units in order to determine if sufficient parking is provided.
6. The requirements of the Public Works Department shall be completed, bonded or satisfied as specifically required by Public Works.
7. All Final Site Plans for any phase of development shall located offsite runoff within an easement with no building encroachments.
8. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, District One shall be subject to the standards, regulations and requirements of the MUL zoning district, District Two shall be subject to the standards, regulations and requirements of the RM15 zoning district. District Three shall be subject to the standards, regulations and requirements of the AR2A zoning district.
9. A corrected copy of the preliminary SP plan incorporating the conditions of approval by the Planning Commission and Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.
10. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
11. 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.

The proposed SP-MU is consistent with the Southeast Community Plan’s Neighborhood Center and Neighborhood General policies which are intended for a mixture of commercial, retail and residential uses.”

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IX. PUBLIC HEARING: SPECIFIC PLANS

4. 2008SP-030U-10

Abe's Garden at Park Manor
Map: 116-03 Parcels: 015, 027
Green Hills/Midtown Community Plan
Council District 24 – Jason Holleman
Staff Reviewer: Nedra Jones

A request to change from R10 and RM20 to SP-MR zoning properties located at 115 Woodmont Boulevard, approximately 775 feet south of Harding Pike (7.41 acres), to permit an independent living, assisted-care and nursing home facility comprised of 400,000 square feet within a proposed 2-story south tower containing a senior day-care facility and 80 beds, an existing 7-story central tower containing 32 beds and 85 units, a proposed 12-story west tower containing 128 units and a 3-story multi-purpose building, requested by Barge Cauthen & Associates, applicant, for Abe's Garden, owner.

Staff Recommendation: Approve with conditions

APPLICANT REQUEST - Preliminary SP

A request to change from One and Two-Family Residential (R10) and Multi-Family Residential (RM20) to Specific Plan-Mixed Residential (SP-MR) zoning properties located at 115 Woodmont Boulevard, approximately 775 feet south of Harding Pike (7.41 acres), to permit an independent living, assisted-care and nursing home facility comprised of 400,000 square feet within a proposed 2-story south tower containing a senior day-care facility and 80 beds, an existing 7-story central tower containing 32 beds and 85 units, a proposed 12-story west tower containing 128 units and a 3-story multi-purpose building.

Existing Zoning

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

RM20 District -RM20 is intended for single-family, duplex, and multi-family dwellings at a density of 20 dwelling units per acre.

Proposed Zoning

SP-MR District -Specific Plan-Mixed Residential is a zoning District category that provides for additional flexibility of design, including the relationship of streets to buildings, to provide the ability to implement the specific details of the General Plan. This Specific Plan includes a mixture of housing types.

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.

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

Consistent with Policy? Yes. The proposed plan is consistent with both the Residential Medium (RM) and Residential High (RH) land use policies. The RM land use policy applies to parcel 027 which currently serves as a parking area and as the main entrance to the existing multi-family use. There are no proposed new uses within this area of the site that would conflict with the RM policy. The proposed plan is also consistent with the Residential High land use policy which encourages densities above 20 units per acre in the form of mid or high-rise structures. The RH policy applies to parcel 015 which is planned to accommodate two new multi-family structures, a one-story multi-purpose building and a 3-story dining hall planned as an addition to an existing 7-story tower. The overall development will accommodate a maximum density of 34 units per acre.

PLAN DETAILS The preliminary site plan proposes three new buildings in addition to two existing buildings. Currently, the site contains a 7-story independent senior living facility and a utility building located near the entrance of the site. The proposed structures include a 2-story building totaling 70,106 square feet designated for a senior day care and nursing home; a 12-story building totaling 205,191 square feet designed for independent living units as well as an assisted care and nursing home; a one-story multi-purpose building and a 3-story dining hall planned as an extension of the existing 7-story tower,

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which totals 119,788 square feet. A total of 112 beds and 213 units will be provided within the three residential structures.

The development standards include a 30 foot minimum side setback, a 100 foot minimum rear setback, a maximum building height of 150 feet, a maximum floor area ratio of 1.3 and a maximum impervious surface ratio of 0.50.

Access/Parking Access to the site is provided by an existing private driveway that connects to Woodmont Boulevard. The driveway extends throughout the site providing access to the parking garage in the proposed new buildings. The Metro Zoning Ordinance requires a minimum of 224 parking spaces to accommodate the proposed uses. The plan proposes a total of 240 parking spaces; 22 surface parking spaces and 218 garage parking spaces.

Landscaping/Open Space The plan proposes to preserve a significant portion of the site for open space. The open space area includes a walking trail and dedicated public access for a greenway trail easement. Sugar Tree Creek runs along the southern property boundary and a 75 foot buffer is provided to preserve the natural state of the creek. The plan proposes new plantings around the eastern and western perimeter of the site to augment the existing vegetation and to meet the minimum requirements of the standard B and the standard C landscaping buffers. A green roof is also proposed on portions of the existing building and the two-story building.

PUBLIC WORKS RECOMMENDATION

1. The developer's construction drawings shall comply with the design regulations established by the Department of Public Works. Final design may vary based on field conditions.
2. Identify plans for recycling collection and solid waste disposal. Provide turning templates for truck routes. Solid waste plan must be approved by the Department of Public Works Solid Waste Division.

Typical/Maximum Uses in Existing Zoning District: R10/RM20

Land Use (ITE Code)	Acres	Density	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Residential Condo/Townhome (230)	7.41	20	148	868	66	77

Typical Uses in Proposed Zoning District: SP-M

Land Use (ITE Code)	Acres	Density	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Senior/Independent Living(252)	7.41	N/A	184 beds	640	15	20

Typical Uses in Proposed Zoning District: SP-M

Land Use (ITE Code)	Acres	Density	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Assisted Living (254)	7.41	N/A	16 beds	44	3	5

Typical Uses in Proposed Zoning District: SP-M

Land Use (ITE Code)	Acres	Density	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Nursing(620)	7.41	N/A	120 beds	284	20	26

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

Land Use (ITE Code)	Acres	--		Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--				+100	-28	-26

STORM WATER RECOMMENDATION Preliminary SP approved.

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FIRE MARSHAL RECOMMENDATION

1. The turning radius of a fire department access road shall be 25' inside and 50' outside.
2. More than one story below grade, Class I standpipe system shall be installed.
3. More than three stories above grade, Class I standpipe system shall be installed.

NES RECOMMENDATION

1. Developer to provide construction drawings and a digital .dwg file @ state plane coordinates that contains the civil site information (after approval by Metro Planning w/ any changes from other departments).
2. Developer drawing should show any and all existing utilities easements on property.
3. 20-foot easement required adjacent to all public rights of way and 20' PUE centered on all NES conduits. (Developer may consider recording all open space as a PUE).
4. Developer must maintain all Overhead Clearances required by NESC from new proposed 10 story building and existing Overhead Power Line at North Corner of property.
5. Developer must maintain access to existing NES pad-mounted transformer serving current 7 story building or show plans for relocating the existing power equipment. NES can meet with developer/engineer upon request to determine electrical service options for the existing buildings as well as the future load requirements of the new buildings. Developer will need to show plans on where the existing overhead power lines on the east side of the property can be relocated due to the new parking lot structure.
6. NES follows the National Fire Protection Association rules; Refer to NFPA 70 article 450-27; and NESC Section 15 - 152.A.2 for complete rules.

METRO SCHOOL BOARD REPORT

Schools Over/Under Capacity Projected student population is not applicable to this zone change request because the development is planned for senior living exclusively.

STAFF RECOMMENDATION Staff recommends approval with conditions of the request to rezone 7.41 acres from R10 and RM20 to SP-MR. The proposed use and density are consistent with the intent of the Residential Medium and Residential High land use policies.

CONDITIONS

1. The requirements of the Metro Public Works Department must be met prior to or in conjunction with final site plan approval.
2. 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.
3. The requirements of NES must be met prior to or in conjunction with final site plan approval.
4. The SP uses shall be limited to independent living, assisted-care, nursing home facilities and a senior day care.
5. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, the property shall be subject to the standards, regulations and requirements of the RM40 zoning district as of the date of the applicable request or application.
6. A corrected copy of the SP final site plan incorporating the conditions of approval by the Planning Commission shall be provided to the Planning Department prior to the issuance of any permit for this property, and in any event no later than 120 days after consideration by Planning Commission. If a corrected copy of the SP final site plan incorporating the conditions therein is not provided to the Planning Department within 120 days after the date of conditional approval by the Planning Commission, then the corrected copy of the SP final site plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, or any other development application for the property.

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7. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.

