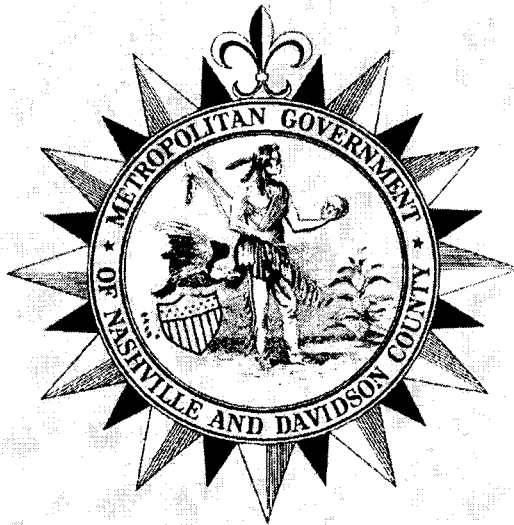


Metropolitan Planning Commission



Staff Reports

October 28, 2010

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

PREVIOUSLY DEFERRED ITEMS

- **Text Amendment**
- **Specific Plan**
- **Urban Design Overlay**

NO SKETCH



Project No.
Project Name
Council Bills
Council District
School District
Sponsored by
Deferral

Text Amendment 2010Z-017TX-001
Bars, Nightclubs, Restaurant (fast-food),
Restaurant (take-out), and Restaurant (full-
service)
 BL2010-753
 Countywide
 Countywide
 Councilmember Vivian Wilhoite
Deferred from the October 14, 2010, Planning
Commission meeting at the request of the applicant

Staff Reviewer
Staff Recommendation

Regen
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.

CRITICAL PLANNING GOALS N/A

PURPOSE

This text amendment is intended to address where bars, nightclubs and restaurants can locate in proximity to religious institutions, schools, daycares, residences and parks.

ANALYSIS

Existing Law

Section 17.08.030 (Zoning Code District Land Use Table) identifies the land uses allowed in each zoning district. Restaurants and bars/nightclubs are allowed by right (P) in nearly all the mixed-use, commercial, and shopping center districts. The Zoning Code only restricts these uses in the MUN, CN, and SCN districts. Instead of allowing them by right, these uses are allowed permitted with conditions (PC). Where the Zoning Code allows restaurants (full-service and take-out) as a PC use, they are limited to 5,000 square feet for each establishment, provided the base zoning district's maximum floor area ratio (FAR) is not exceeded. Further, in the MUN district, a take-out restaurant must be located within a permanently enclosed structure. Lastly, the Zoning Code restricts a bar/nightclub



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to 2,500 square feet in any zoning district. There are no other special provisions governing restaurants in the Zoning Code.

Proposed Bill

This bill proposes a 100 foot minimum separation distance between a bar/nightclub and full-service/take-out restaurants from the following land uses:

- Religious institutions
- Community education
- Daycare centers
- Daycare homes
- Single or two-family residences
- Parks

The bill specifies that the minimum distance is to be measured in a straight line, from the closest point of the bar, nightclub, full-service or take-out restaurant to the closest point of the aforementioned uses.

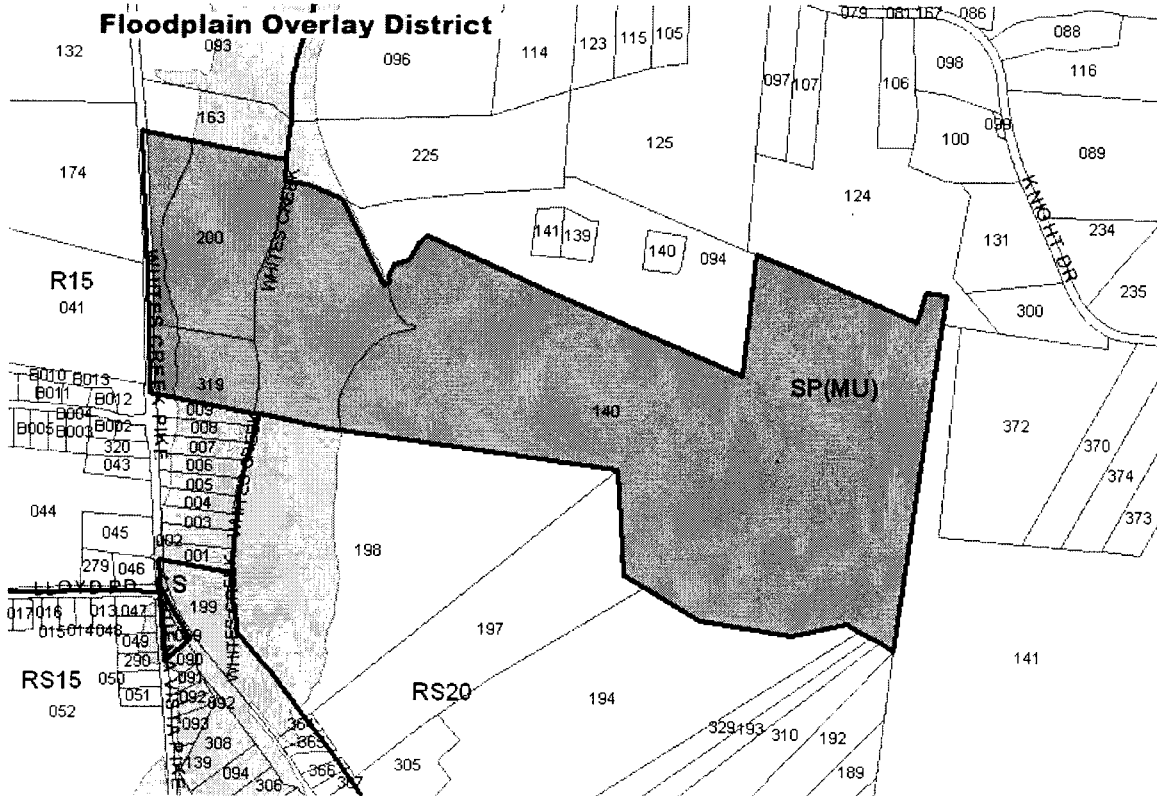
In addition the bill proposes that these distance restrictions will apply to any new bar/nightclub or restaurant (full service and take-out) located in an SP zoning district.

STAFF RECOMMENDATION

Staff recommends disapproval of this bill. It does not promote nor support smart growth, sustainability, or creating a more walkable community because it prohibits these uses in proximity to residences and public places. The minimum separation distance requirement alone would make a large number of properties in Davidson County nonconforming land uses. Further, the bill appears to be inconsistent in how it treats properties that are alike in many respects. For example, in the mixed-use districts, the bill proposes no restrictions in the MUL district, a moderately intense commercial zoning district. However, in the more intensive MUG and MUI districts, the bill proposes to restrict where restaurants and bars/nightclubs can locate.

To create opportunities for people to eat out in their neighborhood, or in major business districts that attract visitors and tourists, restaurants and bars/nightclubs should continue to be allowed under the current Zoning Code requirements.

SEE NEXT PAGE



2009SP-022-003
 THE MANSION AT FONTANEL (AMENDMENT #1)
 Map 049, Parcel(s) 140
 Map 049-00-0, Parcel(s) 200, 319
 Bordeaux - Whites Creek
 Council District 03 - Walter Hunt



Project No. Specific Plan 2009SP-022-003
Project Name Mansion at Fontanel SP
Council Bill BL2010-780
Council Districts 3 - Hunt
School Districts 3 - North
Requested by EDGE Planning, Landscape Architects, applicant, for
Fontanel Properties LLC, owner
Deferral *Deferred from the October 14, 2010, Planning
Commission meeting*

Staff Reviewer Bernards
Staff Recommendation *Disapprove*

APPLICANT REQUEST

Amendment of the Mansion at Fontanel SP.

