



METROPOLITAN PLANNING COMMISSION MINUTES

Thursday, October 28, 2010

4:00 pm Regular Meeting

1417 Murfreesboro Road
Metro Southeast at Genesco Park
Green Hills Conference Room

MISSION STATEMENT

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

Commissioners Present:

Jim McLean, Chairman
Hunter Gee, Vice-Chairman
Judy Cummings
Derrick Dalton
Ana Escobar
Tonya Jones
Phil Ponder
Councilmember Jim Gotto
Andrée LeQuire, representing Mayor Karl Dean

Staff Present:

Rick Bernhardt, Executive Director
Ann Hammond, Assistant Director
Kelly Armistead, Administrative Services Officer III
Craig Owensby, Public Information Officer
Dennis Corrieri, Planning Technician I
Bob Leeman, Planning Manager II
Brenda Bernards, Planner III
Brian Sexton, Planner I
Jennifer Regen, Development Relations Manager
Greg Johnson, Planner II
Carrie Logan, Planner II
Rebecca Ratz, Planner I

Commissioners Absent:

Stewart Clifton

Legal Notice

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.

MEETING AGENDA

A. CALL TO ORDER

The meeting was called to order at 4:05 p.m.

B. ADOPTION OF AGENDA

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

C. APPROVAL OF OCTOBER 14, 2010 MINUTES

Mr. Ponder moved and Councilmember Gotto seconded the motion, which passed unanimously, to approve the October 14, 2010 minutes as presented. (9-0)

D. RECOGNITION OF COUNCILMEMBERS

Councilmember Hunt was in attendance but elected to speak at a later time.

Councilmember Stanley spoke in favor of staff recommendation of Item 13.

Councilmember Hollin was in attendance but elected to speak at a later time.

Councilmember Claiborne was in attendance but elected to speak at a later time.

E. ITEMS FOR DEFERRAL / WITHDRAWAL

1. 2010Z-017TX-001

BL2010-753 / WILHOITE
BARS AND NIGHT CLUBS, RESTAURANTS

3. 2010UD-006-001

BL2010-665 / DUVALL
EDISON PARK

4. 2010UD-007-001

BL2010-667 / DUVALL
HAMILTON-HOBSON

5. 2010Z-019TX-001

BL2010-783 / COLE, CLAIBORNE, JAMESON
NONCONFORMING USES & STRUCTURES

11. 2010SP-012-001

BL2010-779 / COLEMAN
OLD HICKORY CENTER

Councilmember Gotto moved and Mr. Gee seconded the motion, which passed unanimously, to defer Item 5 to the December 9, 2010 Planning Commission meeting. (9-0)

Mr. Ponder moved and Mr. Dalton seconded the motion, which passed unanimously, to approve the revised Deferred and Withdrawn Items. (9-0)

F. CONSENT AGENDA

NOTICE TO THE PUBLIC: Items on the Consent Agenda will be voted on at a single time. No individual public hearing will be held, nor will the Commission debate these items unless a member of the audience or the Commission requests that the item be removed from the Consent Agenda.

7. **2006SP-041U-13**
FIRST TENNESSEE BANK (4-YEAR REVIEW)
8. **2006SP-106G-14**
EARHART (4-YEAR REVIEW)
9. **2006SP-122G-12**
CLOVER GLEN (4-YEAR REVIEW)
10. **2006SP-129U-09**
STOILOVICH STUDIO APARTMENT (4-YEAR REVIEW)
13. **208-67P-001**
JUAREZ DRIVE SHOPPING CENTER

Mr. Gee requested removal of Item 6 and Item 14 from the Consent Agenda. Item 12 was removed per the request of an audience member. Councilmember Gotto moved and Mr. Gee seconded the motion, which passed unanimously, to approve the revised Consent Agenda. (9-0)

G. PREVIOUSLY DEFERRED ITEMS

Zoning Text Amendments

1. **2010Z-017TX-001**
BL2010-753 / WILHOITE
BARS AND NIGHT CLUBS, RESTAURANTS
Staff Reviewer: Jennifer Regen

A council bill to amend Chapter 17.08 and 17.16 of the Metro Zoning Code to designate bars and restaurants as uses permitted with conditions (PC) and to add certain location restrictions for these uses, requested by Councilmember Vivian Wilhoite.

Staff Recommendation: DISAPPROVE

APPLICANT REQUEST - Prohibit the location of bars, nightclubs, and restaurants within 100 feet of a religious institution, community education, daycare center, daycare home, single-family or two-family residence, or a park.

Text Amendment A council bill to amend Section 17.08 and 17.16 of the Metro Zoning Code, to designate bars and restaurants as uses permitted with conditions and to add certain location restrictions for these uses.

Deferred Indefinitely (9-0)

The Metropolitan Planning Commission DEFERRED INDEFINITELY Zone Change 2010Z-017TX-001 at the request of the applicant. (9-0)

Specific Plans

2. **2009SP-022-003**
BL2010-780 / HUNT
THE MANSION AT FONTANEL (AMENDMENT #1)
Map 049-00, Parcels 140, 200.01, 319
Council District 03 (Walter Hunt)
Staff Reviewer: Brenda Bernards

A request to amend the SP District (adopted with Council Bill BL2009-561) for the previously approved Mansion at Fontanel Specific Plan District and for final site plan approval, for properties located at 4105, 4125, and 4225 Whites Creek Pike, approximately 1,000 feet north of Lloyd Road (136.04 acres), to amend the allowed capacity of the Seasonal Performance Entertainment Venue from 2,500 to 4,500 persons, to amend the event season from May 1-October 31 to April 1-November 30, to amend the maximum number of events from eight (one per month with two floating dates) to fourteen (one per month with six floating dates) with no more than two per month, and to allow unimproved seasonal parking on the east side of Whites Creek, requested by EDGE Planning, Landscape Architects, applicant, Fontanel Properties, LLC, owner.

Staff Recommendation: DISAPPROVE

APPLICANT REQUEST - Amendment of the Mansion at Fontanel SP.

Amend SP A request to amend the SP District (adopted with Council Bill BL2009-561) for the previously approved Mansion at Fontanel Specific Plan District and for final site plan approval, for properties located at 4105, 4125, and 4225 Whites Creek Pike, approximately 1,000 feet north of Lloyd Road (136.04 acres), to amend the allowed capacity of the Seasonal Performance Entertainment Venue from 2,500 to 4,500 persons, to amend the event season from May 1-October 31 to April 1-November 30, to amend the maximum number of events from eight (one per month with two floating dates) to fourteen (one per month with six floating dates) with no more than two per month, and to allow unimproved seasonal parking on the east side of Whites Creek.

Deferral This item was deferred from the October 14, 2010, meeting by the Planning Commission. The first event with tickets available for 2,500 patrons at the Seasonal Performance Entertainment Venue (venue) is scheduled for October 24, 2010. In order to better understand the impact of the requested increased capacity of the venue on the surrounding community, the Planning Commission would like first to understand the impact of a 2,500 capacity event. The Planning Commission also requested that the applicant meet with the community after the event and prior to the October 28, 2010, meeting for additional input.

A revised site plan was submitted that reduced the number of vehicles to be parked on the east side of Whites Creek from 900 to 600. Parking on the west side was reviewed and it was found that 1,200 vehicles can be parked in this area rather than the original estimate of 1,000 cars. The review also determined that the needed parking capacity is 1,800 spaces rather than 1,900 spaces. These revised numbers have been included in the body of the staff report.

Existing Zoning

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

CRITICAL PLANNING GOALS N/A

BORDEAUX/WHITES CREEK COMMUNITY PLAN

Existing Policy

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.

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.

Whites Creek Historic District This property is within Nashville's only National Register-listed rural historic district. Development is encroaching on the Whites Creek Historic District and should be limited to reduce negative impacts on this significant area.

Conservation subdivisions, rural conservation overlays and roadway cross-sections appropriate for rural areas should be used to preserve the rural character of the Whites Creek Historic District. The plan discourages typical suburban design and subdivision of the property along Whites Creek Pike into small lots that front the road. New development should blend into the natural landscape and protect the existing views from Whites Creek Pike.

Consistent with policy? No. The original finding of consistency of the SP with the Natural Conservation (NCO) and Rural (R) land use policies was based upon the following factors:

- The proposed use, scale and location of buildings were consistent with the intent of the policies to support low intensity development and preserve sensitive environmental features of the property.
- While commercial uses are no longer contemplated in the NCO and R policies, the SP brought this property more into compliance with the intensity, design, building orientation and location of development envisioned by the policies than the R15 and RS20 zoning districts. (While the site has constraints in terms of floodplain and steep slopes, it is still developable for one and two-family residences at a density higher than the one unit per two acres called for in the policy.)
- The uses, types of building and location of buildings supported the Whites Creek Historic District.

The proposed amendment does not change the buildings along Whites Creek Pike and the SP does continue to support the Whites Creek Historic District. The amendment proposes to expand the scope of the Seasonal Performance Entertainment Venue (venue) by increasing the capacity of the venue, the event season and the number of events that would be held. In order to accommodate the increased number of patrons, it will be necessary for parking to be provided on the east side of Whites Creek within the floodway.

In recommending approval with conditions of the original SP staff argued that:

In conclusion, staff finds that while the proposed commercial uses are not consistent with the use provisions of the NCO and R policies as currently defined, at the time of adoption small scale commercial uses were considered appropriate in these policy areas. While the outdoor entertainment venue is larger than neighborhood scale and will include commercial activities, it will only be used intermittently and also be available as a community facility. In terms of built intensity and form, open space conservation, and preservation of rural character, the proposed SP brings this property more in line with the land use policy intent than does the current zoning, and better addresses the overarching vision of the Bordeaux-Whites Creek Plan to preserve rural lands. Further, with consideration of the Whites Creek Historic District and the desire to keep this area rural in character, the proposed SP supports this goal while the current zoning does not.

