



METROPOLITAN PLANNING COMMISSION MINUTES

**Thursday, April 28, 2011
4:00 pm Regular Meeting**

700 Second Avenue South
(between Lindsley Avenue and Middleton Street)
Howard Office Building, Sonny West Conference Center (1st Floor)

MISSION STATEMENT

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

Commissioners Present:

Jim McLean, Chairman
Hunter Gee, Vice Chairman
Judy Cummings
Ana Escobar
Tonya Jones
Phil Ponder
Councilman Jim Gotto
Andree LeQuire, representing Mayor Karl Dean

Staff Present:

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

Commissioners Absent:

Derrick Dalton, Stewart Clifton

Richard C. Bernhardt, FAICP, CNU-A

Secretary and Executive Director, Metro Planning Commission
Metro Planning Department of Nashville and Davidson County
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Notice to Public

Please remember to turn off your cell phones.

The Commission is a 10-member body appointed by the Metro Council. The Commission meets on the 2nd and 4th Thursday of each month at 4:00 p.m., unless otherwise noted. The Planning Commission makes the final decision on final site plan and subdivision applications. On all other applications, the Commission recommends an action to the Metro Council (e.g. zone changes, specific plans, overlay districts, and mandatory referrals). The Metro Council can accept or not accept the recommendation.

Agendas and staff reports can be viewed on-line at www.nashville.gov/mpc/agendas or weekdays from 7:30 a.m. to 4:00 p.m. at the Planning Department office located at 800 2nd Avenue South, downtown Nashville. Also, at the entrance to this meeting room, a binder of all staff reports has been placed on the table for your convenience.

Meetings on TV can be viewed live or shown at an alternative time on Channel 3. Visit www.nashville.gov/calendar for a broadcast schedule.

Writing to the Commission

You can mail, hand-deliver, fax, or e-mail comments on any agenda item to the Planning Department. For the Commission to receive your comments, prior to the meeting, you must submit them by **noon the day of the meeting**. Otherwise, you will need to bring 14 copies of your correspondence to the meeting and during your allotted time to speak, distribute your comments.

Mailing Address: Metro Planning Department, 800 2nd Avenue South, P.O. Box 196300, Nashville, TN 37219-6300
Fax: (615) 862-7130 E-mail: planningstaff@nashville.gov

Speaking to the Commission

If you want to appear in-person before the Commission, view our tips on presentations on-line at www.nashville.gov/mpc/pdfs/mpc_mtg_presentation_tips.pdf and our summary regarding how Planning Commission public hearings are conducted at www.nashville.gov/mpc/docs/meetings/Rules_and_procedures.pdf. Briefly, a councilmember may speak at the very beginning of the commission meeting, after the individual item is presented by staff, or after all persons have spoken in favor or in opposition to the request. Applicants speak after staff presents, then, those in favor speak followed by those in opposition. The Commission may grant the applicant additional time for a rebuttal after all persons have spoken. Maximum speaking time for an applicant is 10 minutes, individual speakers is 2 minutes, and a neighborhood group 5 minutes, provided written notice was received prior to the meeting from the neighborhood group.

- Day of meeting, get there at least 15 minutes ahead of the meeting start time to get a seat and to fill-out a "Request to Speak" form (located on table outside the door into this meeting room).
- Give your completed "Request to Speak" form to a staff member.
- For more information, view the Commissions Rules and Procedures, at www.nashville.gov/mpc/pdfs/main/rules_and_procedures.pdf

Legal Notice

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



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MEETING AGENDA

A. CALL TO ORDER

The meeting was called to order at 4:02 p.m.

B. ADOPTION OF AGENDA

Mr. Gee moved and Mr. Ponder seconded the motion, which passed unanimously, to adopt the revised agenda as presented. (6-0)

C. APPROVAL OF MARCH 31, 2011 AND APRIL 14, 2011 MINUTES

Mr. Ponder moved and Dr. Cummings seconded the motion, which passed unanimously, to approve the March 31, 2011 minutes as presented. (6-0)

Dr. Cummings moved and Mr. Ponder seconded the motion to approve the April 14, 2011 minutes as presented. (6-0)

Councilmember Gotto in at 4:02 p.m.

Ms. Jones in at 4:03 p.m.

D. RECOGNITION OF COUNCILMEMBERS

Council Lady LaLonde spoke in support of Item 15.

Councilman Foster spoke in support of Item 16.

Councilman Hodge spoke in support of Item 16.

Councilman Claiborne spoke in support of Item 7 and also noted that he has had a significant amount of opposition to Item 3.

Councilman Dominy & Councilman Jameson were in attendance but chose to speak at a later time.

E. ITEMS FOR DEFERRAL / WITHDRAWAL

1a. 2011CP-010-001

GREEN HILLS MIDTOWN COMMUNITY PLAN AMENDMENT

1b. 2011SP-014-001

CHESTERFIELD

2. 2011Z-002PR-001

2631 SMITH SPRINGS ROAD

9. 2007SP-019U-14

NORTH LAKE TOWNHOMES

11. 2011SP-004-001

SMITH SPRINGS ROAD

18. 89P-019-002

HARPETH GLEN

Mr. Ponder moved and Dr. Cummings seconded the motion, which passed unanimously, to approve the Deferred and Withdrawn Items. (8-0)

F. CONSENT AGENDA

- 4. 2006SP-081U-13**
DAVENPORT DOWNS
- 5. 2007SP-012G-12**
SUGAR VALLEY PLACE
- 6. 2007SP-013G-13**
CREEKWAY GARDEN CENTER
- 7. 2007SP-014U-14**
GAYLORD ENTERTAINMENT
- 8. 2007SP-015U-10**
THE GLEN
- 10. 2007SP-026U-11**
EUROTECH AUTOMOBILE REPAIR
- 12. 2011Z-009PR-001**
BL2011-883 / JAMESON
501 CHURCH STREET
- 13. 2011Z-010PR-001**
BL2011-892 / GOTTO
787, 795 & 799 OLD LEBANON DIRT ROAD
- 15. 2011UD-001-001**
BL2011-880 / LA LONDE
PRIMROSE
- 16. 158-75P-001**
BAR-B-CUTIE
- 17. 2004P-013-002**
MILL CREEK TOWN CENTRE
- 19. Amend the 2010-2011 to 2015-2016 Capital Improvements Budget to change Project Number 09HD0001, which provides \$30,000,000 for Metro's Health Center, from "Renovations/Additions to Lentz Health Center" to "Construction of a new health center".**
- 20. New employee contract for Donald Anthony.**
- 21. Employee contract renewal for Greg Johnson, Leslie Meehan, and Cynthia Wood.**

Dr. Cummings moved and Mr. Ponder seconded the motion, which passed unanimously, to approve the Consent Agenda. (8-0)

G. PREVIOUSLY DEFERRED ITEMS

Community Plan Amendments

1a. 2011CP-010-001

GREEN HILLS MIDTOWN COMMUNITY PLAN AMENDMENT

Map 104-10, Parcel(s) 108

Council District 18 (Kristine LaLonde)

Staff Reviewer: Tifinie Adams

A request to amend the Green Hills Midtown Community Plan: 2005 Update to change the Land Use Policy from Residential Low Medium Density (RLM) Policy to Residential High Density (RH) Policy for property located at 511 Chesterfield Avenue, zoned RM20 and proposed for RM40 zoning and within the Hillsboro-West End National Register District and I-440 Impact Overlay District (Area 1-F), requested by Diversified Real Estate Services Inc., applicant, for The Chesterfield LLC, owner. (See also Zone Change Case No. 2011SP-014-001).

The Metropolitan Planning Commission DEFERRED INDEFINITELY 2011CP-010-001 at the request of the applicant. (8-0)

Zone Changes

1b. 2011SP-014-001 (formerly 2011Z-006PR-001)

CHESTERFIELD

Map 104-10, Parcel(s) 108

Council District 18 (Kristine LaLonde)

Staff Reviewer: Greg Johnson

A request to rezone from RM20 to SP-R zoning property located at 511 Chesterfield Avenue, opposite Blair Boulevard (2.86 acres), to permit 84 multi-family units within the Hillsboro-West End National Register District and I-440 Impact Overlay (Area 1-F), requested by Diversified Real Estate Development, applicant, The Chesterfield LLC, owner. (See also Community Plan Amendment Case No. 2011CP-010-001)

The Metropolitan Planning Commission DEFERRED INDEFINITELY 2011CP-010-001 at the request of the applicant. (8-0)

2. 2011Z-002PR-001

2631 SMITH SPRINGS ROAD

Map 136, Parcel(s) 043

Council District 29 (Vivian Wilhoite)

Staff Reviewer: Jason Swaggart

A request to rezone from R10 to OR20 district property located at 2631 Smith Springs Road, approximately 760 feet west of Bell Road (.36 acres), requested by Keith Jordan, owner.

The Metropolitan Planning Commission DEFERRED 2011Z-002PR-001 to the June 9, 2011, Planning Commission meeting at the request of the applicant. (8-0)

H. COMMUNITY PLAN POLICY CHANGES AND ASSOCIATED CASES

No Cases on this Agenda

I. RECOMMENDATIONS TO METRO COUNCIL

Zoning Text Amendments

3. 2010Z-025TX-001

BL2011-858 / JAMESON

HOME OCCUPATION

Staff Reviewer: Jennifer Regen

A request to modify the Metro Zoning Code, Section 17.16.250 (Accessory Uses: Home Occupation), to modify regulations pertaining to "Home Occupations", requested by Councilmember Mike Jameson.

Staff Recommendation: APPROVE proposed substitute bill

APPLICANT REQUEST - Modify regulations governing home businesses.

Text Amendment A request to modify the Metro Zoning Code, Section 17.16.250 (Accessory Uses: Home Occupation), to modify regulations pertaining to "Home Occupations."

CRITICAL PLANNING GOALS

- Encourages Housing Maintenance and Neighborhood Stability
- Supports Infill Development
- Efficient Use of Existing Housing and Infrastructure
- Preserves Historic Resources

This council bill, and the proposed text amendment, both support maintaining, preserving, and supporting Nashville's housing stock and infrastructure. It accomplishes this by allowing homeowners and residents to use a small portion of their home for a business. Allowing for this accessory use in the agricultural and residential zoning districts promotes homeownership, rental property maintenance, and efficient use of existing infrastructure by promoting reinvestment in existing neighborhoods.

APPLICATION DETAILS This request is to modify the home occupation standards by creating two different permit tiers: Tier 1 (no customers) and Tier 2 (customers). Under Tier 2, a client or customer can come to a home by appointment in the AG, AR2a, R, and RS zoning districts. In addition, it renames the land use from "home occupation" to "home business".

