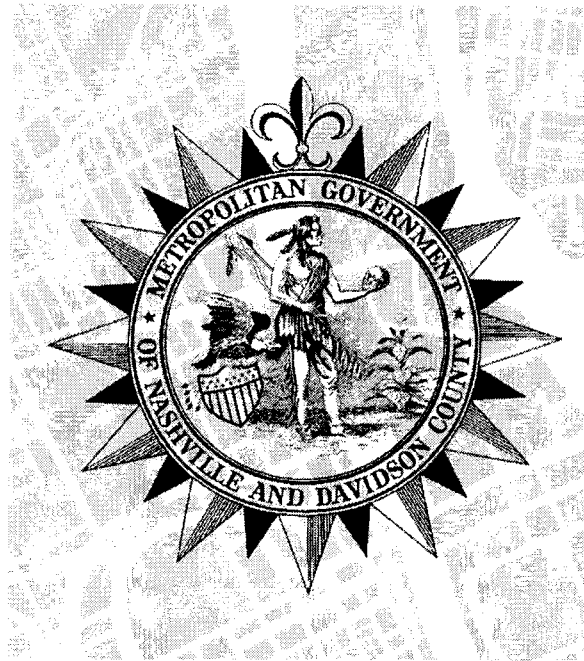


# Metropolitan Planning Commission



## Staff Reports

February 12, 2009

*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.*

## **PREVIOUSLY DEFERRED ITEMS**

**NO SKETCH**



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

**Zone Change 2008Z-088T**  
**Mobile Vendors: Cleveland Street**  
BL2008-325  
5 - Murray  
N/A  
Councilmember Pam Murray  
*Deferred from the December 11, 2008, Planning Commission meeting*

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

Regen  
*Disapprove*

---

**APPLICANT REQUEST**

**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.**

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**Deferral**

**This item was deferred in order to allow staff to consider alternatives to the proposed text amendment. Staff discussed the proposed amendment internally as well as with the Zoning Administrator and Councilmember Murray. A new text amendment has been drafted for Councilmember Murray's consideration, but it has not been filed with the Metro Clerk. That proposed amendment would allow vendors who want to sell goods outdoors to apply for a special exception (SE) subject to a public hearing before the Board of Zoning Appeals (BZA).**

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**ANALYSIS**

Existing Law

The Zoning Code allows mobile vendors as a use "permitted with conditions" (PC) in the CL, CS, CA and CF zoning districts. Mobile vendors may sell goods, wares or merchandise within a permanently, enclosed structure with no outdoor vending or display areas (tables, crates, cartons, racks or other devices). No outside vending or display area are allowed except for vendors selling food, beverages, living plants, or agricultural products, or if the street vendor is licensed.

Proposed Bill

The bill exempts Cleveland Street from the mobile vendor provisions.

Proposed Text

The bill modifies the definition of mobile vendor by adding the following underlined language:

**"Notwithstanding the foregoing, vendors selling only food and/or beverages, vendors selling living plants and**



## Metro Planning Commission Meeting of 2/12/2009

agricultural products, vendors selling goods, wares or merchandise along Cleveland Street, and street vendors licensed pursuant to Section 13.080.040 of the Metropolitan Code of Laws shall not be considered "mobile vendors".

### Analysis

Cleveland Street is a collector street running slightly more than one mile in length between Dickerson Pike and McFerrin Avenue. The entire street is within the bill sponsor's Council District, District 5. Currently, there are six properties zoned commercial along Cleveland Street (CN, CL, and CS). Of these six properties, one is located in the historic Greenwood Neighborhood Conservation Overlay District while the other is in the historic Maxwell Neighborhood Conservation Overlay District; both Districts were adopted by the Metro Council in May 2008.

In addition to historic overlays, Cleveland Street runs through three different Detailed Neighborhood Design Plans (DNDPs) in the Subarea 5 Plan: Cleveland Park West, Cleveland Park East, and Greenwood. All three plans were adopted by the Planning Commission in 2005 after community involvement in their preparation. Each plan recognizes the existing built environment, community desire for reinvestment, and creation of neighborhood-scaled centers of activity.

By exempting Cleveland Street from the mobile vendor requirements, persons would be allowed to sell or display wares indoors or outdoors from permanent structures, temporary structures such as tents, vans, or cars, or from crates, cartons, racks, tables, etc. According to the Zoning Administrator, these vendors would be permitted by right (P) as a "retail" use on any of the six commercially zoned properties along Cleveland Street. Allowing these temporary vendors would serve to undermine efforts to bring new retail, office, and commercial investment. Temporary vendors do not support the long-term visions embraced by the community, and adopted in the DNDPs.

### **STAFF RECOMMENDATION**

Staff recommends disapproval of this bill. The bill does not support the adopted DNDPs for Cleveland Park West, Cleveland Park East, Greenwood or the Greenwood and Maxwell Neighborhood Conservation Overlay Districts. Further, carving out exemptions for a particular street, neighborhood, or commercial area dilutes the mobile vendor ordinance's enforceability and effectiveness.



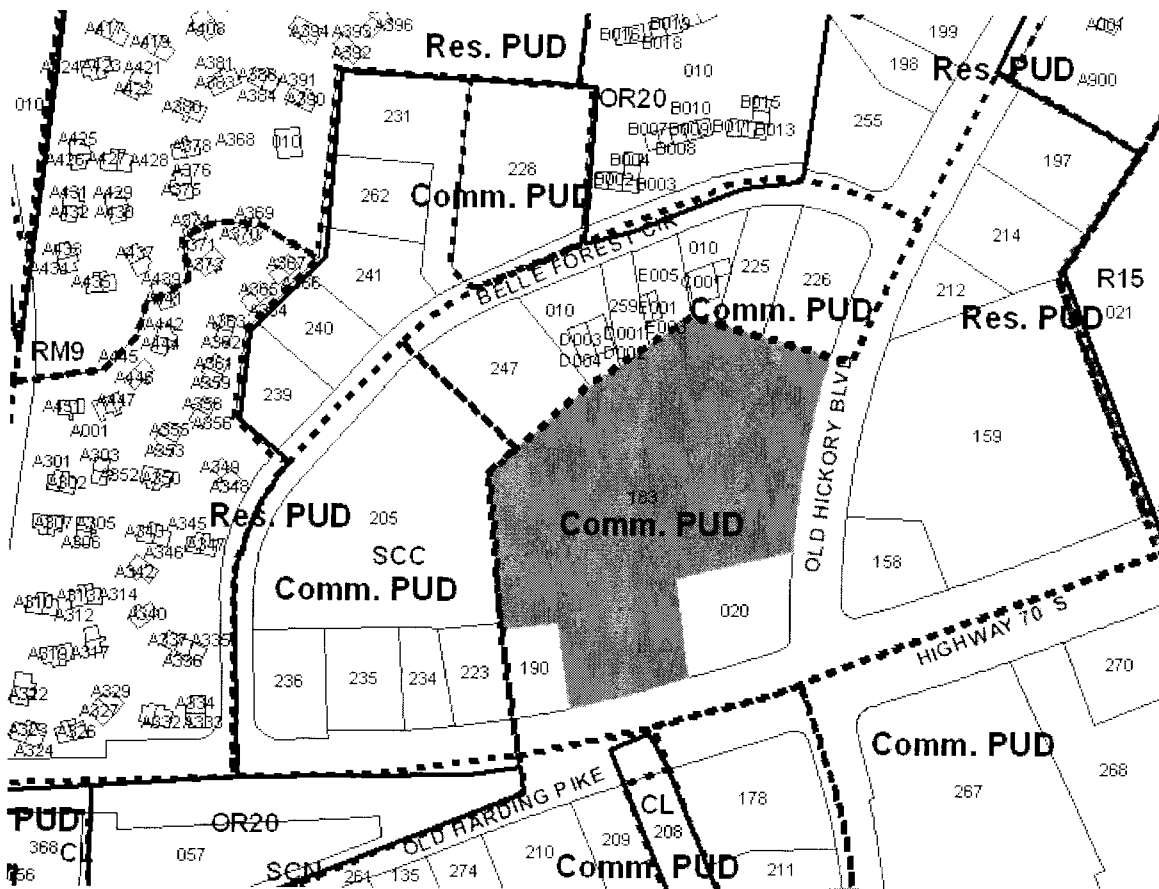
## Metro Planning Commission Meeting of 2/12/2009

