



**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**

2/12/09

4:00 PM

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

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

Mission Statement: The Planning Commission guides growth and development as Nashville and Davidson County 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.

I. CALL TO ORDER

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

Chairman McLean read the Mission Statement to the audience.

Mr. Bernhardt announced and explained the procedures in which Items #4 and 5, 2009Z-005PR-001 and 2002P-003-001, Park Preserve (PUD Cancellation) would be heard by the Commission.

II. ADOPTION OF AGENDA

Mr. Ponder moved and Mr. Dalton seconded the motion, which passed unanimously, to adopt the agenda as presented. **(7-0)**

III. APPROVAL OF JANUARY 22, 2009, MINUTES

Mr. Ponder moved and Mr. Gotto seconded the motion, which passed unanimously to adopt the January 22, 2009 minutes as presented. **(7-0)**

IV. RECOGNITION OF COUNCILMEMBERS

Councilmember Toler was present in the audience and stated he would address the Commission after his item was presented for discussion.

Councilmember Craddock was present in the audience and stated he would address the Commission after his item was presented for discussion.

Councilmember Harrison requested that Items #4 and 5, 2009Z-005PR-001 and 2002P-003-001, Park Preserve (PUD Cancellation) be deferred until the February 26, 2009 meeting. He explained that he would be seeking additional legal advice on these items.

Ms. LeQuire arrived at 4:06 p.m.

V. PUBLIC HEARING: ITEMS REQUESTED TO BE DEFERRED OR WITHDRAWN

1. 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 26, 2009, at the request of the applicant.
4. 2009Z-005PR-001 A request to change from RM9 zoning to RS80 zoning properties located at Brick Church Pike (unnumbered) and Whites Creek Pike (unnumbered), (260.43 acres), requested by Councilmember Frank Harrison, applicant – deferred to February 26, 2009 at the request of the applicant.
5. 2002P-003-001 A request to cancel the Park Preserve Planned Unit Development Overlay district on properties located at Brick Church Pike (unnumbered) and Whites Creek Pike (unnumbered), approved for 327 multi-family units and 416 single-family lots for a total of 743 dwelling units (260.43 acres), zoned RM9 and proposed for RS80 – deferred to February 26, 2009, at the request of the applicant.

Mr. Ponder moved and Mr. Gotto seconded the motion, which passed unanimously, to approve the Deferred and Withdrawn items as presented. **(8-0)**

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

VI. PUBLIC HEARING: CONSENT AGENDA PREVIOUSLY DEFERRED ITEMS

2. 96-72P-001 A request to revise the preliminary plan and for final approval for a portion of the Bellevue Plaza Planned Unit Development Overlay located at 7102 Highway 70 South, to permit the development of a 2,854 square foot restaurant.

- Approve with conditions and recommend that the BZA approve the applicant's request for a parking variance if the applicant provides the BZA with information to demonstrate there is adequate parking in the PUD. If the BZA does not approve the variance, then the Planning Commission's approval shall be rescinded.

FINAL SITE PLANS

7. 2009S-001-001 A request for final plat approval to create two lots on property located at 1806 Overton Street.

- Approve with condition, including an exception to the lot comparability requirements of the Subdivision Regulations

REVISED SITE PLANS

- 8. 168-83P-001 A request to revise a portion of the preliminary plan for the Davenport Planned Unit Development Overlay located at Davenport Drive, on the east side of Bell Road, to permit the development of 55 units where 67 were previously approved as well as a meeting room facility, an exercise facility, a maintenance facility, an outdoor pool, and outdoor play area. -Approve w/conditions

Mr. Ponder moved and Mr. Gotto seconded the motion, which passed unanimously to adopt the Consent Agenda as presented. (8-0)

VII. PREVIOUSLY DEFERRED ITEMS

- 1. 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 Text Amendment 2008Z-088T to February 26, 2009, at the request of the applicant. (8-0)

VIII. PUBLIC HEARING: PREVIOUSLY DEFERRED ITEMS

- 2. 96-72P-001
Bellevue Plaza (Hardee's)
Map: 142-00 Parcel: 183
Bellevue Community Plan
Council District 22 – Eric W. Crafton
Staff Reviewer: Jason Swaggart

A request to revise the preliminary plan and for final approval for a portion of the Bellevue Plaza Planned Unit Development Overlay located at 7102 Highway 70 South, at the northwest corner of Highway 70 South and Old Hickory Boulevard (6.38 acres), zoned SCC, to permit the development of a 2,854 square foot restaurant, requested by Hardee's Food Systems, Inc., applicant, for Bellevue Plaza Partners, owner.

Staff Recommendation: Approve with conditions and recommend that the BZA approve the applicant's request for a parking variance if the applicant provides the BZA with information to demonstrate there is adequate parking in the PUD. If the BZA does not approve the variance, then the Planning Commission's approval shall be rescinded.