Approve w/conditions, including a revision to condition #4 so that uses in the SP shall be limited to independent living, assisted-care, nursing home facilities and a senior day care, *(8-0-1) Consent Agenda*

Resolution No. RS2008-244

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008SP-030U-10 is **APPROVED WITH CONDITIONS, including a revision to condition #4 so that uses in the SP shall be limited to independent living, assisted-care, nursing home facilities and a senior day care. (8-0-1)**

Conditions of Approval:

1. The requirements of the Metro Public Works Department must be met prior to or in conjunction with final site plan approval.
2. 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.
3. The requirements of NES must be met prior to or in conjunction with final site plan approval.
4. The SP uses shall be limited to independent living, assisted-care, nursing home facilities and a senior day care.
5. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, the property shall be subject to the standards, regulations and requirements of the RM40 zoning district as of the date of the applicable request or application.
6. A corrected copy of the SP final site plan incorporating the conditions of approval by the Planning Commission shall be provided to the Planning Department prior to the issuance of any permit for this property, and in any event no later than 120 days after consideration by Planning Commission. If a corrected copy of the SP final site plan incorporating the conditions therein is not provided to the Planning Department within 120 days after the date of conditional approval by the Planning Commission, then the corrected copy of the SP final site plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, or any other development application for the property.
7. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.

The proposed SP-MR district is consistent with the Green Hills/Midtown Community Plan’s residential medium and residential high policies which are intended for residential development with a density range between four and twenty and above units per acre.”

5. **2008SP-031U-11**
Mercury North
Map: 106-01 Parcels: 055, 057
South Nashville Community Plan
Council District 17 – Sandra Moore
Staff Reviewer: Jason Swaggart

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A request to change from CS to SP-R zoning for properties located at 416 Murfreesboro Pike and 811 Elm Hill Pike, approximately 1,135 feet west of Fesslers Lane (0.37 acres), to permit a boarding house with 32 living units with kitchens in an existing 32 room motel facility, requested by Urban Housing Solutions Inc., owner/applicant.

Staff Recommendation: Approve with conditions

APPLICANT REQUEST - Preliminary SP and Final Site Plan

A request to change from Commercial Service (CS) to Specific Plan-Residential (SP-R) zoning and for final site plan approval for properties located at 416 Murfreesboro Pike and 811 Elm Hill Pike, approximately 1,135 feet west of Fessler's Lane (0.37 acres), to permit a boarding house with 32 living units with kitchens in an existing 32 room motel facility.

Existing Zoning

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

Proposed Zoning

SP-R District -Specific Plan is a zoning district category that provides for additional flexibility of design, including the relationship of buildings to streets, to provide the ability to implement the specific details of the General Plan. This SP includes residential uses.

SOUTH NASHVILLE COMMUNITY PLAN

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

Consistent with Policy? Yes. The proposed use is consistent with the area's land use policy. The use will go from hotel/motel to a multi-family type use which is a use intended in the policy. Since the plan does not propose any significant change to the existing structure, no significant improvements are required.

PLAN DETAILS The two properties within the proposed SP-R district are located between Murfreesboro Pike and Elm Hill Pike across from Trevecca Nazarene University. The existing motel building on the site was formerly part of the Drake Motel. The Drake Motel is located immediately to the east and is a historical structure that the Historic Zoning Commission has determined to be worthy of conservation.

The applicant, Urban Housing Solutions, provides affordable housing to people in need of adequate housing. According to the applicant, the proposed apartment units will be temporary housing for the homeless. While the proposed use is similar to a Boarding House as defined in the Metro Zoning Code, the proposed units will have kitchens which are not allowed under the Boarding House use. Since this will be a SP district there is flexibility in defining the use. The use in this SP will be classified as a *Boarding house with Kitchen*. This is a residential facility or dwelling unit for the temporary accommodation of persons or families in a dwelling unit, whether for compensation or not, who are in need of lodging, personal services, supervision, or rehabilitative services.

Site Plan The site plan identifies the existing building and related facilities. The plan calls for the existing 32 motel units to be converted into 32 small apartments.

Primary access to the site will be from the existing drive along Murfreesboro Road. A secondary access point is also provided onto Elm Hill Pike to provide adequate access for emergency vehicles and equipment. Access to the site will be restricted and both access points will have gates.

Parking The site plan identifies a total of 13 parking spaces. The proposed use most closely resembles multi-family, and would require a total of 32 parking spaces under Zoning Code. While there is some flexibility in the number of parking spaces required in an SP, the plan must demonstrate adequate parking. Because of the nature of the proposed use, a majority of the occupants will not drive or have access to independent travel. Since most of the occupants will be dependent on public transit or other means of transportation the 13 proposed parking spaces are sufficient.

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Sidewalks A sidewalk exists along Murfreesboro Pike but there is no sidewalk along Elm Hill Pike. An open ditch runs between Elm Hill Pike and the property. The ditch would not hinder the construction of a sidewalk, however it does pose a challenge. Within the general area there are no sidewalks along Elm Hill Pike. Since there are no sidewalks within the general area along Elm Hill Pike then Planning Staff recommends that the applicants make a contribution to the pedestrian network as specified in Section 17.20.120.D of the Metro Zoning Code rather than constructing a sidewalk.

Analysis The SP proposes no significant change to the existing structure. Since no major changes are proposed, then staff has not required any significant improvements to the site. While 13 parking spaces are adequate for this specific proposal, that number would not be adequate if this were a typical multi-family development. If the nature of this use were to change then additional parking would be needed. There is not room for additional parking on the site so any new use would require significant changes and may require additional land. Any change in use would require Council approval.

FIRE MARSHAL RECOMMENDATION

1. A sprinkler system for fire protection may be required to be installed with building permits.
2. A fire hydrant shall be provided within 100' of the fire department connection.
3. Actual or projected fire hydrant flow data shall be provided on plat showing compliance with 2006 edition of NFPA 1 table H.
4. No part of any building shall be more than 500 ft from a fire hydrant via an approved hard surface road.

STORMWATER RECOMMENDATION Approved

PUBLIC WORKS RECOMMENDATION All Public Works' design standards shall be met prior to any final approvals and permit issuance. Any approval is subject to Public Works' approval of the construction plans.

Typical Uses in Existing Zoning District: CS

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Convenience Market (852)	0.37	0.06	967	NA	30	34

Typical Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	Density	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Apartment: Low Rise(221)	0.37	N/A	32	522	22	25

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

Land Use (ITE Code)	Acres	--		Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--					-8	-9

Maximum Uses in Existing Zoning District: CS

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Convenience Market (852)	0.37	0.60	9,670	NA	300	335

Maximum Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	Density	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Apartment: Low Rise(221)	0.37	N/A	32	522	22	25

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

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Land Use (ITE Code)	Acres	--		Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--					-278	-310

METRO SCHOOL BOARD RePORT

Projected student generation 3Elementary 1Middle 1High

Schools Over/Under Capacity *The above figures are derived from a typical multi-family development. Due to the nature of this SP no new students are anticipated. Students would attend McGavock Elementary School, Two Rivers Middle School and McGavock High School. All three schools are over capacity. There is additional capacity within the cluster for elementary and middle school students. There is capacity within an adjacent high school cluster. This information is based upon data from the school board last updated June 2008.*

STAFF RECOMMENDATION Staff recommends that the proposed SP be approved. The SP does not propose any significant change to the property and the use is consistent with the area’s land use policy.

CONDITIONS

1. Applicants shall make a contribution to the pedestrian network as specified in Section 17.20.120.D of the Metro Zoning Code. A use and occupancy permit shall not be issued until the payment has been received by Metro in accordance with the requirement.
2. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, the property shall be subject to the standards, regulations and requirements of the MUL zoning district as of the date of the applicable request or application.
3. A corrected copy of the preliminary SP and final site plan incorporating the conditions of approval by the Planning Commission and Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.
4. Minor adjustments to the preliminary SP and final site plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All adjustments shall be consistent with the principles and further the objectives of the approved plan. Adjustments shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
5. The preliminary SP and final site plan as approved by the Planning Commission and Metro Council will be used to determine compliance, both in the issuance of permits for construction and field inspection. While minor changes may be allowed, significant deviation from the approved site plans may require reapproval by the Planning Commission and/or Metro Council.

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.

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

Mr. Harold McHue, 333 Murfreesboro Road, spoke in opposition to the proposed development.

A representative of Urban Housing Solutions spoke in favor of the proposed development.

Mr. Clifton requested clarification on the application in relation to the requested SP zoning.

Mr. Swaggart explained the definitions included in the SP zoning as requested.

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Mr. Clifton acknowledged the City's efforts in assisting the homeless population and recognized that the proposed location would best fit this need. He spoke in favor of approving the proposal.

Dr. Cummings requested clarification on the land uses surrounding the proposed development.

Mr. Gee acknowledged the good intentions of the Urban Housing Solutions organization and their work in assisting the homeless population. He then offered caution to the developers on the issue of concentrating low income housing in certain areas of the City and suggested they examine additional locations if they plan on expansion.

Mr. Ponder questioned specifics on the management of the proposed development.

Mr. Rusty Lawrence, Urban Housing Solutions, explained this concept to the Commission.

Ms. Jones commended the organization for their efforts in assisting the homeless and spoke in favor of approving the proposal.