Should the Planning Commission desire to find a solution that would permit vendors on Cleveland Street in a limited fashion, Specific Plan (SP) zoning may be an option for the Commission to consider. Such a zoning district could be tailored to meet the community's needs. If the Commission decides SP zoning warrants consideration, the Commission could direct staff to prepare an application and appropriate standards for its consideration at an upcoming meeting.

**SEE NEXT PAGE**



## **PREVIOUSLY DEFERRED ITEMS**



**96-72P-001**

Bellevue Plaza (Hardee's)

Map: 142-00 Parcel: 183

Bellevue Community Plan

Council District 22 – Eric W. Crafton



**Project No.** 96-72P-001  
**Project Name** Bellevue Plaza (Hardee's)  
**Council District** 22 - Crafton  
**School District** 9 - Coverstone  
**Requested By** Hardee's Food Systems, Inc., applicant for Bellevue Plaza Partners, owner  
**Deferral** *Deferred from the January 22, 2009, Planning Commission meeting at the request of the applicant*

**Staff Reviewer** Swaggart  
**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.*

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**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.

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**PLAN DETAILS**

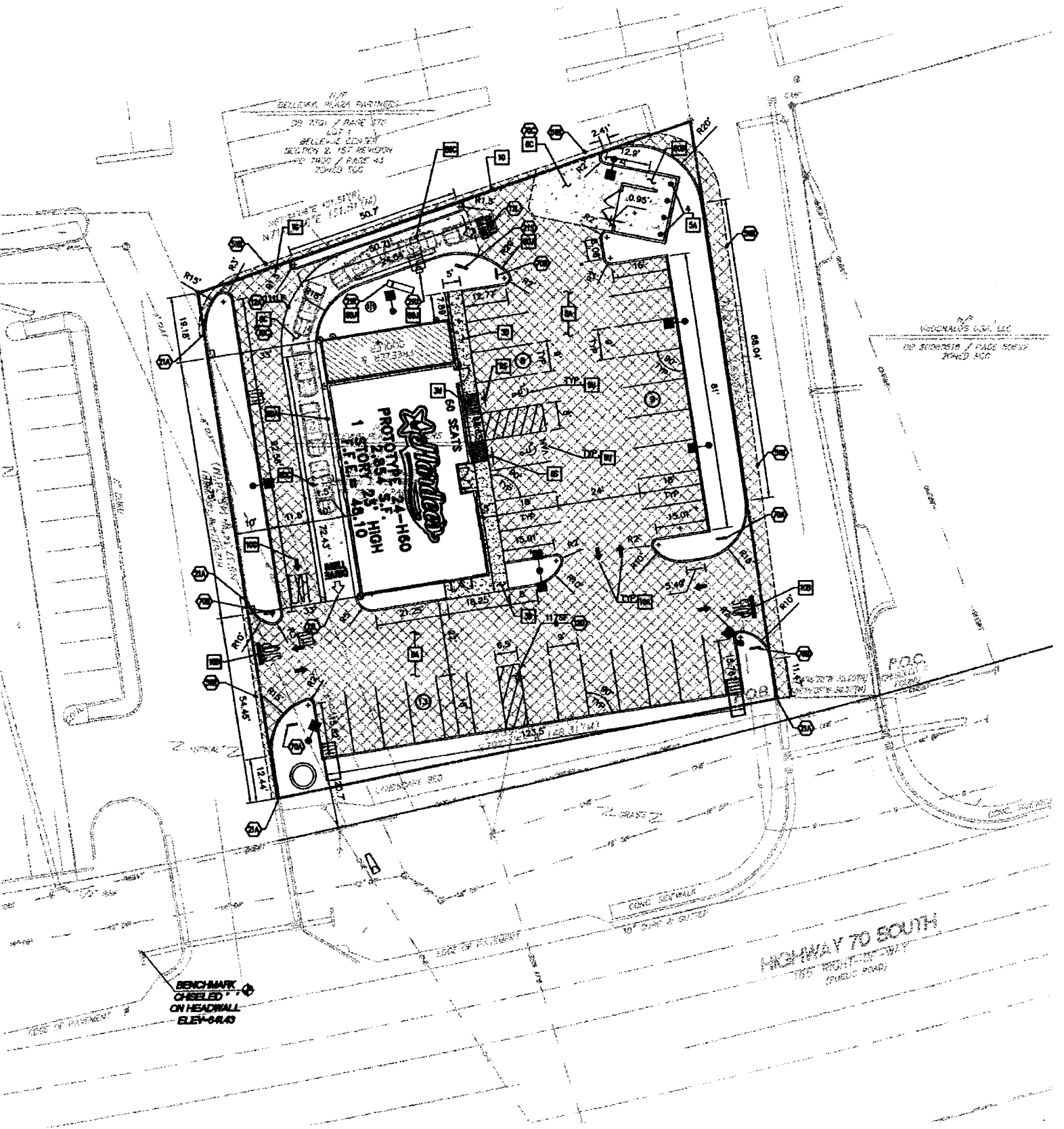
This is a request to revise a portion of the plan for Bellevue Plaza. The PUD was originally approved in 1972, and includes property on the east and west side of Old Hickory Boulevard north of Highway 70 South. The most recent revision to the PUD was approved by the Planning Commission in April 2008 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

11/7  
BELLEVUE PLAZA PARTNERS  
310 N. HIGH / PAGE 370  
10/7/1  
BELLEVUE CENTER  
SECTION 2, 1ST REVISION  
DATE 7/20/00 / PAGE 43  
20/420 500

11/7  
WINDMILLS CONSTRUCTION, LLC  
100 PROGRESS / PAGE 50/52  
20/420 500



BENCHMARK  
CHISELED  
ON HEADWALL  
ELEV-64.0

HIGHWAY TO SOUTH  
150' RIGHT-OF-WAY  
(PUBLIC ROAD)



## Metro Planning Commission Meeting of 2/12/2009

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





## Metro Planning Commission Meeting of 2/12/2009

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.