Analysis The current home occupation standards in the Zoning Code prohibit customers from coming to a residential property where a home business is located. A council bill has been filed, BL2011-858, and a substitute bill is proposed, that would allow customers under certain conditions. The proposed substitute creates a two-tiered home business: Tier 1 (no customers); Tier 2 (customers). Tier 1 permits would be approved administratively by the Codes Department as these kinds of home businesses are approved today. Tier 2 permits would be acted upon after a public hearing is held by the Board of Zoning Appeals (BZA). The BZA will review a Tier 2 home business application against the specified standards detailed in the proposed substitute bill and the general provisions contained in Section 17.16.150 of the Zoning Code.

Permitted Uses Existing Code: Any activity is allowed provided no customers/clients come to the home, no outdoor activities, emissions, noise, glare, etc. occur.

Proposal: Under both of the home business tiers, general office and cottage industry activities are permitted. Under Tier 2, personal instruction is also allowed and any permitted activity may also have clients and customers come to the home.

- General Office (non-medical);
- Cottage Industry where persons are engaged in the on-site production of goods or services such as, but not limited to:
 - Artists, sculptors, photography; ceramics, jewelry making, dress-making, tailoring, sewing, ironing, home crafts;
 - Baking, preserving, cooking, catering;
 - Barber or beauty shop;
 - Catalog or internet sales;
 - General Office excludes medical office per current Zoning Code definition of this land use;
 - Licensed massage therapy;
 - Personal counseling;
 - Upholstery;
 - Watch or clock repair;
 - Woodworking.

Prohibited Uses Existing Code: Automobile-related uses are prohibited as a home business.

Proposal: The following uses would be prohibited as a home business, in addition to any automobile-related uses:

- Animal boarding, grooming, bathing, or exercising; animal day care;
- Automobile/farm/lawn equipment sales, rentals, detailing, washing, repair, dismantling, storage, or salvage; engine or machine shops;
- Bed and breakfast;
- Direct retail sales;
- Divination (palm reading, fortune-telling, etc);
- Kennel;

- Nail salon;
- Recording studio;
- Rental or leasing of homes for special events and gatherings;
- Restaurants;
- Small appliance repair;
- Tattoo /tanning / body-piercing;
- Wedding chapel;
- Wrecker service; or,
- Any businesses where employees come to the home and then are dispatched to other locations.

Location Existing Code: A home business can operate in the home, garage and/or an accessory structure. No outdoor operations.

Proposal: Same as existing code, except:

- Under Tier 2, a swim or tennis instructor may conduct lessons outside.
- Under either tier, a business must operate in one structure only to better enable code enforcement.

Maximum Size Existing Code: 20% of finished floor area in home or 500 square feet, whichever is less, and excluding garage and other unheated space.

Proposal: No change.

Employees Existing Code: A home business can employ an unlimited number of family members who reside in the home and one non-resident employee who does not live in the home.

Proposal: Same as existing code, except:

- Clarifies "employee" as being anyone who works in the home, regardless of whether compensation is received;
- Clarifies calculation of a part-time or full-time employee shall not include the use of full-time equivalents;

Occupancy Existing Code: A home business can be operated by the property owner or a tenant.

Proposal: No change.

Clients/Customers Existing Code: No customers/clients are allowed to visit the home.

Proposal: Under Tier 1, no change. Under Tier 2, clients and customers can visit the home between the hours of 8 a.m. to 6 p.m., Monday – Friday with these restrictions:

- No more than 2 visits per hour;
- No more than 12 visits per day during those hours;
- A "visit" means any trip made to the property for any purpose.

Deliveries Existing Code: No restriction on the type or frequency of deliveries to a home.

Proposal: Under Tier 1, no change. Under Tier 2, deliveries are restricted to 8 a.m. to 6 p.m., Monday thru Friday. Deliveries also count as a "visit" to the home.

Storage Existing Code: Indoor storage can occur only with no outdoor storage.

Proposal: No change except to clarify that a porch, deck, patio, and carport are not eligible for storage. Also, clarifies property cannot be used to store items sold off-premises.

Signs Existing Code: No sign allowed advertising business on home, mailbox, yard, or any vehicle.

Proposal: No change, except allows for one, non-illuminated plaque measuring a maximum of 1 square foot to identify the home business mounted to the wall. The plaque will enable better code enforcement as neighbors and inspectors will know they have the right house when reporting a possible violation.

Parking Existing Code: Residents and employees can park on-street or off-street.

Proposal: No change except customer and clients can park or wait on the property only; they cannot park or wait on-street.

Vehicles Existing Code: Only one large passenger vehicle is allowed that weighs no more than one and one-half tons.

Proposal: Clarifies what vehicles are allowed by defining what constitutes a "passenger vehicle".

Number of Permits Existing Code: Multiple permits for same residence.

Proposal: One permit per residence.

Permit Transferability Existing Code: Not addressed.

Proposal: Clarifies home business permit is good for one residential address, and cannot be assigned or transferred to another entity or address. Further, when the permit holder no longer lives at the address, the permit becomes null and void.

Notification Existing Code: None required.

Proposal: No change, except:

- Under Tier 2, prior to submittal of an application for a home business, the applicant must send a letter by registered mail, return receipt to all abutting and adjacent owners. The letter will describe the proposed home business.

- Under Tier 2, prior to the BZA's consideration of the home business as a special exception use, all property owners within 600 feet of the property will be notified by mail of the date, time, and location of the public hearing.

Business License Existing Code: Not addressed.

Proposal: In conjunction with the submittal of a home business application to the Codes Department, the applicant is required to submit a copy of a valid business license, from the State of Tennessee, if a license is required by the state.

PUBLIC WORKS RECOMMENDATION No exception taken.

CODES ADMINISTRATION RECOMMENDATION The proposed substitute bill can be administered by the Codes Department, however, the department does have concerns about its enforcement. Specifically, allowing customers and clients to visit the home. The Codes Department does not have sufficient staff to observe home businesses for extended periods of time to determine whether a violation has occurred.

STAFF RECOMMENDATION Staff recommends approval of the proposed substitute text amendment. It recognizes the evolution of home occupation businesses given the advent of technology, flexible work schedules, and dual income families.

SUBSTITUTE ORDINANCE NO. BL2011-858

A substitute ordinance amending Title 17 of the Metropolitan Code, Zoning Regulations, to modify the requirements applicable to a "Home Business" (Proposal No. 2010Z-025TX-001).

WHEREAS, a home business is an accessory use of a residence (secondary to the primary use of the residence as a dwelling or home);

WHEREAS, a home business can be a complementary extension of the residential use of a home, if the occupation can integrate with the overall residential use of the home and not adversely affect the residential character of a neighborhood, and maintain the residential viability of the home;

WHEREAS, a home business is not an automatic entitlement by zoning, but rather is subject to strict conditions to assure its compatibility with the surrounding residential character and may be revoked at any time by Metro Government if significant violations occur;

WHEREAS, the U.S. Census American Community Survey of Davidson County for 2005-2009 identified 12,845 people in Davidson County who work from home either for an employer (telecommute), themselves, or another person;

WHEREAS, in recognition of changing electronic technology, demographics, household composition, self-employment trends, and needs of our community, the current home occupation (business) standards need updating;

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

Section 1. That Section 17.04.060 (Definitions) of the Metro Zoning Code is hereby amended by inserting in alphabetical order a definition for "cottage industry" and "non-resident employee" and deleting the definition for "home occupation" and inserting in alphabetical order a definition for "Home Business (Tier 1)" and "Home Business (Tier 2)" as follows:

Cottage Industry means a home business where persons are engaged in the on-site production of goods or services such as, but not limited to, artists, sculptors, photography studio, ceramics, jewelry making, dressmaking, tailoring, sewing, ironing, home crafts, baking, preserving, cooking, catering, licensed massage therapy, barber or beauty shop, catalog or internet sales, personal counseling, upholstery, woodworking, and watch or clock repair, in accordance with the regulations set forth in Sections 17.16.160.C and 17.16.250.C. A cottage industry shall not mean tattoo/tanning/body-piercing, automobile/farm/lawn equipment sales, rentals, detailing, washing, repair, dismantling, storage, or salvage; engine or machine shops; small appliance repair; wrecker service; restaurants; direct retail sales; kennel; animal boarding, grooming, bathing, or exercising; animal day care; bed and breakfast; recording studio; wedding chapel; the rental or leasing of homes for special events and gatherings; or any businesses where employees come to the home and then are dispatched to other locations.

Home Business (Tier 1) means an occupation, service, profession or enterprise to occur on a property containing a single-family or two-family dwelling, and where one non-resident employee may come to the property, but no clients or customers come to the property at any time, in accordance with the regulations set forth in Section 17.16.250.C.

Home Business (Tier 2) means an occupation, service, profession or enterprise to occur on a property containing a single-family or two-family dwelling, where a non-resident employee, clients, and/or customers may come to the property, in accordance with the regulations set forth in Section 17.16.160.C.

Non-Resident Employee means an employee, business partner, co-owner, independent contractor, volunteer, or anyone who does not reside in the principal dwelling unit, yet visits the site as part of the home business, regardless of whether compensation is received. For purposes of a home business, a non-resident employee is one person, and shall not be construed to mean part-time or full-time staff equivalents or employee shifts, even when only one non-resident employee is at the site at any given time.

Section 2. That Section 17.08.030.D (Zoning Land Use Table: Residential Uses) of the Metro Zoning Code is hereby amended by

modifying the land use name "Home Occupation" to "Home Business (Tier 1)" and inserting a new land use immediately below it called "Home Business (Tier 2)" as a special exception use (SE) in the AG, AR2a, R, and RS zoning districts.

Section 3. That Section 17.16.250 (Uses Permitted as Accessory Uses: Residential Accessory Uses) of the Metro Zoning Code is hereby amended by deleting the provisions of subsection C. Home Occupation and inserting the following new provisions:

C. HOME BUSINESS (Tier 1)

1. Applicability.

The home business shall be an accessory use to the residential dwelling on the property. Any home business shall be subject to the provisions of this section regardless of whether a business license has been obtained from the County Clerk.

2. Eligible Area.

- a. A home business shall not occupy more than twenty percent of the total floor area of the principal dwelling unit, or five hundred square feet of finished floor area, whichever is less. "Finished floor area" refers to habitable space that is heated, but not necessarily cooled living space;
- b. For purposes of calculating the eligible area, garages, storage buildings, and other accessory structures shall not be considered part of the principal dwelling unit; and,
- c. A home business may be conducted in the principal dwelling, a garage, a storage building, or other accessory structure, but in no case shall it be conducted in more than one building or structure on the parcel.

3. Alteration of Residence. The home business shall not alter the principal dwelling or accessory building's residential character or appearance, its fire code or building code classifications, or have separate utility service or capacity beyond what is customary for the residential dwelling unit's size.

4. Permitted Activities. General Office and Cottage Industry are permitted activities as a home business (Tier 1) subject to the activity's definition in Section 17.04.060, and the further limitations imposed by this section.

5. Prohibited Activities. A home business (Tier 1) shall be permitted to do only the activities identified in Section 17.16.250.C.4. All other activities and/or uses are explicitly prohibited including any involving a customer, client, student, or more than one non-resident employee coming to the home.