APPLICANT REQUEST - Revise Preliminary PUD and Final Site Plan

A request to revise the preliminary plan and for final approval for a portion of the Bellevue Plaza Planned Unit Development Overlay located at 7102 Highway 70 South, at the northwest corner of Highway 70 South and Old Hickory Boulevard (6.38 acres), zoned Shopping Center Community (SCC), to permit the development of a 2,854 square foot restaurant.

ZONING

SCC District - Shopping Center Community is intended for moderate intensity retail, office, restaurant, and consumer service uses for a wide market area.

PLAN DETAILS This is a request to revise a portion of the plan for Bellevue Plaza. The PUD was originally approved in 1972, and includes property on the east and west side of Old Hickory Boulevard north of Highway 70 South. The most recent revision to the PUD was approved by the Planning Commission in April 2008 for an out parcel located at the northwest intersection of Old Hickory Boulevard and Highway 70 to permit a 4,052 square foot McDonald's restaurant.

Prior to this revision, the Planning Commission approved a revision to this portion of the PUD in June 2003 to allow an 800 sq. ft. Moto Photo to be converted to a restaurant with 40 patio seats and a drive-thru lane.

Site Plan The site plan calls for a 2,854 sq. ft. Hardee's fast-food restaurant with a drive-thru. The area proposed for the restaurant is not on a separate parcel, but is part of a larger parcel which includes a strip center. The strip center consists of approximately 71,286 square feet of retail, commercial, and restaurant uses.

Sidewalks The plan does not propose any new sidewalk along Highway 70. Currently a portion of parcel 183 contains sidewalk along Highway 70. Sidewalks are also located along Highway 70 adjacent to the site. A sidewalk will be required along Highway 70 along parcel 183 as a condition of approval.

Parking The proposed Hardee's restaurant requires a total of 29 parking spaces. The strip center is required to have 399 spaces for a total of 428 required for the parcel. The plan identifies a total of 223 spaces, and is significantly below what is required by zoning. The neighboring McDonalds at the corner of Old Hickory Boulevard and Highway 70 is within the same PUD, but is on a separate lot. Since it is on a separate lot then it must meet the parking requirements for that lot, and does not have to provide parking for the adjacent parcel which includes the strip center and proposed Hardee's site.

As required by the zoning code, the existing development is currently under parked. Staff has attempted to work with the applicant to resolve the parking issue. Typically all required parking spaces should be located on the same lot as the principle use, but the zoning code also allows for off-site parking and shared parking. The applicant has been informed of these options, but at this time the applicant has not proposed off-site parking or shared parking.

Provisions for off-site parking allows required parking spaces to be located on a remote and separate lot from the lot on which the principle use is located. Shared parking allows for fewer parking spaces than what the zoning code requires when uses within a mixed use developments have different peak parking demands and operating hours that would enable them to share parking. Both off-site parking and shared parking must be approved by the Zoning Administrator and/or Planning Commission, which shall be based on a recommendation from the Metropolitan Traffic Engineer.

Variance from Parking Requirement Another option to address the parking shortage is for the applicant to request a variance from the parking requirements. The applicant has informed staff that they will be submitting an application to the Board of Zoning Appeals (BZA) for a variance from the parking requirements of the Metro Zoning Code. The BZA is the agency that hears requests for variances from zoning requirements. The Planning Commission must make recommendations to the BZA for variance requests within Planned Unit Developments.

Staff has visited the site on several different occasions and has observed a busy and full lot. Although the lot was relatively full, several spaces were available. Nevertheless, numerous patrons were observed parking within the area proposed for the Hardee's. Without a parking study it is impossible to determine if there is a shortage of parking in the development.

Since the applicant is requesting that the BZA grant a variance from the parking requirements, staff recommends that the applicant provide the BZA with adequate information to determine if more parking is needed. If the applicant can adequately demonstrate to the BZA that there is sufficient parking in the development, and that the proposed Hardee's will not create a parking problem, then staff's concerns will be addressed.

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. Final design and improvements may vary based on field conditions.

STORMWATER RECOMMENDATION Approved with the following conditions:

1. Provide flow calculation for backside gutter to verify the offsite water will be diverted out.
2. Correct the contour error on the northwest corner.
3. Correct the contour labeling error.
4. Provide grading permit fee.
5. Submit easement document with recoding fee (\$5.00 per page plus \$2.00).
6. Submit Maintenance agreement with recording fee (\$5.00 per page plus \$7.00).

STAFF RECOMMENDATION Approve with conditions and recommend to the BZA that the applicant's request for a

parking variance be approved if the applicant provides the BZA with information to demonstrate there is adequate parking in the PUD. If the BZA does not approve the variance, then the Planning Commission's approval shall be rescinded.