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### **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.

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### **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).

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### **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



## Metro Planning Commission Meeting of 2/12/2009

BZA does not approve the variance, then the Planning Commission's approval shall be rescinded.

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### 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.



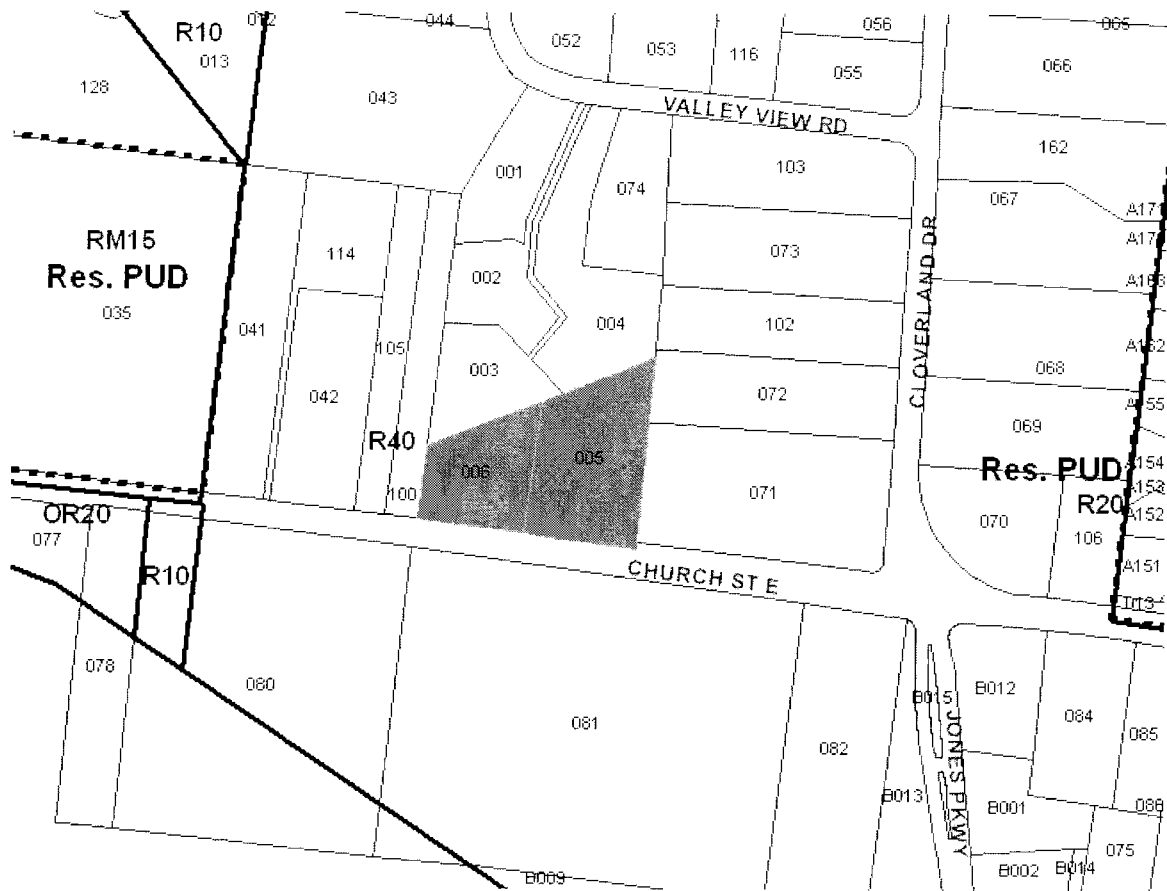


## Metro Planning Commission Meeting of 2/12/2009

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.

**SEE NEXT PAGE**

# **SPECIFIC PLANS**



**2009SP-002-001**  
 Primrose School & Village  
 Map: 171-02 Parcels: 005, 006  
 Southeast Community Plan  
 Council District 31 – Parker Toler



**Project No.**  
**Project Name**  
**Council Districts**  
**School Districts**  
**Requested by**

**Zone Change 2009SP-002-001**  
**Primrose School SP**  
31 - Toler  
2 - Brannon  
Stantec Consulting Services Inc., applicant, for Chi Wai Lee, owner

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

Bernards  
*Approve with conditions*

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**APPLICANT REQUEST**  
**Preliminary SP**

**A request to change from One and Two- Family Residential (R40) to Specific Plan-Institutional (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.**

**Existing Zoning**  
R40 District

R40 requires a minimum 40,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 1.16 dwelling units per acre including 25% duplex lots.

**Proposed Zoning**  
SP-INS District

Specific Plan-Institutional 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 Class IV Daycare Center.

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**SOUTHEAST**  
**COMMUNITY PLAN**

Residential Low (RL)

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

**Consistent with Policy?**

Yes. A Class IV daycare center is an appropriate use for the RL policy, as civic and public benefit uses are permitted in this policy.

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**PLAN DETAILS**

The proposed SP use is limited to a Class IV daycare center for up to 196 individuals. The Zoning Code defines a Class IV daycare center as the provision of care, for less than 24 hours per day, for more than 75 individuals. The applicant has indicated that the daycare center will serve children from infant to kindergarten age. The

PEREA SUBDIVISION  
1ST REVISION OF LOTS 1,2,3, AND 4  
PLAT # 20001160113632, R.O.D.C., TN

ZONING: R40

MAP 171  
UNDERPOOL, ROSALIND D.  
BK 4838 PG 995  
ZONING: R40

20' SEWER EASEMENT BY PLAT  
(EXISTING SEWER NOT IN CENTER OF EASEMENT)

N 68°54'28" E 510.68'  
(N 69°01'09" E 511.09' BY PLAT)

SP PLAN BOUNDARY

60' STORMWATER BUFFER BY PLAT

STORMWATER  
BIORETENTION AREA

Y

N 07°47'17" E 145.90'  
(N 07°53'06" E 146.52' BY PLAT)

LOT SIZE - 122,267.00 SF  
(2.81 ACRES)

10,900 SF BUILDING  
FFE=715.00

PLAYGROUND

PLAYGROUND

PARKING LOT LANDSCAPE BUFFER  
OF EXISTING PUBLIC UTILITY AND EGRESS CORRIDOR

N 82°24'08" W 474.72'  
(N 82°22'57" W 475.14' BY PLAT)

CHURCH STREET EAST  
[U2]

ZONING: R40

SP PLAN BOUNDARY

24" RCP



## Metro Planning Commission Meeting of 2/12/2009

current R40 zoning district does not permit daycare centers over 75 individuals and the applicant has requested the SP-INS zoning to permit a larger daycare.

