



**METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON COUNTY**

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

**Minutes
of the
Metropolitan Planning Commission**

June 10, 2010

4:00 PM

***Metro Southeast at Genesco Park
1417 Murfreesboro Road***

PLANNING COMMISSION:

James McLean, Chairman
Stewart Clifton
Ana Escobar
Judy Cummings
Derrick Dalton
Tonya Jones
Phil Ponder
Councilmember Jim Gotto
Andrée LeQuire, representing Mayor Karl Dean

Staff Present:

Ann Hammond, Assistant Executive Director
Dennis Coreri, Planning Technician I
Brian Sexton, Planner I
Brenda Bernards, Planner III
Greg Johnson, Planner II
Kelly Armistead, Administrative Services Officer III
Kathryn Evans, Legal
Craig Owensby, Public Information Officer
Bob Eadler, Planner II
Bob Leeman, Planning Manager II

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.

I. CALL TO ORDER

The meeting was called to order at 4:00 p.m.

II. ADOPTION OF AGENDA

Mr. Clifton moved and Ms. LeQuire seconded the motion, which passed unanimously, to adopt the revised agenda as presented. (7-0)

III. APPROVAL OF MAY 27, 2010 MINUTES

Mr. Ponder moved and Mr. Clifton seconded the motion, which passed unanimously, to approve the May 27, 2010 minutes as presented. (7-0)

IV. RECOGNITION OF COUNCILMEMBERS

Dr. Cummings in at 4:01 p.m.

Councilmember Coleman spoke in support of Item 5.

Councilmember Hunt spoke in support of Item 5. He stated that this alley serves no purpose other than providing a place for illegal activities and a dumping ground. He said he feels that we would be doing the city a favor by abandoning this alley.

Councilmember Baker spoke in favor of alley abandonment for the betterment of the neighborhood.

Councilmember Crafton in support of Item 5. The alley has recently been cleaned up and it looks nice and neat. Would like to see this area fenced and kept clean.

V. PUBLIC HEARING: ITEMS REQUESTED TO BE DEFERRED OR WITHDRAWN

1. 18-85P-001 A request to cancel the 7734 Highway 70 S Commercial PUD district located at 7734 Highway 70 South, at the northwest corner of Highway 70 South and Harpeth Valley Road, approved for a commercial nursery facility. -Deferred to the June 24, 2010, meeting at the request of the applicant.
2. 2010Z-010PR-001 A request to rezone from R40 to CL zoning for property located within the 7734 Highway 70 S PUD Overlay at 7734 Highway 70 S.
-Deferred to the June 24, 2010, meeting in order to revise the application to SP at the request of the applicant

Mr. Ponder moved and Councilmember Gotto seconded the motion, which passed unanimously, to approve the Deferred or Withdrawn items as presented. (8-0)

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

VI. PUBLIC HEARING: CONSENT AGENDA
PUBLIC HEARING: FINAL PLATS

9. 2010S-044-001 A request for final plat approval to create four lots and a variance from the Subdivision Regulations for lot width on properties located at 2412 A, 2412 B, 2414 and 2500 9th Avenue South.
- Approved with conditions, including an exception from lot comparability and a variance from Section 3-4.2(f) of the Metro Subdivision Regulations for lot width and including a revision to Condition 1 that the plat be revised to include the new application number 2010S-0144-001.

OTHER BUSINESS

10. Request to grant a variance to Section 6.5 of the Subdivision Regulations and release the active building permit holds for Hamilton Chase, Section 1; Hamilton Chase, Section 2; Hamilton Chase, Section 3. -Approved

Mr. Ponder moved and Dr. Cummings seconded the motion, to approve the revised Consent Agenda as presented. (8-0)

Ms. LeQuire in at 4:08 p.m.

Chairman McLean introduced Ana Escobar as the new Planning Commissioner.

VII. PUBLIC HEARING: PREVIOUSLY DEFERRED ITEMS

1. 18-85P-001

7734 Highway 70 S
Map: 127-00 Parcel: 086
Bellevue Community Plan
Council District 22 – Eric W. Crafton
Staff Reviewer: Brenda Bernards

A request to cancel the 7734 Highway 70 S Commercial Planned Unit Development district located at 7734 Highway 70 South, at the northwest corner of Highway 70 South and Harpeth Valley Road, zoned R40 and proposed for CL, (3.37 acres), approved for a commercial nursery facility, requested by Councilmember Eric Crafton, for Patsy Potter, owner. (See also Proposal No. 2010Z-010PR-001)

Staff Recommendation: Defer or disapprove

The Metropolitan Planning Commission DEFERRED to the June 24, 2010, Planning Commission meeting at the request of the applicant. (8-0)

2. 2010Z-010PR-001

Map: 127-00 Parcel: 086
Bellevue Community Plan
Council District 22 – Eric W. Crafton
Staff Reviewer: Brenda Bernards

A request to rezone from R40 to CL zoning for property located within the 7734 Highway 70 S Planned Unit Development Overlay at 7734 Highway 70 S, at the northwest corner of Highway 70 S and Harpeth Valley Road (3.37 acres), requested by Ted Potter, applicant, Patsy Potter, owner (See also Proposal No.18-85P-001).

Staff Recommendation: Defer or disapprove

The Metropolitan Planning Commission DEFERRED to the June 24, 2010 Planning Commission meeting in order for the applicant to review the request to SP. (8-0)

3. 88-042P-001

Parmley Commercial
Map: 049-00 Parcel: Part of 185
Bordeaux/Whites Creek Community Plan
Council District 3 – Walter Hunt
Staff Reviewer: Jason Swaggart

A request to cancel the Parmley Commercial Planned Unit Development District Overlay located on a portion of property at 3705 Whites Creek Pike, approximately 2,450 feet north of Green Lane, approved for an 80,000 square foot office and retail development, zoned SCN (12.07 acres), and proposed for RS10 zoning, requested by Tenn. Contractors, Inc., applicant, for Pinnacle National Bank, owner (See also Proposal No. 2010Z-011PR-001).

Staff Recommendation: Approve

APPLICANT REQUEST - Cancel Commercial PUD Overlay and rezone to RS10.

Cancel PUD A request to cancel the Parmley Commercial Planned Unit Development District Overlay located on a portion of property at 3705 Whites Creek Pike, approximately 2,450 feet north of Green Lane, approved for an 80,000 square foot office and retail development, zoned Shopping Center Neighborhood (SCN) (12.07 acres), and proposed for Single-Family Residential (RS10) zoning.

Zone Change A request to rezone from Shopping Center Neighborhood (SCN), Single-Family Residential (RS15 and RS20) to Single-Family Residential (RS10) zoning for property located at 3705 Whites Creek Pike, including the Parmley Commercial PUD, approximately 2,450 feet north of Green Lane (38.39 acres).

Existing Zoning

SCN District - Shopping Center Neighborhood is intended for a limited range of retail, office, and consumer service uses which provide for the recurring shopping needs of nearby residential areas.

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.

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

Proposed Zoning

RS10 District - RS10 requires a minimum of 10,000 square foot lot and is intended for single-family dwellings at a density of 3.7 dwelling units per acre.

CRITICAL PLANNING GOALS N/A

BORDEAUX/WHITES CREEK COMMUNITY PLAN

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

Consistent with Policy? Yes. The proposed RS10 district is consistent with the land use policy. More importantly the request will cancel a Commercial PUD which is not consistent with the policy bringing the zoning in compliance with the long range plan.

