

Metropolitan Planning Commission

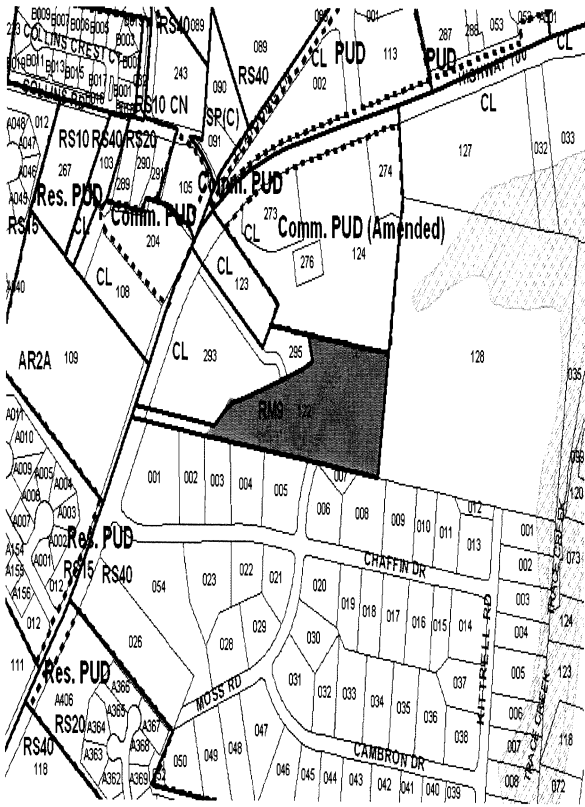


Staff Reports

August 27, 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



2009Z-015PR-001

Map: 155-00 Parcel: 122

Bellevue Community Plan

Council District 35 – Bo Mitchell



Project No. Zone Change 2009Z-015-001
Council Bill BL2009-411
Council District 35 - Mitchell
School District 9 - Simmons
Requested by Councilmember Bo Mitchell, applicant, Betty French and Mary and James Johnson, owners
Deferrals Deferred from the May 28, 2009, Planning Commission Meeting at the request of the applicant.
Staff Reviewer Swaggart
Staff Recommendation *Defer to the December 10, 2009, Planning Commission meeting*

APPLICANT REQUEST

Modify conditions restricting access to Moss Road.

Amend Council Bill

A request to amend a previously approved Council Bill (BL2005-543) to modify a condition restricting access to Moss Road for property located at 5109 Moss Road, zoned Multi-Family Residential (RM9), approximately 775 feet south of Collins Road (6.03 acres).

Zoning District
RM9 District

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

CRITICAL PLANNING GOALS

N/A

REQUEST

This is a request to amend a previously approved Council Bill (BL2005-543) to modify a condition pertaining to the restriction of access to Moss Road. The bill, adopted in 2005, authorized the rezoning of two properties from Commercial Limited (CL) and Office Limited (OL) to single-family, two-family and multi-family residential (RM9), and included conditions. The conditions required that prior to the issuance of any building permits an updated Traffic Impact Study (TIS) be submitted, or that certain traffic conditions from a 2003 TIS would be required. The conditions are as follows:

1. Extend the existing left turn lane (12 ft wide) on Hwy 100 from the Collins Rd intersection to the westernmost site access joint access driveway. Install required transition per AASHTO. Lane shall be marked as 2-way left turn.
2. Dedicate 1/2 of ROW along HWY 100 frontage as required for street classification of U4 (84' ROW) per TDOT's APR plans. Adjacent western property shall



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also dedicate such ROW along its Hwy 100 property frontage.

3. Two site driveways shall be installed with 1 entering lane and 2 exiting lanes. Driveway widths shall not exceed 35 ft. One drive shall be installed opposite the barn theater drive and the other drive shall be a joint access drive with adjacent western property. Adequate sight distance shall be provided.
4. The driveway opposite the Map 155, Parcel 204 shall be signalized if warrants are justified at completion of property development. Developer shall conduct traffic counts and submit warrant analysis to Metro Traffic Engineer for approval. Signal shall be bonded. Signal design shall provide video detection equipment for site traffic movements. Pedestrian facilities shall also be installed.
5. No access to Moss road shall be allowed.
6. Since Hwy 100 is a state facility, Hwy 100 improvements shall be submitted to TDOT for their approval.

Analysis

The intention of this bill is to restrict parcel 122, which is zoned for multi-family residential uses, from having any access to Moss Road. While the intent is to restrict access to Moss Road, the bill is worded such that both a new TIS is required *and* the conditions of the 2003 TIS must be satisfied. Since the 2003 TIS was conducted there have been numerous changes in the area and many of the conditions are no longer relevant to the site. The bill should be amended to require an updated TIS that would *supersede* the 2003 TIS. In addition, in order to ensure that the intent of this bill is met, it should explicitly restrict access to Moss Road.

While neither this bill nor the bill being amended specifically addresses secondary access, a secondary access from the property to Moss Road may be appropriate. Moss Road is in a single-family residential district, and it is appropriate to restrict commercial property from accessing Moss Road. Now that the property is zoned for residential uses (RM9), a secondary access *may* be feasible to Moss Road. Primary access to the property must continue to be from Highway 100. If an updated TIS warrants access to Moss Road, then it should be limited to secondary access only with primary access being from HWY 100.



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PUBLIC WORKS RECOMMENDATION

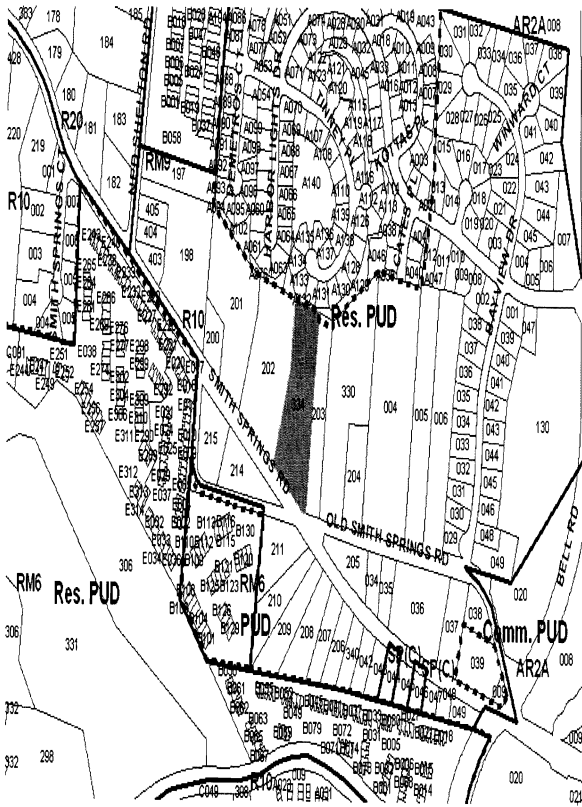
A TIS will be required at development to address any changes in access that have been previously conditioned.

STAFF RECOMMENDATION

The Councilmember has deferred this item to the first Council meeting in December. As this will not have a public hearing at Council prior to January 5, 2010, staff recommends that this item be deferred to the December 10, 2009, Planning Commission meeting.

CONDITIONS (if approved)

1. The bill shall be amended to clarify that a new TIS shall be required, and that the TIS conditions listed in BL2005-543 shall not be required.
2. The following condition shall be added: "Any future development under the RM9 zoning shall have its primary access from Highway 100, and based on the findings of the TIS, a secondary access may be permitted from Moss Road."



2009SP-013-001

Universal Robotics

Map: 135-00 Parcel: 334

Antioch/Priest Lake Community Plan

Council District 29 – Vivian Wilhoite



Project No.	Zone Change 2009SP-013-001
Project Name	Universal Robotics
Council District	29 – Wilhoite
School District	6 – Johnson
Requested by	Looney Ricks Kiss Architects, applicant for Benno Von Hopffgarten owner
Deferrals	Deferred from the August 13, 2009, Planning Commission meeting at the request of the applicant.
Staff Reviewer	Swaggart
Staff Recommendation	<i>Disapprove</i>

APPLICANT REQUEST

Rezone to permit an office use, single-family residence and other uses.

Preliminary SP

A request to change from One and Two-Family Residential (R10) to Specific Plan-Mixed Use (SP-MU) zoning for property located at 2518 Old Smith Springs Road, approximately 1,090 feet east of Ned Shelton Road (2.29 acres), to permit a single-family residence, guest house, detached garage and a two story, 7,600 square foot office building.

