



**METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON COUNTY**

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

**Minutes
of the
Metropolitan Planning Commission**

April 23, 2009

4:00 PM

*Metro Southeast at Genesco Park
1417 Murfreesboro Road*

PLANNING COMMISSION:

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

Staff Present:

Rick Bernhardt, Executive Director
Ann Hammond, Asst. Executive Director
Ted Morrissey, Legal Counsel
Bob Leeman, Acting Planning Mgr. II
Trish Brooks, Admin. Svcs Officer 3
Craig Owensby, Public Information Officer
Brenda Bernards, Planner III
Brian Sexton, Planner I
Jason Swaggart, Planner II
Bob Eadler, Planner II
Jennifer Carlat, Planning Mgr. II
Bob Eadler, Planner II
Carrie Logan, Planner II
Jennifer Regen, Planner III
Steve Mishu, Metro Water
Jonathon Honeycutt, Public Works

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

I. CALL TO ORDER

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

II. ADOPTION OF AGENDA

Mr. Ponder moved and Mr. Gotto seconded the motion, which passed unanimously to adopt the agenda as presented. **(9-0)**

III. RECOGNITION OF COUNCILMEMBERS

Councilmember Bennett stated that she would address the Commission after her item was presented for discussion.

Councilmember Claiborne explained that he would address the Commission after his item was presented for discussion.

Councilmember Toler acknowledged that Item #3, 88-69P-001 was to be reheard by the Commission. He asked that once this item was presented for discussion, that Mr. Morrissey, Metro Legal, offer any legal information on the location and placement of cell towers as written under the Metro Code. Councilmember Toler then stated he would wait until after the public hearing

on Items #4, and 5, 2009CP-012-002 and 2009SP-006-001, to address the Commission.

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 PUBLIC HEARING: ITEMS REQUESTED TO BE DEFERRED OR WITHDRAWN

- 1. 2009Z-002TX-001 A council bill to amend of the Metro Zoning Code, Chapter 17.16, to allow mobile vendors unable to comply with the indoor-only provision to apply for a Special Exception (SE) permit for outdoor vending – deferred indefinitely at the request of the applicant
- 8. 2009Z-021PR-001 A request to rezone various properties from R40 to RS40 zoning along Ensworth Place Ensworth Avenue – deferred to June 25, 2009, at the request of the applicant

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

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

V. PUBLIC HEARING: CONSENT AGENDA

PUBLIC HEARING: ZONING MAP AMENDMENTS

- 7. 2009Z-020PR-001 A request to rezone from R80 to AR2a zoning for a portion of properties located at 7554 and 7578 Buffalo Road and Buffalo Road (unnumbered). -Approve

FINAL PLANS

- 9. 2009S-026-001 A request for final plat approval to create three lots at 1809 and 1811 Primrose Avenue, approximately 175 feet east of Primrose Circle. -Approve w/condition
- 10. 2009S-029-001 A request for final plat approval to create two lots on properties located at 2412 9th Avenue South. **-Approve with condition, including a variance to Section 3-4.2(f) of the Metro Subdivision Regulations for lot depth to width ratio.**

REVISED SITE PLANS

- 11. 68-79P-001 A request to revise the preliminary plan and for final approval for a portion of the Safety Kleen PUD Overlay located at 1636 Antioch Pike, to permit the addition of a 672 square foot modular office for a dairy distribution company. -Approve w/conditions
- 12. 98-73P-001 A request to revise the preliminary plan and for final approval for a portion of the Hickory Hills PUD Overlay located at 575 Hickory Hills Boulevard, to permit a 10,100 square foot parking lot for utility trucks and trailers. -Approve w/conditions

OTHER BUSINESS

- 13. Capital Improvements Budget -Approve
- 14. Proposal to reduce the application fee from \$2,100 to \$400 for certain infill subdivisions and for consolidation plats. -Approve
- 15. Employee contract renewals for Rick Bernhardt, Cynthia Wood, Greg Johnson and Leslie Meehan. -Approve

Ms. Cummings arrived at 4:09 p.m.

There was a brief explanation given by Mr. Gotto and Mr. Bernhardt on the Capital Improvements Budget that was slated to be approved on the Consent Agenda.

Mr. Ponder moved and Mr. Clifton seconded the motion, which passed unanimously, to adopt the Consent Agenda as presented. (10-0)

VI. PREVIOUSLY DEFERRED ITEMS

- 2009Z-002TX-001**
Staff Reviewer: Jennifer Regen

A council bill to amend of the Metro Zoning Code, Chapter 17.16, to allow mobile vendors unable to comply with the indoor-only provision to apply for a Special Exception (SE) permit for outdoor vending, requested by Councilmember Pam Murray.

Staff Recommendation: Approve with amendment

The Metropolitan Planning Commission DEFERRED Text Amendment 2009Z-0002TX-001 indefinitely at the request of the applicant. (9-0)

VII. PUBLIC HEARING: PREVIOUSLY DEFERRED ITEMS

- 2009Z-004TX-001**
Historic Bed and Breakfast Homestay
Staff Reviewer: Jennifer Regen

A request to amend Chapters 17.16, 17.36 and 17.40 of the Zoning Code to delete Historic Bed and Breakfast Homestay as an historic overlay district and add it as a Special Exception (SE) use and a use permitted by right (P) in certain zoning districts, requested by Councilmember Mike Jameson.