REQUEST DETAILS The request is to cancel the Parmley Commercial PUD Overlay and rezone the PUD property and the surrounding property to RS10. The Parmley Commercial PUD is located on approximately 12 acres of an approximately 38 acre property. There are a number of zoning districts on this property, including the PUD, which is zoned SCN, and the surrounding area, which is zoned RS15 and RS20. The property is located on the east side of Whites Creek Pike approximately 3,500 feet north of Briley Parkway and is currently vacant and consists of open field and forest.

The PUD was originally adopted by Metro Council in 1988, for residential and commercial uses. It encompassed a larger land area including all of parcel 185 and other property spanning to Knight Drive. In 1991 the residential portion of the PUD was cancelled leaving only the commercial portion.

The commercial PUD was revised in 2005, to permit 80,000 square feet of office and retail. It was also associated with Parmley Cove - a residential subdivision approved on the remaining portion of the property. While the residential subdivision was not within the PUD, its primary access to Whites Creek was through the PUD.

Analysis The Bordeaux/Whites Creek Community Plan calls for this area to be residential. As the existing Commercial PUD is not consistent with the policy, canceling it and rezoning the entire property to RS10 will bring the property into compliance with the plan.. The preliminary approval for Parmley Cove has expired and a new subdivision will require the approval of the Planning Commission.

PUBLIC WORKS RECOMMENDATION Traffic study may be required with any development.

Typical Uses in Existing Zoning District: SCN

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Strip Shopping (820)	11.8	-	80,000*	5875	136	548

*Floor area based on approved PUD Overlay

Typical Uses in Existing Zoning District: R20

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)	25.06	2.31 D	54 L	590	48	62

Typical Uses in Existing Zoning District: RS15

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)	1.4	2.47 D	4 L	39	3	5

Typical Uses in Proposed Zoning District: RS10

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)	38.26	3.7 D	141 L	1427	109	147

Traffic changes between Typical: Existing and Proposed Zoning

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	-5077	-78	-468

Maximum Uses in Existing Zoning District: SCN

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Strip Shopping (820)	11.8	-	80,000*	5875	136	548

*Floor area based on approved PUD Overlay

Maximum Uses in Existing Zoning District: R20

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)	25.06	2.31 D	54 L	590	48	62

Maximum Uses in Existing Zoning District: RS15

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)	1.4	2.47 D	4 L	39	3	5

Maximum Uses in Proposed Zoning District: RS10

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)	38.26	3.7 D	141 L	1427	109	147

Traffic changes between Maximum: Existing and Proposed Zoning

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	-5077	-78	-468

STORMWATER RECOMMENDATION Approved

METRO SCHOOL BOARD REPORT

Projected student generation 25 Elementary 23 Middle 24 High

Schools Over/Under Capacity Students would attend Alex Green Elementary School, Brick Church Middle School, and Whites Creek High School. All school has been identified as having capacity for additional students.

STAFF RECOMMENDATION Staff recommends approval. The proposed RS10 zoning district is consistent with the areas residential land use policy.

Mr. Leeman presented the staff recommendation of approval for Items 3 and 4.

Roy Dale, representing applicant, spoke in favor of staff recommendation of approval.

Councilmember Hunt spoke in favor of staff recommendation of approval.

Ken Jakes, 5920 Clarksville Pike, spoke against staff recommendation. He stated that the community has concerns regarding four houses per acre.

Councilmember Gotto moved and Mr. Dalton seconded the motion, which passed unanimously, to close the Public Hearing. (9-0).

Ms. LeQuire inquired as to whether we have enough neighborhood walkable commercial in this area and if it would be appropriate to consider small retail at the front of this site?

Mr. Leeman clarified that at this time only the rezoning is being addressed but noted several future planned commercial locations.

Mr. Dalton stated his support of staff recommendation of these items.

Mr. Clifton stated his support of staff recommendation of these items.

Mr. Ponder stated his support of staff recommendation and also noted that he likes that the schools do have space for any potential children that might move into the area.

Councilmember Gotto moved and Mr. Ponder seconded the motion, which passed unanimously, to approve staff recommendation of Items 3 and 4. (9-0)

[Note: Items #3 and #4 were discussed by The Metropolitan Planning Commission together. See Item #4 for actions and resolutions.]

4. **2010Z-011PR-001**
Map: 049-00 Parcel: 185
Bordeaux/Whites Creek Community Plan
Council District 3 – Walter Hunt
Staff Reviewer: Jason Swaggart

A request to rezone from SCN, RS15 and RS20 to RS10 zoning for property located at 3705 Whites Creek Pike, including the Parnley Commercial PUD, approximately 2,450 feet north of Green Lane (38.39 acres), requested by Tenn. Contractors, Inc., applicant, Pinnacle National Bank, owner. (See also Proposal No. 88-42P-001).

Staff Recommendation: Approve

Councilmember Gotto moved and Mr. Ponder seconded the motion, which passed unanimously, to approve staff recommendation of Items 3 and 4. (9-0)

Resolution No. RS2010-79

“BE IT RESOLVED by The Metropolitan Planning Commission that 88-042P-001 is **APPROVED. (9-0)**”

Resolution No. RS2010-80

“BE IT RESOLVED by The Metropolitan Planning Commission that 2010Z-011PR-001 is **APPROVED. (9-0)**”

The proposed RS10 district is consistent with the Bordeaux/Whites Creek Community Plan’s Residential Low Medium policy calling for two to four dwelling units per acre.”

5. **2010M-003AB-001**
Portion of 43rd Ave. N. & Alley #1203 Abandonment
Map: 091-12 Parcels: 056, 096, 097, 098, 099, 100, 101, 102
West Nashville Community Plan
Council District 20 – Buddy Baker
Staff Reviewer: Bob Leeman

A request to abandon a portion of 43rd Avenue North, from Georgia Avenue northward to its terminus, and a portion of Alley #1203 east of 44th Avenue North to its terminus (easements to be retained), requested by Councilmember Buddy Baker, applicant, for James R. Hunter and RCG Group LLC, owners.

Staff Recommendation: Disapprove or defer if Councilmember agrees to defer the council bill.

APPLICANT REQUEST - Abandon portions of 43rd Avenue N and Alley #1203

Alley and Street Abandonment A request to abandon a portion of 43rd Avenue North, from Georgia Avenue northward to its terminus, and a portion of Alley #1203 east of 44th Avenue North to its terminus (easements to be retained).

History This item was heard at the April 22, 2010, Planning Commission meeting and was deferred by the Commission at the request of Councilmember Baker in order for this item to be considered on the same agenda as a request to rezone the adjacent parcels from residential to industrial. Since that meeting, the rezoning application has been deferred indefinitely in order to allow more time for the applicant to meet with the community.

The Council Bill for this Mandatory Referral (BL2010-682) passed second reading at Council **on June 1, 2010, and is scheduled to be considered by Council on Third Reading on June 15, 2010.**

CRITICAL PLANNING GOALS N/A

REASON FOR CLOSURE The application states the reason for the closure is “to eliminate dumping of trash, tree limbs

and tires.” The applicant has also indicated that this will allow the adjacent property owner to consolidate the adjacent parcels and rezone the parcels from residential to industrial.

Alley/ Road Length Alley #1203 is approximately 310 feet in length with six vacant residential lots fronting Georgia Avenue.

The portion of 43rd Avenue North proposed to be closed is approximately 300 feet in length extending from Georgia Avenue to its northern terminus.