Existing Zoning
R10 District

R10 requires a minimum 10,000 square foot lot and is intended for single -family dwellings and duplexes at an overall density of 4.63 dwelling units per acre including 25% duplex lots. *Under the existing R10 zoning the 2.29 acres would permit a maximum 10 lots with 2 duplex lots for a total of 12 residential dwelling units.*

Proposed Zoning
SP-MU

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 and office uses.*

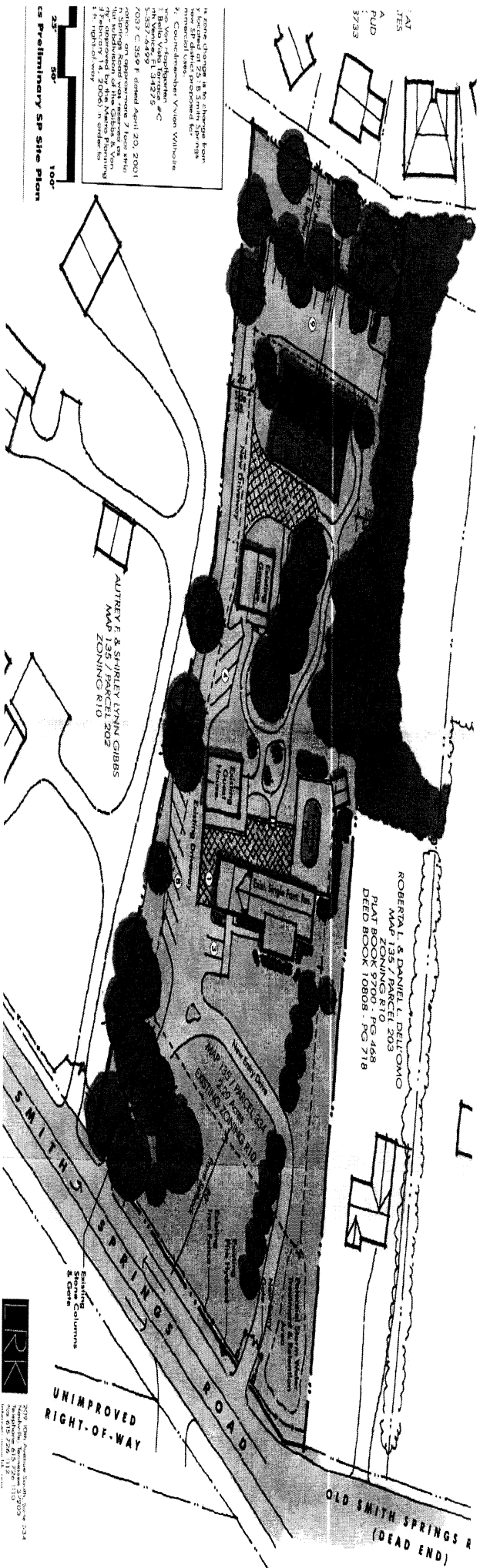
CRITICAL PLANNING GOALS N/A

**ANTIOCH/PRIEST LAKE
COMMUNITY PLAN**

Existing Policy
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

AT
 JES
 A
 PUD
 3733



A zone change is to change from
 residential to commercial use
 located at 251 B Smith Springs
 commercial use.
 P. Councilmember Vinton Wilhoite
 1. Vinton Wilhoite
 1. Bolla Vinton Wilhoite, #C
 1. 337-4-499
 314275
 2037 C 359 F dated April 20, 2001
 action: on opportunity 7 hour s
 n Springs Road was reserved as
 by approved by the City of
 1 February 14, 2006) in order to
 1. right-of-way

ROBERTA L. & DANIEL L. DEL'OMO
 MAP 135 / PARCEL 203
 ZONING R10
 PLAT BOOK 9700 - PG 468
 DEED BOOK 10805 - PG 718

AUTREY F. & SHIRLEY LYNN GIBBS
 MAP 135 / PARCEL 202
 ZONING R10

25' 50' 100'
 Preliminary SP Site Plan



2009 R.K. Engineering & Surveying, Inc.
 2009 R.K. Engineering & Surveying, Inc.
 2009 R.K. Engineering & Surveying, Inc.
 2009 R.K. Engineering & Surveying, Inc.

UNIMPROVED
 RIGHT-OF-WAY

OLD SMITH SPRINGS R
 (DEAD END)



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Consistent with Policy?

these policy areas, to assure appropriate design and that the type of development conforms with the intent of the policy.

No. The plan proposes office uses, and while the policy does say that office may be an appropriate use in transitional areas, it further states that office uses are appropriate only at locations specified on a detailed neighborhood design plan (DNDP), or in the absence of a design plan a special policy. The property is not in a design plan or a special policy area that calls for transitional uses.

PLAN DETAILS

The property, zoned for one and two-family residential and proposed for Specific Plan – Mixed Use, is approximately 2.29 acres in size. It is located on the north side of Smith Springs Road, west of Bell Road. The property is developed and consists of a single-family house, a guest house, a detached garage and pool. The house is set back approximately 180 feet from Smith Springs Road and the front yard contains a variety of mature trees, and an iron fence that runs the length of the front property line.

The intent of this SP is to allow for the residential property to also be used for office and research activities associated with Universal Robotics. The SP calls for the existing house, guest house, garage and pool to remain, and permits an additional office building. Residential would continue to be a permitted use, but office would also be permitted within all structures. The SP would also permit a Bed and Breakfast Inn or Homestay within any of the permitted structures.

The proposed Bed and Breakfast Inn or Homestay is not a listed use in the Metro Zoning Code. Since it is not a listed use, the SP should define the use and provide parameters for the use. The Zoning Code does permit Rural Bed and Breakfast Homestay uses as a Special Exception (SE), which could be similar to the proposed use. While most of the conditions of the SE for a Rural Bed and Breakfast Homestay would not be appropriate with this SP, the requirement that the property be owner occupied should be required as specified in Section 17.16.160.A.2.

The SP would permit office within any structure; however, it limits this use to a maximum of 7,600 square feet total within this SP. In addition to the existing structures, the SP proposes an additional structure at the rear of the property behind the main house to be used for office use.



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Access would be provided from the existing drive and an additional drive closer to the eastern property line. Although a sidewalk would typically be required at this location if this type of development were proposed without an SP, there is no sidewalk shown along Smith Springs Road within the SP. The plan proposes that no sidewalk be required. If approved, staff is recommending a condition that a sidewalk be required, or that a contribution to the sidewalk fund be made in lieu of construction of a sidewalk along the property frontage.

Analysis

The proposed SP is not consistent with the Antioch/Priest Lake Community plan's Neighborhood General land use policy. The policy is mostly intended for residential uses calling for a mixture of housing types, but it does also provide for office uses under certain circumstances. Those circumstances include a Detailed Neighborhood Design Plan (DNDP) or special policy specifically calling for an office or other transitional type use. There is no DNDP or special policy on this property so the proposed plan is not consistent with the policy.

STORMWATER RECOMMENDATION

Preliminary SP 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.

Maximum Uses in Existing Zoning District: R10

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single Family Detached (210)	2.29	4.63 D	10 Lots	96	8	11

Maximum Uses in Proposed Zoning District: SP-MU

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family (210)	2.29	0.43 D	1 Unit	10	1	2

Maximum Uses in Proposed Zoning District: SP-MU

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour



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General Office 0	2.29	0.076 F	7,600 Sq. Ft.	184	24	24
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Traffic changes between maximum: R10 and proposed SP-MU

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	2.29	n/a	n/a	+98	+17	+15

STAFF RECOMMENDATION

Staff recommends that the request be disapproved because it is not consistent with the area's land use policy.

CONDITIONS (if approved)

1. A sidewalk shall be required along the property frontage of Smith Springs Road, or a contribution to the pedestrian network may be made in lieu of construction as specified in Section 17.20.120 of the Metro Zoning Code. Any sidewalk shall meet all Public Works' design standards. The sidewalk shall be shown on the final site plan, or the fee must be paid prior to the issuance of any building permits.
2. Plans for solid waste disposal and recycling collection. Solid waste disposal and recycling collection to be approved by the Department of Public Works Solid Waste Division.
3. Construct minimum driveway ramp width not less than fifteen (15') feet.
4. Locate proposed driveway outside of the Smith Springs Road / Old Smith Springs Road curb return street corners, and clear of utility poles, drainage structures, signs, fire hydrants, etc.
5. Uses permitted within this SP are office, residential and Bed and Breakfast Inn or Homestay. No other uses shall be permitted.
6. The Planning Commission shall approve a final site plan for any Bed and Breakfast Inn or Homestay to determine the appropriate number of rooms, traffic impacts, and to determine if any additional conditions are necessary to address neighborhood compatibility. Prior to a final site plan approval for the Bed and Breakfast Inn or Homestay use, the use shall be defined in the SP, and any proposed Bed and Breakfast



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Inn or Homestay shall be owner occupied as specified in Section 17.16.160.A.2 of the Metro Zoning Code.

