

Metropolitan Planning Commission

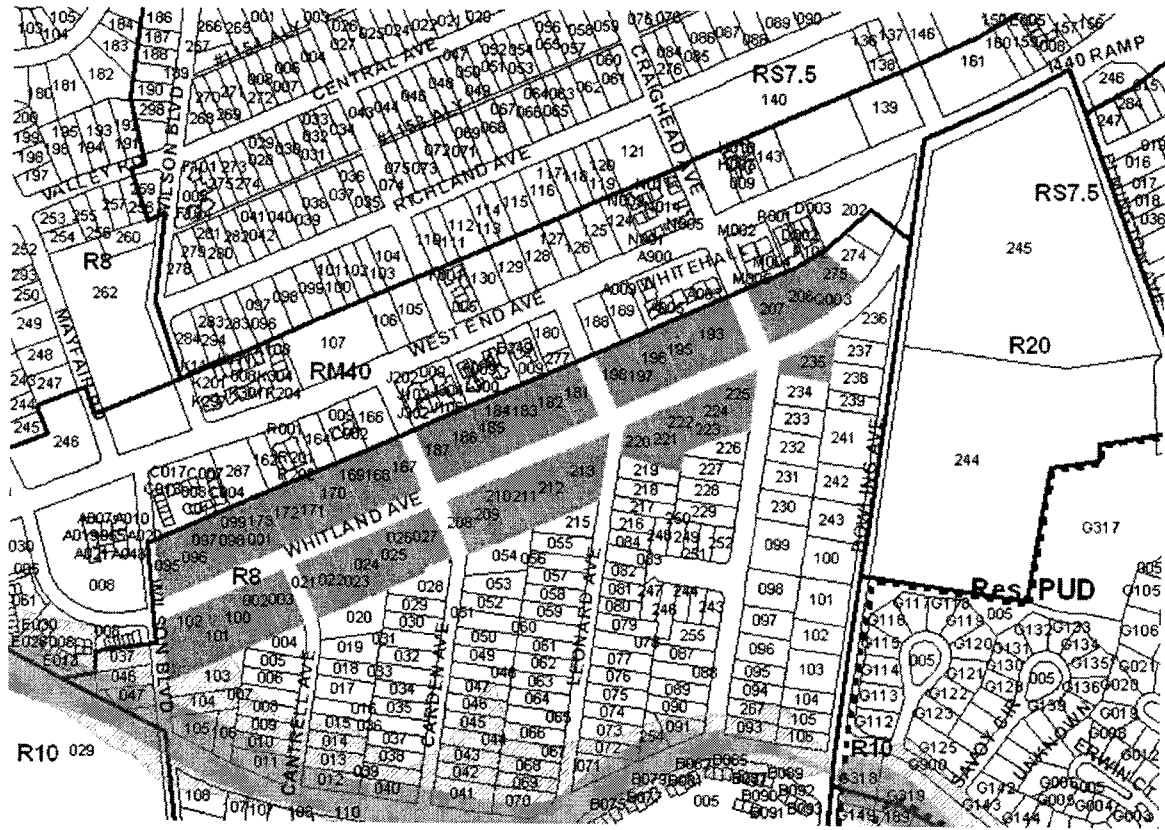


Staff Reports

February 26, 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



2008Z-079U-10

Whitland Avenue

Map: 103-16 Parcels: various

Map: 104-09, 104-09-Q Parcels: various

Green Hills/Midtown Community Plan

Council District 24 – Jason Holleman



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

Zone Change 2008Z-079U-10
BL2008-319
24 – Holleman
8 - Fox
Councilmember Jason Holleman
Deferred from the December 11, 2008, Planning Commission meeting.

Staff Reviewer
Staff Recommendation

Logan
Approve

APPLICANT REQUEST

A request to apply a Neighborhood Conservation Overlay for various properties on both sides of Whitland Avenue between Wilson Boulevard South and Bowling Avenue, zoned One and Two-Family Residential (R8) (19.61 acres).

Existing Zoning
R8 District

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

Deferral

This item was deferred in order to allow the residents of Whitland Avenue to discuss the proposed Neighborhood Conservation Overlay further. Councilmember Holleman held neighborhood meetings on November 5, 2008, and December 1, 2008.

PROPOSED OVERLAY DISTRICT

Section 17.36.120 of the Metro Zoning Ordinance recognizes Neighborhood Conservation Districts, along with Historic Preservation Districts and Historic Landmarks, as “Historic Districts.” These are defined as geographical areas which possess a significant concentration, linkage or continuity of sites, buildings, structures or objects which are united by past events or aesthetically by plan or physical development, and that meet one or more of the following criteria:

1. The district is associated with an event that has made a significant contribution to local, state or national history; or
2. It includes structures associated with the lives of persons significant in local, state or national history; or



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3. It contains structures or groups of structures that embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
4. It has yielded or may be likely to yield archaeological information important in history or prehistory; or
5. It is listed or is eligible for listing in the National Register of Historic Places.

The Metro Historic Zoning Commission will review any new construction including additions, demolitions, or relocation of structures.

GREEN HILLS/MIDTOWN COMMUNITY PLAN POLICY

Residential Low Medium (RLM)

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

Consistent with Policy?

Yes. The proposed Whitland Avenue Neighborhood Conservation Overlay does not change the base zoning. Further, the proposed overlay will serve to preserve the distinctive character of Whitland Avenue. This area was designated as Worthy of Conservation in the 2005 Green Hills/Midtown Community Plan. Whitland Avenue is also part of a larger area that is listed on the National Register of Historic Places.

Metro Historic Zoning Commission Recommendation

At its meeting on February 18, 2009, the Metro Historic Zoning Commission (MHZC) adopted revised design guidelines for the proposed Whitland Avenue Neighborhood Conservation District.

The design guidelines were revised to clarify:

- what is reviewed and not reviewed by the MHZC in a Neighborhood Conservation District;
- when it may be appropriate to add front or side dormers;
- the size and height of rear ridge raised dormers;



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- when it may be appropriate to construct a side addition; and
- when it may be appropriate to construct a front porch addition.

PUBLIC WORKS RECOMMENDATION

No Exceptions Taken

METRO SCHOOL BOARD REPORT

Projected student generation

As this request to apply a Neighborhood Conservation Overlay does not change the underlying zone district, the number of expected students to be generated is zero.

STAFF RECOMMENDATION

Staff recommends approval because the request is consistent with the applicable land use policies and the intent of Section 17.36.120 of the Metro Zoning Code.

NO SKETCH



Project No.	Zone Change 2008Z-088T
Name	Mobile Vendors: Cleveland Street
Council Bill	BL2008-325
Council District	5 - Murray
School District	N/A
Requested by	Councilmember Pam Murray
Deferral	<i>Deferred from the February 12, 2009, Planning Commission meeting.</i>
Staff Reviewer	Regen
Staff Recommendation	<i>Disapprove</i>

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.

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 (BL2009-410) has been drafted and introduced by Councilmember Murray on February 18, 2009. This 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).

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 (BL2008-325)

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



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Analysis

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’”.

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.

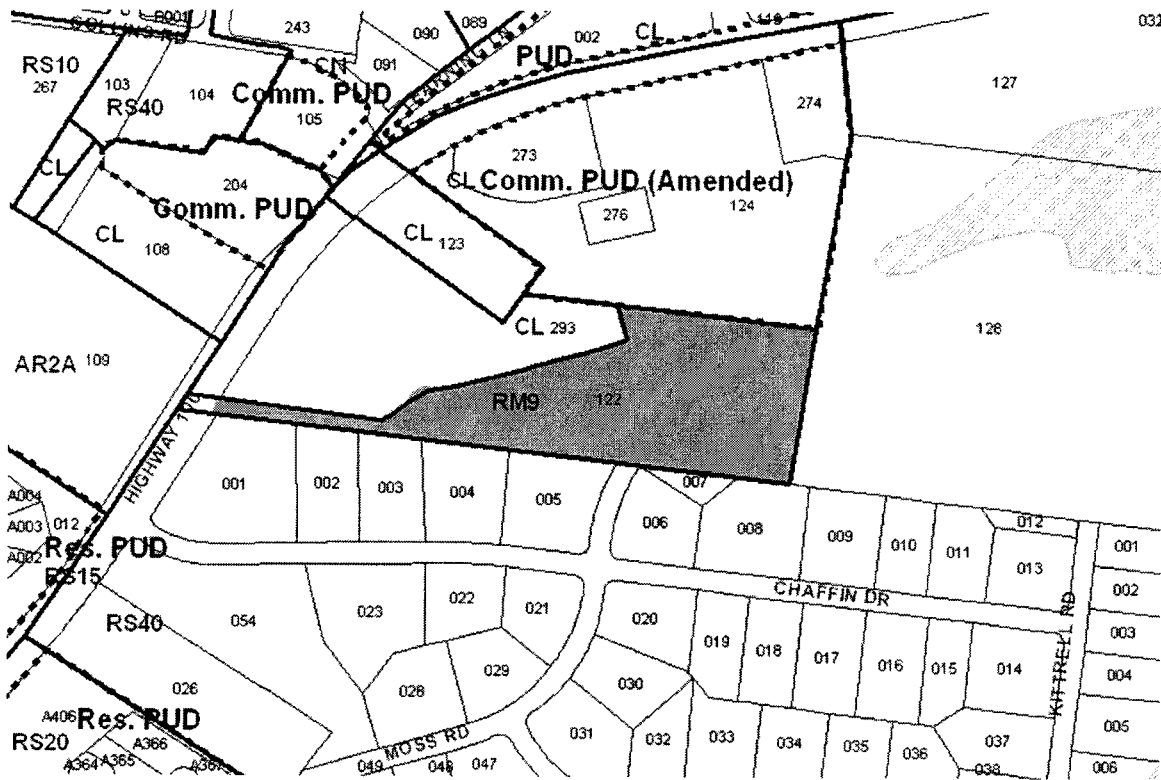
In addition to historic overlays, Cleveland Street runs through three different Detailed Neighborhood Design Plans (DNDPs) in the Subarea 5 Plan: Cleveland Park West, Cleveland Park East, and Greenwood. All three plans were adopted by the Planning Commission in 2005 after community involvement in their 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.

SEE NEXT PAGE



2008Z-042G-06

Map: 155-00 Parcels:122, Part of 293

Bellevue Community Plan

Council District 35 – Bo Mitchell



Project No.
Council Bill
Council District
School District
Requested by

Zone Change 2008Z-042G-06

BL2008-182
35 - Mitchell
9 - Coverstone

West Meade Realtors, applicant for Betty French and Mary and James Johnson, owners

Deferred from the May 22, 2008, Planning Commission meeting.

Deferral

Staff Reviewer
Staff Recommendation

Swaggart
Approve with condition

APPLICANT REQUEST

A request to amend a previously approved Council Bill (BL2005-543) to remove condition #5 restricting access to Moss Road for property located at Highway 100 (unnumbered) zoned Multi-Family Residential (RM9), approximately 775 feet south of Collins Road (6.03 acres).

Zoning District
RM9 District

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

REQUEST

This is a request to amend a previously approved Council Bill (BL2005-543) to remove a condition restricting access to Moss Road. The bill, adopted in 2005, authorized the rezoning of two properties from Commercial Limited (CL) and Office Limited (OL) to single-family, two-family and multi-family residential (RM9), and included conditions. The conditions required that prior to the issuance of any building permits an updated Traffic Impact Study (TIS) be submitted, or that certain traffic conditions would be required. One of those conditions (#5) restricted access to Moss Road.

The conditions of BL2005-543 including the restriction of access to Moss Road originated from a previous zoning of the property. In 2004 Council approved a zoning of parcel 121 from Single-Family Residential (RS40) to Commercial Limited (CL) and Office Limited (OL). A TIS was performed and the adopting ordinance (BL2003-67) had numerous traffic conditions which were a direct outcome of the TIS.

Analysis

The applicant has requested that BL2005-543 be amended to remove condition # 5 which restricts access from Moss Road. This condition was based on the TIS for the rezoning to Commercial Limited and Office Limited. The



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bill requires that the applicant either submit an updated TIS or meet the conditions from the earlier TIS.

