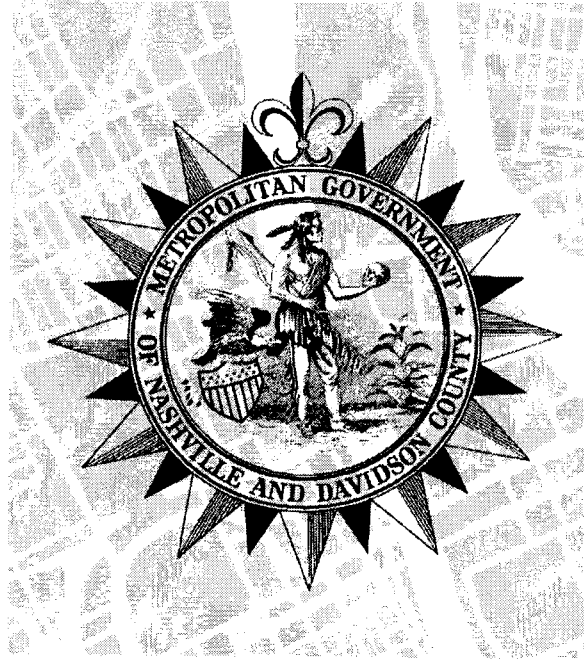


# Metropolitan Planning Commission



Staff Reports

June 11, 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.*

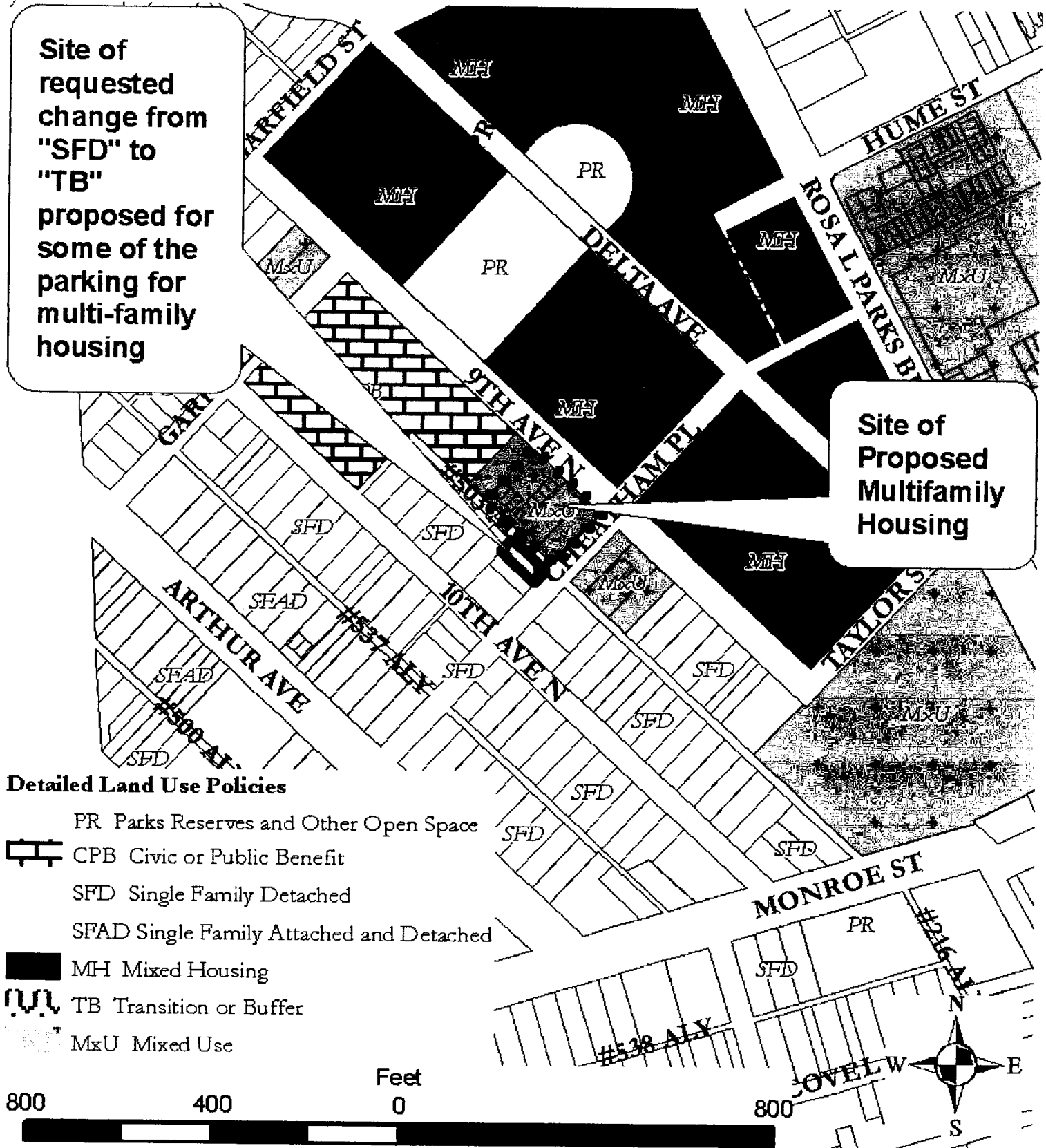
## **PREVIOUSLY DEFERRED ITEMS**

# PLAN AMENDMENT REQUEST

## 2009CP-008-001

Site of requested change from "SFD" to "TB" proposed for some of the parking for multi-family housing

Site of Proposed Multifamily Housing





**Project No.**  
**Request**  
**Associated Case**  
**Council District**  
**School Districts**  
**Requested by**

**2009CP-008-001**  
**Amend the North Nashville Community Plan**  
2009SP-007-001  
19 – Erica Gilmore  
1 – Gentry  
Dale and Associates and Planning Department, Alpha Street Real Estate Development and Investments LLC, owner  
*Deferred from the May 14, 2009, Planning Commission meeting.*

**Deferral**

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

Eadler  
*Approve*

**APPLICANT REQUEST**

**A request to amend the North Nashville Community Plan by changing from “Single Family Detached in Neighborhood General” to “Transition or Buffer in Neighborhood General” for 0.08 acres located at 906 Cheatham Place.**

This proposal was reviewed as a “minor plan amendment,” which requires at a minimum notification of property owners within 500 ft of the subject site. Since the associated zone change required notification to a distance of 600 ft., the plan amendment request used a 600 ft buffer as well.

**Deferral**

**This item was deferred from the May 14, 2009, Planning Commission meeting for a community meeting to be held to discuss this minor plan amendment and the associated rezoning request and for the Councilmember attend the meeting. A community meeting has been scheduled for June 10, 2009.**

**EXISTING POLICY**  
**Neighborhood General (NG)**  
**Structure Plan Policy.**

The “NG” policy applicable to the subject site is established in the “Structure Plan” for the North Nashville Community. It is intended to create or preserve primarily residential areas including civic and public benefit uses that are common in residential areas. “NG” areas ideally have a variety of housing to meet a spectrum of housing needs. The development pattern is carefully articulated in a design plan and not placed randomly. This request does not involve a change in the “NG” policy. Rather, the request is for a change in the *detailed land use policy* that is also applied to the property.

**Single Family Detached (SFD)**  
**Detailed Land Use Policy.**

The “SFD” detailed land use policy applicable to the subject site was established in the *Buena Vista Detailed Neighborhood Design Plan*. Uses intended in “SFD” policy include detached single family homes and appropriate civic



## Metro Planning Commission Meeting of 06/11/09

and public benefit activities, such as schools, parks and religious institutions. "SFD" does not support the use of properties for parking lots as either a principal use or as accessory parking for uses not intended in "SFD" policy areas. The applicant wants to use the property for parking for the adjacent multifamily housing development, which precipitated the plan amendment request.

### **PROPOSED POLICY** **"Transition or Buffer"** **Detailed Land Use Policy**

The intent for "TB" policy is to achieve a transition from areas of more intense development, such as commercial or mixed use areas, to the surrounding neighborhoods. A variety of housing types, residential-scale office and mixed use development, and parking are types of uses supported by the requested "TB" policy.

---

### **COMMUNITY PARTICIPATION**

Notification of the request and the Planning Commission Public Hearing on the request was posted on the Planning Department website and was mailed to known neighborhood organizations and surrounding property owners within 600 feet of the subject site.

---

### **BACKGROUND**

A multifamily residential development is proposed that involves the subject site plus Parcels 310 and 311 on Map 081-12-0 and condo development 081-12-0N, all of which front on 9<sup>th</sup> Ave. N. The residential buildings are proposed on the properties fronting 9<sup>th</sup> Avenue N., and the subject site is intended to be used for some of the parking needed for the development. The existing "Mixed Use" policy on the properties fronting 9<sup>th</sup> Ave. N. supports the proposed multifamily residential buildings. However, the "Single Family Detached (SFD)" detailed policy on the subject site does not support either multifamily buildings or accessory parking for such buildings. Hence, the need for the requested amendment.

---

### **PHYSICAL SITE CONDITIONS**

The site does not contain any apparent natural features, such as steep topography or areas subject to flooding that would pose a constraint to development.

### **LAND USE**

Surrounding land uses include multifamily and single-family residential. The abutting property to the west is vacant, as are the two parcels to the east that are associated with this request. The *Buena Vista Detailed Neighborhood Design Plan* calls for single-family homes to the north and west of the subject property. The extent to which parking on the subject site would impact adjoining properties would be no different than the impact of parking for schools, parks, and other nonresidential uses supported by



## Metro Planning Commission Meeting of 06/11/09

### ACCESS

“Single Family Detached” policy. With required landscape buffering, such parking should not have a detrimental impact on surrounding land uses.

The site has frontage on Cheatham Place. Alley #503 separates the subject site from the two parcels facing 9<sup>th</sup> Avenue N. on which the associated residential building is proposed. The alley provides an important service to the larger area and it should remain open. It should also be the means of access to the proposed parking on the subject site, if approved.

### DEVELOPMENT PATTERN

The orientation of the subject site toward Cheatham Place is an advantage because it does not intrude into the adjoining “SFD” residential area as deeply as would a parcel oriented toward and extending to 10<sup>th</sup> Avenue N.

### HISTORIC FEATURES

The subject site is in the Buena Vista National Register Historic District. It is also near the Cheatham Place Public Housing development, some of which is on the National Register and some of which is eligible for listing on the National Register. There is, however, no historic overlay zoning currently applicable to the subject site or surrounding area. Sensitivity to the area’s historic features is an important consideration for any development proposed on the subject site and surrounding area.

### ALTERNATIVE LOCATIONS

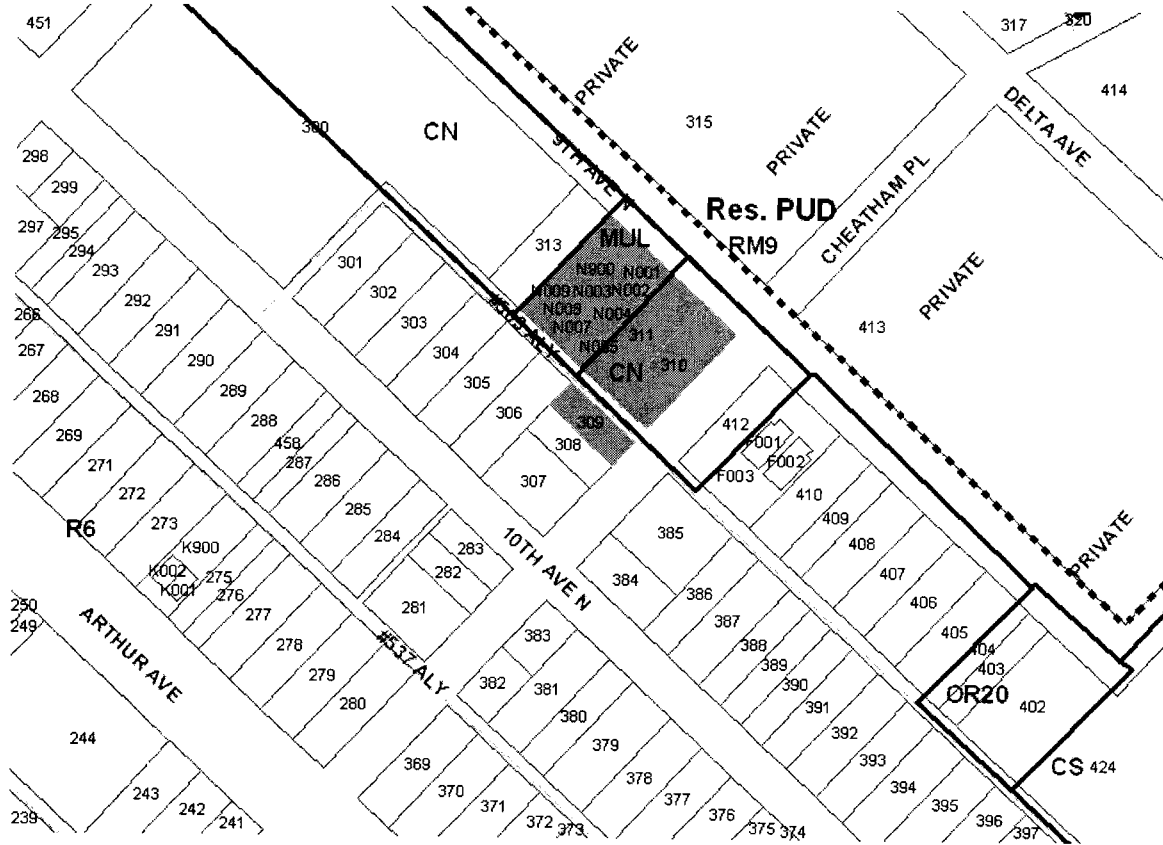
The subject site is the best option available for accommodating the needed parking. The property to the north of the proposed residential building, while appropriate for parking, contains a house; and providing parking to the east or south would entail crossing 9<sup>th</sup> Avenue N. or Cheatham Place.

### CONCLUSION

The request does not pose any apparent significant adverse impacts and, with adequate landscape buffering, would provide an appropriate transitional land use pattern. Maintaining the public alley and sensitivity toward historic features are important considerations for any development on the subject site.

### STAFF RECOMMENDATION

Staff recommends approval.



**2009SP-007-001**

9th & Cheatham

Map: 081-12 Parcels: 309, 310, 311

Map: 081-12-N Parcels: 001, 002, 003, 004, 005, 006, 007, 008, 009

North Nashville Community Plan

Council District 19 – Erica S. Gilmore





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

**Zone Change 2009SP-007-001**  
**9<sup>th</sup> & Cheatham SP**

2009CP-008-001  
19 - Gilmore  
1 - Gentry

Dale & Associates and the Metro Planning Department, applicants, for Alpha Street Real Estate Development & Investments, LLC, owner.