DEPARTMENT AND AGENCY COMMENTS

Planning While there are currently no homes built on the six residential lots served by Alley #1203, alleys are an important structural element to the transportation network in this area of West Nashville. These facilities, as well as streets, bikeways, sidewalks and pedestrian ways directly affect mobility to and from the community and within it. Providing an opportunity for any future homes to have alley access will also serve to enhance the pedestrian realm along Georgia Avenue in the future by creating an urban streetscape with front porches and windows facing the street. Since these six residential properties back up to an existing industrially zoned area, garages in the rear, and accessed via the alley, provide additional buffering.

It is premature to close the alley as long as the six residential lots still exist and those properties are zoned residential.

West Nashville Community Plan The West Nashville Community Plan policy for this area is T4 Urban Neighborhood Maintenance, which would call for the maintenance of the existing character in this area, including supporting alleys for residential development. The plan states that alleys are the preferred form of access in urban neighborhoods.

Public Works Public Works is recommending approval.

NES NES is recommending approval with a condition to retain easement rights.

Emergency Communications Center (ECC) The ECC is recommending approval.

Water Services Water Services is recommending approval with a condition that all easement rights are retained for water and sewer lines in the right-of-way.

STAFF RECOMMENDATION Staff recommends disapproval of the request to abandon Alley 1203 and a portion of 43rd Avenue North which serves as access to the alley, or deferral if the Councilmember agrees to defer the Mandatory Referral application at council.

Mr. Leeman presented staff recommendation of disapproval.

Councilmember Gotto inquired as to whether the public hearing was closed at the previous meeting.

Prior minutes did not reflect if the public hearing was closed or not.

David Ewing, lawyer for Mr. Hunter, the adjacent property owner, spoke in support of Item 5 due to multiple crimes in this area. He stated that the applicant owns property on both sides of the alley and has no intentions to build houses. Mr. Ewing requested that the Planning Commission vote to close this alley.

Emma, 4305 Georgia Avenue, has lived in this area for over 60 years. Spoke in favor of staff recommendation of disapproval due to possible relocation of crime to her area.

Carol Ferguson, Georgia Avenue, spoke in favor of staff recommendation of disapproval.

Marilyn McGill, owns 4303 Georgia Avenue and 4306 Delaware Avenue, spoke in favor of staff recommendation of disapproval. Ms. McGill does not feel like the alley should be closed since there is still residential zoning on the south side of the alley.

Alesandra Bellos, 5001 Indiana Avenue, spoke in favor of staff recommendation and presented the Commission a petition

with over 80 names in opposition to the alley abandonment. Ms. Bellos feels that this abandonment request must be considered in conjunction with the rezoning request, not in isolation of it. She stated that strong residential demand exists in this area.

Mina Johnson, 6600 Fox Hollow Road, spoke in favor of staff recommendation of disapproval.

Trish Bolian, 6002 Hickory Valley Road, spoke in favor of staff recommendation of disapproval.

Lewis Lampley, 7412 Stacy Drive, spoke in favor of staff recommendation of disapproval.

Jessica Dolphin, 4808 Kentucky Ave, urged the Planning Commission to disapprove. She stated that the proper way to address crime in a neighborhood is with law enforcement, not rezoning.

Debbie Moran, spoke in favor of staff recommendation of disapproval due to fear of crime relocating to her area.

Councilmember Baker stated again that the applicant [adjacent property owner] does not plan to build on the property and strongly urges the alley to be closed.

Councilmember Gotto moved and Dr. Cummings seconded the motion, which passed unanimously, to close the Public Hearing. (9-0)

Councilmember Gotto clarified that this is not about a zone change. This is about closing an alley. He stated that crime is bred in areas with no people and he does not believe that closing this alley will move illegal activities to more populated areas. Councilmember Gotto stated that he is not sure that this area will redevelop as residential and stated that closing this alley is not in violation of the current subarea plan. He stated his support of the applicant's request.

Mr. Ponder inquired if there are any businesses located in Parcel 56 that actually use this alley for access.

Councilman Baker clarified that there is no traffic in this alley whatsoever.

Dr. Cummings inquired as to whether the lots would allow for garages in the front of the house.

Mr. Leeman answered that there is nothing that would keep front garages from being built.

Dr. Cummings inquired what will prevent the industrial from moving into this area if the alley is closed.

Mr. Leeman again stated that staff is recommending that the alley stay open.

Mr. Clifton stated that he feels that the alley closure and rezoning are the same issue. He feels very strongly that this is not the time to close the alley. Mr. Clifton stated his support of staff recommendation of disapproval.

Ms. Jones stated that she spent time in this area and saw an area that is trying very hard to turn around. She stated that she feels like the alley abandonment is premature and will not support it right now. Spoke in favor of staff recommendation of disapproval.

Mr. Dalton stated his support of staff recommendation of disapproval.

Ms. LeQuire stated her support of staff recommendation of disapproval. Putting garages on the front of houses, if developed, goes against the character of the neighborhood. She also doesn't feel that abandoning the alley just to fight crime is the right tool.

Ms. LeQuire moved in favor of staff recommendation, Dr. Cummings second the motion. (7-2) Mr. Ponder and Councilmember Gotto voted against.

Resolution No. RS2010-81

“BE IT RESOLVED by The Metropolitan Planning Commission that 2010M-003AB-001 is **DISAPPROVED. (7-2)**”

VIII. PUBLIC HEARING: COMMUNITY PLANS

6. 2010CP-003-001

Bordeaux-Whites Creek
Map: 039-00 Part of parcels: 073, 277, 320
Map: 048-00 Part of parcels: 038, 159
Bordeaux/Whites Creek Community Plan
Council District 3 – Walter Hunt
Staff Reviewer: Bob Eadler

A request to amend the Bordeaux-Whites Creek: 2003 Update by changing the land use policy from Natural Conservation (NCO) and Rural (R) to T3 Suburban Neighborhood Evolving (T3NE) for approximately 16.92 of 43.55 acres located at 4998, 5000, 5010, 5012 and 5026 Clarksville Pike, requested by Wamble & Associates and the Metro Planning Department, applicant, for Winston Temple, George R. and Mildred Butler, Trustees, and Sarah E. Todd, owners. (See also Proposal No. 2010SP-002-001)

Staff Recommendation: Approve

APPLICANTS REQUEST - Amend the Land Use Policy for portions of five properties.

Amend the Community Plan A request to amend the *Bordeaux-Whites Creek Community Plan: 2003 Update* by changing the land use policy from Natural Conservation (NCO) and Rural (R) to T3 Suburban Neighborhood Evolving (T3 NE) for approximately 16.92 of 43.55 acres located on a portion of properties at 4998, 5000, 5010, 5012 and 5026 Clarksville Pike.

PLANNING GOALS

Critical Planning Goals When applied in appropriate locations, the proposed T3 NE policy is intended to meet critical city-wide planning goals, such as providing a range of housing options, promoting infill development, and supporting transportation choices.

This proposed plan amendment, together with the associated SP rezoning, would support the planning goal of providing a range of housing options. However, the amendment is not an infill situation and transit is not available or currently planned. The only type of multi-modal transportation the amendment would promote based on current plans is park-and-ride service.