Since Moss Road is in a residential district, it is appropriate to restrict commercial property from accessing Moss Road. Now that the property is zoned for residential uses, a secondary access *may* be feasible to Moss Road. Primary access to the property must continue to be from Highway 100. Furthermore, development of the property will require a Traffic Impact Study (TIS). If an updated TIS warrants access to Moss Road, then secondary access may be permitted.

PUBLIC WORKS RECOMMENDATION

A TIS will be required at development to address any changes in access that have been previously conditioned.

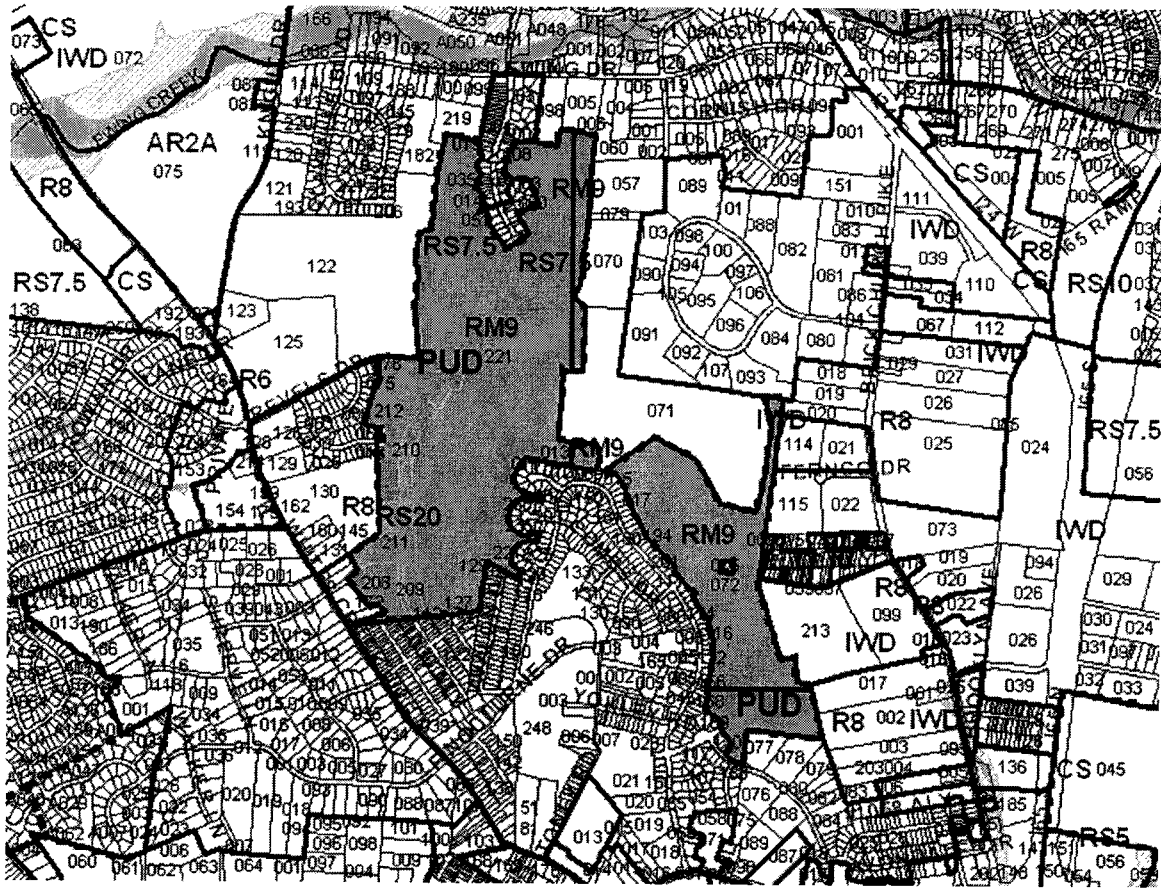
STAFF RECOMMENDATION

Staff recommends that the request be approved with the condition that primary access for any development permitted by the current zoning must be provided from Highway 100 and that, based on the findings of the TIS, a secondary access may be permitted from Moss Road.

CONDITION

1. Any future development under the RM9 zoning shall have its primary access from Highway 100, and based on the findings of the TIS, a secondary access may be permitted from Moss Road.

SEE NEXT PAGE



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.

Deferral

Deferred from the February 12, 2009, Planning Commission meeting

Staff Reviewer
Staff Recommendation

Bernards
Disapprove

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.

**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.

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



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square feet. Section 17.40.670 of the Metro Zoning Code allows that a single-family structure may be constructed on 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.



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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



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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.

METRO SCHOOL BOARD REPORT

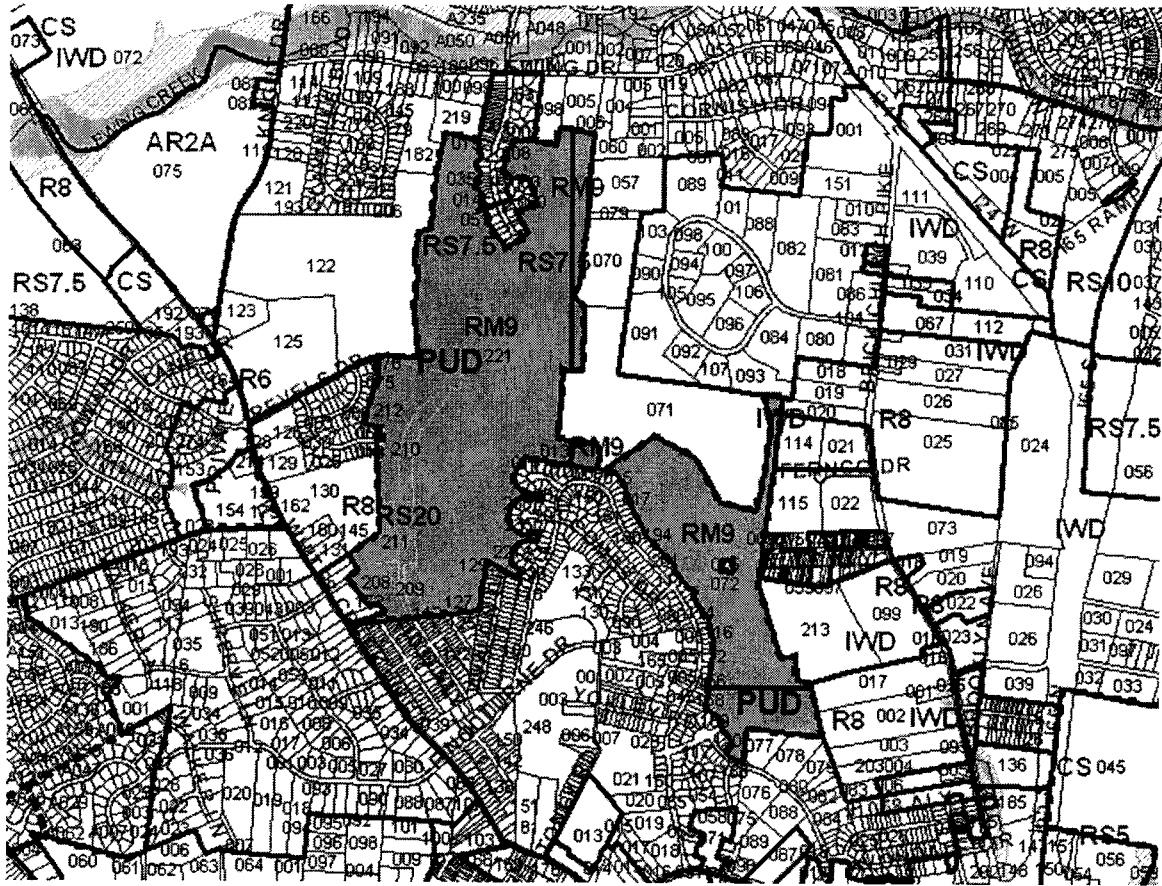
Projected Student Generation

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.

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.

Deferral

Deferred from the February 12, 2009, Planning Commission meeting

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

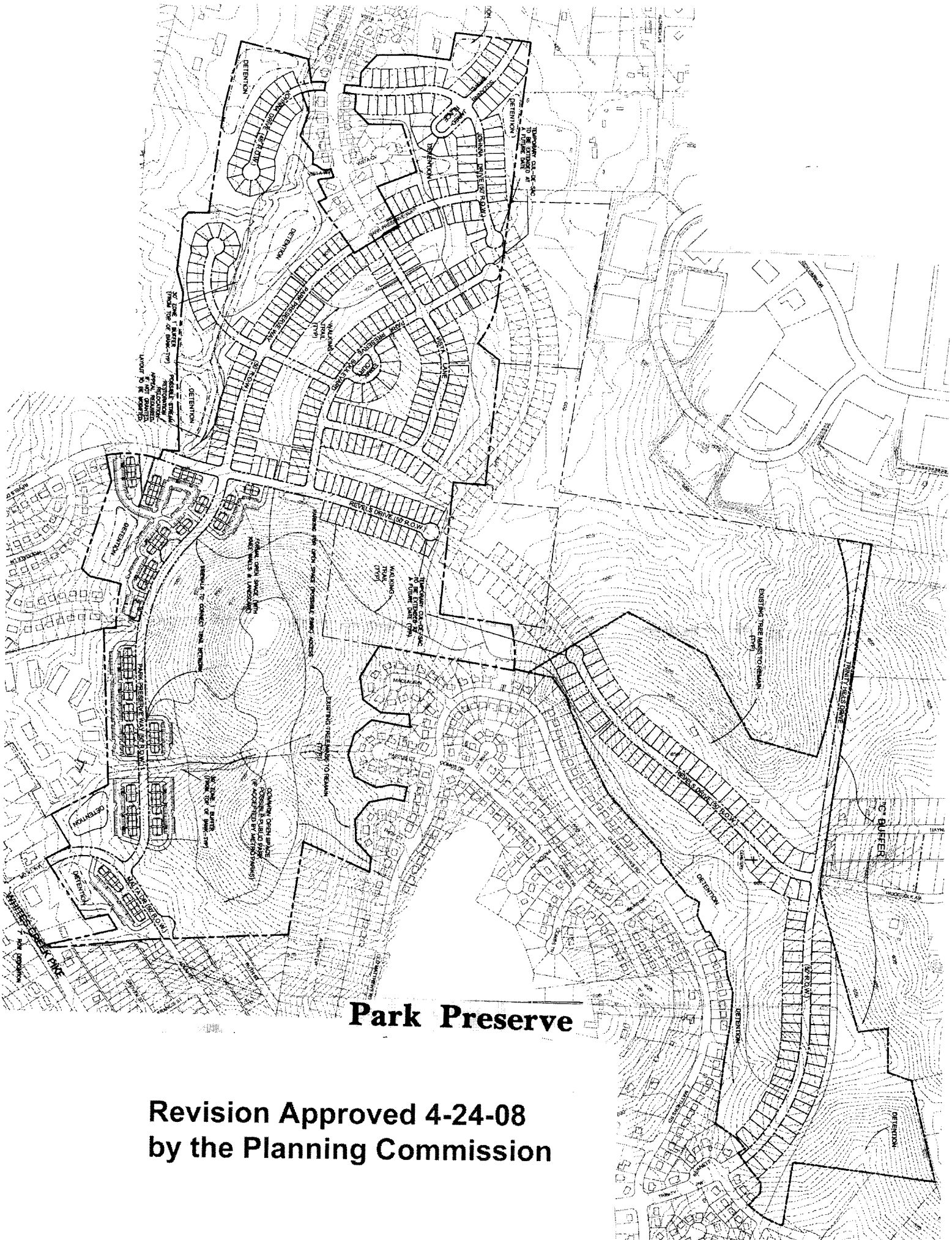
The Council approved plan for the Park Preserve PUD, as revised by the Planning Commission, consists of both single-family and multi-family units on 260.43 acres. The PUD is designed to protect the environmental features of the site and fit into the existing residential fabric of the surrounding area 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



Park Preserve

Revision Approved 4-24-08
by the Planning Commission



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

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



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2008 Revision

Residential Medium (RM) land use policy to the PUD site and the surrounding land. The zoning districts in place at the time of the plan's adoption included RS7.5, R8 and RM9, which support densities between 4 and 9 units an acre.

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

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.



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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 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.



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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 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.