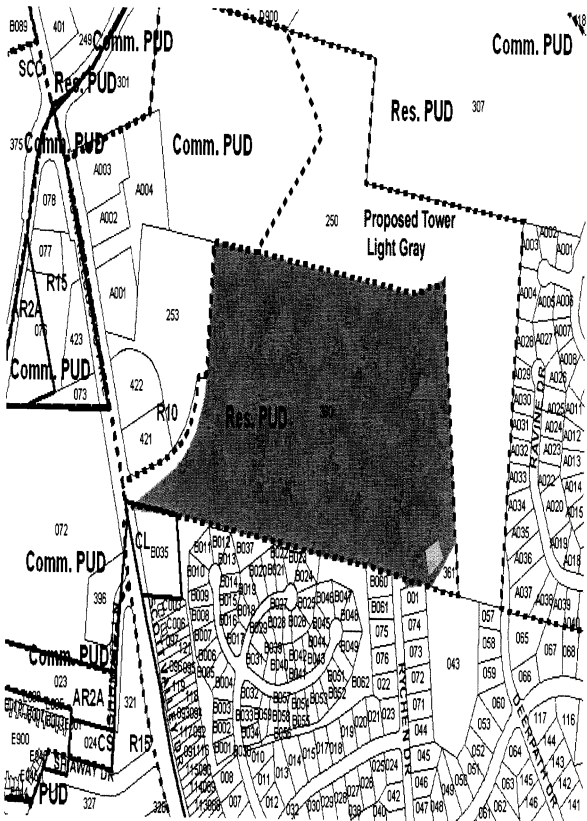
7. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, the property shall be subject to the standards, regulations and requirements of the MUN zoning district as of the date of the applicable request or application.
8. 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. The corrected copy provided to the Planning Department shall include printed copy of the preliminary SP plan and a single PDF that contains the plan and all related SP documents. 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.
9. 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.
10. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water



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supply for fire protection must be met prior to the issuance of any building permits.

11. All development within the boundaries of this plan shall meet the requirements of the Americans with Disabilities Act.



78-81-U-13
 Brighton Valley Apartments (T-Mobile Tower Revision)
 Map: 135-00 Parcel: 360
 Antioch/Priest Lake Community Plan
 Council District 29 – Vivian Wilhoite



Project No.	Planned Unit Development 78-81-U-13
Project Name	Brighton Valley Apartments (T-Mobile Tower Revision)
Council District	29 - Wilhoite
School Board District	6 - Johnson
Requested By	Bradley Arant Boulton Cummings, LLP, applicant, for MM Family Partnership, II and Overhill Apartment Partners, owners
Deferral	<i>Deferred from the July 24, 2008, Planning Commission meeting at the request of the applicant.</i>
Staff Reviewer	Logan
Staff Recommendation	<i>Approve with conditions</i>

APPLICANT REQUEST To permit a monopine cell tower within an exiting apartment complex.

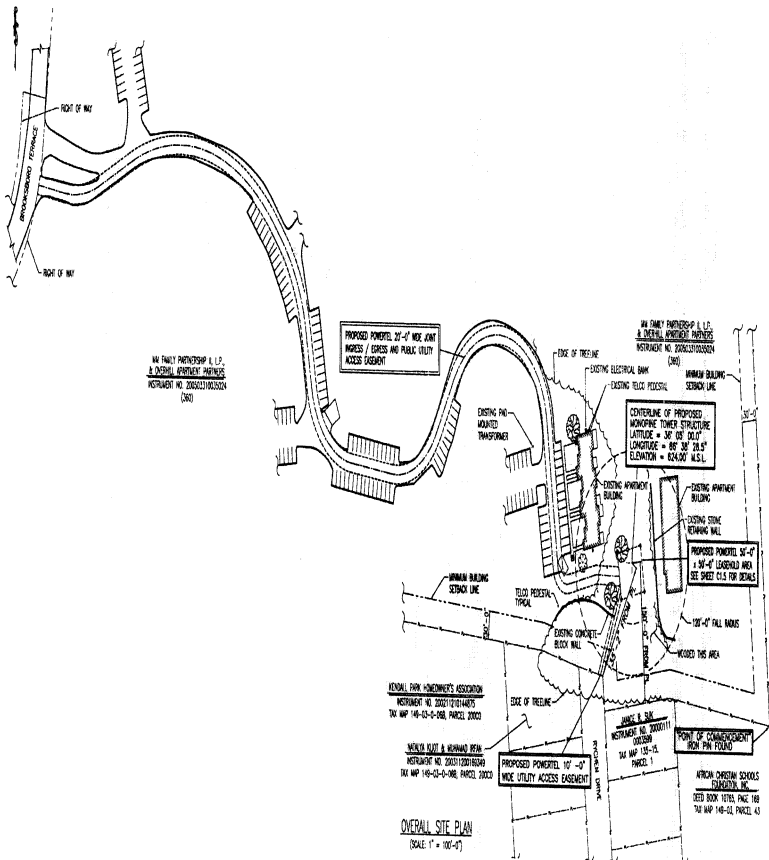
Revise Preliminary & PUD Final Site Plan A request for a revision to the preliminary and for final approval for the Brighton Valley Apartments Planned Unit Development located at 500 Brooksboro Terrace, approximately 400 feet east of Murfreesboro Pike, zoned One and Two-Family Residential (R10) (31.36 acres), to permit the construction of a 150-foot monopine cell tower.

CRITICAL PLANNING GOALS N/A

PLAN DETAILS The proposed tower is located between two existing apartment buildings, near the top of a hill. This area is currently wooded and not used as active open space for the PUD.

This request was deferred by the applicant at the July 24, 2008, Planning Commission meeting. Since that meeting, the applicant has worked with the community on this proposal. At the request of the community, the proposed tower is a monopine, which looks like a large pine tree, instead of a monopole.

Zoning Ordinance requirements Substitute Ordinance No. BL2009-462, as amended, was adopted by Metro Council on August 6, 2009, and became effective on August 13, 2009. This ordinance updated the requirements for a cell tower. Section 17.16.080.C of the Metro Zoning Ordinance, recently adopted by Metro Council and copied below, details the requirements for a cell tower. A summary of how the application meets the requirements has been inserted in italics.



IN FAMILY PARTNERSHIP L.P.
 & OTHER APARTMENT PARTNERS
 INSTRUMENT NO. 2006011003224
 (36)

PROPOSED POWERLINE 21'-0"
 WIDE JUMP
 INGRESS / EGRESS AND PUBLIC UTILITY
 ACCESS EASEMENT

IN FAMILY PARTNERSHIP L.P.
 & OTHER APARTMENT PARTNERS
 INSTRUMENT NO. 2006011003224
 (36)

CENTERLINE OF PROPOSED
 MONOPILE TOWER STRUCTURE
 LATITUDE = 38° 05' 00.0"
 LONGITUDE = 88° 38' 28.5"
 ELEVATION = 624.00' M.S.L.

PROPOSED POWERLINE 5'-0"
 & 3'-0" WIDE
 1'-0" WIDE
 SEE SHEET C-1.5 FOR DETAILS

KENDALL PARK HOMEOWNERS ASSOCIATION
 INSTRUMENT NO. 20021121014475
 TAX MAP 148-03-0-028, PARCEL 20002

WALTER KURTZ & HEATHER BEHN
 INSTRUMENT NO. 20031120018049
 TAX MAP 148-03-0-086, PARCEL 20002

PROPOSED POWERLINE 10'-0"
 WIDE UTILITY ACCESS EASEMENT

JAMES H. BAK
 INSTRUMENT NO. 20031111
 200359
 TAX MAP 134-15
 PARCEL 1

POINT OF COMMENCEMENT
 IRON PIN FOUND

AFRICAN CHRISTIAN SCHOOLS
 CHANGELION, INC.
 DEED BOOK 1878A, PAGE 168
 TAX MAP 148-03, PARCEL 43

OVERALL SITE PLAN
 (SCALE: 1" = 100'-0")



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C. Telephone Service.