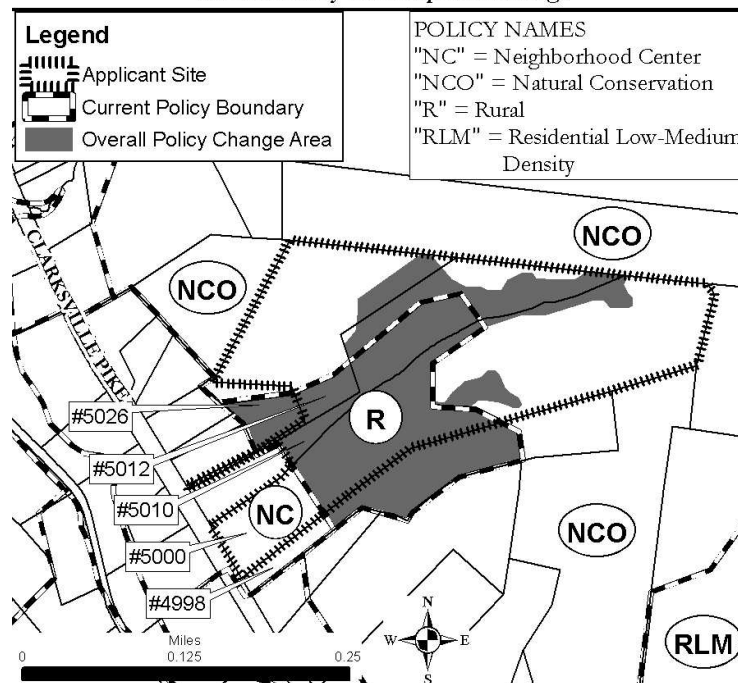
Bordeaux-Whites Creek Community Plan Goal: The proposal would promote two particular goals of the Community Plan: 1) *Goal #5: Provide New Residential Growth—encourage new residential growth to support desired services;* and 2) *Goal #6: Improve Housing Choices—provide locations for condominiums, townhouses and apartments to allow for greater diversity in the housing stock in the community. Attract young professionals, empty-nesters or retired persons.*

BORDEAUX-WHITES CREEK COMMUNITY PLAN

Existing Policies

“Natural Conservation (NCO)” “NCO” is a policy category designed for areas that are generally unsuitable for urban or suburban development due to physical constraints such as steeply sloping land or flooding potential. The intent is to conserve these areas by minimizing disturbance of them. Development is intended to be very low intensity. Appropriate uses in “NCO” policy areas include very low intensity residential (one dwelling unit per two acres or more) and residentially-oriented civic and public benefit activities. Of the ±43 acres in the five subject properties, about 27 acres are in “NCO” policy. Of that, about 4.5 acres that are not steeply sloping are proposed to be changed to T3 NE policy (see Figure 1). The NCO policy will be retained for the remaining 22.5 acres.

FIGURE 1
Current Policy and Proposed Change



“Rural (R)” “R” policy areas generally do not have urban or suburban services available and such services have not been planned for these areas. “Rural” policy is applied when there is ample opportunity provided elsewhere within the community to accommodate the urban and suburban development expected for the foreseeable future, and where the community has concurred that an area should remain rural within the planning horizon. The predominant type of development in “Rural” policy areas is low density residential that is rural in character. Agricultural uses and low intensity community facilities are types of uses also found in “Rural” policy areas. To preserve rural character and avoid the creation of expensive sprawl, residential densities should be one dwelling unit per two acres or lower. Slightly higher gross densities may be warranted when the development is clustered and a substantial portion of the site is preserved as open space. All of the Rural policy on the subject properties—about 12.4 acres—is proposed to be changed to T3 NE policy—which is less than 1 percent of the Rural policy in the community.

“Neighborhood Center (NC)” “NC” is the policy category 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.

Generally appropriate activities in NC areas include single- and multi-family residential, public benefit activities and small scale office and commercial uses. Also conditionally appropriate as secondary uses subject to strict regulation, are small-scale non-nuisance type crafts and other “cottage” industrial uses. Small open spaces (parks, greens, squares, plazas) are appropriate and to the extent possible, should be integrated into the overall open space system. Activities other than those already described, are not appropriate in NC areas and those that already exist are nonconforming. About 3.5 acres of the subject properties are in NC policy, none of which is proposed to be changed.

Proposed Policy

“T3 Suburban Neighborhood Evolving (T3 NE)” T3 NE policy is intended to create suburban neighborhoods that are compatible with the general character of classic suburban neighborhoods as characterized by their building form, land use and associated public realm, with opportunities for housing choice and improved pedestrian, bicycle and vehicular connectivity. The resulting development pattern may have higher densities than conventional post-1950 suburban neighborhoods and/or smaller lot sizes, with a broader range of housing types that provide housing choice. This development pattern acknowledges the scarcity of easily developable land (without sensitive environmental features), changing market

preferences, and the cost of developing housing - challenges that were not faced when the original suburban neighborhoods were built. As noted above, the T3 NE policy is requested for about 17 of the ±43 acres in the five parcels involved in this proposal. The proposed T3 NE policy involves less than 1 percent of the community's current Rural policy and a tiny fraction of its Natural Conservation policy.

BACKGROUND The site of this proposed plan amendment has not been the subject of any previous development proposals. The "Cove at Whites Creek" development proposal associated with this plan amendment request has been under discussion with area property owners and staff for over a year.

COMMUNITY PARTICIPATION A community meeting was held on May 24, 2010. Notification was mailed to property owners in and within one-quarter mile of the proposed amendment area and known groups and organizations in the area. It was also posted on the Planning Department website. Information related to the proposal was posted on the website and handed out at the community meeting. About 15 persons attended the community meeting. Most, but not all, attendees expressed support for the amendment, including the owner of one of the properties included by staff and the owners of one parcel adjacent to the plan amendment area. Following the community meeting, one comment form was received that expressed concern about traffic and the proposed policy being too great of a change. That respondent owns the second property included by staff and is also the owner of an abutting property. Notification of the Planning Commission Public Hearing was included in the mail out of the notices for the community meeting.

ANALYSIS

Physical Development Constraints The T3 NE policy is proposed for the portions of the affected properties that are not steeply sloping and in general are considered to be "developable." Also, the amendment area does not contain any regulated flood plain or streams that are subject to storm water management requirements, such as stream buffers.

Existing Land Use Land uses on the five subject properties include conventional single family homes, a mobile home park, one duplex and one vacant parcel. Surrounding land uses include single family residences and some commercial uses along Clarksville Pike to the west and south, and vacant tracts to the north and east. Hills to the north, east and south of the plan amendment area visually insulate it from the adjoining properties.
Residential Growth

Past Change and Growth Forecast Based on the most recent estimate and forecast of residential development prepared by the Metropolitan Planning Organization (MPO), on average, the traffic analysis zone (TAZ) that contains the proposed amendment grew from 111 household in 2000 to 124 in 2008. And, 238 households are forecasted for this TAZ by 2035.

Current NCO and R policy for the proposed plan amendment area (~17 acres) would support up to 10 housing units. By comparison, overall, the proposed T3 NE policy would allow consideration of an additional 58 to 330 housing units. About 90 percent of that added development potential would be on the three parcels included in the original amendment request, excluding the area added by staff.

In the overall community, currently there are an estimated 1,200 acres of vacant land in policy categories similar to the proposed amendment. Most of that existing opportunity is concentrated in the southern and southeastern edges of the community. While, overall, the need is not compelling, the proposed amendment would amount to an increase of only 1-2 percent in such opportunities, and it would provide them where they currently are unavailable.

Access and Transportation Access The subject site has access to the larger community via Clarksville Pike, which is currently a 2-lane arterial. On the adopted *Major Street Plan*, it is planned to be a 4-lane scenic arterial. There are no active plans at this time to undertake that planned widening. Based on 2009 traffic counts, average daily traffic volume was 6,207 vehicles at the nearest count station about one and a half miles south of the subject site. Lloyd Road, which intersects Clarksville Pike about one-half of a mile south of the subject site, is an existing 2-lane street with a center left turn lane. It is designated as a "collector street" on the adopted *Collector Street Plan*. In 2009, its average daily traffic was 1,307 vehicles. Both these traffic volumes are well within the existing capacities of Clarksville Pike and Lloyd Road.