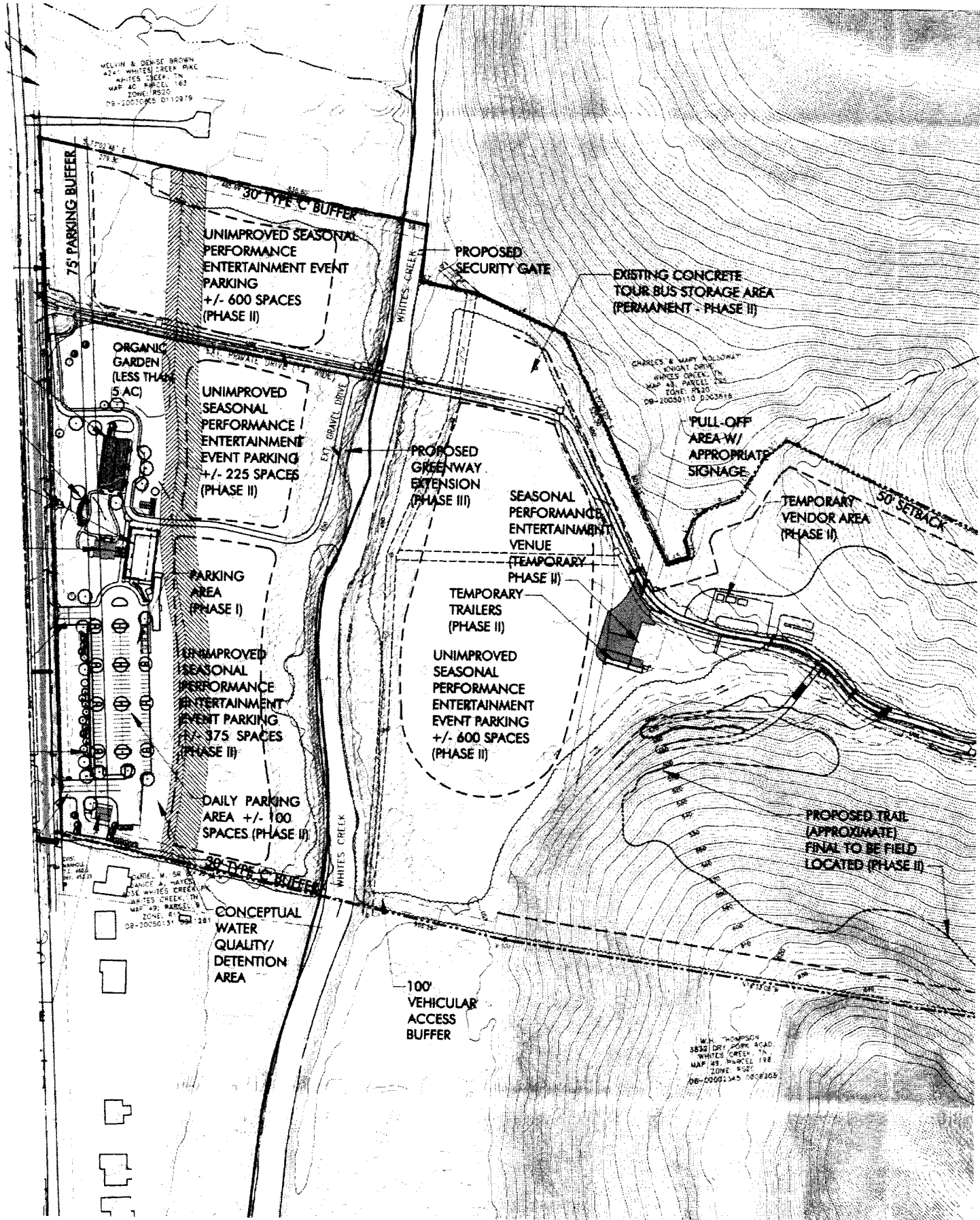
Amend SP

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



MELVIN & DENISE BROWN
424 WHITES CREEK PIKE
WHITES CREEK, TN
MAP 40 PARCEL 163
ZONE: R1050
DB-20010925 0110979

CHARLES & MARY HOLLOWAY
KNIGHT DRIVE
WHITES CREEK, TN
MAP 41 PARCEL 252
ZONE: R1050
DB-20030110 0003015

W.H. THOMPSON
3838 DRY JOON ROAD
WHITES CREEK, TN
MAP 49 PARCEL 198
ZONE: R1050
DB-20061340 00061308

75' PARKING BUFFER

30' TYPE C BUFFER

UNIMPROVED SEASONAL PERFORMANCE ENTERTAINMENT EVENT PARKING +/- 600 SPACES (PHASE II)

PROPOSED SECURITY GATE

EXISTING CONCRETE TOUR BUS STORAGE AREA (PERMANENT - PHASE II)

ORGANIC GARDEN (LESS THAN 5 AC)

UNIMPROVED SEASONAL PERFORMANCE ENTERTAINMENT EVENT PARKING +/- 225 SPACES (PHASE II)

PROPOSED GREENWAY EXTENSION (PHASE III)

PULL-OFF AREA W/ APPROPRIATE SIGNAGE

SEASONAL PERFORMANCE ENTERTAINMENT VENUE (TEMPORARY PHASE II)

TEMPORARY VENDOR AREA (PHASE II)

50' SETBACK

PARKING AREA (PHASE I)

TEMPORARY TRAILERS (PHASE II)

UNIMPROVED SEASONAL PERFORMANCE ENTERTAINMENT EVENT PARKING +/- 375 SPACES (PHASE II)

UNIMPROVED SEASONAL PERFORMANCE ENTERTAINMENT EVENT PARKING +/- 600 SPACES (PHASE II)

DAILY PARKING AREA +/- 100 SPACES (PHASE II)

PROPOSED TRAIL (APPROXIMATE) FINAL TO BE FIELD LOCATED (PHASE II)

CONCEPTUAL WATER QUALITY/ DETENTION AREA

100' VEHICULAR ACCESS BUFFER



Metro Planning Commission Meeting of 10/28/10

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.



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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



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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 polices 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 I 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."*



Metro Planning Commission Meeting of 10/28/10

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.



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**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 (if approved)

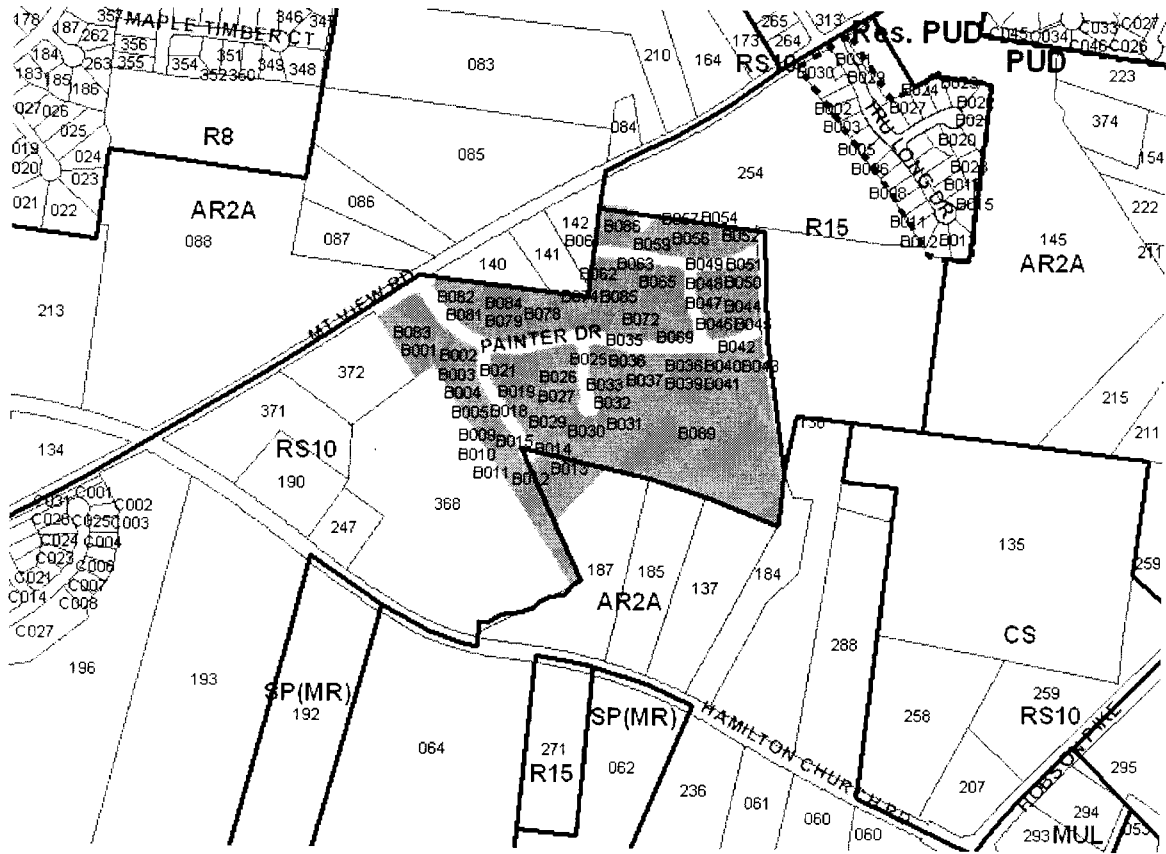
1. All conditions of the SP adopted with Council Bill BL2009-561 not changed with this amendment shall remain.