The property, consisting of two lots, is 2.89 acres in size. These lots are proposed to be consolidated and required right-of-way and utility easements will be platted along Church Street East.

A ten-foot landscape buffer yard is proposed along the west, north and east sides of the property. Details have been provided on the plantings to be incorporated into the buffer. Backflow preventer devices are required for fire service, water service and landscape irrigation. These are located within the setback from Church Street East. Details of landscaping to screen these devices have not been provided. These details will need to be included on the corrected copies of the plan. Two outdoor play areas are included in the plan.

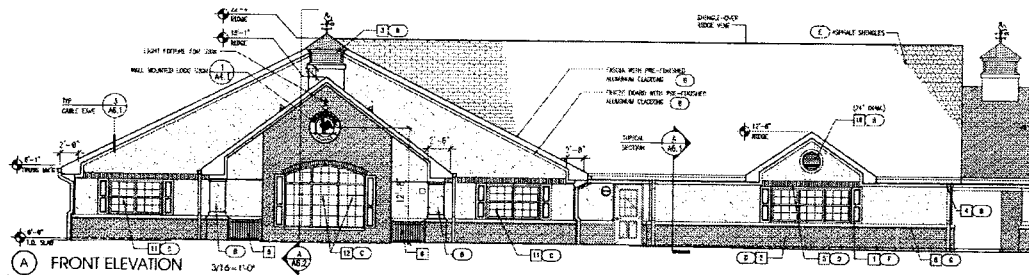
The original application included four housing units. These have been removed from the plan. All references to the housing must be removed from the corrected copies of the plans.

Sidewalks are required along Church Street East and are shown on the plan.

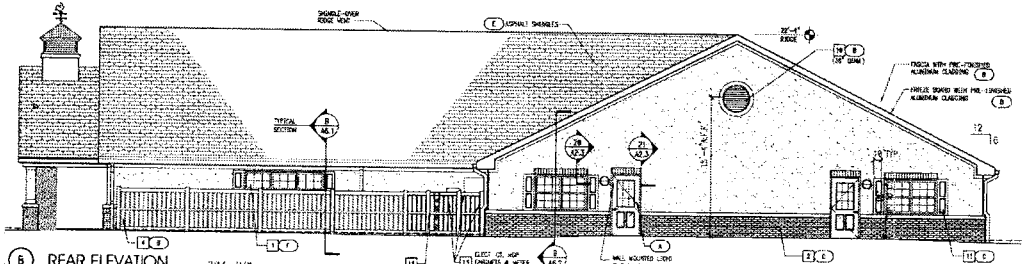
### Parking and Access

One access drive is proposed from Church Street East into the site. The usual requirement is to provide two access points in order to facilitate drop-off and pick-up of the children. The policy of the Primrose School is to require that all children be checked into and out of the office, which means that all parents/guardians must park and walk their child into the building. The applicant has provided traffic study and a parking needs assessment to the Public Works Department for their review.

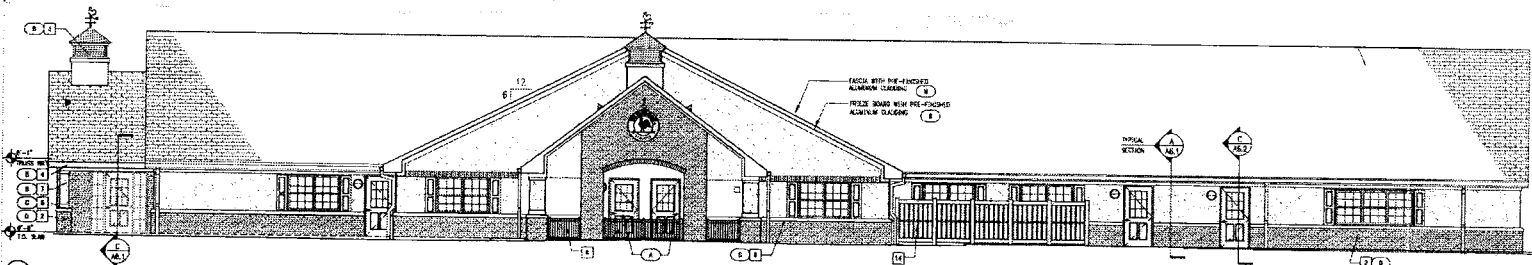
Public Works has determined that the vehicular circulation for the school appears to be inadequate and that the applicant will need to better demonstrate that internal traffic flow at drop-off/pick-up area provides the same level of flow as two access points or additional on-site parking will be necessary. In addition, Public Works has identified a need for a right turn lane on Church Street East right-of-way improvements



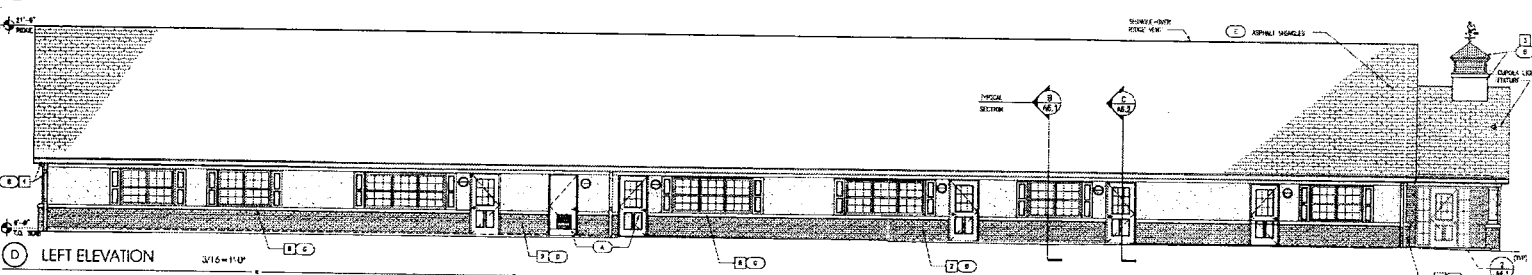
(A) FRONT ELEVATION  
3/16" = 1'-0"



(B) REAR ELEVATION  
3/16" = 1'-0"



(C) RIGHT ELEVATION  
3/16" = 1'-0"



(D) LEFT ELEVATION  
3/16" = 1'-0"





## Metro Planning Commission Meeting of 2/12/2009

### Building Standards

Elevations, building materials, and bulk standards for the school were provided with the plan. For any development standard not included in the plan, the standards of the RM2 zoning district will apply.

### Signs

The signage permitted for this SP includes a freestanding ground sign and a building sign.

A freestanding ground sign is 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 and 28 square feet in size. Building signs are attached directly to, or supported by brackets attached directly to a principal building. The building sign for this SP is a maximum of 9.6 square feet in size.