The overall impact of the proposed plan amendment on traffic could range from an estimated 300 to 2,200 additional vehicle trips to and from the subject site. The impact on Clarksville Pike and Lloyd Road would depend on the amount of development approved for the amendment area and the directional distribution of the traffic that development generates.

Transit Currently, there is no transit service near the subject site and none is planned for the foreseeable future. The closest transit is bus service in the vicinity of Clarksville Pike and Kings Lane about 3 miles south of the subject site. It includes a park-and-ride lot off of Kings Lane about one-third of a mile west of Clarksville Pike.

Water, Sewer and Storm Water The plan amendment area is near an existing water line along Clarksville Pike and a sanitary sewer line along Dry Fork Creek, which parallels Clarksville Pike in the vicinity of the plan amendment area. Any development in the plan amendment area would be subject to storm water regulations, which basically require no increase in runoff from pre-development conditions.

Public Schools and Parks

Public Schools The subject site is currently served by Whites Creek High School; Brick Church Middle School and Alex Green Elementary School. In the fall of 2009, these schools all had excess capacity, as follows:

- Whites Creek HS – 366 students
- Brick Church MS – 280 students
- Alex Green ES – 78 students

The plan amendment would generate the potential for the following net additional school students, depending on the amount of development that occurs:

- Whites Creek HS – 10 to 41 additional students
- Brick Church MS – 10 to 49 additional students
- Alex Green ES – 10 to 86 additional students

Public Parks and Recreation The only existing park serving area the plan amendment area is the large urban Beaman Park located about 3 miles to the west. The service standard for a Neighborhood Park is one-quarter to one-half mile radius. The plan amendment area is about one mile from the nearest site planned to be a future neighborhood park—a joint school-park at Alex Green school. The adopted parks plan recognizes a ± 100 acre deficiency in community park acreage throughout the Bordeaux-Whites Creek Community. At this time, there are no specific neighborhood or community parks planned or programmed that the plan amendment would be directly served by in accordance with park service standards.

The overall net additional park acreage needs the amendment would generate for all types of parks would range from 2.5 and 14.4 acres, again depending on the amount of development in the plan amendment area.

The community plan recommends a greenway along Dry Fork Creek, which, at its nearest point, is less than 500 feet from the entrance to the plan amendment area from Clarksville Pike. There are no current plans to implement such a greenway at this time.

CONCLUSION

1. The proposed amendment, and development it would support, would not significantly change the overall character of the community. If approved, it would establish a precedent for other areas of Rural policy with similar circumstances.
2. The amendment would contribute somewhat to community and city-wide goals, favoring those aimed at providing housing diversity, choice and more compact and efficient development forms; but not the goals aimed at promoting infill and the use of transit.
3. Physical site conditions are not an issue. With proper design, the proposed plan amendment area is suitable for suburban and urban development.
4. Development in accordance with the proposed amendment is not likely to adversely impact surrounding land uses.
5. Access to key infrastructure is not an issue, subject to the availability of capacity. The main roads that serve the amendment area currently are not congested.
6. Capacity of schools serving the plan amendment area is not an issue. Development at the upper end of the range for

T3 NE policy could result in all of the capacity at Alex Green elementary school being absorbed by students generated by development in the plan amendment area.

7. The plan amendment area does not have adequate park service and the amendment could result in a slight increase in the deficit/need.

STAFF RECOMMENDATION Staff recommends approval.

Mr. Eadler presented the staff recommendation of approval.

Note: See discussion with Case No. 2010SP-002-001 (The Cove at White's Creek)

Ms. LeQuire moved and Councilmember Gotto seconded the motion, which passed unanimously, to approve Items 6 and 7 with conditions. (9-0)

IX. PUBLIC HEARING: ZONING TEXT AMENDMENTS AND SPs

7. **2010SP-002-001**
The Cove at Whites Creek
Map: 039-00 Parcels: 277, 320
Map: 048-00 Parcels: 159
Bordeaux/Whites Creek Community Plan
Council District 3 – Walter Hunt
Staff Reviewer: Jason Swaggart

A request to change from AR2a and CL to SP-MU zoning properties located at 5000, 5010 and 5012 Clarksville Pike, approximately 2,350 feet north of Lloyd Road (32.15 acres), to permit up to 215 residential units, 7,500 square feet of commercial/retail use, and 7,500 square feet of office use, requested by Wamble & Associates PLLC, applicant, for Winston Templet, owner. (See also Proposal No. 2010CP-003-001)

Staff Recommendation: Approve with conditions, subject to the approval of the associated policy amendment

APPLICANT REQUEST Rezone to permit a mixed-use development permitting residential, commercial/retail and office.

Preliminary SP A request to change from Agricultural/Residential (AR2a) and Commercial Limited (CL) to Specific Plan – Mixed Use (SP-MU) zoning properties located at 5000, 5010 and 5012 Clarksville Pike, approximately 2,350 feet north of Lloyd Road (32.15 acres), to permit up to 215 residential units, 7,500 sq. ft. of commercial use, and 7,500 sq. ft. of office use.

Existing Zoning

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

CL District - Commercial Limited is intended for retail, consumer service, financial, restaurant, and office uses.

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

- Preserves Sensitive Environmental Features
- Creates Open Space
- Provides a Range of Housing Choices
- Creates walkable neighborhoods.

A majority of the site contains steep hillsides. To ensure that these sensitive areas are protected, the SP requires that a majority of the steep hillsides be preserved in open space directing development to those areas more suitable for development. The SP also protects the small stream on the site. While a majority of the open space is to be left in its natural state, the plan also provides ample “active” open space such as an activity field and community green space. These “active” areas will provide opportunities for outdoor recreation.

The proposed SP provides a variety of housing options which include townhomes, flats and manor houses. It also provides opportunities for limited office and commercial uses including live/work. The layout provides well connected streets. All streets are lined with sidewalks which will allow for safe pedestrian circulation within the site. The proposed layout along with the SP guidelines including open space requirements, and architectural requirements will provide for a compact walkable community which will create a strong sense of place for future residents.

BORDAUX/WHITES CREEK COMMUNITY PLAN POLICIES

Existing Policies

Rural (R) - R is intended for areas that are physically suitable for urban or suburban development but the community has chosen to remain predominantly rural in character. Agricultural uses, low intensity community facility uses, and low density residential uses (one dwelling unit per two acres or lower) may be appropriate.

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

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 to the intent of the policy.

Proposed Policies

Natural Conservation (NCO) - See definition above.

Neighborhood Center (NC) - See definition above.

Suburban Neighborhood Evolving (T3 NE) T3 NE policy is intended to create suburban neighborhoods that are compatible with the general character of classic suburban neighborhoods as characterized by their building form, land use and associated public realm, with opportunities for housing choice and improved pedestrian, bicycle and vehicular connectivity. The resulting development pattern will have higher densities than classic suburban neighborhoods and/or smaller lot sizes, with a broader range of housing types providing housing choice. This reflects the scarcity of easily developable land (without sensitive environmental features) and the cost of developing housing - challenges that were not faced when the original classic, suburban neighborhoods were built.