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



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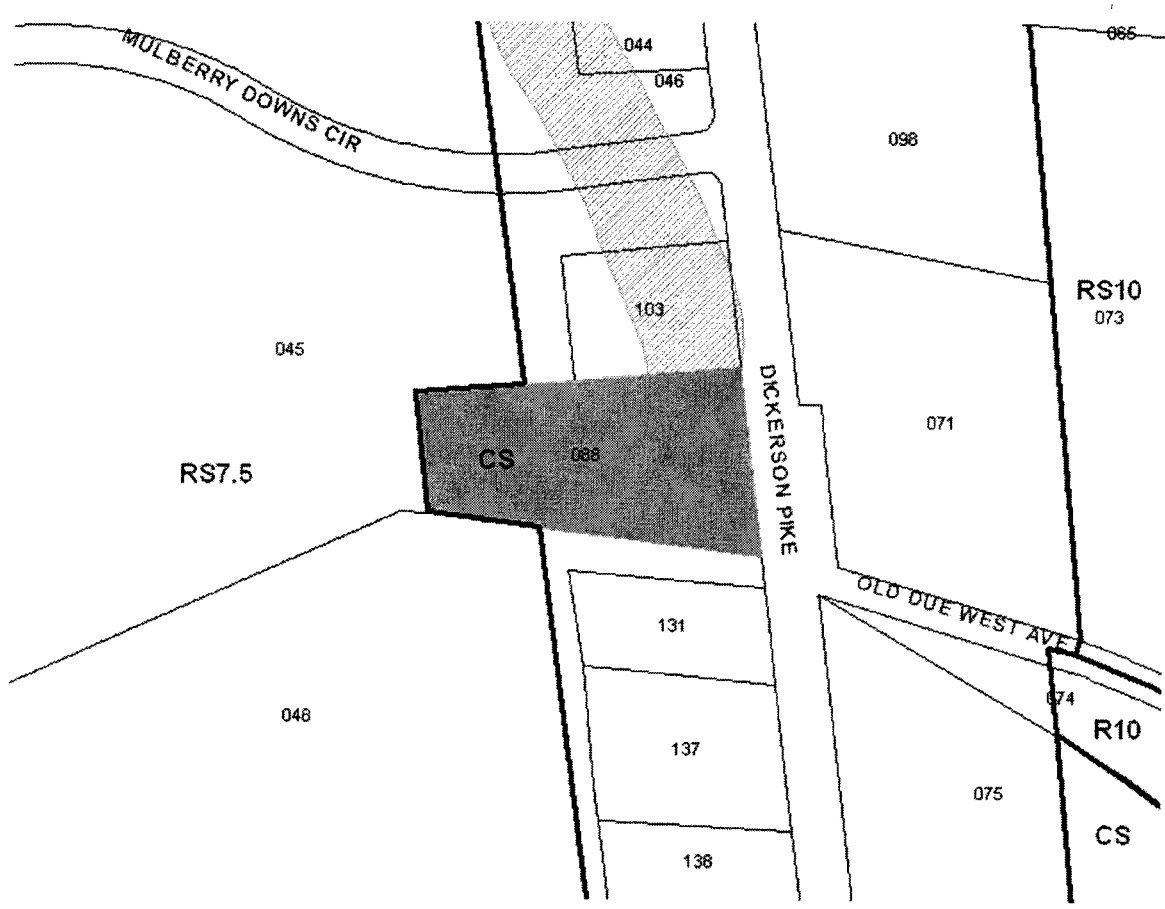
court. It is the advice of the Department of Law that the Council not adopt this legislation, BL2009-384 and BL2009-385. The FHA “protects the right of individuals to live in the residence of their choice in the community.” *Larkin v. State of Mich. Dept. of Social Services*, 89 F.3d 285, 291 (6th Cir. 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.

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.

SEE NEXT PAGE

SPECIFIC PLANS



2009SP-003-001
Anchor Property Holdings
Map: 050-00 Parcel: 088
Parkwood/Union Hill Community Plan
Council District 3 – Walter Hunt



Project No.	Zone Change 2009SP-003-001
Project Name	Anchor Property Holdings SP
Council Bill	BL2009-388
Council District	3 - Hunt
School Board District	3 - North
Requested By	Anchor Property Holdings LLC, applicant/owner
Staff Reviewer	Sexton
Staff Recommendation	<i>Approve with conditions</i>

APPLICANT REQUEST
Preliminary SP

A request to change from Commercial Service (CS) to Specific Plan-Auto (SP-A) zoning for property located at 3502 Dickerson Pike, approximately 3,255 feet north of Doverside Drive (2.88 acres), to permit wrecker service and automobile repair uses.

Existing Zoning
CS District

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

Proposed Zoning
SP-A District

Specific Plan-Automobile 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 wrecker service and automobile repair uses.

**PARKWOOD -UNION HILL
COMMUNITY PLAN**

Community Center (CC)

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

SALLIE R. HICKS FAMILY, LLC.
OCD 20070425, PG 041308 RODCT
MAP 50, PCL 43 TAODCT
4509 ALCOTT DR C/O GEORGE HICKS
NASHVILLE, TN 37215

NASAR AZAD
DB 20030509, PG 63063 RODCT
MAP 50, PCL 103 TAODCT
3510 DICKERSON PK
NASHVILLE, TN 37207

ANCHOR PROPERTY HOLDINGS, LLC.
DB 00050120, PG 0001891 RODCT
MAP 50, PCL 48 TAODCT

ZONE "A" FLOOD
HAZARD AREA

DICKERSON PIKE (80')

EXISTING BUILDING
(9580 S.F.)

BLACKTOP

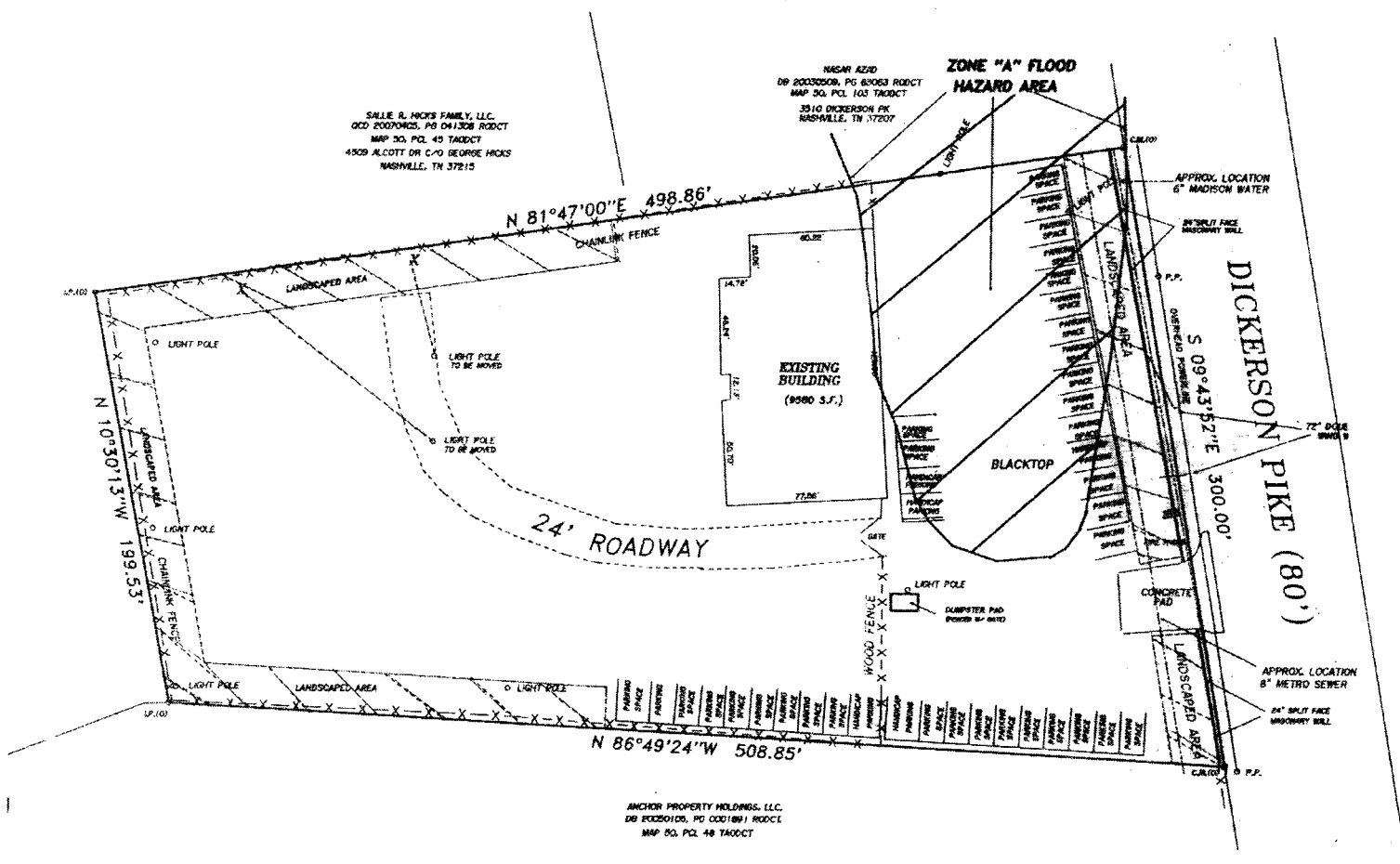
24' ROADWAY

N 81°47'00"E 498.86'

N 10°30'13"W 199.53'

N 86°49'24"W 508.85'

S 09°43'52"E 300.00'





Metro Planning Commission Meeting of 2/26/2009

Detailed Land Use Plan
Commercial (Com)

Commercial is intended for commercial uses only, with no residential uses. It is intended for mixed commercial buildings with shops at street level and office uses on the upper levels.

Consistent with Policy?

Yes. The proposed plan is consistent with the area's CC policy. While auto-oriented uses may not be conducive to creating a pedestrian-oriented streetscape, the applicant has designed a site plan that will bring the property closer to the goal of creating a pedestrian-oriented streetscape that is consistent with the intent of the CC policy.

PLAN DETAILS

Fencing

The site contains an existing one story, 9,580 square foot building. The existing building is proposed to remain and will continue to be used as a wrecker and towing facility that will include an automobile repair shop. The plan proposes a 24 foot driveway leading to the rear of building.

The front of the site is currently enclosed by a 5 foot chain link fence with barbed wire. Staff recommends that the applicant replace the chain link fence in the front of the property with a wrought iron fence that contains brick or stone pillars between the wrought iron fencing. The fence is required for insurance and permitting purposes, as all vehicles must be parked within a secured area.

Landscaping

Landscaping is proposed along the front of the property. A standard C Landscape Buffer Yard is required along the rear and side perimeters of the property adjacent to the properties zoned RS7.5. The applicant can choose to provide the landscape buffer on-site, or a permanent 30 foot wide landscape easement may be put in place that would utilize the heavily wooded areas on the adjacent properties. If the applicant opts to use landscape easements, the deeds will be required to be recorded prior to final site plan approval.

Parking and Access

The plan proposes a total of 48 parking spaces which meets the parking requirements of the zoning code. Main access to the site is located off Dickerson Pike. There is no secondary access to this property

Signs

Sign details were not included within this SP submittal. Staff is recommending that only one building mounted and one monument style sign be permitted. Building signs are attached directly to, or supported by brackets attached directly to a principal building. The building sign must not exceed 100 square feet in size. The monument style sign must not exceed 6 feet in height and can have a maximum



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sign area of 28 square feet. The base of the monument sign shall be constructed of brick or stone.

Signs must be externally lit with steady, stationary, down directed, and completely shielded light sources or may be internally illuminated or back-lit with a diffused or shielded light source. Sign backgrounds must be opaque, only letters and logos may be illuminated. The monument style sign may be lit from a ground lighting source.

In addition to signs prohibited by Section 17.32.050 of the Metro Zoning Ordinance, prohibited signs include roof mounted signs, pole mounted signs, billboards, and signs that flash, rotate, scintillate, blink, flicker or vary in intensity or color, including all electronic signs.

STORMWATER RECOMMENDATIONS

Preliminary approval.

Site is in non-compliance with Metro Stormwater requirements. Site is required to become compliant with Metro Stormwater Regulations prior to any final approvals.