On balance, the proposed SP, in this particular circumstance, is found to be more consistent with the intent of the NCO and R policies and supportive of the Historic District, providing a development concept by which the environmentally sensitive features and the rural area can be preserved than the current zoning.

Staff had noted that the venue was larger than neighborhood scale with a capacity of 2,500. As the proposed amendment increases the capacity and brings cars across Whites Creek, it moves this SP further away from the intent of the NCO and R policies.

PLAN DETAILS The Planning Commission approved the Mansion at Fontanel SP, including final site plan approval for Phase 1 on October 22, 2009. The final site plan for Phase II was approved on February 11, 2010. At this time, the applicant is requesting an amendment to the SP to expand the capacity of the Seasonal Performance Entertainment Venue (venue) from a maximum of 2,500 patrons to a maximum of 4,500 patrons, the length of the performance season from six months to eight months, and the number of events from eight to fourteen, as well as requesting that unimproved parking be permitted on the east side of Whites Creek.

Council Bill BL2009-561 Included in the SP is an outdoor venue located east of Whites Creek. The Council approval of this SP specified the following conditions for this venue:

The definition of "Seasonal Performance Entertainment Venue" shall be revised to include:

- a. One event per month between May and October.*
- b. Two floating events to be held between May and October with no more than two events per month.*
- c. No event shall last more than one day and the maximum number of days for events between May and October shall not exceed eight.*
- d. Events shall be limited to Friday, Saturday or Sunday and shall end by 10:30pm*
- e. A stage shell shall be provided.*
- f. Decibel level output shall be limited to 96db at the soundboard location for the stage.*

Further, BL2009-561 required that:

...all Public Works conditions related to the access drives, driveway, bridge, special event traffic management, reporting, and number of parking spaces shall be met.

Proposed Amendments The applicant has requested a number of amendments related to the venue. Currently, the capacity of the venue is limited to 2,500 people. The event season runs from May 1 to October 30 with a maximum number of eight events with one per month and two floating dates. The request is to expand the capacity of the venue to 4,500 people, extend the event season by two months April 1-November 30, and increase the number of events to fourteen with one per month with six floating dates. The conditions concerning the number of performances per month, length of performances, days of the week, and decibel level are to remain unchanged.

Parking In order to accommodate the increase in capacity, additional parking spaces will be necessary. Currently, there are approximately 1,000 unimproved parking spaces on the west side of Whites Creek to accommodate event patrons. In reviewing the capacity of this area, the applicant determined that there is capacity for 1,200 parking spaces. The applicant has requested that an additional 600 spaces be permitted on the east side of Whites Creek. This parking would be accessed by single lane bridge across the creek.

Staff expressed concern that this bridge would need to accommodate a significant amount of vehicle traffic as well as all pedestrians from cars parked on the west side of the creek. The applicant has provided an interior traffic control plan for both entering and exiting the venue. This was developed by Red Mountain Entertainment, a company that specializes in event management. The plan includes four Police Officers who will direct traffic at the two entrances and at the intersection of Buena Vista Pike, Whites Creek Pike and Lloyd Road and the intersection of old Hickory Boulevard and Whites Creek Pike. There will be 16 parking attendants directing traffic on the property.

The plan proposes that a four foot pedestrian lane and an eight foot vehicular lane be delineated on the bridge. Parking attendants will be on both sides of the bridge so that traffic can be stopped in the event a vehicle needs to travel against the prevailing traffic.

STORMWATER RECOMMENDATION Amendment Approved

FIRE MARSHAL RECOMMENDATION Approved.

WATER SERVICES RECOMMENDATION Metro Water Service has no objections to the amendment regarding the number of people at events and seasonal parking. This amendment will not require any additional capacity studies for this venue. MWS recommends approval.

PUBLIC WORKS RECOMMENDATION 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.

Comply with all previous traffic conditions including those associated with the original SP approval, as well as the Phase 2 Final SP approval.

In addition, within one year of MPC approval of this proposed Amendment, the applicant shall submit a traffic letter/report along with supporting documentation completed by the applicant's traffic engineer to Metro Public Works for review and approval. The study shall describe and evaluate the operation of this development during large events, including the operation of the intersection of Whites Creek Pike and Old Hickory Boulevard and the intersection of Whites Creek Pike and Buena Vista Pike. It should also include information related to the number, date, and size of all large events. Based on the findings of the report, additional conditions may be required.

STAFF RECOMMENDATION Staff recommends disapproval as the proposed amendment is inconsistent with the purpose and intent of the NCO and Rural policies and due to the significant increase in activity and intensity over the currently approved ordinance. In addition, this proposal adds parking to the east side of the creek with pedestrian and auto access limited to a single 12 foot wide bridge.

CONDITIONS

1. All conditions of the SP adopted with Council Bill BL2009-561 not changed with this amendment shall remain.
2. 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.
3. The applicant shall comply with all previous traffic conditions including those associated with the original SP approval, as well as the Phase II Final SP approval.
4. Within one year of approval of this proposed Amendment, the applicant shall submit a traffic letter/report along with supporting documentation completed by the applicant's traffic engineer to Metro Public Works for review and approval. The study shall describe and evaluate the operation of this development during large events, including the operation of the intersection of Whites Creek Pike and Old Hickory Boulevard and the intersection of Whites Creek Pike and Buena Vista Pike. It shall also include information related to the number, date, and size of all large events. Based on the findings of the report, additional conditions may be required.
5. A corrected copy of the SP final site plan incorporating the conditions of approval by the Planning Commission shall be provided to the Planning Department prior to the issuance of any permit for this property, and in any event no later than 120 days after consideration by Planning Commission. If a corrected copy of the SP final site plan incorporating the conditions therein is not provided to the Planning Department within 120 days after the date of conditional approval by the Planning Commission, then the corrected copy of the SP final site plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, or any other development application for the property.
6. The SP final site plan as approved by the Planning Commission will be used to determine compliance, both in the issuance of permits for construction and field inspection. While minor changes may be allowed, significant deviation from the approved site plans may require reapproval by the Planning Commission and/or Metro Council.

Ms. Bernards presented the staff recommendation of disapproval.

John Hass, representing applicant, spoke regarding community meetings and the Oct 24th concert at Fontanel. He stated that 90% of people in attendance were in support of this project. Proposal maintains 95% of this property as open space. Land Use Plan is not altered. 120 property owners were notified versus the 40 that were required.

Antoinette Welch, 3857 Knight Drive, spoke against staff recommendation of disapproval.

Monica Franklin, 3953 Lloyd Road, spoke against staff recommendation of disapproval.

Linda O'Neil, 4798 Lickton Pike, spoke against staff recommendation of disapproval.

Glen Varner, 4007 Whites Creek Pike, spoke against staff recommendation of disapproval.

Stedman Williams, 3242 Crowe Drive, spoke against staff recommendation of disapproval.

Mark Oswald, property owner, spoke against staff recommendation of disapproval, stating that he underestimated the scope of this project from the beginning.

James Lawson, 3969 Lloyd Road, spoke in favor of staff recommendation of disapproval.

Randall Davis, PO Box 90549, spoke in favor of staff recommendation of disapproval.

Helen Tarleton, 7135 Old Hickory Blvd, spoke in favor of staff recommendation of disapproval.

Councilmember Hunt spoke against staff recommendation of disapproval.

John Hass stated that they would be more than willing to set up a Community Advocacy Group and also noted that the sound levels were in complete conformance of the SP and can produce documentation as proof.

Dr. Cummings moved and Councilman Gotto seconded the motion, which passed unanimously, to close the Public Hearing.

Ms. LeQuire inquired as to whether the scale of the building would be changing as well as if the extra parking would impact the landscaping? Stated that she does not feel that six additional events is a significant increase and that the community seems to be in support of this request.

Ms. Bernards clarified.

Mr. Dalton stated his agreement with Ms. LeQuire and also noted that an Advisory Group is vitally important to the success of this project. He also stated his support and feels that this is a positive project overall.

Ms. Jones also stated her agreement with Ms LeQuire and expressed her support for this project, stating that this could be a real jewel for Nashville.

Mr. Gee inquired if the parking on the east side of the creek would be paved and stated that he would like to see this area designated as overflow parking.

Mr. Bernhardt clarified the staff's reasoning for their recommendation, stating that the original application was closer to the NCO policy. Set the bar at what the level of impact was. To move closer to NCO, you would be below, not above, therefore it would be an intensification of the overall use.

Mr. Gee expressed his support of this project and stated that he does not feel that six additional events is a significant increase, especially since the Traffic Study did not indicate that there would be significant traffic issues.

Dr. Cummings stated that it wasn't the Commission, it was the applicant that originally asked for eight events and that the Commission may have been willing to approve more. She further stated that she would like to see two conditions listed in the motion. The first being that an Advocacy Group should be established and formalized and the second being that parking on the east side of the creek should be designated as overflow parking. She also stated that she feels that what was approved in February is already a happy medium and that she has concerns with increasing the intensity.

Ms. Escobar agreed that a formalized Advocacy Group would really help the community and stated her support of this project with the addition of the two conditions.