Consistent with Policy? Yes. The proposed Specific Plan district is consistent with the Suburban Neighborhood Evolving, Natural Conservation and Neighborhood Center policies. The plan provides an integrated mixture of uses including a variety of housing types, small scale office and commercial uses and usable open space consistent with the land use policies. The additional rooftops will provide density needed to support the Neighborhood Center Policy along Clarksville Pike. The SP will require development that has adequate pedestrian, bicycle and vehicular connectivity. More importantly the SP will permit development on the site while recognizing the sites significant environmental constraints.

It is important to note that the proposed SP is *not* consistent with the existing Rural policy. If the associated policy amendment (2010CP-003-001) is not approved, then this SP should also not be approved.

PLAN DETAILS

Current Conditions The proposal consists of three contiguous properties that are located on the east side of Clarksville Pike. The properties do contain some development, but a majority of the land contains steep densely wooded hillsides. A small trailer park is located along Clarksville Pike, and there are also other small structures scattered across other parts of the land.

Site Plan The plan calls for 215 residential units, which is approximately seven units per acre. It will also permit a maximum of 7,500 square feet of commercial use, and 7,500 square feet of office uses along Clarksville Pike.

The plan consists of seven districts, which are based on the type of housing - Live/Work, Rowhouse, Courtyard Townhouse, Brownstone, Stacked Flats, Cottage, Manor House. Each district contains specific parking and bulk standards. A brief description of each district follows:

Live/Work District A district for residential and limited commercial services located at the entrance of the development with frontage along Clarksville Pike.

Rowhouse District A single-family dwelling attached on one or two sides that fronts a street with a rear entry garage and parking area at the back or near the unit.

Courtyard Townhouse District A single-family dwelling attached on one or two sides that fronts a landscaped courtyard with rear entry garage and parking area at the back or near the unit.

Brownstone District A single-family dwelling attached on one or two sides that front a street with front entry garages and parking area near the unit.

Stacked Flat District A multi-family dwelling with a ground level flat and with a town house unit above that fronts a street or green with surface parking near the rear of the unit or on-street parking.

Cottage District A single-family detached dwelling that fronts a street or green with surface parking or on-street parking.

Manor House District A large dwelling configured with multiple units that front a street or green with surface parking or on-street parking.

Access/Parking Access will be from Clarksville Pike. The plan also provides for future connectivity to the adjacent agriculturally zoned property to the south, and the commercially zoned property to the west. An emergency access is shown where a small private drive currently exists. Proposed streets will be designed to meet Metro Public Works' standards, but the SP would permit the streets to be either public or private. Public Works has agreed the streets may be private or public, but a decision will have to be made with the first final site plan.

Sidewalks will be provided along all streets, and along Clarksville Pike. Internal sidewalks provide good connectivity throughout the site which will allow safe pedestrian circulation within the site.

The concept plan identifies a total of 473 parking spaces; however, overall parking totals will be determined with the final site plan. Specific parking standards are as follow:

- Commercial: 1 space per 400 sq. ft.;
- Office: 1 Space per 300 sq. ft.;
- Residential: 1 space for one bedroom; 2 spaces for two or more bedrooms.

Architectural Architectural details/standards have been provided and are part of the SP. Standards address numerous elements such as orientation of buildings and exterior materials. The standards are intended to ensure that the chosen architectural styles will be cohesive while providing variety which will help create a more unique and interesting environment.

Environmental Constraints and Open Space A little over half the site contains hillsides with 25 percent and greater slopes. Development activity will be primarily located within the flatter areas more suitable for development. It will permit

very limited disturbance of areas with 25 percent and greater slopes, but a majority of the steep hillsides will be undisturbed and placed in open space.

While more open space will likely be included in the final site plan, the SP requires that a minimum of 40 percent of the site be left in open space. The plan will permit some disturbance of 25 percent slopes; however, the SP limits the type and amount of disturbance. The SP does not permit slab on grade foundations in areas with steep slopes, but instead permits foundations that are built into the hillside. The SP also requires that 90 percent of all 25 percent and greater slopes be preserved.

STORMWATER RECOMMENDATION Approved except as noted:

1. Show exiting topography.

PUBLIC WORKS RECOMMENDATION

1. The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works. Final design may vary based on field conditions.
2. Parking in this development relies too heavily on garages. Therefore the streets within this development shall be designed as ST-252 Local Streets to accommodate the anticipated on-street parking demand and traffic volumes.
3. Label decorative paving as Stamped Asphalt.
4. Cart pickup is not appropriate for development of this density, dumpster pickup is required.
5. Show location of dumpster pads and mail kiosks with adequate parking.
6. Coordination with Public Works for solid waste disposal is required as a part of the construction plans approval. Recycling collection facilities are encouraged.
7. A traffic impact study is required for this proposed development prior to issuing any comments.

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

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)	29.75	0.5 D	14 L	134	11	15

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

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Convenience Market /Gas(945)	2.4	0.063 F	6,000 SF	NA	476	582

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 Attached(210)	32.15	-	215 U	2103	161	214

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
General Office (710)	32.15	-	7,500 SF	182	24	24

Maximum Uses in Proposed Zoning District: **SP-MI**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Retail (814)	32.15	-	7,500 SF	359	14	40

Traffic changes between maximum: **AR2a and CL** 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
-	-	-	-	NA	-288	-319

METRO SCHOOL BOARD REPORT

Projected student generation 56 Elementary 32 Middle 27 High

Schools Over/Under Capacity Students would attend Alex Green Elementary School, Brick Church Middle School, and Whites Creek High School. All school has been identified as having capacity for additional students.

School Site Dedication Due to the potential impact of this development on the public school system, the applicant is required by Planning Commission policy to offer for dedication a school site in compliance with the standards of Section 17.16.040 for elementary schools with a capacity of 500 students.

This land dedication requirement is proportional to the development’s student generation potential. Such site shall be in accordance with the site condition and location criteria of the Metropolitan Board of Education and shall be within the Whites Creek High School cluster. The Board of Education may decline such dedication if it finds that a site is not needed or desired. No final plat for development of any residential uses on the site shall be approved until a school site has been dedicated to the Metro Board of Education or the Board has acted to relieve the applicant of this requirement. However, failure of the Board of Education to act prior to final plat consideration and approval by the Metropolitan Planning Commission in accordance with its schedule and requirements shall constitute a waiver of this requirement by the Board of Education.

STAFF RECOMMENDATION Staff recommends that the request be approved with conditions, subject to the approval of the associated policy amendment. The proposed SP is consistent with the policies proposed with the associated policy amendment. If the associated policy amendment is not approved, then staff recommends disapproval.

CONDITIONS

1. Permitted uses include residential and commercial uses permitted under the Commercial Limited (CL) zoning district. No other uses shall be permitted without Council approval.
2. All streets shall be identified as public or private with the first final site plan.
3. A traffic study shall be required with the first final site plan.
4. 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.
5. Due to the potential impact of this development on the public school system, the applicant is required by Planning Commission policy to offer for dedication a school site in compliance with the standards of Section 17.16.040 for elementary schools with a capacity of 500 students. This land dedication requirement is proportional to the development’s student generation potential. Such site shall be in accordance with the site condition and location criteria of the Metropolitan Board of Education and shall be within the Whites Creek High School cluster. The Board of Education may decline such dedication if it finds that a site is not needed or desired. No final plat for

development of any residential uses on the site shall be approved until a school site has been dedicated to the Metro Board of Education or the Board has acted to relieve the applicant of this requirement. However, failure of the Board of Education to act prior to final plat consideration and approval by the Metropolitan Planning Commission in accordance with its schedule and requirements shall constitute a waiver of this requirement by the Board of Education.

6. 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.
7. 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.

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.