Staff Recommendation: Approve

APPLICANT REQUEST - A request to amend Chapters 17.16, 17.36 and 17.40 of the Zoning Code to delete “Historic Bed and Breakfast Homestay” as an historic overlay district and add it as a Special Exception (SE) use and a use permitted by right (P) in certain zoning districts.

ANALYSIS

Existing Law The Zoning Code allows a historic bed and breakfast homestay (historic B&B) within a historic overlay district known as “Historic Bed and Breakfast Homestay”. The overlay district must be approved by the Metro Council with a recommendation from the Metro Planning Commission and Metro Historic Commission. To qualify for the historic overlay district, the structure must be evaluated for its role in local, state, or national history, mastery of craftsmanship, or its listing or eligibility for listing on the National Register of Historic Places.

Proposed Text This bill proposes to allow historic B&B as a special exception (SE) use. The Board of Zoning Appeals (BZA) would review and approve the use after receiving approval of the use’s location via a resolution by the Metro Council and a recommendation from the Metro Planning Commission and Metro Historic Commission. In addition, the bill would allow historic B&B as a use by right (P) in certain zoning districts.

Analysis Ordinance No. BL2005-701 was adopted by the Metro Council on August 19, 2005, making historic B&B a historic overlay district, and deleting it as a SE or P in certain zoning districts. Under the prior SE provisions, the Zoning Administrator notified the Metro Council of a pending historic B&B application, and the Metro Council had 60 days from said notification to approve the specific location by Council resolution. If the Metro Council failed to act within 60 days of the Zoning Administrator’s notification, the Board of Zoning Appeals could proceed with its consideration of the application.

The proposed bill essentially repeals Ordinance No. BL2005-701 and reinstates historic B&B as a SE and a P use as follows:

- Special exception (SE) in the AG, AR2a, all RS, all R, all RM, ON, OL, and OG districts subject to Metro Council pre-approval of the proposed location prior to BZA review and approval.

- Permitted (P) in the MUN, MUL, MUG, MUI, OR20, OR40, ORI, CN, CL, CS, CA, CF, CC, SCN, SCC, and SCR districts.

With the proposed changes, a property owner requesting a historic B&B could obtain approval in as little as a few days, if permitted by right, to at most six to eight weeks, if a SE were required. Currently, an owner must wait three to four months to complete the rezoning process.

Besides reducing the time involved in getting approval, this bill eliminates the more restrictive qualifying criteria that a structure currently is required to meet: (a) its role in local, state, or national history, (b) mastery of craftsmanship, or (c) its listing or eligibility for listing on the National Register of Historic Places. Instead, structures would need to be determined by the Metro Historic Zoning Commission as “historically significant structure”, as defined in Section 17.040.060 of the Zoning Code. This change reflects how structures were previously evaluated for historic B&Bs, prior to the enactment of Ordinance No. BL2005-701.

Meeting with Bill Sponsor On April 14, 2009, staff met with the bill sponsor, a proposed historic B&B operator, and staff member of the Metro Historic Zoning Commission. Several items were discussed regarding enforcement and transferability of a historic B&B permit to a new owner/operator. The sponsor requested staff draft several conditions to address these items, and is currently reviewing those proposed amendments. Staff will present to the Commission those amendments at the meeting.

Metro Historic Zoning Commission The staff of the Metro Historic Zoning Commission has reviewed the proposed bill and recommends approval to the Planning Commission.

STAFF RECOMMENDATION Staff recommends approval of this bill as it reduces the time it will take to approve a historic B&B from three to four months to approximately six to eight weeks. It also broadens the definition of a historic structure, enabling more opportunities for unique travel stays by visitors and family members in Nashville. It also gives the Board of Zoning Appeals the ability to place unique conditions on the approval of a B&B Special Exception to address specific neighborhood concerns.

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

Mr. Ponder requested additional clarification on the two-year review provision included in the amendment.

Ms. Regen explained this concept to the Commission.

Mr. Clifton acknowledged the improvements this amendment would provide to the existing code relating to Bed and Breakfast Homestays. He then questioned the process that would be followed if there were a need to implement the code due to a certain type of circumstance.

Ms. Regen explained the process to the Commission.

Mr. Clifton moved and Mr. Ponder seconded the motion, which passed unanimously, to approve with amendments, including that an historic bed and breakfast homestay shall be issued a permit initially for two (2) years and that permit may be renewed thereafter without expiration subject to review at any time by the Board of Zoning Appeals. The permit may be revoked after a public hearing held by the Board of Zoning Appeals based on any of the following findings: (1) the use is detrimental to the neighborhood's public health and safety; (2) one or more conditions of the permit have been violated; or (3) activities on the premises violate state or local law. The permit shall not be transferable to another property owner or another property. **(10-0)**

Resolution No. RS2009-44

“BE IT RESOLVED by The Metropolitan Planning Commission that 2009Z-004TX-001 is **APPROVED WITH AMENDMENTS, including that an historic bed and breakfast homestay shall be issued a permit initially for two (2) years and that permit may be renewed thereafter without expiration subject to review at any time by the Board of Zoning Appeals. The permit may be revoked after a public hearing held by the Board of Zoning Appeals based on any of the following findings: (1) the use is detrimental to the neighborhood’s public health and safety; (2) one or more**

conditions of the permit have been violated; or (3) activities on the premises violate state or local law. The permit shall not be transferable to another property owner or another property. (10-0)

VIII. PUBLIC HEARING: REHEARING

3. 88-69P-001

Williams Home Place PUD (Verizon Tower Revision)
Map: 161-00 Parcel: 084
Southeast Community Plan
Council District 31 – Parker Toler
Staff Reviewer: Jason Swaggart

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 SCC, to permit a 180 foot monopole wireless communication tower, requested by Verizon Wireless Tennessee Partnership, applicant, for WM LLC, owner.