6. Occupancy. The owner of the property must reside permanently in the dwelling unit as a principal residence, or if a rental or leased dwelling unit, the applicant shall submit a written notarized statement from the property owner(s) giving the tenant who must reside permanently in the home, permission to operate the proposed home business.

7. Employees. The home business may employ persons who reside in the home and a maximum of one non-resident employee.

8. Customers, clients, and deliveries. Customers and clients shall be prohibited at any time. Deliveries or pick-ups by public or private parcel services only shall be permitted that customarily make residential deliveries.

9. Storage. The storage of materials or goods shall be permitted in connection with a home business provided such storage complies with the following standards:

- a. All materials, goods, or items shall be stored completely within the space designated for home business activities.
- b. Only those goods, materials, or items that are utilized or produced in connection with the home business may be stored within the dwelling unit or accessory structure. No storage shall occur on any deck, carport, unenclosed porch or structure or outdoor area.
- c. All flammable or combustible compounds, products or materials shall be maintained and used in compliance with the Metro Fire Code.

10. Parking for the residence and associated home business shall be on a surfaced area in compliance with Section 16.24.330.K.3 of the Metro Code.

11. Vehicles associated with the home business shall be limited to passenger vehicles only. A "passenger vehicle" includes motorcycles, automobiles, pick-up trucks and vans. Only one passenger vehicle shall have a maximum axle load capacity of up to one and one-half tons.

12. Operation.

- a. The home business activity shall not be visible, noticeable, or perceptible at or beyond the property line or from any public right-of-way (including alleys), or from neighboring residential properties,
- b. The home business is prohibited from having electrical, mechanical or chemical equipment that is not normally associated with residential uses with the exception of cottage industry activities that involve welding, ceramics, woodworking and similar materials;
- c. The home business shall have no exterior display, or interior display visible from a public right-of-way, including an alley, indicating the building is used in whole or in part for any purpose other than as a residence; and,
- d. The home business activity shall not create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise, sound or vibration; smoke, dust, odor or other form of air pollution; heat, cold or dampness; electromagnetic or other disturbance to neighboring wifi, radio or television reception; glare, liquid or solid refuse or other waste that exceeds the average weekly residential rate of generation; or other objectionable substance, condition or element.

13. Plaques and Advertising. One non-illuminated plaque shall be permitted not exceeding one square foot in size, mounted beside the door of the dwelling or accessory building accessed by the home business. No other plaques, signs, or advertising for the home business shall be displayed, attached, painted, or otherwise affixed temporarily or permanently to any structure, building, surface, or area, including a vehicle parked on the property that is visible from any public right-of-way, but specifically excluding vehicles parked within a fully enclosed structure.
14. Number of Permits. No more than one home business permit shall be granted per a residential dwelling unit.
15. Permit Transferability. A home business permit shall not be transferred or assigned to another person, entity, or address, nor shall the permit authorize any person, other than the person named therein, to commence or carry on the home business. Upon termination of the occupant's residency, the home business permit shall become null and void.
16. Zoning Administrator Approval. No home business shall be initiated, and no building, structure, or land shall be used or converted, wholly or partially, for a home business until the Zoning Administrator has received an application with all applicable fees, and approved the proposed home business activity. In addition, the Zoning Administrator may establish reasonable conditions on the operation of any home business, or refer an application to the Board of Zoning Appeals for a determination.
17. Business License. In conjunction with the submittal of a home occupation application, the applicant shall provide a copy of a valid, unexpired business license, from the State of Tennessee, if required, for the proposed home business activity. If a business license is not renewed, the home business permit shall become void.

Section 4. That Section 17.16.160 (Special Exception Uses: Residential Uses) of Metro Zoning Code is hereby amended by inserting a new subsection "C" as follows:

C. HOME BUSINESS (Tier 2)

1. Applicability.
The home business (Tier 2) shall be an accessory use to the residential dwelling on the property and subject to all of the standards of a home business (Tier 1) contained in Section 17.16.250.C in addition to the standards below, except where standards may conflict, the home business (Tier 2) standards shall apply. Any home business (Tier 2) shall be subject to the provisions of this section regardless of whether a business license has been obtained from the County Clerk.
2. Eligible Area. With the exception of Personal Instruction activities that occur outdoors such as tennis or swimming lessons, the home business shall comply with Section 17.16.250.C.2.
3. Permitted Activities. General Office, Cottage Industry, Personal Instruction (but excluding, divination and personal defense involving any firearms) shall be permitted as a home business subject to the activity's definition in Section 17.04.060, and the further limitations imposed by this section.
4. Prohibited Activities. A home business (Tier 2) shall be permitted to do the activities identified in Section 17.16.160.C.4 and is prohibited from doing any of the activities identified in Section 17.16.250.C.5. Further, no outdoor area can be rented or leased by a non-resident employee for Personal Instruction such as a swimming pool or tennis court.
5. Customers, clients, students, and deliveries shall be scheduled by appointment and subject to the following restrictions below. For purposes of this section, a "visit" means any trip made to the property for any purpose during the hours of 8:00 a.m. to 6:00 p.m., Monday thru Friday:
 - a. No more than two visits per hour; however, for a personal instruction activity, a maximum of two students shall be allowed for one lesson provided the maximum number of visits to the home is not exceeded per hour or per day;
 - b. No more than a total of 12 visits per day; and,
 - c. No truck deliveries or pick-ups, except by public or private parcel services that customarily make residential deliveries.
6. Parking for clients and customers shall be provided on the property. No on-street parking or waiting shall occur by clients and customers.
7. Notification of Adjacent and Abutting Property Owners. Prior to the submittal of a home business application, the applicant shall send a letter by certified mail, return receipt requested, to each property owner that owns property adjacent to, or abutting, the applicant's property, and to any homeowner's association in which the applicant's property is located. The content of the letter shall be as prescribed by the Zoning Administrator. The applicant shall submit the original return receipt postcards from the certified mailing to the Zoning Administrator with the submittal of a home business application.
8. Notification of District Councilmember. The Zoning Administrator shall notify the district councilmember in accordance with Section 17.40.290 that a home business (Tier 2) application has been filed.
9. Board of Zoning Appeals Approval. No home business (Tier 2) shall be initiated, and no building, structure, or land shall be used or converted, wholly or partially, for a home business until the Board of Zoning Appeals approves the home business (Tier 2) in

accordance with Chapter 17.16, Article III. (Uses Permitted by Special Exception).

Section 5. This Ordinance shall take effect five (5) days from and 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: Mike Jameson

Ms. Regen presented the staff recommendation of approval of the proposed substitute bill.

Councilmember Jameson spoke in support of staff recommendation.

Keith Newcomb, 604 Georgetown Drive, spoke in support of staff recommendation.

Charlotte Cooper, 3409 Trimble Road, spoke against staff recommendation, especially Tier 2, and asked that this be deferred until more community meetings can be held.

Mina Johnson, 6600 Fox Hollow Road, stated that her biggest concern is Tier 2 and would like to defer this item and keep the Public Hearing open until there is an opportunity to get more community input.

Patsy Bruce, 110 31st Avenue North, spoke against staff recommendation and stated that she would like to have sidewalks in the neighborhoods before businesses.

Sandra Carlton, 211 Mockingbird Road, spoke against staff recommendation.

Mr. Ponder moved and Councilmember Gotto seconded the motion to close the Public Hearing. (8-0)

Councilmember Gotto asked if there is any prohibition regarding someone being able to rent their property and then have it used for a home occupation? Doesn't it have to be owner occupied?

Mr. Regen stated no, there is no prohibition against a renter or a leaser.

Councilmember Gotto stated that he would like to have that put in there.

Mr. Ponder stated that he does have a home business and has had one for 32 years. He feels that the traffic situation is an over concern. He stated that there is some tweaking that could be done but overall he is in support of this bill.

Ms. Escobar stated that she is in support. People are doing this anyway so it would be good to have it controlled. She asked Mr. Sloan what the repercussions would be if they disapproved this.

Mr. Sloan stated that it would go to Council with a disapproval recommendation and it would have to get 27 votes to pass.

Ms. Escobar inquired if Council can tweak it any?

Mr. Sloan stated yes; Mr. Bernhardt clarified that changes can also be made on second or third reading.

Dr. Cummings stated that she wants to assure neighbors that clients will be required to park in the business owner's driveway and that the total number of arrivals and departures from the business can only add up to 12 per day, including postal, FedEx, UPS, etc. Monday thru Friday only might be of concern to cosmetology, massage therapists, etc. as most of their business is on weekends. She would like some type of permit renewal to be considered but stated her support for this as it stands.

Mr. Gee stated that at one point in the bill it states that storage of goods for sale off premise is prohibited, yet many of the uses allowed would store their goods to be sold offsite.

Ms. Regen clarified that the prohibition is only regarding not using your home as a storage site for goods.

Mr. Gee stated that nail salons and recording studios should not be prohibited.

Mr. Gee inquired if the applicant requests a variance from these standards, do they have to show proof of a hardship for the variances?

Mr. Sloan stated that it would be tough to prove a hardship for a variance from this at the BZA level.

Ms. LeQuire gave the example of how does a client park onsite if the business owner doesn't have a driveway?

Mr. Sloan stated yes, it would have to be something that deals with the topography and shape of the lot that would prohibit someone from being able to comply.

Mr. Gee inquired if there is anything in the current ordinance that requires that the current permit holder is the owner of the business.

Ms. Regen clarified that no, it does not specify that the permit holder has to be the owner of the business, it just states that the owner has to participate in the business.

Councilmember Gotto stepped away at 5:05 p.m.

Mr. Gee stated that there may be some things in this bill that might be putting a burden on people that want to do this and could potentially discourage them from doing this legally. He stated that he would be in favor of a renewal process or having to go before the BZA if they have a certain number of Codes complaints. We should reconsider the burden of initially having to go before the BZA to get a permit.

Mr. Gee stated that he is in opposition to the specific requirement that you have to park onsite and would like to see a variance given for this. He stated his support for the bill but would appreciate if the staff and Councilman will take into consideration some of the issues raised today.

Councilmember Gotto back at 5:06 p.m.

Ms. Jones stated that some Homeowner's Associations might prohibit any type of business and considering this is a Metro bill, who overrides who?

Mr. Sloan stated that if it is an HOA restriction, then that will apply. Enforcement is a private action, though. Metro will not enforce the private agreement between the HOA and the home owner.

Ms. LeQuire stated that the BZA process should only happen if certain numbers of complaints are received, not as an initial action. She also stated that nail salons and recording studios should not be prohibited. She stated her support with Council's careful consideration of all issues raised tonight.

Mr. Gee stated that we need to understand what the triggers and unintended consequences are that could put a larger burden on the business owner, for example: Health Department compliance, ADA compliance, etc.

Mr. Ponder moved and Mr. Gee seconded the motion to approve substitute bill including a recommendation to allow two permits per residence and allow "recording studio" and "nail salon" as cottage industry activities. (7-1) Councilmember Gotto voted against.