Mr. Ponder stated that there has been adequate testimony that a 2,500 capacity is not sufficient and that the Commission must seriously consider the request to increase it to 4,500. He stated he would be in favor of the Advocacy Group meeting more than once per year – once at the beginning of the season and once at the end. He expressed his support of this project.

Councilmember Gotto stated that he does not feel that six additional events is a significant increase in activity and intensity and that a preservation of 95% open space does comply with NCO classification.

Councilmember Gotto moved and Mr. Ponder seconded the motion to disapprove staff recommendation and approve applicant's request with conditions that parking on the east side of the creek be designated as overflow parking and that an Advocacy Group be formalized.

Mr. Gee inquired if the Advocacy Group is something that the Commission needs to be writing into their recommendations.

Mr. Sloan expressed his apprehension about putting this into the SP, stating that once the ability to conduct a certain activity on the property is given, it can't be taken away.

Councilmember Gotto noted that he did not put any type of frequency into the motion for the Advocacy Group meetings because he is very comfortable that the applicant will continue to meet with the community.

Councilmember Hunt stated that he would not be in support of any further requests from the applicant to increase the capacity further than 4500.

Councilmember Gotto restated the motion that Mr. Ponder had seconded to disapprove staff recommendation and approve applicant's request with conditions that parking on the east side of the creek be designated as overflow parking and that an Advocacy Group be formalized. (8-1) Dr. Cummings voted against.

Resolution No. RS2010-157

"BE IT RESOLVED by The Metropolitan Planning Commission that 2009SP-022-003 is APPROVED WITH CONDITIONS, including conditions that the parking on the east side of Whites Creek shall be used as overflow parking only and that an advocacy group be formalized. (8-1)

Conditions of Approval:

1. All conditions of the SP adopted with Council Bill BL2009-561 not changed with this amendment shall remain.
2. 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.

3. The applicant shall comply with all previous traffic conditions including those associated with the original SP approval, as well as the Phase II Final SP approval.
4. Within one year of approval of this proposed Amendment, the applicant shall submit a traffic letter/report along with supporting documentation completed by the applicant's traffic engineer to Metro Public Works for review and approval. The study shall describe and evaluate the operation of this development during large events, including the operation of the intersection of Whites Creek Pike and Old Hickory Boulevard and the intersection of Whites Creek Pike and Buena Vista Pike. It shall also include information related to the number, date, and size of all large events. Based on the findings of the report, additional conditions may be required.
5. A corrected copy of the SP final site plan incorporating the conditions of approval by the Planning Commission shall be provided to the Planning Department prior to the issuance of any permit for this property, and in any event no later than 120 days after consideration by Planning Commission. If a corrected copy of the SP final site plan incorporating the conditions therein is not provided to the Planning Department within 120 days after the date of conditional approval by the Planning Commission, then the corrected copy of the SP final site plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, or any other development application for the property.
6. The SP final site plan as approved by the Planning Commission will be used to determine compliance, both in the issuance of permits for construction and field inspection. While minor changes may be allowed, significant deviation from the approved site plans may require reapproval by the Planning Commission and/or Metro Council.

The scope of the proposed amendment to the SP is not inconsistent with the Bordeaux/Whites Creek Community Plan's Natural Conservation land use policy that applies to the site."

Urban Design Overlays

3. 2010UD-006-001

BL2010-665 / DUVALL

EDISON PARK

Map 150-15-0-B, Parcels 001-089

Council District 33 (Robert Duvall)

Staff Reviewer: Greg Johnson

A request to make the provisions of an Urban Design Overlay (UDO) district to be known as the "Edison Park UDO" applicable to properties located along Painter Drive, Schoolhouse Court, Jenny Ruth Point, Rebecca Trena Way, and Coneflower Trail, east of Mt. View Road, zoned RS10 (20.36 acres), requested by Councilmember Robert Duvall, various property owners.

Staff Recommendation: DEFER INDEFINITELY

APPLICANT REQUEST -Apply the Edison Park Urban Design Overlay.

Preliminary UDO A request to make the provisions of an Urban Design Overlay (UDO) district to be known as the "Edison Park UDO" applicable to properties located along Painter Drive, Schoolhouse Court, Jenny Ruth Point, Rebecca Trena Way, and Coneflower Trail, east of Mt. View Road, zoned Single-Family Residential (RS10) (20.36 acres), requested by Councilmember Robert Duvall, various property owners.

STAFF RECOMMENDATION Staff has received a written request from the applicant to defer this application indefinitely. Staff recommends indefinite deferral of the Edison Park UDO application.

Deferred indefinitely (9-0)

The Metropolitan Planning Commission DEFERRED INDEFINITELY Urban Design Overlay 2010UD-006-001 at the request of the applicant. (9-0)

4. 2010UD-007-001

BL2010-667 / DUVALL

HAMILTON-HOBSON

Map 150-00, Parcel 135

Map 164-00, Parcels 053, 060, 207, 258, 259, 293-295

Council District 33 (Robert Duvall)

Staff Reviewer: Greg Johnson

A request to make the provisions of an Urban Design Overlay (UDO) district to be known as the "Hamilton-Hobson UDO" applicable to properties located at 3527, 3606, 3618 and 7086 Hamilton Church Road, Hamilton Church Road (unnumbered), 2214 Hobson Pike and Hobson Pike (unnumbered), at the intersection of Hamilton Church Road and Hobson Pike, zoned AR2a, RS10, MUL, and CS (45.18 acres), requested by Councilmember Robert Duvall, various property owners.

Staff Recommendation: DEFER INDEFINITELY

APPLICANT REQUEST -Apply the Hamilton-Hobson Urban Design Overlay.

Preliminary UDO A request to make the provisions of an Urban Design Overlay (UDO) district to be known as the "Hamilton-Hobson UDO" applicable to properties located at 3527, 3606, 3618 and 7086 Hamilton Church Road, Hamilton Church Road (unnumbered), 2214 Hobson Pike and Hobson Pike (unnumbered), at the intersection of Hamilton Church Road and Hobson Pike, zoned Agricultural Residential (AR2a), Single-Family Residential (RS10), Mixed-Use Limited (MUL), and Commercial Services (CS) (45.18 acres), requested by Councilmember Robert Duvall, various property owners.

STAFF RECOMMENDATION Staff has received a written request from the applicant to defer this application indefinitely. Staff recommends indefinite deferral of the Hamilton-Hobson UDO.

Deferred indefinitely (9-0)

The Metropolitan Planning Commission DEFERRED INDEFINITELY Urban Design Overlay 2010UD-007-001 at the request of the applicant. (9-0)

H. COMMUNITY PLAN POLICY CHANGES AND ASSOCIATED CASES

The Planning Commission will make the final decision on a Community Plan Amendment. The Commission will make a recommendation to the Metro Council on any associated cases(s). The Metro Council will make the final decision to approve or disapprove the associated case(s).

No Cases on this Agenda

I. RECOMMENDATIONS TO METRO COUNCIL

Zoning Text Amendments

5. 2010Z-019TX-001

BL2010-783 / COLE, CLAIBORNE, JAMESON

NONCONFORMING USES & STRUCTURES

Staff Reviewer: Carrie Logan

A request to amend Title 17 of the Metro Zoning Code, to clarify the status and review of nonconforming uses and structures within Davidson County, requested by the Metro Planning Department.

Staff Recommendation: APPROVE SUBSTITUTE ORDINANCE

APPLICANT REQUEST -Revise Zoning Code provisions relating to nonconforming uses and structures.

Text Amendment A request to amend Title 17 of the Metro Zoning Code, to clarify the status and review of nonconforming uses and structures within Davidson County.

Deferred to the December 9, 2010 Planning Commission meeting. (9-0)

The Metropolitan Planning Commission DEFERRED Zone Change 2010Z-019TX-001 to the December 9, 2010, Planning Commission meeting at the request of the applicant. (9-0)

Revised minutes for Item #6, 2010Z-020TX-001, from the October 28, 2010 Planning Commission Meeting:

6. 2010Z-020TX-001

BL2010-784 / HOLLIN, CLAIBORNE, COLE, JAMESON

RELOCATION OF NONCONFORMING USES

Staff Reviewer: Carrie Logan

A request to amend Section 17.40.650 of the Metro Zoning Code, to provide for the conditional relocation of nonconforming uses, requested by the Metro Planning Department.

Staff Recommendation: APPROVE SUBSTITUTE ORDINANCE

APPLICANT REQUEST-Allow conditional relocation of nonconforming uses within the same SP, UDO, PUD or IO.

Text Amendment A request to amend Section 17.40.650 of the Metro Zoning Code, to provide for the conditional relocation of non-conforming uses.

CRITICAL PLANNING GOALS N/A

APPLICATION DETAILS Under the protections afforded by Tennessee Code Annotated Section 13-7-208, nonconforming uses may not expand by acquiring additional property. However, Metro can offer additional protections than those provided by TCA.

This ordinance would allow the relocation of nonconforming uses within the same Specific Plan, Urban Design Overlay, Planned Unit Development or Institutional Overlay under certain conditions.

This substitute ordinance includes additional criteria that clarify the circumstances under which it is appropriate to relocate a nonconforming use. These criteria link the relocation of the use to the building form required by the zoning district, and encourages redevelopment in appropriate form.

Proposed Substitute Ordinance Staff recommends approval of the substitute ordinance below. The substitute ordinance clarifies the criteria for relocation and links the ability to relocate to building standards required by these zoning districts. In order to relocate, the Board of Zoning Appeals, with a recommendation from the Planning Department, must make four determinations:

- that the relocation is necessary to facilitate redevelopment of a site where the nonconforming use is currently located,
- that the owner of the current location commits to preventing any nonconforming use of the property,
- that the new location is no less compatible with surrounding land uses than the existing location, and
- the new location conforms to all the standards of the zoning district.