CONDITIONS

1. The BZA shall approve a variance to the parking requirement or the Planning Commission approval shall be rescinded. Prior to the issuance of any permits, confirmation of an approved variance to the parking requirements shall be forwarded to the Planning Commission by the Codes Department.
2. A sidewalk shall be required along Highway 70 adjacent the development on parcel 183. A corrected final site plan shall identify the sidewalk as required with this condition, and shall be identified on all construction drawings.
3. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services for approval.
4. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Traffic Engineering Sections of the Metro Department of Public Works for all improvements within public rights of way.
5. 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.
6. 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.
7. Authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four additional copies of the approved plans have been submitted to the Metro Planning Commission.
8. The PUD final site plan as approved by the Planning Commission will be used by the Department of Codes Administration to determine compliance, both in the issuance of permits for construction and field inspection. Significant deviation from these plans may require reapproval by the Planning Commission and/or Metro Council.
9. A corrected copy of the PUD final site plan incorporating the conditions of approval by the Planning Commission, and if applicable the Board of Zoning Appeals, shall be provided to the Planning Department prior to the issuance of any permit for this property, and in any event no later than 120 days after the date of conditional approval by the Planning Commission. Failure to submit a corrected copy of the final PUD site plan within 120 days will void the Commission's approval and require resubmission of the plan to the Planning Commission.

Approved with conditions and recommend that the BZA approve the applicant's request for a parking variance if the applicant provides the BZA with information to demonstrate there is adequate parking in the PUD. If the BZA does not approve the variance, then the Planning Commission's approval shall be rescinded. **(8-0) Consent Agenda**

Resolution No. RS2009-9

"BE IT RESOLVED by The Metropolitan Planning Commission that 96-72P-001 is **APPROVED WITH CONDITIONS, and recommended that the BZA approve the applicant's request for a parking variance if the applicant provides the BZA with information to demonstrate there is adequate parking in the PUD. If the BZA does not approve the variance, then the Planning Commission's approval shall be rescinded. (8-0)**

Conditions of Approval:

1. The BZA shall approve a variance to the parking requirement or the Planning Commission approval shall be rescinded. Prior to the issuance of any permits, confirmation of an approved variance to the parking requirements shall be forwarded to the Planning Commission by the Codes Department.
2. A sidewalk shall be required along Highway 70 adjacent the development on parcel 183. A corrected final site plan shall identify the sidewalk as required with this condition, and shall be identified on all construction drawings.

3. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services for approval.
4. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Traffic Engineering Sections of the Metro Department of Public Works for all improvements within public rights of way.
5. 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.
6. 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.
7. Authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four additional copies of the approved plans have been submitted to the Metro Planning Commission.
8. The PUD final site plan as approved by the Planning Commission will be used by the Department of Codes Administration to determine compliance, both in the issuance of permits for construction and field inspection. Significant deviation from these plans may require reapproval by the Planning Commission and/or Metro Council.
9. A corrected copy of the PUD final site plan incorporating the conditions of approval by the Planning Commission, and if applicable the Board of Zoning Appeals, shall be provided to the Planning Department prior to the issuance of any permit for this property, and in any event no later than 120 days after the date of conditional approval by the Planning Commission. Failure to submit a corrected copy of the final PUD site plan within 120 days will void the Commission's approval and require resubmission of the plan to the Planning Commission."

IX. PUBLIC HEARING: SPECIFIC PLANS

3. **2009SP-002-001**
 Primrose School
 Map: 171-02 Parcels: 005, 006
 Southeast Community Plan
 Council District 31 – Parker Toler
 Staff Reviewer: Brenda Bernards

A request to change from R40 to SP-INS zoning for properties located at 524 and 532 Church Street East, approximately 600 feet east of Cloverland Drive (2.89 acres), to permit a Class IV Daycare center for up to 196 children, requested by Stantec Consulting Services Inc., applicant, for Chi Wai Lee, owner.

Staff Recommendation: Approve with conditions

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

Mr. Jeffrey Levin, 359 Jones Parkway, spoke in opposition to the proposed zone change.

Ms. Lauren Pareigis, 5324 Heatherwood Drive, spoke in favor of the proposed zone change.

Mr. Clifton arrived at 4:17 p.m.

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

Ms. Robin Williams, 6700 Walnut Hills Drive, spoke in favor of the requested zone change

Ms. Betsy Stubblefield, 5711 Cloverland Drive, spoke in opposition to the requested zone change.

Ms. Loretta Shelton, 552 Church Street East, spoke in opposition to the requested zone change.

Mr. Ernest Cobble, 125 Riverwood Drive, spoke in opposition to the requested zone change.

Mr. Joe Shedlock, 6465 Cloverland Drive, spoke in opposition to the requested zone change.

Mr. Tom Beach spoke in opposition to the requested zone change.