**Deferral**

*Deferred from the May 14, 2009, Planning Commission meeting*

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

Sexton  
*Approve with conditions, subject to approval of the accompanying Community Plan Amendment.*

---

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

**A request to change from Commercial Neighborhood (CN), Mixed Use Limited (MUL), and One and Two-Family Residential (R6) to Specific Plan - Residential (SP-R) zoning properties located at 1501 and 1505 9th Avenue North, 9th Avenue North (unnumbered), and 906 Cheatham Place, at the northwest corner of 9th Avenue North and Cheatham Place (0.76 acres), to permit a 3-story, 44 unit multi-family complex.**

**Deferral**

**This item was deferred from the May 14, 2009, Planning Commission meeting for a community meeting to be held to discuss this rezoning request and the associated minor plan amendment and for the Councilmember attend the meeting. A community meeting has been scheduled for June 10, 2009.**

**The Planning Commission raised three issues concerning building materials, parking access, and sign size. These are addressed below.**

---

**Existing Zoning**  
CN District

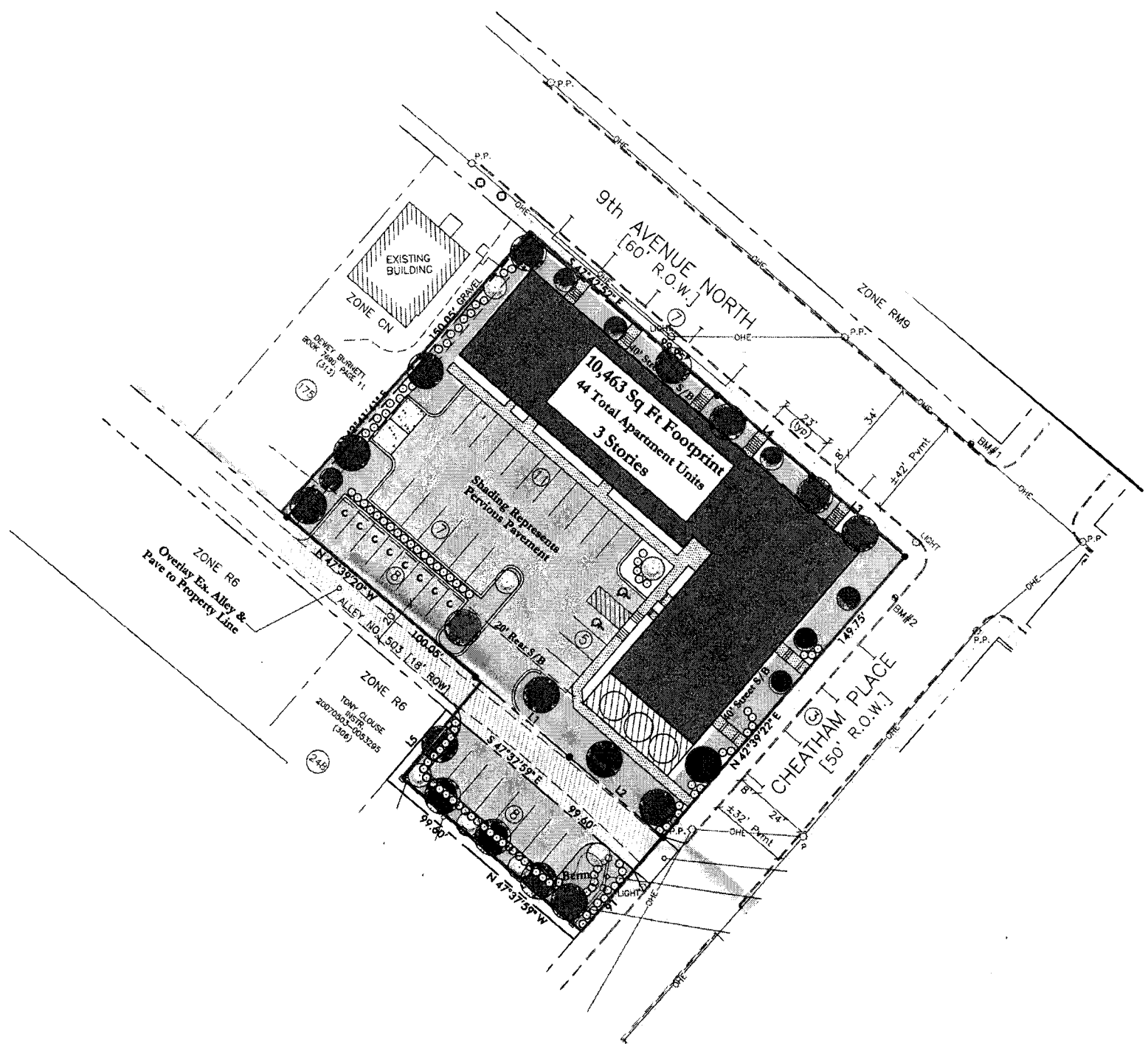
Commercial Neighborhood is intended for very low intensity retail, office, and consumer service uses which provide for the recurring shopping needs of nearby residential areas.

MUL District

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

R6 District

R6 requires a minimum 6,000 square foot lot and is intended for single-family dwellings and duplexes at an



10,463 Sq Ft Footprint  
44 Total Apartment Units  
3 Stories

9th AVENUE NORTH  
[60' R.O.W.]

CHEATHAM PLACE  
[50' R.O.W.]

ZONE R6  
Overlay Ex-Alley &  
Pave to Property Line

ZONE R6  
TOWN HOUSE  
2007000-0633005  
(308)

EXISTING BUILDING  
ZONE CN

ZONE RM9

DEVEL. BURHETT  
BOOK 1406 PAGE 11  
(17)

Shading Represents  
Previous Pavement

(2.4b)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)

(17)



## Metro Planning Commission Meeting of 06/11/09

overall density of 7.72 dwelling units per acre including 25% duplex lots.

### **Proposed Zoning** SP-R District

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

---

### **NORTH NASHVILLE COMMUNITY PLAN**

#### **Existing Policy** *Buena Vista Detailed Neighborhood Design Plan* Mixed Use (MxU) in NC

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

#### Neighborhood Center (NC)

NC is intended for small, intense areas that may contain multiple functions and are intended to act as local centers of activity. Ideally, a neighborhood center is a "walk-to" area within a five minute walk of the surrounding neighborhood it serves. The key types of uses intended within NC areas are those that meet daily convenience needs and/or provide a place to gather and socialize. Appropriate uses include single- and multi-family residential, public benefit activities and small scale office and commercial uses. An Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in these policy areas, to assure appropriate design and that the type of development conforms with the intent of the policy.

#### Single Family Detached (SFD) in NG

SFD is intended for single family housing that varies based on the size of the lot. Detached houses are single units on a single lot.

#### Neighborhood General (NG)

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





## Metro Planning Commission Meeting of 06/11/09

### Proposed Policy

Transition or Buffer (TB)

Transition or Buffer is intended to provide a transition from intense commercial activity to a more residential character. Uses should be residential in scale, character, and function, but may have a limited commercial or mixed-use component.

### Consistent with Policy?

Yes. If the accompanying Community Plan Amendment is approved, this zone change will be consistent with the land use policies. The SFD policy does not support either multi-family buildings or accessory parking for multifamily buildings. The community plan amendment to TB will support the parking area proposed with this zone change request. The portion of the property within the MxU is consistent, as the NC policy permits multi-family uses.

---

### PLAN DETAILS

The preliminary site plan proposes a three-story, 10,463 square foot apartment building, which includes 35 one bedroom, 6 two bedroom and 3 three bedroom units. The SP is being proposed on three properties which will need to be consolidated into one lot before this project can be constructed. The SP also includes an additional vacant lot southwest of the site, separated by an alley that will be used for accessory parking.

### Building Materials

Details of the proposed building materials have been identified on the plan. Proposed materials include cementitious fiberboard siding, brick veneer, metal coping, vinyl windows, fabric awnings, metal canopies, split face concrete block on the base.

### Building Orientation

The proposed apartment building is oriented toward both 9<sup>th</sup> Avenue North and Cheatham Place. The rear of the apartment building overlooks the parking area. The proposed development includes a front setback of 10 feet from 9<sup>th</sup> Avenue North and a 15 foot front setback from the Cheatham Place right-of-way line.

### Access/Parking

In order to avoid adding vehicular access points onto 9<sup>th</sup> Avenue North, and additional vehicular access points on Cheatham Place, access to the parking for this development is via an existing alley. Public Works is requiring that the portion of the alley adjacent to the site be brought up to Metro standards for an alley. Utilizing the alley for parking offers the least impact to the pedestrian environment, as no new vehicle crossing of the sidewalk is proposed. The plan is consistent with the Community Plan in that it will create a strong, pedestrian-oriented streetscape with the building fronting both streets. The



## Metro Planning Commission Meeting of 06/11/09

### Landscaping/Screening

plan proposes a total of 49 parking spaces. The proposed parking meets the UZO standards of the Zoning Code. The parking will be screened from the adjacent residential properties through masonry walls and landscaping.

A standard A Landscape Buffer Yard is proposed along the northwest property line in order to provide additional buffering for the existing residential property. A standard C Landscape Buffer Yard and 30 inch knee wall is proposed along the southwestern portion of the site to provide additional buffering for the existing residential property and parking area. Details of the proposed landscaping have been provided, but a list of proposed trees and shrubs species consistent with the Urban Forester's tree density requirement is needed. A dumpster is located on the northwest portion of the property. Screening details for the dumpster were not submitted to staff and will need to be provided with the final site plan.

### Signs/Screening Wall

While a sign was identified in the plan, it is in fact a continuation of a wall and will include the property address. No other information is proposed to be on the wall. This wall is adjacent to the 30 inch knee wall and is part of the parking lot screening. This portion is located at the entrance of the alley leading to the parking area. Staff is recommending that the portion of the wall with the address be reduced in height from six feet to four feet. This will provide for parking lot screening and will be sufficiently tall so that the street number is not obscured by the required landscaping.

---

### **PUBLIC WORKS RECOMMENDATION**

1. All Public Works' design standards shall be met prior to any final approval and permit issuance. Any approval is subject to the Department of Public Works' approval of the construction plans.
2. Construct Alley #503 per the Department of Public Works standards and specifications along property frontage, including a minimum 18' pavement width. Dedicate right of way, as applicable. No obstruction to be constructed within the public right-of-way.
3. Remove the proposed on-street parking along Cheatham Place, or widen Cheatham Place to accommodate on-street parking.



# Metro Planning Commission Meeting of 06/11/09

4. Provide plans for solid waste disposal and recycling collection. All service locations to accommodate accessibility for SU-30 design vehicle turning movement. The solid waste collection and disposal plan is to be reviewed and approved by the Department of Public Works Solid Waste Division.
5. Provide on-site parking per Metro Code.
6. Spaces within ROW shall be unmarked.
7. Locate monument sign and berm to ensure adequate sight distance from exiting alley.

### Maximum Uses in Existing Zoning District: CN

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	.34	0.25	3,702 sq. ft.	106	14	14

### Maximum Uses in Existing Zoning District: MUL

Land Use (ITE Code)	Acres	FAR	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Low Rise Residential/Townhome (230)	.34	1	18*	145	14	15

\*Based on 800 square foot units

### Maximum Uses in Existing Zoning District: R6

Land Use (ITE Code)	Acres	Density	Total Number of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached (210)	.08	7.71	1	10	1	2

### Maximum Uses in Proposed Zoning District: SP-R

Land Use (ITE Code)	Acres	FAR	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Mid Rise Apartments (220)	.76	N/A	44	391	26	42

### Traffic changes between: CN, MUL, and R6 and proposed SP-R

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	.76	N/A	N/A	+130	-3	+11

## STORM WATER RECOMMENDATION

1. Provide a water quality concept and room for detentions. Some non-standard methods of water quality and detention are being proposed, which may require a variance from the Stormwater Management Committee. If a variance is not approved, then a direct



## Metro Planning Commission Meeting of 06/11/09

connection to an adequately sized combined sewer may be required.

2. Add Preliminary Note to plans: (This drawing is for illustration purposes to indicate the basic premise of the development. The final lot count and details of the plan shall be governed by the appropriate regulations at the time of final application.)

---

### **METRO SCHOOL BOARD REPORT**

**Projected student generation**

**3 Elementary    2 Middle    2 High**

**Schools Over/Under Capacity**

Students would attend Brookmeade Elementary School, Hill Middle School, or Hill Wood High School. None of the schools have been identified as being over capacity by the Metro School Board. This information is based upon data from the school board last updated June 2008.

---

### **STAFF RECOMMENDATION**

The proposed SP plan is consistent with the MxU in NC policy and staff is recommending approval with conditions.

---

### **CONDITIONS**

1. The parking lot screening wall at the entrance to the alley shall be no taller than four feet in height.
2. Prior to final site plan approval, the SP final site plan shall include a tree density table and plant species list to be approved by the Urban Forester.
3. Details of the screening for the dumpster shall be included with the final site plan.
4. Prior to the issuance of any grading or building permits, lots fronting onto 9<sup>th</sup> Avenue North shall be consolidated.
5. The requirements of the Metro Public Works Department must be met prior to or in conjunction with final site plan approval.
6. The requirements of the Metro Stormwater Department must be met prior to final site plan approval.
7. The SP is limited to residential uses.
8. For any development standards, regulations and requirements not specifically shown on the SP plan

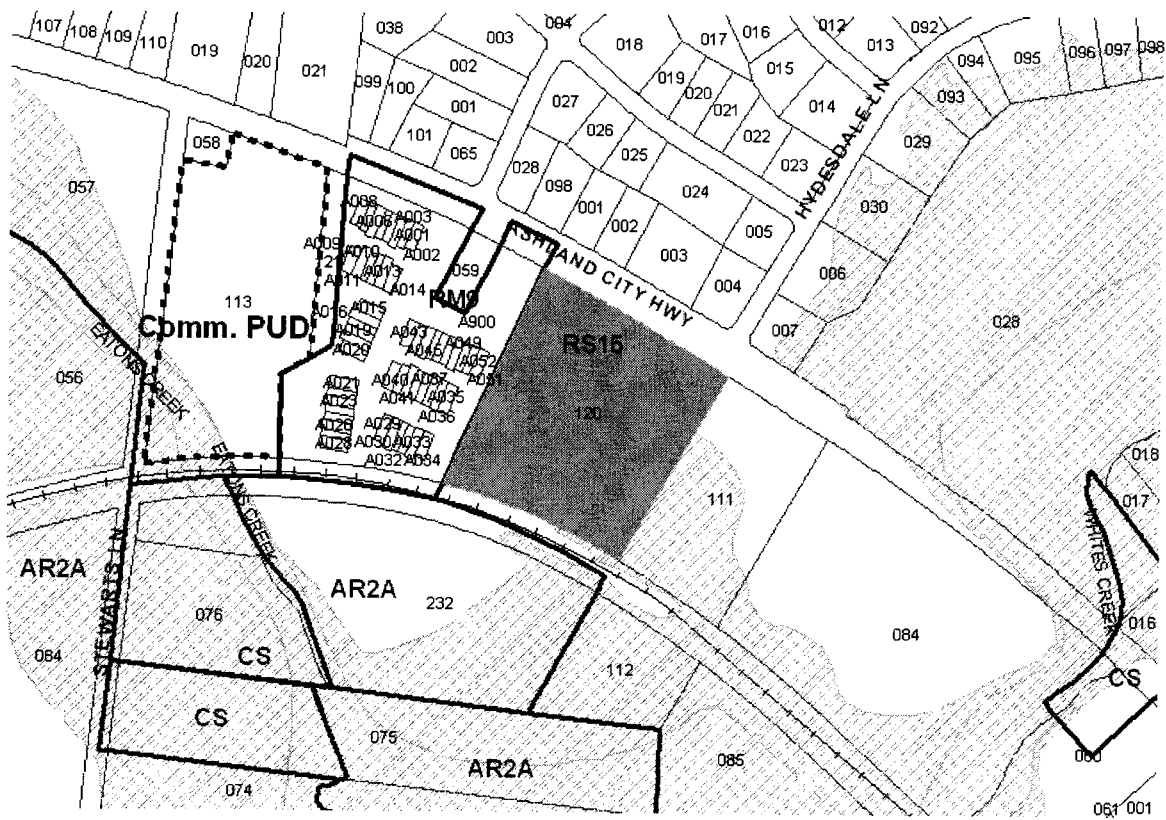




## Metro Planning Commission Meeting of 06/11/09

and/or included as a condition of Commission or Council approval, the property shall be subject to the standards, regulations and requirements of the MUL zoning district as of the date of the applicable request or application.