Resolution No. RS2011-100

"BE IT RESOLVED by The Metropolitan Planning Commission that 2010Z-025TX-001 is **APPROVED substitute bill including a recommendation to allow two permits per residence and allow "recording studio" and "nail salon" as cottage industry activities. (7-1)**

The text amendment will help to legitimize current practices in home-based businesses by expanding the range of uses permitted under a home occupation permit and providing additional definition of elements needed to accommodate home occupation uses."

Councilmember Gotto out at 5:13 p.m.

Specific Plans

4. 2006SP-081U-13

DAVENPORT DOWNS

Map 165, Parcel(s) 073, 104-106, 130

Map 176, Parcel(s) 066

Council District 32 (Sam Coleman)

Staff Reviewer: Brenda Bernards

The periodic review of an approved Specific Plan (MR) district known as "Davenport Downs", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code (Review of a Development Plan), for properties located at 4334 Maxwell Road and at Maxwell Road (unnumbered) (74.26 acres), approved for 301 single-family attached and single-family detached units via Council Bill BL2006-1303 effective on March 23, 2007, review initiated by the Metro Planning Department.

Staff Recommendation: 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 (MR) district known as "Davenport Downs", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code (Review of a Development Plan), for properties located at 4334 Maxwell Road and at Maxwell Road (unnumbered) (74.26 acres), approved for 301 single-family attached and single-family detached units via Council Bill BL2006-1303 effective on March 23, 2007.

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 Davenport Downs SP is approved for 301 single-family attached and single-family detached units. This SP was originally approved by the Metro Planning Commission on July 13, 2006, for 328 single-family attached and detached units on 74.26 acres, north of Maxwell Road. The SP was amended by Council on March 5, 2007, to reduce the unit count from 328 to 318 single-family attached and detached units.

On October 5, 2007, the applicant submitted a revised preliminary plan further reducing the residential unit count to 301 single-family attached and detached units on 73.70 acres with a density of 4.1 units an acre. Final site plan approval is in place for 61 dwelling units consisting of 18 single-family units and 43 townhouse units.

SPECIFIC PLAN REVIEW Staff conducted a site visit on March 2011. There did not appear to be any construction activity on the site. A letter was sent to the property owner of record requesting details that could demonstrate that the SP was active.

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

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

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

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

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

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

ANALYSIS

Consistency with the General Plan This property is within the Antioch/Priest Lake Community Plan and there are two land use policies in place. The bulk of the property is within Neighborhood General (NG) policy and a small section is within the Neighborhood Center (NC) policy.

The proposed development is to be accessed from Maxwell Road, Trail Water Drive, and Chutney Drive. Lots will be accessed from new public streets and public alleys. Because the property to the north and east is owned by the Army Corps of Engineers, no stub streets are shown to the north and east.

Amendments/Rezoning As the SP is consistent with the NG and NC policies of the Antioch/Priest Lake Community Plan, at this time the SP 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 required on this property.

STAFF RECOMMENDATION Staff recommends that the Davenport Downs 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.

Find the SP district inactive and directed 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. (8-0), Consent Agenda

Resolution No. RS2011-101

“BE IT RESOLVED by The Metropolitan Planning Commission that 2006SP-081U-13 is FOUND TO BE INACTIVE, and staff is directed 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. (8-0)

5. 2007SP-012G-12

SUGAR VALLEY PLACE

Map 181, Parcel(s) 281

Council District 31 (Parker Toler)

Staff Reviewer: Brenda Bernards

The periodic review of an approved Specific Plan (R) district known as "Sugar Valley Place", to determine its completeness pursuant to Section 17.40.106.l of the Metro Zoning Code (Review of a Development Plan), for property located at Nolensville Road (unnumbered) (10.07 acres), approved for 40 townhouse units via Council Bill BL2007-1349 effective on March 23, 2007, review initiated by the Metro Planning Department.

Staff Recommendation: 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 (R) district known as "Sugar Valley Place", to determine its completeness pursuant to Section 17.40.106.l of the Metro Zoning Code (Review of a Development Plan), for property located at Nolensville Road (unnumbered) (10.07 acres), approved for 40 townhouse units via Council Bill BL2007-1349 effective on March 23, 2007.

Zoning Code Requirement Section 17.40.106.l 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 Sugar Valley Place SP is approved for 40 townhouse units which was permitted under the original RM4 zoning district. The SP allowed for flexibility of setbacks. The street setback on a non-arterial street in the RM4 district is 70 feet from the centerline. The setback for this SP is 40 feet.

Approximately half of the site is constrained with floodplain. The units are clustered in the part of the site that is out of the floodplain. Two soccer fields are proposed in the floodplain. A combination of private streets and alleys are included within the development.

SPECIFIC PLAN REVIEW Staff conducted a site visit on March 2011. There did not appear to be any construction activity on the site. A letter was sent to the property owner of record requesting details that could demonstrate that the SP was active.

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

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

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

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

1. The appropriateness of the continued implementation of the development plan or phase(s) as adopted, based on current conditions and circumstances; and
2. Any recommendation to amend the development plan or individual phase(s) to properly reflect existing conditions and circumstances,

and the appropriate base zoning classification(s) should the SP district be removed, in whole or in part, from the property.

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

ANALYSIS

Consistency with the General Plan This property is within the Southeast Community Plan. The land use policy in place is Residential Low Medium (RLM) which is intended to accommodate residential development within a density range of two to four units per acre. The SP falls within the density range of the policy and the layout of the SP groups the units on the portion of the property that is outside of the floodplain.

Amendments/Rezoning As the SP is consistent with the RLM policy of the Southeast Community Plan, at this time the SP 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 required on this property.

STAFF RECOMMENDATION Staff recommends that the Sugar Valley Place 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.

Find the SP District inactive and directed 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. (8-0), Consent Agenda

Resolution No. RS2011-102

"BE IT RESOLVED by The Metropolitan Planning Commission that 2007SP-012G-12 is **FOUND TO BE INACTIVE, and staff is directed 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. (8-0)**

6. 2007SP-013G-13

CREEKWAY GARDEN CENTER

Map 175, Parcel(s) 072

Council District 32 (Sam Coleman)

Staff Reviewer: Brenda Bernards

The periodic review of an approved Specific Plan (C) district known as "Creekway Garden Center", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code (Review of a Development Plan), for property located at 4088 Murfreesboro Road (3.4 acres), approved for a Landscape Sales/Garden Center to include two 1,000 square foot green houses, 1,290 square feet of office space, an 860 square foot warehouse and a 500 square foot garage via Council Bill BL2007-1337 effective on March 23, 2007, review initiated by the Metro Planning Department.

Staff Recommendation: FIND THE SP DISTRICT COMPLETE

APPLICANT REQUEST - Four year SP review to determine activity.

SP Review The periodic review of an approved Specific Plan (C) district known as "Creekway Garden Center", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code (Review of a Development Plan), for property located at 4088 Murfreesboro Road (3.4 acres), approved for a Landscape Sales/Garden Center to include two 1,000 square foot green houses, 1,290 square feet of office space, an 860 square foot warehouse and a 500 square foot garage via Council Bill BL2007-1337 effective on March 23, 2007.

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 a garden center. Staff visited the site in March 2011. There is a garden center operating on the property.

STAFF RECOMMENDATION Staff recommends that the Creekway Garden Center SP be found to be complete.

Find the SP District complete. (8-0), Consent Agenda

Resolution No. RS2011-103

“BE IT RESOLVED by The Metropolitan Planning Commission that 2007SP-013G-13 is **FOUND TO BE COMPLETE. (8-0)**”

7. 2007SP-014U-14

GAYLORD ENTERTAINMENT

Map 062, Parcel(s) 030, 111, 249
Council District 15 (Phil Claiborne)
Staff Reviewer: Brenda Bernards

The periodic review of an approved Specific Plan (MNR) district known as "Gaylord Entertainment", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code (Review of a Development Plan), for properties located at 2750 Pennington Bend Road and at 2700 and 2701 McGavock Pike (106.9 acres), approved for all land uses allowed in the CA (Commercial Amusement) District via Council Bill BL2007-1357 effective on March 23, 2007, review initiated by the Metro Planning Department.

Staff Recommendation: FIND THE SP DISTRICT ACTIVE

APPLICANT REQUEST - Four year SP review to determine activity

SP Review The periodic review of an approved Specific Plan (MNR) district known as "Gaylord Entertainment", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code (Review of a Development Plan), for properties located at 2750 Pennington Bend Road and at 2700 and 2701 McGavock Pike (106.9 acres), approved for all land uses allowed in the CA (Commercial Amusement) District via Council Bill BL2007-1357 effective on March 23, 2007.

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

Development within each 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 purpose of the Gaylord Entertainment SP is to allow the Gaylord Entertainment Company to develop these properties "in a manner that builds upon the entertainment-based industry that has co-existed compatibly with the other land uses in this unique area for well over 30 years."

Analysis Staff visited the site March 2011. There was no apparent development activity on the property. Prior to staff's sending a request for documentation to demonstrate activity, the owners' representative submitted the following to show the level of activity currently underway on this SP:

In anticipation of the Planning Commission's four year review of this SP district, we present the following summary of the major activity Gaylord has completed since the rezoning was approved:

- A private residence at 2724 Pennington Bend (1.5 acres) was purchased on December 13, 2006. Acquisition of this site furthers the completion of the ownership of property in the immediate site area allowing maximum development potential. In 2010, the house was removed and the site was cleared.
- A private residence at 2728 Pennington Bend (.5 acres) was purchased on June 11, 2007. Acquisition of this site furthers the completion of the ownership of property in the immediate site area allowing maximum development potential. In 2010, the site was cleared.
- The parcel on the west side of McGavock Pike, north of Kimberly Drive and adjacent to tow Rivers Baptist Church (13.63 acres) was purchased on August 9, 2010 from the church. Acquisition of this site maximizes the development potential and enhances potential entrance/exit design and future traffic management options to the subject site.
- Regular care of the grounds (cutting grass, shrubs, debris removal, fence maintenance, etc.)

Gaylord has invested nearly \$4million to acquire and maintain these properties. In addition, Gaylord has also incurred in excess of \$200,000 with respect to engineering, traffic studies and legal fees in pursuit of the goals of the SP. It is our position that the project is clearly actively under development, and that Gaylord fully intends to implement the approved concept plan.

It is important to note that the local, national and world economies have been in a crisis situation for the past three years. The economic challenges have been compounded for Gaylord and Metro Nashville by the devastating flood that occurred in May 2010. As Gaylord and

greater Metro Nashville continue to recover from the flood and the economy gradually improves, we continue to make progress toward accomplishing our long term development plan for this site.

In addition, the owner's representative provided the following details of activities that have occurred on this property:

The site in question which is the subject of the Gaylord SP (approximately 100 acres) is used generally 6 to 8 times a year for special events. These events include items such as the NES lineman rodeo, Polaris (Ride and Drive) demonstrations, Club Cadet (mowing demonstrations), Case New Holland (tractors) and Caterpillar (heavy equipment demonstrations). These type of activities have been relatively consistent through the last 4 years.