DEPARTMENT OF LAW RECOMMENDATION This ordinance does not violate federal, state or local laws.

STAFF RECOMMENDATION Staff recommends approval of the substitute ordinance.

SUBSTITUTE ORDINANCE NO. BL2010-784

An ordinance to amend Section 17.40.650 of the Metropolitan Code, Zoning Regulations, to provide for the conditional relocation of Nonconforming Uses, all of which is more particularly described herein (Proposal No. 2010Z-020TX-001).

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1: Section **17.40.650** (Nonconforming Uses) is hereby amended by inserting the following new subsection F:

F. Relocation of Nonconforming Use. Within any zoning district that requires a final site plan under 17.40.170.B, nonconforming uses may be relocated elsewhere within the same zoning district as **defined by** the ordinance adopted by the Council of the Metropolitan Government of Nashville and Davidson County, ~~in accordance with the land use policies and standards of the zoning district,~~ if the Board of Zoning Appeals determines that the relocation is necessary to **facilitate redevelopment of the current location of the nonconforming use** ~~better achieve the purpose and intent of the zoning district and;~~ **the property owner commits to preventing any nonconforming use on the property;** ~~the proposed relocation site~~ **new location** of the ~~relocating~~ nonconforming use **is no less compatible with surrounding land uses than the existing location; and the new location conforms to all the standards of the zoning district, other than use is determined to be compatible with the uses within the area.** The Planning Commission must provide a recommendation to the Board of Zoning Appeals. **Upon approval by the Board of Zoning Appeals, and prior to the issuance of any permits, these restrictions shall be recorded at the Register of Deeds by the owner of the property.**

Section 2. This Ordinance shall take effect five (5) days after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

SPONSORED BY: Councilmembers Jamie Hollin, Phil Claiborne, Erik Cole, Mike Jameson

Ms. Logan presented the staff recommendation of approval of substitute ordinance.

Dr. Cummings moved and Mr. Ponder seconded the motion to close the Public Hearing. (9-0)

Ms. Logan presented the following four bullet points:

Board of Zoning Appeals, with a recommendation from the Planning Department, must make four determinations:

- **That the relocation is necessary to facilitate redevelopment of a site where the nonconforming use is currently located.**
- **That the owner of the current location commits to preventing any nonconforming use of the property.**
- **That the new location is no less compatible with surrounding land uses than the existing location.**
- **That the new location conforms to all the standards of the zoning district.**

A lengthy discussion ensued between Councilmember Hollin and Mr. Doug Sloan regarding the relocation of non-conforming uses. A verbatim transcript of that discussion follows.

Councilmember Hollin inquired when a nonconforming use is relocating, how will that movement be processed? He is not sure what the first bullet point means.

Mr. Sloan stated that he feels like we should leave it to the Planning Commission to address. The Planning Commission will make recommendations to the Board of Zoning Appeals and within that recommendation is where the discussion about what will be necessary to facilitate redevelopment will be held. The BZA can draw conclusions and agree or disagree with the Planning Commission on that issue.

Councilmember Hollin inquired if the Planning Department writes a letter that it is “necessary” and it is recommended to be passed on to the BZA, what happens if a member of the community disagrees and wants to present their case, does this go to the Board? The voice of the community at the Board is a lot different than it is at the Planning Commission.

Mr. Sloan stated that the community would be able to have a voice at that hearing just as they would anytime there is a nonconforming use on a piece of property that may want to change to another nonconforming use on that same property but that is more compatible with the surrounding community.

Councilmember Hollin asked if it would be treated like a special exception.

Mr. Sloan clarified that it would be treated just as though you were having an application for the change in a nonconforming use. That would be the process. Just as a property owner that has a nonconforming use would make application to allow another nonconforming use to happen on their property, it would be treated as the same process. You are asking for new property to be used for a nonconforming use. The only way you can do that would be to go through this process.

Councilmember Hollin inquired what the role of the Planning Commission will be. An opinion? Is disapproval the only way this will make it to the Board?

Mr. Sloan stated that it would have to go to BZA first with a recommendation from the Planning Staff, but neither the Planning Staff nor the Planning Commission would actually have a say in whether or not this was approved. That would be solely up to the BZA. Sometimes it might come with a recommendation of approval, sometimes it might come with a recommendation of disapproval. But this entire process can only be approved by the BZA. State Statute only allows the BZA to review non conforming use changes on parcels.

Councilmember Hollin asked what will keep a landlord from placing a nonconforming use in a spot recently vacated by another non conforming use that moved across the street.

Mr. Sloan stated that as a landlord, you will be a party to the original nonconforming use moving across the street and if you agree, you are waiving your 30 month right to having a nonconforming use in the original location. This ordinance states that the property owner has to also agree for the nonconforming use to move to another location and put restrictions on their property not to use it for anything other than the permitted zoning uses that are in effect at the time the application is made. If you are the property owner and your nonconforming use moves to another location, you have to agree and assert in front of the BZA, then after BZA approval, you have to go and file restrictions on your property down at the Register of Deeds office to prevent you from using any nonconforming uses in the future.

Councilmember Hollin inquired as to whom physically goes to the BZA.

Mr. Sloan stated that it is a joint effort between the business owner, the property owner where the business is moving to, and the property owner of where it is moving from. Without all three in agreement, this will not happen.

Councilmember Hollin asked if a commitment was only required from the landlord.

- Mr. Sloan clarified that the third bullet states “that the new location is no less compatible with surrounding land uses than the

existing location” so wherever that use is moving to will have to meet this condition. The current property owner is the only one that is going to have to make a commitment not to use their property in a particular way in the future.

Councilmember Hollin stated that he feels that has a high opportunity cost as the landlord will be losing nonconforming status.

Councilmember Gotto stated if the nonconforming use moves to another location but there is still another nonconforming use there, if they stay in their new location for “x” period of time, when they leave does that give the new property owner the 30 months to bring another nonconforming use in?

Mr. Sloan answered yes, if they wanted to let the same nonconforming use in for 30 months, they can.

Councilmember Gotto inquired if this was similar to transfer rights for developments.

Mr. Sloan stated that that aspect is similar.

Ms LeQuire inquired if she was correct in thinking that the person asking for the ability to facilitate the redevelopment is going before the BZA to request additional rights for their property. If they are going to redevelop their property, then Councilmember Hollin’s concern is that they would be giving up the opportunity for a nonconforming use in the future. But if it is a redevelopment, could it be a situation where they are going in front of the BZA to make a request to enhance rights on their property...so they are giving up one to get others?

Councilmember Hollin stated that he agreed, but if everything gets approved at the BZA and then the redevelopment deal falls apart and the tenant is gone, what is going to stop the property owner from bringing in another nonconforming use? Does a permit have to be pulled to get another tenant?

Mr. Sloan stated hopefully the zoning administrator, when the owner goes to get the use and occupancy permit.

Councilmember Hollin inquired what about the location where the nonconforming use is moving to? Does it have to be a non conforming location?

Mr. Sloan clarified that it is actually the other way around. It should read that the new location conforms to all the bulk standards of the zoning district. The idea there is that this creates an incentive for property owners to bring the actual form of the structure into compliance with whatever the zoning regulations might be because then you get to attract a new potential tenant. If the building is built to conform to bulk standards, then a nonconforming use could move to my property. If a building does not comply with the bulk standards of the new zoning regulations, then that property is not eligible to have a nonconforming use move on it.

Councilmember Hollin inquired if a nonconforming location is not a potential destination unless it is in compliance with the current SP.

Mr. Sloan clarified unless it is in compliance with the BULK standards.

Mr. Gee used the Gallatin Pike SP as an example and inquired how many properties in the SP actually conform to the bulk standards. How about 5th & Main?

Councilmember Hollin clarified that 5th & Main is not in the SP.

Mr. Sloan pointed out that that was a good example. That was the catalyst for the one that talks about the new location is no less compatible with the surrounding land use than the existing location in that you don’t want an adult entertainment business, for example, that may be sitting in the middle of a commercial district surrounded by commercial property to then move to a building that might be built according to the bulk standards of the SP but is adjacent to a residentially zoned property.

Mr. Gee used an adult bookstore as an example and asked if a nonconforming use is right next door to a residence, then the adult bookstore could go elsewhere within the district right next to another residence.

Mr. Sloan stated that was correct.

Mr. Gee stated that he has concerns about the third bullet, saying that it comes back to what the BZA has to determine to grant this. If they determine they meet all four of these bullets, is the BZA obligated or can they make a judgment as to whether it’s a good idea or not, even if they do meet all four. The intent is good.

Mr. Sloan stated that if all four are met, the way it is drafted right now, the BZA would be obligated to approve. It wouldn’t be hard

to change the way it is written to say “may” instead of “shall”.

Ms. LeQuire, using the Gallatin Pike SP as an example, inquired how many buildings comply to the bulk regulations now and also asked how many chances are there that all of these criteria will be met.

Ms. Hammond replied that an exact number of conforming buildings is not known, but stated that for all the pieces to fall into place, it would be fairly seldom that this would happen. New development will continue, so those new buildings that conform to the bulk standards will be eligible receiving sites IF all pieces fall into place. This whole section is another option for nonconforming business establishments, it is not a requirement.

Councilmember Hollin stated that he questioned the relevance of the Planning Commission’s recommendation if it is going before the BZA.

Councilmember Cole stated that he did not understand that the bulk standards had to be met in the relocation location and asked if this was correct.