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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.

SEE NEXT PAGE



2010UD-006-001
EDISON PARK
 Map: 150-15-0-B Parcels: 001-089
 Antioch/Priest Lake Community Plan
 Council District 33 – Robert Duvall



Metro Planning Commission Meeting of 10/28/10 **Item # 3**

Project No.	Urban Design Overlay 2010UD-006-001
Project Name	Edison Park Urban Design Overlay
Council Bill	BL2010-665
Council District	33 - Duvall
School District	6 - Mayes
Requested by	Councilmember Robert Duvall
Staff Reviewer	Johnson
Staff Recommendation	<i>Defer indefinitely</i>

APPLICANT REQUEST

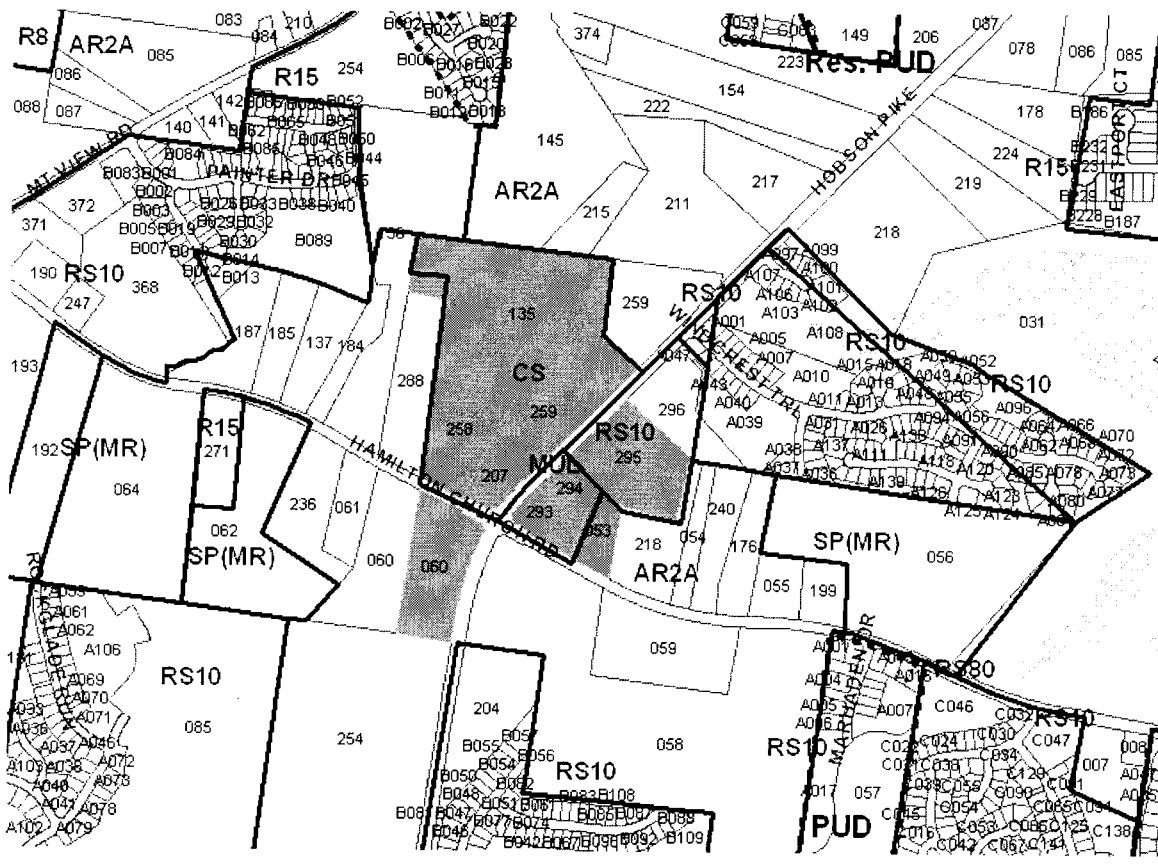
Apply the Edison Park Urban Design Overlay.

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.



2010UD-007-001
 HAMILTON-HOBSON
 Map: 150-00 Parcel: 135
 Map: 164-00 Parcels: 053, 060, 207, 258, 259, 293, 294, 295
 Antioch/Priest Lake Community Plan
 Council District 33 – Robert Duvall



Project No. Urban Design Overlay 2010UD-007-001
Project Name Hamilton-Hobson Urban Design Overlay
Council Bill BL2010-667
Council District 33 - Duvall
School District 6 - Mayes
Requested by Councilmember Robert Duvall

Staff Reviewer Johnson
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.

SEE NEXT PAGE

RECOMMENDATIONS TO THE METRO COUNCIL

- **Text Amendment**
- **Specific Plan**
- **Zone Change**

NO SKETCH



Project No.	Text Amendment 2010Z-019TX-001
Project Name	Nonconforming Uses and Structures
Council Bill	BL2010-783
Council District	Countywide
School District	Countywide
Requested By	Metro Planning Department

Staff Reviewer	Logan
Staff Recommendation	<i>Approve substitute ordinance</i>

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.

CRITICAL PLANNING GOALS

N/A

APPLICATION DETAILS

Tennessee Code Annotated Section 13-7-208 affords certain protections to “industrial, commercial or business establishments” and multi-family residential establishments that legally exist at the time of a zoning change. These are commonly referred to as nonconforming uses.

This ordinance revises the Zoning Code to comply with TCA Section 13-7-208 and clearly define the protections under TCA and additional protections under the Zoning Code. As noted above, TCA protects “industrial, commercial or business establishments” and multi-family residential establishments. Metro’s Zoning Code offers additional protections to nonconforming residential uses, nonconforming structures and nonconforming signs.

DEPARTMENT OF LAW RECOMMENDATION

This ordinance does not violate federal, state or local laws.

STAFF RECOMMENDATION

Staff recommends approval of the substitute ordinance.



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SUBSTITUTE ORDINANCE NO. BL2010-783

An ordinance to amend Title 17 of the Metropolitan Code of Laws, the Zoning Regulations, relative to Nonconforming Uses and Structures, all of which is more particularly described herein (Proposal No. 2010Z-019TX-001).

WHEREAS, Tennessee Code Annotated Section 13-7-208 affords certain protections to nonconforming uses.

WHEREAS, The Metropolitan Government of Nashville and Davidson County recognizes the importance of complying with Tennessee Code Annotated Section 13-7-208; and

WHEREAS, The Metropolitan Government of Nashville and Davidson County also wishes to offer certain protections to nonconforming residential uses and nonconforming structure.

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

Section 1: Section 17.04.060 (Definitions of General Terms) is hereby amended by inserting the following definitions in alphabetical order:

“Industrial, commercial or business establishment” means an industrial or commercial use, as defined by Section 17.08.030 - District land use tables, or the conduct of business.

“Nonconforming residential use” means a **one or two-family** residential use originally legally established, but which now does not currently conform to the applicable use regulations of the zoning district in which it is located.

“Nonconforming residential structure” means a residential structure that was originally legally constructed but which now does not meet one or more of the standards or requirements (other than use) of the zoning district in which it is located.

Section 2: Section 17.04.060 (Definitions of General Terms) is hereby amended by deleting the definition for “Nonconforming structure” and replacing with the following new definition:

"Nonconforming structure" means a structure, other than a residential structure, that was originally legally constructed but which now does not meet one or more of the standards or requirements (other than use) of the zoning district in which it is located.

Section 3: Section 17.04.060 (Definitions of General Terms) is hereby amended by deleting the definition for “Nonconforming use” and replacing with the following new definition:

"Nonconforming use" means an industrial, commercial or business establishment **or a multi-family residential establishment** originally legally established, but which now does not currently conform to the applicable use regulations of the zoning district in which it is located, and is protected by Tennessee Code Annotated Section 13-7-208.