9. A corrected copy of the preliminary SP plan incorporating the conditions of approval by the Planning Commission and Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.
10. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
11. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.



**2009SP-010-001**

Map: 069-00 Parcel: 120

Bordeaux/Whites Creek Community Plan

Council District 1 – Lonell R. Matthews, Jr.



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

**Zone Change 2009SP-010-001**

**Ashland City Highway SP**

BL2009-474

1 – Matthews

1 - Gentry

A. Brandon Starks, applicant, Jackson Street Missionary Baptist Church, owner.

**Deferral**

*Deferred from the May 14, 2009, Planning Commission meeting at the request of the applicant.*

**Staff Reviewer**

Sexton

**Staff Recommendation**

*Disapprove*

**APPLICANT REQUEST**

**Preliminary SP**

**A request to rezone from Single-Family Residential RS15) to Specific Plan – Mixed Use (SP-MU) zoning for property located at Ashland City Highway (unnumbered), approximately 1,620 feet east of Eaton’s Creek Road (7.14 acres), to permit all uses within the Multi-Family Residential (RM9) zoning subject to the standards, regulations and requirements of the Multi-Family Residential (RM9) zoning district and to permit a Funeral Home subject to the standards, regulations and requirements of the OR20 zoning district.**

**History**

The original request of the applicant was to rezone from RS15 to Office/Residential (OR20) to permit a funeral home on this property. After discussions with the community, the applicant deferred the request to at the May 14, 2009, Planning Commission meeting where the request was amended to an SP to provide more certainty of the use for the property.

**Existing Zoning**

RS15 District

RS15 requires a minimum 15,000 square foot lot and is intended for single-family dwellings at a density of 2.47 dwelling units per acre. The RS15 district would permit approximately 18 lots within a cluster lot subdivision.

**Proposed Zoning**

SP-MU District

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



## Metro Planning Commission Meeting of 06/11/09

---

### **BORDEAUX/WHITES CREEK COMMUNITY PLAN**

#### **Residential Medium (RM)**

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

#### **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?**

No. While the residential component of the SP plan is consistent with the RM policy, the proposed funeral home is inconsistent with both the RM and NCO policies. The residential component is inconsistent with NCO policy. Approximately one acre (14%) of the property is within the NCO policy area and is located within the 100-year floodplain.

---

#### **PLAN DETAILS**

The proposed SP is located along the south side of Ashland City Highway and would permit all uses permitted in the RM9 zoning district as well as a funeral home.

If developed as residential, all uses within the RM9 zoning district would be allowed and any development would need to comply with the RM9 standards of the Metro Zoning Code. Any final site plan for residential development will need to be consistent with RM policy and approved by the Planning Commission.

The applicant has indicated an intention to construct a funeral home on the property. The SP would require that bulk standards for the proposed funeral home be consistent with the standards of the OR20 zoning district. The proposed funeral home is the only use, other than those permitted in the RM9 zoning district that will be permitted on the property. Details of the proposed funeral home building and site layout were not provided with the preliminary plan. The plan includes a map of the site and regulations restricting uses. Since this SP plan is regulatory in nature, a detailed site plan is not included with the preliminary SP. A detailed site plan, including



## Metro Planning Commission Meeting of 06/11/09

### Landscaping

elevations identifying building materials and site layout will need to be included with the final site plan. Prohibited building materials include all plastics, plywood, unfinished concrete blocks, metal buildings, and vinyl siding.

If a funeral home is developed on the property, a standard C Buffer will need to be provided along the west, east and southeastern property lines of the site. A standard B Buffer will need to be provided along the southwest portion of the site. If the property is developed as residential, a standard B Buffer will need to be provided on the east and southeastern portion of the property.

Details of the proposed landscaping have not been provided. A landscape plan, including a list of proposed trees and shrubs species consistent with the Urban Forester's tree density requirement will be required with the SP final site plan.

### Signs

Sign details were not included in this SP. In addition to signs prohibited by Section 17.32.050 of the Metro Zoning Ordinance, prohibited signs will include roof mounted signs, pole mounted signs, billboards, and signs that flash, rotate, scintillate, blink, flicker or vary in intensity or color, including all electronic signs. Permitted signs will include a building sign and a freestanding ground sign.

Building signs are attached directly to, or supported by brackets attached directly to a principal building. One building sign of a maximum area of 48 square feet shall be permitted.

Freestanding ground signs are supported by structures or supports that are anchored in the ground and that are independent of any building or other structure and are a maximum six feet in height. One ground sign of a maximum of 28 square feet in size shall be permitted.

Signs are to 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. Freestanding ground signs may be lit from a ground lighting source.

All signs must be constructed using high-quality durable materials such as metal, stone, brick, and hardwood, and



## Metro Planning Commission Meeting of 06/11/09

shall complement materials and features of buildings on the same property.

---

### **STORMWATER RECOMMENDATIONS**

Preliminary SP returned for corrections. Provide a site plan with the following information:

- Add Project Name to plans.
- Provide the FEMA Note / Information to plans.
- Show North Arrow & Bearing Information.
- Provide a Vicinity Map to plans.
- Proposed Site Layout (Scale no less than 1" = 100', Contours no greater than 5')
- Add 78-840 Note to plans:  
(Any excavation, fill, or disturbance of the existing ground elevation must be done in accordance with storm water management ordinance No. 78/840 and approved by The Metropolitan Department of Water Services.)
- Add Preliminary Note to plans:  
(This drawing is for illustration purposes to indicate the basic premise of the development. The final lot count and details of the plan shall be governed by the appropriate regulations at the time of final application.)
- Add Access Note to plans:  
(Metro Water Services shall be provided sufficient and unencumbered access in order to maintain and repair utilities in this site.)
- Add C/D Note to plans:  
(Size driveway culverts per the design criteria set forth by the Metro Stormwater Management Manual (Minimum driveway culvert in Metro ROW is 15" CMP).)
- Show Existing Topo.
- Provide a Water Quality Concept.
- Provide Room for Detention.

---

### **WATER SERVICES RECOMMENDATION**

An active capacity fee letter must be submitted. A water/sewer study will be required in advance with an active date. The cost of the study is \$500.00. Along with the money, a proposed site utility plan and water/sewer availability request forms must be filled out and included.

---

### **FIRE MARSHAL RECOMMENDATION**

- All applicable fire codes shall be adhered to.



# Metro Planning Commission Meeting of 06/11/09

- All new construction shall be protected by a fire hydrant(s) that comply with the 2006 edition of NFPA 1 table H. To see table H go to (<http://www.nashfire.org/prev/tableH51.htm>)
- Actual or proposed fire hydrant(s) locations and flow data shall be shown on the plans used to protect structures for this project.
- 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.
- Developer needs to provide more information to the Fire Marshal's Office.
- Dead end fire mains over 600 feet in length are required to be no less than 10 inch in diameter. If this is to be a public fire main, a letter from Metro Water is required excepting the length and size.
- Fire Hydrants shall be in-service before any combustible material is brought on site. All fire department access roads shall be 20 feet minimum width and shall have an unobstructed vertical clearance of 13.6 ft.
- No part of any building shall be more than 500 ft from a fire hydrant via an approved hard surface road.

## PUBLIC WORKS RECOMMENDATION

- A traffic impact study may required at the time of development.
- Site access points to be determined with the submittal of the final development plan.

### Maximum Uses in Existing Zoning District: RS15

Land Use (ITE Code)	Acres	Density	Total Number of Lots	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached ( 210 )	7.14	2.47	18	173	14	19

### Typical Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	Density	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Residential/Condo/Townhome ( 230 )	7.14	9	64	437	37	42



# Metro Planning Commission Meeting of 06/11/09

## 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
Funeral Home/Church ( 560 )	7.14	0.081	25,192 sq. ft.	230	19	17

## Traffic changes between: RS15 and proposed SP

Land Use (ITE Code)	Acres	FAR	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
	7.14	N/A	N/A	+494	+42	+40

## METRO SCHOOL BOARD REPORT

**Projected student generation if Developed under the RM9 Standards (64 units)**

7 Elementary    7 Middle    10 High

**Schools Over/Under Capacity**

Students would attend Cumberland Elementary School, Joelton Middle School, or Whites Creek High School. None of the schools have been identified as being over capacity by the Metro School Board. This information is based upon data from the school board last updated June 2008.

## STAFF RECOMMENDATION

Staff recommends disapproval of the request to rezone 7.14 acres from RS15 to SP zoning. The proposed SP-MU zoning district is not consistent with the RM and NCO policies of the Bordeaux/Whites Creek Community Plan.

## CONDITIONS (if approved)

1. If developed as residential, all uses within the RM9 zoning district shall be allowed with such uses complying with RM9 zoning standards, except as otherwise required by other conditions of approval. Any final site plan for residential development shall be consistent with the RM policy and shall be approved by the Planning Commission.
2. A funeral home use shall be permitted and shall comply with all standards and regulations of the OR20 zoning district.
3. In conjunction with any final SP site plan, elevations identifying building material and a site layout shall be submitted to staff for review and approval. Prohibited building materials shall include all plastics, plywood,





## Metro Planning Commission Meeting of 06/11/09

unfinished concrete blocks, metal buildings, and vinyl siding

4. If developed as residential, all property within NCO policy shall be conserved as open space. If developed as a funeral home, all standards of the OR20 zoning district shall apply.
5. The SP final site plan application shall include a landscape plan which includes a tree density table and plant species list to be approved by the Urban Forester.
6. Signs shall be limited to one wall mounted sign a maximum of 48 square feet in size and one ground sign a maximum of 28 square feet in size shall be permitted. Details of the signs shall be submitted with the final site plan for review and approval.
7. The requirements of Metro Stormwater must be met prior to final site plan approval.
8. The requirements of Metro Water Services must be met prior to final site plan approval.
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 final site plan approval.
10. The requirements of the Metro Public Works Department must be met prior to final site plan approval.
11. 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 RM9 zoning district for residential development and the OR20 zoning district for a funeral home use as of the date of the applicable request or application.
12. This SP is limited to a funeral home and all uses permitted within the RM9 zoning district.
13. 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



## Metro Planning Commission Meeting of 06/11/09

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.

**SEE NEXT PAGE**

**NO SKETCH**



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

**Zone Change 2009Z-002TX-001**  
**Mobile Vendors: Special Exception**  
BL2009-410  
Countywide  
N/A  
Councilmember Pam Murray  
2009Z-011TX-001  
*Deferred indefinitely at the April 23, 2009, Planning Commission meeting.*

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

Regen  
*Approve with amendment*

---

**APPLICANT REQUEST**

**A council bill to amend the Metro Zoning Code, Chapter 17.16, to allow mobile vendors unable to comply with the indoor-only provisions to apply for a Special Exception (SE) permit for outdoor vending.**

---

**Deferral**

**This item was deferred indefinitely by the Planning Commission on April 23, 2009. The Commission deferred to enable the Zoning Administrator and the Board of Zoning Appeals (BZA) legal counsel to attend the next commission meeting and provide information on regulating mobile vendors in Davidson County.**

---

**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 Text

The bill applies countywide and allows mobile vendors to locate on any collector street provided such activity occurs between 7:00 a.m. and 6:00 p.m.; there are no outdoor loudspeakers or public address systems; and a minimum 50 foot setback is maintained from any residential zoning district or public right-of-way. No mobile vendor can locate along a local residential street or an arterial street.

Analysis

This proposed bill requires anyone wanting to do an "outdoor" mobile vendor use to apply for a special exception (SE). In contrast, zoning text amendment 2009Z-011TX-001, would require adoption of a mobile



## Metro Planning Commission Meeting of 06/11/09

vendor overlay district. By making “outdoor” events a SE use, a public hearing is required by the Board of Zoning Appeals (BZA). The community will receive notice of the upcoming hearing by mail if they live within 600 feet of the proposed vendor location. In addition, one or more public hearing signs will be posted on the property, depending on the location’s street frontage, announcing the date and time of the public hearing to the community. Further, the Planning Commission is required to provide the BZA a recommendation as to the proposed use’s consistency with the General Plan.

A SE is a discretionary review process by the BZA. By requiring a SE, community concerns can be addressed, and conditions can be adopted by the BZA, to ensure the proposed use enhances the neighborhood. Further, a SE enables the Codes Department to effectively enforce the mobile vendor standards by knowing who clearly has approval to vend outdoors, where they can vend, what hours they can vend, and under what other conditions, as may be adopted by the BZA. The SE approval also enables the BZA to revisit an applicant’s compliance with adopted conditions, and if appropriate, revoke the vendor’s SE status for non-compliance. The proposed text amendment includes the following standards:

1. **Setback.** All mobile vending activity shall be setback a minimum of fifty feet from the public right-of-way. Further, all such mobile vending activity must be setback at least fifty feet from any residential zoning district.
2. **Street Standard.** Mobile vending activity shall not be permitted along any local residential street or arterial street, but shall only take place when frontage is on a collector street.
3. **Outdoor Loudspeakers.** There shall be no outdoor loudspeakers or public address systems.
4. **Hours of Operation.** The hours of operation for any mobile vending activity shall be limited to 7:00 a.m. to 6:00 p.m.

At the last meeting on April 23, 2009, the Commission requested staff contact the Zoning Administrator, the Metro Legal staff attorney for the Codes Department, and the BZA Chair and ask them to attend the next Planning Commission meeting. All three were contacted, and several were in attendance at that meeting. However,



## Metro Planning Commission Meeting of 06/11/09

since this item was deferred indefinitely by the sponsor, it was not presented or discussed by the commission.

### **STAFF RECOMMENDATION**

Staff recommends approval of this bill with one minor amendment. Staff recommends clarifying that a mobile vendor must be located on a collector street "designated on the adopted Major Street Plan". There are many streets within Davidson County that have the width of a collector street, but functionally, operate as a local street. Should the Commission decide to approve this bill, then zoning text amendment 2009Z-011TX-001 (BL2009-465), should be disapproved.

As to whether this zoning text amendment or 2009Z-011TX-001 requiring adoption of an overlay district should be adopted, staff finds neither is superior to the other. They are just different. The major difference is the process of approval and enforcement.

Both of the proposed text amendments achieve the same result for the applicant though at a different cost and time horizon. The SE requires BZA approval and the MVO requires Council approval. While they both have the same operational standards, the enforcement process differs. Unlike the Special Exception permit, an overlay district enables the community to appeal to the Codes Department for enforcement, and if the response is unsatisfactory, the Metro Council. The district councilmember can then decide whether the overlay district should be retained, amended, or canceled. The special exception permit can be re-reviewed by the BZA, and the permit revoked, but there is no Council approval.