Ms Logan stated that the actual language of the bill clarifies that it has to meet all the standards other than the use standards.

Councilmember Gotto stated his support and recommended approval.

Mr. Ponder spoke in agreement with Councilmember Gotto.

Ms Escobar asked Mr. Sloan if the language that states the BZA is required should be changed.

Mr. Sloan stated that the language can be changed at council if it is the will of the council to change it to become “permissive” instead of “required”.

Mr. Sloan stated that another issue that was brought up is that you could add in a restriction just as the current site, the receiving site could also put a deed restriction in that says they will use it for this nonconforming use, but no other nonconforming uses in the future.

Mr. Gee inquired if they were limited by that use.

Mr. Sloan stated that they can apply later to the BZA for another nonconforming use that is no less compatible than the current nonconforming use.

Councilmember Hollin asked: If there are two nonconforming uses, what happens if there is a zone change? Does the one that relocated lose their nonconforming status or become not nonconforming for a period of time?

Mr. Sloan stated that it would depend on what the SP is changed to say. If the SP is changed so that they remain as nonconforming, then they would still be treated just the same. If the SP was changed so that they then conform to the SP, then all this would not matter as they would be a conforming use.

Ms. Escobar moved and Councilmember Gotto seconded the motion to suggest to the Council to change the language so that it is clearly permissible for the BZA to allow this and not a requirement if all the terms are met.

Mr. Sloan suggested that Legal be given the opportunity to look closer at the other two issues. The first being whether the language should state “bulk” standards. The Statute says they must comply with all the standards other than the ones requiring uses because there are a lot of other things besides just bulk standards. It is probably unnecessary to have the word “bulk” in there. The second is moving to the new location. Legal would like to look at Case Law and see if someone has the ability to waive that on the receiving end.

Mr. Gee asked for clarification on the decision to make a recommendation from the Planning Department versus the Planning Commission. Is there a specific reason or are there other similar things that only the Planning Department makes a recommendation on?

Mr. Bernhardt clarified that this is consistent with other items that the Planning Department makes recommendations on to the BZA, noting that it is the same process.

Mr. Gee inquired if there are items that were not recommended for approval to the BZA from the Planning Department that go before the Planning Commission.

Mr. Bernhardt stated that the Planning Department is required to make recommendations on certain items to the BZA and not on others. This is one that is required to have a recommendation from the Planning Department.

Chairman McLean inquired how a recommendation is made from the Planning Department, by letter or in person.

Mr. Bernhardt clarified that it is typically by letter and not our normal procedure to be there.

Mr. Gee expressed concern regarding "may" or "shall" and asked if the Planning Commission would ever have an opportunity to weigh in on this. The way it is currently written, the Planning Commission would not have an opportunity to weigh in on these cases.

Mr. Bernhardt stated that if that becomes an issue, the Commission can always set forth in their rules what conditions they want to have brought before them prior to going to the Planning Department.

Mr. Gee stated that his second concern is that the Councilmember brought up the word "necessary" to facilitate redevelopment. He stated that he is not sure how this could ever be determined and would the question be posed to the Planning Department as well as the BZA to determine whether it is "necessary".

Mr. Bernhardt stated that the applicant would have to provide reasons why it is necessary.

Mr. Gee inquired is "necessary" because they are going to redevelop the property and they want to move them, or is "necessary" because, for example, they have a lease that is for several years and they want to redevelop sooner.

Mr. Sloan stated that as an applicant, you would go in front of the BZA, show them your proof, and say that is why you believe it is necessary to redevelop your property. Then it would be up to the BZA to say whether that was sufficient or not to meet that standard.

Mr. Bernhardt noted that other people can testify and the BZA can weigh the testimony.

Mr. Gee stated that he has a real concern with the third bullet and the fact that any nonconforming use could, if already located next to a residence, go elsewhere along a mile or longer stretch.

Councilmember Gotto stated that he thinks that gets addressed by putting the word "may" instead of "shall" because if you have individuals that come to speak and they make the point that it will be located by their house, then the BZA, not being required by law, can take this into account.

Mr. Sloan stated that that would be a circumstance where the BZA could use discretion and say that it isn't compatible.

Mr. Gee noted that the fourth bullet seems very challenging. Most of the buildings in the Gallatin Pike SP that are actually going to conform to all of those standards are going to be new developments. Neighborhoods would probably be in a decline if new developments wanted to receive nonconforming uses. It's very limiting and seems to go against the intent of the bill. Mr. Gee stated his support of the purpose of the bill, but also stated concern about the last two bullet points for two reasons. One, to protect the community and second, is this going to be possible for any developer to meet?

Mr. Bernhardt stated that it was drafted to be pretty tight.

Councilmember Hollin stated that the fourth bullet point defeats the purpose of the bill, stating that that requirement is all consuming and all encompassing.

Councilmember Gotto asked Legal if they plan on looking at Bullet #4 to see how the sponsors of the Bill can change it so that it doesn't completely tie the hands and end up being something that no one can meet.

Mr. Sloan stated that Legal absolutely planned on reviewing it, noting that it was a big part of the conversation as we went back and forth over getting it to this stage. It was a big issue. They wanted to create incentives and this was an incentive to move people toward creating properties that are compliant and also makes it more restrictive in where they can move. Mr. Sloan noted that this is unlike anything he has ever seen in the state and is not aware of any ordinance like this. There was obvious apprehension in creating something that allowed nonconforming uses to move around.

Councilmember Gotto stated that he was comfortable moving it on and letting Legal work with the Councilmembers to try and iron it out.

Ms. Jones stated that she feels it is well-intentioned but a little confusing, noting possible unintended consequences. Feels that it is a good place to start.

Ms. LeQuire inquired if items like these will come before the Planning Commission, or will they rest with the Staff?

Mr. Bernhardt stated that the rules can be amended or the Planning Commission can make a non formal recommendation to the Planning Department.

Ms. LeQuire stated that she would like for these to come before the Planning Commission.

Chairman McLean reminded the Commission that there was a motion and a second already made and took a vote. (6-1) Ms. Jones voted against.

Mr. Dalton out at 5:32 p.m.

Mr. Dalton in at 5:35 p.m.

Dr. Cummings out at 5:40 p.m.

Councilmember Cole inquired about bulk standards being met in the new location and stated his support.

Mr. Dalton out at 5:51p.m.

Councilmember Gotto expressed his support with recommendation of approval.

Ms. Escobar moved and Mr. Ponder seconded the motion, to approve substitute ordinance, including a recommendation that the bill sponsors clarify that this is permissive rather than a required action and that the bill sponsors work with the Legal Department to make needed modifications. (6-1) Ms. Jones voted against.

Resolution No. RS2010-158

“BE IT RESOLVED by The Metropolitan Planning Commission that 2010Z-020TX-001 is **APPROVED substitute ordinance, including a recommendation that the bill sponsors clarify that this is permissive rather than a required action and that the bill sponsors work with the Legal Department to make needed modifications. (6-1)”**

Specific Plans

7. 2006SP-041U-13

FIRST TENNESSEE BANK (4-YEAR REVIEW)

Map 163-00, Parcel 278

Council District 32 (Sam Coleman)

Staff Reviewer: Brenda Bernards

The periodic review of an approved Specific Plan (C) district known as "First Tennessee Bank", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code, for property located at 5433 Mt. View Parkway (2.07 acres), approved for a 3,812 square foot bank via Council Bill BL2006-1027 effective on September 19, 2006, review initiated by the Metro Planning Department.

Staff Recommendation: FIND THE SP INACTIVE

APPLICANT REQUEST - Four year SP review to determine activity.

SP Review The periodic review of an approved Specific Plan – Commercial (SP-C) district known as "First Tennessee Bank", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code, for property located at 5433 Mt. View Parkway (2.07 acres), approved for a 3,812 square foot bank via Council Bill BL2006-1027 effective on September 19, 2006.

Zoning Code Requirement Section 17.40.106.I of the Zoning Code requires that a SP district be reviewed four years from the date of Council approval and every four years after until the development has been deemed complete by the Planning Commission.

Each development within a SP District is to be reviewed in order to determine if the project is complete or actively under development to implement the approved development concept. If the review determines that the project is complete or actively under development, then no

further review is necessary at this time. If the review determines that the project is inactive then the Planning Commission is to determine if its continuation as an SP District is appropriate.

DETAILS OF THE SP DISTRICT The First Tennessee Bank SP was approved for a 3,812 square foot bank with four drive thru lanes and one automated teller machine (ATM) lane. The development is accessed from private drives off Mt. View Road, and Mt. View Parkway. Sidewalks are shown on the plan adjacent the property lines along Mt. View Road, and Mt. View Parkway. There is also a sidewalk connection shown from the Mt. View Road/Mt. View Parkway intersection to allow for pedestrian access from the street into the site.

SPECIFIC PLAN REVIEW Staff conducted a site visit on September 20, 2010. There did not appear to be any construction activity on the site. A letter was sent to the property owner of record requesting details that could demonstrate that the SP was active.

The owner did contact staff and indicated that a letter would be sent via fax detailing activities to date. At the time of the writing of this report, no letter had been received. As no documentation of activity was submitted, the staff preliminary assessment of inactivity remains in place.

FINDING OF INACTIVITY When the assessment of an SP is that it is inactive, staff is required to prepare a report for the Planning Commission with recommendations for Council Action including:

1. An analysis of the SP district's consistency with the General Plan and compatibility with the existing character of the community and whether the SP should remain on the property, or
2. Whether any amendments to the approved SP district are necessary, or
3. To what other type of district the property should be rezoned.