Ms. Nicole Winstead, 314 Lakebrink Drive, spoke in favor of the requested zone change.

Ms. Nancy Baron, 1133 Tyne Blvd., spoke in favor of the requested zone change.

Mr. Eric Colton spoke in opposition to the requested zone change.

Ms. Peggy Levin spoke in opposition to the requested zone change.

Mr. Michael Baron, 1133 Tyne Blvd., spoke in favor of the requested zone change.

Ms. Jennifer Yockey spoke in favor of the requested zone change.

Ms. Melissa Smith, 5620 Seasaw Road, spoke in favor of the requested zone change.

Mr. Jonathan Davis spoke in favor of the requested zone change.

Ms. Pat Ross, 828 Banbury Way, spoke in favor of the requested zone change.

Ms. Brenda Wilhoite, 1128 Deer Lake Road, spoke in favor of the requested zone change.

Ms. Gina Emanuel, 1706 Shelby Avenue, spoke in favor of the requested zone change.

Ms. Amy Emanuel, 901 Lakemont Drive, spoke in favor of the requested zone change.

Mr. Brandon James, 2610 Traughber Drive, spoke in favor of the requested zone change.

Ms. Susan Cole spoke in opposition to the requested zone change.

Mr. Brad Barnett spoke in opposition to the requested zone change.

Ms. Katie Turner, 1408 Beddington, spoke in favor of the requested zone change.

Mr. John Turner, 1408 Beddington, spoke in favor of the requested zone change.

Mr. Ali Alinosawi, 819B Elissa Drive, spoke in favor of the requested zone change.

Mr. Billy Joe Neil, 115 Lancelot, spoke in favor of the requested zone change.

Mr. Willie Cobble, 3605 Fairmeade Drive, spoke in opposition to the requested zone change.

Chairman McLean announced that due to the repetition of comments expressed, the Public Hearing on this item would be closed after the next three speakers.

Mr. Mark McCabe, 3660 Cedar Crest Road, spoke in favor of the requested zone change.

An adjacent property owner on Valley View Road spoke in opposition to the proposed zone change.

Mr. David Hooven, 5811 Cloverland Drive, spoke in opposition to the requested zone change.

Councilmember Toler gave a brief explanation on the various uses of the parcels surrounding the proposed development. He then pointed out the existing schools/daycare centers currently located in this area, and then pointed out other parcels located in this area in which a daycare center could be developed. He spoke of other proposals slated for this property and how the uses, once selected, would affect the entire area.

Ms. LeQuire acknowledged the need for additional traffic studies for this area.

Mr. Dalton acknowledged the number of younger families that were moving to this area and the need for additional daycare centers. He too acknowledged the issues associated with the traffic surrounding these properties and stated he would want to see any additional information from Public Works that would address these issues.

Ms. Jones requested clarification on the types of businesses allowed under RL policy.

Ms. Bernards explained this concept to the Commission.

Mr. Ponder requested additional information on the type of measures that Public Works could implement to address some of the traffic issues mentioned.

Mr. Honeycutt briefly explained the various measures that the Public Works Department would use to address some of the traffic concerns mentioned for this area.

Mr. Gotto explained that he would support Councilmember Toler's request and would not vote in favor of approving the requested development.

Mr. Gee requested clarification on the traffic impact study that was completed on the development, in particular, the number of trips generated by the proposal.

Mr. Honeycutt explained the numbers in question in relation to FAR.

Mr. Gee acknowledged that the trip numbers may be less intense due to the fact that the projections were based on FAR, and not the actual number of students allowed in the facility. He acknowledged the concerns mentioned by the constituents regarding traffic and the need for additional studies by the Public Works Department.

Mr. Tyler questioned whether the requested uses for this property would have a large influence on any future uses of the vacant properties surrounding this development.

Ms. Bernards explained that the requested uses fit within the subarea plan for this area and should not greatly impact any future uses due to its compatibility with the policy planned for this area.

Mr. Tyler then requested clarification on the type of zoning that supports daycare centers.

Ms. Bernards explained this concept to the Commission.

Mr. Tyler then questioned whether daycare centers were moving more toward residential areas.

Ms. Bernards explained recent daycare center requests to the Commission.

Dr. Cummings questioned when the Southeast Community Plan was adopted.

Ms. Bernards explained it was adopted in 2004.

Dr. Cummings then requested additional clarification on the zoning that was being requested by the applicant and its uses.

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

Dr. Cummings then acknowledged that due to the size of the daycare being proposed, that it would not qualify for a special exception by the Board of Zoning Appeals, thus resulting the request to be presented to the Planning Commission.

Dr. Cummings then requested additional information on the development procedures, and whether the issues of ingress/egress and traffic concerns would be addressed.

Ms. Bernards explained the development procedures to the Commission.

Mr. Honeycutt explained the conditions that the Public Works Department place on the proposed development.

