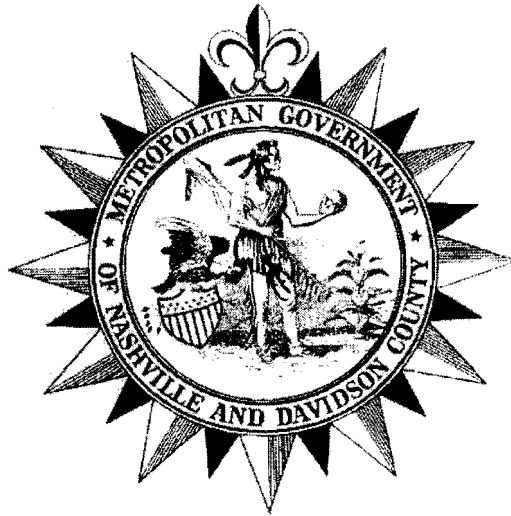


Metropolitan Planning Commission



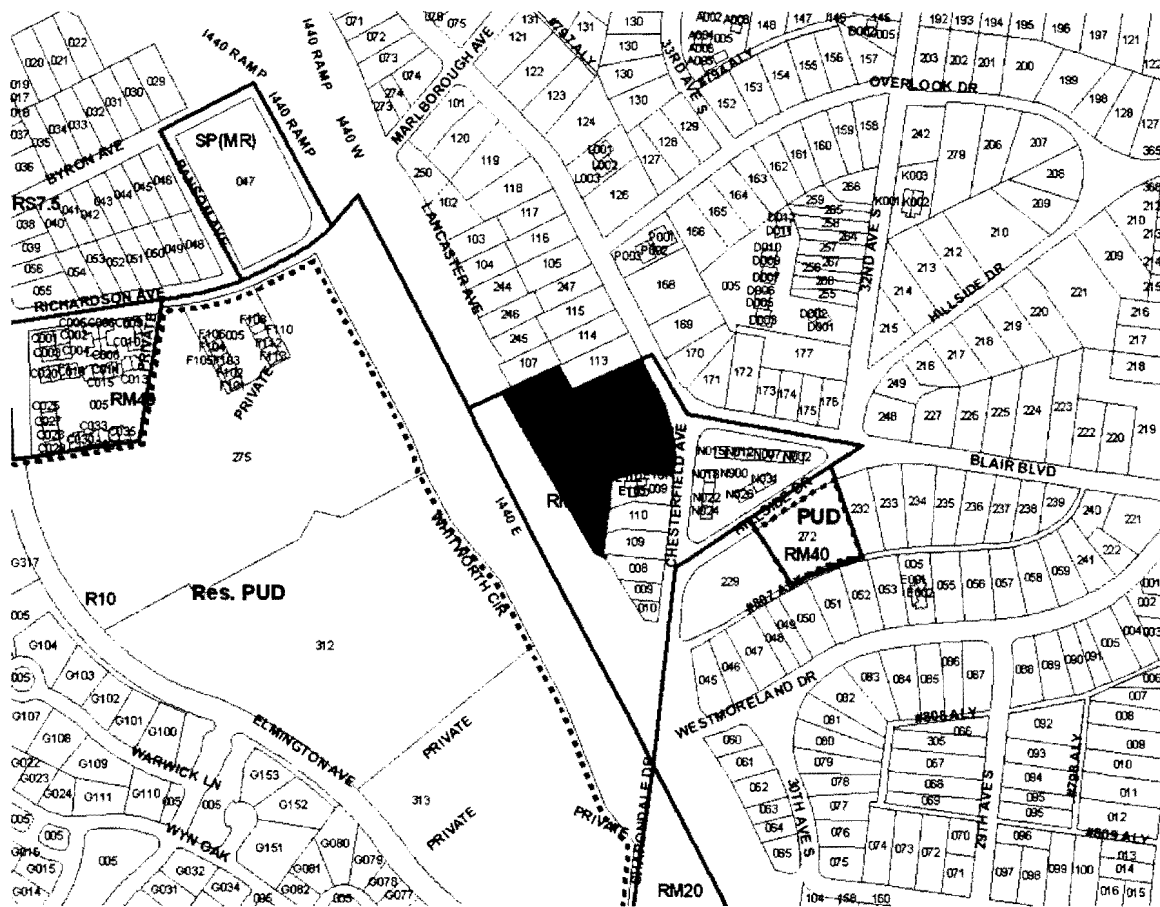
Staff Reports

April 28, 2011

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

PREVIOUSLY DEFERRED ITEMS

- **Community Plan Amendments**
- **Specific Plan**
- **Zoning Amendment**



2011CP-010-001
GREEN HILLS MIDTOWN COMMUNITY PLAN AMENDMENT
 Map 104-10, Parcel(s) 108
 Green Hills - Midtown
 18 - Kristine LaLonde



Project No.
Project Name

Major Plan Amendment 2011CP-010-001
Green Hills Midtown Community Plan: 2005 Update

Associated case
Council District
School District
Requested by

2011SP-014-001
18 – LaLonde
8 – Hayes
Diversified Real Estate Development Services Inc.,
applicant, The Chesterfield LLC, owner

Deferral

This application was deferred from the April 14, 2011
Planning Commission meeting.