**SEE NEXT PAGE**



**SPECIFIC PLANS and  
TEXT AMENDMENTS**

**NO SKETCH**



<b>Project No.</b>	<b>Zone Change 2009Z-011TX-001</b>
<b>Name</b>	<b>Mobile Vendor Overlay District</b>
<b>Council Bill</b>	BL2009-465
<b>Council District</b>	Countywide
<b>School District</b>	N/A
<b>Requested by</b>	Councilmember Pam Murray
<b>Associated Case No.</b>	2009Z-002TX-001
<b>Staff Reviewer</b>	Regen
<b>Staff Recommendation</b>	<i>Approve</i>

---

**APPLICANT REQUEST**

**A council bill to amend Chapters 17.08, 17.36, and 17.40 of the Metro Zoning Code to create a mobile vendor overlay (MVO) district. The MVO district would allow by right outdoor vending.**

---

**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 Text

The bill enables a councilmember to adopt a MVO district where a proposed mobile vendor(s) cannot meet the conditions specified under Section 17.16.070.M (Uses Permitted with Conditions: Commercial Uses (Mobile Vendor). This bill would be in lieu of making mobile vendors a special exception use as proposed by zoning text amendment 2009Z-002TX-001 (BL2009-410).

Analysis

This proposed bill requires anyone wanting to do an “outdoor” mobile vendor use to apply for, or locate within, a MVO district. Unlike the special exception use which is reviewed and approved by the Board of Zoning Appeals, the MVO would be adopted by the Metro Council. Once a MVO district was established, individual vendor permit would be administratively approved by the Codes Department staff with input from planning staff. As with all zoning uses, the Codes Department would handle enforcement and respond to complaints. The table below shows the differences between the existing standards and the two proposed bills.



# Metro Planning Commission Meeting of 06/11/09

## Mobile Vendor

		current law	2009Z-002TX; BL2009-410	2009Z-011TX; BL2009-465
		PC	SE	MVO
Review / Standards				
<b>Approval</b>	Codes Dept. staff-level approval	•	No	No
	Board of Zoning Appeals (BZA) approval	No	•	No
	Board of Zoning Appeals (BZA) re-review / permit revocation	No	•	No
	Planning Commission recommendation	No	•	•
	Planning Commission zoning permit sign-off	No	No	•
	Metro Council approval	No	No	•
	Metro Council permit revocation	No	No	No
<b>Enforcement</b>	Codes enforcement / permit revocation	•	•	•
<b>Public Notice</b>	Notice of public hearing by mail	No	•	•
	Notice of public hearing thru signs on property	No	•	•
	Notice to public/Council for each individual permit request	No	•	No
<b>Standards</b>	Setback 50 feet from public r.o.w.	No	•	•
	Setback 50 feet from any residential zoning district	No	•	•
	No mobile vendor on an arterial street	No	•	•
	No mobile vendor on a local street	No	•	•
	Mobile vendor on a collector street	No	•	•
	No outdoor speakers or public address systems	No	•	•
	Hours of operation restricted to 7:00 a.m. to 6:00 p.m., everyday	No	•	•
	Permanently enclosed structure	•	No	No
	Outdoor sales	No	•	•
	Outdoor display: Tents, tables, crates, cartons, racks or other devices allowed	No	•	•

### STAFF RECOMMENDATION

Staff recommends approval of this bill with two minor amendments. Staff recommends clarifying that a mobile vendor must be located on a collector street "designated on the adopted Major Street Plan". There are many streets within Davidson County that have the width of a collector street, but functionally, operate as a local street. Additionally, the bill references Section 17.16.070.M when it should be Section 17.16.070.O. Should the Commission decide to approve this bill, then zoning text amendment 2009Z-002TX-001 (BL2009-410), on this same agenda, should be disapproved.

As to whether this zoning text amendment or 2009Z-002TX-001 requiring a special exception permit should be adopted, staff finds neither is superior to the other. They are just different. The major difference is the process of approval and enforcement.

Both of the proposed text amendments achieve the same result for the applicant though at a different cost and time horizon. The SE requires BZA approval and the MVO requires Council approval. While they both have the same operational standards, the enforcement process differs.



## Metro Planning Commission Meeting of 06/11/09

Unlike the special exception permit, an overlay district enables the community to appeal to the Codes Department for enforcement, and if the response is unsatisfactory, the Metro Council. The district councilmember can then decide whether the overlay district should be retained, amended, or canceled. The special exception permit can be re-reviewed by the BZA, and the permit revoked, but there is no Council approval.



**2007SP-122-001**

Gallatin Pike Improvement District (Amend. #2)

Map: 061-03, 061-03B, 061-07, 061-11, 061-15

Parcels: various

Map: 072-02, 072-03, 072-06, 072-10, 072-13, 072-14

Parcels: various

East Nashville Community Plan

Council District 5 – Pam Murray



**Project No.  
Project Name**

**Zone Change 2007SP-122-001  
Gallatin Pike Improvement District SP  
(Amendment # 2)**

**Council Bill  
Council District**

BL2009-476  
5 – Murray; 4 – Craddock; 6 – Jameson; 7 – Cole; and 8 – Bennett

**School District  
Requested by**

5 - Porter  
Metro Planning Commission

**Staff Reviewer  
Staff Recommendation**

Swaggart  
*Approve*

---

**APPLICANT REQUEST**

**A request to amend the Gallatin Pike Improvement District Specific Plan as last amended with Council Bill BL2008-198, for properties generally located along Main Street and Gallatin Pike (266.11 acres), zoned SP to revise when the requirements of the SP apply and to make minor clerical changes within the document.**

---

**BACKGROUND**

The Gallatin Pike Improvement District SP was adopted by the Metro Council on July 17, 2007, and first amended on August 18, 2008. The SP district expressly implements the detailed land use policies in the East Nashville Community Plan along a portion of Main Street and Gallatin Pike. The SP includes provisions that tie land uses, building regulations, infrastructure requirements, and signage regulations directly to the detailed community plan policies for property included within the boundaries of the SP district.

The SP includes parcels of land that abut both sides of Main Street and Gallatin Pike, from South 5th Street to the south side of Briley Parkway, except for those parcels located within the Institutional Overlay for the Nashville Auto Diesel College and Planned Unit Developments adopted pursuant to BL2003-82 and BL2005-881.

As is common with any new comprehensive regulatory system, issues have arisen during implementation of the SP. These issues need to be adequately addressed; therefore this amendment has been initiated by the Metro Planning Commission. Some amendments are needed to address unintended consequences of provisions included in the SP, while others are needed to update the document. The amendments have been filed with the Council as a single ordinance. The primary proposed amendments are listed below, and will be discussed separately in the next section of this report.



## Metro Planning Commission Meeting of 06/11/09

1. “Trigger” Provisions – Amend provisions that regulate when the SP applies.
2. Standards for side streets – Remove from ordinance.
3. Building Regulations – Provide a side setback for corner lots.
4. Nonconforming Uses – Allow for limited nonresidential uses within the Mixed Housing Land Use area.

---

### DETAILS OF PROPOSED AMENDMENTS

#### 1. Amend the “Trigger” provisions – When is the SP applicable to construction? (Page 7 of the SP document)

Currently the SP specifies that the design guidelines, system regulations, and building standards apply if:

1. The value of any one building permit is twenty-five percent, or the value of multiple building permits during any five-year period is fifty percent of the value of all improvements on the lot prior to application for the building permit; or
2. The total building square footage of any one expansion is twenty-five percent, or the total building square footage of multiple expansions during any five-year period is fifty percent of the total building square footage of all improvements on the lot prior to expansion.

It specifies that signs must be in compliance with all sign requirements if:

1. All signage provisions contained in this SP shall apply to all sign-related permits. If a nonconforming sign is damaged, however, the issuance of a permit for repairs to the sign to restore the sign to its pre-damage condition shall not require compliance with the standards contained in this SP.

#### Issues with the Triggers

There have been two major issues with how the trigger provisions are currently written. First, the provisions have made it difficult for property owners to utilize existing nonconforming buildings that still retain a useful life. Paragraph 1 specifies that a property must be in full compliance with the SP requirements if the building permits value is twenty-five percent, or the value of multiple building permits during any five-year period is fifty percent of the value of all improvements on the lot prior to application for the building permit. The consequence of this is that a property owner would not be permitted to renovate a building if the value of the permit was twenty-five percent of the total building value, but would be required to tear down the building and redevelop the property consistent with the SP requirements. This has made it difficult for property owners to make reasonable renovations, exterior and interior, to existing buildings, creating a situation that encourages vacancy and waste of useable structures.





## Metro Planning Commission Meeting of 06/11/09

The second issue with Paragraph 1 is that it has been very difficult for staff to enforce. Often the property owner will submit an inaccurate permit in order to keep the permit value below the trigger. This situation is difficult for staff to regulate and is a time consuming process.

### Triggers to Remain the Same

Paragraph 2 of this section, which requires compliance with the SP if a proposed project will expand an existing building by twenty-five percent or more, has not been difficult to apply and should be retained as a trigger.

The provisions for signage standards have not been difficult to apply and should be retained.

### New Triggers

Most new ordinances of this type provide some means of grandfathering for existing nonconforming buildings. As written the Gallatin Pike SP severely limits what a property owner can do with an existing building, and given the current low demand for property along Gallatin Pike most property owners do not have the financial backing to demolish existing buildings and start over. Staff recommends a new set of trigger provisions which will allow property owners to utilize existing nonconforming buildings more easily. The new trigger provisions proposed by staff is a tiered approach having three tiers: full compliance, partial compliance and no compliance.

Under the new approach recommend by staff a property owner could utilize an existing nonconforming building provided the use is allowed in the SP and the parking requirements can be met. It also would allow for minor expansions (less than twenty-five percent) to existing nonconforming buildings provided that the property can meet certain access and landscape provision of the SP. Full compliance would be required for all new construction, major expansions (twenty-five percent or more), and for existing nonconforming buildings where more than fifty percent of the total floor area has been damaged or destroyed.

### Proposed amendments:

Delete section 1 under "Section B. Applications of Guidelines, Standards and Regulations" on page 7 in its entirety and replace with the following:

#### **1. When do the guidelines, standards, and regulations apply?**

The Gallatin Pike Improvement District SP does not apply to all building permits; however, *it does apply to all sign permits*. The SP allow for property owners to utilize existing nonconforming structures, but new construction, generally, shall meet all the provisions of this SP.

#### **A. Full compliance with all the SP provisions shall be required as follows:**

- i. New Construction – All new construction. When an existing nonconforming structure on property with multiple structures is being demolished only the new structure shall be in compliance with the guidelines, regulations and standards of this SP. When a portion of an existing nonconforming structure is being demolished then the



## Metro Planning Commission Meeting of 06/11/09

replacement structure shall bring the overall structure more into compliance with the guidelines, regulations and standards of this SP.

- ii. Expansion – A single expansion increases the gross floor area by twenty-five percent or more, or multiple expansions over any five-year period increases the gross floor area for all structures on a property by fifty percent or more of the total gross floor area of all improvements on the property prior to expansion.
- iii. Damage or Destruction – Damage of a nonconforming structure exceeds fifty percent of the total gross floor area.

**B. Compliance with Standards 1.1, 4.1, 4.2, 4.3 and 4.4 of the system regulations is required for minor expansions provided that:**

- i. A single expansion or multiple expansions are less than twenty-five percent of the total gross floor area of all improvements on the property prior to July 17, 2007.
- ii. The expansion is not on the front of a structure unless the proposed expansion would bring the structure more into compliance with the guidelines, regulations and standards of this SP.

**C. Compliance with the SP provisions *is not* required for the utilization of existing nonconforming structures provided there is no expansion to a nonconforming structure. While this SP does allow property with existing nonconforming structures to be utilized, the reuse of the property must meet the following standards:**

- i. Use – All proposed uses must be permitted as specified in Section D. for each Subdistrict. If the Zoning Administrator determines that a use is legally nonconforming as specified by 17.40.650 of the Metro Zoning Code then the use shall be permitted.
- ii. Parking – Parking shall meet the minimum requirements of Section 17.20 of the Metro Zoning Code. In instances where the minimum parking requirements cannot be met then planning staff under the direction of the Executive Director of the Planning Department may permit adequate alternatives.

**D. All signage shall require a sign permit. The signage standards contained in this SP shall apply to all sign-related permits. If a nonconforming sign is damaged, however, the issuance of a permit for repairs to the sign to restore the sign to its pre-damage condition shall not require compliance with the standards contained in this SP.**

---

**2. Delete Section 2, “Standards for side streets”, and update numbering (Page 7 of the SP Document).**

The original SP specified that the design guidelines, system regulations, and buildings standards only applied to the Gallatin Pike frontage for any parcel located within the SP district, therefore, buildings on side streets within the SP did not have to meet the SP provisions. The first amendment deleted that wording, and also added a new section, “Standards for side streets”. Since the original wording was removed, this section is not necessary as the provisions apply to all property within the SP district including side streets. Staff recommends that the entire section be deleted.



## Metro Planning Commission Meeting of 06/11/09

### 3. Provide setbacks for buildings on corner lots, and update the diagram to reflect change in all Building Regulations (Pages 20, 30, and 38 of the SP Document).

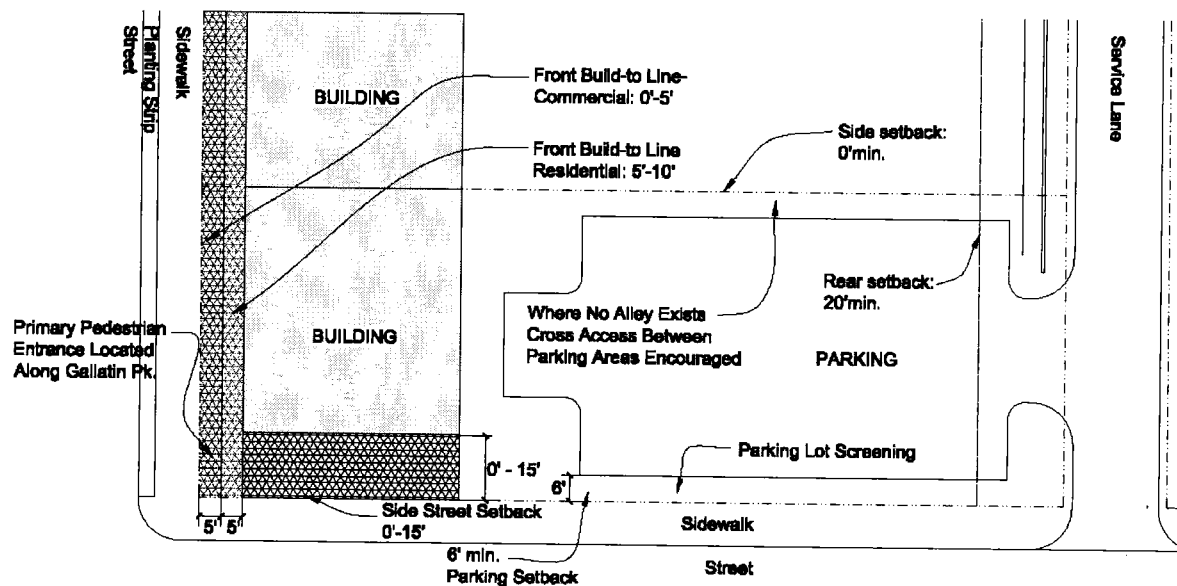
The current building regulations do not specify a maximum side setback, but only a minimal (0 feet) for either commercial or residential buildings. While maximum setbacks for interior lots lines may not be needed, maximum setbacks along side streets for corner lots are important. Staff recommends that the side setback on side streets be restricted to 15 feet. This will allow room for development to accommodate outdoor pedestrian facilities as well as defining the pedestrian environment.