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Section 4: Section 17.40.180 (Powers) is hereby amended by deleting Subsection D in its entirety and replacing with the following Subsection D:

D. Changes to Nonconforming Uses. The board shall determine the appropriateness of proposed changes to nonconforming uses.

Section 5: The title of Article XIV (Nonconforming Uses, Structures, Lots and Signs) is hereby amended by deleting the title in its entirety and replacing with the following title:

Article XIV. Nonconforming Uses, Nonconforming Residential Uses, Nonconforming Residential Structures, Nonconforming Structures, Nonconforming Lots and Nonconforming Signs

Section 6: Section 17.40.640 (General) is hereby amended by deleting the first paragraph and replacing with the following paragraph:

In order to protect the health, safety and general welfare of the community, nonconforming uses and/or structures which existed legally upon the effective date of the ordinance codified in this title, but which are not in conformance with all the applicable provision of this title, shall be subject to the provisions of this article to the fullest extent permitted by the Tennessee Code Annotated.

Section 7: Section 17.40.640 (General) is hereby amended by deleting the last paragraph and replacing with the following paragraph:

The following provisions apply to legally nonconforming uses of land, nonconforming improvements to the land, pre-existing lots or parcels of substandard size, uses nonconforming with respect to operational performance standards, and nonconforming signs. These provisions must be applied uniformly in all zoning districts **including, but not limited to, those established by Section 17.40.105, Chapter 17.36 and Chapter 17.37.** These provisions shall be applied in a manner consistent with Tennessee Code Annotated Section 13-7-208.

Section 8: Section 17.40.650 (Nonconforming uses) is hereby amended by deleting Subsection B in its entirety and replacing with the following Subsection B:

B. Inactivity of a Nonconforming Use. When a nonconforming use has been inactive for a period of thirty months or more, the land and its associated improvements shall thereafter be used only in accordance with the provisions of this title. An intent to resume activity shall not qualify the property for a continuation of the nonconforming use.

Section 9: Section 17.40.650 (Nonconforming uses) is hereby amended by deleting Subsection C.1 in its entirety and replacing with the following Subsection C.1:

1. When a nonconforming use is changed to a conforming use, all nonconforming protections offered by this code are forfeited.

Section 10: Section 17.40.650 (Nonconforming uses) is hereby amended by deleting Subsection D in its entirety and replacing with the following Subsection D:

D. Alteration or Expansion of a Structure Containing a Nonconforming Use. Alterations and expansions shall be permitted, but the floor area ratio (FAR) of the expanded use together with all other uses on the lot shall not exceed the maximum FAR currently permitted in the base zoning district or the standards in effect prior to the zoning change that made the use nonconforming.



Metro Planning Commission Meeting of 10/28/10

Section 11: Section 17.40.650 (Nonconforming uses) is hereby amended by deleting Subsection E in its entirety and replacing with the following Subsection E:

E. Damage or Destruction of a Structure Containing a Nonconforming Use. Damage or destruction of a building or other form of structure (except a sign) occupied or used by a nonconforming use may be restored pursuant to the following provisions:

1. On land with minor improvements, the nonconforming use shall cease upon damage or destruction in the amount of twenty-five percent or more of the assessed valuation of all buildings, structures and other improvements on the property.
2. A structure containing a nonconforming use that has sustained damage by any voluntary or involuntary means to fifty percent or less of its total floor area may be reconstructed. If the damage is greater than fifty percent of the total floor area, the structure shall be reconstructed in accordance with all applicable provisions of this title, other than use.

Section 12: Article XIV (Nonconforming Uses, Structures, Lots and Signs) is hereby amended by inserting the following new Section 17.40.655:

17.40.655 Nonconforming residential uses and nonconforming residential structures.

A. Continuing a Legally Nonconforming Residential Use. A nonconforming residential use may continue subject to the following provisions:

1. In a RS district, any nonconforming **two-family** residential use ~~may be restored within two years regardless of percentage of damage or destruction.~~ **or structure that ceases occupation for 24 continuous months must comply with current zoning regulations.**
2. In any non-residential district, any nonconforming **one or two-family** residential use ~~that is damaged or destroyed may be restored within one year of the date of damage, regardless of the percentage of damage or destruction.~~ **or structure that ceases occupation for one year must comply with current zoning regulations.**
3. **Any multi-family residential establishment or structure that ceases occupation for 30 months must comply with current zoning regulations.**

B. Repair and Alteration of a Structure Containing a Nonconforming Residential Use or a Nonconforming Residential Structure. Repairs, incidental alterations and structural alterations may be made to a nonconforming structure provided there is no increase in the degree of nonconformity. **Improvements to the site, including transportation, parking, and access; streetscape; signage; and landscaping and buffering shall be required in accordance with the standards of the existing zoning.** ~~Site improvements may be required to comply with existing zoning.~~

C. Enlargements of a Structure Containing a Nonconforming Residential Use or a Nonconforming Residential Structure. Enlargements may be made in a manner that complies with the existing zoning. **Improvements to the site, including transportation, parking, and access; streetscape; signage; and landscaping and buffering shall be required in accordance with the standards of the existing zoning.** ~~Site improvements may be required to comply with existing zoning.~~



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D. Damage or Destruction of a Structure Containing Nonconforming Residential Use or a Nonconforming Residential Structure.

1. A nonconforming **one or two-family** structure that has sustained damage by any voluntary or involuntary means to fifty percent or less of its total floor area may be reconstructed, provided that the damaged area is reconstructed in accordance with all applicable provisions of this title.
2. **Any nonconforming multi-family residential establishment that is damaged or destroyed by any voluntary or involuntary means to fifty percent or less of its total floor area may be reconstructed, if the reconstruction is in conformance with the original height, density, setback or square-footage of the original facilities in existence immediately prior to the damage.**
3. If the damage by any voluntary or involuntary means is greater than fifty percent of the total floor area, the structure shall be reconstructed in accordance with all applicable provisions of this title. **New facilities shall comply with all architectural design standards required under current zoning regulations and be consistent with the architectural context of the immediate and adjacent block faces.**
4. ~~Site improvements may be required to comply with existing zoning.~~ **For voluntary damage or destruction, improvements to the site, including transportation, parking, and access; streetscape; signage; and landscaping and buffering shall be required in accordance with the standards of the existing zoning, regardless of the degree of damage.**

Section 13: Section 17.40.660 (Nonconforming structures) is hereby amended by deleting in its entirety and replacing with the following Section 17.40.660:

17.40.660 Nonconforming structures.

The following provisions shall apply to all nonconforming structures.

- A. Continuation and Conversion of Use. The use of a nonconforming structure may be continued or converted to another permitted use except as otherwise provided in this article.
- B. Repairs and Alterations. Repairs and incidental or structural alterations may be made to a nonconforming structure provided there is no increase in the degree of nonconformity. **Improvements to the site, including transportation, parking, and access; streetscape; signage; and landscaping and buffering shall be required in accordance with the standards of the existing zoning.** ~~Site improvements may be required to comply with existing zoning.~~
- C. Enlargements.
 1. A nonconforming structure may be enlarged by twenty five percent or less of the total floor area existing at the time the structure became nonconforming, provided there is no increase in the degree of nonconformity. Additionally, **improvements to the site, including transportation, parking, and access; streetscape; signage; and landscaping and buffering shall be required in accordance with the standards of the existing zoning.** ~~site improvements may be required to comply with existing~~



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~~zoning.~~ All building permits within five years shall be aggregated for purposes of measuring the twenty five percent standard.

2. A nonconforming structure may be enlarged by greater than twenty five percent or more of the total floor area existing at the time the structure became nonconforming, if the structure and the site are brought into compliance with the existing zoning. All building permits within five years shall be aggregated for purposes of measuring the twenty five percent standard.

D. **Damage or Destruction of Nonconforming Structures.** A nonconforming structure damaged by any voluntary or involuntary means to fifty percent or less of its total floor area may be reconstructed. If damage is greater than fifty percent of the total floor area, the structure shall be reconstructed in accordance with all applicable provisions of this title. For voluntary damage or destruction, **improvements to the site, including transportation, parking, and access; streetscape; signage; and landscaping and buffering shall be required in accordance with the standards of the existing zoning.** ~~site improvements may be required to comply with existing zoning.~~, regardless of the degree of damage.