Staff Recommendation: Approve with conditions

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.

Rehearing The Planning Commission originally heard this request on March 12, 2009. The Planning Commission found that the proposed wireless communication tower represented a significant change requiring Council approval. The Commission voted to disapprove the request as a “revision”, but to approve the request as an “amendment” to the PUD.

Since the Planning Commission’s decision Metro Legal has informed staff that, while the Planning Commission does have the authority under Federal Law to deny request for cell towers, such denial must be supported by substantial and material evidence contained within the written administrative record. According to a memo received from Metro Legal, state or local governments can *not* (1) unreasonably discriminate among providers of functionally equivalent services; and (2) shall not prohibit or have the effect of prohibiting the provision of personal wireless services. The memo has been included at the end of the staff report.

For a state or local government to legally deny a cell tower it would be required to support the denial with substantial and material evidence that the proposed tower is not needed and that the carriers service would not be negatively impacted without the new tower. Additionally, in response to concerns raised at the public hearing, the applicant has presented two different styles of tower for the site (see Figures 1 and 2), which they believe to be less intrusive than the original proposal. Staff is recommending approval of Option 1.

Based on the memo from Metro Legal and the applicant’s desire to use a different style tower than what was originally proposed, Commissioner Stewart Clifton requested that this request be reheard. Based on this new information, the Planning Commission voted to rehear the request on April 14, 2009.

PLAN DETAILS

PUD History 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.
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 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 or Option 1 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.
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.
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.



memorandum

Department of Law
Sue Cain, Director
 862-6341

to: Rick Bernhardt, Executive director, planning department

from: ted morrissey, ASSISTANT METROPOLITAN attorney

subject: cell tower regulation

date: april 10, 2009

QUESTION: You asked whether the Planning Commission has the authority to deny a request to build a cell tower.

ANSWER: Yes, the Commission has the authority to deny a request, but any such denial must be supported by substantial and material evidence contained within the written administrative record.

DISCUSSION:

Federal law governs the Commission's review of cell towers. 47 U.S.C.A. § 332(c)(7) regarding limitations on local regulation of cell towers states:

(7) Preservation of local zoning authority

(A) General authority

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

(B) Limitations

(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--

(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by *substantial evidence contained in a written record*.

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that

such facilities comply with the Commission's regulations concerning such emissions.

(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

(47 U.S.C.A. § 332(c)(7). Emphasis added.)

Thus, the federal law makes it clear that any decision by a “local government or instrumentality thereof” to deny a request to place, construct, or modify personal wireless service facilities (*i.e.*, cell tower) shall be in writing and supported by *substantial evidence contained in a written record*.

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

Mr. James Weaver spoke in favor of the requested proposal.

Mr. Richard Williams, 130 Blackburn Avenue, spoke in favor of the requested proposal.

Mr. Matt Harris spoke in favor of the requested proposal.

Mr. Steven Reed, 5605 Holland Way spoke in opposition to the requested proposal. He submitted a petition of opposition for the record.

Mr. Bill Johnson, 5617 Highland Way, spoke in opposition to the requested proposal.

Mr. Johnny Dow spoke in opposition to the requested proposal.

A resident of 5609 Highland Way spoke in opposition to the requested proposal.

Mr. Gotto requested that Mr. Morrissey, Metro Legal, advise the Commission on the topic of cell phone towers.

Mr. Morrissey provided his legal advice on cell phone towers in relation to the Commission’s authority over these structures. He also explained the stipulations if the Commission were to disapprove a cell tower.

Mr. Gotto acknowledged both the intent of the applicant, as well as the disapproval of the constituents affected by the proposal. He then questioned that if the case were to be litigated, would it take special personnel to support the Commission’s final decision.

Mr. Bernhardt suggested that the Commission have litigation information prior to disapproving this request.

Dr. Cummings requested additional information on the buffer yard included in the proposal.

Mr. Swaggart explained the buffer included in the proposal to the Commission.

Mr. Bernhardt clarified that the buffer is a requirement of the Planned Unit Development and a result of the proposed cell phone tower.

Dr. Cummings spoke in favor of the slick stick tower, however, was focused on the buffer and its contents, that would perhaps assist with the aesthetics of the area on which the tower was to be placed.

Dr. Cummings then questioned whether the tower would include any harmful emissions.

Mr. Swaggart explained that the Commission could not base their decision on any radio waves that would be emitted from the tower.

Mr. Clifton acknowledged the opposition expressed by the constituents. He then spoke of the issue of denying the request

without any legal authority.

Mr. Ponder asked whether the Commission could question the integrity of the tower and the affects it would have on the surrounding community if there were brought down by extreme weather conditions.

Mr. Morrissey responded to Mr. Ponder, however, his response was inaudible.

Ms. Jones acknowledged and expressed her concerns with the visual clutter created in many neighborhoods due to the demands of the society.