1. An applicant for a telephone service tower, including a new microwave or cellular tower, shall provide the codes department with the following information at the time of application for the final site plan or building permit:

- a. A schematic site plan, including schematic landscape plan with an elevation view of the type of facility to be placed on the site. The site plan shall depict where the tower is to be located on the site and where additional co-located communication equipment, shelters or vaults can be placed.

The site plan shows the locations for future cabinets, shelters or vault.

- b. A statement justifying why co-location is not feasible. Such statement shall include:
 - (i) Such structure and technical information and other justifications as are necessary to document the reasons why co-location is not a viable option; and
 - (ii) The applicant shall provide a list of all existing structures considered as alternatives to the proposed location. The applicant shall provide a written explanation why the alternatives considered were either unacceptable or infeasible due to technical, physical, or financial alternatives.

The applicant submitted an affidavit from a T-Mobile engineer stating that T-Mobile currently has a gap in services in this area and that the construction of this tower will close a significant portion of this gap. Additionally, the affidavit states that there are no existing towers or other structures within one mile of this location that could be utilized as an antenna attachment. T-Mobile did consider co-locating on the TVA towers to the east of the Brighton Valley Apartments, however, the TVA towers are only 60-70 feet and a tower of 150 feet is needed to close the gap in service.

- c. Identification of the intended user(s) of the tower.

As stated on the site plan, the intended user is T-Mobile.

- d. The applicant shall demonstrate that through location, construction, or camouflage, the proposed facility will have minimum visual impact upon the appearance of adjacent properties and the views and vistas from adjacent residential neighborhoods while remaining viable opportunities for future co-location.

The proposed tower is a monopine, which looks like a large pine tree. Additionally, it is located behind existing trees, which will also minimize the visual impact.

- e. Documentation of the number of other users that can be accommodated within the design parameters of the tower as proposed.

The proposed monopine can accommodate three personal communication system carriers and three single antennas.



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- f. A statement indicating the owner's commitment to allow feasible shared use of the tower within its design capacity for co-location.

The applicant submitted an affidavit from the Interim Area Director of T-Mobile stating T-Mobile's willingness to sublease portions of the monopine for co-location.

2. Landscape Requirements: Along all residential zone districts and districts permitting residential use, screening in the form of Landscape Buffer Yard Standard A shall be applied.

- a. The following plants are prohibited from being used in any District, to buffer a telephone service tower, including a new microwave or cellular tower due to problems with hardiness, maintenance, or nuisance: Kudzu Vine, Purple Loosestrife, Japanese Honeysuckle, Shrub Honeysuckle, Autumn Olive, Common Privet, Tree of Heaven, Lespedeza, Garlic Mustard, Paulownia, Multiflora Rose, Siberian Elm, Silver Poplar, Mimosa, Mulberry and Silver Maple.

T-Mobile will screen the site with plantings that satisfy the Landscape Buffer Yard Standard A, as evidenced by the site plan.

- b. The maintenance standards set forth in Section 17.24.080 shall be applicable to all required landscaping.

T-Mobile has stated that it will comply with the maintenance standards set forth in Section 17.24.080 of the Zoning Ordinance.

3. Co-location requirements: New telephone service towers of a height of more than one hundred (150) feet and less than two hundred (200) feet must be designed and built to accommodate three (3) or more personal communication system carrier applications and must be made available upon reasonable terms for co-location to at least three (3) additional single antenna applications such as 911 and emergency management communications. Additionally, the site must be sufficiently large enough to accommodate at least three (3) telecommunication equipment shelters, cabinets or additions to existing structures. New telephone service towers of a height of two hundred feet (200) or more must be designed and built to accommodate at least three (3) personal communication system applications and at least three (3) additional single antenna applications plus at least one (1) additional personal communication system application and at least one additional single antenna application for each additional fifty (50) feet of height, to a maximum of six (6) personal service communication system carriers and six (6) single antenna applications, to be made available upon reasonable terms for co-location.

The proposed 150 foot monopine can accommodate three personal communication system carriers and three single antennas. The site will accommodate at least three telecommunication equipment shelters, cabinets or additions to existing structures.

4. Setbacks. Telephone service towers shall be set back 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 proposed structure or the height of the tower.

As shown on the Site Plan, the nearest property line to the proposed monopine is the right-of-way of Rychen Drive which is 125 feet from the proposed monopine. The applicant also submitted a letter from Stephen Yeo, P.E., with Sabre Towers & Poles



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stating in the unlikely event of a collapse of the monopine, the monopine would fall within a radius of 120 feet from the base of the monopine.

5. Height. The maximum height of telephone facilities shall be determined by the height control provisions of Chapter 17.12. Guy wire anchors, if used, shall be set back a minimum of five feet from all property lines. Where a proposed tower cannot comply with maximum height provisions, the applicant shall be required to submit for a special exception permit per Section 17.16.180(B)(1).

The proposed monopine complies with the height control provisions of Section 17.12 of the Metropolitan Code. Guy anchors will not be used.

6. Lights. No lights shall be permitted on the tower except such lighting that is required by state or federal law.

The proposed monopine will not be lighted, unless lighting is required by state or federal law.

7. Notification. Prior to the issuance of a zoning permit, and immediately after receiving an application for a new tower, the zoning administrator shall notify the district councilmember that an application for a new tower has been submitted. Such notification shall only be required when a tower is proposed within a residential district, a district permitting residential uses (excluding the MUI, ORI, CF, CC, and SCR districts), or within 1,000 feet of the zoning boundary line of a residential district or a district permitting residential uses. Within thirty days from the date on which the tower application was filed, the district councilmember may hold a community meeting on the proposed tower. If a meeting is held, the applicant shall attend and provide information about the tower's safety, technical necessity, visual aspects, and alternative tower sites and designs considered.

The affidavit from the Interim Area Director of T-Mobile states that T-Mobile met on two (2) separate occasions with Councilmember Vivian Wilhoite and members of the Edge-O-Lake Neighbors Association to answer questions and address concerns regarding the proposed structure. T-Mobile provided information about the tower's safety, technical necessity, visual aspects, and alternative tower sites and designs considered.

8. Other requirements:
 - a. Design standards: The proposed site plan and tower design plans meet or exceed all applicable standards, including without limitation those of the Federal Communications Commission (FCC), American National Standards Institute (ANSI), and Institute of Electrical and Electronics Engineers (IEEE) standards for power density levels and structural integrity, American Concrete Institute (ACI), American Standards Testing and Materials Institute (ASTM), the National Electrical Code, and the American Steel Institute.

The applicant has stated that the proposed site plan and tower design plans meets or exceeds all applicable local, state and federal guidelines for cellular communications towers.



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- b. Final Site Plans: Final Site Plans shall be accompanied by a certification from a qualified structural engineer that the tower has sufficient structural integrity and equipment space to accommodate multiple users [and] shall be required at the time of applying for a building permit.

The affidavit from the Interim Area Director of T-Mobile states that T-Mobile will submit at the time of applying for a building permit a letter from a registered engineer certifying the structural integrity of the tower and the ability for the tower to accommodate additional telecommunications equipment.

- c. Landscape plans: Landscape plans that comply with the landscaping requirements of this ordinance shall be required at the time of applying for a building permit or final site plan.

T-Mobile will submit at the time of applying for a building permit landscaping plans that comply with the landscape requirements of Ordinance 2009-462. The Urban Forester has approved the landscape plan included in this request.

- d. Removal of Abandoned Antennas and Towers: Any tower permitted under this chapter that is not operated as a personal communication system carrier application for a continuous period of twelve (12) months shall be considered abandoned and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the department of codes administration. Failure to do so shall be deemed to be a violation of these regulations. The owner of the antenna or tower may appeal the decision of the department of codes administration to the board of zoning appeals, but at such hearing shall be required to show just cause why the antenna or tower should not be considered abandoned and subject to removal.

This provision will not be applicable until the proposed tower is constructed.

- e. The telephone service tower must comply with building codes and other federal, state, and local regulations.

The applicant has stated that the proposed site plan and tower design plans meets or exceeds all applicable local, state and federal guidelines for cellular communications towers.

9. Exemptions: Notwithstanding any other provision of this Title to the contrary, the following circumstances shall be permitted by right:

- a. Concealed Devices - Communication equipment or any new structure that is integrated as an architectural feature of a structure so that the purpose of the facility for providing wireless services is not readily apparent to a casual observer or which is concealed within a building or structure so that it is architecturally indiscernible may be permitted in all zoning districts subject to building permit procedures and standards. Architecturally indiscernible shall mean that the addition or feature



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containing the antenna is architecturally harmonious in such aspects as material, height, bulk, scale and design with the building or structure to which it is to be a part.