FIRE MARSHAL RECOMMENDATION

Reviewed: Conditional Approval

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

PUBLIC WORKS RECOMMENDATION

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

Typical Uses in Existing Zoning District: CS

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
New Car Sales (841)	2.88	0.02	2,509	84	6	7

Typical Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Automobile Repair (942)	2.88	N/A	9,750	NA	29	33



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Maximum Uses in Existing Zoning District: CS

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Shopping Center (820)	2.88	0.60	75,271	5647	131	526

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
(942)	2.88	N/A	9,750	NA	29	33

STAFF RECOMMENDATION

Approval with conditions. The proposed SP plan is consistent with the CC policy of the Parkwood-Union Hill Community Plan.

CONDITIONS

1. This SP is limited to wrecker service and automobile repair.
2. The chain link fence in the front of the property shall be replaced with a wrought iron fence that contains brick or stone pillars between the wrought iron fencing prior to any Use and Occupancy permit.
3. A standard C Landscape Buffer Yard on-site or a 30 foot wide landscape easement on the adjacent properties shall be provided along the rear and side perimeters of the property adjacent to the properties zoned RS7.5. Landscape easement(s) used to meet this requirement shall be recorded prior to final site plan approval.
4. One building mounted and one monument style sign only shall be permitted. The building mounted sign shall not exceed 100 square feet in size. The monument style sign shall not exceed 6 feet in height and may have a maximum sign area of 28 square feet. The base of the monument style sign shall be constructed of brick or stone. Signs shall be externally lit with steady, stationary, down directed, and completely shielded light sources or may be internally illuminated or back-lit with a diffused or shielded light source. Sign backgrounds shall be opaque, only letters and logos may be illuminated. The monument style sign may be lit from a ground lighting source. In addition to signs prohibited by Section 17.32.050 of the Metro Zoning Ordinance, prohibited signs include roof mounted signs, pole mounted signs, billboards,



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and signs that flash, rotate, scintillate, blink, flicker or vary in intensity or color, including all electronic signs.

5. Prior to final site plan approval, the requirements of the Stormwater Division shall be completed, bonded or satisfied as specifically required by the Stormwater Division.
6. 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 CS zoning district as of the date of the applicable request or application.
7. A corrected copy of the preliminary SP plan incorporating the conditions of approval by the Planning Commission and Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.
8. 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.

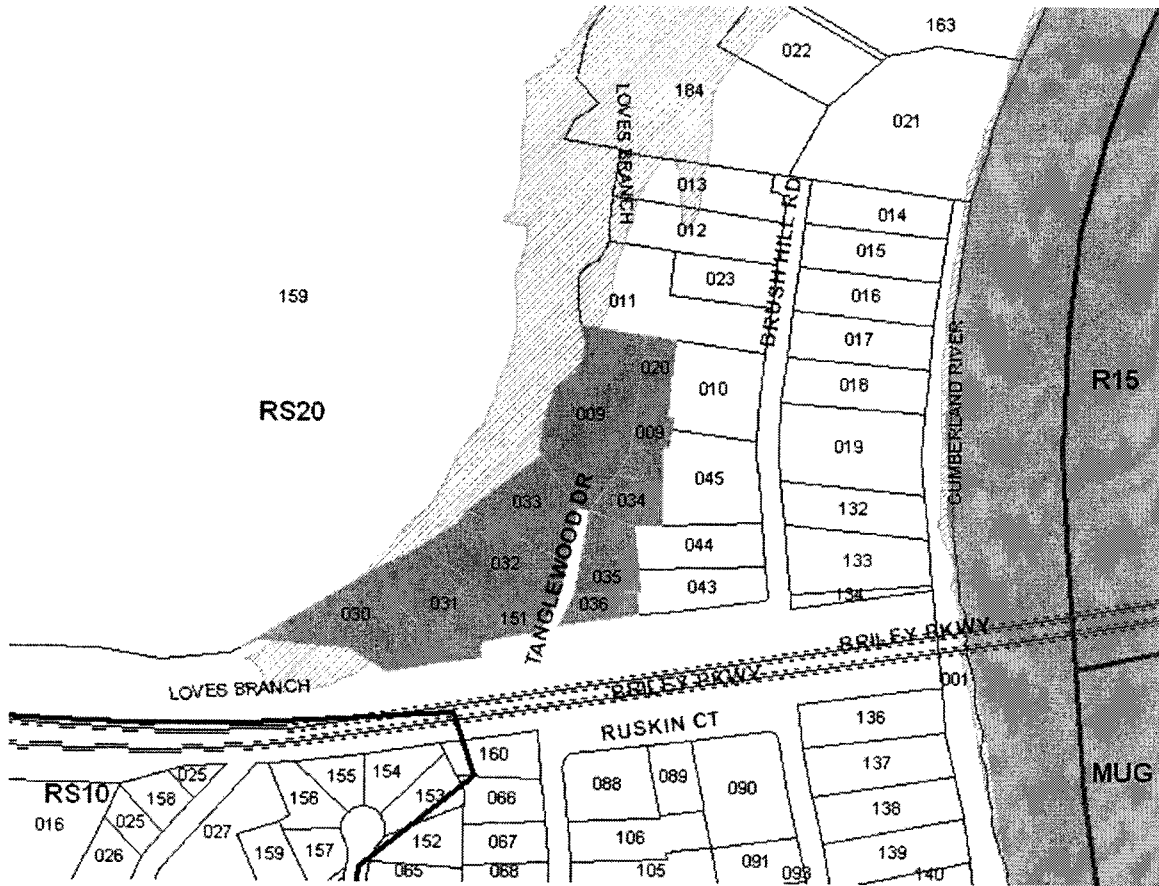


Metro Planning Commission Meeting of 2/26/2009

9. 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.

SEE NEXT PAGE

ZONING MAP AMENDMENTS



2009Z-001HP-001

Tanglewood Historic Preservation District

Map: 051-16 Parcels: 009, 009.01, 020

Map: 061-04 Parcels: 030, 031, 032, 033, 034, 035, 036, 151

Madison Community Plan

Council District 4 – Michael Craddock



Project Name	Tanglewood Historic Preservation District
Project No.	Zone Change 2009Z-001HP-001
Council Bill	BL2009-397
Council District	4 – Craddock
School District	3 – North
Requested by	Metropolitan Historic Zoning Commission for Councilmember Michael Craddock
Staff Reviewer	Sexton
Staff Recommendation	<i>Approve</i>

APPLICANT REQUEST

A request to apply a Historic Preservation Overlay District to 11 properties located at 4903, 4905, 4907, 4908, 4909, 4910, 4911, 4914, and 4918 Tanglewood Drive N., Tanglewood Drive N. (unnumbered) and Tangelwood Court (unnumbered), (6.71 acres), zoned Single-Family Residential (RS20).

Existing Zoning
RS20 District

RS20 requires a minimum 20,000 square foot lot and is intended for single-family dwellings at a density of 1.85 dwelling units per acre.

PROPOSED OVERLAY DISTRICT

Section 17.36.120 of the Metro Zoning Ordinance recognizes Neighborhood Conservation Districts, along with Historic Preservation Districts and Historic Landmarks, as “Historic Districts.” These are defined as geographical areas which possess a significant concentration, linkage or continuity of sites, buildings, structures or objects which are united by past events or aesthetically by plan or physical development, and that meet one or more of the following criteria:

1. The district is associated with an event that has made a significant contribution to local, state or national history; or
2. It includes structures associated with the lives of persons significant in local, state or national history; or
3. It contains structures or groups of structures that embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or



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4. It has yielded or may be likely to yield archaeological information important in history or prehistory; or
5. It is listed or is eligible for listing in the National Register of Historic Places.

The Metro Historic Zoning Commission will review any new construction including additions, demolitions, or relocation of structures.

MADISON 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. The Historic Preservation Overlay District is consistent with RL policy in this area. The RL policy supports the conservation of large established areas such as the Tanglewood area. Furthermore, multiple properties within the Tanglewood neighborhood are eligible for listing on the National Register of Historic Places.

Metro Historic Commission staff has determined that properties located at 4911, 4909, and 4907 Tanglewood Drive are eligible for listing in the National Register of Historic Places, which satisfies criteria five above. The remaining properties located at 4903, 4905, 4908, 4910, 4914, 4918 and two unnumbered properties located on Tanglewood Drive and Tanglewood Court all embody distinctive characteristics of a type, period or method of construction which satisfies criteria three above.

The Tanglewood District is significant in part due to its association with Robert Condra. The Tanglewood Historic District is the only known example of Condra's design of detached dwellings in a residential neighborhood in Nashville which satisfies criteria two above.

Metro Historic Zoning Commission Recommendation

At its meeting on February 18, 2009, the Metro Historic Zoning Commission (MHZC) approved the boundaries of the proposed Tanglewood Historic Preservation Overlay District as a historically significant geographic area in accordance with the criteria of Metro Code 17.36.120. Additionally, the MHZC adopted design guidelines for the district.



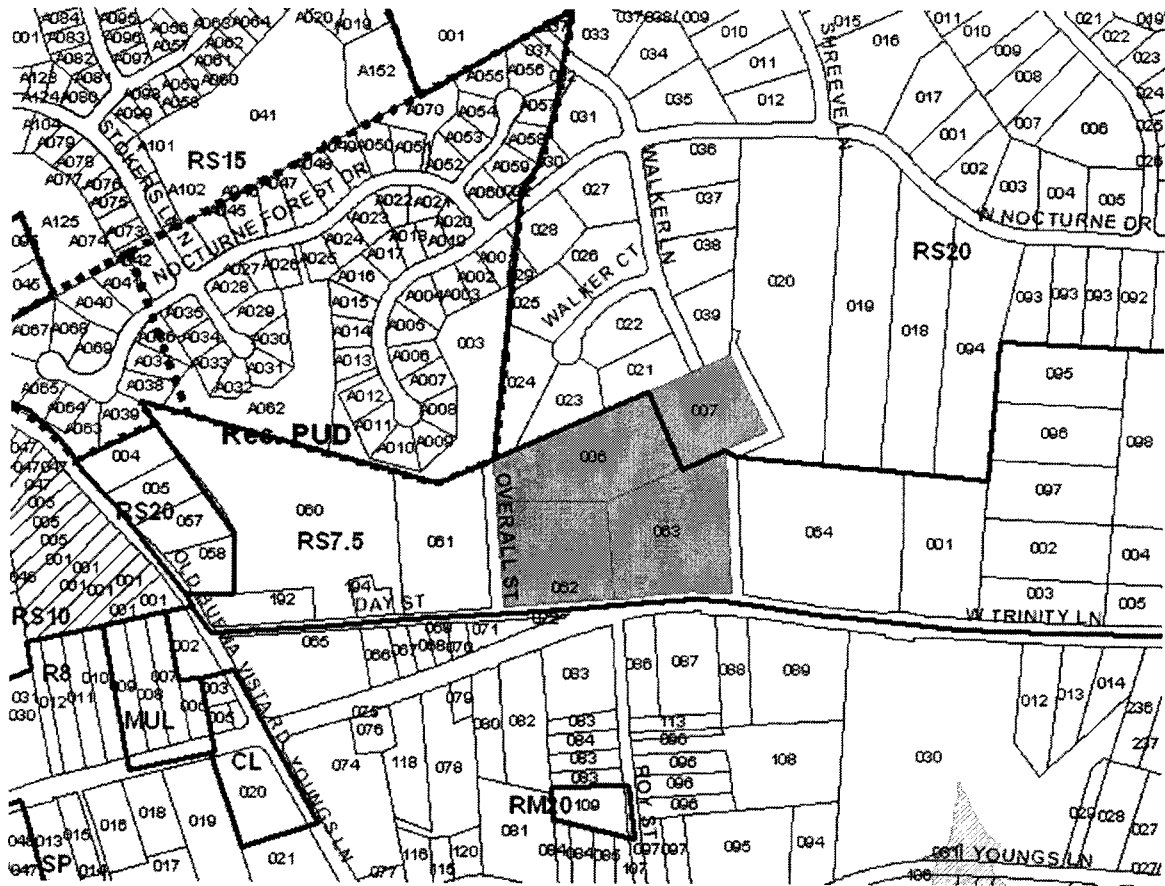
Metro Planning Commission Meeting of 2/26/2009

STAFF RECOMMENDATION

Staff recommends approval. The request is consistent with the Madison Community Plan and the intent of Section 17.36.120 of the Zoning Code.