Mr. Dalton expressed concerns with regard to the applicant's claim that a cell tower was needed in this area and not having a method in place to verify its necessity.

Mr. Morrissey explained that the Metro Code outlines certain criteria for placement of cell phone towers and the cell phone companies need to comply with the requirements.

Dr. Cummings questioned whether the slick stick model could accommodate more than one cell phone company.

Mr. Swaggart explained that the slick stick tower would only hold one provider.

Dr. Cummings suggested that the Commission consider that the slick stick tower could only accommodate one company and to keep in mind there could be additional request for similar towers.

Mr. McLean questioned whether proper procedures were in place to monitor the future aesthetics of the pole, i.e. if it were damaged internally and no longer operable, could other companies utilize the pole with their equipment.

Mr. Bernhardt offered that certain conditions would be in place and would need to be met before changes could be made to the cell tower. He also explained that the applicant was requesting to revise the planned unit development for the cell tower and that the Commission could include any necessary conditions.

Ms. LeQuire also acknowledged the need to carefully choose the proper tower that could possibly accommodate future requests.

The Commission requested that the applicant provide additional information on the proposed cell phone tower and if any additional carriers could be located on it.

A representative from Verizon explained the various types of towers and how many carriers could be located on each type.

Mr. Gee questioned the number of carriers depicted on Option # 2.

The Verizon representative explained the number of carriers depicted in the photograph.

Mr. Gee questioned whether there were provisions included in the Metro Code that would address the tower if it were no longer in use. He suggested that a condition be added to the recommendation to remove the tower if it were to become inoperable.

Mr. Clifton moved, and Mr. Ponder seconded the motion, which passed unanimously, to approve with conditions as a revision, Planned Unit Development 88-69P-001, including the conditions that the Councilmember and community determine, within 60 days, whether Option 1 or 2 is to be constructed, if after 60 days there is no decision, the applicant is to determine which option to build and that if activity ceases for six months on the tower, it is to be removed at the expense of the property owner. (10-0)

Resolution No. RS2009-45

“BE IT RESOLVED by The Metropolitan Planning Commission that 88-69P-001 is **APPROVED WITH CONDITIONS, including the conditions that the Councilmember and community determine, within 60 days, whether Option 1 or 2 is to be constructed, if after 60 days, there is no decision, the applicant is to determine which option to build and that if activity ceases for six months on the tower, it is to be removed at the expense of the property owner. (10-0)**

Conditions of Approval:

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.
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.”

Mr. Clifton left the meeting at 5:00 p.m.

IX. PUBLIC HEARING: COMMUNITY PLANS

4. **2009CP-012-002**
Map: 186-00 Parcels:014.01, 021, 026
Southeast Community Plan
Council District 31 – Parker Toler
Staff Reviewer: Bob Eadler

A request to amend the *Southeast Community Plan: 2004 Update* by changing Neighborhood Center (NC) and Neighborhood General (NG) policies to T3 Suburban Neighborhood Center (T3 CC) policy for property located at the southeast quadrant of the intersection of Nolensville Pike and Burkitt Road. (See also 2009SP-006-001.)

Staff Recommendation: Approve

[Note: Items #4 and #5 were discussed by The Metropolitan Planning Commission together. See Item #5 for actions and resolutions.]

X. PUBLIC HEARING: ZONING MAP AMENDMENTS

5. 2009SP-006-001

The Shoppes at Burkitt Place
Map: 186-00 Parcels:014.01, 021, 026
Southeast Community Plan
Council District 31 – Parker Toler
Staff Reviewer: Brenda Bernards

A request to change from AR2a to SP-C zoning for properties located at 7022 Nolensville Pike, Nolensville Pike (unnumbered), and Burkitt Road (unnumbered), at the southeast corner of Nolensville Pike and Burkitt Road (17.98 acres), to permit retail, office, and commercial uses, requested by Regency/PGM-Burkitt, LLC, applicant, for James and William McFarlin et al, Ruth Marie McFarlin, and Newco-Burkitt, LLC, owners. (See also 2009CP-012-002.)

Staff Recommendation: Approve with conditions, subject to approval of the accompanying Community Plan Amendment with the special policy provisions.

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

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

Mr. Jeff Pape, 3315 Northside Parkway, spoke in favor of the proposed development.

Mr. Same 8923 McCulley Lane, spoke in opposition to the proposed development.

Ms. Mary Ann Lawn, 8061 Canonbury, spoke in opposition to the proposed development

Mr. Charles Lawn, 8061 Canonbury, spoke in opposition to the proposed development

Ms. Betty Clifton 7114 Burkitt Road, spoke in favor of the proposed development.

Mr. Christian Trotter, 7539 Kemberton Cout, spoke in opposition to the proposed development.

Ms. Susannah Wilson, 8040 Canonbury Drive, spoke in opposition to the proposed development.

Mr. Vance Wilson, 8040 Canonbury Drive, spoke in opposition to the proposed development.

Mr. Tom Herbert spoke in favor of the proposed development.

Mr. Tyler requested clarification on whether the area was considered rural or suburban.

Mr. Bernhardt addressed this question. He also explained that staff was unaware of the opposition as it was not expressed at the community meetings.

Mr. Tyler questioned the square footage of a building that constituted a big box store.

Mr. Bernhardt explained the building sizes included in the Metro Code in relation to policies.

Mr. Gee questioned whether there was a different policy that would allow the proposed building size.