Mr. Leeman presented the staff recommendation of approval with conditions.

Danny Wamble, applicant, spoke in favor of staff recommendation of approval.

Winston Templet, property owner, spoke in favor of staff recommendation of approval.

Jim Graves, 4913 Clarksville Hwy, owns property that is adjacent to this property. Has spoken with neighbors and they simply request that the developer does what he states that he will do. Spoke in favor of staff recommendation.

Sarah Todd, owner of 5026 Clarksville Hwy, spoke in favor of this if her property will be bought and used as a rural buffer.

Richard W. Hemmen, 5030 and 5034 Clarksville Hwy, just found out about this in the past few days. Stated that his only concern is making sure that these homes will be the quality that they are promised to be.

Ken Jakes, 5920, Clarksville Pike, agrees that this property is an eyesore but is not sure that he wants to trade out one problem for another. He stated that he is not against development but it needs to be the right type. He has concerns with 7.5 residential units per acre and spoke against staff recommendation.

Jerry Higgins, 4999 Clarksville Pike, spoke against staff recommendation of approval.

Georgiana Johnson, 4998 Clarksville Hwy, spoke against staff recommendation of approval.

Les Johnson, 4998 Clarksville Hwy, has concerns that this development will not turn out as promised and asked the Planning Commission to disapprove.

Harriett Higgins, 4999 Clarksville Hwy, is concerned with the lack of sewer in this area. She feels that it is too premature to ask for new zoning for this property when there isn't even sewer. Ms. Higgins feels that the community needs to be improved first and spoke against staff recommendation of approval.

Bill Thompson, 3832 Dry Fork Road, stated his support if a nice development will be put in.

Councilman Hunt stated that he does research on projects in his council district and feels that this one is a very good project.

Mr. Clifton moved and Dr. Cummings seconded the motion, which passed unanimously, to close the Public Hearing. (9-0)

Mr. Clifton explained that he does not blame citizens for wondering what type of enforcement mechanisms will be in place and asked staff to address these concerns.

Mr. Leeman stated that this is the reason for a Specific Plan.

Mr. Clifton inquired about detention ponds.

Mr. Leeman pointed out that several are proposed within the plan and that Metro Stormwater Regulations will have to be met with the final site plan.

Dr. Cummings inquired about topography. Is recreation/trail system allowed in open space?

Dr. Cummings also asked that since it is such a large SP, that the Councilman reach out to neighbors greater than a quarter mile radius so that they can have an opportunity to be involved.

Mr. Ponder stated that he likes three things: the fact that there are no duplexes; the closeness of open area to each resident; and a great opportunity for improvements of current conditions.

Councilmember Gotto wanted to reassure everyone that whatever is in the SP is the standard that they will be held accountable to. He also wanted to address the concerns over the current lack of sewers. He stated that the developer will be required to provide sewers. He stated his support of staff recommendation.

Dr. Cummings inquired about Condition #5. Mr. Leeman clarified.

Ms. Jones expressed excitement about this project and stated her support.

Mr. Dalton stated his support.

Ms. LeQuire is in support of this development, but wanted to express concerns as to where it's located. She feels that we need to encourage people to develop below [south of] Briley Parkway closer to existing infrastructure and transportation.

Ms. LeQuire moved and Councilmember Gotto seconded the motion, which passed unanimously, to approve Items 6 and 7 with conditions. (9-0)

Resolution No. RS2010-82

“BE IT RESOLVED by The Metropolitan Planning Commission that 2010CP-003-001 is **APPROVED. (9-0)**”

Resolution No. RS2010-83

“BE IT RESOLVED by The Metropolitan Planning Commission that 2010SP-002-001 is **APPROVED WITH CONDITIONS. (9-0)**”

Conditions of Approval:

1. Permitted uses include residential and commercial uses permitted under the Commercial Limited (CL) zoning district. No other uses shall be permitted without Council approval.
2. All streets shall be identified as public or private with the first final site plan.

3. A traffic study shall be required with the first final site plan.
4. 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.
5. Due to the potential impact of this development on the public school system, the applicant is required by Planning Commission policy to offer for dedication a school site in compliance with the standards of Section 17.16.040 for elementary schools with a capacity of 500 students. This land dedication requirement is proportional to the development's student generation potential. Such site shall be in accordance with the site condition and location criteria of the Metropolitan Board of Education and shall be within the Whites Creek High School cluster. The Board of Education may decline such dedication if it finds that a site is not needed or desired. No final plat for development of any residential uses on the site shall be approved until a school site has been dedicated to the Metro Board of Education or the Board has acted to relieve the applicant of this requirement. However, failure of the Board of Education to act prior to final plat consideration and approval by the Metropolitan Planning Commission in accordance with its schedule and requirements shall constitute a waiver of this requirement by the Board of Education.
6. 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.
7. 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.

The proposed SP district is consistent with the amended Bordeaux/Whites Creek Community Plan's policy calling for T3 Suburban Neighborhood Evolving policy, Natural Conservation policy and the Neighborhood Center policy along Clarksville Pike."

8. **2010Z-012TX-001**
Zone Change Application Refunds
Staff Reviewer: Brenda Bernards

A council bill to amend the Metro Zoning Code, Section 17.40.740 (Application Fees) to require the Metro Planning Commission to refund all application fees for a zone change, if the Metro Council does not enact an ordinance within one year of the date on which the application was filed, regardless of whether the zone change application is in its original form or as amended, requested by Councilmember Eric Crafton.

Staff Recommendation: Disapprove

APPLICANT REQUEST Refund application fees if zone change not enacted.

Text Amendment A council bill to amend the Metro Zoning Code, Section 17.40.740 (Application Fees) to require the Metro Planning Commission to refund all application fees for a zone change, if the Metro Council does not enact an ordinance within one year of the date on which the application was filed, regardless of whether the zone change application is

in its original form or as amended.

CRITICAL PLANNING GOALS N/A

PROPOSED TEXT AMENDMENT

Existing Law Section 17.40.760 allows the Planning Commission to develop a fee schedule, for Council consideration, to partially or totally defray costs associated with the processing and review of the certain types of applications including zone change requests. There is no provision within the Zoning Code for the refunding of application fees.

Proposed Bill The proposed bill would require that all fees charged by the Planning Commission be refunded if a requested zone change is not enacted within one year.

Proposed Text Add the following new paragraph to the end of the Section 17.40.740:

“All fees charged by the planning commission for the rezoning of property shall be refunded to the applicant if the applicant’s proposed zone change is not enacted by the metropolitan council, whether in its original form or as amended, within one year from the date the application is filed with the planning commission.”

ANALYSIS In accordance with Section 17.40.760 of the Zoning Code, the Planning Commission developed a schedule of fees, which was approved by the Council, for applications for rezoning property. The schedule was developed based on the cost to process and review the requested change.

There are three main objections to this proposed text amendment:

- the financial impact
- the limits placed on the time allotted to fully address community issues raised by a rezoning request
- the potential increase in speculative rezoning requests with limited likelihood of approval

Financial Impact The bulk of the cost is associated with time between the filing of the application and second reading at Council. The current fees were established so that the burden of covering the cost of a rezoning is borne by the applicant rather than the tax payers, generally. Rezoning property is considered an additional service that exceeds the standard set of services provided across the board to all taxpayers. By refunding fees after the majority of the review and processing has been completed, the cost is placed on the all tax payers.