Mr. Dalton acknowledged the concerns mentioned by the opposition. He too offered caution to the developer on how they would expand their services and the issue of concentrating low income housing in one area.

Ms. LeQuire suggested that the Commission include a condition that the developer continue working with Trevecca University on any outstanding issues associated with the development.

Ms. LeQuire and Mr. Clifton seconded the motion, to approve with conditions Zone Change 2008SP-031U-11, Mercury North, with the condition that the applicant continue to work with Trevecca Nazarene University to resolve any outstanding issues. **(9-0)**

Resolution No. RS2008-245

"BE IT RESOLVED by The Metropolitan Planning Commission that 2008SP-031U-11 is **APPROVED WITH CONDITIONS, including a condition that the applicant work with Trevecca Nazarene University to resolve outstanding concerns. (9-0)**

Conditions of Approval:

1. Applicants shall make a contribution to the pedestrian network as specified in Section 17.20.120.D of the Metro Zoning Code. A use and occupancy permit shall not be issued until the payment has been received by Metro in accordance with the requirement.
2. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, the property shall be subject to the standards, regulations and requirements of the MUL zoning district as of the date of the applicable request or application.
3. A corrected copy of the preliminary SP and final site plan incorporating the conditions of approval by the Planning Commission and Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.
4. Minor adjustments to the preliminary SP and final site plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All adjustments shall be consistent with the principles and further the objectives of the approved plan. Adjustments shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
5. The preliminary SP and final site plan as approved by the Planning Commission and Metro Council will be used to

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determine compliance, both in the issuance of permits for construction and field inspection. While minor changes may be allowed, significant deviation from the approved site plans may require reapproval by the Planning Commission and/or Metro Council.

The proposed SP-R is consistent with the South Nashville Community Plan's Community Center policy which is intended for retail commercial as well as single and multi-family residential."

6. **2008SP-035U-09**
1201 Demonbreun
Map: 093-09 Parcels: Various
Downtown Community Plan
Council District 19 – Erica Gilmore
Staff Reviewer: Brenda Bernards

A request to change from CF to SP-MU zoning for properties located at 1205, 1207, and 1211 Demonbreun Street, 201, 203, 205, and 207 12th Avenue South, and 1206, 1212, and 1214A Laurel Street, at the southwest corner of Demonbreun Street and 12th Avenue South (2.93 acres), to permit the development of a maximum 24-story mixed-use building, requested by Hastings Architecture Associates, applicant, for Demonbreun Gateway Partners, owner.

Staff Recommendation: Approve with conditions

APPLICANT REQUEST - Preliminary SP

A request to change from Core Frame (CF) to Specific Plan - Mixed Use (SP-MU) zoning for properties located at 1205, 1207, and 1211 Demonbreun Street, 201, 203, 205, and 207 12th Avenue South, and 1206, 1212, and 1214A Laurel Street, at the southwest corner of Demonbreun Street and 12th Avenue South (2.93 acres), to permit the development of a maximum 24-story mixed-use building.

Existing Zoning

CF District - Core Frame is intended for a wide range of parking and commercial service support uses for the central business District.

Proposed Zoning

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

DOWNTOWN COMMUNITY PLAN

Gulch DNDP - Mixed Use in Downtown Neighborhood

Mixed Use (MxU) MxU is intended for buildings that are mixed horizontally and vertically. The latter is preferable in creating a more pedestrian-oriented streetscape. This category allows residential as well as commercial uses. Vertically mixed-use buildings are encouraged to have shopping activities at street level with office and/or residential above.

Downtown Neighborhood (DN) Downtown Neighborhood policy applies to those parts of Downtown where intense, mixed use development that includes a significant residential component is desired. The development should be created at a scale less intense than the Downtown Core. Downtown Neighborhood policy is only used in the *Downtown Community Plan: 2007 Update* in many of the seventeen Downtown neighborhoods. Each neighborhood has its own unique character and intended development pattern, which are further defined in each neighborhood's Building Regulating Plan, found in the *Downtown Community Plan: 2007 Update*.

Consistent with Policy? Yes, the proposed mixed-use buildings are consistent with the land use policy.

PLAN DETAILS The proposed 1201 Demonbreun SP includes a mixed-use development in one building with a base of a minimum of three stories and up to two, 24 story towers. The project is located on a full block between Demonbreun Street, 12th Avenue South, Laurel Street and the 1-40 on-ramp.

Uses The SP includes a mix of retail, residential and office uses. In order to ensure a mix of uses occurs, the applicant is proposing at least 2% of the building will be retail. The retail will primarily be on the ground floor to provide active uses.

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While the applicant's intent develop one tower develop with office and the second with residential/hotel, both towers could be developed as either office or residential/hotel.

This proposal is within the Metro Development and Housing Agency (MDHA) Arts Center Redevelopment District. MDHA has reviewed and approved the SP Plan. Modifications to the SP Plan, particularly design related, may require review and approval from MDHA.

The SP bulk standards provide for a minimum of 3 stories and a maximum of 24 stories within an identified building envelope. The SP includes setback requirements, identifies the appropriate frontage type such as forecourt, stoop, arcade for the Demonbreun Street, 12th Avenue and Laurel Street frontages. A list of appropriate materials is provided. As this is within a redevelopment district, MDHA will need to approve all building materials.

Signage will be required to meet the CF standards of the Metro Zoning Code and must be consistent with the MDHA Redevelopment District guidelines. This will require review and approval by MDHA prior to the issuance of any sign permits.

Pedestrian Environment In order to ensure the design meets the policy intent to create a pedestrian oriented streetscape, a build-to line has been specified with a minimum frontage. The building will be lined with active uses and there are minimum requirements for ground level exterior windows. New sidewalks are proposed along Demonbreun Street and 12th Avenue South.

Landscaping, street furnishings and related details will be included in the final site plan and shall meet the requirements of the Downtown Streetscape Guidelines and any requirements of the MDHA Art Center Redevelopment District.

Parking Parking will meet the UZO standards of the Zoning Code and will be accommodated within a parking structure. The structure will be lined with active uses on Demonbreun Street and 12th Avenue South. While, three access points are proposed, the Public Works Department has recommended that the access on Demonbreun Street be limited to an entrance only.

Consolidation of Lots The site is made up of ten parcels which will need to be consolidated into one lot in order for this project to be built. There is an 8 inch sewer line and easement that traverses the property. Due to the proposed building location, the line and easement must to be abandoned. The applicant has initiated this process and the was approved on third reading at the December 3, 2008, Council meeting.

STORMWATER RECOMMENDATIONS Preliminary SP Approved with conditions:

- Increased flow (to each basin) is not permissible.
 - If site discharges to the combined sewer, then 50% TSS is required. Otherwise, 80% TSS is required.
- These issues can be addressed during construction drawing phase.

WATER SERVICES RECOMMENDATION

- Private water and private sewer extensions will be required for the proposed development
- Abandonment of an existing 8 inch public sewer line traversing the site will be required due to the proposed building footprint
- Pressure regulating devices will be required when pressure exceeds 100 psi
- The engineer must contact the Fire Marshal's Office regarding adequate fire protection

FIRE MARSHAL RECOMMENDATION Conditional Approval

- Fire Hydrant flow data shall be printed on the plans for the fire hydrant(s) used to protect new construction for this project.
- Fire Hydrants shall be in-service before any combustible material is brought on site.
- Show all fire hydrant(s) flow data or the proposed fire hydrant(s) flow data on plans or the fire hydrant with the highest elevation and the most remote in the development,
- New or existing fire hydrant flow shall be adequate to protect the new construction as per NFPA
- More than three stories above grade, Class I standpipe system shall be installed.
- More than one story below grade, Class I standpipe system shall be installed.

NES RECOMMENDATION

- 1) Overhead utility lines exist on three sides of the property, excluding only the Interstate 40 side. Ample clearance (8'

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for NES final clearance, 10' OSHA clearance during construction) must be provided from these lines during construction and after construction is complete for final clearance from the structure. This includes scaffolding, awnings, balconies and other protrusions that may extend from the face of the bldg.

- 2) If proper clearance cannot be met, these lines must be rebuilt and/or relocated at no cost to NES.
- 3) Developer shall provide switchgear and transformer locations that may include space inside the structure in the form of a transformer vault. Proposed locations should be provided by the developer for review and approval by NES.
- 4) Developer's desired location for service should be provided to NES for review and approval.
- 5) Any underground infrastructure that must be installed will be done so by the developer to meet NES specifications. This may include manholes, duct runs, transformer and/or switchgear vaults.
- 6) Some talks have been had with the developer regarding removal of lines along 12th Ave. S. and Demonbreun St. These talks are still ongoing at this time.
- 7) NES can meet with developer/engineer upon request to determine electrical service options
- 8) NES needs any drawings that will cover road improvements to Metro r-o-w that Public Works will require.
- 9) NES follows the National Fire Protection Association rules; Refer to NFPA 70 article 450-27; and NESC Section 15 - 152.A.2 for complete rules (see NES Construction Guidelines under "Builders and Contractors" tab @ www.nespower.com).