Staff Reviewer
Staff Recommendation

Adams
Defer to May 12, 2011 Planning Commission meeting

APPLICANT REQUEST

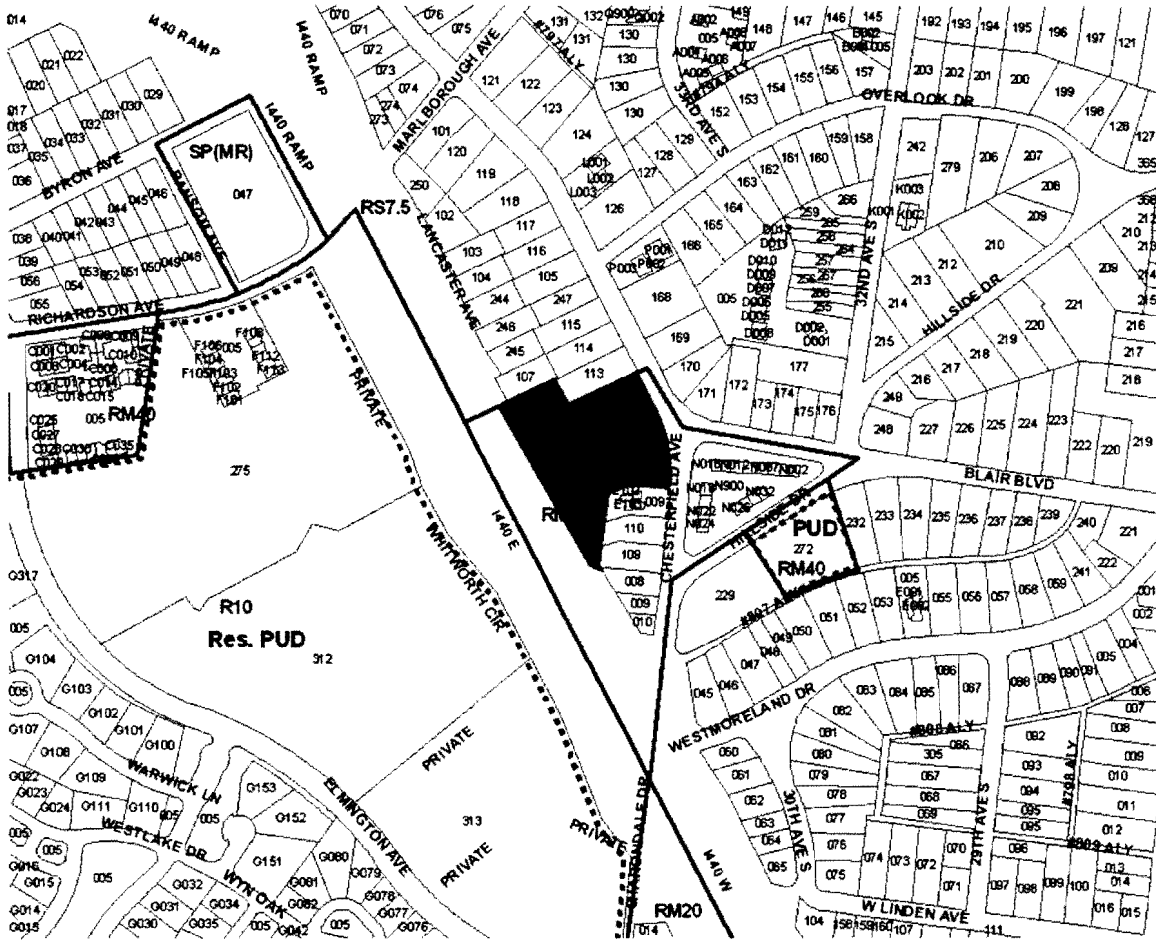
**Amend the land use policy from Residential Low
Medium Density to Residential High Density**

Plan Amendment

**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
Multi-Family Residential (RM20) and proposed for
Multi-Family Residential (RM40) zoning and within
the Hillsboro-West End National Register District and
I-440 Impact Overlay District (Area 1-F).**

STAFF RECOMMENDATION

Staff recommends deferral of the request to the May 12,
2011 Planning Commission meeting. The applicant
requested deferral, in writing, to allow more time to work
with the district Councilmember and the community.



2011SP-014-001
511 CHESTERFIELD AVENUE
 Map 104-10, Parcel(s) 108
 Green Hills - Midtown
 18 - Kristine LaLonde



Project No. Zone Change 2011SP-014-001
Associated case 2011CP-010-001
Council District 18 – LaLonde
School District 8 – Hayes
Requested by Diversified Real Estate Development Services Inc.,
applicant, The Chesterfield LLC, owner
Deferral This application was deferred from the April 14, 2011
Planning Commission meeting.
Staff Reviewer Johnson
Staff Recommendation *Defer to May 12, 2011 Planning Commission meeting*