If the Planning Commission agrees with the staff assessment, staff will prepare a written report of the Commission's determination to Council with a recommendation on the following:

1. The appropriateness of the continued implementation of the development plan or phase(s) as adopted, based on current conditions and circumstances; and
2. Any recommendation to amend the development plan or individual phase(s) to properly reflect existing conditions and circumstances, and the appropriate base zoning classification(s) should the SP district be removed, in whole or in part, from the property.

Holds on Permits Section 17.40.106.I.1 of the Zoning Code requires that once the review of an SP with a preliminary assessment of inactivity is initiated, no new permits, grading or building, are to be issued during the course of the review. For purposes of satisfying this requirement, a hold shall be placed on all properties within the SP on the date the staff recommendation is mailed to the Planning Commission so that no new permits will be issued during the review.

ANALYSIS

Consistency with the General Plan This property is within the Antioch/Priest Lake Community Plan. The land use policy is Regional Activity Center. This land use policy is intended for concentrated mixed-use areas anchored by a regional mall. Other uses common in RAC policy are all types of retail activities, offices, public uses, and higher density residential areas. 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 with the intent of the policy.

Amendments/Rezoning The First Tennessee Bank SP is consistent with the area's policy and remains appropriate for the site and area. There are no amendments to the plan proposed and no new zoning district is proposed for the property.

Recommendation to Council If the Planning Commission agrees with the staff assessment, staff will prepare a written report of the Commission's determination to Council to continue the implementation of the development plan as adopted and that no rezoning is recommended on this property.

STAFF RECOMMENDATION Staff recommends that the First Tennessee Bank SP be found to be inactive and that the Planning Commission direct staff to prepare a report to the Council to continue the implementation of the development plan as adopted and that no rezoning is recommended on this property.

Found the SP inactive and staff was directed to prepare a report to the Council to continue the implementation of the development plan and that no rezoning is recommended on this property. (9-0), Consent Agenda

Resolution No. RS2010-159

"BE IT RESOLVED by The Metropolitan Planning Commission regarding 2006SP-041U-13, that it **FINDS THE SP INACTIVE, and staff is directed to prepare a report to the Council to continue the implementation of the development plan and that no rezoning is recommended on this property. (9-0)"**

8. 2006SP-106G-14

EARHART (4-YEAR REVIEW)

Map 098-00, Parcels 202, 203, 204

Council District 12 (Jim Gotto)

Staff Reviewer: Brenda Bernards

The periodic review of an approved Specific Plan (R) district known as "Earhart", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code, for properties located at Earhart Road (unnumbered) (7.31 acres), approved for up to eighteen single-family units via Council Bill BL2006-1148 effective on September 19, 2006, review initiated by the Metro Planning Department.

Staff Recommendation: FIND THE SP ACTIVE

APPLICANT REQUEST Four year SP review to determine activity.

SP Review The periodic review of an approved Specific Plan – Residential (SP-R) district known as "Earhart", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code, for properties located at Earhart Road (unnumbered) (7.31 acres), approved for up to eighteen single-family units via Council Bill BL2006-1148 effective on September 19, 2006.

Zoning Code Requirement Section 17.40.106.I of the Zoning Code requires that a SP District be reviewed four years from the date of Council approval and every four years after until the development has been deemed complete by the Planning Commission.

Each development within a SP District is to be reviewed in order to determine if the project is complete or actively under development to implement the approved development concept. If the review determines that the project is complete or actively under development, then no further review is necessary at this time. If the review determines that the project is inactive then the Planning Commission is to determine if its continuation as an SP district is appropriate.

DETAILS OF THE SP DISTRICT The original rezoning request for this property was for RS15 zoning. The request was amended at Council to an SP district with the following special development conditions:

1. All development shall be in accordance with the RS-15 zoning requirements as of November 1, 2006 including the cluster lot provisions.
2. There shall be a maximum of 18 single family residential lots on the property.
3. The first floor level of all exterior building walls shall be finished in either brick or stone. Fiber-cement siding, shingles, stucco or vinyl siding or similar materials may not be used.
4. There shall be a minimum 2,000 square feet of heated area for each dwelling.

In June 2009, property owner subdivided this property into three lots and is actively marketing the property. As the SP permits up to eighteen lots, the subdivision into three is permitted. Staff visited the site on September 20, 2010. While no construction has been initiated to date, the subdivision and marketing indicates that this SP is active.

STAFF RECOMMENDATION Staff recommends that the Earhart SP be found to be active and that it be placed back on the four-year review list.

The SP was found active. (9-0), Consent Agenda

Resolution No. RS2010-160

"BE IT RESOLVED by The Metropolitan Planning Commission regarding 2006SP-106G-14, that it FINDS THE SP ACTIVE. (9-0)"

9. 2006SP-122G-12

CLOVER GLEN (4-YEAR REVIEW)

Map 182-00 Parcels 065, 066, 096

Council District 31 (Parker Toler)

Staff Reviewer: Brenda Bernards

The periodic review of an approved Specific Plan (MR) district known as "Clover Glen", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code, for properties located at 13563, 13555, and 13545 Old Hickory Boulevard (83.51 acres), approved for 292 residential units via Council Bill BL2006-1151 effective on September 19, 2006, review initiated by the Metro Planning Department.

Staff Recommendation: FIND THE SP INACTIVE

APPLICANT REQUEST -Four year SP review to determine activity.

SP Review The periodic review of an approved Specific Plan – Mixed Residential (SP-MR) district known as "Clover Glen", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code, for properties located at 13563, 13555, and 13545 Old Hickory Boulevard (83.51 acres), approved for 292 residential units via Council Bill BL2006-1151 effective on September 19, 2006.

Zoning Code Requirement Section 17.40.106.I of the Zoning Code requires that a SP district be reviewed four years from the date of Council approval and every four years after until the development has been deemed complete by the Planning Commission.

Each development within a SP District is to be reviewed in order to determine if the project is complete or actively under development to implement the approved development concept. If the review determines that the project is complete or actively under development, then no further review is necessary at this time. If the review determines that the project is inactive then the Planning Commission is to determine if its continuation as an SP District is appropriate.

DETAILS OF THE SP DISTRICT The SP was approved for 292 units including 122 Village Home Lots, 93 Villa Home Lots, 33 Manor Home Lots, and 44 town houses. The SP provides automobile and pedestrian connectivity within the development by utilizing a modified grid network of streets that include sidewalks, some bike lanes, and pedestrian paths through some of the interior open spaces. A total of six stub streets are included which will allow for connectivity to adjacent properties.

The SP includes approximately 30 (35%) acres of open space with approximately 11 acres of active open space, and 19 acres of inactive open space. The active open space is distributed throughout the proposed development as central greens, pocket parks, and neighborhood parks, which will provide local residents as well as area residents new outdoor recreational opportunities. Passive open space includes areas with steep slopes, and perimeter open space.

SPECIFIC PLAN REVIEW Staff conducted a site visit on September 20, 2010. There did not appear to be any construction activity on the site. A letter was sent to the property owner of record requesting details that could demonstrate that the SP was active.

The owner did not respond to the letter. As no documentation of activity was submitted, the staff preliminary assessment of inactivity remains in place.

FINDING OF INACTIVITY When the assessment of an SP is that it is inactive, staff is required to prepare a report for the Planning Commission with recommendations for Council Action including:

1. An analysis of the SP district's consistency with the General Plan and compatibility with the existing character of the community and whether the SP should remain on the property, or
2. Whether any amendments to the approved SP district are necessary, or
3. To what other type of district the property should be rezoned.

If the Planning Commission agrees with the staff assessment, staff will prepare a written report of the Commission's determination to Council with a recommendation on the following:

1. The appropriateness of the continued implementation of the development plan or phase(s) as adopted, based on current conditions and circumstances; and
2. Any recommendation to amend the development plan or individual phase(s) to properly reflect existing conditions and circumstances, and the appropriate base zoning classification(s) should the SP district be removed, in whole or in part, from the property.

Permits on Hold Section 17.40.106.I.1 of the Zoning Code requires that once the review of an SP with a preliminary assessment of inactivity is initiated, no new permits, grading or building, are to be issued during the course of the review. For purposes of satisfying this requirement, a hold shall be placed on all properties within the SP on the date the staff recommendation is mailed to the Planning Commission so that no new permits will be issued during the review.

ANALYSIS

Consistency with the General Plan This property is within the Southeast Community Plan. The land use policy is Neighborhood General. This land use policy 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 with the intent of the policy.

Amendments/Rezoning The Clover Glen SP is consistent with the area's policy and remains appropriate for the site and area. There are no amendments to the plan proposed and no new zoning district is proposed for the property.

Recommendation to Council If the Planning Commission agrees with the staff assessment, staff will prepare a written report of the Commission's determination to Council to continue the implementation of the development plan as adopted and that no rezoning is recommended on this property.

STAFF RECOMMENDATION Staff recommends that the Clover Glen SP be found to be inactive and that the Planning Commission direct staff to prepare a report to the Council to continue the implementation of the development plan as adopted and that no rezoning is recommended on this property.