PUBLIC WORKS RECOMMENDATION There is not enough information provided within the submitted SP Development Standards packet to provide detailed engineering comments. All Public Works' design standards shall be met prior to any final approvals and permit issuance. Any approval is subject to Public Works' review and approval of the final design plans.

- All existing roadway widths shall not be reduced.
- Identify the ADA path of travel. Obstructions shall not be located within the travel area, or any encroachments into the pedestrian easement.
- Along property frontage, modify the curb line on west side of 12th Avenue (north of Laurel Street) to align with existing curb line south of Laurel Street.
- Provide adequate truck turning radius at 12th/Demonbreun and 12th/Laurel and driveways.
- Identify loading zones and valet/drop off or transit loading areas.
- Align access points with existing driveways if feasible.
- All three of the proposed driveways should be located in the approximate locations shown on the plans.
- As a minimum, the proposed driveway onto Laurel Street shall be designed with one entering and one exiting lane.
- As a minimum, the proposed driveway onto 12th Avenue shall be designed with one entering and two exiting lanes. The exiting lanes shall be marked as a left turn lane and a right turn lane and shall provide a minimum of 50 ft. of storage in each.
- The proposed driveway onto Demonbreun Street shall be an entrance only.
- On-street parking will be allowed on 12th Avenue and Laurel Street; however, this parking shall not require encroachment by parked vehicles into the existing travel way.

Typical Uses in Existing Zoning District: CF

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	2.93	2.578	329,032	3338	487	448

Maximum Uses in Existing Zoning District: SP

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	2.93	5	638,154	5559	827	794

Typical Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	2.93	N/A	625,000*	5471	813	779

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***Assumes 50% of the building is for General Office**

Typical Uses in Existing Zoning District: SP

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Retail (814)	2.93	N/A	62,000*	2691	57	171

***Assumes 5% of the building is General Retail**

Typical Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	FAR	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Apartment: High Rise(222)	2.93	N/A	437*	1894	132	153

***Assumes 35% of the square footage of the building is for residential with 1,000 square foot units**

Typical Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	FAR	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Hotel(310)	2.93	N/A	125,000* (250)	2230	166	161

***Assumes 10% of the square footage of the building is for Hotel**

METRO SCHOOL BOARD REPORT

Projected student generation 4 Elementary 0 Middle 4 High

Schools Over/Under Capacity As this project is located in the downtown, the urban infill factor was used to calculate capacity. Students would attend Eakin Elementary School, West End Middle School or Hillsboro High School. Hillsboro High School has been identified as being over capacity by the Metro School Board. There are High Schools in adjacent clusters with capacity. This information is based upon data from the school board last updated June 2008.

STAFF RECOMMENDATION The proposed SP is consistent with the mixed-use policy and staff recommends approval with conditions.

CONDITIONS

1. Landscaping plans shall be include with the submission of a final site plan. Plans shall meet the Zoning Code requirements for CF zoning and the Downtown Streetscape Guidelines.
2. Prior to the issuance of any sign permits, signage plans shall be reviewed and approved by the MDHA Design Review Committee for compliance with the Redevelopment district standards. Signage must also be consistent with the CF standards of the Metro Zoning Code.
3. The Stormwater issues shall be addressed during construction drawing phase of the final site plan.
4. The requirements of the Public Works Department shall be met at the final site plan.
5. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, the property shall be subject to the standards, regulations and requirements of the CF zoning district as of the date of the applicable request or application.
6. A corrected copy of the preliminary SP plan incorporating the conditions of approval by the Planning Commission and Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.

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7. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
8. 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.

Approved with conditions, *(8-0-1) Consent Agenda*

Resolution No. RS2008-246

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008SP-035U-09 is **APPROVED WITH CONDITIONS. (8-0-1)**

Conditions of Approval:

1. Landscaping plans shall be include with the submission of a final site plan. Plans shall meet the Zoning Code requirements for CF zoning and the Downtown Streetscape Guidelines.
2. Prior to the issuance of any sign permits, signage plans shall be reviewed and approved by the MDHA Design Review Committee for compliance with the Redevelopment district standards. Signage must also be consistent with the CF standards of the Metro Zoning Code.
3. The Stormwater issues shall be addressed during construction drawing phase of the final site plan.
4. The requirements of the Public Works Department shall be met at the final site plan.
5. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, the property shall be subject to the standards, regulations and requirements of the CF zoning district as of the date of the applicable request or application.
6. A corrected copy of the preliminary SP plan incorporating the conditions of approval by the Planning Commission and Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.
7. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
8. 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.

The proposed SP-MU is consistent with the Downtown Community Plan's Mixed Use and Downtown Neighborhood policies which are intended for a mixture of intense commercial, retail, office and residential uses.”

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X. PUBLIC HEARING: ZONING MAP AMENDMENTS

7. **2008Z-085U-03**
Map: 071-01 Parcel: Part Of 087
Bordeaux/Whites Creek Community Plan
Council District 2 – Frank Harrison
Staff Reviewer: Brian Sexton

A request to rezone from CL to RS7.5 zoning a portion of property located at 415 W. Trinity Lane, approximately 560 feet west of Monticello Drive (4.10 acres), requested by Councilmember Frank Harrison, applicant, Greater Grace Temple Community Church, owner.

Staff Recommendation: Approve

The Metropolitan Planning Commission has WITHDRAWN Zone Change 2008Z-085U-03, at the request of the applicant. (9-0)

8. **2008Z-090T**
Zoning Administrator Authority
Staff Reviewer: David Kleinfelter

A council bill to amend Chapter 17.040 of Title 17 of the Metropolitan Code of Laws and requiring construction, enforcement, and application of the Zoning Code consistent with federal law, requested by Metropolitan Government of Nashville and Davidson County, sponsored by Councilmember Jim Gotto.

Staff Recommendation: Approve

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

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

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

Currently, there are no provisions in the Zoning Code that specifically allow the Zoning Administrator to modify or waive parts of the Zoning Code if the Zoning Administrator determines that the provision is inconsistent with federal laws that Nashville, as a local government, is obligated to follow. This proposed ordinance will amend the Code to require the Zoning Administrator to “make reasonable accommodations in the rules, policies, and practices of his office so that handicapped or disabled persons are not discriminated against and are afforded an equal opportunity to use and enjoy dwellings.”

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

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

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accommodation.

The specific federal laws called out in the ordinance include:

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

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

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

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

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

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

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

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

Mr. Gotto explained the intent of the Text Amendment in relation to Federal Laws that currently exist and he also explained that the amendment would establish a procedure for aggrieved parties to follow if necessary.

Ms. LeQuire requested clarification on how this amendment would affect State Laws.

Mr. Morrissey explained this concept to the Commission.

Mr. Clifton offered that both state and federal laws have been read and written consistently in ways to protect those affected by the Americans with Disabilities Act.

Mr. Gotto moved and Dr. Cummings seconded the motion, which passed unanimously, to approve Text Amendment 2008Z-090T. **(9-0)**

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Resolution No. RS2008-247

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008Z-090T is **APPROVED. (9-0)**”

- 9. 2008Z-091T**
Automobile Repair & Automobile Service
Staff Reviewer: Jennifer Regen

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

Staff Recommendation: Approve

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

ANALYSIS

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

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

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

STAFF RECOMMENDATION Staff recommends approval of BL2008-365.

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

Mr. Gotto moved and Dr. Cummings seconded the motion, which passed unanimously, to approve Text Amendment 2008Z-091T. **(9-0)**

Resolution No. RS2008-248

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008Z-091T is **APPROVED. (9-0)**”

- 10. 2008Z-092U-10**
Clairmont Place
Map: 117-12 Parcels: Various
Map: 117-12-0-C Parcels: 001, 002, 003
Green Hills/Midtown Community Plan
Council District 25 – Sean McGuire
Staff Reviewer: Nedra Jones

A request to rezone various properties from R10 to RS10 zoning along Clairmont Place, between Belmont Boulevard and Woodmont Boulevard (14.84 acres), requested by Councilmember Sean McGuire for various owners.

Staff Recommendation: Approve

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

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acres).

Existing Zoning

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

Proposed Zoning

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

GREEN HILLS-MIDTOWN COMMUNITY PLAN

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

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

PUBLIC WORKS RECOMMENDATION No exception taken.

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

FIRE MARSHAL RECOMMENDATION No comments at this time.

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

Approved, (8-0-1) *Consent Agenda*

Resolution No. RS2008-249

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008Z-092U-10 is **APPROVED. (8-0-1)**”

The proposed RS10 district is consistent with the Green Hills/Midtown Community Plan’s Residential Low Medium policy which is intended for residential development with a density between two and four units per acre.”