Further, the Director of Finance, who certifies the availability of funds for proposals such as this, did not sign this legislation for the following reason:

“The ordinance as proposed would have a negative fiscal impact on the government by reducing the revenue generated by the Metropolitan Planning Commission. In addition to staff time spent on the application, the government also expends funds for the advertising of the proposal. These factors would result in a budgetary imbalance for the department and would require Metro Council approval of a supplement to the department’s budget.”

Time Limitation In addition to the financial impact, this text amendment will place a limit on the time a rezoning request may remain in the process before the fee must be returned. A request may generate community concerns that raise issues that cannot be resolved in the timeframe allotted. The amendment does not address a deferral request by the applicant that might delay the Council decision beyond the year.

Potential Increase in Speculative Rezoning Requests While the application fee may not be the only cost associated with a rezoning request, knowing that the fee would be returned if disapproved or deferred, more speculative applications may be made. This would compound the financial impact as the same cost to the taxpayers would remain no matter how extreme a request might be, as any disapproval would be an automatic refunding of the fees.

There is some ambiguity in the proposed amendment. It specifies only that the fees must be refunded after one year has elapsed from the date of the application but does not specify what action is required by the applicant. It is not clear if the request must be withdrawn after the year has expired or if it may be continued even though the fees are refunded. There is no allowance for a deferral at the request of the applicant that may delay enactment beyond the year.

STAFF RECOMMENDATION While staff usually recommends that the Planning Commission take no official position on matters of fees related to applications, the potential impacts of this text amendment warrant a recommendation of the Planning Commission. The proposed amendment will place the cost of a rezoning on the taxpayers generally, will limit the time available to resolve issues raised by the request and will likely lead to more speculative rezoning requests.

Ms. Bernards presented the staff recommendation of disapproval.

Dr. Cummings moved and Mr. Clifton seconded the motion, which passed unanimously, to close the Public Hearing. (9-0)

Mr. Dalton out at 6:13 p.m.

Mr. Clifton feels that this is a Council issue and does not see the point of the Planning Commission taking a position either way.

Mr. Dalton in at 6:15 p.m.

Councilmember Gotto asked if the Planning Commission can make no recommendation.

Discussion ensued.

Mr. Clifton moved and Dr. Cummings seconded the motion, which passed unanimously, to approve staff recommendation. (9-0)

Resolution No. RS2010-84

“BE IT RESOLVED by The Metropolitan Planning Commission that 2010Z-012TX-001 is **DISAPPROVED. (9-0)**”

X. PUBLIC HEARING: FINAL PLATS

9. 2010S-044-001

Cottage Cove, 1st Revision
Map: 118-01 Parcels: 386, 387, 468, 469
Green Hills/Midtown Community Plan
Council District 17 – Sandra Moore
Staff Reviewer: Jason Swaggart

A request for final plat approval to create four lots and a variance from the Subdivision Regulations for lot width on properties located at 2412 A, 2412 B, 2414 and 2500 9th Avenue South, opposite Gilmore Avenue (1.41 acres), zoned R8, requested by Kelvin Pennington, owner, Jason Smith, surveyor.

Staff Recommendation: Approve with conditions, including an exception from lot comparability and a variance from Section 3-4.2(f) of the Metro Subdivision Regulations for lot width and including a revision to Condition 1 that the plat be revised to include the new application number 2010S-0144-001.

APPLICANT REQUEST Final plat to create four residential lots

Final Plat A request for final plat approval to create four lots and a variance from the Subdivision Regulations for lot width on properties located at 2412 A, 2412 B, 2414 and 2500 9th Avenue South, opposite Gilmore Avenue (1.41 acres), zoned One and Two-Family Residential (R8).

ZONING

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

CRITICAL PLANNING GOALS N/A

PLAN DETAILS The plat modifies the property lines between four existing properties. The proposed lots comply with the minimum lot size requirements for the R8 zoning district.

Lot Comparability While all the lots meet the minimum lot requirements found in the Metro Zoning Code, Section 3-5.1 of the Subdivision Regulations states that new lots in areas that are predominantly developed are to be generally in keeping with the lot frontage and lot size of the existing surrounding lots.

A lot comparability analysis was performed and yielded the following information:

Lot Comparability Analysis		
Street	Requirements	
	Minimum lot size (sq. ft.)	Minimum lot frontage (linear ft.)
9 th Avenue	6,970	51

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

- Lot 1: 13,780 sq. ft. with 50 ft. of frontage
- Lot 2: 13,285 sq. ft. with 50 ft. of frontage
- Lot 3: 16,242 sq. ft. with 66 ft. of frontage
- Lot 4: 19,590 sq. ft. with 79 ft. of frontage

All four lots are larger than 6,970 square feet and pass for area, but the frontage for Lots 1 and 2 is less than 51 feet and do not meet the minimum requirement of the comparability analysis.

Lot Comparability Exception An exception to lot comparability may be granted when a proposed lot does not meet the minimum requirements of the lot comparability analysis (is smaller in lot frontage and/or size) if the new lots would be consistent with the General Plan. The Planning Commission has discretion whether or not to grant a lot comparability exception.

The proposed lots meet **one** of the qualifying criteria for the exception to lot comparability:

The properties are located within a one quarter mile of an area designated as a “Mixed Use”, “Office”, “Commercial”, or “Retail” land use policy category. The properties are located within one quarter mile of a “Retail Concentration Community” policy which runs along Franklin Road.

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

Analysis While Lots 1 and 2 do not meet the minimum frontage requirement of the comparability analysis, they are only deficient by one foot and qualify for an exception. Because of the existing lot configuration, it would be difficult if not impossible to create lots consistent with the existing lot pattern along 9th Avenue without a variance from Section 3-4.2 (f). It is also important to note that currently all four properties can be developed as they currently exist without Planning Commission approval. The applicant wishes to reconfigure so that the lot lines will be more perpendicular to 9th Avenue. While the existing lot configuration would allow for the property to develop, the proposed configuration is a more suitable arrangement.

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

STAFF RECOMMENDATION Staff recommends approval with conditions, including approval of an exception from lot comparability and a variance for the lot depth to width ratio.

CONDITIONS

1. Prior to final plat recordation, the plat shall be revised to include the application number. New number is 2010S-041-001.
2. A sidewalk is required along the frontage of Lot 1. Prior to the recordation of the plat, the applicant shall fulfill one of the following conditions:
 - a. Submit a bond application and post a bond for the sidewalk with the Planning Department;
 - b. Submit payment in-lieu of construction to the Department of Public Works;
 - c. Construct sidewalk and have it accepted by Public Works; or
 - d. Add the following note to the plat: "No building permit is to be issued until the proposed sidewalk is constructed per the Department of Public Works' specifications."

Resolution No. RS2010-85

“BE IT RESOLVED by The Metropolitan Planning Commission that 2010S-044-001 is **APPROVED WITH CONDITIONS, including an exception from lot comparability and a variance from Section 3-4.2(f) of the Metro Subdivision Regulations for lot width and including a revision to Condition 1 that the plat be revised to include the new application number 2010S-044-001. (8-0)**”

XI. OTHER BUSINESS

10. Request to grant a variance to Section 6.5 of the Subdivision Regulations and release the active building permit holds for Hamilton Chase, Section 1; Hamilton Chase, Section 2; Hamilton Chase, Section 3.

Approved (8-0), Consent Agenda
11. Consideration of an amendment of the Rules and Procedures for the creation of an Executive Committee


Deferred to the July 22, 2010, Planning Commission meeting. (8-0)
12. Historical Commission Report
13. Board of Parks and Recreation Report
14. Executive Director Reports
15. Legislative Update

XII. ADJOURNMENT

The meeting was adjourned at 6:33.

Chairman

Secretary

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