#### Proposed amendments:

Add new side setback for corner lots for commercial and residential buildings on pages 20, 30 and 38 of the Building Regulations as follows:

**Side (Corner Lots):** 0' min. – 15' max for side streets.

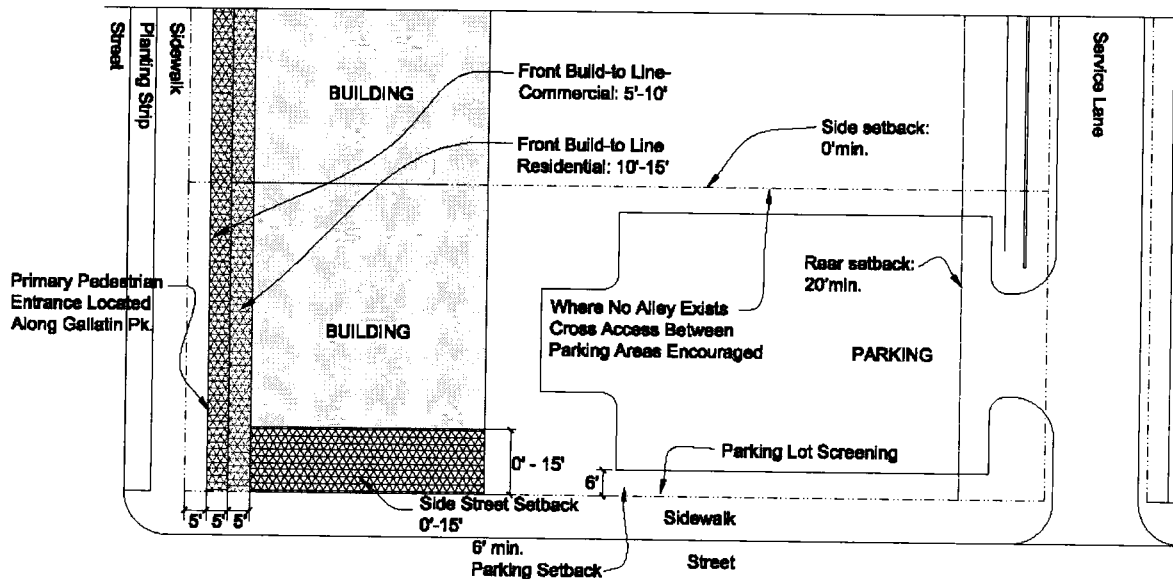
Replace the diagram on pages 20, and 30 of the Building Regulations for Subdistrict 1 and 2 with the following diagram:





## Metro Planning Commission Meeting of 06/11/09

Replace the diagram on page 38 of the Building Regulations for Subdistrict 3 with the following diagram:



#### **4. Allow for nonresidential uses within Mixed Housing Land Use areas in Subdistrict 1 and 2 (Page 22, and 32 of the SP Document).**

Section D of the SP specifies allowed and prohibited uses within each district. Allowed uses are intended to reflect the underlying land use areas designated by the community plan for East Nashville. The Mixed Housing Land Use Area is only found in Subdistrict 1 and 2. Typically Mixed Housing is for residential only and the SP allows for all uses allowed in the RM40 zoning district. It also includes an exception that allows for retail, office, services, and other active uses when located on the first floor of a multi-floor residential building.

Given that the majority of uses along Gallatin Pike are commercial it is difficult to market residential property along certain stretches of Gallatin Pike. Property owners wanting to utilize existing buildings in areas designated for Mixed Housing can currently only use the existing building for residential. As few people currently choose to live along Gallatin Pike, the provision has resulted in the inability of property owners to re-use existing buildings. To allow property owners to re-use existing buildings staff recommends that limited commercial uses be allowed in existing nonconforming structures that are within a Mixed Housing land use area provided the building is not expanded.



## Metro Planning Commission Meeting of 06/11/09

### **Proposed amendments:**

Delete the current exception to allowed uses for areas classified as Mixed Housing on page 22 and 32 and replace with the following new exception:

\* In this land use area, new development may have retail, restaurant, office, personal care services or other “active” uses on the first floor provided that the building is multi-story, and residential uses are provided on all other levels. Stand alone residential, general office, medical office, financial institution or personal care services uses are allowed within existing nonconforming structures provided they are not expanded.

---

### **STAFF RECOMMENDATION**

Staff recommends approval of this bill.

**NO SKETCH**



<b>Project No.</b>	<b>Zone Change 2009Z-006TX-001</b>
<b>Name</b>	<b>Wind Energy Systems</b>
<b>Council Bill</b>	BL2009-477
<b>Council District</b>	Countywide
<b>School District</b>	N/A
<b>Requested by</b>	Councilmember Charlie Tygard
<b>Staff Reviewer</b>	Regen
<b>Staff Recommendation</b>	<i>Approve with amendments</i>

---

**APPLICANT REQUEST**

**A council bill to add “Wind Energy Facility (small)” and “Wind Energy Facility (utility)” to the Zoning Code.**

---

**ANALYSIS**

**Prior Commission Review**

On August 28, 2008, the Planning Commission reviewed a text amendment to allow small wind energy systems, 2008Z-071T; Council Bill BL2008-283 sponsored by Councilmember Tygard. The Commission voted to approve the bill in concept, but to disapprove the bill as it was filed. The Commission determined more work was needed on the bill. Based on the Commission’s action, the sponsor requested, and the Metro Council agreed, to defer indefinitely the bill’s consideration on September 2, 2008. This new bill filed by the sponsor was drafted by Planning staff. Staff reviewed ordinances from around the country in drafting the bill.

**Proposed Use**

“Wind energy systems” refers to equipment that captures the power of moving air (wind) and converts it into energy, storing it in a battery or transferring it to the power grid. The system typically consists of a windmill structure comprised of a turbine on a single pole measuring anywhere from 35 feet to 150 feet tall or more, and which has a rated capacity of producing 10 to 100 kilowatts (kW) or more per hour. The pole may be a freestanding or a guyed structure, and typically does not require a beacon light by the Federal Aviation Administration (FAA), if less than 150 feet tall.

Small wind turbines were commonplace on farms and ranches before rural electrification programs. Today, they are an important element of this country’s energy independence. Both NES and TVA sponsor small wind energy systems as part of the “Green Power Switch” program.



## Metro Planning Commission Meeting of 06/11/09

### Existing Law

The Zoning Code does not allow wind energy systems. The State of Tennessee does not regulate them.

### Proposed Bill

The proposed bill distinguishes between two wind energy systems: small and utility. A “small” facility consists of one tower, one turbine, a rated capacity of 100kW or less and would be permitted with conditions (PC) in all zoning districts. A “utility” facility consists of two or more towers with turbines, or any tower having a rated capacity exceeding 100kW, and where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets. A “utility” facility would require Specific Plan (SP) zoning to allow the use on a particular property.

### Proposed Text

The proposed bill adds definitions and standards to the Zoning Code for wind energy systems. Standards address setbacks, height, guy wires, signs, advertising, lighting, appearance, noise, separation distance, shadow/blade glint/flicker, emergency planning, utility notification, and abandonment of structures. In addition, a zoning application to permit the use requires submittal of a site plan, a statement from an engineer certified in noise control, and photo visualizations of the proposed structure and its relationship to surrounding structures showing pre- and post-construction views.

### Analysis

Wind energy systems refers to a technology that captures an abundant energy supply on Earth – wind – where a constant, consistent wind speed of eight miles per hour (m.p.h.) is sustained. Less than 8 m.p.h. and power cannot be generated. As the wind blows, the rotating blade on the windmill stops a percentage of the wind. That “percentage” is what is converted into energy; and according to physics, the maximum amount of energy that can be converted is 59.3%. While an unlimited supply of energy exists, there is in fact, a maximum amount that can actually be converted.

### *U.S. Dept. of Energy*

The U.S. Department of Energy’s National Renewable Energy Laboratory has classified seven wind power levels in the United States ranging from one to seven; one being the worst and seven being superb. Nashville is rated a one (weakest); the entire southeast is rated between one and two except for coastal areas, and scattered locations in the Smoky Mountains and Cumberland Plateau.





## Metro Planning Commission Meeting of 06/11/09

### *Nashville's Wind Speed*

To independently verify Nashville's classification, planning staff contacted the Nashville International Airport. The airport has investigated wind power for generating electricity to light the airport terminals and parking lots. Recently, the airport obtained from the National Ocean and Atmospheric Association (NOAA) the last ten years of wind data for the airport taken at a height of more than 20 feet above the ground. The captured data was for every hour of every day within the past 10 years. The conclusion was that conventional wind power systems would not work in Nashville. The data revealed no consistent, constant or sustained wind speed of 8 m.p.h. or more.

### *Proposed Standards*

While the opportunity for wind energy systems is quite limited in Nashville, allowing them promotes the goal of decreasing reliance on traditional energy sources. Wind opportunities do exist for those people who live or work where the natural or man-made topography create a sustained wind speed, or for those people wanting to support green energy initiatives.

The proposed standards create a model ordinance, blending features of several other wind ordinances elsewhere in the country. One exception to Nashville's ordinance is no financial assurance being required to remove/demolish the wind energy facility in the event it is abandoned, as defined in the bill. As with the "Telephone Services" text amendment on this same agenda, the Zoning Administrator determined the current enforcement process is sufficient (e.g. Environmental Court). Requiring financial assurance to remain in place for 10, 15, 20, or more years would likely be administratively difficult to manage.

### *Proposed Ordinance*

- The following definitions related to wind energy facilities be **inserted** in Section 17.04.060 (Definitions of General Terms) of the Metropolitan Code:

Wind Energy Facility (small): A wind energy facility consisting of one tower, one turbine, and having a rated capacity of not more than 100kW.

Wind Energy Facility (utility): A wind energy facility consisting of two or more towers with turbines, or having a rated capacity of 100kW or more, and where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.



## Metro Planning Commission Meeting of 06/11/09

These terms regarding wind energy systems are referenced:

1. "Blade Glint" means the intermittent reflection of the sun off the surface of the blades of a single or multiple wind turbine(s).
  2. "Distance" means a measurement made in a straight line, without regard to intervening structures or objects, from the wind turbine's center toward the specified distance required by this title.
  3. "Height" means the vertical distance from pre-development grade to the tip of the wind turbine blade at its highest point, or blade-tip height.
  4. "Nacelle Body" means the structure at the top of the wind turbine that is separate from the blades and comprises the rotor shaft, gearbox, and generator.
  5. "Occupied Building" means a residence, church, hospital, school, day-care, community education facility, or library.
  6. "Shadow Flicker" means the effect when the blades of an operating wind turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his/her immediate environment
  7. "Wind Energy Facility" means a wind turbine and all associated equipment, machinery and structures utilized to convert wind to electricity. This includes, but is not limited to, towers, transmission, storage, collection and supply equipment, substations, transformers, and service and access roads.
  8. "Wind Turbine" means a device that converts kinetic wind energy into rotational energy to drive an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.
- Modify Section 17.08.030 (Zoning District Land Use Table: Utility Uses) of the Metropolitan Code by **adding** "Wind Energy Facility (small)" as a use permitted with conditions (PC) in all zoning districts and "Wind Energy Facility (utility)" in a Specific Plan (SP) district permitting such use as adopted by the Metropolitan Council.
  - Modify Section 17.16.100 (Uses Permitted With Conditions: Utility Uses) by **inserting** "C. Wind Energy Facility (small)" as follows:
    - C. Wind Energy Facility (small)
      1. **Applicability.** The wind energy facility shall comply with the standards of this title; however, where a facility cannot comply, the applicant shall be required to submit for a special exception permit. The special exception permit request shall be accompanied by a written document that identifies and describes the facility's compliance with the standards. Where compliance is not possible, the document will detail why the standards cannot be met, and what alternative standards are proposed by the applicant.
      2. **Height.** The height of any facility, whether building – or tower-mounted, shall not exceed fifteen (15) feet above the maximum building height allowed for the primary use in the subject zoning district as provided in this title.
      3. **Setback.** The facility shall not be sited within (a) a distance equal to the height of the facility from any occupied buildings, or private ways that are not part of the wind energy facility; or (b) one point five times (1.5x) the facility's height from the nearest property line, whichever is greater.



## Metro Planning Commission Meeting of 06/11/09

4. **Guy Wires.** No guy wire anchors shall extend closer than five (5) feet to the property line. All outer and innermost guy wires must be marked and clearly visible to a height of six (6) feet above the guy wire anchors.
5. **Signs and Advertising.** An information sign identifying the facility owner, facility manufacturer, and a 24-hour emergency contact phone number, along with warning sign(s) shall be required on the facility. In addition, an educational sign may be provided about the facility and the benefits of renewable energy. All such signs shall comply with the base zoning district's sign regulations for a non-residential use as provided in this title. No other advertising signs shall be allowed on or around the facility.
6. **Lighting.** No lighting of the facility shall be permitted, except warning lights as required by state or federal law.
7. **Appearance.** All components of the facility shall be in a neutral, non-reflective exterior color designed to blend with the surrounding environment.
8. **Noise.** The facility shall not generate noise in excess of 60 decibels (dBA) measured at the closest neighboring occupied building, except during short-term events such as utility outages and severe windstorms.
9. **Separation Distance.** The facility shall be located a minimum of 1,000 feet from any other wind energy facility.
10. **Shadow, Blade Glint, and Flicker.** The facility shall be sited to minimize shadow, blade glint, and flicker impacts on any property within a minimum distance of 600 feet of the site property line.
11. **Utility Notification Plan.** No wind energy facility shall be installed until the Nashville Electrical Service approves the applicant's site plan.
12. **Emergency Plan.** The facility shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.
13. **Abandonment.** The applicant or property owner shall provide proof of the establishment of a financially secure and legally enforceable method of removing a wind energy facility when it ceases to be used for a period of twelve (12) consecutive months. This financial assurance can be provided through a sinking fund, a lien upon land which has a greater unencumbered appraised value than the cost of removal of the wind energy facility, a removal bond, a letter of credit or any alternative financial arrangement which is approved by the director of finance as to financial adequacy and the department of law as to legal enforceability. If the applicant or landowner owns more than one (1) wind energy facility, a blanket removal bond or alternative financial assurance may cover multiple sites.
14. **Site Plan.** No wind energy facility shall be erected, constructed, installed or modified as provided in this section without first undergoing site plan review and obtaining a building permit. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Tennessee as a mechanical, structural, or civil engineer. The required site plan shall show, identify, display, dimension, and/or demonstrate the following:
  - a. All property lines and existing buildings/structures on site and within 600 feet of the site. For buildings/structures, the purpose of each will be labeled on the plan as well as the distance of each from the facility.
  - b. Location of the proposed tower, foundations, guy anchors, access roads, and associated equipment on the site parcel and within 600 feet of its boundary.
  - c. Any existing overhead utility lines;



## Metro Planning Commission Meeting of 06/11/09

- d. Existing areas of tree cover, including average height of trees, on the site parcel and any adjacent parcels within a distance, measured from the wind turbine foundation, of 1.2 times the height of the wind turbine;
- e. Location of each existing wind energy facility, regardless of size or operational condition that are within 2,000 feet of the proposed facility.
- g. Proposed changes to the landscape of the site, grading, screening, vegetation clearing and planting, any required FAA lights;
- h. Tower foundation blueprints or drawings signed by a professional engineer licensed to practice in the State of Tennessee as a mechanical, structural, or civil engineer demonstrating the facility is designed to meet the most stringent wind requirements;
- i. A statement by an engineer licensed in the State of Tennessee certifying that the proposed wind turbine will meet the noise standard established by this section. The engineer shall be certified by the Institute of the Noise Control Engineering of the USA (INCE/USA).
- l. One or three line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
- m. Documentation of the wind energy facility's manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed), and foundation type/dimensions;
- n. Photo visualizations of the facility pre- and post-construction shall be provided by the applicant in color showing how the facility will look, once installed. The visualizations will be from a minimum of three sight lines, including the nearest occupied building with a view of the wind facility, excluding buildings owned by the applicant or property owner.
- o. An operation and maintenance plan shall be submitted for the facility.