Section 14: Section 17.40.670 (Nonconforming lot area) is hereby amended by deleting the last sentence.

Section 15: Section 17.40.690 (Nonconforming signs) is hereby amended by deleting Subsection C in its entirety and replacing with the following Subsection C:

C. A sign shall be deemed destroyed and brought into compliance with the provisions of this title if greater than fifty percent of the display surface area is altered, repaired, replaced, restored or rebuilt. All permits within five years shall be aggregated for purposes of measuring the fifty percent standard. Any reconstruction or replacement of a destroyed sign must comply with the provisions of this title.

Section 15: Section 17.40.690 (Nonconforming signs) is hereby amended by deleting Subsection D in its entirety and replacing with the following Subsection D:

D. A nonconforming sign shall be brought into compliance with this title when the principal land use on the lot is changed to a different use as described by the district land use table.

Section 15: Section 17.40.690 (Nonconforming signs) is hereby amended by deleting Subsection E in its entirety and replacing with the following Subsection E:

E. A nonconforming sign shall be brought into compliance with this title when the principal land use on the lot has been inactive pursuant to Section 17.40.650.B.

Section 16. 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 Erik Cole, Phil Claiborne, Mike Jameson

SEE NEXT PAGE

NO SKETCH



Project No.	Text Amendment 2010Z-020TX-001
Project Name	Relocation of Nonconforming Uses
Council Bill	BL2010-784
Council District	Countywide
School District	Countywide
Requested By	Metro Planning Department
Staff Reviewer	Logan
Staff Recommendation	<i>Approve substitute ordinance</i>

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,



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- 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:

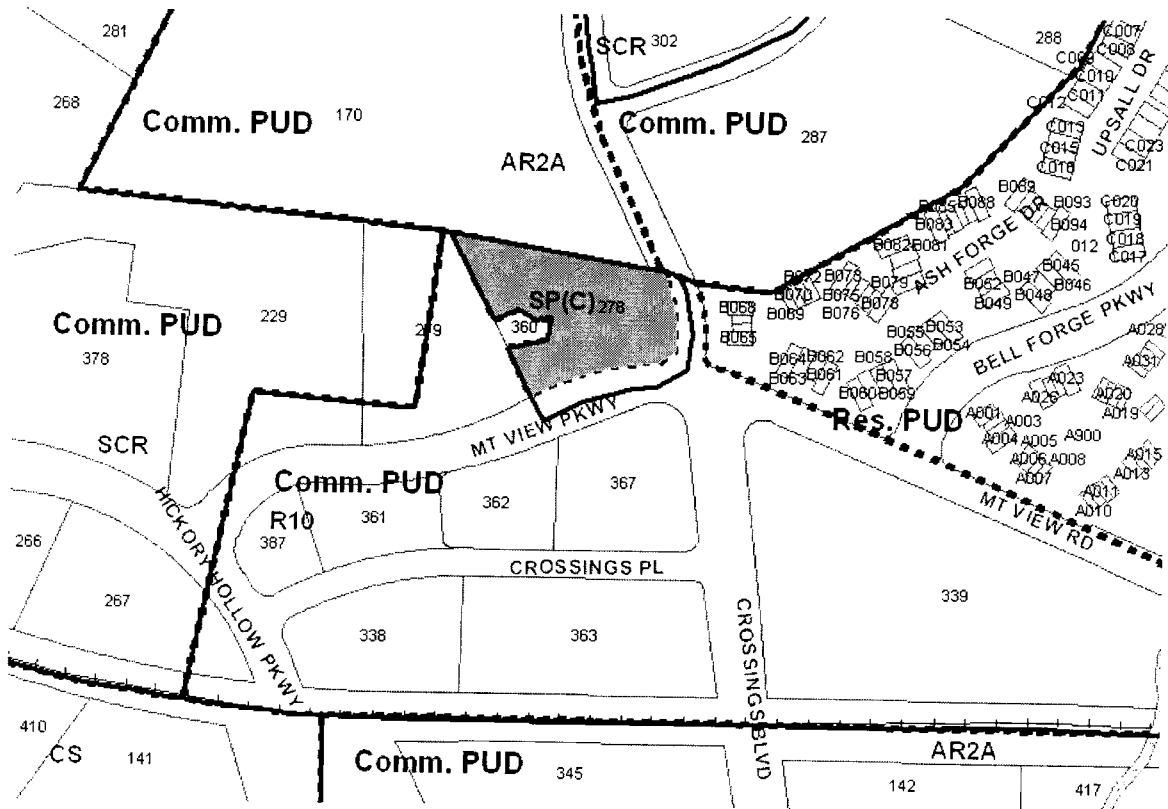
Section 1: Section **17.40.650** (Nonconforming Uses) is hereby amended by inserting the following new subsection F:

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

SEE NEXT PAGE



2006SP-041U-13
 FIRST TENNESSEE BANK (4-YEAR REVIEW)
 Map 163, Parcel(s) 278
 Antioch - Priest Lake
 32 - Sam Coleman



Project No.
Project Name
Council District
School District
Requested by

SP District Review 2006SP-041U-13
First Tennessee Bank SP
32 - Coleman
6- Mayes
Metro Planning Department

Staff Reviewer
Staff Recommendation

Bernards
Find the SP District Inactive and 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.

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.



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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.



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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

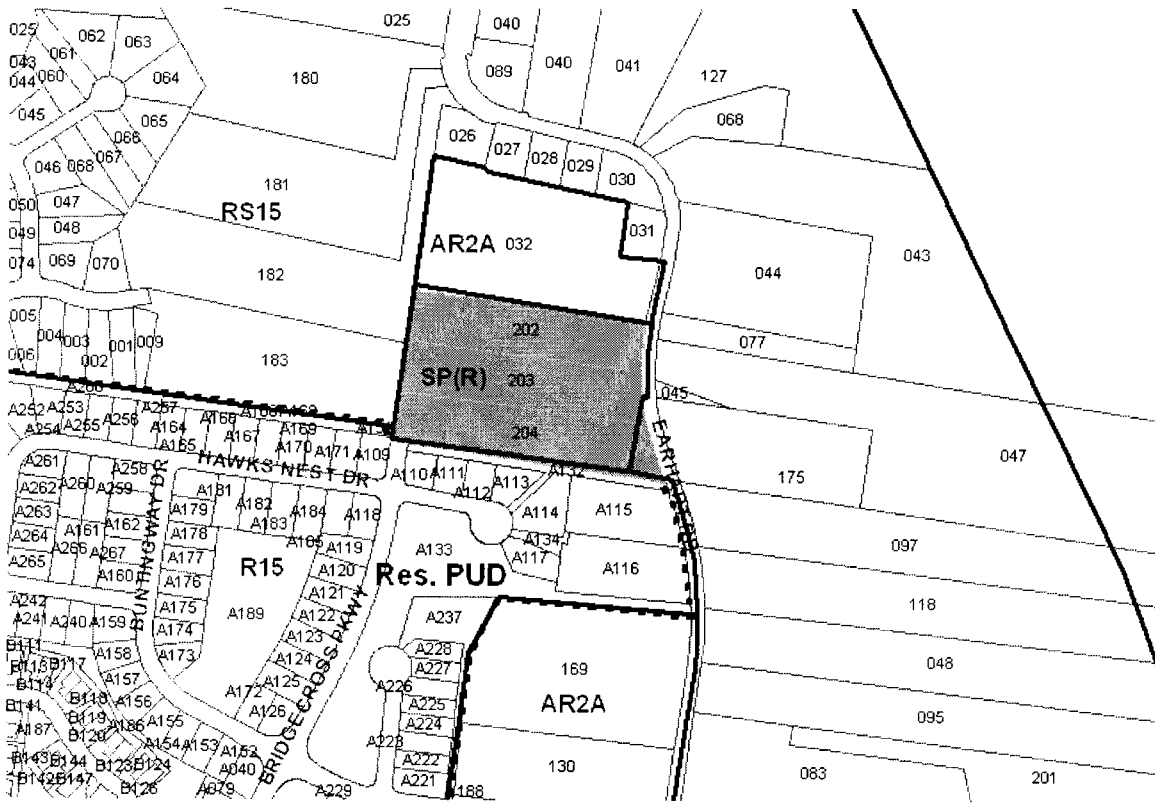
The First Tennessee Bank SP is consistent with the area's policy and remains appropriate for the site and area. There are no amendments to the plan proposed and no new zoning district is proposed for the property.