The SP was found inactive and staff was directed to prepare a report to the Council to continue the implementation of the development plan and that no rezoning is recommended on this property. (9-0), Consent Agenda

Resolution No. RS2010-161

"BE IT RESOLVED by The Metropolitan Planning Commission regarding 2006SP-122G-12, that it FINDS THE SP INACTIVE, and staff is directed to prepare a report to the Council to continue the implementation of the development plan and that no rezoning is recommended on this property. (9-0)"

10. 2006SP-129U-09

STOILOVICH STUDIO APARTMENT (4-YEAR REVIEW)

Map 082-09, Parcel 029

Council District 19 (Erica S. Gilmore)

Staff Reviewer: Brenda Bernards

The periodic review of an approved Specific Plan (R) district known as "Stoilovich Studio Apartment", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code (Review of a Development Plan), for property located at 1314 7th Avenue North (0.14 acres), approved for an existing single-family home and an accessory dwelling unit above an existing attached garage via Council Bill BL2006-1161 effective on September 19, 2006, review initiated by the Metro Planning Department.

Staff Recommendation: FIND THE SP ACTIVE

APPLICANT REQUEST -Four year SP review to determine activity.

SP Review The periodic review of an approved Specific Plan – Residential (SP-R) district known as "Stoilovich Studio Apartment", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code, for property located at 1314 7th Avenue North (0.14 acres), approved for an existing single-family home and an accessory dwelling unit above an existing attached garage via Council Bill BL2006-1161 effective on September 19, 2006.

Zoning Code Requirement Section 17.40.106.I of the Zoning Code requires that a SP District be reviewed four years from the date of Council approval and every four years after until the development has been deemed complete by the Planning Commission.

Each development within a SP District is to be reviewed in order to determine if the project is complete or actively under development to implement the approved development concept. If the review determines that the project is complete or actively under development, then no further review is necessary at this time. If the review determines that the project is inactive then the Planning Commission is to determine if its continuation as an SP district is appropriate.

DETAILS OF THE SP DISTRICT The SP added an accessory dwelling unit above the existing detached garage behind the existing single family home as a permitted use. Staff visited the site on September 20, 2010. While the studio apartment has not been constructed, the house and garage remain on the property. This SP is found to be active.

STAFF RECOMMENDATION Staff recommends that the Stoilovich Studio Apartment SP be found to be active and that it be placed back on the four-year review list.

The SP was found active. (9-0), Consent Agenda

Resolution No. RS2010-162

"BE IT RESOLVED by The Metropolitan Planning Commission regarding 2006SP-129U-09, that it **FINDS THE SP ACTIVE. (9-0)**"

11. 2010SP-012-001

BL2010-779 / COLEMAN

OLD HICKORY CENTER

Map 175-00, Parcel 036

Council District 32 (Sam Coleman) Staff Reviewer: Greg Johnson

A request to rezone from IG to SP-MU zoning and for final site plan approval for property located at 12761 Old Hickory Boulevard, approximately 350 feet north of Logistics Way (3.28 acres), to permit daycare center, personal care instruction, retail and restaurant/bar uses as well as certain uses permitted in the IG zoning district, requested by Saeed Sassan, owner.

Staff Recommendation: DEFER TO DECEMBER 9, 2010, PLANNING COMMISSION MEETING

Deferred to the December 9, 2010 Planning Commission meeting. (9-0)

The Metropolitan Planning Commission DEFERRED Specific Plan 2010SP-012-001 to the December 9, 2010, Planning Commission Meeting. (9-0)

Zone Changes

12. 2010Z-025PR-001

BL2010-772 / CRAFTON

7739 CHARLOTTE PIKE, CHARLOTTE PIKE (UNNUMBERED) ZONE CHANGE

Map 114-00, Parcel 251, 254, 255, 265, 311

Map 128-00, Parcels 121, 124

Council District 22 (Eric Crafton)

Staff Reviewer: Greg Johnson

A request to rezone from R40 to AR2a zoning various properties located at 7739 Charlotte Pike and at Charlotte Pike (unnumbered), approximately 4,700 feet west of Sawyer Brown Road (65.49 acres), requested by David Lowry, applicant, Charlie B. Mitchell Jr., owner.

Staff Recommendation: APPROVE

APPLICANT REQUEST - Zone change from residential to agricultural

Zone Change A request to rezone from One and Two-Family Residential (R40) to Agricultural/Residential (AR2a) zoning various properties located at 7739 Charlotte Pike and at Charlotte Pike (unnumbered), approximately 4,700 feet west of Sawyer Brown Road (65.49 acres).

Existing Zoning

R40 District - R40 requires a minimum 40,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 1.16 dwelling units per acre including 25% duplex lots. This zoning district could permit approximately 76 dwelling units.

Proposed Zoning

AR2a District - Agricultural/Residential requires a minimum lot size of 2 acres and is intended for uses that generally occur in rural areas, including single-family, two-family, and mobile homes at a density of one dwelling unit per 2 acres. The AR2a District is intended to implement the natural conservation or rural land use policies of the general plan. This zoning district could permit approximately 34 dwelling units.

CRITICAL PLANNING GOALS N/A

BELLEVUE COMMUNITY PLAN

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

Consistent with Policy? Yes, the proposed AR2a zoning district would allow for the development of up to 33 residential lots within the 65 acre boundary at a density of 0.5 units per acre. This residential density is the lowest allowed by any standard zoning classification, and is consistent with NCO policy according to the Land Use Policy Application of Nashville.

PUBLIC WORKS RECOMMENDATION Traffic Table not prepared. Request is a down zoning and will not generate additional traffic demands.

METRO SCHOOL BOARD REPORT As this is a down zoning, fewer school age children would be generated by this zoning district than the R40 now in place.

STAFF RECOMMENDATION Staff recommends approval of the proposed AR2a zoning district as it is consistent with the NCO policy.

Mr. Johnson presented the staff recommendation of approval.

David Lowry, applicant, stated that he was in attendance for any questions.

Sheri Weiner, 417 W F Rust Court, spoke against staff recommendation of approval, stating concerns with potential mobile home units.

Ms. Jones moved and Councilmember Gotto seconded the motion, which passed unanimously, to close the Public Hearing. (7-0)

Councilmember Gotto requested clarification from the applicant regarding intent of the application.

Mr. Lowry expressed an interest in reducing taxes and other expenses on the property.

Mr. Ponder inquired as to what the owner going to do with the property.

Mr. Lowry stated that he was unsure of the future use of the land and stated that there is no engineered filling.

Councilmember Gotto inquired if applicant would be willing to defer one meeting to allow further discussions with community and the Councilman and then come back and hold open the Public Hearing.

Mr. Lowry stated that he would rather have it heard.

Mr. Gee asked for clarification on uses allowed in current and requested zoning.

Mr. Johnson clarified.

Ms. Jones inquired about the history of the zoning, stating that it is uncommon for someone to down zone a parcel this large and that she does not want to encourage a mini private landfill located beside a residential area..

Mr. Lowry stated that it is a grading site that has a grading permit.

Steve Mishu, Water Services Department, clarified that this is active fill site and has been for around four years. He also noted that the permit has to be renewed every year.

Councilmember Gotto inquired if a zone change would impact the property use.

Mr. Mishu stated that each year an engineer will review the fill area to ensure stabilization.

Ms. Jones asked for clarification on current buffers.

McLean stated that it is not appropriate to down zone in order to decrease the tax base.

Councilmember Gotto moved and Mr. Ponder seconded the motion, which passed unanimously, to keep the Public Hearing open and defer to the November 11, 2010 Planning Commission meeting. (7-0)

Resolution No. RS2010-163

“BE IT RESOLVED by The Metropolitan Planning Commission that 2010Z-025PR-001 is DEFERRED to the November 11, 2010, Planning Commission meeting and keep the public hearing open. (7-0)”

J. PLANNING COMMISSION ACTIONS

Planned Unit Developments: final site plans

13. 208-67P-001

JUAREZ DRIVE SHOPPING CENTER

Map 075-00, Parcel 033

Council District 14 (James Bruce Stanley)

Staff Reviewer: Greg Johnson

A request to revise the preliminary plan for a portion of the Commercial Planned Unit Development Overlay located at Lebanon Pike (unnumbered), at the northeast corner of Lebanon Pike and Juarez Drive (9.51 acres), zoned SCR, to permit 51,150 square feet of retail, restaurant and office uses where 74,500 square feet of commercial space was previously approved, requested by Barge Cauthen & Associates, applicant, for H.G. Hill Realty Company, owner.

Staff Recommendation: APPROVE WITH CONDITIONS INCLUDING THE REVISED CONDITIONS OF THE PUBLIC WORKS DEPARTMENT

APPLICANT REQUEST - Permit a revised shopping center layout.

Revise PUD A request to revise the preliminary plan for a portion of the Commercial Planned Unit Development Overlay located at Lebanon Pike (unnumbered), at the northeast corner of Lebanon Pike and Juarez Drive (9.51 acres), zoned Shopping Center Regional (SCR), to permit 51,150 square feet of retail, restaurant and office uses where 74,500 square feet of commercial space was previously approved.

Existing Zoning

SCR District - Shopping Center Regional is intended for high intensity retail, office, and consumer service uses for a regional market area.

CRITICAL PLANNING GOALS N/A

DONELSON/HERMITAGE COMMUNITY PLAN

Commercial Mixed Concentration (CMC) CMC policy is intended to include Medium High to High density residential, all types of retail trade (except regional shopping malls), highway-oriented commercial services, offices, and research activities and other appropriate uses with these locational characteristics.

Consistent with Policy? Yes. The commercial uses proposed within this PUD are consistent with policy.

PUD AMENDMENT

Plan Details This PUD was originally approved by Council in 1969. The proposal amends the PUD to allow for 54,390 square feet of commercial uses where 77,500 square feet of shopping center was previously approved. All of the proposed commercial uses are permitted by the existing SCR base zoning.