### STAFF RECOMMENDATION

Staff recommends approval of this bill as it provides opportunities for wind energy systems in Nashville. In addition, the bill ensures sufficient, accurate and reliable information will be made available to the appropriate decision makers, when a wind energy facility is proposed.

Staff recommends two amendments to the proposed bill. The first amendment is to renumber l, m, n, and o to j, k, l, and m under Section 17.16.100.C.13. The second amendment is to delete the requirement for financial assurance in the event a Wind Energy Facility (small) is abandoned as shown below:

**Abandonment.** The applicant or property landowner shall ~~provide proof of the establishment of a financially secure and legally enforceable method of removing a~~ remove the wind energy facility when it ceases to be used for a period of twelve (12) consecutive months. ~~This financial assurance can be provided through a sinking fund, a lien upon land which has a greater unencumbered appraised value than the cost of removal of the wind energy facility, a removal bond, a letter of credit or any alternative~~



## Metro Planning Commission Meeting of 06/11/09

financial arrangement which is approved by the director of finance as to financial adequacy and the department of law as to legal enforceability. If the applicant or landowner owns more than one (1) wind energy facility, a blanket removal bond or alternative financial assurance may cover multiple sites.

**NO SKETCH**



<b>Project No.</b>	<b>Zone Change 2009Z-008TX-001</b>
<b>Name</b>	<b>Electronic Signs (Special Exception Use)</b>
<b>Council Bill</b>	BL2009-463
<b>Council District</b>	Countywide
<b>School District</b>	N/A
<b>Requested by</b>	Councilmember Charlie Tygard
<b>Staff Reviewer</b>	Withers
<b>Staff Recommendation</b>	<i>Approve</i>

---

**APPLICANT REQUEST**

**A request to amend the Metro Zoning Code to designate electronic display signs as a permitted use or a special exception use in certain zoning districts, and to add standards for electronic display signs.**

---

**ANALYSIS**

**Existing Law & Background**

Section 17.32.050.G and H of the Zoning Code regulates signs with graphics, messages, and motion. Although this section is entitled "Prohibited signs" this is the only section of the sign ordinance controlling electronic signs. These sections govern electronic billboards, as well as the full motion signs that are permitted only in the CA district, and LED message boards and digital signs.

The LED message boards and digital signs are currently only allowed in the most intense commercial and industrial districts of the city: CA, CS, CF, CC, SCR, IWD, IR and IG. They are allowed to have changeable copy graphics and/or text that must remain static for 8 seconds, and then must change instantaneously without any special effects. The signs are not permitted to be located less than 100 feet from any agriculturally or residentially zone properties. The signs are currently expressly prohibited in the AG, AR2a, R, RS, RM, MUN, MUL, MUG, ON, OL, OG, OR20, OR40, CN, CL, SCC and SCN districts.

The LED message boards have become sought after by churches, school, community facilities and businesses who wish to advertise events and services. There have been previous attempts to amend the zoning ordinance to allow the LED message boards in residential areas but these attempts were met with community opposition. Many community members cite the commercial nature of the signs as being an intrusion into residential neighborhoods. They have indicated that the city has not done an effective job of enforcing the existing ordinance requiring electronic signs to stay static for 8 seconds in the commercial and industrial districts, thus, assuring neighborhoods the signs



## Metro Planning Commission Meeting of 06/11/09

will operate in compliance with the Code. Recently, there was a request for a CS and SP rezoning to secure the right to place an electronic sign at a school that had a residential zoning classification, because there is no other way to submit a request or make application for one of these signs.

To address the issue, Metro Council created a Sign Task Force in August of 2008, to review the sign provisions of the ordinance with a focus on recommendations pertaining to on-premise electronic signs - a technology that was not available when the existing sign ordinance was drafted 16 years ago. The task force was co-chaired by Burkley Allen and Jane Alvis. Other committee members included: At-large Council members Megan Barry and Charlie Tygard, as well as John Brittle, Stewart Clifton, Terry Cobb, Bob Cooper, Judge Gloria Dumas, Dan Haskell, Debby Dale Mason, Larry McWhirter, Anna Shepherd, Patricia Totty, Chris Whitson and staff members Sonny West, Jon Cooper and Kathryn Withers. The Task Force met monthly to discuss options and this ordinance is their recommendation.

### Proposed Text

The proposed bill defines the term "electronic display sign", designates electronic display signs as a permitted use or as a Special Exception (SE) use in certain zoning districts in the land use tables, and adds standards for Special Exception electronic display signs. Special Exception uses are reviewed by the Board of Zoning Appeals. This will clarify when a sign is allowed, rather than the current ordinance that is clear about only where the signs are *not* allowed.

For the districts where the signs are currently allowed (CA, CS, CF, CC, SCR, IWD, IR and IG) the use will be designed as a permitted use. This bill proposes no changes to the operational criteria for the currently permitted districts. In all remaining districts, the use will be designated as a Special Exception (SE) use.

The bill proposes to allow electronic signs for community education facilities, cultural centers, recreation centers, and religious institutions in the AG, AR2a, R, RM and RS districts and all non-residential uses in the MUI, I, ON, OL, OG, ORI, OR20, OR40, CN, CL, SCC and SCN districts. The bill proposes that the electronic signs only be allowed to replace an existing, back-lit or flood-lit sign.





## Metro Planning Commission Meeting of 06/11/09

The standards proposed for the SE signs are:

- Spacing - Electronic display signs shall be spaced a minimum of 500 feet from any other electronic display sign and setback at least 250 feet from an existing residence
- Duration - must have a minimum duration of eight seconds and must be a static display, no appearance of a visual dissolve or fading
- Color - amber color only
- Intensity and contrast - Each electronic display sign shall shut off between the hours of 10:00 p.m. and 6:00 a.m. and use automatic day/night dimming software to reduce the illumination intensity of the sign to 500 nits from dusk until 10:00 p.m. The sign shall not exceed 5,000 nits during daytime
- Sign size, design and setback:
  - Electronic Display Standards - The maximum surface area of the electronic sign component shall be 32 Square Feet and it shall be integrated into a brick, stone or wood monument-style sign.
  - Overall Sign Standards - The minimum street setback is fifteen feet, the maximum height is eight feet. Residential districts shall conform to the size limitations of the ON district. For all other districts, the size shall be based upon the sign standards for the base zoning.

### Analysis

This proposed bill expands the use of electronic signs to all of the zoning districts that they currently are not allowed in as a Special Exception use. By making the electronic signs a SE use, a public hearing is required by the Board of Zoning Appeals (BZA). The community will receive notice of the upcoming hearing by mail if they live within 600 feet of the proposed electronic sign location. In addition, one or more public hearing signs will be posted on the property, depending on the location's street frontage, announcing the date and time of the public hearing to the community. Further, the Planning Commission is required to provide the BZA a recommendation as to the proposed Special Exception's consistency with the General Plan.

The Sign Task Force wanted to make this new technology available in a limited manner and as a replacement for a currently back-lit or flood-lit sign that use more energy than on of the new energy efficient LED signs would use, however, this seems to be inequitable to exclude newly



## Metro Planning Commission Meeting of 06/11/09

constructed developments from being eligible for these signs.

The LED signs are allowed only as monument signs, of amber color only, and must be integrated into a brick, stone or wood base. The signs can be no taller than 8 feet in height.

The spacing requirements of 500 feet from any other electronic display sign, and setback at least 250 feet from an existing residence, will limit the eligibility for these signs in more urban neighborhoods. The signs will be more prevalent in suburban areas where lots are larger and uses are segregated with larger distances between residential and non-residential uses.

---

### **STAFF RECOMMENDATION**

Staff recommends approval of this bill.

**SEE NEXT PAGE**

**NO SKETCH**



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

**Zone Change 2009Z-010TX-001**  
**Electronic Signs (Distance Requirements)**  
BL2009-464  
Countywide  
N/A  
Councilmember Jason Holleman

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

Withers  
*Approve with amendment*

**APPLICANT REQUEST**

**A request to amend the Metro Zoning Code pertaining to the distance requirements for signs with any copy, graphics or digital displays that change messages by electronic or mechanical means.**

**ANALYSIS**

Existing Law & Background

Section 17.32.050.G and H of the Zoning Code regulate signs with graphics, messages, and motion. These sections govern electronic billboards, as well as the full motion signs that are permitted only in the CA district, and LED message boards and digital signs.

The LED message boards and digital signs are currently only allowed in the most intense commercial and industrial districts of the city: CA, CS, CF, CC, SCR, IWD, IR and IG. They are allowed to have changeable copy graphics and/or text that must remain static for 8 seconds, and then must change instantaneously without any special effects. The signs are not permitted to be located less than 100 feet from any agriculturally or residentially zoned properties.

The size and height of a sign is controlled according to the property's zoning district, in Table 17.32.130D. There are no special size and/or height requirements tailored specifically to the LED signs.

**Table 17.32.130D**

Lot Frontage in Feet	Max. No. of Signs (See Note 2)	Max. Area of Any One Sign	Max. Total Area of All Signs	Min. Side Setback (See Note 1)	Min. Setback to Other Ground Signs on the Same Lot	Max. Height in Feet (See Note 2)
Less than 50	1	150 sq. ft.	150 sq. ft.	2 ft.	NA	40 ft.
50-99	1	198 sq. ft.	198 sq. ft.	2 ft.	NA	40 ft.
100-199	1	288 sq. ft.	288 sq. ft.	10 ft.	NA	40 ft.
200-299	2	288 sq. ft.	288 sq. ft.	10 ft.	NA	40 ft.
300-399	2	384 sq. ft.	384 sq. ft.	25 ft.	100 ft.	40 ft.
400-499	3	480 sq. ft.	480 sq. ft.	25 ft.	100 ft.	40 ft.
500 or more	3	480 sq. ft.	576 sq. ft.	25 ft.	100 ft.	40 ft.



## Metro Planning Commission Meeting of 06/11/09

### Proposed Text

For the districts where the LED signs are currently allowed (CA, CS, CF, CC, SCR, IWD, IR and IG) the bill proposes a sliding scale for height based on the distance from any agriculturally zoned property instead of the height being controlled by the zoning district:

- a. Signs four feet or less in height shall not be less than one hundred feet from any agriculturally or residentially-zoned property.
- b. Each additional foot in height, or portion thereof, above four feet shall be setback an additional twenty-five feet from any agriculturally or residentially-zoned property. For example, a sign between five and six feet in height shall not be less than one hundred fifty feet from any agriculturally or residentially-zoned property.

### Analysis

This ordinance attempts to address some of the concerns of the intrusion of the LED signs into residential neighborhoods by limiting the height of signs that are in proximity of residential neighborhoods. Currently, these signs can be up to 40 feet in height. The predominant nature of development along Nashville's arterial roadways is one-story, flat roof buildings with residential neighborhoods behind. This means that the sign may actually be twice as tall as the building it is associated with and in direct view of residences. As proposed, the ordinance would keep heights low when the signs are close to agriculturally or residentially zoned property, but would allow them to be taller in strictly commercial or industrial areas. The current proposal does not have a maximum height specified and staff recommends using the current 40 foot height limit as the maximum.

---

### STAFF RECOMMENDATION

Staff recommends approval of this bill with the recommendation that a maximum height of 40 feet be specified in Section 2.b.

**SEE NEXT PAGE**

**NO SKETCH**





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

**Zone Change 2009Z-009TX-001**  
**Telephone Service Conditions**  
BL2009-462  
Countywide  
N/A  
Councilmember Sam Coleman

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

Swaggart  
*Approve with amendments*

---

**APPLICANT REQUEST**

**A council bill to amend the Metro Zoning Code, Chapter 17.16.080, to replace the existing conditions with new conditions for Telephone Service (Cell Towers).**

---

**ANALYSIS**

Existing Law

The Zoning Code currently allows telephone services (cell towers) as a use “permitted with conditions” (PC) in all zoning districts except SP. A cell tower could be permitted in SP if approved by the Metro Council. There are several conditions that must be met for a cell tower to be permitted including:

1. Applicant must demonstrate that existing towers within the service area can not accommodate the equipment planned for the new tower.
2. In residential areas the lot for which the tower is proposed must meet the minimum size requirement.
3. The tower and associated equipment must meet minimum setbacks for the zoning district, and in nonresidential districts a tower can not be within 20 feet of a residential zone district or district permitting residential uses.
4. An A-Buffer yard is required along all residential zoned districts and districts permitting residential uses.
5. Maximum height is determined by the height control provision for the zone district except in MUN, ON, CN and SCN districts where the height control slope plane is 1.5:1.
6. The zoning administrator or planning director must notify the council member of a new cell tower proposed within their districts, when it is proposed within a residential zoning district, or district permitting residential (except MUI, ORI, CF, CC, and SCR), and if it is within 1,000 feet of a residential zoning district, or district permitting



## Metro Planning Commission Meeting of 06/11/09

residential uses. Council member may hold a community meeting within 30 days.

### **PROPOSED TEXT**

Under the proposed text change cell towers will still be permitted with conditions in all zoning districts except SP; however, the existing conditions will be replaced with a new set of conditions. Conditions fall into several different categories:

- 1) Required information;
- 2) Landscape requirements;
- 3) Co-location requirements;
- 4) Setback requirements;
- 5) Height requirements;
- 6) Light requirements;
- 7) Notification requirements;
- 8) Other requirements; and
- 9) Exemptions.

Below each category will be briefly discussed.

#### Required Information

Applicants for a cell tower will be required to provide schematic site plans for the tower and all related equipment. Applicants will also be required to provide a site justification statement for all new cell towers. The statement must demonstrate the need for a new tower within the service area, and how the applicant has sited the tower so that it will have the least impact on surrounding areas. The applicant will document the total number of users that can be accommodated within the design of the tower, and the applicant will be required to establish a financial means to remove the tower when it is no longer in use.

#### Landscape Requirements

Landscape plans will be required and must demonstrate how the visual impact of a tower on adjacent properties and streets will be minimized by utilizing existing topography, structures, and natural vegetation. Tower pads not adequately screened shall be required a landscape yard at least ten feet in width, and plantings shall meet a certain parameter.

#### Co-location Requirements

Towers will be required to provide a means for co-location. The co-location requirements are based on height and are as follows:

- Towers more than 100 feet but less than 200 feet in height must be designed to accommodate at least three



## Metro Planning Commission Meeting of 06/11/09

personal communication system carrier applications, and three additional single antenna applications such as paging, 911, two-way, and emergency management communications.

- Towers over 200 feet in height must be designed to accommodate at least three personal communication system carrier applications, and three additional single antenna applications, plus at least one additional personal communication system application and at least one additional single antenna application for each additional fifty feet in height to a maximum of six personal service communication system carriers and six single antenna applications.

### Setback Requirements

Towers must be setback from all property lines on which the tower is located by the distance equal to the height of the lowest engineered failure point on the tower or the height of the tower. Provided, however, the minimum setback for any tower is fifty feet.

### Height Requirements

The maximum height of a tower will be determined by the height control provisions of Chapter 17.12.

### Light Requirements

No lights shall be permitted on a tower except for warning lights required by state or federal law.

### Notification Requirements

The Zoning Administrator or Planning Director must notify the council member of a new cell tower proposed within their districts, when it is proposed within a residential zoning district, or district permitting residential (except MUI, ORI, CF, CC, and SCR), and if it is within 1,000 feet of a residential zoning district, or district permitting residential uses. Council member may hold a community meeting within 30 days.