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.



2006SP-106G-14
EARHART (4-YEAR REVIEW)
 Map 098-00, Parcel(s) 202, 203, 204
 Donelson - Hermitage
 12 - Jim Gotto



Project No.	SP District Review 2006SP-106G-14
Project Name	Earhart SP
Council District	12 - Gotto
School District	4 - Shepherd
Requested by	Metro Planning Department
Staff Reviewer	Bernards
Staff Recommendation	<i>Find the SP District active</i>

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



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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.

SEE NEXT PAGE



2006SP-122G-12
CLOVER GLEN (4-YEAR REVIEW)
Map 182-00 Parcel(s) 065, 066, 096
Southeast
31 - Parker Toler



Project No.
Project Name
Council District
School District
Requested by

SP District Review 2006SP-122G-12
Clover Glen SP
31 - Toler
2 - Brannon
Metro Planning Department

Staff Reviewer
Staff Recommendation

Bernards
Find the SP District Inactive and 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.

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.



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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,



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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.



2006SP-129U-09
 STOILOVICH STUDIO APARTMENT (4-YEAR REVIEW)
 Map 082-09, Parcel(s) 029
 North Nashville
 19 - Erica S. Gilmore



Project No.
Project Name
Council District
School District
Requested by

SP District Review 2006SP-129U-09
Stoilovich Studio Apartment SP
19 - Gilmore
1 - Gentry
Metro Planning Department

Staff Reviewer
Staff Recommendation

Bernards
Find the SP District 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.



2010SP-012-001
 OLD HICKORY CENTER (PRELIM. & FINAL)
 Map 175, Parcel(s) 036
 Antioch - Priest Lake
 32 - Sam Coleman



Project No. Specific Plan 2010SP-012-001
Project Name Old Hickory Center
Council Bill BL2010-779
Council District 32 – Coleman
School District 6 - Mayes
Requested by Saeed Sassan, owner

Staff Reviewer Johnson
Staff Recommendation *Defer or disapprove until plans are approved by Metro Stormwater for Old Hickory Center SP and unfinished infrastructure related to Tru-Long Acres Subdivision has been resolved.*

Approve with conditions if all infrastructure and stormwater issues have been resolved.

APPLICANT REQUEST

Rezone to permit an daycare center, personal care instruction, retail, and restaurant/bar uses.

Preliminary SP and Final Site Plan

A request to rezone from Industrial General (IG) to Specific Plan – Mixed Use (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.

Existing Zoning
IG District

Industrial General is intended for a wide range of intensive manufacturing uses.

Proposed Zoning
SP-MU District

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

CRITICAL PLANNING GOALS

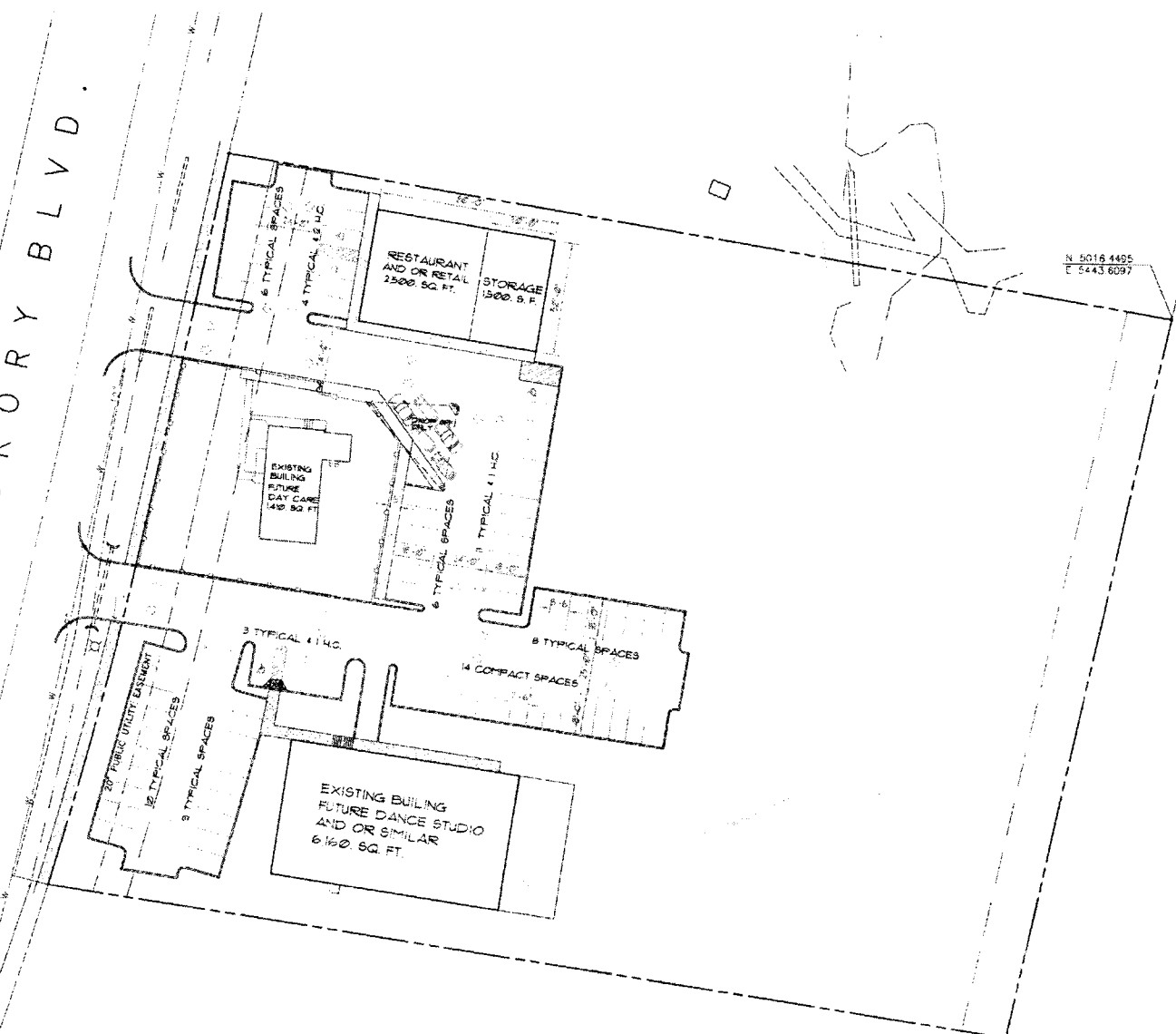
N/A

**ANTIOCH/PRIEST LAKE
COMMUNITY**

Existing Policy
Industrial (IN)

IN areas are dominated by one or more activities that are industrial in character. Types of uses intended in IN areas

OLD HICKORY BLVD.



N 9016 4455
E 5443 6097



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include non-hazardous manufacturing, distribution centers and mixed business parks containing compatible industrial and non-industrial uses. On sites for which there is no endorsed campus or master plan, an Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in this policy area.

Consistent with Policy?

Yes, the IN policy makes an exception to allow commercial and mixed-use development at the edge of an IN policy area that is adjacent to residential policy. Because the subject site is located at the edge of the IN policy, across the street from an area with residential policy (NG), this area is suitable as a transitional use between the industrial and residential policies.

PLAN DETAILS

The SP proposes three separate uses. Two existing buildings will house daycare and personal care instruction uses. A proposed building near the northwest corner of the site is anticipated to hold a restaurant/retail use and storage component. The total amount of square footage for these uses is 11,570 square feet. No development is proposed for the rear portion of the site. The grading plan shows a stormwater detention pond occupying a significant portion of this area. Future proposals for development of this rear portion will require an amendment to the preliminary SP approval. This SP proposes IG as fallback zoning for uses and bulk standards within the site. In order for this SP to better function as a transition between the IN and NG policies, a number of the uses permitted in IG have been excluded including:

- Correctional facility
- Custom assembly
- Laundry plant
- Microbrewery
- Fuel storage
- Heavy equipment sales and service
- Hazardous operation
- Manufacturing (heavy, medium, and light)
- Scrap operation
- Tank farm
- Airport/Heliport, Helistop
- Motor freight
- All utility uses
- All waste management uses



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Final SP

The applicant has requested both preliminary and final SP approval. However, the variability of the proposed new retail/restaurant/storage building in the northwest corner of the site makes its final approval premature. In addition to the uses shown on the site plan for this building, the applicant proposes to allow for auto-related uses if a restaurant or retail tenant cannot be secured. Because each of the possible uses will have distinct implications on the site plan regarding required parking and landscaping, staff is not recommending approval of the final site plan for this portion of the site until a specific use and site layout is proposed for this area.