Mr. Eadler explained the various policies that would support larger centers.

Mr. Gee expressed his concern with the requested zone change due to the issues associated with its connectivity, walkability and any additional traffic generated by its development.

Mr. Gotto questioned whether the community was made aware of the full implications of this development at their community meetings.

Mr. Eadler explained the process that took place at the community meeting.

Mr. Gotto questioned whether the staff's recommendation would have changed if there were more opposition expressed at the community meeting.

Mr. Bernhardt stated it would have changed the staff's recommendation.

Mr. Gotto then expressed issues with disapproving the request for this development as it could relocate outside of the county.

Mr. Bernhardt offered that there was no bill pending on this development.

Ms. LeQuire also expressed issues with disapproving the request due to the possibility it would relocate to another county.

Mr. Dalton agreed with the need to keep the development within the County lines, as well as heed the concerns of those who were opposed to the development.

Mr. Ponder questioned whether two smaller buildings would be also considered a special exception to the policy.

It was explained that two smaller buildings would be more compatible to this area.

Mr. Ponder moved and Mr. Gotto seconded the motion, which passed unanimously, to defer Community Plan 2009CP-012-002, as well as Zone Change 2009SP-006-001 indefinitely. There were additional conditions added by the Commission that should be further studied during this deferral. **(10-0)**

Resolution No. RS2009-46

“BE IT RESOLVED by The Metropolitan Planning Commission that 2009CP-012-002 is **DEFERRED INDEFINITELY.**
(10-0)”

Resolution No. RS2009-47

“BE IT RESOLVED by The Metropolitan Planning Commission that 2009SP-006-001 is **DEFERRED INDEFINITELY.**
(10-0)”

Dr. Cummings left the meeting at 6:03 p.m.

Ms. Jones left the meeting at 6:03 p.m.

- 6. 2009Z-005TX-001**
Mobile Vendor Exemption for Non-Profit Organizations
Staff Reviewer: Jennifer Regen

A council bill to amend Section 17.04.060 of the Metro Zoning Code to exempt non-profit organization activities and events from the mobile vendor definition, requested by Councilmembers Phil Claiborne and Karen Bennett.

Staff Recommendation: Approve

APPLICANT REQUEST - A council bill to amend Section 17.04.060 of the Metro Zoning Code to exempt non-profit organization activities and events from the mobile vendor definition.

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 (BL2009-325) The bill exempts Cleveland Street from the mobile vendor provisions. Bill sponsor is Councilmember Pam Murray. This bill was disapproved by the Planning Commission on April 14, 2009.

Proposed Bill (BL2009-410) The bill allows mobile vendors to be outdoors provided they meet certain conditions as a special exception (SE) use. Bill sponsor is Councilmember Pam Murray.

Proposed Bill (BL2009-416) The bill exempts a non-profit organization’s fundraising activities and events from being classified as “mobile vendor”. The staff report below analyzes this proposed bill.

Proposed Text The bill exempts from the definition of "mobile vendor" those non-profit organizations that are not subject to federal income tax. Such organizations could sell goods, wares, or merchandise indoors or outdoors provided they held no more than two (2) fundraising events per calendar year with each event lasting no more than five (5) days.

Analysis This bill exempts occasional fundraising activity by tax-exempt non-profit organizations from being classified as “mobile vendor”. As proposed in the bill, the exempt status would allow organizations to hold two (2) events per a calendar year with each event lasting no more than five (5) days. If an organization held three or more fundraising activities within a calendar year, the exempt status would not apply. If an organization held any event for more than five (5) days, the exempt status would not apply.

STAFF RECOMMENDATION Staff recommends approval of this bill. Given the restricted number of events per calendar year, and limited duration of such events, staff does not anticipate the proposed exemption will create issues for the community.

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

Councilmember Clairborne further explained this text amendment and requested its approval.

Councilmember Bennett spoke in favor of the text amendment.

Councilmember Murray spoke in favor of the text amendment.

Mr. Jamie Hollin, 725 McFerrin Avenue, spoke in favor of the text amendment.

Mr. Ponder questioned whether yard sales held at churches were associated with this text amendment.

Ms. Regen explained the yard sale as described in the Metro Code.

Mr. Dalton spoke in favor of the proposed amendment.

Mr. Gotto moved and Mr. Ponder seconded the motion, which passed unanimously, to approve Text Amendment 2009Z-005TX-001. **(7-0)**

Resolution No. RS2009-48

“BE IT RESOLVED by The Metropolitan Planning Commission that 2009Z-005TX-001 is **APPROVED. (7-0)**”

7. 2009Z-020PR-001

Map: 127-00 Parcels: part of 002, 249, 269
Bellevue Community Plan
Council District 35 – Bo Mitchell
Staff Reviewer: Brenda Bernards

A request to rezone from R80 to AR2a zoning for a portion of properties located at 7554 and 7578 Buffalo Road and Buffalo Road (unnumbered), approximately 2,800 feet north of Highway 70 (8.27 acres), requested by Councilmember Bo Mitchell, applicant, Edward Underwood et ux, Sydney Rogers, and Sydney Bennett, owners.

Staff Recommendation: Approve

APPLICANT REQUEST - A request to rezone from One and Two-Family Residential (R80) to Agricultural/Residential (AR2a) zoning for a portion of properties located at 7554 and 7578 Buffalo Road and Buffalo Road (unnumbered), approximately 2,800 feet north of Highway 70 (8.27 acres).