11. 6-74-G-14

Priest Lake Commercial PUD (Hermitage Motel 6)
Map: 086-00 Parcel: Part of 215
Donelson/Hermitage/Old Hickory Community Plan
Council District 12 – Jim Gotto
Staff Reviewer: Jason Swaggart

A request to amend a portion of the Commercial Planned Unit Development district located at 3887 Central Pike, approximately 700 feet east of Old Hickory Boulevard, zoned CS, (1.46 acres), to permit a 4-story, 67 room hotel where a 2-story, 47 room hotel was previously approved requested by Civil and Environmental Engineering, applicant, for JAI Ganesha LLC, owner.

Staff Recommendation: Approve with conditions

APPLICANT REQUEST - Amend Preliminary Plan

A request to amend a portion of the Commercial Planned Unit Development district located at 3887 Central Pike,

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approximately 700 feet east of Old Hickory Boulevard, zoned Commercial Service (CS), (1.46 acres), to permit a 4-story, 67 room motel where a 2-story, 47 room motel was previously approved.

Zoning District

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

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

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

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

The proposed new lot will not have direct access onto Central Pike or Old Hickory Boulevard. Primary access to the new lot will be indirect from the existing curb cut on Central Pike. Indirect access to Old Hickory Boulevard west of the site is also provided through other portions of the PUD. An access easement is required and is identified on the plan. When the property is subdivided into two lots, the shared access drive shown on the plan will need to be recorded with the plat.

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

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

PUBLIC WORKS RECOMMENDATION

1. All Public Works' design standards shall be met prior to any final approvals and permit issuance. Any approval is subject to Public Works' approval of the construction plans.
2. Record cross access along the proposed property line between lots A & B due to shared driveway.

STORMWATER RECOMMENDATION Preliminary PUD approved

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

CONDITIONS

1. A shared access drive as shown on the site plan and required by Public Works shall be recorded prior to the issuance of any building permits.
2. This approval does not include any signs. Signs in planned unit developments must be approved by the Metro Department of Codes Administration except in specific instances when the Metro Council directs the Metro Planning Commission to review such signs.
3. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
4. If the PUD final site plan or final plat indicates that there is less acreage than what is shown on the approved preliminary plan, the final site plan shall be appropriately adjusted to show the actual total acreage, which may require that the total number of dwelling units or total floor area be reduced.

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5. Prior to any additional development applications for this property, and in no event later than 120 days after the effective date of the enacting ordinance, the applicant shall provide the Planning Department with a corrected copy of the preliminary PUD plan. If a corrected copy of the preliminary PUD plan incorporating the conditions of approval therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the preliminary PUD plan shall be presented to the Metro Council as an amendment to this PUD ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.

Approved with conditions, *(8-0-1) Consent Agenda*

Resolution No. RS2008-250

“BE IT RESOLVED by The Metropolitan Planning Commission that 6-74-G-14 is **APPROVED WITH CONDITIONS.**
(8-0-1)”

Conditions of Approval:

1. A shared access drive as shown on the site plan and required by Public Works shall be recorded prior to the issuance of any building permits.
2. This approval does not include any signs. Signs in planned unit developments must be approved by the Metro Department of Codes Administration except in specific instances when the Metro Council directs the Metro Planning Commission to review such signs.
3. The requirements of the Metro Fire Marshal’s Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
4. If the PUD final site plan or final plat indicates that there is less acreage than what is shown on the approved preliminary plan, the final site plan shall be appropriately adjusted to show the actual total acreage, which may require that the total number of dwelling units or total floor area be reduced.
5. Prior to any additional development applications for this property, and in no event later than 120 days after the effective date of the enacting ordinance, the applicant shall provide the Planning Department with a corrected copy of the preliminary PUD plan. If a corrected copy of the preliminary PUD plan incorporating the conditions of approval therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the preliminary PUD plan shall be presented to the Metro Council as an amendment to this PUD ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.

The proposed PUD amendment is consistent with the concept of the preliminary plan last approved by Council and is compatible with other uses in the area.”

12. **2002UD-001U-10**
Green Hills UDO (Boundary Amendment)
Map: 117-15 Parcels: 047, 153
Green Hills/Midtown Community Plan
Council District 25 – Sean McGuire
Staff Reviewer: Greg Johnson

A request to amend the existing Green Hills Urban Design Overlay (UDO) District to add properties located at 2000 and 2002 Richard Jones Road, approximately 500 feet east of Hillsboro Pike (7.21 acres), zoned SP and OR20, to require all provisions of the Green Hills UDO to apply to these properties, requested by Councilman Sean McGuire for HDJ Capital Partners Ltd., and Water’s Edge Limited Partnership et al, owners.

Staff Recommendation: Approve

APPLICANT REQUEST - Amend UDO

A request to amend the existing Green Hills Urban Design Overlay (UDO) District to add properties located at 2000 and 2002 Richard Jones Road, approximately 500 feet east of Hillsboro Pike (7.21 acres), zoned Specific Plan – Mixed Non-

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Residential (SP-MNR) and Office/Residential (OR20), to require all provisions of the Green Hills UDO to apply to these properties.

BASE ZONING

SP-MNR District - Specific Plan-Mixed Non-Residential is a zoning District category that provides for additional flexibility of design, including the relationship of streets to buildings, to provide the ability to implement the specific details of the General Plan. This Specific Plan includes office and commercial uses.

OR20 District - Office/Residential is intended for office and/or multi-family residential units at up to 20 dwelling units per acre.

GREEN HILLS/MIDTOWN COMMUNITY PLAN

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

Office Concentration (OC) The OC policy is intended for existing and future large concentrations of office development. It is expected that certain types of commercial uses that cater to office workers, such as restaurants, will also locate in these areas. Residential uses of at least nine to twenty dwelling units per acre (RMH density) are also an appropriate secondary use.

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

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

The guidelines of the UDO include the following standards:

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

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

The addition of 2002 Richard Jones Rd. to the Green Hills UDO is an instance where a property will have both SP and UDO designations applied to it. The Specific Plan zoning and the Urban Design Overlay are intended to provide site or neighborhood specific standards for property development and will rarely overlap. In this case, the SP zoning for 2002 Richard Jones Rd. specifies land use and does not provide additional design-related standards that could conflict with the standards of the Green Hills UDO. The SP and UDO designations will coexist without conflicting standards.

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

Approved, (8-0-1) *Consent Agenda*

Resolution No. RS2008-251

“BE IT RESOLVED by The Metropolitan Planning Commission that 2002UD-001U-10 is **APPROVED. (8-0-1)**”

DRAFT

The addition of the subject property into the Green Hills UDO is consistent with the goal of guiding development in the area into a visually coherent urban village, and is consistent with the Green Hills/Midtown long range plan.”

XI. PUBLIC HEARING: FINAL PLATS

13. 2007S-312U-13

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

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

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

Antioch/Priest Lake Community Plan

Council District 29 – Vivian Wilhoite

Staff Reviewer: Nedra Jones

A request for final plat approval to create 10 lots located at 2520, 2530, 2532, 2534, 2538 and 2540 Murfreesboro Pike near the intersection of Dover Glen Drive and Murfreesboro Pike (9.97 acres), zoned Commercial Service (CS) and Mixed Use Limited (MUL), requested by Batson Engineering, surveyor and Murfreesboro Edge-O-Lake LLC, owner.

Staff Recommendation: Approve with conditions

APPLICANT REQUEST -Final Plat

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

ZONING

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

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

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

Access The property is accessible from Murfreesboro Pike by Lakevilla Drive and a 36 foot access easement. A 25 foot access easement extends along the back portion of lots 1 thru 3 and will intersect Edge-O-Lake Drive to the north and Lakevilla Drive to the south. A note on the plat states that an additional access per the Traffic and Parking Commission will be located between 200 feet and 350 feet northwest of Lakevilla Drive. Sidewalks are proposed along Lakevilla Drive to provide pedestrian connections to the residential neighborhood immediately abutting this site. Sidewalks are also provided along the frontage of the site on Murfreesboro Pike.

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

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

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

DRAFT

STORMWATER RECOMMENDATION Approved.

FIRE MARSHAL RECOMMENDATION No construction, no comments at this time.

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

Section 3-4.4 of the current Metro Subdivision Regulations (Section 2-4.3B of the previous Subdivision Regulations) states that when property is divided along an existing street, the Planning Commission may require that lots shall not, if avoidable, derive access from arterial or collector streets. Where driveway access from arterial or collector streets may be necessary, the Planning Commission may require that lots be served by combined driveways (usually one driveway entrance shared by two lots), or by a private access drive serving more than two lots (if necessary shared maintenance arrangements shall be incorporated into the subdivision deeds) in order to limit driveway entrances and potential traffic hazards.