A discussion ensued regarding a right in/right out and whether it would be necessary to implement on this proposal.

Mr. Bernhardt offered that if the Commission had any additional conditions for the proposal to include them in their motion.

Mr. Gotto suggested that the Commission include in their motion a condition that speaks directly to a right in/right out. He then spoke on the Community Plan update process that is followed by the various communities and the decisions that result from the process.

Mr. Bernhardt offered additional explanation on the requested zone change and the Commission's role in making their decision.

Mr. Clifton acknowledged the difficult nature of the requested zone change as it uses would service the community. He then questioned if the proposal could be deferred to allow additional review of the requested proposal.

Ms. LeQuire spoke in favor of deferring the proposal to allow additional time for the applicant to review and/or modify their proposal in an effort for the proposal to be more compatible with this area.

Mr. Clifton moved and Mr. Ponder seconded the motion, to close the public hearing and to defer Specific Plan 2009SP-002-001 to March 12, 2009, to allow additional time for the applicant to review the intensity of the request and the conditions placed on the development. **(10-0)**

Resolution No. RS2009-10

“BE IT RESOLVED by The Metropolitan Planning Commission that 2009SP-002-001 is DEFERRED TO THE MARCH 12, 2009, MEETING. Public Hearing Closed. (10-0)”

Mr. Gee suggested that Public Works and staff review the standards used in traffic impact studies.

X. PUBLIC HEARING: ZONING MAP AMENDMENTS

4. 2009Z-005PR-001

Map: 059-00 Parcels: 208, 209, 210, 211, 212, 221

Map: 060-00 Parcel: 072

Bordeaux/Whites Creek Community Plan

Council District 2 – Frank R. Harrison

Staff Reviewer: Brenda Bernards

A request to change from RM9 zoning to RS80 zoning properties located at Brick Church Pike (unnumbered) and Whites Creek Pike (unnumbered), (260.43 acres), requested by Councilmember Frank Harrison, applicant. Property owners are Nashville Area Habitat for Humanity Inc. and Harding Corporation. (See also Proposal No. 2002P-003-001).

Staff Recommendation: Disapprove

The Metropolitan Planning Commission DEFERRED Zone Change 2009Z-005PR-001 to February 26, 2009, at the request of the applicant. (8-0)

5. 2002P-003-001

Park Preserve (PUD Cancellation)
Map: 059-00 Parcels: 208, 209, 210, 211, 212, 221
Map: 060-00 Parcel: 072
Bordeaux/Whites Creek Community Plan
Council District 2 – Frank R. Harrison
Staff Reviewer: Brenda Bernards

A request to cancel the Park Preserve Planned Unit Development Overlay district on properties located at Brick Church Pike (unnumbered) and Whites Creek Pike (unnumbered), approved for 327 multi-family units and 416 single-family lots for a total of 743 dwelling units (260.43 acres), zoned RM9 and proposed for RS80, requested by Councilmember Frank Harrison, applicant. Property owners are Nashville Area Habitat for Humanity Inc. and Harding Corporation. (See also Proposal No. 2009Z-005PR-001).

Staff Recommendation: Disapprove

The Metropolitan Planning Commission DEFERRED 2002P-003-001 to February 26, 2009, at the request of the applicant. (8-0)

6. 2009Z-007PR-001

Map: 051-00 Parcel: part of 028
Madison Community Plan
Council District 4 – Michael Craddock
Staff Reviewer: Jason Swaggart

A request to rezone from OR20 to CS zoning a portion of property located at 619 Due West Avenue, approximately 1,000 feet west of S. Graycroft Avenue (0.05 acres), requested by Ragan-Smith Associates, applicant, for Christian Schools Inc., owner .

Staff Recommendation: Disapprove

APPLICANT REQUEST - A request to rezone from Office/Residential (OR20) to Commercial Services (CS) zoning a portion of property located at 619 Due West Avenue, approximately 1,000 feet west of S. Graycroft Avenue (0.05 acres).

Existing Zoning

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

Proposed Zoning

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

MADISON COMMUNITY PLAN

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.

Madison Community Plan Update The Madison Community Plan is currently being updated. The area proposed for CS is to remain within an office policy.

Consistent with Policy? No. The CS district is not consistent with the OC policy. The Madison Community Plan is currently being updated and this area is currently proposed to remain within an office policy area. Also, the area proposed for CS is not adjacent to any other CS zoning nor is there any CS zoning within the immediate area. The proposed CS district would not be consistent with the area's zoning pattern. The applicant has stated that the purpose of the zoning request is to

allow an electronic sign, which is not allowed in the OR20 district. It is inappropriate to rezone property to a zoning district that is not consistent with policy, or the surrounding zoning to allow a use that is prohibited in the existing zoning district. It sets a bad precedent, and is not consistent with the community planning process, which has identified this area as non-commercial. It would be more appropriate to look at the sign ordinance and make any necessary changes.