ANALYSIS In reviewing the documentation provided, staff finds that the owner's representative has described an aggregate of actions that indicates activity. Staff recommends that this SP be found active and that it be placed back on the four-year review list. At that time, if the SP is not found to be complete, the owner will need to demonstrate that additional activity has taken place in the SP in order for it to be found active. Staff would note, however, that at this time the SP remains appropriate for the site and area.

STAFF RECOMMENDATION Staff recommends that the Gaylord Entertainment SP be found to be active.

Find the SP District active. (8-0), Consent Agenda

Resolution No. RS2011-104

"BE IT RESOLVED by The Metropolitan Planning Commission that 2007SP-014U-14 is **FOUND TO BE ACTIVE. (8-0)**"

8. 2007SP-015U-10

THE GLEN

Map 104-08-0-M, Parcel(s) 200, 202, 204, 207-212, 215, 301-305, 307, 308, 310-312, 315, 401-405, 407-412, 414, 415, 512, 900

Council District 19 (Erica S. Gilmore)

Staff Reviewer: Brenda Bernards

The periodic review of an approved Specific Plan district known as "The Glen", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code (Review of a Development Plan), for properties located at 1706 18th Avenue South (0.54 acres), approved for 38 multi-family condominium units and a parking garage via Council Bill BL2007-1341 effective on March 23, 2007, review initiated by the Metro Planning Department.

Staff Recommendation: FIND THE SP DISTRICT COMPLETE

APPLICANT REQUEST - Four year SP review to determine activity.

SP Review The periodic review of an approved Specific Plan (R) district known as "The Glen", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code (Review of a Development Plan), for properties located at 1706 18th Avenue South (0.54 acres), approved for 38 multi-family condominium units and a parking garage via Council Bill BL2007-1341 effective on March 23, 2007.

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 a multi-family building. Staff visited the site in March 2011. There is a multi-family building on the property.

STAFF RECOMMENDATION Staff recommends that The Glen SP be found to be complete.

Find the SP District complete. (8-0). Consent Agenda

Resolution No. RS2011-105

"BE IT RESOLVED by The Metropolitan Planning Commission that 2007SP-015U-10 is **FOUND TO BE COMPLETE. (8-0)**"

9. 2007SP-019U-14

NORTH LAKE TOWNHOMES

Map 096, Parcel(s) 059-060

Council District 14 (James Bruce Stanley)

Staff Reviewer: Brenda Bernards

The periodic review of an approved Specific Plan (MU) district known as "North Lake Townhomes", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code (Review of a Development Plan), for properties located at 541 and 551 Stewarts Ferry Pike (4.57 acres), approved for 20 townhomes and 4,000 square feet of warehouse space via Council Bill BL2007-1343 effective on March 23, 2007, review initiated by the Metro Planning Department.

Staff Recommendation: DEFER to the May 26, 2011, Planning Commission meeting.

Defer to the May 26, 2011 Planning Commission meeting. (8-0),

The Metropolitan Planning Commission DEFERRED 2007SP-019U-14 to the May 26, 2011, Planning Commission meeting at the request of the applicant. (8-0)

10. 2007SP-026U-11

EUROTECH AUTOMOBILE REPAIR

Map 119-09, Parcel(s) 202

Council District 16 (Anna Page)

Staff Reviewer: Brenda Bernards

The periodic review of an approved Specific Plan (A) district known as "Eurotech Automotive Repair & Service Facility", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code (Review of a Development Plan), for property located at 2849 Logan Street (0.31 acres), approved for a 7,500 square foot automobile repair facility via Council Bill BL2007-1348 effective on March 23, 2007, review initiated by the Metro Planning Department.

Staff Recommendation: FIND THE SP DISTRICT ACTIVE

APPLICANT REQUEST - Four year SP review to determine activity.

SP Review The periodic review of an approved Specific Plan (A) district known as "Eurotech Automotive Repair & Service Facility", to determine its completeness pursuant to Section 17.40.106.I of the Metro Zoning Code (Review of a Development Plan), for property located at 2849 Logan Street (0.31 acres), approved for a 7,500 square foot automobile repair facility via Council Bill BL2007-1348 effective on March 23, 2007.

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.

Development within each 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 includes a 7,500 square foot building for auto-repair and services. Access is provided by a private drive off Logan Street. Four parking spaces are provided between the building and Logan Street and four parking spaces are provided at the rear of the building with a total of eight parking spaces.

Determination of Activity Staff visited the site in March 2011. There was no activity on the site. The property owner responded to the letter sent by Planning Staff.

This property was purchased by the current owner after the SP district was in place with the intention of opening an auto repair facility. The house that had been on this property was demolished in 2009 and the owner is actively seeking financing to build an auto repair facility.

ANALYSIS After discussions with the owner, staff finds that the owner has described an aggregate of actions that indicates activity. Staff recommends that this SP be found active and that it be placed back on the four-year review list. At that time, if the SP is not found to be complete, the owner will need to demonstrate that additional activity has taken place in the SP in order for it to be found active. Staff would note, however, that at this time the SP remains appropriate for the site and area. While SP is not consistent with the Mixed Housing in Neighborhood Urban policy of the South Nashville Community Plan, at the time of the approval of this SP, it was noted that the area is not residential in character and the existing zoning and growth trend is commercial and light industrial in nature.

STAFF RECOMMENDATION Staff recommends that the Eurotech Automobile Repair SP be found to be active.

Find the SP District active (8-0), Consent Agenda

Resolution No. RS2011-106

"BE IT RESOLVED by The Metropolitan Planning Commission that 2007SP-026U-11 is FOUND TO BE ACTIVE. (8-0)"

11. 2011SP-004-001

SMITH SPRINGS ROAD

Map 135, Parcel(s) 146-148, 163
Council District 29 (Vivian Wilhoite)
Staff Reviewer: Brenda Bernards

A request to rezone from R20, RM9, and IWD to SP-MU zoning for properties located at 2114 Smith Springs Road, 1806 Reynolds Road, 1812 Reynolds Road and at Reynolds Road (unnumbered), approximately 1,700 feet north of Smith Springs Road (48.57 acres), to permit a maximum of 950,000 square feet of industrial, office, warehouse and distribution, up to 78 multi-family residential units and open space uses, requested by Dale & Associates, applicant, Stevenson Trust No. 8, owner.

Staff Recommendation: APPROVE WITH CONDITIONS

Defer to the May 12, 2011 Planning Commission meeting. (8-0),

The Metropolitan Planning Commission DEFERRED 2011SP-004-001 to the May 12, 2011, Planning Commission meeting at the request of the applicant. (8-0)"

Zone Changes

12. 2011Z-009PR-001

BL2011-883 / JAMESON

501 CHURCH STREET

Map 093-06-1, Parcel(s) 082
Council District 06 (Mike Jameson)
Staff Reviewer: Greg Johnson

A request to rezone from SP to DTC district property located at 501 Church Street, at the southwest corner of Church Street and 5th Avenue North (1.22 acres) and located within the Capitol Mall Redevelopment District, requested by the Metro Planning Department, applicant, 501 LLC, owner.

Staff Recommendation: APPROVE DTC zoning with Core Subdistrict designation.

APPLICANT REQUEST -Zone change from Specific Plan zoning to Downtown Code zoning

Zone Change A request to rezone from Specific Plan (SP) to Downtown Code (DTC) district property located at 501 Church Street, at the southwest corner of Church Street and 5th Avenue North (1.22 acres) and located within the Capitol Mall Redevelopment District.

Existing Zoning

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

Proposed Zoning

DTC - DTC is a form-based zoning classification that was tailored to the recommendations of the Subarea 9 (Downtown) community plan update from 2007.

CRITICAL PLANNING GOALS

- Preserves Historic Resources
- Creates Walkable Neighborhoods
- Supports Infill Development
- Promotes Compact Building Design

DTC zoning was created specifically to preserve the existing urban form of development throughout Nashville's downtown. The zone places emphasis on preserving the high-level of walkability through building placement/design standards. Infill development that respects surrounding development is encouraged within the DTC zone. Compact building design is encouraged through multi-story buildings and a bonus height allowance for LEED certification.

DOWNTOWN COMMUNITY PLAN

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

Downtown Core (DC) DC policy is intended for the heart of the downtown area and the surrounding area that contains supporting uses. The Downtown Core constitutes the single largest concentration of non-residential development in the city. Offices are the predominant type of development, although the Downtown Core contains a very diverse array of land uses including retail, entertainment, community facilities, government services, and higher density residential.

Consistent with Policy? Yes. The proposed DTC zoning is consistent the MxU in DC land use policy. The DTC zoning classification is a form-based zoning that was tailored to the specifications of the Downtown Community Plan. DTC zoning was approved in February 2010 and has been applied to almost every property in downtown Nashville.

ANALYSIS This SP district was brought to the Planning Commission at the February 24, 2011, meeting for a four year SP review. At the meeting, the Planning Commission found the SP to be inactive and recommended a zone change of the subject property to DTC zoning.

Following the Planning Commission recommendation, a Council bill was sponsored by Councilmember Jameson to change the zoning to DTC. Planning staff has prepared a staff report and public hearing notices because the zone change is required to follow the standard process for a zone change.

Recommendation from the February 24, 2011 staff report Staff recommends that the property be rezoned to DTC. As noted above, the DTC better implements the Downtown Community Plan. This property is in a Mixed Use policy in the Core. The Core is the heart of the Downtown business district, the economic engine of the Middle Tennessee region, and a significant economic force in the Southeast. It is the densest neighborhood in Downtown and is intended to accommodate a mix of uses with an emphasis on office in high-rise buildings.

The DTC implements the community vision for Downtown outlined in the Downtown Community Plan and provides more certainty to the development process, by replacing the Commercial Core (CC) with form-based zoning, which provides clear standards for the form of development and a clear understanding for each property owner of what their entitlements and obligations are.

The DTC allows more development rights than the CC zoning district and permits additional land uses. In addition, the DTC includes basic urban design standards to ensure a safe, interesting, and comfortable experience in the public realm. As discussed in the Downtown Community Plan, pedestrian comfort and safety is prioritized with an interesting sidewalk realm, activity on the ground level of buildings, and controlled vehicular access.

There is a height limit of 30 stories in the DTC but this property is eligible for the Bonus Height Program. This program gives additional height in exchange for the following public benefit contributions:

- Leadership in Energy and Environmental Design - (LEED) certification of individual buildings.
- LEED for Neighborhood Development.
- Pervious surface.
- Publicly-accessible Open Space.
- Workforce Housing,
- Civil Support Space,
- Upper-level garage liners.
- Underground parking.

PUBLIC WORKS RECOMMENDATION No exception taken.

Because the proposed zoning classification will not generate more vehicle trips than the current zoning classification, a traffic table was not generated.