The layout of the proposed PUD departs from the previously approved PUD in the placement of commercial buildings. The original layout placed a shopping center building at the back of the site with parking between the building and the street. The revised plan moves the commercial development closer to Lebanon Road, reducing the front parking lot to two rows with the majority of the parking placed behind the commercial buildings.

Driveways Four driveway connections to Lebanon Road and two connections to Juarez Drive are shown on the site plan for the PUD revision. Three of the four proposed driveway connections to Lebanon Pike do not align with the driveways across the street. The alignment is important to reduce turning conflicts for vehicles entering and exiting from these driveways. Conditions of approval require revision of the preliminary site plan to align driveways within the PUD to existing driveways across the street on Lebanon Pike.

Parking According to the preliminary site plan, the amount of parking provided outside of lot 1 for the proposed commercial development does not comply with Zoning Code standards. Zoning Code parking standards are appropriate for the proposed commercial development. Prior to final site plan approval, the parking requirements of the Zoning Code shall be met, or cross-access must be provided to the parking area in Lot 1.

The site plan does not provide dedicated pedestrian connections between the interior walkway network and the public sidewalk along Lebanon Pike. A condition has been added to require these connections at driveway locations.

Signage If constructed to the extent allowed by the Zoning Code, on-premises ground signage could prove visually detrimental due to the allowed height and size of each sign and the number of signs allowed along the Lebanon Road frontage.

Staff proposes a condition of approval related to ground signs intended to improve the pedestrian scale along Lebanon Road while acknowledging the current auto-focused form of development of the surrounding area. The condition proposes a maximum of four ground signs along the Lebanon Road frontage. Ground signs will be limited to a maximum height of 15 feet. The height limit will help to ensure that signs maintain an acceptable scale to pedestrians along Lebanon Road and within the project site, while providing sufficient signage for tenants within the PUD.

Billboards Three billboards are currently located along the Lebanon Pike frontage of the PUD. Because the location of these billboards will conflict with the PUD plan, a condition has been added requiring removal of each as development occurs.

NES RECOMMENDATION

1. No transmission or distribution facility issues. A street light pole relocation, however, will need to be coordinated with NES.
2. Developer to provide construction drawings and a digital .dwg file @ state plane coordinates that contains the civil site information (after approval by Metro Planning w/ any changes from other departments)
3. Developer drawing should show any and all existing utilities easements on property.
4. NES follows the National Fire Protection Association rules; Refer to NFPA 70 article 450-27; and NESC Section 15 - 152.A.2 for complete rules
5. NES needs load information and future plans or options to buy other property (over all plans).

FIRE MARSHAL RECOMMENDATION Actual or proposed fire hydrant flow data used to protect structures for this project shall be shown on the plans.

STORMWATER RECOMMENDATION

Approve with conditions:

- FEMA panel number is incorrect.
- Offsite runoff traverses property. Show that this runoff is collected and transported within ROW or PUDE. Show as such on plans.

PUBLIC WORKS RECOMMENDATION

Show new Juarez Drive sidewalk to match existing adjacent sidewalk.

Along Juarez Drive, dedicate the greater of:

- 5 ft of ROW and with a 6-ft ROW reservation per the Metro major street plan for a non-residential collector street,
OR
- Sufficient ROW for construction of a two-way left turn lane on Juarez.

STAFF RECOMMENDATION Staff recommends approval with conditions. The proposed PUD amendment is consistent with CMC policy and has an improved layout from the previously approved PUD.

CONDITIONS

1. All sign permit application shall be reviewed by Planning staff. Signage shall follow Zoning Code requirements except as follows:

On-premises ground signs

- Each ground sign permitted along the Lebanon Road frontage shall have a maximum height of 15 feet.
 - The PUD shall have a maximum of four ground signs oriented to the Lebanon Road frontage and a maximum of one ground sign along Juarez Drive.
2. Driveway connections to Lebanon Pike shall be aligned with existing driveway entrances to development across the street, or as approved by Metro Public Works. Specific driveway locations shall be reviewed and approved at final site plan.
 3. Prior to construction permit approval for any phase of development, all billboards within that phase shall be removed.
 4. Connections from the interior walkway network to the public sidewalk along Lebanon Pike shall be provided at each driveway entrance.

5. Prior to final site plan approval for commercial uses, the parking requirements of the Zoning Code shall be met, or cross-access must be provided to the parking area in Lot 1.
6. Comments listed above from Metro Stormwater, Fire Marshal, and Public Works shall be addressed on the corrected copy.
7. 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.
8. If the PUD final site plan or final plat indicates that there is less acreage than what is shown on the approved preliminary plan, the final site plan shall be appropriately adjusted to show the actual total acreage, which may require that the total number of dwelling units or total floor area be reduced.
9. Prior to any additional development applications for this property, and in no event later than 120 days after the date of conditional approval by the Planning Commission, the applicant shall provide the Planning Department with a corrected copy of the preliminary PUD plan. Failure to submit a corrected copy of the preliminary PUD within 120 days will void the Commission's approval and require resubmission of the plan to the Planning Commission.

Approved with conditions including the revised conditions of the Public Works Department. (9-0), Consent Agenda

Public Works revised recommendations based on the review of the traffic study:

1. Show new Juarez Drive sidewalk to match existing adjacent sidewalk.
2. Along Juarez Drive, dedicate the greater of:
 - 5 ft of ROW and with a 6-ft ROW reservation per the Metro major street plan for a non-residential collector street, OR
 - Sufficient ROW for construction of a two-way left turn lane on Juarez.
3. Prior to any subdivision of the commercial portion ("future phases") of the preliminary PUD or prior to any final commercial PUD development plans, the following shall be required:
 - Remove or relocate the southernmost proposed driveway on Lebanon Road nearest the existing bank entrance to provide acceptable driveway separation. Other proposed driveway locations will be determined as final PUD plans are submitted for review to ensure appropriate circulation is achieved as well as adequate sight distance is available.
 - Additional traffic analysis may required as determined by the Metro traffic engineer.
4. Prior to submittal of final PUD plans along the north of this property, the developer shall work with the adjacent property owner to the north to evaluate relocating the existing driveway to provide better alignment with the intersection of Bonnaspring Drive.

Resolution No. RS2010-164

"BE IT RESOLVED by The Metropolitan Planning Commission that 208-67P-001 is **APPROVED WITH CONDITIONS, including the revised conditions of the Public Works Department. (9-0)**

Conditions of Approval:

1. All sign permit application shall be reviewed by Planning staff. Signage shall follow Zoning Code requirements except as follows:

On-premises ground signs

- Each ground sign permitted along the Lebanon Road frontage shall have a maximum height of 15 feet.
 - The PUD shall have a maximum of four ground signs oriented to the Lebanon Road frontage and a maximum of one ground sign along Juarez Drive.
10. Driveway connections to Lebanon Pike shall be aligned with existing driveway entrances to development across the street, or as approved by Metro Public Works. Specific driveway locations shall be reviewed and approved at final site plan.
 11. Prior to construction permit approval for any phase of development, all billboards within that phase shall be removed.
 12. Connections from the interior walkway network to the public sidewalk along Lebanon Pike shall be provided at each driveway entrance.

13. Prior to final site plan approval for commercial uses, the parking requirements of the Zoning Code shall be met, or cross-access must be provided to the parking area in Lot 1.
14. Comments listed above from Metro Stormwater, Fire Marshal, and Public Works shall be addressed on the corrected copy.
15. 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.
16. If the PUD final site plan or final plat indicates that there is less acreage than what is shown on the approved preliminary plan, the final site plan shall be appropriately adjusted to show the actual total acreage, which may require that the total number of dwelling units or total floor area be reduced.
17. Prior to any additional development applications for this property, and in no event later than 120 days after the date of conditional approval by the Planning Commission, the applicant shall provide the Planning Department with a corrected copy of the preliminary PUD plan. Failure to submit a corrected copy of the preliminary PUD within 120 days will void the Commission's approval and require resubmission of the plan to the Planning Commission.

Public Works revised recommendations based on the review of the traffic study:

1. Show new Juarez Drive sidewalk to match existing adjacent sidewalk.
2. Along Juarez Drive, dedicate the greater of:
 - 5 ft of ROW and with a 6-ft ROW reservation per the Metro major street plan for a non-residential collector street,OR
 - Sufficient ROW for construction of a two-way left turn lane on Juarez.
3. Prior to any subdivision of the commercial portion ("future phases") of the preliminary PUD or prior to any final commercial PUD development plans, the following shall be required:
 - Remove or relocate the southernmost proposed driveway on Lebanon Road nearest the existing bank entrance to provide acceptable driveway separation. Other proposed driveway locations will be determined as final PUD plans are submitted for review to ensure appropriate circulation is achieved as well as adequate sight distance is available.
 - Additional traffic analysis may required as determined by the Metro traffic engineer.
4. Prior to submittal of final PUD plans along the north of this property, the developer shall work with the adjacent property owner to the north to evaluate relocating the existing driveway to provide better alignment with the intersection of Bonnaspring Drive."

K. OTHER BUSINESS

14. Planning Commission policy to determine when the Planning Department may act as the sponsor for Planned Unit Development and Specific Plan Amendments.

Chairman McLean out at 6:37 p.m.

Chairman McLean in at 6:37 p.m.


Councilmember Gotto moved and Mr. Ponder seconded the motion, which passed unanimously, to approve. (7-0)

15. Historical Commission Report
16. Board of Parks and Recreation Report
17. Executive Director Report
18. Legislative Update

L. ADJOURNMENT The meeting was adjourned at 6:50 p.m.

Chairman

Secretary

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