Existing Zoning

R80 District -~~R80~~ requires a minimum 80,000 square foot lot and is intended for single -family dwellings and duplexes at an overall density of .58 dwelling units per acre including 25% duplex lots.

Proposed Zoning

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

BELLEVUE COMMUNITY PLAN

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

Natural Conservation (NCO) NCO policy is intended for undeveloped areas with the presence of steep terrain, unstable soils, and floodway/floodplain. Low intensity community facility development and very low density residential development (not exceeding one dwelling unit per two acres) may be appropriate land uses.

Consistent with Policy? The request to rezone the property from R80 to AR2a is consistent with the NCO policy but not with the RLM policy. These properties are in an area that is not yet served by sewer and are unlikely to develop at a density envisioned by the RLM policy in the near future. The AR2a zoning district will not preclude these properties from being rezoned and subdivided at a higher density once services are available.

ANALYSIS This request would rezone portions of three properties from R80 to AR2a. Currently, these properties have split zoning with the front 400 feet zoned R80 and the remainder zoned AR2a. According to the Zoning Administrator, the frontage of the properties along the western side of Buffalo Road were rezoned to R80 in order to prevent mobile homes from being placed in this location. The applicant has indicated that the rezoning has been requested in order to permit an organic farming operation. Farming is not a permitted use in the R80 zoning district

PUBLIC WORKS RECOMMENDATION No exception taken.

Typical Uses in Existing Zoning District: R80

| Land Use (ITE Code) | Acres | Density | Total Number of Lots | Daily Trips (weekday) | AM Peak Hour | PM Peak Hour |
|-----------------------------|-------|---------|----------------------|-----------------------|--------------|--------------|
| Single-family detached(210) | 8.27 | 0.58 | 4 | 39 | 3 | 5 |

Typical Uses in Proposed Zoning District: **AR2a**

| Land Use (ITE Code) | Acres | Density | Total Number of Lots | Daily Trips (weekday) | AM Peak Hour | PM Peak Hour |
|-----------------------------|-------|---------|----------------------|-----------------------|--------------|--------------|
| Single-family detached(210) | 8.27 | 0.5 | 4 | 39 | 3 | 5 |

Traffic changes between typical: **R80** and proposed **AR2a**

| Land Use (ITE Code) | Acres | Density | Total Number of Lots | Daily Trips (weekday) | AM Peak Hour | PM Peak Hour |
|---------------------|-------|---------|----------------------|-----------------------|--------------|--------------|
| | 8.27 | 0.08 | 0 | 0 | 0 | 0 |

Maximum Uses in Existing Zoning District: **R80**

| Land Use (ITE Code) | Acres | Density | Total Number of Lots | Daily Trips (weekday) | AM Peak Hour | PM Peak Hour |
|-----------------------------|-------|---------|----------------------|-----------------------|--------------|--------------|
| Single-family detached(210) | 8.27 | 0.58 | 4 | 39 | 3 | 5 |

Maximum Uses in Proposed Zoning District: **AR2a**

| Land Use (ITE Code) | Acres | Density | Total Number of Lots | Daily Trips (weekday) | AM Peak Hour | PM Peak Hour |
|-----------------------------|-------|---------|----------------------|-----------------------|--------------|--------------|
| Single-family detached(210) | 8.27 | 0.5 | 4 | 39 | 3 | 5 |

Traffic changes between maximum: **R80** and proposed **AR2a**

| Land Use (ITE Code) | Acres | Density | Total Number of Lots | Daily Trips (weekday) | AM Peak Hour | PM Peak Hour |
|---------------------|-------|---------|----------------------|-----------------------|--------------|--------------|
| | 8.27 | 0.08 | 0 | 0 | 0 | 0 |

METRO SCHOOL BOARD REPORT

Projected Student Generation As this request to rezone from R80 to AR2a 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 approval of the zone change request. While the AR2a zoning district is not entirely consistent with RLM land use policy, the requested zoning would not preclude future rezoning and subdivision of the property at a density envisioned by the policy once services are available to this area.

Approved, (10-0) *Consent Agenda*

Resolution No. RS2009-49

“BE IT RESOLVED by The Metropolitan Planning Commission that 2009Z-020PR-001 is **APPROVED. (10-0)**

The proposed AR2a zoning district is consistent with the Bellevue Community Plan’s Natural Conservation policy, and while not consistent with the Residential Low Medium policy the AR2a district calls for less density and is more consistent with the character of the area than a residential zoning that would be supported by the policy.”

8. **2009Z-021PR-001**
 Ensworth Place and Ensworth Avenue
 Map: 103-16 Parcels: Various
 Map: 116-04 Parcels: Various
 Green Hills/Midtown Community Plan
 Council District 24 – Jason Holleman
 Staff Reviewer: Brenda Bernards

A request to rezone various properties from R40 to RS40 zoning along Ensworth Place Ensworth Avenue (48.34 acres), requested by Councilmember Jason Holleman for various owners.