The purpose of T-Mobile's proposed monopine for providing wireless services is not readily apparent to a casual observer.

- b. Additions To Existing Structures In Any Zoning District- An antenna, a dish or transmitter may be placed inside or on an existing structure, including but not limited to telephone service towers, steeples, silos, spires, utility water tanks or towers, athletic field lighting poles, utility poles and similar structures, subject to building permit procedures and standards and provided the addition of the antenna and any supporting structure shall not exceed the height control provisions of Chapter 17.12 without obtaining a special exception permit.

This provision is not applicable to T-Mobile's application.

- c. The Councilperson of a district in which the new telephone service tower is proposed may request that applicants for new telephone service towers accommodate tornado sirens and their associated equipment to further the public interest. The applicant will make good faith efforts to comply with this request, provided that if such use shall materially increase the cost of the tower, require utilization of land otherwise reserved for additional wireless carriers on the tower or would otherwise delay permitting of the proposed tower, the applicant shall not be required to consider such request. Because tornado sirens require additional tower space and have varying design qualities, applicants will be allowed a 50% increase in height over the otherwise applicable height limitation and will not be required to utilize camouflaged designs. This section applies to tornado sirens only and is not applicable for other public safety tower uses.

The applicant has stated that "In response to neighborhood opposition to the original design of the proposed tower as a monopole, T-Mobile agreed to modify the design on the proposed tower to use a camouflaged monopine design. Utilizing the proposed monopine almost doubles the cost of the proposed tower. At the request of Councilmember Wilhoite, T-Mobile met with Metro's Office of Emergency Management to explore locating a tornado warning siren on the monopine. T-Mobile was advised by a representative of Metro's Office of Emergency Management that the tall trees around the proposed monopine would significantly reduce the effectiveness of any tornado warning siren placed on the proposed monopine. Increasing the height of the proposed monopine to allow the tornado warning siren to be placed above these tall trees would materially increase the cost of the proposed tower. In order to increase the height of the tower without materially increasing the total cost, T-Mobile would have to utilize a monopole design for the tower instead of the monopine. Therefore T-Mobile has complied with the requirements of Section 17.16.080 C 9(c) by making a good faith efforts to comply with the request to locate a tornado warning siren on the proposed monopine."



Metro Planning Commission Meeting of 08/27/09

PUBLIC WORKS**RECOMMENDATION**

No Exception Taken

STORMWATER**RECOMMENDATION**

No Stormwater Permit Required.

URBAN FORESTER**RECOMMENDATION**

This application meets the current buffer requirements.

STAFF RECOMMENDATION

Staff recommends approval with conditions.

CONDITIONS

1. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services.
2. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Traffic Engineering Sections of the Metro Department of Public Works for all improvements within public rights of way.
3. This approval does not include any signs. Signs in planned unit developments must be approved by the Metro Department of Codes Administration except in specific instances when the Metro Council directs the Metro Planning Commission to review such signs.
4. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
5. Authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four additional copies of the approved plans have been submitted to the Metro Planning Commission.
6. The PUD final site plan as approved by the Planning Commission will be used by the Department of Codes Administration to determine compliance, both in the issuance of permits for construction and field inspection. Significant deviation from these plans may



Metro Planning Commission Meeting of 08/27/09

require reapproval by the Planning Commission and/or Metro Council.

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



Metro Planning Commission Meeting of 08/27/09



Department of Law
Sue Cain, Director
862-6341

MEMORANDUM

TO: RICK BERNHARDT, EXECUTIVE DIRECTOR, PLANNING DEPARTMENT

FROM: TED MORRISSEY, ASSISTANT METROPOLITAN ATTORNEY

SUBJECT: CELL TOWER REGULATION

DATE: APRIL 10, 2009

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

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

DISCUSSION:

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

(7) Preservation of local zoning authority

(A) General authority

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

(B) Limitations

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

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

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

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



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

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

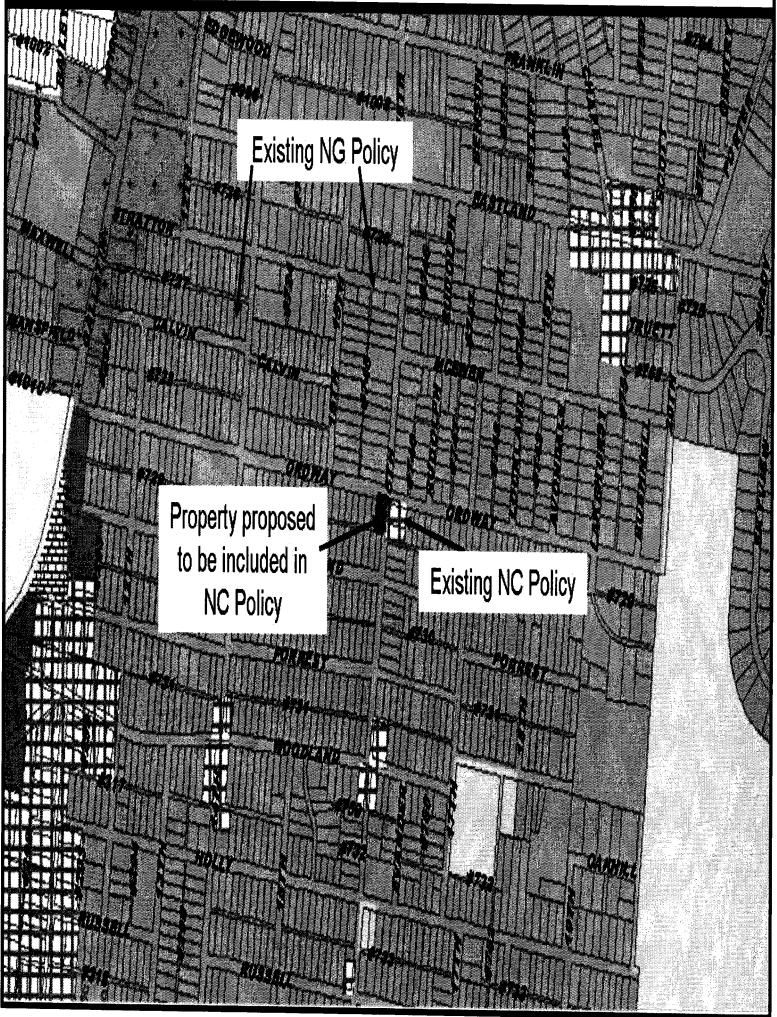
(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court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

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

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

SEE NEXT PAGE

2009CP-005-001



Existing NG Policy

Property proposed
to be included in
NC Policy

Existing NC Policy



Project No. 2009CP-005-001
Project Name Amend the *East Nashville Community Plan: 2006 Update*
Associated Cases 2009SP-012-001
Council District 6 – Jameson
School District 5 – Porter
Requested by Metro Planning Department, on behalf of Evolve Developers LLC, owner
Deferrals Deferred from the July 23, 2009, Planning Commission Meeting at the request of the applicant.
Staff Reviewer Anita McCaig
Staff Recommendation Approve

APPLICANT REQUEST

Amend the policy to permit a mixed use building.

Amend the Community Plan

A request to amend the *East Nashville Community Plan: 2006 Update* changing the land use policy from Neighborhood General (NG) to Neighborhood Center (NC) on approximately 0.12 acres fronting Ordway Place and N. 16th Street.

Deferral

This item was previously deferred from the July 23, 2009, meeting.

CRITICAL PLANNING GOALS

- Creates Walkable Neighborhoods
- Fosters Distinctive, Attractive Mixed-Use Communities

The proposed Neighborhood Center (NC) policy contributes to the East Nashville Community Plan's development goals of sustaining and encouraging the diversity of people and housing, as well as supporting well-designed, conveniently located commercial services within walking distance of residential areas. Neighborhood Center areas also provide centers of activity for the surrounding area. In addition, the proposed NC policy encourages mixed-use developments that create attractive places to live, work and recreate, within neighborhoods, adding to sustainable development patterns.

EXISTING POLICY

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 accompanying Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in these policy areas, to assure appropriate design and that the type of development conforms to the intent of the policy.



Metro Planning Commission Meeting of 08/27/09

PROPOSED POLICY

Neighborhood Center (NC)

NC policy is intended for small, intense areas that may contain multiple functions, and are intended to act as local centers of activity. Ideally, areas containing NC land use policy are “walk – to” areas within a five minute walk of the surrounding neighborhood it serves.