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

CONDITIONS

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

Approved with the elimination of the two conditions listed in the staff report, *(8-0-1), Consent Agenda*

Resolution No. RS2008-252

"BE IT RESOLVED by The Metropolitan Planning Commission that 2007S-312U-13 is APPROVED with the elimination of the two conditions in the staff report. (8-0-1)"

- 14. 2008S-181U-07**
Plan of West Nashville, Resub. Lots 412, 414, 416, Blk. 86
Map: 091-12 Parcels: 025, 309
West Nashville Community Plan
Council District 20 – Buddy Baker
Staff Reviewer: Nedra Jones

A request for final plat approval to shift lot lines between 2 lots located at 4507 and 4509 Illinois Avenue, approximately 160 feet west of 45th Avenue North (0.30 acres), zoned R6, requested by Toni J. Rothfuss and Roger and Dorothy Rotoni, owners, Gary R. Cummings, surveyor.

Staff Recommendation: Approve with a variance to the Subdivision Regulations for lot depth to width ratio.

APPLICANT REQUEST - Final Plat

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

ZONING

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

DRAFT

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

Variance Section 3-4.2 (f) of the Subdivision Regulations states the lot at the front property line shall not be less than 25 percent of the average lot depth. Proposed Lot 1 will measure 30 feet in width at the front property line and 150 feet in depth. Because the lot width will be less than 25 percent of the lot depth, a variance to this section of the Subdivision Regulations is required. Since the existing lot with even less frontage is an existing situation created by the original plat from 1887, staff recommends approval of the variance in that it is a unique situation not applicable to all lots in Nashville.

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

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

PUBLIC WORKS RECOMMENDATION No exception taken.

STORMWATER RECOMMENDATION Approved

WATER SERVICES RECOMMENDATION Approved

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

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

Approved with a variance to the Subdivision Regulations for lot depth to width ration, *(8-0-1) Consent Agenda*

Resolution No. RS2008-253

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008S-181U-07 is **APPROVED with a variance to the Subdivision Regulations for lot depth to width ratio. (8-0-1)**”

15. **2008S-183U-13**
Hickory Woods Estates, Sec. C, Ph. II
Map: 176-05-0-B Parcels: Various
Antioch/Priest Lake Community Plan
Council District 32 – Sam Coleman
Staff Reviewer: Bob Leeman

DRAFT

A request for a variance to remove a 950 foot long, unbuilt sidewalk along the north side of Brookstone Court within the Hickory Woods Estates Planned Unit Development, zoned R10, and to build a 530 foot long sidewalk along the north side of Lavergne-Couchville Pike between Murfreesboro Pike and Hickory Way, (12.49 acres), requested by Wamble & Associates and the Metro Planning Department; various owners.

Staff Recommendation: Approve variance with conditions

APPLICANT REQUEST - Variance for a sidewalk

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

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

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

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

“[t]he topography on this side of Brookstone Court slopes steeply upward from the street, preventing the ability to build this sidewalk and maintain access to garages for houses that are built on these lots. If the fronts of the lots are graded down to accommodate this sidewalk, the driveway reconstruction between the back of the sidewalk and the front of the garages will be so steep that access to the garages will be impossible. Therefore, based on the hardship created by the topography of these lots I request the approval to build a section of sidewalk on LaVergne-Couchville Pike in lieu of building the sidewalk within this development along Brookstone Court which is a dead-end cul-de-sac street.”

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

PUBLIC WORKS RECOMMENDATION Public Works agrees with the sidewalk variance request.

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

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

CONDITION

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

Approved variance with conditions, (8-0-1) *Consent Agenda*

Resolution No. RS2008-254

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008S-183U-13 is **APPROVED VARIANCE WITH CONDITIONS. (8-0-1)**

Conditions of Approval:

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

DRAFT

XII. PUBLIC HEARING: REVISED SITE PLANS

- 16. 128-78-G-14**
Hermitage Business Center (Sign Variance)
Map: 075-14 Parcel: 135
Donelson/Hermitage/Old Hickory Community Plan
Council District 11 – Darren Jernigan
Staff Reviewer: Nedra Jones

A request for a variance to Section 17.32.130.D of the Zoning Code for property within the Hermitage Business Center Commercial Planned Unit Development district located at 4101 Lebanon Pike, at the southeast corner of Old Hickory Boulevard and Lebanon Pike, zoned SCR (13.12 acres), to recommend approval to the Board of Zoning Appeals on a sign variance to permit an encroachment into the required side yard setback, requested by Carlson Consulting, applicant, for WLM Retail Trust, owner.

Staff Recommendation: Approve

APPLICANT REQUEST - Sign Variance

A request for a variance to Section 17.32.130.D of the Zoning Code for property within the Hermitage Business Center Commercial Planned Unit Development district located at 4101 Lebanon Pike, at the southeast corner of Old Hickory Boulevard and Lebanon Pike, zoned Shopping Center Regional (SCR), (13.12 acres), to recommend approval to the Board of Zoning Appeals on a sign variance to permit an encroachment into the required side yard setback.

PLAN DETAILS

PUD Plan A commercial PUD overlay was applied to this site in 1978. Currently within the PUD, there is a large retail center consisting of 113,268 square feet along with two restaurants, a car wash, a vacant retail building and two ground signs.

Sign Variance The applicant is requesting a variance to reduce the side setback from 25 feet to 5 feet for an existing pylon sign. The sign, at its present location, is encroaching onto the adjacent parcel 134. If approved, the sign will be relocated onto parcel 135 in an area that will leave the existing tree mass undisturbed. At its present location, the sign is surrounded by a mass of holly trees, but will be moved 10 feet to the north in an area clear of vegetation.

In order to preserve several white pine trees, the sign would be positioned to have a front setback of 20 feet and side setback of 5 feet. A side setback of 25 feet would require removing at least one tree, and a significant portion of the sign would be obstructed from view by the remaining trees that measure 25 feet in height.

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

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

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

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

DRAFT

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

Approved, (8-0-1) *Consent Agenda*

Resolution No. RS2008-255

“BE IT RESOLVED by The Metropolitan Planning Commission that 128-78-G-14 is **APPROVED. (8-0-1)**”

17. 148-74-U-14

Century City (Piedmont Natural Gas)
Map: 107-00 Parcels:171, 172, part of 174
Donelson/Hermitage/Old Hickory Community Plan
Council District 15 – Phil Claiborne
Staff Reviewer: Jason Swaggart

A request to revise the preliminary plan for a portion of the Century City Planned Unit Development Overlay located on various properties at McGavock Pike (unnumbered), approximately 800 feet east of McGavock Pike (19.5 acres), zoned ORI, to permit the development of 31,500 square feet of office for a public utility corporation and associated accessory uses, requested by Barge Cauthen & Associates, applicant, for Corporate Investors Partnership V LLC, and Piedmont Natural Gas Co. Inc., owners.

Staff Recommendation: Approve with conditions

APPLICANT REQUEST - Revise Preliminary Plan

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

Zoning District

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

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

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

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

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

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

Staff Analysis The proposed floor area is within the area last approved for this site. While the accessory uses would not be allowed under the ORI base district, this PUD was originally approved under the previous zoning ordinance (COMZO).

DRAFT

Under COMZO the proposed accessory uses could be classified as commercial under Public and Public Utility Corporation Truck Yard. Since this is a commercial PUD and the proposed user is a public utility corporation, then the proposed accessory uses are appropriate under the original PUD and can be considered a revision. If the proposed use were industrial then the PUD would need to be amended and a base zone change would be required.

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

STORMWATER RECOMMENDATION Preliminary PUD approved.

STAFF RECOMMENDATION Staff recommends that the request be approved with conditions.

CONDITIONS

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

Approved with conditions, *(8-0-1) Consent Agenda*

Resolution No. RS2008-256

"BE IT RESOLVED by The Metropolitan Planning Commission that 148-74-U-14 is **APPROVED WITH CONDITIONS.**
(8-0-1)

Conditions of Approval:

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

18. Item #18 was heard by the Commission at the special called meeting time of 6:00 p.m. (see below).

DRAFT

XIV. OTHER BUSINESS

19. Contract between the Metropolitan Planning Commission on behalf of the Metropolitan Planning Organization with RPM Transportation Consultants, LLC for the Southwest Area Transportation & Land Use Study.

Approved, (8-0-1) *Consent Agenda*

20. Employee contract renewal for Brenda Bernards and a new employee contract for Mary Beth Stephens.

Approved, (8-0-1) *Consent Agenda*

21. Executive Director Reports

Chairman McLean announced for the record that he was recusing himself from the Consent Agenda vote which was heard at the beginning of the meeting due to a possible conflict.

Mr. McLean reminded staff that he would like for the Commissioners to receive a map that displays current development located in the downtown area.

Mr. Bernhardt explained that staff is currently working on this map and that they will have it available for the Commission at an upcoming Informal Work Session.

22. Legislative Update

Mr. Gotto offered an update on the progress of the Tree Ordinance Committee.

Mr. Bernhardt announced the procedures that will be followed for Item #18, 2002P-003U-03, Park Preserve when the Commission resumes their business at 6:00 p.m.

Mr. Tyler arrived at 5:11 p.m.

The Commission recessed at 5:15 p.m.

The Commission resumed at 6:00 p.m.