The signs are to be externally lit or lit from a ground lighting source 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. The sign backgrounds must be opaque; only letters and logos may be internally illuminated.

The signs must 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. Pole signs and electronic message signs are prohibited.

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### **STORMWATER RECOMMENDATIONS**

Preliminary SP approval.

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### **FIRE MARSHAL RECOMMENDATION**

This project approved as a sprinklered project.

Show 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,

Fire Hydrants shall be in-service before any combustible material is brought on site.

A fire hydrant shall be provided within 100' of the fire department connection.

Due to new information about this project it will be approved.



## Metro Planning Commission Meeting of 2/12/2009

Additional information will be required before a building permit can be issued, adequate information not provided to allow unconditional approval of this project at this time.

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### **WATER SERVICES RECOMMENDATION**

Approval

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### **PUBLIC WORKS RECOMMENDATION**

Vehicular circulation for the proposed school appears to be inadequate. Demonstrate internal traffic flow at drop-off/pick-up area that complies with section 17.16.035 of the Metro Code, or provide additional on-site parking.

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.

Along Church Street E., construct a six (6') foot furnishing zone and eight (8') foot sidewalk, consistent with the Strategic Plan for Sidewalks & Bikeways.

The solid waste collection and disposal plan is to be reviewed and approved by the Department of Public Works Solid Waste Division.

In accordance with the recommendations of the traffic impact study, the following improvements are required:

1. Construct a westbound right turn lane on Church St. at the proposed project access with 75 ft of storage and transitions per AASHTO standards.
2. Construct the proposed project access at Church St. with one entering and two exiting lanes (LT and RT) each with a minimum 50 ft of storage.
3. Provide adequate intersection and stopping sight distance at the proposed project access per AASHTO standards.



# Metro Planning Commission Meeting of 2/12/2009

## Typical/Maximum Uses in Existing Zoning District: R40

Land Use (ITE Code)	Acres	Density	Total Number of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached (210)	2.89	1.16	2	20	2	3

## Typical/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
Day Care (565 )	2.89	N/A	10,900 (196 children)	886	149	136

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

Land Use (ITE Code)	Acres	Density	Total Number of Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--	2.89		+2	+866	+147	+133

### STAFF RECOMMENDATION

Staff recommends approval with conditions. The proposed Primrose School SP is consistent with the RL policy of the Southeast Community Plan.

### CONDITIONS

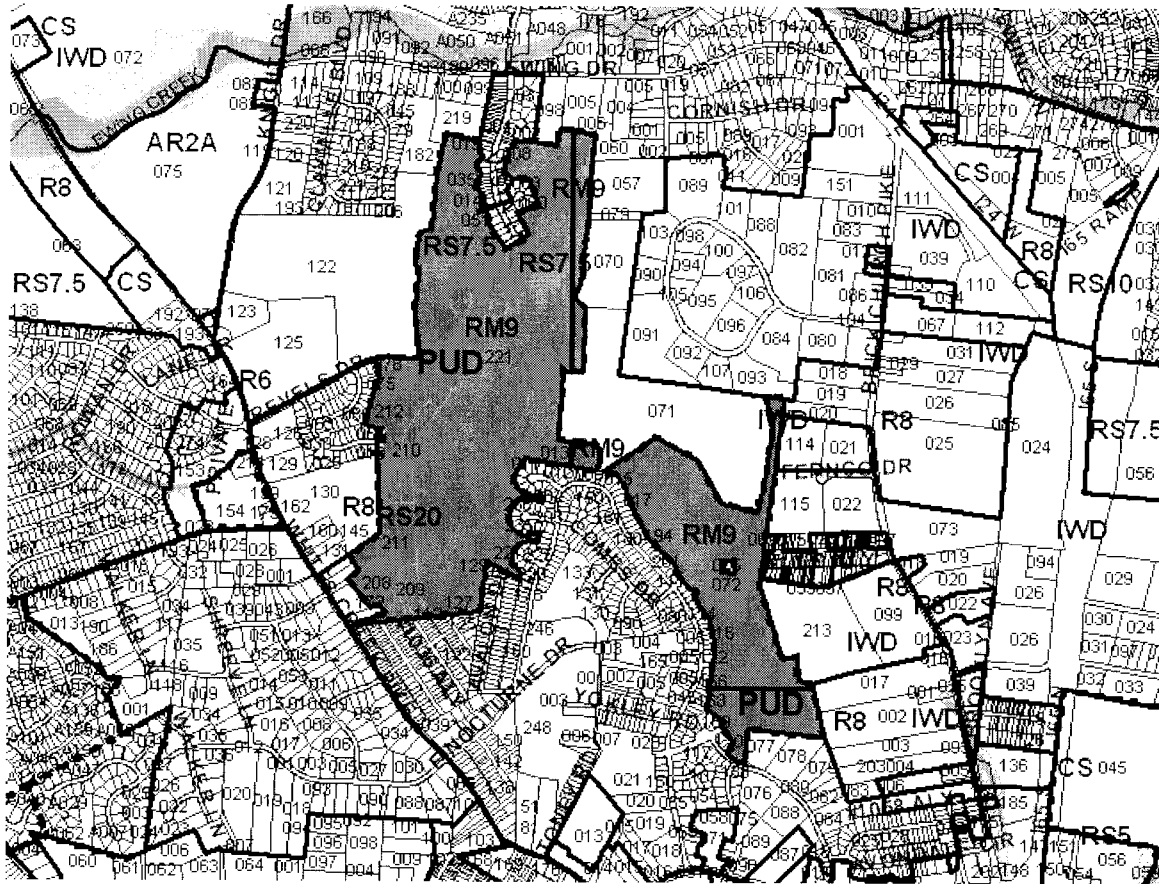
1. Prior to the issuance of building permits, the two lots shall be consolidated by plat.
2. Details of the landscaped screening of the back flow preventer devices shall be provided on the corrected copy of the preliminary SP.
3. Signage is limited to one ground sign that is a maximum of 28 square feet in size and six feet in height shall be permitted for the property and one building mounted sign that is 9.6 square feet in size. Pole signs and electronic message signs are prohibited.
4. The requirements of the Public Works Department shall be addressed on the final site plan.
5. Prior to final site plan approval, the applicant shall demonstrate, to Public Works, that internal traffic flow at drop-off/pick-up area complies with section 17.16.035 of the Metro Code, or additional on-site parking shall be provided.
6. 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.



## Metro Planning Commission Meeting of 2/12/2009

7. Prior to the issuance of building permits, the solid waste collection and disposal plan shall be reviewed and approved by the Department of Public Works Solid Waste Division.
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, the property shall be subject to the standards, regulations and requirements of the RM2 zoning district as of the date of the applicable request or application.
9. A corrected copy of the preliminary SP plan incorporating the conditions of approval by the Planning Commission and Council, including the removal of all references to the housing component of the original plan, 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.