METRO SCHOOL BOARD REPORT

Projected Student Generation Because this request will not increase the permitted residential density on the subject property, the number of expected students to be generated would not increase under the proposed zoning.

STAFF RECOMMENDATION Staff recommends approval of the proposed DTC zoning district because it is consistent with the land use policy and the Downtown Community Plan.

Approved DTC zoning with Core Subdistrict designation. (8-0), Consent Agenda

Resolution No. RS2011-107

“BE IT RESOLVED by The Metropolitan Planning Commission that 2011Z-009PR-001 is **APPROVED DTC zoning with Core Subdistrict designation. (8-0)**

The request is consistent with the land use policy within with Downtown Community Plan.”

13. 2011Z-010PR-001

BL2011-892 / GOTTO

787, 795 & 799 OLD LEBANON DIRT ROAD

Map 087, 187 and Part of Parcel(s) 002-003

Council District 12 (Jim Gotto)

Staff Reviewer: Brian Sexton

A request to rezone from RS15 to AR2a district for property located at 787 Old Lebanon Dirt Road and for a portion of properties located at 795 and 799 Old Lebanon Dirt Road, approximately 1,200 feet west of N. New Hope Road (7.42 acres), requested by Councilmember Jim Gotto, applicant, Graham and Dorothy Reed and Darren and Kimberly Reed, owners.

Staff Recommendation: APPROVE

APPLICANT REQUEST - Zone change from Single-Family Residential to Agricultural/Residential zoning

Zone Change A request to rezone from Single-Family Residential (RS15) to Agricultural/Residential (AR2a) district for property located at 787 Old Lebanon Dirt Road and for a portion of properties located at 795 and 799 Old Lebanon Dirt Road, approximately 1,200 feet west of N. New Hope Road (7.42 acres).

Existing Zoning

RS15 district -RS15 requires a minimum 15,000 square foot lot and is intended for single-family dwellings at a density of 2.47 dwelling units per acre.

Proposed Zoning

AR2a District- Agricultural/Residential requires a minimum lot size of 2 acres and intended for uses that generally occur in rural areas, including single-family, two-family, and mobile homes at a density of one dwelling unit per 2 acres. The AR2a District is intended to implement the natural conservation or rural land use policies of the general plan. *The AR2a zoning would permit 3 lots.*

CRITICAL PLANNING GOALS N/A

DONELSON/HERMITAGE COMMUNITY PLAN

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

Consistent with Policy? While the proposed zone change is not consistent with the density called for by the RLM policy, it is consistent in terms of the residential uses allowed and the existing zoning and character of the surrounding parcels.

The property is surrounded by existing AR2a zoning along the northern, eastern and western boundaries of the property. There are two separate existing single family residences on the property that will remain. The applicant has requested this rezoning so that a horse stable will be a permitted use for this property. In addition, the AR2a zoning will not preclude the future development of this property at a density range consistent with the RLM policy.

PUBLIC WORKS RECOMMENDATION A Traffic Impact study may be required at development.

Maximum Uses in Existing Zoning District: **RS15**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Residential (210)	7.42	2.47 D	18 L	173	14	19

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

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Residential (210)	7.42	0.5 D	3 U	29	3	4

Traffic changes between maximum: **RS15** and proposed **AR2a**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	- 15	-144	-11	-15

METRO SCHOOL BOARD REPORT

Projected Student Generation As this request represents a down zoning, the number of expected students to be generated would be less than could be generated under current zoning.

STAFF RECOMMENDATION Staff recommends that the request be approved. The request would bring the property more into compliance with the existing residential character of the area. In addition, the AR2a zoning will not preclude the future development of this property at a density range consistent with the RLM policy.

Approved (8-0), Consent Agenda

Resolution No. RS2011-108

“BE IT RESOLVED by The Metropolitan Planning Commission that 2011Z-010PR-001 is **APPROVED. (8-0)**

The request will bring the property more into compliance with the existing residential character of the area. In addition, the AR2a zoning will not preclude the future development of this property at a density range consistent with the RLM policy.”

14. 2011Z-011PR-001

BL2011-895 / BURCH, DOMINY

CURREY ROAD DOWNZONING

Map 120, Parcel(s) 077-084, 129, 135-137

Map 120-13, Parcel(s) 023-036, 039-047, 091

Map 120-14, Parcel(s) 001-008, 170-186
Map 134-01, Parcel(s) 036.01, 001-073
Map 134-02, Parcel(s) 001-023, 036-042, 046
Council District 13 (Carl Burch); 28 (Duane Dominy)
Staff Reviewer: Greg Johnson

A request to rezone from R10 to RS10 zoning for various properties located along Bel Air Drive, Catalina Drive, Cornet Drive, Currey Road, McGavock Pike and Vinson Drive (182.38 acres) with a portion of the properties along Currey Road being located within the Central State Redevelopment District, requested by Councilmembers Carl Burch and Duane Dominy for various property owners.

Staff Recommendation: APPROVE

APPLICANT REQUEST -Zone change from One and Two Family Residential to Single-Family Residential

Zone Change A request to rezone from One and Two Family Residential (R10) to Single-Family Residential (RS10) zoning for various properties located along Bel Air Drive, Catalina Drive, Cornet Drive, Currey Road, McGavock Pike and Vinson Drive (182.38 acres) with a portion of the properties along Currey Road being located within the Central State Redevelopment District.

Existing Zoning

R10 District - R10 requires a minimum 10,000 square foot lot and is intended for single -family dwellings and duplexes at an overall density of 4.63 dwelling units per acre including 25% duplex lots.

Proposed Zoning

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

CRITICAL PLANNING GOALS N/A

ANTIOCH/PRIEST LAKE COMMUNITY PLAN

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

Impact (I) I areas are intended for areas with existing areas that are dominated by one or more activities that have, or can have, a significant adverse impact on the surrounding area. Appropriate uses include hazardous industrial operations, airports, correctional facilities, and other large institutions that are a safety risk, as well as large amusement and entertainment complexes.

Consistent with Policy? Yes. The proposed RS10 zoning is consistent with both RLM and Impact policies and is an acceptable zoning classification for these policies. RLM policy allows for residential development of about two to four units per acre. The proposed zoning is within that density range.

Impact policy allows for industrial development and is not generally considered appropriate for residential development. However, new residential development is not proposed with this zone change, and the proposed zoning classification will result in equal or less density than the current zoning if redevelopment occurs.

According to Metro land use data, there are five duplex/multi-family residential uses within the zone change area that would become non-conforming uses under the proposed RS10 zoning. According to section 17.40.650 of the Zoning Code, which outlines procedures for continuing non-conforming land uses, these non-conforming uses would be permitted to continue under the proposed zoning.

PUBLIC WORKS RECOMMENDATION No exception taken

Because the proposed zoning classification will generate fewer vehicle trips than the current zoning classification, a traffic table was not generated.

METROPOLITAN DEVELOPMENT AND HOUSING (MDHA) RECOMMENDATION

This zone change request is located within the Central State Redevelopment District. At this time, MDHA does not have any objection.

STAFF RECOMMENDATION Staff recommends approval of the proposed RS10 zoning district because it is consistent with the RLM and Impact land use policies.

Mr. Johnson presented the staff recommendation of Approval.

Councilman Dominy spoke in favor of the request and asked for approval.

Bob Baum, 641 Bel Air Drive, spoke in support of staff recommendation.

Catherine Joyce Vaughn, 519 Catalina Drive, spoke against staff recommendation.

Dr. Cummings moved and Mr. Gee seconded the motion to close the Public Hearing. (7-0)

Mr. Gee stated that he is very cautious on these cases. He said he is undecided at the moment and would like to hear what the other commissioners have to say.

Ms. Jones inquired how would we ever enforce a 25% rule?

Mr. Johnson clarified that the 25% rule applies to new subdivisions only, not existing zoning.

Ms. LeQuire stated that she has no aversion to duplexes. If they are well designed, they are a good thing to have in our community. They allow diversity and income for the neighborhood. Ms. LeQuire stated concerns with downzoning.

Chairman McLean reminded the commission that the request is from the neighbors. The ones that want to opt out, can.

Mr. Ponder stated that he is very much in favor of this proposal.

Ms. Escobar inquired if each individual property owner can opt out?

Mr. Bernhardt clarified that each property owner does not have the right to opt out. The Councilman indicated that he would opt out any property owners that request it.

Ms. LeQuire asked the Councilman how many are in support of this proposal?

Councilman Dominy responded that over 30 people signed the initial petition.

Chairman McLean asked the Councilman if there are properties in this area that are owned by the airport? If so, should they be downzoned and then rezoned to they can not ever be residential again?

Mr. Bernhardt stated that we should get with the Airport Authority as they will probably be supportive of another larger bill.

Councilman Dominy stated that he will opt out those that request it.

Dr. Cummings stated that she is against this downzoning. If we downzone this, then we are creating a situation where we won't have any opportunity for mixed housing.

Mr. Gee asked the Councilman if the existing duplexes will be excluded? If not, they will become nonconforming.

Councilman Dominy stated that it will be up to each individual property owner if they want to opt out.

Mr. Gee asked Mr. Sloan if they are nonconforming to the zoning, can they simply choose to tear down their duplex and rebuild? Or does it have to be due to damage/destruction?

Mr. Sloan stated that a nonconforming two family structure within an RS district may be restored within two years regardless of damage or destruction.

Ms. Jones stated that as it is currently zoned, all of these can become duplexes with no provision for a happy medium.

Mr. Ponder moved to approve staff recommendation. There was not a second to the motion so the motion failed.

Ms. LeQuire moved and Mr. Gee seconded the motion to disapprove staff recommendation. (6-1) Mr. Ponder voted against.

Resolution No. RS2011-109

"BE IT RESOLVED by The Metropolitan Planning Commission that 2011Z-011PR-001 is **DISAPPROVED. (6-1)**

By limiting development within the affected boundary to single-family residential, the community will have fewer opportunities to provide housing diversity and choice. The current zoning classification, which allows for one and two family residential development, is consistent with land use policy."

Urban Design Overlays

15. 2011UD-001-001

BL2011-880 / LA LONDE

PRIMROSE

Map 117-03, Parcel(s) 057, 059-062
Map 117-04, Parcel(s) 327-376
Map 117-04-0-H, Parcel(s) 001-002, 900
Map 117-08, Parcel(s) 001-011
Council District 18 (Kristine LaLonde)
Staff Reviewer: Kathryn Withers

A request to apply the Primrose Urban Design Overlay to properties located on Primrose Circle and Primrose Avenue west of Brightwood Avenue (17.18 acres), zoned R8, to apply design standards regarding building height, setbacks, frontage, and driveways, requested by the Metro Planning Department on behalf of Councilmember Kristine LaLonde.

Staff Recommendation: APPROVE

APPLICANT REQUEST -Adopt the Primrose Urban Design Overlay (UDO) to apply design standards regarding building height, setbacks, frontage, and driveways to the Primrose neighborhood.