A condition of approval requires revision of the site plan to show that the proposed retail/restaurant/storage building and associated parking are excluded from final site plan approval. This can be done by dividing the site plan into phases. Phase I will include existing buildings and the required parking and driveways necessary for these uses. Phase II will include the proposed building and its associated parking.

Bulk standards

Although IG is proposed as the fallback zoning classification for this SP, some bulk standards need to follow the standards of OR20 zoning in order to ensure compatibility with surrounding residential development and adjacent OR20 zoning. Building height and signage standards are more permissive in IG zoning than OR20 zoning. Requiring OR20 standards for building height and signage will serve as an acceptable transition between the industrial and residential zoning districts.

Access and Parking

Two driveway access points are proposed to connect the site to Old Hickory Boulevard. Required parking for the proposed uses is shown on the site plan.

Landscaping plan

The SP application includes a landscaping plan. This plan is required to follow internal and frontage landscaping requirements of the IG base zoning district including landscape buffer requirements. A condition of approval has been added to show a type "B" landscaping buffer next to OR20 zoning along the south property line.

Auto uses

The applicant would like to maintain the ability to provide auto-related uses on the site that are currently only allowed in IG and auto-specific SP districts. A condition of approval has been added to require specific design elements



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for property frontage and landscaping if an auto-related use is placed on the site.

Signage

This SP proposal does not include proposals or standards for signs. Specific conditions have been added, in addition to the sign standards of the OR20 zoning classification, to ensure compatibility between ground signs on this site and existing and future residential development across the street on Old Hickory Boulevard. Ground signs will be monument in style, will have a maximum height of six feet, and will have opaque backgrounds if internally-illuminated.

Stormwater

Metro Stormwater information identifies a water channel within the rear portion of the site. At the writing of this report, the applicant and Metro Stormwater are working to determine the status of this channel as either a stream or a wet weather conveyance. If determined to be a stream, the applicant will be required to revise the site plan to incorporate appropriate stream buffers. Because the stream buffer requirements may significantly affect the site plan, staff recommends deferral or disapproval of this application until this issue is resolved.

Bond Policy

On May 14, 2009, the Planning Commission adopted a policy stating that staff cannot administratively approve projects for which the applicants have breached performance agreements with expired security for another Metro project. The applicant for the Old Hickory Center SP is listed as the contact person for Mt. View, LLC, which is in breach of a performance agreement for the completion of infrastructure with the Tru-Long Acres Subdivision. Early in the application process for the Old Hickory Center SP, the applicant was reminded of the remaining infrastructure responsibilities for this subdivision. Because of this outstanding infrastructure, staff recommends deferral or disapproval of this application until the bond for Tru-Long Acres is made current or the remaining infrastructure work is completed.

STORMWATER RECOMMENDATION

If the channel is determined to be a wet weather conveyance, then the Final SP is conditionally approved. If the channel is determined to be a stream, then Metro Stormwater requests that the project be deferred until a variance is granted from the Stormwater Management Committee or that the buffers are left in a natural state.



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FIRE MARSHAL RECOMMENDATION

This project approved as a sprinklered project.

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.

Prior to any subdivision of property within this SP, a comprehensive traffic impact study shall be completed for the entire preliminary SP development plan.

Prior to approving any final SP plan, a focused traffic impact study may be required.

Maximum Uses in Existing Zoning District: IG

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Heavy Manufacturing (120)	3.28	0.6 D	85,726 SF	129	44	59

Maximum Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Restaurant (932)	3.28	-	2,500 SF	318	29	28

Maximum Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Day Care (565)	3.28	-	1,410 SF	112	18	18

Maximum Uses in Proposed Zoning District: SP

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Dance Studio (492)	3.28	-	6,160 SF	203	9	22

Traffic changes between maximum: R6 and proposed SP

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	+504	+12	+9



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STAFF RECOMMENDATION

Staff recommends deferral or disapproval of this request until plans for Old Hickory Center SP are approved by Metro Stormwater and issues with unfinished infrastructure related to Tru-Long Acres Subdivision have been resolved. If these issues have been resolved before the Planning Commission meeting, staff recommends approval with conditions of the preliminary SP for Phase I and Phase II as described in the staff report. The IG development standards ensure consistency with land use policy and the restriction of certain uses otherwise permitted in the IG zoning district will allow this SP to better function as a transition between the IN and NG land use policies.

If the preliminary SP is approved, staff recommends approval with conditions of the final SP for the use of existing buildings and for surrounding parking and landscaping necessary for their use. The final SP approval does not include the proposed retail/restaurant/storage building shown on the site plan and its associated parking.

CONDITIONS (IF APPROVED)

1. Signage – Signage on-site shall follow the requirements of the Zoning Code for the OR20 zoning district with the following exceptions:
 - Lighting: Signs may be internally-illuminated but must have a diffused light source. Internal illumination may illuminate only letters and logos. Sign background area must remain opaque.
 - Ground signs:
 - a. Limit of 2 signs along the street frontage,
 - b. Max height 6 feet for each sign,
 - c. Signs shall be monument style
2. Day care uses must follow all requirements of the Metro Zoning Code for day care uses.
3. All building heights within this SP zone shall follow the requirements of the OR20 zoning classification.
4. The front entrance to the proposed restaurant building shall be oriented to face Old Hickory Boulevard.
5. A type B landscape buffer shall be provided along the south property line adjacent to the existing OR20 zoning.



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6. The internal walkway system shall be extended to provide connections to all buildings. Additionally, the walkway system shall connect to the sidewalk along Old Hickory Boulevard along both driveways.
7. This SP is limited to the uses shown on the plan and those allowed in the IG zoning classification. The following land uses shall not be permitted in this SP:
 - Correctional facility
 - Custom assembly
 - Laundry plant
 - Microbrewery
 - Fuel storage
 - Heavy equipment sales and service
 - Hazardous operation
 - Manufacturing (heavy, medium, and light)
 - Scrap operation
 - Tank farm
 - Airport/Heliport, Helistop
 - Motor freight
 - All utility uses
 - All waste management uses
7. Any auto sales or auto service uses proposed within the site shall meet the following requirements:
 - There shall be a physical separation of the automobile display area or parking area from the sidewalk or street provided by a “knee wall” or landscaping. If a knee wall is used, the knee wall shall be 24 inches in height, and shall be constructed of either:
 - I. concrete, stone, split-faced masonry or other similar materials; or
 - II. masonry pillars with wrought iron or similar materials between pillars.If landscaping is used, the landscaped separation shall be a minimum of 25 feet wide. Minimum plantings requirements within the buffer shall include 5 canopy trees per 100 feet, and 50 shrubs per 100 feet.
 - Wrecker Services and other uses that require approval from the Metro Transportation Licensing Commission *may* use a wrought iron fence and landscaping to provide the required separation. The fence shall not exceed six feet in height. The fence shall be setback a minimum of 25 feet from the



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property line. Landscaping shall be equivalent to a B-1 buffer yard.