The types of uses appropriate in NC land use policy include single-use or mixed-use “neighborhood-scaled commercial,” generally situated at an intersection or on prominent corners within the neighborhood. Examples of uses include a small grocery store, barber shop, or buildings with ground level commercial and residential above.

Residential uses within NC land use policy are generally at medium to high density single- and multi-family housing. This allows for additional “eyes on the street,” to protect the activity center it surrounds.

Since this request concerns only one property across from NC policy that exists on N. 16th St., staff has deemed it prudent to extend the NC policy, instead of applying a new policy category from the Community Character Manual (CCM) to apply to only this parcel.

BACKGROUND

The applicant began working with the community, the Councilmember, and Metro Departments, including Metro Historical Commission, Metropolitan Development and Housing Agency (MDHA), and Metro Planning, several months before submitting a request for a SP rezoning for this property. The requested SP would permit a two-story mixed use building that allows 5 residential units and 2 or 3 commercial spaces on approximately 0.12 acres fronting Ordway Place and N 16th Street.

This East Nashville property is zoned Commercial Neighborhood (CN) and is located within the Lockeland Springs-East End Neighborhood Conservation Zoning Overlay district. Any new construction in this district requires review by the Metro Historic Zoning Commission. In addition, the property also falls within the Metropolitan Development and Housing Agency’s (MDHA) Five Points Redevelopment District, which calls for mixed use at this location, classified as a “Corner Commercial” district. MDHA also reviews projects located within its Redevelopment Districts.



Metro Planning Commission Meeting of 08/27/09

During initial discussions with Metro Historical Commission and MDHA, the applicant found that the East Nashville Community Plan's land use policy conflicted with the mixed use designation of MDHA's Five Points Redevelopment District and that a plan amendment to the East Nashville Community Plan was also needed. Staff worked with the applicant to improve the site design and amend the land use policy to support the proposed mixed use of the associated SP rezoning.

COMMUNITY PARTICIPATION

Notification of the amendment request and the Planning Commission public hearing was posted on the Planning Department website, posted in newspapers, and mailed to surrounding property owners and known neighborhood organizations within 1,300 feet of the subject site.

A community meeting hosted by Metro Planning was held on July 9, 2009, at the East Branch Library to discuss the plan amendment and associated SP rezoning request. At the meeting 26 people signed in, including the district councilmember. Some of those who attended expressed concerns about the impacts of the proposed development, including concerns regarding the site's small size, the density on such a small site, the scale (building height and massing) and parking needs. Other attendees endorsed the plan amendment and proposed project. Hearing these concerns, the applicant deferred the application to work with Rediscover East's Urban Design Committee and the community.

The applicant has met with Rediscover East's Urban Design Committee. In addition, another community meeting, hosted by the district Councilmember, was held on July 30, 2009. Several people expressed support of the project while some remained concerned about the development's scale and parking needs.

An additional community meeting has been scheduled for August 25, 2009, to discuss refinements to the project.

PHYSICAL SITE CONDITIONS

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

Land Use

Surrounding land uses on Ordway Place are single-family residential. Across N. 16th Street, to the east, are neighborhood-scale businesses, including a bakery.



Metro Planning Commission Meeting of 08/27/09

Access

The site, currently vacant, is a corner lot that fronts on Ordway Place and N. 16th Street. The lot also has alley access.

Development Pattern

East Nashville has several small "walk-to" neighborhood centers throughout the community. This amendment request and accompanying rezoning proposal continue that development pattern by providing a small-scale mixed use building oriented toward both N. 16th Street and Ordway Place.

Historic Features

The subject site is located within the Lockeland Springs-East End Neighborhood Conservation Zoning Overlay district. However, the site does not currently have a structure on it. Older maps show a small commercial building on this site. Sensitivity to the area's historic features is an important consideration for any development proposed on the subject site and surrounding area.

Conclusion

The requested amendment is in keeping with the goals and objectives of the *East Nashville Community Plan: 2006 Update*.

The East Nashville Plan promotes the preservation and enhancement of neighborhood retail nodes. The extension of NC land use policy to this site will enhance the existing neighborhood center. It will provide a residential component while creating a more defined edge between the existing neighborhood center and the surrounding residential.

STAFF RECOMMENDATION

Staff recommends approval.

**SPECIFIC PLANS AND
TEXT AMENDMENTS**



2009SP-012-001
 16th & Ordway
 Map: 083-10 Parcel: 010
 East Nashville Community Plan
 Council District 6 - Mike Jameson



Project No.	Zone Change 2009SP-012-001
Project Name	16th and Ordway
Associated Case	2009CP-005-001(Community Plan Amendment)
Council Bill	BL2009-521
Council District	6 - Jameson
School Board District	5 - Porter
Requested By	Ragan-Smith & Associates, applicant for Evolve Developers, LLC, owner
Staff Reviewer	Swaggart
Staff Recommendation	<i>Approve with conditions, subject to approval of the associated Community Plan amendment</i>

APPLICANT REQUEST

Permit a two-story mixed-use building.

Preliminary SP

A request to rezone from Commercial Neighborhood (CN) to Specific Plan-Mixed Use (SP-MU) zoning property located at 1516 Ordway Place, at the southwest corner of Ordway Place and N. 16th Street (0.12 acres), to permit a 2-story mixed-use building with five residential dwelling units and up to 2,000 sq. ft. of commercial/office spaces, located within the Five Points Redevelopment District and the Lockeland Springs Neighborhood Conservation Overlay.

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.

Proposed Zoning

SP-MU District

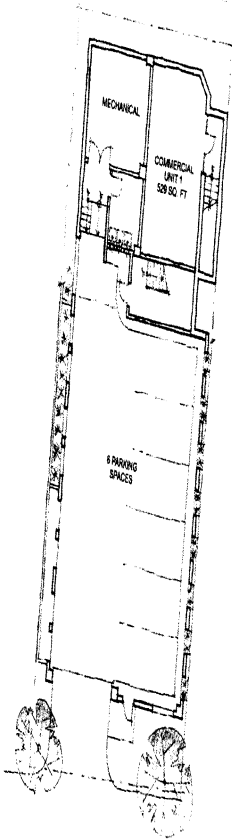
Specific Plan-Mixed Use is a zoning District category that provides for additional flexibility of design, including the relationship of streets to buildings, to provide the ability to implement the specific details of the General Plan. This Specific Plan includes residential uses in addition to office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

CRITICAL PLANNING GOALS

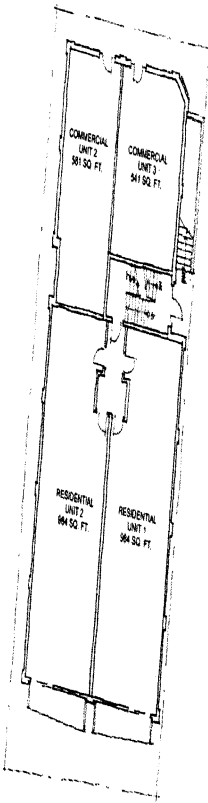
- Supports Infill Development
- Creates Walkable Neighborhoods
- Provides a Range of Housing Choices
- Encourages Community Participation

The proposed Specific Plan meets several critical planning goals. The proposal will increase residential options, and provide new non-residential opportunities within a developed area that has existing infrastructure. The proposed building is designed to a pedestrian scale and will enhance the pedestrian experience along N. 16th Street and Ordway Place. The proposed mixture of uses will provide for more non-residential opportunities in the neighborhood which will become a walkable destination

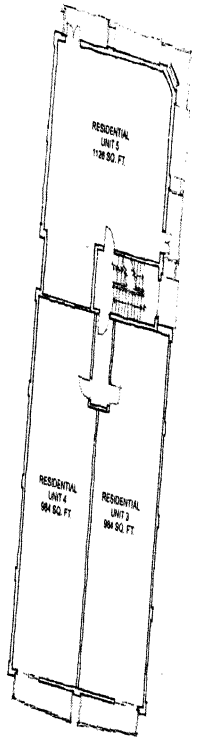
LOWER LEVEL PLAN



FIRST FLOOR PLAN



SECOND FLOOR PLAN





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for neighborhood residents. The design of the building is distinctive yet does not conflict with the overall character of the historic neighborhood. The area is, mostly, made up of single-family detached housing types, and the proposed smaller attached residential units will provide additional housing options in the area. There have been several community meetings where the neighborhood expressed their likes and dislikes of the plan. Not all neighborhood issues have been resolved, but the plan represents an attempt to balance the developer's needs with neighborhood concerns.

EAST NASHVILLE COMMUNITY PLAN

Existing Policy

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.