# **ZONING MAP AMENDMENTS**



**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



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

**Zone Change 2009Z-005PR-001**  
PUD Cancellation Proposal No. 2002P-003-001  
BL2009-385  
2 – Harrison  
1 – Gentry  
Councilmember Frank Harrison, applicant. Property owners are Habitat for Humanity and Harding Corporation.

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

Bernards  
*Disapprove*

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**APPLICANT REQUEST**

**A request to change from Multi-Family Residential (RM9) zoning to Single-Family Residential (RS80) zoning properties located at Brick Church Pike (unnumbered) and Whites Creek Pike (unnumbered), (260.43 acres).**

**Existing Zoning**  
RM9 District

RM9 is intended for single-family, duplex, and multi-family dwellings at a density of 9 dwelling units per acre.

**Proposed Zoning**  
RS80 District

RS80 requires a minimum 80,000 square foot lot and is intended for single-family dwellings at a density of 0.46 dwelling units per acre.

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**BORDEAUX/WHITES CREEK  
COMMUNITY PLAN**

Residential Medium Density (RM)

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

**Consistent with Policy?**

No. The request to rezone the property from RM9 to RS80 is not consistent with the RM policy. The 0.46 dwelling units per acre of the RS80 district is well below the density range of four to nine dwelling units per acre of the RM policy.

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**ANALYSIS**

This request would rezone seven parcels from RM9 to RS80. The rezoning will create one substandard parcel where the existing parcel size will be less than 80,000 square feet. Section 17.40.670 of the Metro Zoning Code allows that a single-family structure may be constructed on



## Metro Planning Commission Meeting of 2/12/2009

a legally created lot that contains less than the minimum lot area required by the zoning district provided the lot contains a minimum area of 3,750 square feet and existed prior to the date of the ordinance.

The property is within the Park Preserve Planned Unit Development (PUD). There is an accompanying request to this rezoning to cancel the PUD. Currently, the PUD is approved for 327 multi-family units and 416 single-family lots for a total of 743 dwelling units. The RS80 zoning would permit approximately 120 single-family lots with a cluster lot subdivision.

Additionally, the owner of the property has made the Planning Commission aware of Fair Housing Act and equal housing issues. In a November 11, 2008, memorandum to the Planning Commission, the property owner, the Nashville Area Habitat for Humanity (NAHFH) wrote:

“NAHFH has proclaimed its intent to construct homes affordable to families earning 50% or less of the median family income, ninety-three percent (93%) of which are minorities.... Any action taken by the MPC in an effort to frustrate NAHFH’s ability to construct homes for its intended residents on the Property would have a disparate impact on minorities because it will deprive minorities of affordable housing opportunities, and therefore, violate the Fair Housing Act.”

A memo dated February 2, 2009, has been prepared by the Metro Legal Department regarding the impact of the proposed zoning on compliance with the Fair Housing Act (FHA) and the Religious Land Use and Institutionalized Persons Act (RLUIPA). A copy of the memo has been included with the staff report packet sent to the Planning Commission. The Legal Department has advised the Metro Council not to adopt this rezoning request and the accompanying request to cancel the Park Preserve PUD. At the first reading for these ordinances, the Council voted to indefinitely defer both requests.





## Metro Planning Commission Meeting of 2/12/2009

### PUBLIC WORKS RECOMMENDATION

#### Maximum Uses in Existing Zoning District: RM9/PUD

Land Use (ITE Code)	Acres	Density	Total Number of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached (210)	260.43	N/A	416	3860	301	387

\*Number of single-family lots currently approved in PUD.

#### Maximum Uses in Existing Zoning District: RM9/PUD

Land Use (ITE Code)	Acres	Density	Total Number of Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Residential Condo/Townhome (230)	260.43	N/A	327*	1804	134	159

\*Number of multi-family units currently approved in PUD

#### Maximum Uses in Proposed Zoning District: RS80

Land Use (ITE Code)	Acres	Density	Total Number of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached (210)	260.43	0.46	120	1230	94	127

#### 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
--	260.43		-623	-4434	-341	-419

### LEGAL DEPARTMENT RECOMMENDATION

Conclusion and Legal Recommendation of the February 2, 2009, memo sent to the Metro Council:

In summary, NAHFH has announced its intention and taken steps to build a neighborhood of low-to-moderate-income housing on its property in compliance with the current zoning and existing PUD, NAHFH is protected under federal law by the Fair Housing Act and RLUIPA, there is widespread community opposition to NAHFH's plans, and this opposition resulted in the rezoning legislation under consideration, BL2009-384 and BL2009-385. (While BL2009-374 was also filed in an apparent response to this issue, as currently written, its adoption would not impact NAHFH's ability to carry out its project.) As a result, while the legislation may be neutral on its face, evidence that these bills are being enacted specifically to target NAHFH and its proposed use of the property, will be a relevant consideration for a federal



## Metro Planning Commission Meeting of 2/12/2009

court. It is the advice of the Department of Law that the Council not adopt this legislation, BL2009-384 and BL2009-385. The FHA “protects the right of individuals to live in the residence of their choice in the community.” *Larkin v. State of Mich. Dept. of Social Services*, 89 F.3d 285, 291 (6th Cir. 1996). Even if the proposed legislation was not found to be “intentionally” discriminatory under the FHA, a court is likely to find that it has a disparate impact on a protected class. It is also likely that a court would find that this legislation violates RLUIPA. This legislation, BL2009-384 and BL2009-385, could endanger the approval by the Court of the proposed, pending consent decree of the Metropolitan Government with the Department of Justice, as well as result in additional litigation against the Metropolitan Government by NAHFH and the DOJ resulting in additional fines and damages being awarded against the Metropolitan Government, as well as further injunctive relief.

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### **METRO SCHOOL BOARD REPORT**