SEE NEXT PAGE

CONCEPT PLANS



2007S-073U-03

Nocturne Village

Map: 070-03 Parcels: 006, 007

Map: 070-07 Parcels: 062, 063

Bordeaux/Whites Creek Community Plan

Council District 2 – Frank Harrison



Project No.	Subdivision 2007S-073U-03
Project Name	Nocturne Village
Council District	2 - Harrison
School Board District	1 - Gentry
Requested By	Nocturne Village Investors, owner, Wamble & Associates, surveyor
Staff Reviewer	Bernards
Staff Recommendation	<i>Approve with condition</i>

APPLICANT REQUEST
Concept Plan Extension

A request to extend concept plan approval for one year to May 10, 2010, for a 50-lot cluster subdivision on property located at Overall Street (unnumbered), 869 West Trinity Lane, and West Trinity Lane (unnumbered), northeast corner of West Trinity Lane and Overall Street, zoned Single-Family Residential (RS7.5) and (RS20).

Zoning

RS20 District

RS20 requires a minimum 20,000 square foot lot and is intended for single-family dwellings at a density of 1.85 dwelling units per acre.

RS7.5 District

RS7.5 requires a minimum 7,500 square foot lot and is intended for single-family dwellings at a density of 4.94 dwelling units per acre.

SUBDIVISION DETAILS

The concept plan for the 50 lot Nocturne Village subdivision was approved by the Planning Commission on May 10, 2007. The applicant is requesting an extension of the approval due to the difficulty the applicant is experiencing marketing this property.

A plan for 35 single-family lots was approved on this property in August of 2006. That plan originally was revised with the May 2007 concept plan to account for a stream buffer crossing the western boundary of the property and redesigned to eliminate double frontage lots along West Trinity Lane and lots without public street frontage. The adopted plan is well laid out with alley access and needed street connections.

Section 2-3.4.f of the Subdivision Regulations provide for an extension of one additional year for a concept plan:

- f. *Effective Period of Concept Plan Approval.* The approval of a concept plan of a minor subdivision shall

Approved May 10, 2007

121.001
MICHAEL R. JACOBSON
INSTRUMENT NO. 2005084000089
R.O.C. TENNESSEE

121.001
WILLIAM R. BAILEY ETUW
SHARON GUNTON
INSTRUMENT NO. 2005070000088
R.O.C. TENNESSEE

121.001
WILLIAM R. BAILEY ETUW
INSTRUMENT NO. 2005084000089
R.O.C. TENNESSEE

FRANK H. THOMAS, JR. &
ETUW & THOMAS TRS
INSTRUMENT NO. 2005084000089
R.O.C. TENNESSEE

121.001
MICHAEL R. JACOBSON
INSTRUMENT NO. 2005084000089
R.O.C. TENNESSEE

121.001
CHARLOTTE JONES
INSTRUMENT NO. 2005070000088
R.O.C. TENNESSEE

121.001
WILLIAM R. BAILEY ETUW
INSTRUMENT NO. 2005084000089
R.O.C. TENNESSEE

121.001
JAMES H. HARRIS, JR. &
ETUW
INSTRUMENT NO. 2005084000089
R.O.C. TENNESSEE

121.001
POINT GUARD CHURCH &
CHRISTIANITY CENTER, INC.
INSTRUMENT NO. 2005084000089
R.O.C. TENNESSEE

121.001
WILLIAM R. BAILEY ETUW
INSTRUMENT NO. 2005084000089
R.O.C. TENNESSEE





Metro Planning Commission Meeting of 2/26/2009

be effective for a period of one year and the approval of a concept plan for a major subdivision shall be effective for two years from the date of Planning Commission Approval. Prior to the expiration of the concept plan approval, such plan approval may be extended for one additional year upon request and if the Planning Commission deems such extension appropriate based upon progress made in developing the subdivision.

The applicant has made substantial efforts to market the property since the May 2007 approval. The price has been adjusted several times. Three offers have been received but were not followed through due to financing difficulties and unacceptable financing arrangements. The applicant has requested the additional year to continue marketing the property.

STAFF RECOMMENDATION

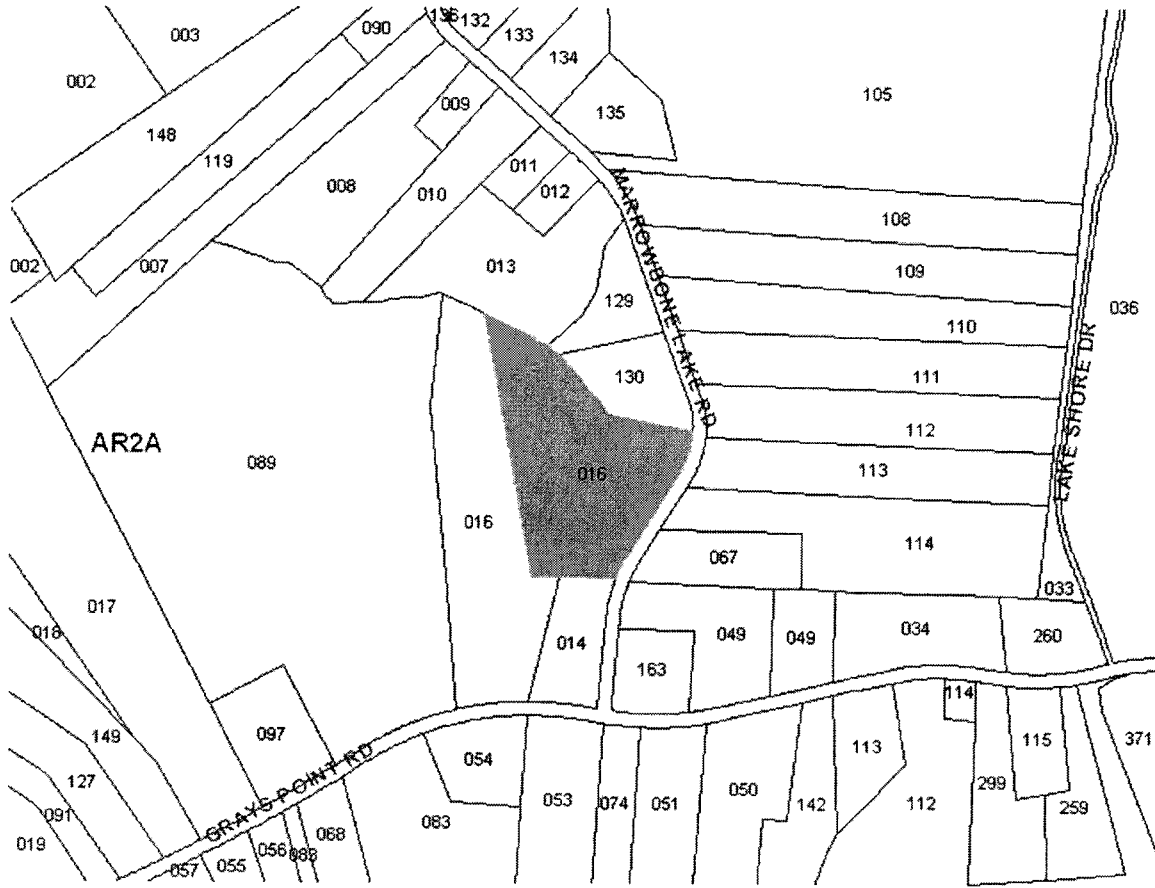
Staff recommends that approval of the concept plan be extended for one year to May 10, 2010, with the condition that all conditions of the May 10, 2007, approval of this concept plan remain with the extension.

CONDITION

1. All conditions of the May 10, 2007, approval of this concept plan remain with the extension.

SEE NEXT PAGE

FINAL PLAT SUBDIVISIONS



2009S-015-001
 Newlin's Marrowbone Lake Road Subdivision
 Map: 028-00 Parcels: 016.01
 Joelton Community Plan
 Council District 1 – Lonell R. Matthews, Jr.



Project Number	Subdivision 2009S-015-001
Project Name	Newlin's Marrowbone Lake Road Subdivision
Council District	1 - Matthews
School Board District	1 - Gentry
Requested By	Jeffrey A Newlin et ux, owners, Campbell, McRae and Associates Surveying Inc., surveyor
Staff Reviewer	Bernards
Staff Recommendation	<i>Approve with condition</i>

APPLICANT REQUEST
Final Plat

A request for final plat approval to create three lots on property located at 6025 Marrowbone Lake Road, approximately 480 feet north of Grays Point Road (9.31 acres), zoned Agricultural/Residential (AR2a).

ZONING
AR2a District

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

SUBDIVISION DETAILS

The plat will create three irregularly shaped lots in a predominantly rural area of the county. Because this area is not predominantly developed, a lot comparability analysis was not required by the Subdivision Regulations.

The land use policy for this property is Natural Conservation due to slopes in excess of 20%. Each lot has been identified as a critical lot. As the lots will be served by individual septic systems, the building envelopes for Lots 1 and 2 have been identified on the plat and the existing house is to remain on lot 3. The building envelopes are located in areas with less than 20% slope.

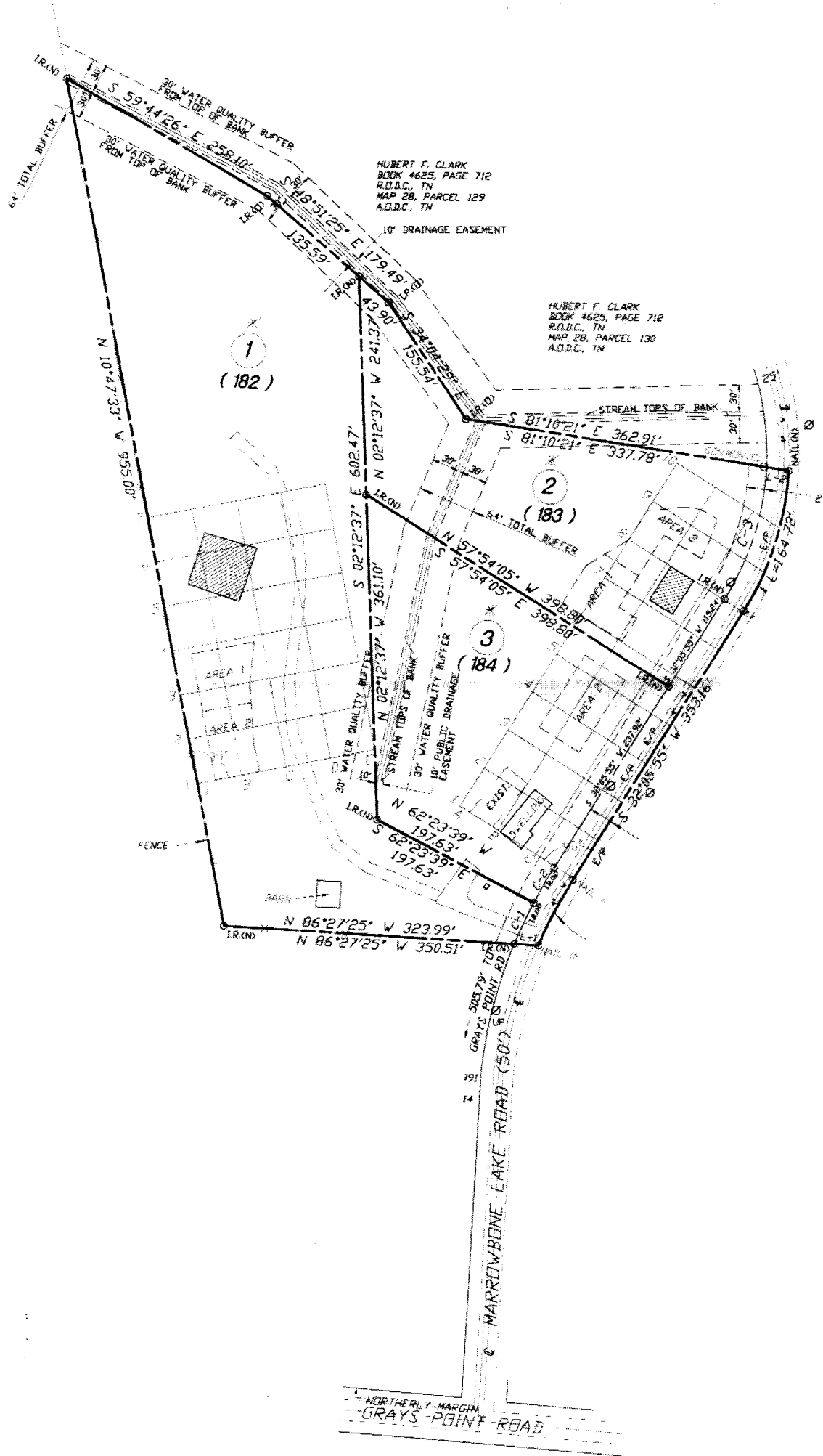
STORMWATER RECOMMENDATION

Approved

WATER SERVICES RECOMMENDATION

Approved

IN UNID



HUBERT F. CLARK
 BOOK 4625, PAGE 712
 R.D.D.C. TN
 MAP 28, PARCEL 129
 A.D.D.C. TN

10' DRAINAGE EASEMENT

HUBERT F. CLARK
 BOOK 4625, PAGE 712
 R.D.D.C. TN
 MAP 28, PARCEL 130
 A.D.D.C. TN

NORTHERLY MARGIN
 GRAYS POINT ROAD



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FIRE MARSHAL RECOMMENDATION

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.