Proposed Policy

Neighborhood Center (NC)

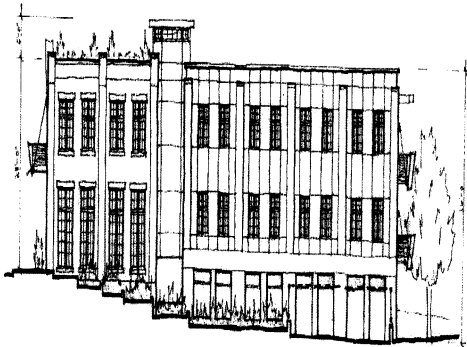
NC is intended for small, intense areas that may contain multiple functions and are intended to act as local centers of activity. Ideally, a neighborhood center is a "walk-to" area within a five minute walk of the surrounding neighborhood it serves. The key types of uses intended within NC areas are 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.

Consistent with Policy?

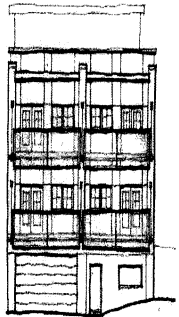
Yes. The proposed SP district is consistent with the proposed Neighborhood Center policy. The plan proposes a mixture of residential and commercial/office space, which will provide additional housing options, as well as commercial and office space for the immediate community.

PLAN DETAILS

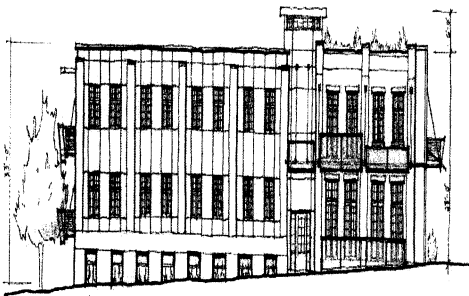
The site proposed for this SP is currently vacant. The plan calls for a two-story, mixed use building with five



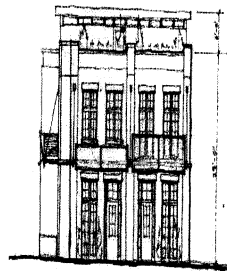
WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION



NORTH ELEVATION



Metro Planning Commission Meeting of 08/27/09

residential units and a maximum of 2,000 square feet of commercial floor area. Permitted commercial uses include Financial Institution, General Office, Medical Office, Personal Care Services, and Retail. Commercial uses are in the basement and on the first floor. Two residential units are also located on the first floor, and the remaining three residential units are located on the second floor.

Vehicular access will be from the alley (#729) at the rear. Onsite parking is located in the basement floor and contains six compact parking spaces. There are also two additional on-street spaces located adjacent to the property on North 16th Street. The minimum number of parking spaces required by the Metro Zoning Code is five spaces. The property is located in the Urban Zoning Overlay (UZO). The UZO allows for the first 2,000 sq. ft. for all the proposed non-residential uses to be exempt from providing parking.

The plan includes preliminary elevations. This property is within the Five Points Redevelopment District, and the Lockeland Springs Neighborhood Conservation Overlay, and subsequently the final elevations will have to be approved by the Metropolitan Development and Housing Agency (MDHA), and the Metro Historic Commission (MHC). Preliminary elevations have been approved by both MDHA, and MHC.

STORMWATER RECOMMENDATION

Approved except as noted:

Add note on plans stating that upsized 30" storm pipe will be utilized for detention.

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.

Solid waste disposal and recycling collection to be approved by the Department of Public Works Solid Waste Division.

Construct Alley #729 along property frontage to the Department of Public Works' standards and specifications.



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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
Specialty retail (814)	0.12	0.25	1,306	94	9	25

Maximum Uses in Proposed Zoning District: SP-MU

Land Use (ITE Code)	Acres	Density	Total Number of units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Residential Condo/Townhome (0)	0.12	50	5	46	5	5

Maximum Uses in Proposed Zoning District: SP-MU

Land Use (ITE Code)	Acres	FAR	Total Floor Area	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Retail (814)	0.12	0.23	1,234	91	9	25

Traffic changes between: CN and proposed SP-MU

Land Use (ITE Code)	Acres	Density	Total Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	0.12	n/a	n/a	+43	+5	+5

METRO SCHOOL BOARD REPORT

Projected student generation 1 Elementary 0 Middle 0 High

Schools Over/Under Capacity

Students would attend Ross Elementary School, Bailey Middle School and Stratford High School. All three schools are identified as having capacity for additional students. This information is based upon data from the school board last updated June 2008.

STAFF RECOMMENDATION

If the associated policy change is approved, staff recommends approval with conditions of this SP district.

CONDITIONS

1. Prior to any final site plan approval, the building elevations, including exterior materials, must be approved by the Metropolitan Development and Housing Agency, and Metropolitan Historic Commission.
2. Permitted uses include multi-family residential, financial institution, general office, medical office, personal care services, and retail. No other uses shall be permitted without Metro Council approval.



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3. 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 as of the date of the applicable request or application. *This condition shall be added as a note to the preliminary plan.*
4. 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. The corrected copy provided to the Planning Department shall include printed copy of the preliminary SP plan and a single PDF that contains the plan and all related SP documents. 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.
5. 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.
6. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.



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7. All development within the boundaries of this plan shall meet the requirements of the Americans with Disabilities Act and the Fair Housing Act.

SEE NEXT PAGE

NO SKETCH



- REVISED STAFF REPORT -

Project Nos. 2009Z-015TX-001; 2009Z-033TX-001
Project Name Domestic / Exotic Animals
Council Bills BL2009-499 and Proposed Substitute BL2009-510
Council District countywide
School District countywide
Requested by Councilmembers Carl Burch, Jim Gotto, Jason Holleman and Kristine LaLonde
Staff Reviewer Regen
Staff Recommendation Approve with amendment (Substitute Bill)

APPLICANT REQUEST Create several definitions to classify animals and allow up to a maximum of six (6) chickens, ducks, turkeys, quail or pheasants on R/RS zoned property based on the property's size.

ANALYSIS
Existing Law Section 17.04.060 (Definitions) of the Zoning Code does not include definitions for domestic farm animal or exotic animals. Instead, the accessory land use "Domestic Animals/Wildlife" defines them by referencing state law. State law does not spell out what is considered a "common domestic farm animal". Within the urban services district (USD) and general services district (GSD), farm animals may be kept, if the property is zoned for agricultural use (AG/AR2a). If the property is zoned a residential zoning district such as "R" or "RS" (e.g. RS40), then farm animals are prohibited in the USD, and only allowed in the GSD provided the property contains 5 acres or more.

Substitute Bill The proposed substitute bill merges two text amendments that address domestic/exotic animals, one sponsored by Councilmembers Carl Burch and Jim Gotto (2009Z-015TX-001 (BL2009-499) and a second sponsored by Councilmembers Jason Holleman and Kristine LaLonde (2009Z-033TX-001 (BL2009-510)). The sponsors merged these bills since each contained similar definitions of animals. Another provision of the substitute bill, allows certain kinds of poultry to be kept by residents in the Urban Services District (USD) and General Services District (GSD). The substitute bill addresses three areas:

- Animal definitions
- Zoning land use table
- Accessory use standards



Metro Planning Commission Meeting of 08/27/09

Definition of Animals

The proposed substitute bill adds four definitions to classify animals in Section 17.04.060 (Definitions) of the Zoning Code, as noted below. These definitions are needed to clarify that farm animals are “farm animals” and not “pets”. By providing classifications for animals, these definitions ensure the existing Zoning Code standards are not interpreted to permit a horse, cow, goat, llama, pig, sheep, etc. as a “pet” in Davidson County.

- **“Animal”** means all nonhuman members of the animal kingdom including household, domestic, and exotic animals.
- **“Animal, Domestic”** means all species of the Genera *Equus*, *Gallus*, and *Pavo*; the Families of *Anatidae*, *Bovidae*, and *Suidae* as well. Common names of animals defined above include but are not limited to: chickens, cows, dogs, donkeys, ducks, geese, goats, horses, mules, peafowl, pigs, and sheep. Some domestic animals are also considered “Household Pets”, as defined in this section.
- **Animal, Exotic”** means animals defined as Class I by Tennessee Code Annotated § 7-4-403 (1) and animals defined in Tennessee Code Annotated § 70-4-403 (3)(E), (F), (J), (M), (N), (O), (P).
- **“Animal, Household Pet”** means animals bred or raised to live in or about humans for companionship and are dependent on humans for food and shelter (e.g. birds, dogs, cats, guinea pigs, hamsters, mice, rabbits).