### Other Requirements

Site plans must be prepared by a registered engineer and the site plan and tower design must meet or exceed a list of acceptable standards from groups such as the Federal Communications Commission, American National Standards Institute, the American Concrete Institute, and the American Steel Institute. Plans must demonstrate compliance with all requirements including but not limited to setback, height and landscaping. Tower and landscaping must be maintained, and a tower that has not been utilized for a twelve month period shall be considered abandoned and the owner must remove the tower.



## Metro Planning Commission Meeting of 06/11/09

### Exemptions

The ordinance provides exemptions for applications within concealed devices, applications placed on existing structures with certain restrictions, and when applications are placed on existing towers provided the height is not increased.

### **Analysis**

Under the proposed amendment cell towers will still be permitted with conditions in all zoning districts except SP. While the amendment retains the current notification requirements, it increases the level of information and detail an applicant for a new cell tower must provide, and sets stricter requirements for landscaping, co-location and setbacks.

Overall there are no major issues with the proposed amendment; however, there are several minor issues that should be addressed in an amendment to the bill.

First, staff recommends deleting section C.1.f. which deals with the establishment of a financially secure and legally enforceable method for removing an abandon tower in its entirety. According to the Zoning Administrator, this section is not needed as Metro currently has the ability to require a property owner to remove an abandoned tower. The amendment only needs to specify that a property owner is responsible for the removal of an abandoned cell tower as specified in section C.8.e. of the proposed amendment. Second, the reference in section 2.(5)c. to "subsection A.2.a." needs to be changed to "subsection C.2.a." Third, section C.4. Setbacks, does not account for associated accessory structures and parking areas. The amendment should specify a minimum setback for associated accessory structures and parking areas, and staff recommends that the existing setback requirements found in 17.16.080.C.3 be retained which specifies that the setbacks for accessory structures and parking areas shall comply with the setback provisions of the applicable zone district. Fourth, the height requirements should be amended to recognize the differences of the slope of height control plane found in the existing zoning requirements. Staff recommends that the exception found in the current requirement (17.16.080.C.5) be retained which stipulates a slope of height control plane of 1.5:1 for MUN, ON, CN and SCN districts. Fifth, staff recommends that when a tower is proposed on a lot within a residential district, that the lot meet the minimum lot size for the zone district as currently specified in Section 17.16.080.C.2.



## Metro Planning Commission Meeting of 06/11/09

### STAFF RECOMMENDATION

Staff recommends approval of this bill with the following five minor amendments:

1. Section C.1.f. shall be deleted.
2. The reference in section 2.(5)c. to “subsection A.2.a.” shall be changed to be changed to “subsection C.2.a.”
3. Section C.4. Setbacks shall require that accessory structures and parking areas associated with any cell tower meet the setback requirements of the applicable zone district.
4. Section C.5 shall provide exceptions for cell towers in the MUN, ON, CN and SCN districts, but require that a slope of height control plane of 1.5:1 shall apply.
5. Minimum lot size requirements shall be added for towers located within residentially zoned districts, and the lot shall meet the minimum size required by the applicable zone district.

**NO SKETCH**



<b>Project No.</b>	<b>Zone Change 2009Z-012TX-001</b>
<b>Name</b>	<b>Automobile Repair and Automobile Service</b>
<b>Council Bill</b>	BL2009-478
<b>Council District</b>	Countywide
<b>School District</b>	N/A
<b>Requested by</b>	Councilmember Anna Page
<b>Staff Reviewer</b>	Regen
<b>Staff Recommendation</b>	Approve with amendment

---

**APPLICANT REQUEST**

**A council bill to amend Chapters 17.04.060 of the Metro Zoning Code to modify the definitions of “Automobile Repair” and “Automobile Service” to prohibit the reconditioning, repairing, sale, mounting, or installing of any used tires at a “Automobile Service” use.**

---

**ANALYSIS**

Existing Law

The Zoning Code allows used tires to be sold and installed at any automobile repair or automobile service use. An automobile repair use requires specific plan (SP) zoning unless located in an industrial zoning district (IWD, IR, or IG). Automobile service is allowed as a use “permitted with conditions” (PC) in the CL, CS, CA, CF, CC, SCC, SCR, IWD, IR, and IG zoning districts.

Proposed Text

The bill modifies the definitions of Automobile Repair and Automobile Service. The definition of Automobile Service is clarified to state only new tires may be sold or installed. The definition of Automobile Repair is modified to clarify that new and used tires can be sold, reconditioned, repaired, sold, or mounted.

Analysis

The proposed bill, if adopted, would require any person wanting to sell used tires to locate on property zoned SP or industrial. The sponsor seeks to prohibit used tires businesses from selling, repairing, and installing used tires outside in full view of motorists and pedestrians in commercial and shopping areas. The bill grandfathers in all legally operating non-conforming uses.

The bill would not affect existing tire businesses. A business that today sells new tires and fixes flats (used tires) would be able to continue that service. That same business wanting to do the same services at a new location would be prohibited from fixing flat tires. Residents of Davidson County need the convenience, affordability, and safety of tire businesses being able to fix/repair flat tires



## Metro Planning Commission Meeting of 06/11/09

near home, work, and shopping. To continue to provide residents this service, staff recommends the definition of Automobile Service include the fixing of customer flat tires.

"Automobile service" means any building, structure, improvements, or land used for the replacement of any part, or repair of any part, to an automobile that does not require removal of the engine head or pan, engine transmission or differential, including, but not limited to oil change and lubrication, cooling, electrical, fuel and exhaust systems, wheel alignment and balancing, brake adjustment, relining and repairs, mufflers, batteries, new tire services and sales (includes fixing/repairing customer flat tires), shock absorbers, installation of stereo equipment, car alarms or cellular phones, but excludes dismantling, rebuilding, reconditioning, or salvage of automobiles, in whole or in part. No abandoned vehicles shall be stored on the premises. No vehicle to be serviced shall remain on the premises more than forty-five days.

---

### STAFF RECOMMENDATION

Staff recommends approval of this bill with the proposed amendment to allow Automobile Service uses to fix customer flat tires.



**REVISIONS  
and FINAL SITE PLANS**



**2007SP-162U-05**  
 Winberry Place  
 Map: 082-03 Parcel: 461, 462, 463, 464  
 East Nashville Community Plan  
 Council District 5 – Pam Murray



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

**Zone Change 2007SP-162U-05**  
**Winberry Place SP**  
5 – Murray  
5 - Porter  
Barge Cauthen & Associates, applicant, for B & V  
Development and Vernon Winfrey, owners

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

Bernards  
*Defer until revised plans have been approved by Metro  
Stormwater*

---

**APPLICANT REQUEST**  
**SP Final Site Plan**

**A request for final site plan approval for the Winberry Place Specific Plan located at 927, 929, 1001 and 1003 Lischey Avenue, on the east side of Lischey Avenue (0.74 acre), zoned SP, to construct up to four single-family residential units, four townhome units, and a one-story commercial building.**

**Existing Zoning**  
**SP-MU District**

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

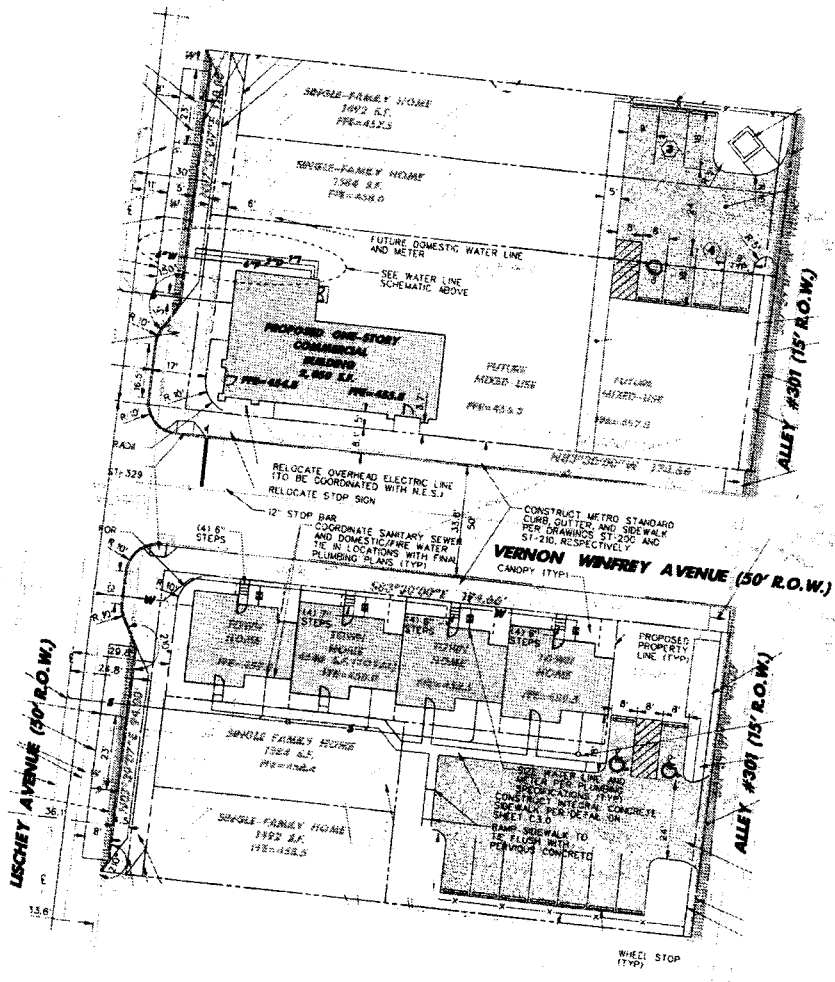
---

**PLAN DETAILS**

The SP was approved for a two-story, mixed-use building, a three unit townhouse development and six, single-family residential units. The final site plan includes a one-story, 2,050 square foot commercial building, and up to four single-family residences and four townhome residential units. This final site plan only includes the first phase of the commercial portion of the development. The preliminary plan proposed condominium-type ownership for the residential portion. The proposed final site plan provides for each unit to be placed on its own lot.

While the final plan makes minor modifications to the layout, the changes are still consistent with the overall concept approved by the Council in terms of uses and development type.

The architectural style of the commercial building has been modified to ensure that the one-story building continues to create an urban presence at the corner. This is accomplished through decorative masonry treatments, awnings, large windows, and a first floor approximately one and a half stories in height.





## Metro Planning Commission Meeting of 06/11/09

### Signs

The four townhomes have been reconfigured, but continue to address both street frontages, and continue to be proposed at two stories in height. The four single-family residences have maintained the style of the preliminary plan.

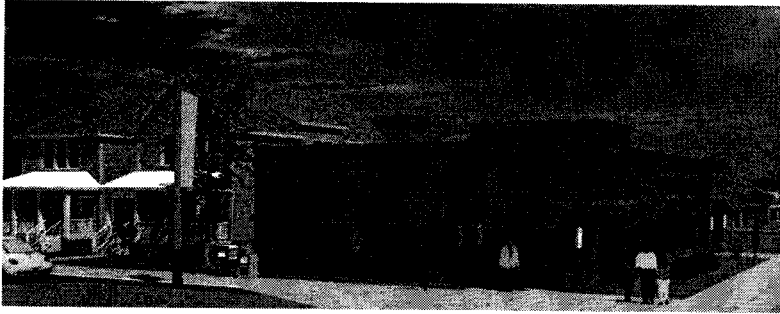
In addition to signs prohibited by Section 17.32.050 of the Metro Zoning Ordinance, prohibited signs within this SP will include roof mounted signs, pole mounted signs, billboards, and signs that flash, rotate, scintillate, blink, flicker or vary in intensity or color, including all electronic signs. Permitted signs will include three building signs. Building signs are attached directly to, or supported by brackets attached directly to a principal building.

Signs are to 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 applicant has not presented a sign program for the commercial building and will need to include a program with the corrected copy of the Final SP plan. Two signs will be permitted on the protruding corner bay, one on each side, centered within the masonry lines and aligned. A third, smaller sign, for the second storefront will need to be similar in style as the first two signs and in proportion to the space it will be occupying.

### Access and Parking

Vehicular access remains from the alleys to the rear. Since the properties are located within the Urban Zoning Overlay (UZO), the SP parking standards are consistent with the UZO requirements. The first 2,000 sq. ft. of retail uses are exempt from parking requirements. In addition, the proposed development qualifies for a full 25% reduction based on proximity to transit, pedestrian access, and contextual front setbacks. The project originally required 18 parking spaces with 16 spaces provided on site and two spaces provided on the street. While the overall density of the development has been reduced, 16 parking spaces on-site and six on-street spaces are included in the plan.

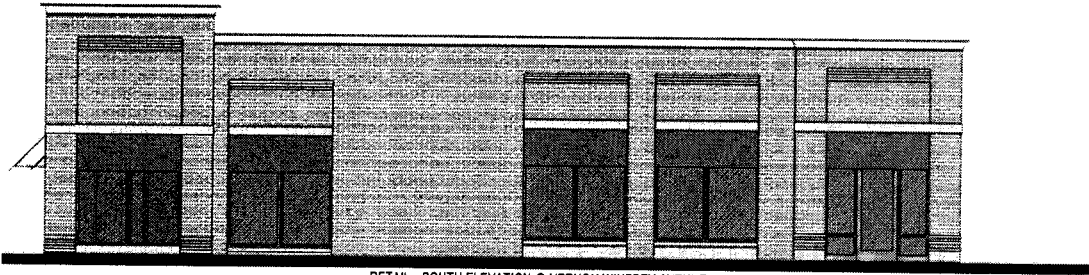


NW VIEW - CORNER LISHEY AVE / VERNON WINFREY AVE. RETAIL AND HOUSING

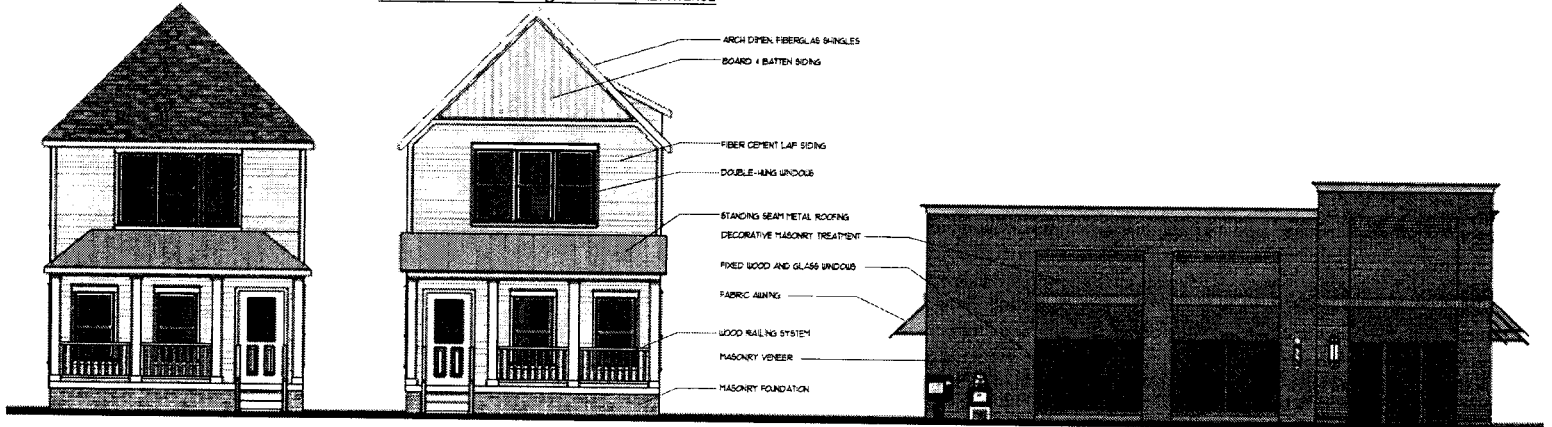
# Winberry Place

A Mixed- Use Development  
for B & V Development, LLC

2007SP-162U-05  
Revised May 4, 2009



RETAIL - SOUTH ELEVATION @ VERNON WINFREY AVENUE





## Metro Planning Commission Meeting of 06/11/09

---

### STORMWATER RECOMMENDATIONS

Complete Plans have not been submitted to Stormwater for review.