PUBLIC WORKS RECOMMENDATION No Exceptions Taken

Due to small size of the area proposed for CS the amount of traffic created would be insignificant. Because the amount of traffic created would be minor, no traffic table has been created.

STAFF RECOMMENDATION Staff recommends disapproval of the request to rezone 0.05 acres from OR20 to CS. The CS district is not consistent with the OC land use policy or zoning pattern in the area.

Mr. Swaggart presented and staff is recommending disapproval.

Mr. Ricky Perry spoke in favor of the requested zone change.

Mr. Lindsey Judd spoke in favor of the requested zone change.

Councilmember Craddock spoke in favor of the requested zone change. He stated that the request would not adversely affect this area and requested its approval. He also explained that he had not received any opposition on the request.

Mr. Gotto agreed with Councilmember Craddock. He then questioned whether the Commission could deny the request for CS zoning and recommend that Council request SP zoning that would allow all OR20 uses including approval of the electronic sign.

Mr. Bernhardt stated that the Council could make the request for SP zoning.

Ms. LeQuire offered her concerns on allowing an SP zoning in order to accommodate an electronic sign.

Mr. Gotto explained that all SP zoning would have to be approved by Council.

Ms. LeQuire acknowledged that a Sign Committee is currently reviewing the ordinance regulating electronic signs and offered her concern of recommending SP zoning that would include an electronic sign.

Mr. Gotto explained that there were no opposing views expressed by any neighboring property owners and offered his support for approving the request.

Mr. Bernhardt explained the Sign Committee is currently studying electronic signs for civic uses and with regard to public policy, this committee should be allowed to make their recommendation on the uses of electronic signs. He then explained the role of the Commission in making this decision and the difficult nature of the request.

Mr. Gotto explained he would not vote to disapprove this request.

Ms. LeQuire suggested the applicant apply for a variance.

Mr. Gotto explained that a variance could not be obtained on a law that is currently enacted. He then asked Mr. Morrissey to explain whether a variance could be obtained just for this request.

Mr. Gotto moved to disapprove the request to rezone to CS and approve an SP district that allows all of the uses of the OR20 zoning district and to allow an electronic sign. Mr. Ponder seconded the motion. Mr. Gotto then offered that even if the Commission were to send a disapproved recommendation to Council, it would not prohibit Council from approving a CS district for this area and offered additional explanation on a recommendation for Council.

Mr. Gee requested additional information from the applicant on the type of sign they were requesting to place on the site.

The applicant responded, however, his comments were inaudible.

Mr. Gee then questioned the height and size limitations for signs currently located on this parcel.

Mr. Swaggart explained the sign limitations to the Commission.

Mr. Gee requested that the applicant provide additional information for their plans on the requested sign.

Mr. Perry gave additional details on their requested sign.

Mr. Gee then suggested that if the Commission were to approve an SP district, then parameters for the requested sign should be included as part of the SP approval.

Mr. Ponder moved to amend the motion by including a condition that the electronic sign is no taller than the height of the existing sign, and no larger than 110% of the existing sign area.

Mr. Gotto then questioned whether the proposed sign could contain the same square footage of the existing sign.

Mr. Perry explained additional details on the square footage to the Commission.

A brief discussion took place regarding the square footage of the existing and the proposed sign, as well as the electronic regulations currently enacted through the sign ordinance.

Mr. Clifton expressed his concerns with approving the motion as discussed due to the issue of allowing an electronic sign by means of SP zoning. He acknowledged the intent of the applicant as well as the support by Councilmember Craddock. However, with the Sign Committee currently studying the issue and the fact that residents are opposed to electronic signage, the current motion would allow future requests similar to this to be passed by Council.

Ms. LeQuire expressed her concern with proposing SP zoning to allow an electronic sign and its precedence for any future requests.

Mr. Gotto did not agree that the motion would set a precedent and agreed with Mr. Ponder to amend the motion.

Ms. Jones seconded the motion made by Mr. Ponder to amend the current motion on the floor.

Mr. Ponder restated his motion, which was seconded by Ms. Jones to amend the existing motion by adding the condition on the sign that does not allow the sign to be taller than the height of the existing sign and no larger than 110% of the existing sign area. **(10-0)**

Prior to voting, Mr. Gee requested that Mr. Morrissey, Legal Counsel, address whether the Commission should include in the motion that the request is related to institutional uses.

Mr. Morrissey offered his legal opinion on the motion being made by the Commission.

Mr. Gotto offered that his motion was made due to the fact that the application contains an existing sign, and that it would only approve the same size of the existing sign, and finally, that it would not affect any residential neighborhood.

Ms. LeQuire offered her concern that the requested sign was an electronic sign.