Land Uses

The proposed substitute bill deletes the land use “Domestic Animals/Wildlife” and creates two new land uses in the Zoning Land Use Table, Section 17.08.030 under Residential Uses: *Animals, Domestic/Exotic* and *Animals, Domestic (poultry)*. Today, all animals are permitted by right (P) in the AG/AR2a district. This substitute bill does not change that status. Within the R/RS districts, however, poultry would be allowed as an accessory use (A) to a single-family home.

Accessory Use Standards

The substitute bill does not amend the current regulations concerning allowing animals, regardless of whether they are exotic or domestic, as an accessory use to a residential dwelling with the exception of certain poultry. The proposed expanded standards for permitting poultry as an accessory uses are noted below:



Poultry

	Existing	Proposed Substitute
Zoning	R/RS80 - R/RS20	R/RS (any district)
Land Use	no stds.	single-family only
Lot Size Minimum	5 + acres	3,750 s.f.
Tax District	GSD	USD or GSD
# of Poultry	unlimited	2, 4 or 6 poultry (depending on lot size)
Type of Poultry	no stds.	chickens, ducks, turkeys, quails, pheasants
Poultry Location	no stds.	side or rear yard only
Enclosure Required	no stds.	Yes (covered and uncovered)
Poultry Run At-Large	no stds.	No
Setbacks	no stds.	10' property line; 25' any residential structure
Roosters	no stds.	No
Slaughtering	no stds.	No
Breeding	no stds.	No
Final site plan	no stds.	Yes

Executive Order 33

The current Metro Zoning Code requires poultry to be located in the GSD on a lot of at least five acres in size. These requirements do not support a livable and sustainable city as articulated by Mayor Karl Dean in Executive Order 33 which created the Green Ribbon Committee. By modifying the Zoning Code to permit residents to have poultry for personal consumption of eggs only (no meat), this ordinance supports a locally-based food system, a goal of the Green Ribbon Committee.

Countywide Effect

While this bill increases the number of eligible properties on which poultry can be kept, deed restrictions and homeowner's association rules prohibiting the keeping animals would still apply. The standards in this bill were written to be enforceable by both the Metro Codes and Health Departments.

STAFF RECOMMENDATION

Staff recommends approval of this substitute bill. This substitute bill increases the number of properties eligible to keep poultry while protecting adjoining properties from potential nuisance effects. Further, the bill provides the needed animal definitions and promotes a green strategy as envisioned in Executive Order 33. By permitting poultry, particularly chickens, on properties less than five acres in size and within the USD, more residents can reduce their reliance on the existing regional and national food network.

SEE NEXT PAGE

**REVISIONS
and FINAL SITE PLANS**



2009S-072-001
 Hammond Property on Moore Avenue Final Plat
 Map: 105-07 Parcel: 331
 South Nashville Community Plan
 Council District 17 – Sandra Moore



Project No. 2009S-072-001
Project Name Hammond Property on Moore Avenue
Council District 17 - Moore
School District 7 - Kindall
Requested by Michael and Carol Hammond, Trustees, owners, Cherry Land Surveying, surveyor

Staff Reviewer Johnson
Staff Recommendation Approve with condition

APPLICANT REQUEST

Final plat to create three lots.

Final Plat

A request for final plat approval to create three lots on property located at 563 Moore Avenue, approximately 50 feet east of Martin Street (0.51 acres), zoned One and Two-Family Residential (R6).

CRITICAL PLANNING GOALS

- Supports Infill Development
- Creates Walkable Neighborhoods

This subdivision will allow compatibility with the surrounding neighborhood through the size and dimensions of proposed lots, the use of existing infrastructure, and the assimilation of an existing dwelling. Infill development through the addition of new structures into established neighborhood provides an opportunity for increased economic vitality and diversity.

PLAN DETAILS

Final Plat

The applicant is requesting final plat approval for a three lot subdivision on Moore Avenue. There is an alley that runs behind the properties and Lots 2 and 3 will be accessed from this alley. Lot 1, which contains an existing single-family dwelling, will be accessed from the existing driveway onto Moore Ave.

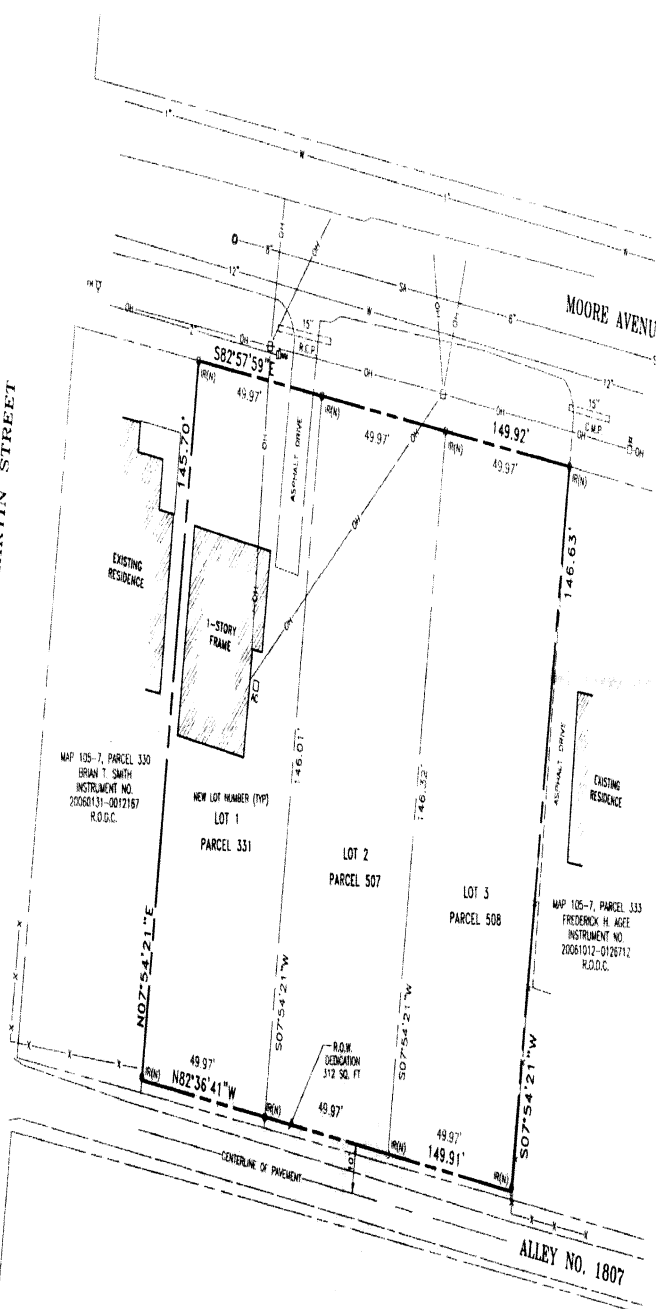
All three lots meet the lot comparability requirements for both area and frontage. This request is an example of infill development, creating new lots in an area with existing sidewalks and served by transit. This subdivision takes advantage of existing infrastructure and adds to the walkability of this neighborhood.

**PUBLIC WORKS
RECOMMENDATION**

1. Identify sidewalk requirement. Any sidewalk requirements must be built or bonded prior to the recording of the final plat.

MARTIN STREET

MOORE AVENUE



MAP 135-7, PARCEL 330
 BRIAN T. SMITH
 INSTRUMENT NO.
 20060131-0012167
 R.O.D.C.

NEW LOT NUMBER (TYP)
 LOT 1
 PARCEL 331

LOT 2
 PARCEL 507

LOT 3
 PARCEL 508

MAP 105-7, PARCEL 333
 FREDERICK H. AGRE
 INSTRUMENT NO.
 20061012-0126712
 R.O.D.C.

CENTERLINE OF PAVEMENT

ALLEY NO. 1807



Metro Planning Commission Meeting of 08/27/09

WATER SERVICES RECOMMENDATION

Approved

STORMWATER RECOMMENDATION

Approved

FIRE MARSHAL RECOMMENDATION

1. Additional information will be required before a building permit can be issued, adequate information not provided to allow unconditional approval of this project at this time.
2. Actual or projected fire hydrant flow data shall be provided showing compliance with the Fire Code before a building permit will be issued.
3. Approved based on no construction being done this application. Any new construction will require additional information.

STAFF RECOMMENDATION

Staff recommends approval with a condition of the final plat request.

CONDITION

1. Show sidewalks on the plat for two of the new lots. All sidewalks shall be constructed per the Department of Public Works' specifications or bonded prior to the recording of the final plat.