---

### URBAN FORESTER RECOMMENDATION

Approved.

---

### PUBLIC WORKS RECOMMENDATION

- All Public Works' design standards shall be met prior to any final approvals and permit issuance. Any approval is subject to Public Works' approval of the construction plans. Final design and improvements may vary based on field conditions.
- Show a 25' minimum curb radius at the intersection of Lischey Avenue and Vernon Winfrey Avenue.
- Show a pedestrian curb ramp for the crossing of Lischey Avenue. Identify / construct reciprocal curb ramp on the east side of Lischey Avenue.
- Remove proposed 4" solid white lines along Lischey Avenue.
- Construct curb and gutter per standard detail ST-200. Include detail.
- Construct alley ramps per detail per ST-325. Include detail.
- Construct Alley #301 along property frontage to the Department of Public Works standards and specifications. Provide full width pavement overlay.

---

### STAFF RECOMMENDATION

Defer until revised plans have been approved by Stormwater. If plans are approved by Stormwater prior to the Planning Commission meeting, staff recommends approval with conditions as the proposed Final SP site plan is consistent with the concept approved by Council.

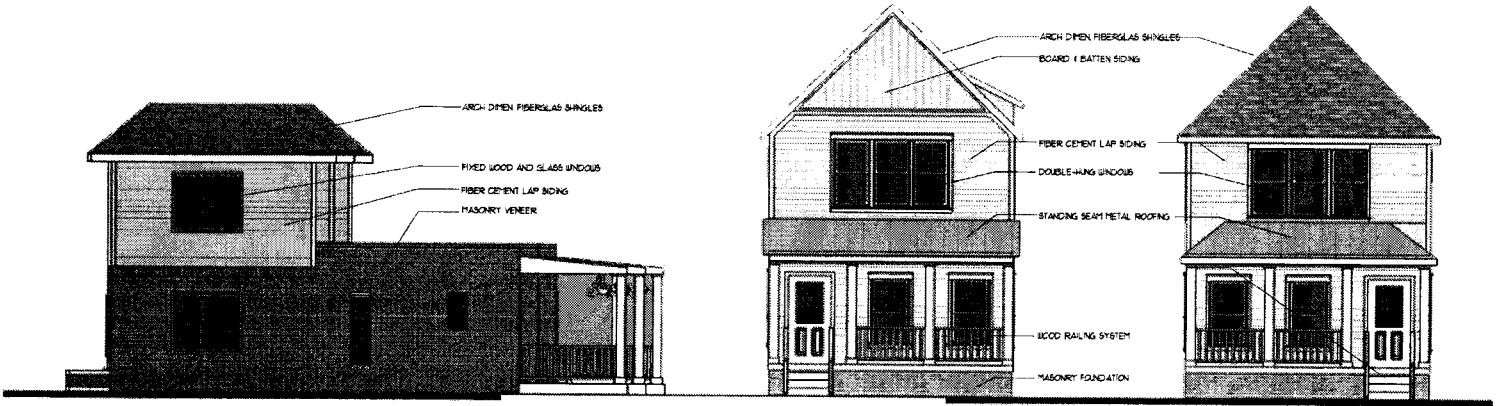
---

### CONDITIONS

1. Signs shall be limited to three building signs as described in the staff report. A sign program, to be approved by staff, shall be included in the corrected copy of the Final SP Plan.
2. The eastern lot lines for the single-family lots north of Vernon Winfrey Avenue shall be moved to the west of the parking lot and sidewalk.



TOWNHOMES - VERNON WINFREY AVENUE LOOKING SOUTHWEST







## Metro Planning Commission Meeting of 06/11/09

3. The requirements of the Public Works Department shall be addressed on the corrected copy of the Final SP plan.
4. The uses for this SP are limited to commercial as defined in the approved preliminary SP plan, up to four single-family residences and up to four townhomes.
5. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, the property shall be subject to the standards, regulations, and requirements of the MUL zoning district for the Residential District at the effective date of this ordinance, which must be shown on the plan.
6. Prior to the issuance of any permits, confirmation of preliminary approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services.
7. Prior to the issuance of any permits, confirmation of preliminary approval of this proposal shall be forwarded to the Planning Commission by the Traffic Engineering Sections of the Metropolitan Department of Public Works for all improvements within public rights of way.
8. The requirements of the Metropolitan 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.
9. A corrected copy of the SP final site plan incorporating the conditions of approval by the Planning Commission shall be provided to the Planning Department prior to the issuance of any permit for this property, and in any event no later than 120 days after consideration by Planning Commission. If a corrected copy of the SP final site plan incorporating the conditions therein is not provided to the Planning Department within 120 days after the date of conditional approval by the Planning Commission, then the corrected copy of the SP final site plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading,

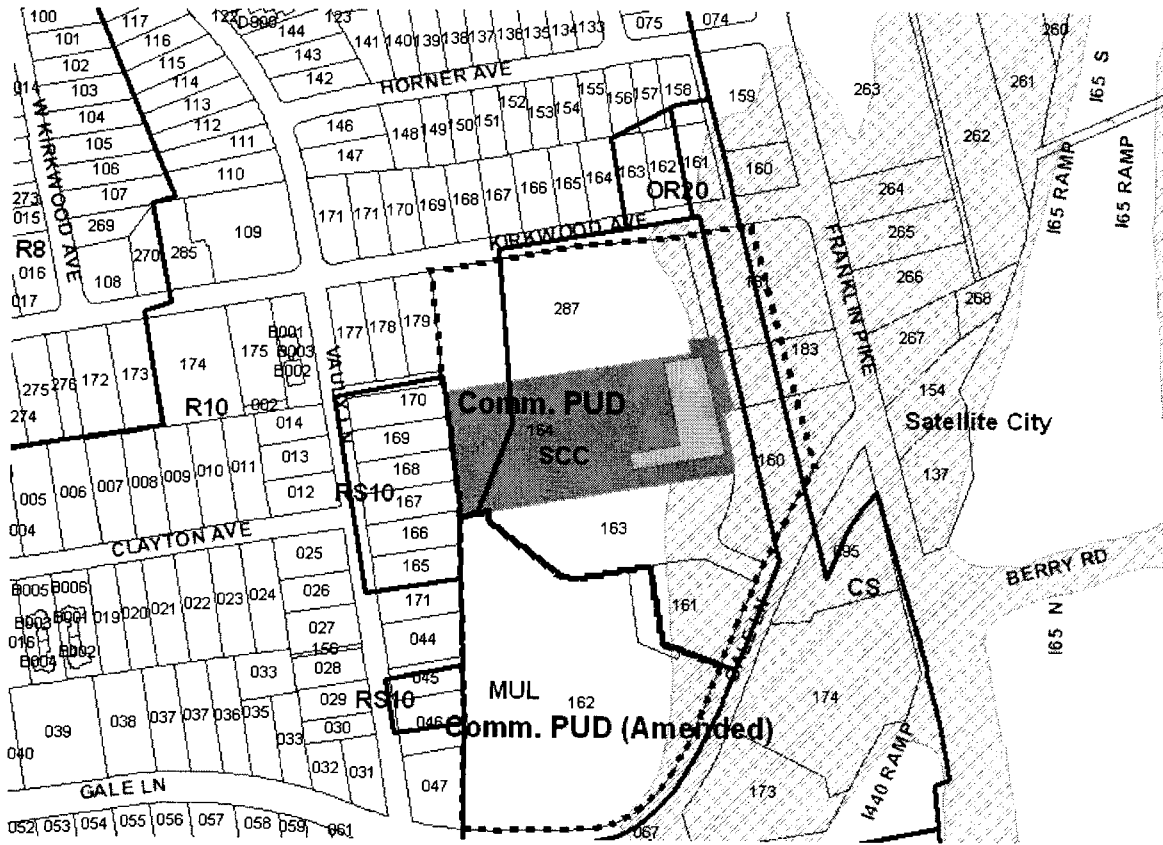


## Metro Planning Commission Meeting of 06/11/09

clearing, grubbing, or any other development application for the property.

10. The SP final site plan as approved by the Planning Commission will be used to determine compliance, both in the issuance of permits for construction and field inspection. While minor changes may be allowed, significant deviation from the approved site plans may require reapproval by the Planning Commission and/or Metro Council.
11. Minor adjustments to the site plan may be approved by the planning commission or its designee based upon final architectural, engineering or site design and actual site conditions. All adjustments shall be consistent with the principles and further the objectives of the approved plan. Adjustments shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or intensity, 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.

**SEE NEXT PAGE**



**89P-022-001**  
 Melrose PUD (Kroger Fuel Station)  
 Map: 118-06 Parcel: 164  
 Green Hills/Midtown Community Plan  
 Council District 17 – Sandra Moore



**Project No.** **Planned Unit Development 89P-022-001**  
**Project Name** **Melrose PUD (Kroger Fuel Station)**  
**Council District** 17 - Moore  
**School Board District** 7 - Kindall  
**Requested By** Perry Engineering LLC, applicant, for Kroger Limited Partnership I, owner

**Staff Reviewer** Sexton  
**Staff Recommendation** *Approve with conditions*

---

**APPLICANT REQUEST**  
**Revise Preliminary Plan and**  
**Final Site Plan**

**A request to revise the preliminary plan and for final approval for a portion of the Melrose Commercial Planned Unit Development Overlay located at the northwest corner of Franklin Pike and Gale Lane (4.22 acres), zoned Shopping Center Community (SCC), to permit the development of five dispenser fuel center (ten pumps).**

---

**PLAN DETAILS**

The preliminary PUD was originally approved in 1989 for commercial, office and retail uses. The plan was subsequently amended and revised to allow 16 townhomes, 62 single-family cottages, and 13 residential flats within the PUD.

**Site Plan**

This request is to add a fuel center of five fuel dispensers (ten gas pumps) to the PUD. The proposed fuel center will be located along the main drive within the Kroger parking lot adjacent to the outparcels. The fuel dispensers will be covered by a 3,480 square foot canopy.

**Access**

The site is accessible from driveway off Gale Lane and from a driveway that traverses the Kroger parking lot that is accessed from Kirkwood Avenue to the north and Franklin Pike to the east.

---

**PUBLIC WORKS**  
**RECOMMENDATION**

The developer's construction drawings shall comply with the design regulations established by the Department of Public Works. All Public Works' design standards shall be met prior to any final approvals and permit issuance. Final design may vary based on field conditions.

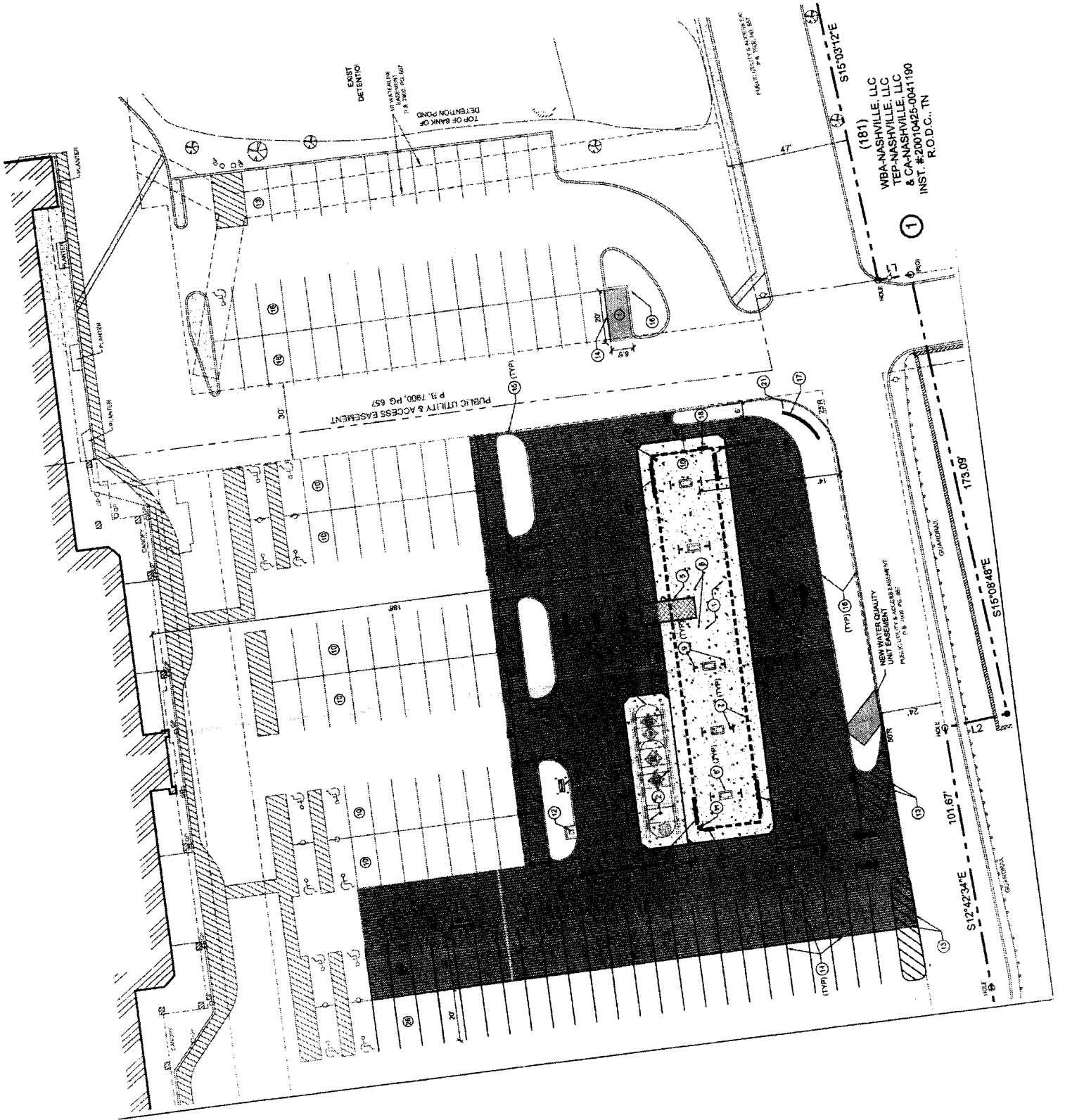
---

**STAFF RECOMMENDATION**

Staff recommends approval with conditions of the revised preliminary and final site plan. The proposed fuel station would not result in a significant increase in the intensification of uses within the PUD.

---

SAMPLE: R.T.S.



(181)  
 WBA-NASHVILLE, LLC  
 TEP-NASHVILLE, LLC  
 & CA-NASHVILLE, LLC  
 INST. #20010425-0041190  
 R.O.D.C., TN



## Metro Planning Commission Meeting of 06/11/09

### 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. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
4. 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.
5. 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.
6. 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.