#### **Projected Student Generation**

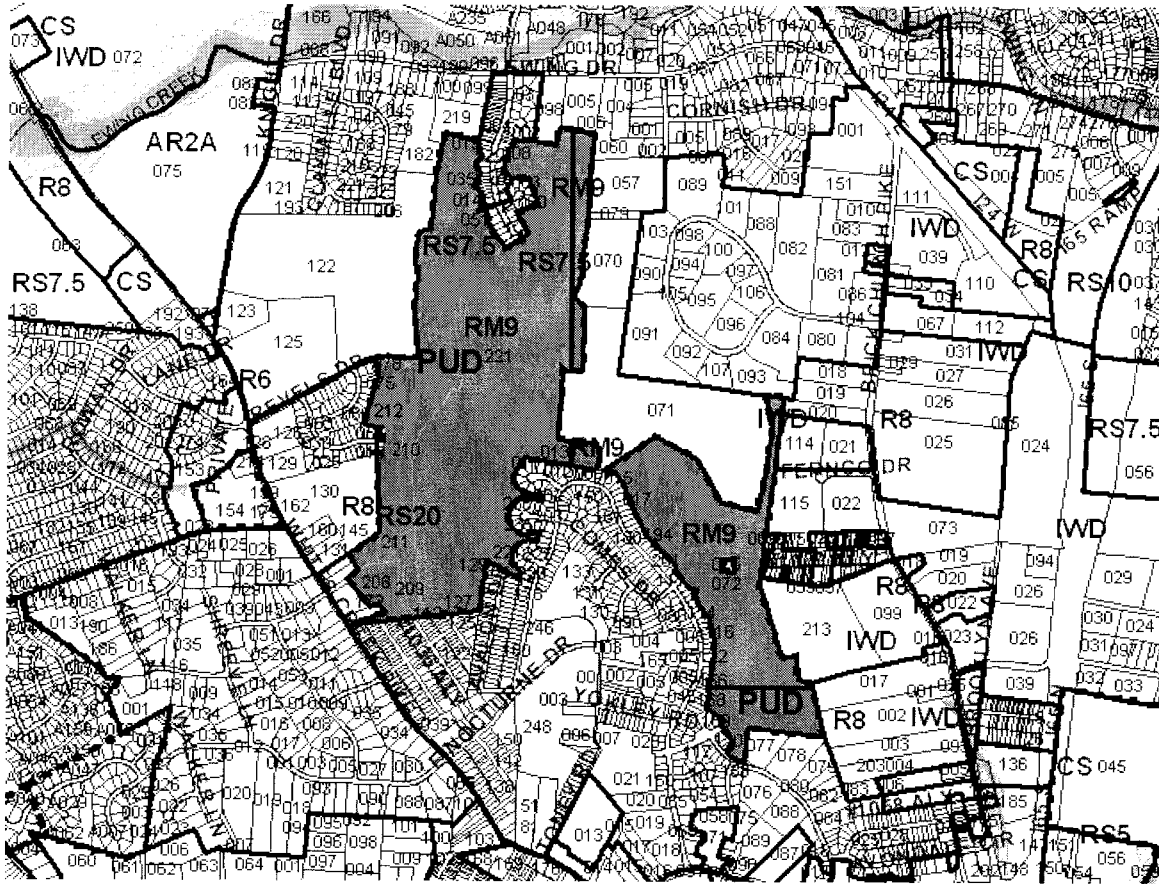
As this request to change from a multi-family to a single-family district represents a down zoning, the number of expected students to be generated would be less than could be generated under current zoning.

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### **STAFF RECOMMENDATION**

Staff recommends disapproval of the zone change request because the RS80 zoning district is not consistent with RM land use policy. In addition, the Legal Department has advised the Metro Council not to adopt this legislation.

**SEE NEXT PAGE**



**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



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

**Planned Unit Development 2002P-003-001**  
**Park Preserve PUD Cancellation**  
Zone Change No. 2009Z-005PR-001  
BL2009-384  
2 – Harrison  
1 – Gentry  
Councilmember Frank Harrison, applicant. Property owners are Habitat for Humanity and Harding Corporation.

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

Bernards  
*Disapprove*

**APPLICANT REQUEST**  
**PUD Cancellation**

**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 Multi-Family Residential (RM9) and proposed for Single-Family Residential (RS80).**

**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 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 multi-family units are designed as one, two and three-story buildings ranging from seven to ten units per building.

**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





## Metro Planning Commission Meeting of 2/12/2009

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.

### **PUD 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.

#### 2002 PUD Plan

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.

#### 2003 Revision

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.

#### 2003 Community Plan Update

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



## Metro Planning Commission Meeting of 2/12/2009

### 2008 Revision

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.

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.

### 2008 Periodic Review

At its meeting of December 11, 2008, the Planning Commission conducted a periodic review of the Park Preserve PUD under Section 17.40.120.H of Zoning Code. The Commission found that the PUD was active due to the specific and unique aggregate of actions taken by the current owner as presented in the oral presentations and written record.

### STAFF ANALYSIS

The RM9 district, together with the requirements and limitations of the residential PUD overlay district, are consistent with the Residential Medium (RM) land use





## Metro Planning Commission Meeting of 2/12/2009

policy and other policies as designated by the Bordeaux-Whites Creek Community Plan for this property.

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 proposed to be completely built-out, and instead proposed to be 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 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
- ***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 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 assume that 15% of the area would be used for roads and other infrastructure.

Additionally, the owner of the property has made the Planning Commission aware of FHA and equal housing issues. In a November 11, 2008, memorandum to the



## Metro Planning Commission Meeting of 2/12/2009

Planning Commission, the property owner, the Nashville Area Habitat for Humanity (NAHFH) wrote:

“NAHFH has proclaimed its intent to construct homes affordable to families earning 50% or less of the median family income, ninety-three percent (93%) of which are minorities.... Any action taken by the MPC in an effort to frustrate NAHFH’s ability to construct homes for its intended residents on the Property would have a disparate impact on minorities because it will deprive minorities of affordable housing opportunities, and therefore, violate the Fair Housing Act.”

A memo dated February 2, 2009, has been prepared by the Metro Legal Department regarding the impact of the proposed zoning on compliance with the Fair Housing Act (FHA) and the Religious Land Use and Institutionalized Persons Act (RLUIPA). A copy of the memo has been included with the staff report packet sent to the Planning Commission. The Legal Department has advised the Metro Council not to adopt this request to cancel the Parks Preserve PUD and the accompanying rezoning request from RM9 to RS80. At the first reading for these ordinances, the Council voted to indefinitely defer both requests.

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### **LEGAL DEPARTMENT RECOMMENDATION**

Conclusion and Legal Recommendation of the February 2, 2009 memo sent to the Metro Council:

In summary, NAHFH has announced its intention and taken steps to build a neighborhood of low-to-moderate-income housing on its property in compliance with the current zoning and existing PUD, NAHFH is protected under federal law by the Fair Housing Act and RLUIPA, there is widespread community opposition to NAHFH’s plans, and this opposition resulted in the rezoning legislation under consideration, BL2009-384 and BL2009-385. (While BL2009-374 was also filed in an apparent response to this issue, as currently written, its adoption would not impact NAHFH’s ability to carry out its project.) As a result, while the legislation may be neutral on its face, evidence that these bills are being enacted specifically to target NAHFH and its proposed use of the property, will be a relevant consideration for a federal court. It is the advice of the Department of Law that the Council not adopt this legislation, BL2009-384 and BL2009-385. The FHA “protects the right of individuals