UDO (preliminary) A request to apply the Primrose Urban Design Overlay to properties located on Primrose Circle and Primrose Avenue west of Brightwood Avenue (17.18 acres), zoned One and Two Family Residential (R8), to apply design standards regarding building height, setbacks, frontage, and driveways.

Existing Zoning

R8 requires a minimum 8,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 5.79 dwelling units per acre including 25 percent duplex lots.

CRITICAL PLANNING GOALS

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

The Primrose UDO will support appropriate infill by ensuring that new development is consistent in scale and mass with existing homes.

The UDO will also preserve housing choice by allowing single- and two-family homes to continue to be built, but under the UDO standards. The Primrose neighborhood, like many inner-ring neighborhoods, has faced tear down and reconstruction trends with larger two-family homes replacing smaller existing homes. Presented with this change, many of these neighborhoods have chosen to rezone to single-family only zoning.

The Primrose Neighborhood studied the options available to them and approached the Planning Department about preparing an Urban Design Overlay that would not be overly restrictive and would still allow two-family homes to be built, but would preserve the scale and massing of the neighborhood. A committee of neighbors worked closely with Planning Staff to prepare the standards in the UDO.

GREEN HILLS/MIDTOWN COMMUNITY PLAN

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

Consistent with policy? Yes. The proposed UDO is consistent with the land use policy for the area and will ensure that future infill is compatible with the existing character of the neighborhood.

PLAN DETAILS

Background The Primrose neighborhood was created in 1941 as part of the plat of the Belmont Terrace Subdivision. The homes that were constructed were of similar character, generally 1.5 stories tall, with single width driveways leading to parking areas, carports behind the house or garages under the house. The neighborhood is currently zoned R8, but many of the standards of R8 zoning permit development that is out of character with the scale of the original homes.

This Urban Design Overlay (UDO) has been created to maintain the scale of the existing homes. The UDO is not intended to dictate style, architecture or require new construction to exactly replicate the existing homes. The standards of the UDO focus primarily on the front of the house and yard - through the standards for height, setbacks and driveways/garages.

Regulating Plan The Regulating Plan of the Primrose UDO is divided into two different subdistricts, with slightly varied development standards. The following is a brief description of each subdistrict.

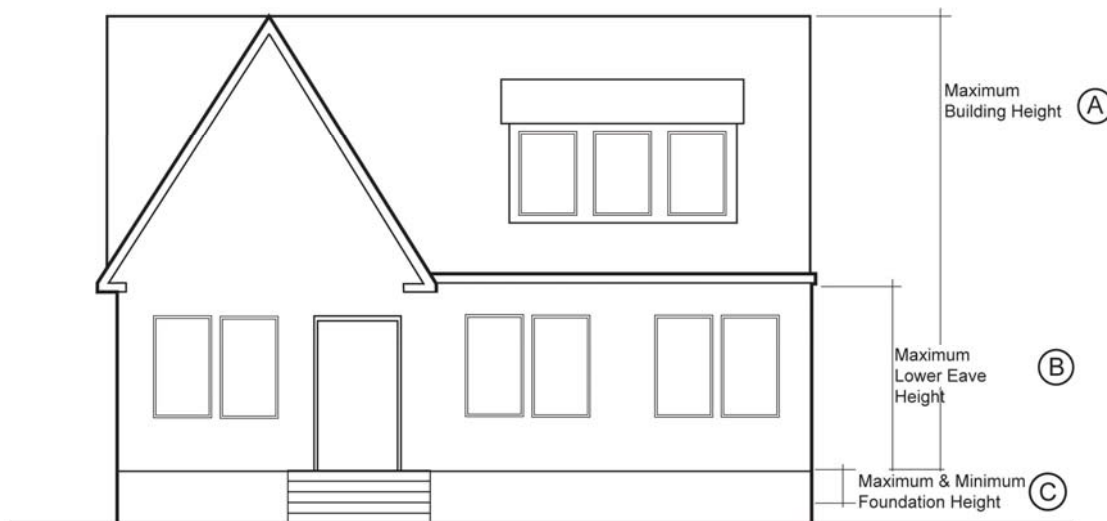
Subdistrict 1 These lots make up the majority of the Primrose UDO. The homes that were constructed were all of similar character, generally 1.5 stories tall (20-22 feet), with single width driveways leading to parking areas, carports behind the house, or garages under the house.

Subdistrict 2 These lots are of similar character to the lots of Subdistrict 1, but were impacted by the construction of I-440 and essentially do not have rear yards. These lots are also less than the minimum lot size required by the R8 zoning district and are ineligible to construct a duplex. To allow a small increase in development rights, they have a lesser required street setback than Subdistrict 1.

Height The standards for height will have the most impact in ensuring compatibility of new development. The current R8 zoning standards allow a maximum height of 3 stories and 45 feet. This 45 foot height is in addition to a foundation as tall as 7 feet. This standard would allow a new structure to stand twice as tall, up to 52 feet, as the average existing home in the Primrose neighborhood.

The UDO standard proposes to regulate height at three points of the front façade – the maximum overall building height (A) of 27 feet from the top of foundation, and a maximum lower eave height of the main roof structure (B) of 12 feet from the top of foundation. Additionally, standards for height of foundation (C) are 18 inches minimum and a maximum height of five feet. This would allow for a maximum height of 32 feet.

An exception is proposed for existing houses exceeding the maximum building height specified in the Bulk Standards Table. They may use their existing height as the maximum building height for future expansions or construction.



Setbacks The only setback that is varied from the standards for R8 district is the front setback. For Subdistrict 1, the standard for the front setback is the average of the street setback of the lots immediately adjacent on either side of the lot, or 30 feet from front property line per the recorded subdivision plat, whichever is greater. Corner lots may reduce the required setback along the street running parallel with the side of the residential structure to 30 feet from the property line. For Subdistrict 2, the street setback is 25 feet from the front property line to allow some development potential for the lots impacted by the acquisition of right of way for I-440.

For Subdistrict 1, the objective is to maintain the existing character of front setbacks and existing standards. In Subdistrict 2, a slightly reduced standard is proposed because there is little to no expansion potential in the rear of these lots and the ability to build up will be limited by the new standards proposed by the Primrose UDO. This will allow some expansion potential.

Garage Location/Setback In Subdistrict 1, garages are to either be detached and located behind the principal structure, or attached and accessed from the side or rear. This is to maintain the current location of garages in this area and to prevent the creation of front loaded garages with new home construction.

In Subdistrict 2, where it is not possible to place a garage behind the house because there is little or no rear yard, the requirement is that the garage be setback 5 feet behind the front façade. This standard is proposed to allow for the construction of garages if desired, but to ensure that they are located in a way to minimize their impact on the character of the neighborhood.

Driveways and Parking One driveway is allowed per street frontage. The driveway width standard is 8 feet minimum – 12 feet maximum, with a requirement that it must be 12 feet wide through the right-of-way to allow for turning movements. Driveways are required to be setback 2 feet from side and rear property lines, with a requirement that it must be setback 4 feet from the side property line through the right-of-way per Metro Code 13.12.110. This standard is to prevent paving right up to the property line, which can cause stormwater runoff and erosion problems for adjoining property owners.

The number of required parking spaces is not being varied by the UDO; it remains what would currently be required for a property zoned R8. An existing Zoning Code standard that has not always been adhered to in the past, but is important to the members of the Primrose Neighborhood is highlighted in the UDO - *No-off street parking is permitted within any required street setback area, unless located in a driveway (Zoning Code Section 17.20.060 D)*. This standard prohibits the creation of parking pads in the front yard.

Compliance Full compliance with the Development Standards shall be required when:

- Property is redeveloped or vacant property is developed.
- The building square footage is being expanded; the expansion shall be in compliance with all applicable Development Standards.

- When a new structure is built on a lot with multiple structures, the new structure shall be in compliance with all Development Standards.

Compliance with the parking and driveways standards will become effective when the UDO is adopted. Existing non-compliant situations will be “grandfathered” but changes after the effective date of the UDO to parking or driveways must be consistent with the standards of the UDO.

Modifications Based on site-specific issues, modifications to the standards may be necessary. Any standard within the UDO may be modified, insofar as the intent of the standard is being met; the modification results in better urban design for the neighborhood as a whole; and the modification does not impede or burden existing or future development of adjacent properties. The process for approving modifications is as follows:

Minor modifications – deviations of 20 percent or less – may be approved by the Planning Commission’s designee. Major modifications – deviations of 21 percent or more – shall be approved by the Planning Commission.

PUBLIC WORKS RECOMMENDATION No Exception Taken

Driveway setback should be revised to 4 feet from the property lines within the public right-of-way per the metro code 13.12.110.

On-site parking should be per code providing a minimum of 2 parking spaces on site per single family unit.

(Planning Staff Note: These standards are included in the UDO, or are already a requirement of zoning, so they are not being included as conditions of approval.)

STAFF RECOMMENDATION Staff recommends approval of the Primrose UDO.

Approved (8-0), Consent Agenda

Resolution No. RS2011-110

“BE IT RESOLVED by The Metropolitan Planning Commission that 2011UD-001-001 is **APPROVED. (8-0)**

The Primrose UDO will support appropriate infill development by ensuring that new development is consistent in scale and mass with existing homes.”

Planned Unit Developments

16. 158-75P-001

BAR-B-CUTIE

Map 161-08, Parcel(s) 010

Council District 27 (Randy Foster)

Staff Reviewer: Greg Johnson

A request to amend the Bar-B-Cutie Commercial Planned Unit Development Overlay located at 5207 Nolensville Pike, approximately 120 feet north of Brewer Drive, classified CS (1.77 acres), to permit a 560 square foot dining room addition to an existing 6,000 square foot restaurant, James McFarland et ux, owners, requested by MSB Architecture LLC, applicant.

Staff Recommendation: APPROVE WITH CONDITIONS

APPLICANT REQUEST -PUD amendment to add commercial square footage

PUD Amendment A request to amend the Bar-B-Cutie Commercial Planned Unit Development Overlay located at 5207 Nolensville Pike, approximately 120 feet north of Brewer Drive, classified Commercial Services (CS) (1.77 acres), to permit a 560 square foot dining room addition to an existing 6,000 square foot restaurant.

Existing Zoning

CS District -Commercial Service is intended for retail, consumer service, financial, restaurant, office, self-storage, light manufacturing and small warehouse uses.

CRITICAL PLANNING GOALSN/A

PUD AMENDMENT This PUD was originally approved by Council in 1975, for

Plan Details commercial development. The current request would amend the PUD to expand dining space within an existing restaurant facing Nolensville Pike. Because the proposed addition would increase the floor area of the last Council approval by more than 10 percent, the Zoning Code requires that this application be approved by Metro Council. The existing restaurant uses on the site will not change through this PUD amendment.

The proposed amendment meets all requirements of the Zoning Code for parking and setback requirements.

NES RECOMMENDATION

1. No Issues
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).

PUBLIC WORKS RECOMMENDATION On note number one, identify the licensed surveyor who provided the base data and the date of the survey.