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

All fire department access roads shall be 20 feet minimum width and shall have an unobstructed vertical clearance of 13.6 ft.

All dead end roads over 150 ft. in length require a 100 ft. diameter turnaround, this includes temporary turnarounds.

Temporary T-type turnarounds that last no more than one year shall be approved by the Fire Marshal's Office.

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

Fire department access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building is located not more than 150 ft (46 m) from fire department access roads

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.

PUBLIC WORKS RECOMMENDATION

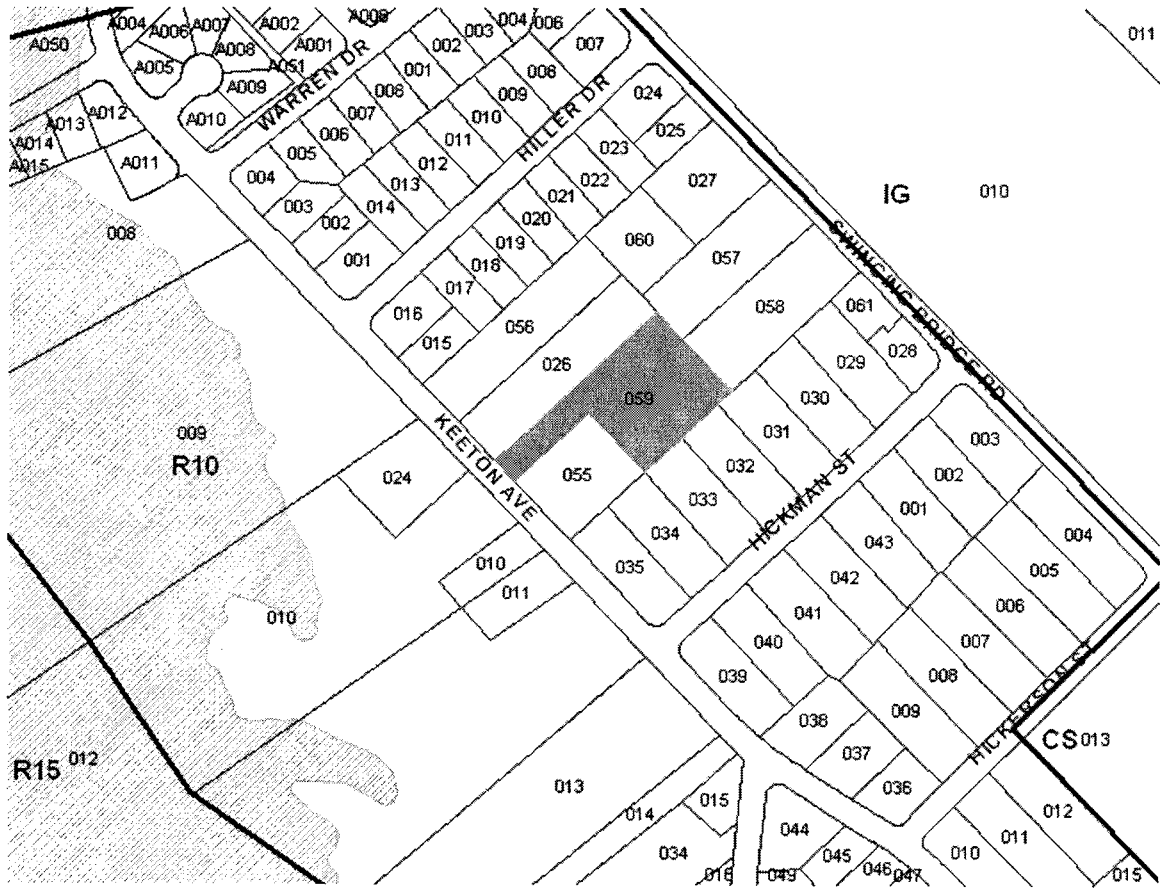
No Exception Taken

STAFF RECOMMENDATION

Staff recommends approval with a condition as the proposed plat meets the requirements of the Subdivision Regulations.

CONDITION

1. The requirements of the Fire Marshal shall be met prior to the recordation of the Final Plat.



2009S-016-001

Howard Trawick Property

Map: 043-04 Parcel: 059

Doneslon/Hermitage/Old Hickory Community Plan

Council District 11 – Darren Jernigan



Project No.	Subdivision 2009S-016-001
Project Name	Howard Trawick Property Subdivision
Council District	11 - Jernigan
School District	4 - Glover
Requested by	Howard Trawick, owner, Jason Smith, surveyor
Staff Reviewer	Bernards
Staff Recommendation	<i>Disapprove</i>

APPLICANT REQUEST

A request for final plat approval to create one lot on property located at 505 B Keeton Avenue, approximately 450 feet south of Hiller Drive (1.47 acres), zoned One and Two-Family Residential (R10).

ZONING

R10 District

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

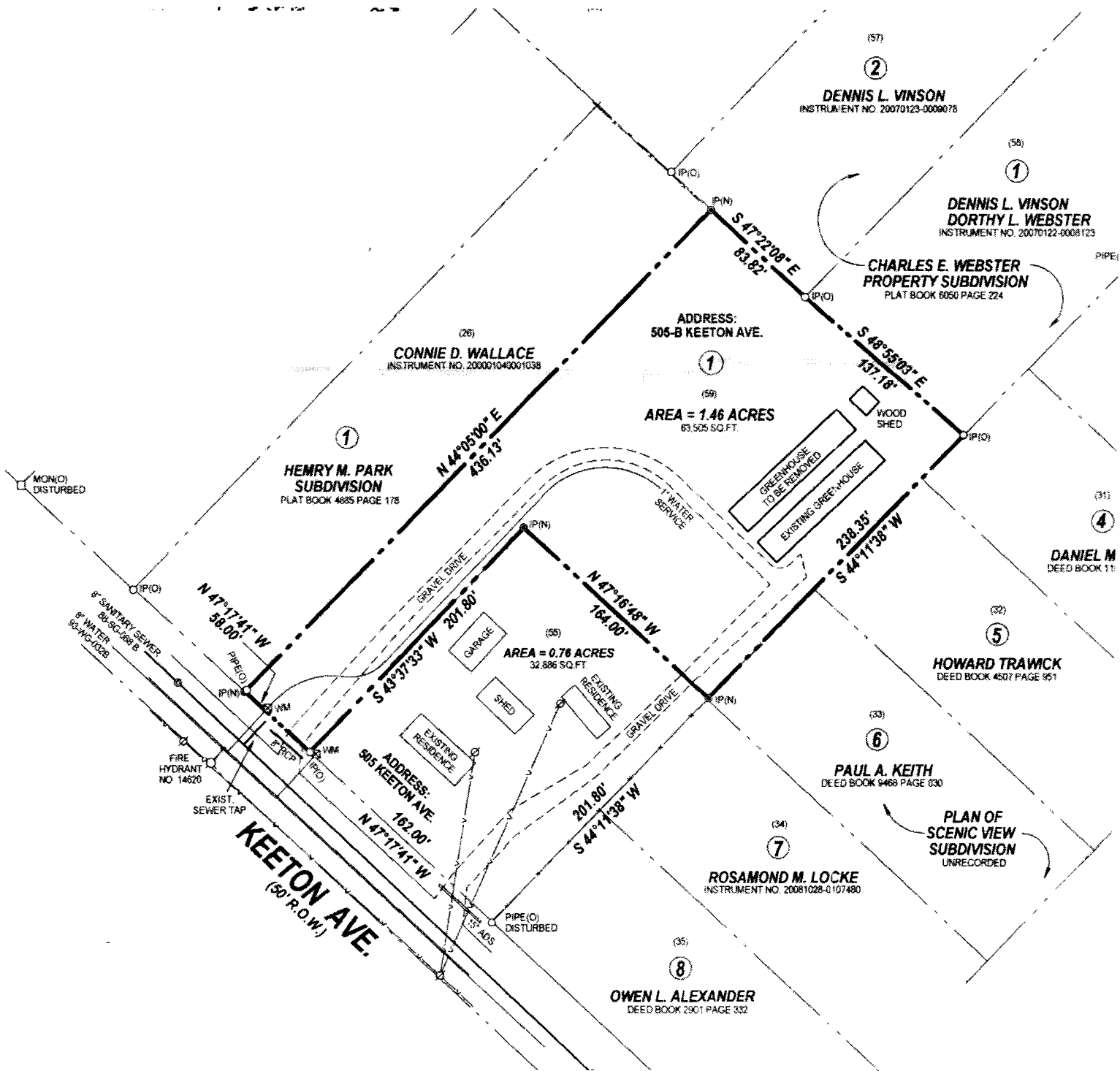
PLAN DETAILS

This subdivision proposes to create one lot on an existing flag shaped parcel. The existing parcel was created by deed and is not a legal lot. The current owner operated a nursery business for the past 25 years and now intends to relocate a house onto a new lot.

Public Chapter 246, which was adopted by the Tennessee Legislature in 2007 and became effective on May 10, 2007, requires certain criteria to be met before a permit will be issued to move a single family residence from an existing foundation to another foundation located within a developed area of single family residences. For purposes of this determination, a developed area of single family residences means an area generally referred to as a subdivision as indicated on a plat filed in the Register of Deeds office.

Under the State law, in situations where the house is to be relocated to a subdivision where there is a Homeowner's Association or a Neighborhood Association, it is up to those bodies to determine if the criteria are met. This property is within the Rayon City Neighborhood Association and on November 20, 2008, the Association approved the request to relocate the house to this property.

Two accessory structures are to remain on the property-- a greenhouse that will be converted to a garage and a wood shed. Generally, these types of buildings are not permitted to remain when a lot is platted, as accessory buildings





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Variance from Flag Lot Standards

cannot be the principle use on a lot. In this case, as the house is to be relocated as soon as the lot is platted, the Zoning Administrator has not required them to be removed, if approved.

The applicant has requested a variance to Section 3-4.2.c of the Subdivision Regulations for this flag lot. This section states that:

Residential flag lots shall not be permitted except the Planning Commission may waive the requirement if it finds that, due to unusual conditions, limited area for lot frontage on a street is available, or if all of the following conditions are met:

1. The proposed lots fit into the character of the area and are consistent with the general plan.
2. All minimum standards of the Zoning Code shall be met.
3. Up to three lots are proposed.
4. The residential unit on the lot with frontage comparable to other lots in the area shall face the street.
5. The flag lot private drive and/or access easement shall connect to a street.
6. The flag lot private drive and/or access easement shall be at least ten feet wide for its entire length.
7. The flag lot shared access easement shall be part of one non-frontage lot and under the same ownership as that lot.

This subdivision application does not meet condition 1. Condition 1 requires that the proposed lots fit into the character of the area. There are no residential flag lots in the area.

The owner has submitted a variance request indicating that this is the only way to use this lot as a residential lot. The Planning Commission may grant a variance to the regulations if it is found that extraordinary hardships or practical difficulties may result from strict compliance with the regulations, provided that the variance does not have the effect of nullifying the intent and purpose of the regulations.