Staff Recommendation: Approve

The Metropolitan Planning Commission DEFERRED Zone Change 2009Z-021PR-001 to June 25, 2009, at the request of the applicant. (9-0)

XI. PUBLIC HEARING: FINAL PLANS

9. **2009S-026-001**
 Belmont Terrace, Resub. Lots 21 & 22
 Map: 117-04 Parcels: 373, 374
 Green Hills/Midtown Community Plan
 Council District 18 – Megan Barry
 Staff Reviewer: Jason Swaggart

A request for final plat approval to create three lots at 1809 and 1811 Primrose Avenue, approximately 175 feet east of Primrose Circle (0.70 acres), zoned R8, requested by Paul McRedmond and Dana Smith, owners, Joe Cummings, surveyor.

Staff Recommendation: Approve with condition

APPLICANT REQUEST -Final Plat

A request for final plat approval to create three lots on property located at 1809 and 1811 Primrose Avenue, approximately 175 feet east of Primrose Circle (0.70 acres) zoned One and Two-Family Residential (R8).

ZONING

R8 District - R8 requires a minimum 8,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 5.79 dwelling units per acre including 25% duplex lots.

SUBDIVISION DETAILS The final plat will create three new lots from two existing lots located at 1809 and 1811 Primrose Avenue. Since the two existing lots were legally created by plat prior to August 1, 1984, and because there will be no more than three lots, all three lots are allowed to have a duplex.

Lot Comparability The lots meet the minimum lot size requirement for the R8 zoning district, but Section 3-5 of the Subdivision Regulations state 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. Staff performed a lot comparability analysis that yielded the following information:

| Lot Comparability Analysis | | |
|----------------------------|-----------------------------|------------------------------------|
| Street: | Requirements: | |
| | Minimum lot size (sq. ft.): | Minimum lot frontage (linear ft.): |
| Primrose | 7,187 | 53 |

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

- Lot 1: 13,404 sq. ft. with 68 linear feet of frontage;

- Lot 2: 9,188 sq. ft. with 53 linear feet of frontage; and
- Lot 2: 9,921 sq. ft. with 53 liner feet of frontage.

All three lots pass the comparability requirement for lot area and lot frontage, and do not require that the Planning Commission grant an exception from the requirement.

PUBLIC WORKS RECOMMENDATION No building permit is to be issued on Lot #3 until the proposed sidewalk is either constructed per the Department of Public Works' specifications, bonded, or a financial contribution payment is made in lieu of construction of sidewalks.

STORMWATER RECOMMENDATION Approved.

STAFF RECOMMENDATION Staff recommends approval with a condition of the final plat to create three lots. The three proposed lots meet zoning and subdivision requirements.

CONDITIONS

1. No building permit is to be issued on Lot #3 until the proposed sidewalk is either constructed per the Department of Public Works' specifications, bonded, or a financial contribution payment is made in lieu of construction of sidewalks.

Approved with condition, *(10-0) Consent Agenda*

Resolution No. RS2009-50

“BE IT RESOLVED by The Metropolitan Planning Commission that 2009S-026-001 is **APPROVED WITH CONDITIONS. (10-0)**

Conditions of Approval:

1. No building permit is to be issued on Lot #3 until the proposed sidewalk is either constructed per the Department of Public Works' specifications, bonded, or a financial contribution payment is made in lieu of construction of sidewalks.”

10. **2009S-029-001**
Cottage Cove, Resub.
Map: 118-01 Parcel: 385
Green Hills/Midtown Community Plan
Council District 17 – Sandra Moore
Staff Reviewer: Brian Sexton

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

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

APPLICANT REQUEST - Final Plat

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

ZONING

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

PLAN DETAILS This final plat subdivides one existing lot into two lots. Each lot complies with the minimum lot size

requirements for R8 zoning. Lot 1 is 9,713 square feet in size and Lot 2 is 10,025 square feet in size.

History The same request was approved by the Planning Commission, including the variance, on April 10, 2008, but because the applicant chose not to record the plat, the approval expired after six months.

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

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

Lot comparability analysis was performed and yielded the following information:

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

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

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

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

PUBLIC WORKS RECOMMENDATION No building permit is to be issued on Lot #1 until the proposed sidewalk is either constructed per the Department of Public Works' specifications, bonded, or a financial contribution payment is made in lieu of construction of sidewalks.

WATER SERVICES RECOMMENDATION Prior to recording, label existing 6 and 12-inch water mains on the plat.

STAFF RECOMMENDATION Staff recommends approval with a condition that prior to the recording of the plat, the existing water mains be labeled on the plat. In addition, staff recommends that the variance for the lot depth to width ratio be granted.

CONDITION

1. The requirements of the Metro Water Services Department shall be met prior to the recordation of the final plat.
2. No building permit is to be issued on Lot #1 until the proposed sidewalk is either constructed per the Department of Public Works' specifications, bonded, or a financial contribution payment is made in lieu of construction of sidewalks.

Approved with condition, including a variance to Section 3-4.2(f) of the Metro Subdivision Regulations for lot depth to width ratio, **(10-0) Consent Agenda**

Resolution No. RS2009-51

“BE IT RESOLVED by The Metropolitan Planning Commission that 2009S-029-001 is **APPROVED WITH CONDITIONS, including a variance to Section 3-4.2(f) of the Metro Subdivision Regulations for lot depth to width ratio (10-0).**

Conditions of Approval:

1. The requirements of the Metro Water Services Department shall be met prior to the recordation of the final plat.

2. No building permit is to be issued on Lot #1 until the proposed sidewalk is either constructed per the Department of Public Works' specifications, bonded, or a financial contribution payment is made in lieu of construction of sidewalks."