FIRE MARSHAL RECOMMENDATION Approved

STORMWATER RECOMMENDATION Approved

STAFF RECOMMENDATION Staff recommends approval with conditions of the PUD amendment because it is consistent with the original PUD approval and complies with applicable requirements of the Zoning Code.

CONDITIONS

1. On note number one, identify the licensed surveyor who provided the base data and the date of the survey.
2. This approval does not include any signs. Signs in planned unit developments must be approved by the Metro Department of Codes Administration except in specific instances when the Metro Council directs the Metro Planning Commission to review such signs.
3. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
4. 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.
5. Prior to any additional development applications for this property, and in no event later than 120 days after the effective date of the enacting ordinance, the applicant shall provide the Planning Department with a corrected copy of the preliminary PUD plan. If a corrected copy of the preliminary PUD plan incorporating the conditions of approval 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 preliminary PUD plan shall be presented to the Metro Council as an amendment to this PUD ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.

Approved with conditions. (8-0), Consent Agenda

Resolution No. RS2011-111

"BE IT RESOLVED by The Metropolitan Planning Commission that 158-75P-001 is **APPROVED WITH CONDITIONS. (8-0)**

Conditions of Approval:

1. On note number one, identify the licensed surveyor who provided the base data and the date of the survey.
2. This approval does not include any signs. Signs in planned unit developments must be approved by the Metro Department of Codes Administration except in specific instances when the Metro Council directs the Metro Planning Commission to review such signs.
3. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
4. 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.
5. Prior to any additional development applications for this property, and in no event later than 120 days after the effective date of the enacting ordinance, the applicant shall provide the Planning Department with a corrected copy of the preliminary PUD plan. If a corrected copy of the preliminary PUD plan incorporating the conditions of approval 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 preliminary PUD plan shall be presented to the Metro Council as an amendment to this PUD

ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.

The request is consistent with the original PUD approval and complies with the applicable requirements of the Zoning Code.”

J. PLANNING COMMISSION ACTIONS

Planned Unit Developments: final site plans

17. 2004P-013-002

MILL CREEK TOWN CENTRE

Map 181, Part of Parcel(s) 255

Council District 31 (Parker Toler)

Staff Reviewer: Jason Swaggart

A request to revise the preliminary plan and for final approval for a portion of the Mill Creek Town Centre Commercial Planned Unit Development located at Nolensville Pike (unnumbered), approximately 760 feet north of Pettus Road, zoned SCC (3 acres), to permit the development of a 25,392 square foot retail store with donation center, drop-off replacing 23,000 square feet of previously approved retail uses, requested by Perry Engineering LLC, applicant, for Legg Investments-Nolensville LLC, owner. (See also Subdivision Case # 2011S-020-001).

Staff Recommendation: APPROVE WITH CONDITIONS

APPLICANT REQUEST - Revise layout and final site plan approval for a portion of the PUD.

Preliminary PUD revision and final approval A request to revise the preliminary plan and for final approval for a portion of the Mill Creek Town Centre Commercial Planned Unit Development located at Nolensville Pike (unnumbered), approximately 760 feet north of Pettus Road, zoned Shopping Center Community (SCC) (3 acres), to permit the development of a 25,392 square foot retail store with donation center, drop-off replacing 23,000 square feet of previously approved retail uses.

Existing Zoning

SCC District -Shopping Center Community is intended for moderate intensity retail, office, restaurant, and consumer service uses for a wide market area.

CRITICAL PLANNING GOALSN/A

PLAN DETAILS The Mill Creek Towne Centre PUD is located along the east side of Nolensville Pike, north of Pettus Road. It was last approved by Council in 2004 for 45 single-family lots, 248 townhomes, and 217,619 square feet of retail, restaurant, and gas station uses. Since the last Council approval the Planning Commission has approved several minor revisions. The last revision was approved in September of 2009.

The residential portion of the development is behind the commercial portion of the development and is mostly developed. The commercial portion of the development is located adjacent to Nolensville Pike and the northern portion is developed. This revision is for the mostly undeveloped southern commercial portion, and is limited to a small portion at the back of the commercial development.

The plan calls for two buildings totaling 23,000 square feet, and located at the rear of the site to be removed and replaced with one larger 25,392 square foot building. As proposed the total floor area in the non-residential portion of the PUD will be 217,848 square feet. While this is 229 square feet beyond what was originally approved by Council, the code permits the Planning Commission to approve increases in floor area from what was approved by Council as long as any increase will not exceed ten percent of what was last approved by Council. A total of 239,380 square feet of floor area is permitted without requiring Council approval.

As proposed the plan meets all zoning requirements and the request is consistent with the concept approved by Council. Since the proposal is consistent with the Council approved concept, does not increase the floor area beyond ten percent of what was approved by Council, and meets all zoning requirements, then staff is recommending that the request be approved with conditions.

PUBLIC WORKS RECOMMENDATION No Exceptions Taken

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.

STORMWATER RECOMMENDATION Approve with conditions:

1. Provide Grading Permit fee of \$915 and NOC.
2. Add note to plans stating that all roof drains are to connect to inlets CB8, CB9, or CB10.

3. For the roadside ditch, change stabilization methods to include matting/sod.

STAFF RECOMMENDATION Staff recommends that the request be approved with conditions. The proposed changes are consistent with the approved plan and meet all zoning requirements.

CONDITIONS

1. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services.
2. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Traffic Engineering Sections of the Metro Department of Public Works for all improvements within public rights of way.
3. This approval does not include any signs. Signs in planned unit developments must be approved by the Metro Department of Codes Administration except in specific instances when the Metro Council directs the Metro Planning Commission to review such signs.
4. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
5. Authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four additional copies of the approved plans have been submitted to the Metro Planning Commission.
6. The PUD final site plan as approved by the Planning Commission will be used by the Department of Codes Administration to determine compliance, both in the issuance of permits for construction and field inspection. Significant deviation from these plans may require reapproval by the Planning Commission and/or Metro Council.
7. A corrected copy of the PUD final site plan incorporating the conditions of approval by the Planning Commission shall be provided to the Planning Department prior to the issuance of any permit for this property, and in any event no later than 120 days after the date of conditional approval by the Planning Commission. Failure to submit a corrected copy of the final PUD site plan within 120 days will void the Commission's approval and require resubmission of the plan to the Planning Commission.

Approved with conditions. (8-0), Consent Agenda

Resolution No. RS2011-112

"BE IT RESOLVED by The Metropolitan Planning Commission that 2004P-013-002 is **APPROVED WITH CONDITIONS. (8-0)**

Conditions of Approval:

1. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Stormwater Management division of Water Services.
2. Prior to the issuance of any permits, confirmation of PUD final site plan approval of this proposal shall be forwarded to the Planning Commission by the Traffic Engineering Sections of the Metro Department of Public Works for all improvements within public rights of way.
3. This approval does not include any signs. Signs in planned unit developments must be approved by the Metro Department of Codes Administration except in specific instances when the Metro Council directs the Metro Planning Commission to review such signs.
4. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
5. Authorization for the issuance of permit applications will not be forwarded to the Department of Codes Administration until four additional copies of the approved plans have been submitted to the Metro Planning Commission.
6. The PUD final site plan as approved by the Planning Commission will be used by the Department of Codes Administration to determine compliance, both in the issuance of permits for construction and field inspection. Significant deviation from these plans may require reapproval by the Planning Commission and/or Metro Council.
7. A corrected copy of the PUD final site plan incorporating the conditions of approval by the Planning Commission shall be provided to the Planning Department prior to the issuance of any permit for this property, and in any event no later than 120 days after the date of conditional approval by the Planning Commission. Failure to submit a corrected copy of the final PUD site plan within 120 days will void the Commission's approval and require resubmission of the plan to the Planning Commission."

18. 89P-019-002

HARPETH GLEN

Map 155, Parcel(s) 074

Council District 35 (Bo Mitchell)

Staff Reviewer: Jason Swaggart

A request to revise the preliminary plan and for final site plan approval for a portion of the Harpeth Glen Residential Planned Unit Development Overlay, located at 8135 Poplar Creek Road (2.19 acres), at the end of Forrest Oaks Drive, zoned RS20, to permit a 195' tall monopole cellular tower, where 11 single-family residential lots were previously approved, requested by RETEL Brokerage Services Inc., applicant, for Charles W. Griffin, owner.

Staff Recommendation: DISAPPROVE unless a plan is approved by Metro Stormwater prior to the April 28, 2011, Planning Commission meeting. If approved by Stormwater prior to the meeting then staff recommends disapproval of the request as a revision, but approval with conditions of the request as an amendment.

Deferred indefinitely. (8-0),

The Metropolitan Planning Commission DEFERRED INDEFINITELY 89P-019-002 at the request of the applicant. (8-0)

K. OTHER BUSINESS

- 19. Amend the 2010-2011 to 2015-2016 Capital Improvements Budget to change Project Number 09HD0001, which provides \$30,000,000 for Metro's Health Center, from "Renovations/Additions to Lentz Health Center" to "Construction of a new health center".**

Approved (8-0), Consent Agenda

Resolution No. RS2011-113

"BE IT RESOLVED by The Metropolitan Planning Commission that the amendment to change the 2010-2011 to 2015-2016 Capital Improvements Budget from "Renovations/Additions to Lentz Health Center" to "Construction of a new health center" is **APPROVED. (8-0)**"

- 20. New employee contract for Donald Anthony.**

Approved (8-0), Consent Agenda

Resolution No. RS2011-114

"BE IT RESOLVED by The Metropolitan Planning Commission that the new employee contract for Donald Anthony is **APPROVED. (8-0)**"

- 21. Employee contract renewal for Greg Johnson, Leslie Meehan, and Cynthia Wood.**

Approved (8-0), Consent Agenda

Resolution No. RS2011-115

"BE IT RESOLVED by The Metropolitan Planning Commission that the renewal of employee contracts for Greg Johnson, Leslie Meehan, and Cynthia Wood is **APPROVED. (8-0)**"

- 22. Historical Commission Report**

- 23. Board of Parks and Recreation Report**

- 24. Executive Committee Report**

25. Executive Director Report

26. Legislative Update

L. MPC CALENDAR OF UPCOMING MATTERS

April 28, 2011

Work Session

2:15pm, 800 Second Ave. South, Metro Office Building, Nash Room

Topic: Home occupation text amendment

MPC Meeting

4 pm, 700 Second Ave. South, Howard Office Building, Sonny West Conference Center

Primrose UDO

Work Session

4:30pm, Sonny West Conference Center

Topic: Receive consultants' preliminary comments on Downtown Sign Standards

May 12, 2011

MPC Meeting

4pm, 700 Second Ave. South, Howard Office Building, Sonny West Conference Center

May 19, 2011

Council Budget Presentation

6:15pm, Metro Courthouse, Council Chamber

M. ADJOURNMENT

The meeting was adjourned at 5:40.

Chairman

Secretary