Mr. Bernhardt read the Public Hearing process for this item to the audience. He also explained the procedures that should be followed by the Commission if they found the Planned Unit Development to be either active or inactive.

XIII. PUBLIC HEARING: PLANNED UNIT DEVELOPMENT REVIEW - 6:00 PM

18. **2002P-003U-03**
Park Preserve
Map: 059-00 Parcels:208, 209, 210, 211, 212
Map: 060-00 Parcel: 072
Bordeaux/Whites Creek Community Plan
Council District 2 – Frank Harrison
Staff Reviewer: Nedra Jones

A request to the Metro Planning Department to conduct a periodic review of the Park Preserve Planned Unit Development per Section 17.40.120.H of Zoning Code for property located at Whites Creek Pike (unnumbered) and Brick Church Pike (unnumbered), between Brick Church Pike and Whites Creek Pike (260.43 acres), zoned RM9, approved for 327 multi-family units and 416 single-family lots, requested by Councilmember Frank Harrison, applicant, Nashville Area Habitat for Humanity, Inc., and Harding Corporation, owners.

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

DRAFT

APPLICANT REQUEST - PUD Review

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

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

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

1. Determine whether the existing PUD is consistent with the goals, policies, and objectives of the General Plan and any applicable specific redevelopment, historic, neighborhood, or community plans adopted by the Metropolitan Government.
2. Recommend legislation to re-approve, amend, or cancel the existing overlay district, including as required:

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

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

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

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

PHP Ministries subsequently worked with Planning staff to develop a plan that was consistent with the goals of the adopted community plan. That plan was presented to the Planning Commission as a Planned Unit Development application along with a request to rezone the property to RM9 at the Commission's May 23, 2002, meeting. The PUD plan consisted of 839 units, including 469 multi-family units and 370 single-family lots. At the May 23, 2002, meeting, the Planning Commission recommended the PUD plan and RM9 rezoning to the Metro Council for approval with conditions. On July 16, 2002, the Metro Council approved the PUD plan and RM9 rezoning as recommended by the Planning Commission, but with a reduction in the number of units to 743 total units, including 327 multi-family and 416 single family lots.

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

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

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

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The April 24, 2008, revisions included the following:

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

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

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

Environmental Features and Open Space

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

Access Access to the PUD is provided by connections to Vista Lane to the north, Adlai Street to the south, Revels Drive and Malta Drive to the east, and Trinity Hills Drive to the west. All internal streets are designed in a curvilinear pattern and provide connections throughout the PUD and to adjacent sites. Some streets are designed to terminate in either a permanent or temporary cul-de-sac. Sidewalks and street trees are also planned within the public right of way.

Staff Analysis

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

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

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

- i. Six or more years have elapsed since the latter of
 - (1) The effective date of the initial enacting ordinance of the PUD,
 - (2) The effective date of any ordinance approving an amendment to the PUD,
 - (3) The effective date of any ordinance re-approving or amending a PUD after it has been reviewed and decided in accordance with subsection 5.a. or b. of this section, or
 - (4) The deadline for action by the metropolitan council in accordance with subsection 5.d. of this section, and
- ii. Construction has not begun on the portion of the PUD under review; construction shall mean physical improvements such

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as, but not limited to, water and sewer lines, footings, and/or foundations developed on the portion of the PUD under review; clearing, grading, the storage of building materials, or the placement of temporary structures shall not constitute beginning construction, and

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

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

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

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

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

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

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

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

The RM policy supports a variety of housing types within a density range of four to nine dwelling units per acre. The most common housing types include compact, single-family detached units, town-homes, and walk-up apartments. The Park Preserve PUD was approved at an overall density of 2.85 units per acre. The land use policy and the current zoning encourage a much higher density than the PUD plan provides, but in order to maintain tree mass and protect steep slopes, the site is not completely built-out, and instead developed to respect its environmental features. Even with the preservation of the hillsides and open space areas, the land use policies could possibly support a PUD of higher density. The addition of any lots or multifamily units beyond what was previously approved by Council, however, would require a PUD Amendment.

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

- *Provide New Residential Growth* – encourage new residential growth to support desired services.
- *Prevent Additional Industrial Zoning* – prevent additional industrial or other similar uses in the community. Provide additional land for residential growth

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- *Improve Housing Choices* – provide locations for condominiums, townhouses, and apartments to allow for greater diversity in the housing stock in the community. Attract young professionals, empty-nesters, or retired persons.

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

Recommended Legislation The existing Park Preserve PUD and base zoning are consistent with and support the residential goals and objectives outlined by the Bordeaux-Whites Creek Community Plan. Re-approval of the current PUD plan would contribute to the residential growth needed to support commercial services and improvements to public facilities and services. The housing mix also advances the goal of providing choice. The mixture of housing types will accommodate families, single households as well as seniors. Staff notes that increasing the diversity of housing types and mixing market-rate housing with affordable housing would be a positive addition to the current approved PUD plan. These changes are not necessary for the PUD to be consistent with the adopted Community Plan, however. In sum, staff recommends that the Council re-approve the PUD in its current form, including all revisions approved by the Planning Commission on April 24, 2008, and that no changes be made to the existing base zoning.

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

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

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

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

STAFF RECOMMENDATION

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

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

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

Section 17.40.120 H:

H. Periodic Review of Planned Unit Developments.

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

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

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

3. *Metropolitan Planning Commission Procedure. Within 90 days from the initiation of its review, the planning commission shall hold a public hearing in accordance with the planning commission's adopted Rules and Procedures to concurrently consider if the PUD or portion thereof should be classified as inactive and, if found inactive, provide a recommendation to the metropolitan council on legislation to re-approve, amend or cancel the PUD and make conforming changes to the base zoning district if necessary.*

a. *Determination of Inactivity. To determine that a PUD or portion thereof is inactive, the planning commission shall establish each of the findings i. through iii. below. The planning commission may also take into consideration the aggregate of actions, if any, taken by the owner of the PUD within the prior 12 months to develop the portion of the PUD under review.*

i. *Six or more years have elapsed since the latter of*

(1) *The effective date of the initial enacting ordinance of the PUD,*

(2) *The effective date of any ordinance approving an amendment to the PUD,*

(3) *The effective date of any ordinance re-approving or amending a PUD after it has been reviewed and decided in accordance with subsection 5.a. or b. of this section, or*

(4) *The deadline for action by the metropolitan council in accordance with subsection 5.d. of this section, and*

ii. *Construction has not begun on the portion of the PUD under review; construction shall mean physical improvements such as, but not limited to, water and sewer lines, footings, and/or foundations developed on the portion of the PUD under review; clearing, grading, the storage of building materials, or the placement of temporary structures shall not constitute beginning construction, and*

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

b. *Recommendation to Metropolitan Council. If the planning commission determines that the PUD or portion thereof under review is inactive, the commission shall recommend legislation to the metropolitan council to re-approve, amend, or cancel the PUD, or portion thereof that is determined to be inactive, including conforming changes to the base zoning district if necessary. In recommending legislation, the planning commission shall:*

i. *Determine whether the existing PUD is consistent with the goals, policies, and objectives of the General Plan and any applicable specific redevelopment, historic, neighborhood, or community plans adopted by the metropolitan government.*

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

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

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

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

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

c. *When Inactivity Not Established. If the planning commission determines that the PUD or portion thereof under review does not meet the criteria of Section 17.40.120.H.4.a for inactivity, the PUD review is concluded, the limitations of subsection 5 are terminated, and a re-review of the PUD shall not be initiated in the manner of subsection 2 of this section for 12 months following the commission's determination.*

4. *Metropolitan Council Consideration. The procedures of Article III of this chapter (Amendments) shall apply to metropolitan council consideration of ordinance(s) to:*

a. *Re-approve the existing PUD master plan and apply the appropriate base zoning district(s), if different from current base zoning,*

b. *Amend the PUD master plan, or*

c. *Cancel the PUD overlay district, including any change(s) to the underlying base zoning district.*

d. *Decline to take action by ordinance. If the metropolitan council does not act to re-approve, amend, or cancel the PUD*

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within six months of receipt of the planning commission's recommended legislation, the property may be developed in accordance with the master development plan last approved by the metropolitan council, or subsequently revised by the planning commission.

5. No grading permit nor any building permit for new building construction shall be issued within the PUD overlay district or portion thereof for which a review has been initiated until the earlier of:

a. The metropolitan council's final action to re-approve, amend or cancel the PUD overlay district, or

b. Six months following the planning commission's submission of a recommendation to the metropolitan council, or the deadline for that submission should the commission fail to act.

Ms. Bernards presented and stated that staff is recommending that Planned Unit Development 2002P-003U-03 be found inactive and that the Commission recommend to the Metro Council that the PUD be re-approved with no amendments or changes to the existing base zoning.