XII. PUBLIC HEARING: REVISED SITE PLANS

11. 68-79P-001

Safety Kleen (Dairy Office Revision)
Map: 148-00 Parcel: 078.01
Antioch/Priest Lake Community Plan
Council District 28 – Duane A. Dominy
Staff Reviewer: Jason Swaggart

A request to revise the preliminary plan and for final approval for a portion of the Safety Kleen Planned Unit Development Overlay located at 1636 Antioch Pike, approximately 1,420 feet north of Haywood Lane (5.13 acres), zoned OR20, to permit the addition of a 672 square foot modular office for a dairy distribution company, requested by Walter Davidson & Associates, applicant, for Greg Irby, owner.

Staff Recommendation: Approve with conditions

APPLICANT REQUEST Revise Preliminary and PUD Final Site Plan

A request to revise the preliminary plan and for final approval for a portion of the Safety Kleen Planned Unit Development overlay located at 1636 Antioch Pike, approximately 1,420 feet north of Haywood Lane (5.13 acres), zoned Office/Residential (OR20), to permit the addition of a 672 square foot modular office for a dairy distribution company.

Zoning District

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

PLAN DETAILS This is a request to revise the preliminary plan and for final site plan approval for a portion of a commercial Planned Unit Development (PUD). The PUD was originally approved in 1979, for various commercial uses and has been revised numerous times since the original approval. This portion of the PUD was approved for office and a day care center. The proposed change is to allow an office for a dairy distribution company.

Site Plan The site plan calls for a 672 square foot modular building. The building will be located near the southern lot line next to parcel 178. The plan also calls for additional plantings within the green space between the parking area and Antioch Pike. No other changes are proposed.

PUBLIC WORKS RECOMMENDATION No Exceptions Taken

STORMWATER RECOMMENDATION Approved

STAFF RECOMMENDATION Staff recommends that the request be approved with conditions. The revision is minor in nature and the proposed use is consistent with other uses 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.
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.

Approved with conditions, *(10-0) Consent Agenda*

Resolution No. RS2009-52

"BE IT RESOLVED by The Metropolitan Planning Commission that 68-79P-001 is **APPROVED WITH CONDITIONS.**
(10-0)

Conditions of Approval:

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.
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."

12. **98-73P-001**
Hickory Hills Pud (Verizon Wireless Parking Expansion)
Map: 031-00 Parcel: 154
Parkwood/Union Hill Community Plan
Council District 3 – Walter Hunt
Staff Reviewer: Jason Swaggart

A request to revise the preliminary plan and for final approval for a portion of the Hickory Hills Planned Unit Development Overlay located at 575 Hickory Hills Boulevard, approximately 1,500 feet north of Old Hickory Boulevard (12.39 acres), zoned OR20, to permit a 10,100 square foot parking lot for utility trucks and trailers, requested by PBS & J, applicant, for Verizon Tennessee Partnership, owner.

Staff Recommendation: Approve with conditions

APPLICANT REQUEST - Revise Preliminary and PUD Final Site Plan

A request to revise the preliminary plan and for final approval for a portion of the Hickory Hills Planned Unit Development Overlay located at 575 Hickory Hills Boulevard, approximately 1,500 feet north of Old Hickory Boulevard (12.39 acres), zoned Office/ Residential (OR20), to permit a 10,100 square foot parking lot for utility trucks and trailers.

Zoning District

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

PLAN DETAILS This is a request to revise the preliminary plan and for final site plan approval for a portion of the Hickory Hills Planned Unit Development (PUD). The PUD was originally approved in 1973, for various commercial, office and residential uses. This portion of the PUD is approved for 51,404 square feet of office and equipment space. The proposed revision it to permit a new parking area for the storage of utility trucks and trailers. No new structures are proposed.

Site Plan The proposed plan calls for a new paved area covering 10,100 square feet. The additional parking area will be located at the back of the lot at the northwest corner and accessed from Hickory Hills Boulevard through the existing drive on the lot.

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.

STORMWATER RECOMMENDATION Approved with conditions:

1. Provide Dedication of Easement, Long Term Maintenance Plan, and Grading Permit fee.

STAFF RECOMMENDATION Staff recommends that the request be approved with conditions. The proposed parking area is consistent with other uses in the PUD and meets all zoning requirements.

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.
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.

Approved with conditions, **(10-0) Consent Agenda**

Resolution No. RS2009-53

“BE IT RESOLVED by The Metropolitan Planning Commission that 98-73P-001 is **APPROVED WITH CONDITIONS.**
(10-0)

Conditions of Approval:

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.
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.”

XIII. OTHER BUSINESS

13. Capital Improvements Budget

Approved, *(10-0) Consent Agenda*

- 14. Proposal to reduce the application fee from \$2,100 to \$400 for certain infill subdivisions and for consolidation plats.

Approved, *(10-0) Consent Agenda*

- 15. Employee contract renewals for Rick Bernhardt, Cynthia Wood, Greg Johnson and Leslie Meehan.
- Approved, *(10-0) Consent Agenda*

- 16. Executive Director Reports

- 17. Legislative Update

XIII. ADJOURNMENT

The meeting adjourned at 6:15 p.m.

Chairman

Secretary

A DVD of the Metro Planning Commission meeting, including a video of all discussions, can be obtained at <http://www.nashville.gov/metro3/Tape.htm> from the Metro Information Technology Services Department.



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