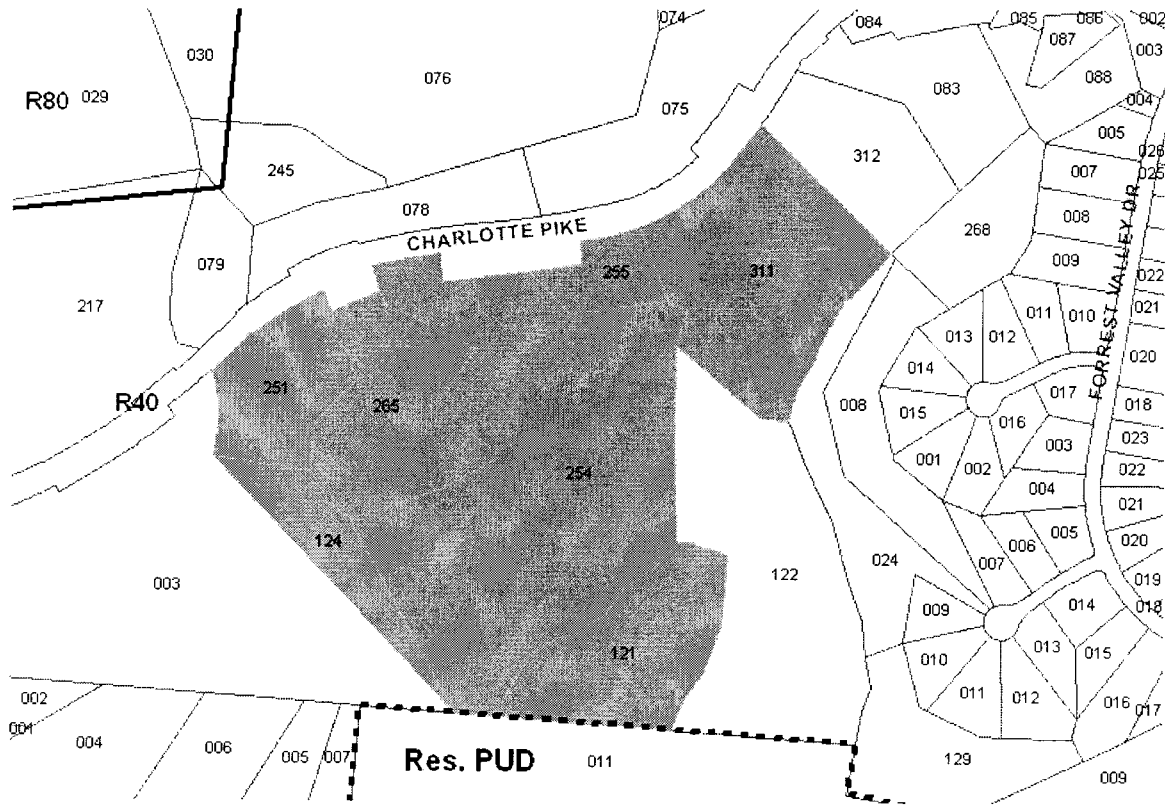
- No chain link fence, razor wire, barbed wire or similar material shall be within 25 feet of any public right-of-way.
 - No garage doors or other entryways that provide vehicular access into a building or structure shall face any public right-of-way. In instances where it is physically impossible to meet this requirement, entryways must be oriented in a way that is least visible from any public right-of-way. Landscaping or other methods may be utilized to screen entryways.
 - All “automobile repair” and or “automobile service” activities as defined by Metro Code shall be provided within the confines of an enclosed structure, or where permitted, within the rear yard behind a structure and not visible from any public right-of-way or residential structure.
 - Inoperable vehicles or equipment shall be confined within an enclosed structure, or where permitted, within the rear yard behind a structure, and not visible from any public right-of-way or residential structure.
8. Final SP approval does not include the proposed retail/restaurant/storage building and its associated parking. The site plan shall be revised to designate Phase I and Phase II as described in the staff report and the retail/restaurant/storage building and its associated parking shall be placed into Phase II. Final site plan approval for Phase II shall require a separate application.
 9. Prior to any subdivision of property within this SP, a comprehensive traffic impact study shall be completed for the entire preliminary SP development plan.
 10. With the exception of building height and signage standards, included herein, any other development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, shall be subject to the standards, regulations and requirements of the IG zoning district as of the date of the applicable request or application.



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11. A corrected copy of the preliminary SP plan incorporating the conditions of approval by the Planning Commission and Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. The corrected copy provided to the Planning Department shall include printed copy of the preliminary SP plan and a single PDF that contains the plan and all related SP documents. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.
12. 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.
13. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
14. 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.

SEE NEXT PAGE



2010Z-025PR-001

7739 CHARLOTTE PIKE, CHARLOTTE PIKE (UNNUMBERED) ZONE CHANGE

Map 114, Parcel(s) 251

Map 114-00-0, Parcel(s) 254-255, 265, 311

Map 128-00-0, Parcel(s) 121, 124

Bellevue

22 - Eric Crafton



Project No.	Zone Change 2010Z-025PR-001
Council Bill	BL2010-772
Council District	22 - Crafton
School District	9 - Simmons
Requested by	David Lowry, applicant, Charlie B. Mitchell Jr., owner
Staff Reviewer	Johnson
Staff Recommendation	<i>Approve</i>

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.



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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

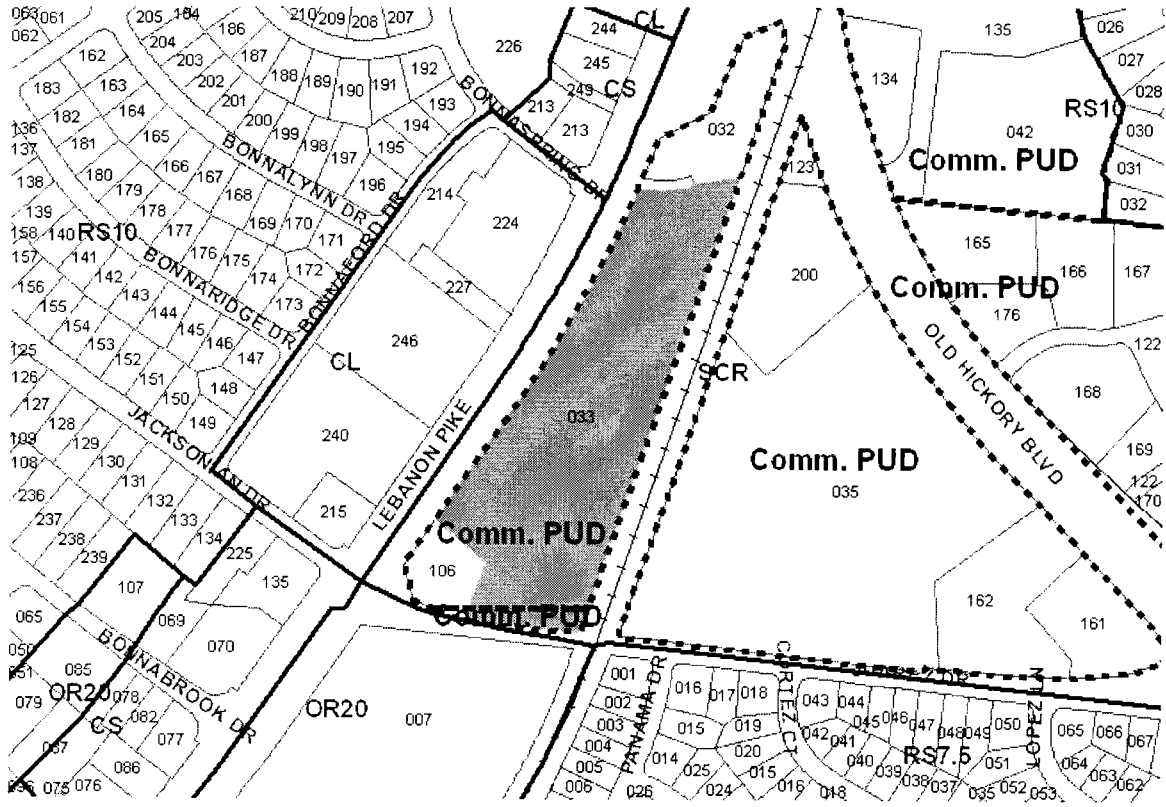
As this is a down zoning, fewer school age children would be generated by this zoning district than the R40 now in place.

STAFF RECOMMENDATION

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

PLANNING COMMISSION ACTIONS

- **Final Plans**



208-67P-001
 JUAREZ DRIVE SHOPPING CENTER
 Map 075, Parcel(s) 033
 Donelson - Hermitage
 Council District 14 - James Bruce Stanley



Metro Planning Commission Meeting of 10/28/10 **Item #13**

Project No. Planned Unit Development 208-67P-001
Project Name Juarez Drive Shopping Center
Council District 14 - Stanley
School District 4 - Shepherd
Requested by Barge Cauthen & Associates, applicant, for H.G. Hill Realty Company, owner

Staff Reviewer Johnson
Staff Recommendation Approve with conditions

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.



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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



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Billboards

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.

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



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- 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.



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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.