Mr. Gotto moved and Mr. Dalton seconded the motion, to disapprove the request to rezone to CS and approve an SP district that allows all of the uses of the OR20 zoning district and to allow an electronic sign, no taller than the height of the existing sign and no larger than 110% of the existing sign area. **(7-3) No Votes – Clifton, Cummings, LeQuire**

Resolution No. RS2009-11

“BE IT RESOLVED by The Metropolitan Planning Commission that 2009Z-007PR-001 is **DISAPPROVED REQUEST TO REAZONE TO CS, APPROVE AN SP DISTRICT that allows all of the uses of the OR20 zoning district and permits one electronic sign that is no taller than the height of the existing sign and no larger than 110% of the existing sign area. (7-3)**

There are no residential districts within the immediate area and with the conditions included in the SP it will not be inconsistent with the Madison Community Plan Office Concentration policy.”

XI. PUBLIC HEARING: FINAL SITE PLANS

- 7. **2009S-011-001**
Gammon Divide
Map: 053-07 Parcel: 010
Donelson/Hermitage/Old Hickory Community Plan
Council District 11 – Darren Jernigan
Staff Reviewer: Brenda Bernards

A request for final plat approval to create two lots on property located at 1806 Overton Street, approximately 150 feet north of Old Hickory Boulevard (0.82 acres), zoned R15, requested by Vickie Gammon, owner, Delle Land Surveying, surveyor.

Staff Recommendation: Approve with conditions, including an exception to the lot comparability requirements of the Subdivision Regulations.

APPLICANT REQUEST - Final Plat

A request for final plat approval to create two lots on property located at 1806 Overton Street, approximately 150 feet north of Old Hickory Boulevard (0.82 acres), zoned One and Two-Family Residential (R15).

ZONING

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

SUBDIVISION DETAILS The existing lot is a double frontage lot. The plat will create two new lots, including one with frontage on Golf Club Road and the second with frontage on Overton Street. The existing residence will remain on the Overton Street lot.

Lot Comparability Both lots meet the minimum lot size requirement for the R15 zoning district, but Section 3-5 of the Subdivision Regulations requires that new lots in areas previously subdivided and predominantly developed are to be generally in keeping with the lot frontage and lot size of the existing surrounding lots. As the surrounding area is predominately developed, staff performed a lot comparability analysis, for each proposed lot. The Golf Club Road lot, Lot 1, passed for lot frontage but failed for lot area. The Overton Street lot, Lot 2, passed for both lot frontage and area.

Lot Comparability Analysis – Golf Club Road		
Street:	Requirements:	
	Minimum lot size (sq. ft.):	Minimum lot frontage (linear ft.):
Golf Club Road	20,582	76.5

Lot Comparability Analysis – Overton Street		
Street:	Requirements:	
	Minimum lot size (sq. ft.):	Minimum lot frontage (linear ft.):
Overton Street	12,415	81.75

The proposed new lots will have the following areas and street frontages:

- **Lot 1:** 19,614 sq. ft., (0.45 acres), with 80.8 linear ft. of frontage on Golf Club Road.
- **Lot 2:** 15,058 sq. ft., (0.0.35 acres), with 90.06 linear ft. of frontage on Overton Street.

Lot Comparability Exception A lot comparability exception can be granted when a proposed lot does not meet the minimum requirements of the lot comparability analysis (is smaller in lot frontage and/or size) if the new lots would be consistent with the General Plan. The Planning Commission has discretion whether or not to grant a lot comparability exception.

The proposed lots meet **one** of the qualifying criteria for the exception to lot comparability:

- The proposed lots are consistent with the adopted land use policy that applies to the property. The lots are located in the Single Family Detached in Neighborhood General land use policy. This policy is intended to meet a spectrum of housing needs with a variety of housing that is carefully arranged.

In order for this subdivision to be consistent with this policy, development on Lot 1 must be limited to a single-family residence only. A note will need to be added to the plat.

STORMWATER RECOMMENDATION Approved

OLD HICKORY UTILITY DISTRICT RECOMMENDATION Approved

FIRE MARSHAL RECOMMENDATION A fire department access road shall extend to within 50 ft of at least one exterior door that can be opened from the outside and that provides access to the interior of the building.

One & two family final plat plans must show results from fire hydrant(s) flow test, performed within 6 months with a minimum of 1000 gpm @ 20 psi available at hydrants, for buildings up to 3600sq.ft. to be approved for fire hydrant flow requirements.

Developer needs to provide more information to the Fire Marshal's Office.

No part of any building shall be more than 500 ft from a fire hydrant via an approved hard surface road.

PUBLIC WORKS RECOMMENDATION No Exception Taken

STAFF RECOMMENDATION Staff recommends approval with condition, including an exception to the lot comparability requirement based on the fact that the proposed subdivision is consistent with the land use policy for the area.