The applicant has indicated that the lot was created in 1968 by deed and has been in the same ownership since 1981. The hardship identified is that the applicant will not be able to build a house on this property, nor can it be sold



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as a buildable residential lot. The applicant also owns the adjacent lot in front of this lot, which, if replatted with the proposed lot could create two regularly shaped lots. Due to the placement of the existing housing on the adjacent lot, the applicant has indicated that it is impractical to reconfigure the two lots into a more regular pattern. The applicant has not provided sufficient evidence of a hardship for staff to recommend that the Planning Commission grant the variance.

**PUBLIC WORKS
RECOMMENDATION**

No Exceptions Taken

**STORMWATER
RECOMMENDATION**

Approved

**WATER SERVICES
RECOMMENDATION**

Required capacity fees must be paid before this plat can be recorded.

**FIRE MARSHAL
RECOMMENDATION**

Approved

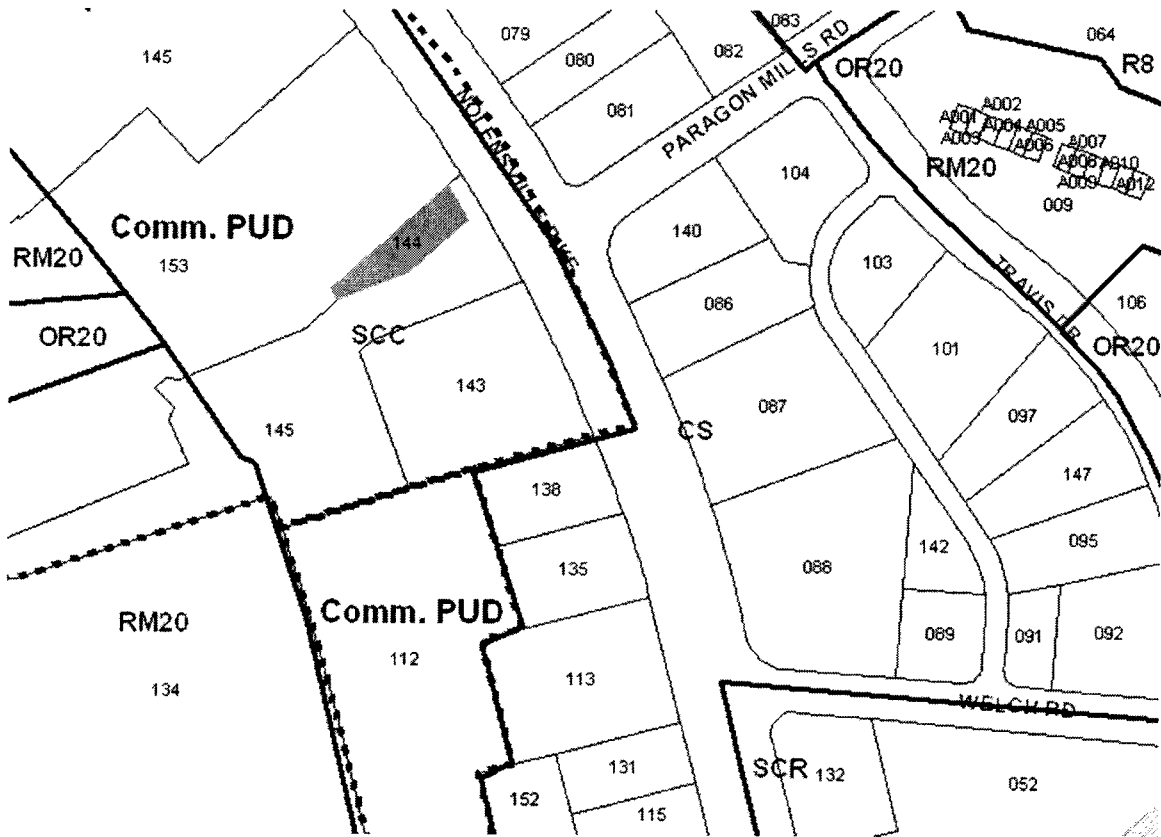
STAFF RECOMMENDATION

Staff recommends disapproval of the request as the proposed flag lot does not meet the requirements of Section 3-4.2.c of the Subdivision Regulations and the applicant did not provide sufficient evidence of a hardship for the Planning Commission to grant a variance.

CONDITION (if approved)

1. Payment of outstanding water and sewer service charges shall be remitted to Water Services Permits Office prior to the recordation of the final plat.

**REVISIONS
and FINAL SITE PLANS**



75-83P-001
 Elysian Fields Shopping Center (Ice House Revision)
 Map: 133-15 Parcel: Part of 144
 Southeast Community Plan
 Council District 26 – Gregory E. Adkins



Project No.	Planned Unit Development 75-83P-001
Project Name	Elysian Fields Shopping Center (Ice House Revision)
Council District	26 - Adkins
School Board District	7 - Kindall
Requested By	Merville and Howe Engineering, Inc., applicant for Sabrina Shoulders, owner
Staff Reviewer	Swaggart
Staff Recommendation	<i>Approve with conditions</i>

APPLICANT REQUEST
Revise Preliminary Plan and PUD Final Site Plan

A request to revise the preliminary plan and for final approval for a portion of the Elysian Fields Planned Unit Development Overlay located at 3985 Nolensville Pike, approximately 490 feet south of Elysian Fields Road (0.16 acres), zoned Shopping Center Community (SCC), to permit the placement of 200 square foot retail use for an ice dispenser.

PLAN DETAILS

The Elysian Fields Shopping Center PUD was originally approved in 1983, for 110,265 square feet of commercial uses. The plan has been revised numerous times in the past. The last major change was approved in 2001 in which the Planning Commission approved a fuel station. The PUD is developed with the exception of the parcel in this request which is currently vacant.

Site Plan

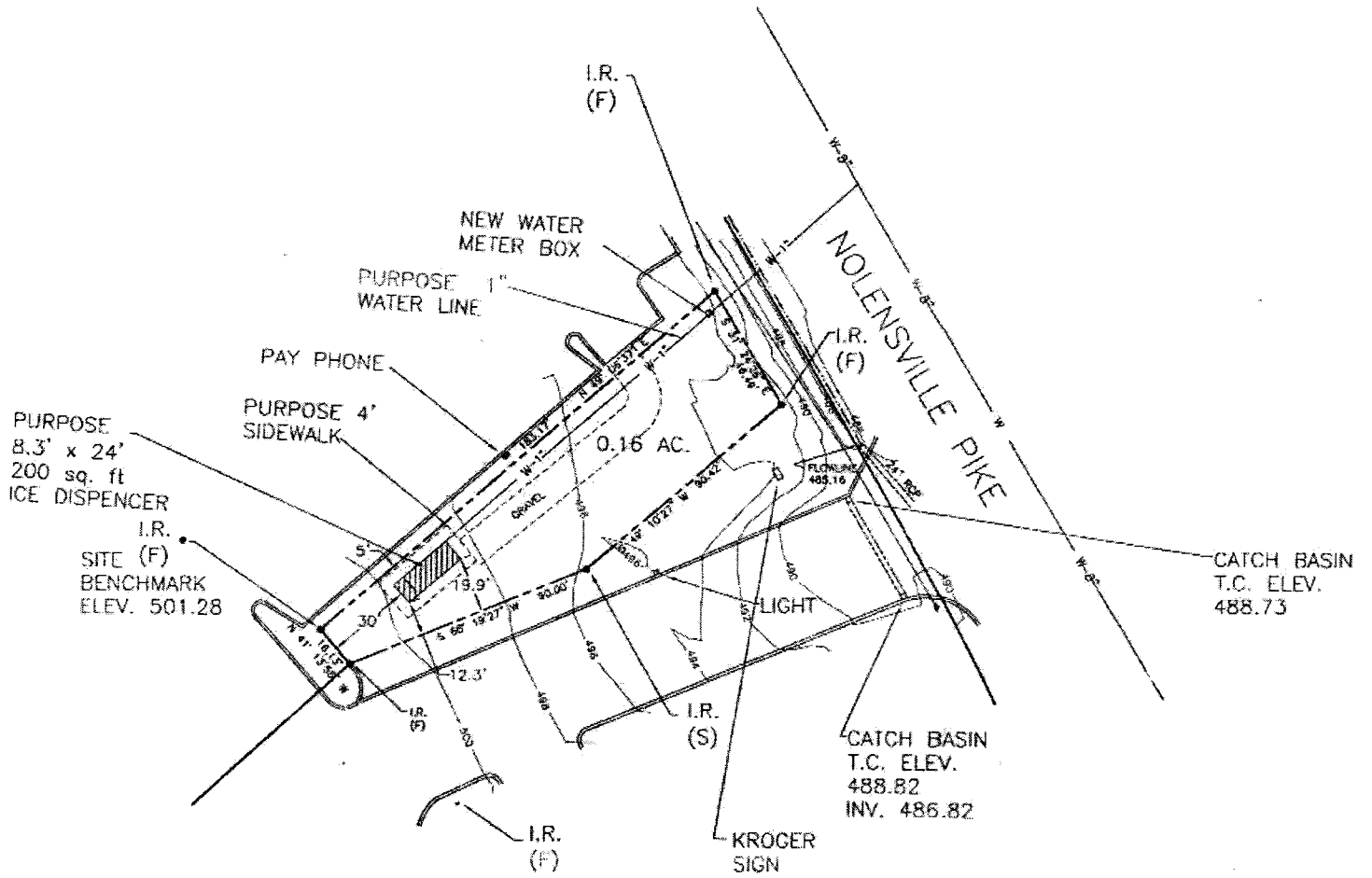
The plan calls for an 8.3' x 24' (~200 sq. ft.) ice dispenser. A four foot wide sidewalk wraps the dispenser, which is located at the edge of the adjacent Kroger parking lot. The dispenser is accessible only by pedestrians. Parking will be provided in the adjacent parking lot.

Staff Analysis

The request is minor in nature meets all zoning requirements. The use is consistent with uses found in the PUD, and it is allowed within the SCC zoning district. The parking area that will be utilized for this request provides more spaces than what is required by zoning, and there is a shared parking agreement between all parcels within the PUD.

PUBLIC WORKS RECOMMENDATION

1. Confirm access easement / shared parking agreement with adjacent property owner.
2. All Public Works' design standards shall be met prior to any final approvals and permit issuance. Final design may vary based on field conditions.



PURPOSE
8.3' x 24'
200 sq. ft
ICE DISPENSER
I.R.
SITE (F)
BENCHMARK
ELEV. 501.28

CATCH BASIN
T.C. ELEV.
488.82
INV. 486.82

CATCH BASIN
T.C. ELEV.
488.73

KROGER
SIGN

LIGHT

NOLENSVILLE PIKE

NEW WATER
METER BOX

PURPOSE
1" WATER LINE

PAY PHONE

PURPOSE 4'
SIDEWALK

I.R.
(F)

I.R.
(S)

I.R.
(F)

I.R.
(S)

I.R.
(F)

I.R.
(F)

0.16 AC.

5'

30'

5 60'

19.9'

12.3'

20.00'

10.27'

36.02'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'

46.00'



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STORMWATER RECOMMENDATION

No permits required from Stormwater.

STAFF RECOMMENDATION

Staff recommends approval with conditions. The request meets the requirements of the Metro Zoning Ordinance and is consistent with uses approved in the PUD.