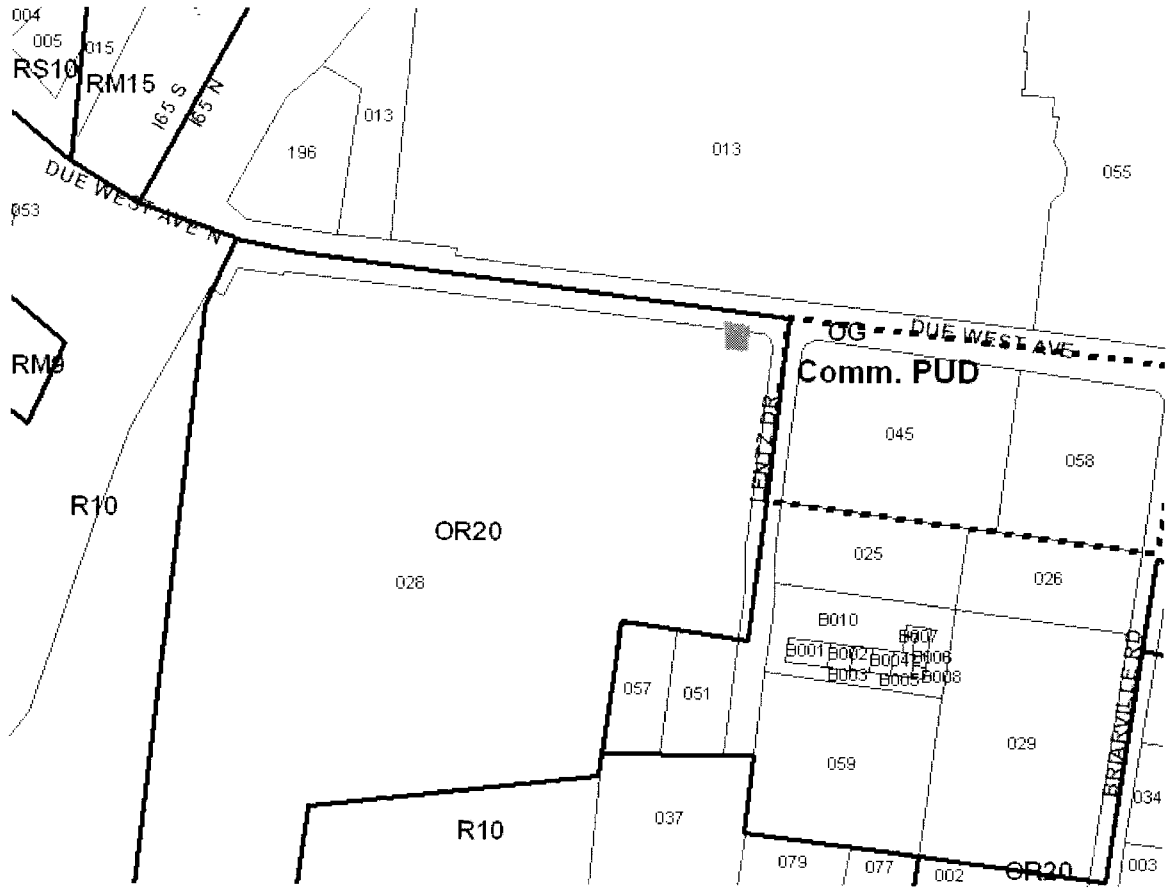


## Metro Planning Commission Meeting of 2/12/2009

to live in the residence of their choice in the community.” *Larkin v. State of Mich. Dept. of Social Services*, 89 F.3d 285, 291 (6th Cir. 1996). Even if the proposed legislation was not found to be “intentionally” discriminatory under the FHA, a court is likely to find that it has a disparate impact on a protected class. It is also likely that a court would find that this legislation violates RLUIPA. This legislation, BL2009-384 and BL2009-385, could endanger the approval by the Court of the proposed, pending consent decree of the Metropolitan Government with the Department of Justice, as well as result in additional litigation against the Metropolitan Government by NAHFH and the DOJ resulting in additional fines and damages being awarded against the Metropolitan Government, as well as further injunctive relief.

### **STAFF RECOMMENDATION**

Staff recommends disapproval of the request to cancel the Park Preserve PUD. The existing PUD and base zoning are consistent with and support the residential goals and objectives outlined by the Bordeaux-Whites Creek Community Plan. The current PUD plan will 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. In additions, through the use of the cluster-lot provisions of the Zoning Code, the design of the PUD protects the environmentally sensitive areas on these properties. Further, the Legal Department has advised the Metro Council not to adopt this legislation.



**2009Z-007PR-001**  
 Map: 051-00 Parcel: part of 028  
 Madison Community Plan  
 Council District 4 – Michael Craddock



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

**Zone Change 2009Z-007PR-001**  
BL2009-396  
4 - Craddock  
3 - North  
Ragan Smith Associates, applicant for Christian Schools, Inc., owner

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

Swaggart  
*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

INTERSTATE 65

DRIVE

LS

RIGHT-OF-WAY

N 78°18'05" W 490.5' TO INTERSECTION

72' R.O.W.

DUE WEST AVE.

50' R.O.W.

(R.O.W. VARIES)

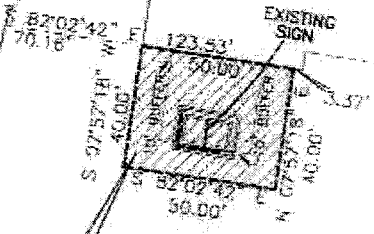
RIGHT-OF-WAY

A=159.85'  
R=3891.70'  
Δ=2°21'12"  
B= S 80°40'42" E  
CD= L=159.84'  
I=70.94'

EXISTING DRIVE

EXISTING DRIVE

PARKING AREA



EXISTING SIGN

AREA TO BE REZONED TO  
CS (COMMERCIAL SERVICE)  
2,000 SQ. FT. ±  
OR 0.05 ACRES ±

GRASS AREA

EXISTING DRIVE

(ZONED - DR20)  
MAP 51, PARCEL 28

CHRISTIAN SCHOOLS, INC.  
GOODPASTURE CHRISTIAN SCHOOL



## Metro Planning Commission Meeting of 2/12/2009

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.

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### **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.

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### **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.

**SEE NEXT PAGE**



# **FINAL PLAT SUBDIVISIONS**



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



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

**Subdivision 2009S-011-001**  
**Gammon Divide**  
11 - Jernigan  
4 - Glover  
Vickie Gammon, owner, Delle Land Surveying, surveyor

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

Bernards  
*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.

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**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.





# Metro Planning Commission Meeting of 2/12/2009

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

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

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., (0.035 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.



## Metro Planning Commission Meeting of 2/12/2009

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**OLD HICKORY UTILITY  
DISTRICT RECOMMENDATION**    Approved

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**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.

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**PUBLIC WORKS  
RECOMMENDATION**

No Exception Taken

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**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.

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**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.

**REVISIONS  
and FINAL SITE PLANS**







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

**Planned Unit Development 168-83P-001**  
**The Davenport (Revision Ph. II)**  
29 - Wilhoite  
6 - Johnson  
Conesco Group, Inc., applicant for DMA Properties 2, LLC, owner

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

Swaggart  
*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.





## Metro Planning Commission Meeting of 2/12/2009

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### **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).

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### **STORMWATER RECOMMENDATION**

Approved

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### **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.

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### **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



## Metro Planning Commission Meeting of 2/12/2009

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.