CONDITION

1. A note shall be added to the plat limiting development of Lot 1 to a single-family residence.
2. The requirements of the Fire Marshal shall be met prior to the recordation of the Final Plat.

Approved with condition, including an exception to the lot comparability requirements of the Subdivision Regulations (8-0)
Consent Agenda

Resolution No. RS2009-12

“BE IT RESOLVED by The Metropolitan Planning Commission that 2009S-011-001 is **APPROVED WITH CONDITIONS, including an exception to the lot comparability requirements of the Subdivision Regulations. (8-0)**

Conditions of Approval:

1. A note shall be added to the plat limiting development of Lot 1 to a single-family residence.
2. The requirements of the Fire Marshal shall be met prior to the recordation of the Final Plat.”

XII. PUBLIC HEARING: REVISED SITE PLANS

8. 168-83P-001

The Davenport (Revision Ph. II)
Map: 900-00 Parcel: 010.35
Antioch/Priest Lake Community Plan
Council District 29 – Vivian Wilhoite
Staff Reviewer: Jason Swaggart

A request to revise a portion of the preliminary plan for the Davenport Planned Unit Development Overlay located at Davenport Drive, on the east side of Bell Road (3.5 acres), zoned R10, to permit the development of 55 units where 67 were previously approved as well as a meeting room facility, an exercise facility, a maintenance facility, an outdoor pool, and outdoor play area, requested by The Conseco Group Inc., applicant, for DMA Properties 2 LLC, owner.

Staff Recommendation: Approve with conditions

APPLICANT REQUEST - Revise Preliminary Plan

A request to revise a portion of the preliminary plan for the Davenport Planned Unit Development Overlay located at Davenport Drive, on the east side of Bell Road (3.5 acres), zoned One and Two-Family Residential (R10), to permit the development of 55 units where 67 units were previously approved, as well as a meeting room facility, an exercise facility, and an outdoor play area.

PLAN DETAILS This is a request to revise a portion of the preliminary plan for the Davenport Plan Unit Development. The development is located on the east side of Bell Road across from the intersection of Bell Road and Rural Hill Road. The PUD was originally approved by Metro Council in 1983. A final site plan for 67 units was approved by the Planning Commission in 1986. Following final site plan approval a portion of the development was constructed which included 24 units and a swimming pool.

This request proposes to revise the rear portion of the development. The existing units and swimming pool will remain, but the layout for the rear portion will be revised and uses not originally approved in the PUD will be added. These new uses will include a meeting room, an outdoor play area, and an exercise facility. While not part of the original plan, these uses are compatible with existing uses in the PUD and will not require approval from Metro Council.

Site Plan The site plan for Phase 2 calls for 31 residential units, a meeting room facility, exercise facility, facility, and outdoor play area. With the approval of Phase 2 the PUD will have a total of 55 units. Phase 2 is located at the rear of the property and will be accessed from Bell Road through Phase 1.

The site plan identifies 100 year flood plain and flood way on the rear portion of the property. The development will be outside the flood area and appropriate buffers are shown.

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. Prior to preliminary approval, submit approved permission letter for the natural gas line (Colonial Pipeline).

STORMWATERRECOMMENDATION Approved

STAFF RECOMMENDATION Staff recommends approval with conditions. As proposed the density is less than what was originally approved and the new uses are compatible with the residential PUD.

CONDITIONS

1. The design of the required emergency turn around located within the TVA easement shall be determined at final site plan.
2. Prior to final site plan approval, submit approved permission letter for within natural gas line easement (Colonial Pipeline).
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.
6. Prior to any additional development applications for this property, and in no event later than 120 days after the date of conditional approval by the Planning Commission, the applicant shall provide the Planning Department with a corrected copy of the preliminary PUD plan. Failure to submit a corrected copy of the preliminary PUD within 120 days will void the Commission's approval and require resubmission of the plan to the Planning Commission.

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

Resolution No. RS2009-13

"BE IT RESOLVED by The Metropolitan Planning Commission that 168-83P-001 is **APPROVED WITH CONDITIONS.**
(8-0)

Conditions of Approval:

1. The design of the required emergency turn around located within the TVA easement shall be determined at final site plan.
2. Prior to final site plan approval, submit approved permission letter for within natural gas line easement (Colonial Pipeline).
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.
6. Prior to any additional development applications for this property, and in no event later than 120 days after the date of conditional approval by the Planning Commission, the applicant shall provide the Planning Department with a

corrected copy of the preliminary PUD plan. Failure to submit a corrected copy of the preliminary PUD within 120 days will void the Commission’s approval and require resubmission of the plan to the Planning Commission.”

XIII. OTHER BUSINESS

9. Executive Director Reports

10. Legislative Update

XIV. ADJOURNMENT

The meeting was adjourned at 6:05 p.m.

Chairman

Secretary



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