Councilmember Harrison addressed the Commission. He briefly explained the various reasons for his request to review this Planned Unit Development. He spoke of the many changes that have occurred since its origination and the need to reconsider the development. He acknowledged the staff's recommendation, however, requested that the Commission find the PUD inactive and send the recommendation to cancel the PUD back to Council. He explained that with this recommendation, there would be an opportunity to begin a new review of the area that could consist of plans more conducive to this community. He spoke of the many developments that have occurred since the original PUD, as well as the existing Habitat for Humanity communities already located in this area. He acknowledged the good intentions of Habitat for Humanity, however spoke of issues such as congestion, overcrowded schools, and stormwater management issues that would exist if the Planned Unit Development were built out as planned. As he closed he requested that the PUD be found inactive with a recommendation to Council that it be canceled.

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

Councilman Hunt addressed the Commission. He too acknowledged the good of the Habitat Organization, however made mention that the organization had become more of a corporation over the years. He then spoke of the lack of respect that the organization had for the northeastern portion of Davidson County. He presented slides of the various Habitat projects located in this district and briefly explained the issues associated with these developments. He requested that the Planned Unit Development be found inactive by the Commission so that it could be re-referred back to Council for any further action.

At this time, the proponents were alerted they had twenty (20) minutes for their presentation to the Commission.

Mr. John Gillespie, 1006 8th Avenue South, spoke in favor of declaring the Planned Unit Development active.

Mr. Gary Bigelow, 1006 8th Avenue South, spoke in favor of declaring the Planned Unit Development active.

Ms. Chris McCarthy, 1006 8th Avenue South, spoke in favor of declaring the Planned Unit Development active.

Ms. Lillian Gilmer, 1006 8th Avenue South, spoke in favor of declaring the Planned Unit Development active. She presented information to the Commission for the record.

Mr. Shawn Henry, 315 Deadrick Street, spoke in favor of declaring the Planned Unit Development active. He too submitted information to the Commission for the record.

Mr. Bernhardt briefly explained the materials that were submitted to the Commission by the developer which will be included in the record.

At this time, the opponents were reminded they had twenty (20) minutes for their presentation to the Commission.

Ms. Antoinette Welch, 3857 Knight Road, spoke in opposition to declaring the Planned Unit Development active.

Mr. Allan Woods, P.O. Box 128498, spoke in opposition to declaring the Planned Unit Development active.

Mr. Clifton acknowledged the difficult nature of the proposed development and the issues presented and debated by both parties. He offered general suggestions to the Commission as to their role in the debate, which was to determine whether the

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Planned Unit Development was either active or inactive, as defined in the ordinance. He acknowledged the terms “aggregate work” as mentioned in the ordinance, and spoke on whether the Commission could use this definition to make their determination. He spoke of the list of activities already completed by the developer and how the activities may or may not determine the status of the PUD.

Dr. Cummings thanked the respective parties for meeting on this development. She too acknowledged the issues associated with determining whether the PUD would be considered active or inactive due to the criteria outlined in the ordinance. She commented on the growth pattern that has occurred in this community which may have changed its overall character. She also acknowledged the term “aggregate” as mentioned in the ordinance and questioned how the Commission would define this term so that it could be used to determine the status of the Planned Unit Development.

Mr. Tyler acknowledged that the Planned Unit Development could be considered inactive due to its lacking on the three criteria outlined in the ordinance. However, he then spoke of the activity displayed by the developer in the last year which may cause the PUD to be considered active. He then offered that if the development were considered inactive, it would allow additional time for all parties involved to re-review the overall plan for the area.

Mr. Bernhardt offered clarification on the various items that should be debated by the Commission.

Mr. Gee reiterated his concern on the need for administration to continue working on the laws and policies that are used to determine the placement of affordable workforce housing throughout the City. Mr. Gee then requested clarification on how staff defined “aggregate of action”.

Mr. Bernhardt explained the method in which staff made their recommendation to the Commission.

Mr. Gee acknowledged the activity displayed by the owner of the parcel and spoke of his support in finding the Planned Unit Development active. He did however, remind the developer of his issue with placing the proposed number of affordable homes in this one area.

Mr. Gotto offered additional information on how Metro Council was prompted to pass legislation on reviewing older PUDs. He then spoke on the portion of the bill that describes using “aggregate activity” as a way to determine the status of a PUD and requested that Mr. Morrissey further clarify this phrase as stated in the bill.

Mr. Morrissey offered his interpretation of the bill to the Commission.

Mr. Gotto then questioned the base zoning that currently exists on the property and how it would be affected if the planned unit development was canceled by Council.

Mr. Bernhardt explained RM9 zoning and its uses to the Commission.

Mr. Gotto stated that he would be voting to find the PUD inactive and explained his reasoning for his vote.

Mr. Ponder suggested that the Commission base their decision on facts as presented by both interested parties. He then requested clarification on various dates mentioned in the staff presentation as well as the dates mentioned by the developer.

Mr. Bernhardt and staff advised the Commission on the various dates in question.

Mr. Ponder then asked that Mr. Morrissey define the term “action” as mentioned in the ordinance.

Mr. Morrissey explained this concept to the Commission.

Mr. Ponder then stated that the actions displayed by the owner could be considered as preliminary work being completed for development of the site.

Mr. Bernhardt provided additional information on the term “aggregate action” and clarified that it was an optional method that could be used by the Commission to determine the status of the PUD.

Mr. Gotto suggested that the PUD be considered inactive due to the significant amount of development and change that has taken place over the years in this area. He also suggested that if it was found inactive, the dialogue between both parties

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would continue, and it would allow Council additional review.

Mr. Ponder questioned Mr. Morrissey on the Council's role if the Commission were to find the PUD active.

Mr. Morrissey explained the process that the PUD would follow if it were found to be active by the Commission.

Mr. Ponder then questioned the process the PUD would follow if it were found to be inactive.

Mr. Bernhardt explained this concept to the Commission.

Ms. Jones briefly spoke of the various activities that have taken place on the PUD since its inception and offered her views that would support finding the PUD active.

A discussion ensued as to whether any revisions that have occurred on the PUD would be considered activity.

Ms. LeQuire acknowledged that the PUD in question contained 260 acres of open space. She too acknowledged that many changes have occurred in this area over the years and stated that the legislation allows communities to look at the older PUDs to see if they are still consistent with the subarea plan. She stated that the legislation enacted could be used as a mechanism to slow the process down and to allow continued discussions by all parties. Ms. LeQuire then questioned whether Council could cancel the PUD if it were found active by the Commission.

Mr. Bernhardt explained the role of Council and their ability to rezone property.

Ms. LeQuire then questioned how older PUDs became subject for review.

Mr. Bernhardt explained the process that determines the review of the older PUDs to the Commission. He then explained the process in which Councilmember Harrison used to review the Park Preserve PUD, and the procedures that are required of the Commission for this review.

Ms. LeQuire then questioned if the PUD were found active, would the developer be allow to begin the permitting process.

Mr. Bernhardt explained that if the Commission were to find the PUD active, the developer could begin the permitting process. He further explained that if the Commission were to find the PUD inactive, then the PUD would return back to Council in which they would have six months to take action on the PUD.

Ms. Jones mentioned that in April of 2008, the Planning Commission approved revisions on the parcel which identified that 140 acres of the 260 acres would include open space.

Ms. LeQuire acknowledged that the proposed layout for the development was sensitive to open space.

Mr. Clifton briefly spoke of all the activity displayed by the developer on this parcel.

Dr. Cummings explained that since the PUD did not meet the three concrete determinates, she would find the PUD inactive.

Mr. Gee acknowledged that this community has changed over the years and questioned whether the changes were consistent with the Community Plan for this area.

Mr. Bernhardt explained the overall development pattern for this area as well as various other communities.

Mr. Gee then commented on the density of the proposal and its relation to the community plan for this area.

Ms. Jones acknowledged that in 2007, the parcel underwent new ownership and that much activity has taken place in preparation for this development.

Mr Gotto moved and Ms Cummings seconded the motion to accept the staff's recommendation and find 2002P-003U-03, Park Preserve, as inactive.

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A brief discussion ensued as to the actions that would be required of the Commission if this motion was approved.

This motion failed.

Mr. Gee moved and Mr. Ponder seconded the motion, to declare 2002P-003U-03, Park Preserve as active. **(6-3) No Votes – Gotto, Cummings, LeQuire**

Resolution No. RS2008-257

“BE IT RESOLVED by The Metropolitan Planning Commission that pursuant to Section 17.40.120 H.3.a., **THE PARK PRESERVE PUD IS DETERMINED TO BE ACTIVE DUE TO THE SPECIFIC AND UNIQUE AGGREGATE OF ACTIONS TAKEN BY THE CURRENT NON-PROFIT OWNER AS PRESENTED IN THE ORAL PRESENTATIONS AND WRITTEN RECORD. (6-3)**”


Evidence presented in the oral presentations and written record shows that the PUD is active due to the specific and unique aggregate of actions taken by the current non-profit owners.”

XV. ADJOURNMENT

The meeting adjourned at 8:20 p.m.

Chairman

Secretary

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