CONDITIONS

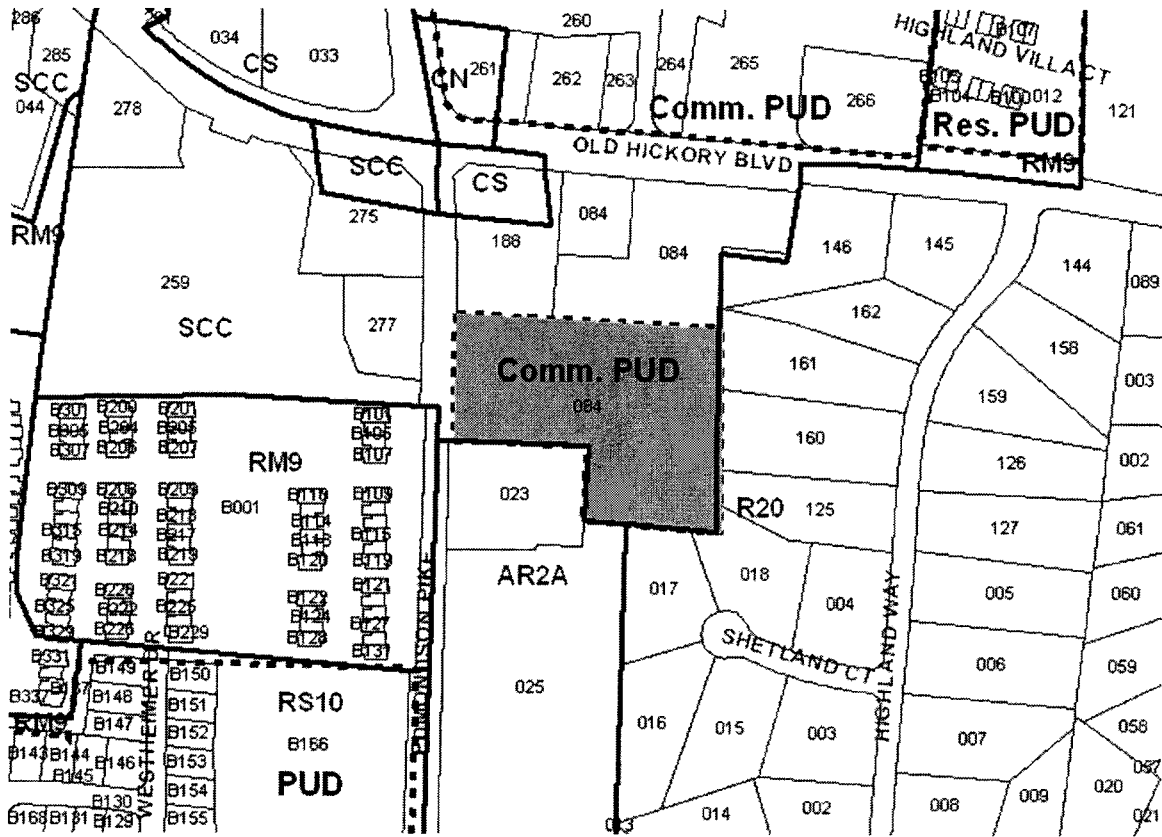
1. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services.
2. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Traffic Engineering Sections of the Metro Department of Public Works for all improvements within public rights of way.
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. 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.
6. 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.



Metro Planning Commission Meeting of 2/26/2009

7. A corrected copy of the PUD final site plan incorporating the conditions of approval by the Planning Commission shall be provided to the Planning Department prior to the issuance of any permit for this property, and in any event no later than 120 days after the date of conditional approval by the Planning Commission. Failure to submit a corrected copy of the final PUD site plan within 120 days will void the Commission's approval and require resubmission of the plan to the Planning Commission.

SEE NEXT PAGE



88-69P-001
Williams Home Place PUD (Cellular Tower Revision)
Map: 161-00 Parcel: 084
Southeast Community Plan
Council District 31 – Parker Toler



Project No.	Planned Unit Development 88-69P-001
Project Name	Williams Home Place PUD (Verizon Tower Revision)
Council District	31 - Toler
School Board District	2 – Brannon
Requested By	Verizon Wireless Tennessee Partnership, applicant for WM LLC, owner
Staff Reviewer	Swaggart
Staff Recommendation	<i>Approve with conditions</i>

APPLICANT REQUEST
Revise Preliminary Plan and PUD Final Site Plan

A request to revise the preliminary plan and for final approval for the Williams Home Place Planned Unit Development Overlay located at 5714 Edmondson Pike, approximately 380 feet south of Old Hickory Boulevard (4.36 acres), zoned Shopping Center Community (SCC), to permit a 180 foot monopole wireless communication tower.

PLAN DETAILS

The Williams Home Place PUD was originally approved in 1989, for 45,000 square feet of retail and office space. The plan was last revised in 2000 for 35,410 square feet of retail, office and restaurant uses. Approximately 29,190 sq. ft. of the development has been constructed.

Site Plan

The proposed tower and facilities are located at the rear corner (north east) of the site. The top height of the tower is 180 feet. The plan meets all zoning requirements, including setbacks, buffer yard requirements and specific requirements for cell towers (see below).

Zoning Ordinance requirements

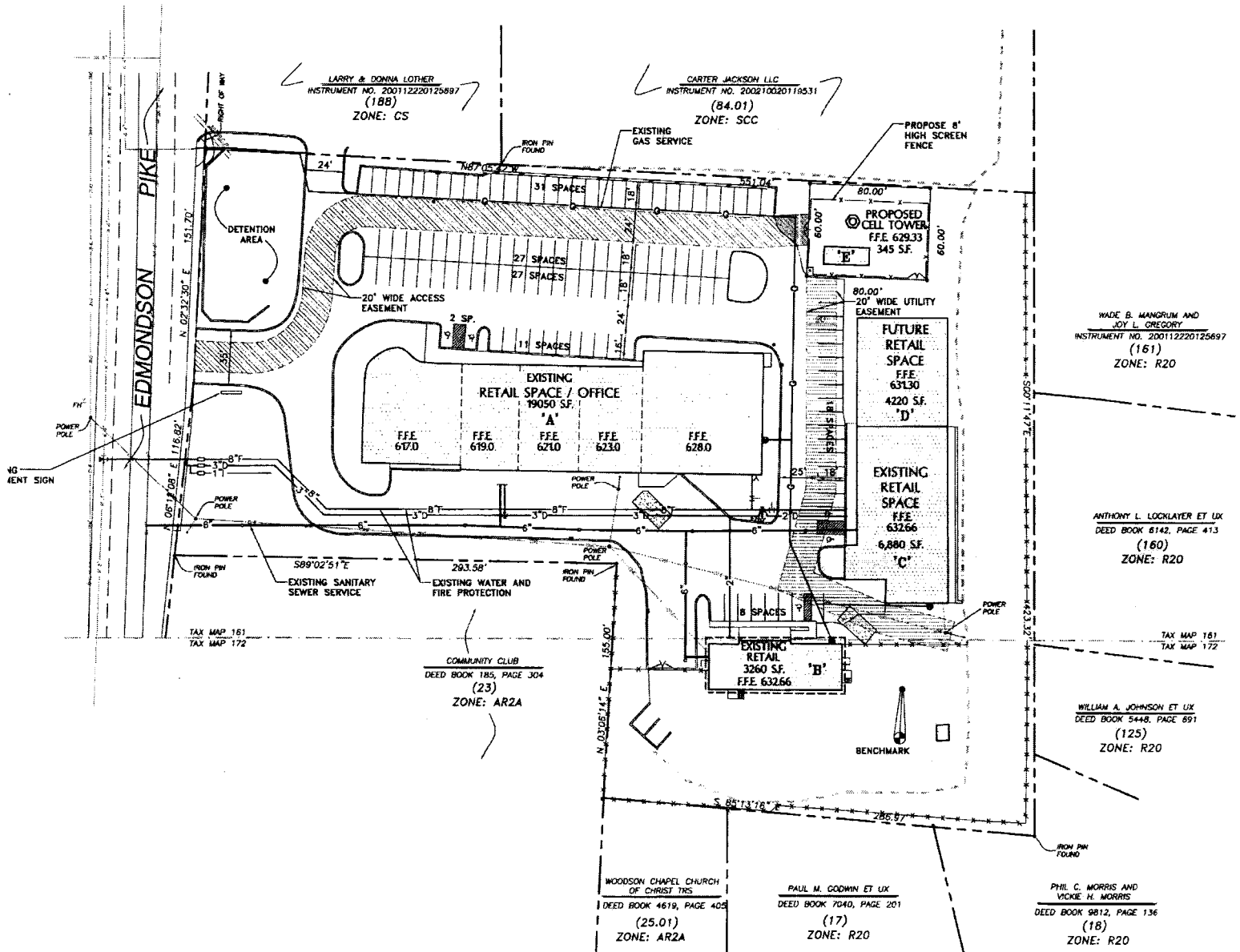
Section 17.16.080.C of the Metro Zoning Ordinance, below, details the requirements for a cell tower.

C. Telephone Service.

1. Telephone Service. An applicant for a new microwave or cellular tower shall demonstrate that existing towers, buildings or structures within the proposed service area cannot accommodate the equipment planned to be located on the proposed new tower. Factors to be considered in evaluating the practicality of siting the proposed equipment on existing or approved towers shall include, but are not necessarily limited to, structural capacity, radio interference and geographic service area requirements.

TY LINE

(SEE PLAN FOR LOCATION)



LARRY & DONNA LOTHER
 INSTRUMENT NO. 200112220125887
 (188)
 ZONE: CS

CARTER JACKSON LLC
 INSTRUMENT NO. 200210020118531
 (84.01)
 ZONE: SCC

WADE B. MANGRUM AND
 JOY L. GREGORY
 INSTRUMENT NO. 200112220125697
 (161)
 ZONE: R20

ANTHONY L. LOCKLAYER ET UX
 DEED BOOK 6142, PAGE 41.3
 (160)
 ZONE: R20

TAX MAP 161
 TAX MAP 172

WILLIAM A. JOHNSON ET UX
 DEED BOOK 5448, PAGE 691
 (125)
 ZONE: R20

PHIL C. MORRIS AND
 VICKIE H. MORRIS
 DEED BOOK 9812, PAGE 136
 (18)
 ZONE: R20

PAUL M. CODWIN ET UX
 DEED BOOK 7040, PAGE 201
 (17)
 ZONE: R20

WOODSON CHAPEL CHURCH
 OF CHRIST TRS
 DEED BOOK 4619, PAGE 405
 (25.01)
 ZONE: AR2A

COMMUNITY CLUB
 DEED BOOK 185, PAGE 304
 (23)
 ZONE: AR2A

TAX MAP 161
 TAX MAP 172

EDMONDSON PIKE

N. 02°32'30" E 151.70'

N. 06°14'08" E 116.92'

N. 03°05'14" E 155.00'

N. 03°05'14" E 155.00'

S. 85°13'18" E 285.87'

S. 01°17'37" E 342.32'

S. 01°17'37" E 342.32'

N. 02°32'30" E 151.70'

N. 06°14'08" E 116.92'

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S. 85°13'18" E 285.87'

S. 01°17'37" E 342.32'

S. 01°17'37" E 342.32'



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2. Lot Size. In residential zone districts, the minimum lot size shall comply with the zone district bulk provisions.
3. Setback. Telephone services, including accessory buildings and vehicle parking areas shall comply with the setback provisions of the applicable zone district. In nonresidential zone districts, no tower shall locate within twenty feet of a residential zone district or district permitting residential use.
4. Landscape Buffer Yard. Along all residential zone districts and districts permitting residential use, screening in the form of Landscape Buffer Yard Standard A shall be applied.
5. Height. The maximum height of telephone facilities shall be determined by the height control provisions of Chapter 17.12, except in the MUN, ON, CN and SCN zone districts a height control plane slope of 1.5:1 shall apply. Where a proposed tower cannot comply with the maximum height provisions, the applicant shall be required to submit for a special exception permit per Section 17.16.180(B)(1).
6. Notification. Prior to the issuance of a zoning permit, and immediately after receiving an application for a new tower, the zoning administrator or, if applicable, the executive director of the planning department shall notify the district councilmember that an application for a new tower has been submitted. Such notification shall only be required when a tower is proposed within a residential district, a district permitting residential uses (excluding the MUI, ORI, CF, CC and SCR districts), or within one thousand feet of the zoning boundary line of a residential district or a district permitting residential uses. Within thirty days from the date on which the tower application was filed, the district councilmember may hold a community meeting on the proposed tower. If a meeting is held, the applicant shall attend and provide information about the tower's safety, technical necessity, visual aspects, and alternative tower sites and designs considered.

The request complies with all of the criteria above. First, the applicant has submitted the required report demonstrating the need for the cellular tower. Second, the



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plan complies with minimum lot size and setback. Third, the tower is within the height control plane and the plan includes standard A buffer yards. Finally, the Councilmember was notified by the Planning Department.

PUBLIC WORKS RECOMMENDATION

No Exception Taken

STORMWATER RECOMMENDATION

Approved

STAFF RECOMMENDATION

Because this request meets the requirements of the Metro Zoning Ordinance, staff recommends approval with conditions.

CONDITIONS

1. 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.
2. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Traffic Engineering Sections of the Metro Department of Public Works for all improvements within public rights of way.
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issuance of permits for construction and field inspection. Significant deviation from these plans may require reapproval by the Planning Commission and/or Metro Council.

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