APPLICANT REQUEST

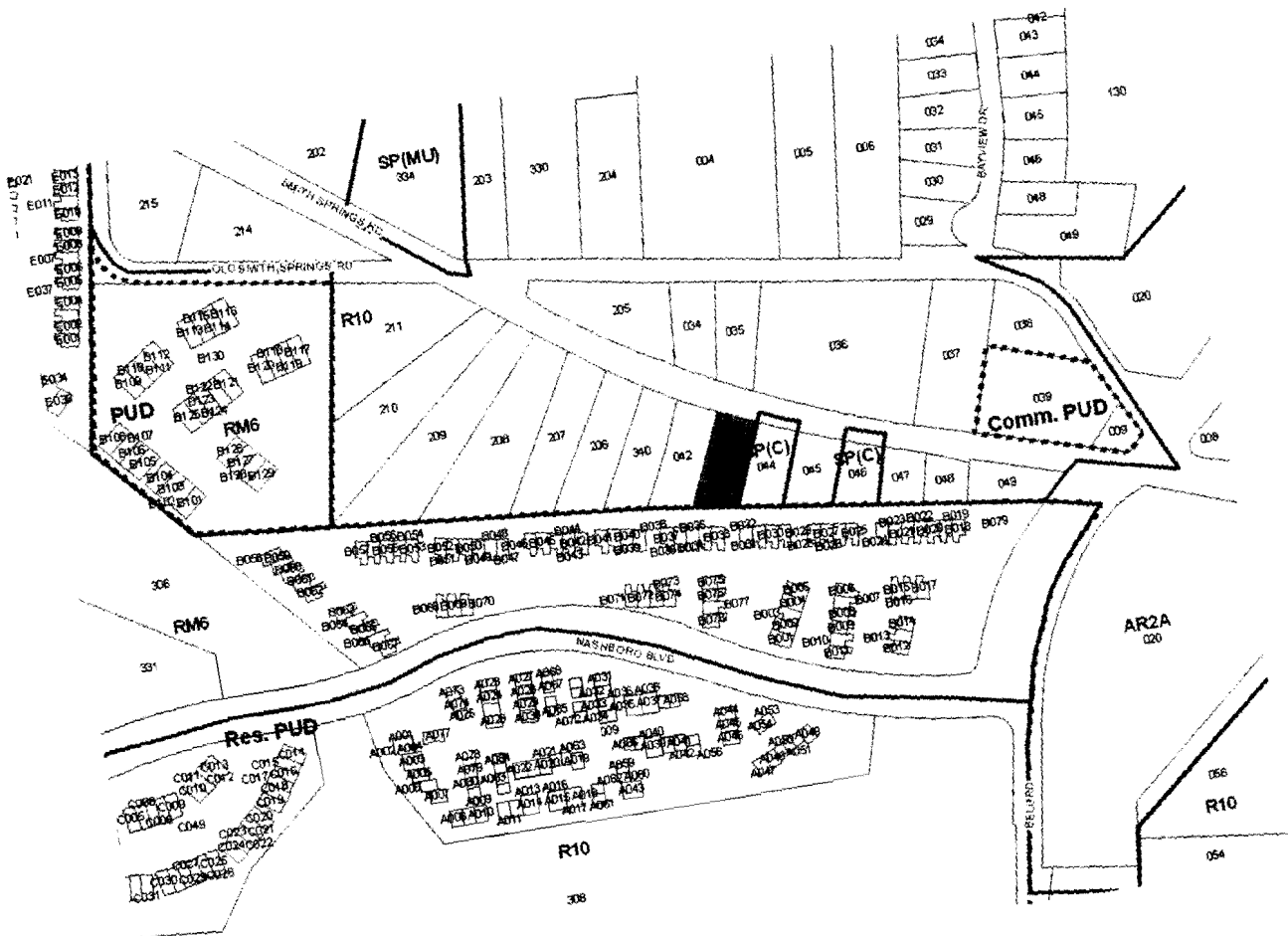
Zone change to permit multi-family residential development.

Zone Change

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).

STAFF RECOMMENDATION

Staff recommends deferral of the request to the May 12, 2011 Planning Commission meeting. The applicant has amended the zone change application to request to an SP zone change application. Deferral to the May 12, 2011 Planning Commission meeting will allow time for review of the SP application by Metro departments.



2011Z-002PR-001
 2631 SMITH SPRINGS ROAD
 Map 136, Parcel(s) 043
 Antioch - Priest Lake
 29 - Vivian Wilhoite



Project No.
Council District
School District
Requested by
Deferral

Zone Change 2011Z-002PR-001
29 – Wilhoite
6 – Mayes
Keith Jordan, owner
Deferred from the April 14, 2011, Planning Commission meeting

Staff Reviewer
Staff Recommendation

Swaggart
Staff recommends that the request be deferred to the June 9, 2011, agenda or disapproved. There is no Council Bill filed for the May Council Public Hearing, and deferring will not affect the progress of the request. The deferral will give staff time for further analysis of the area's land use policies and hold a community meeting for a potential policy amendment. A new recommendation based on the outcome of the community meeting will be presented at the June 9, 2011, MPC meeting.

APPLICANT REQUEST

Rezone from residential to office and residential zoning

Zone change

A request to rezone from Single and Two-Family Residential (R10) to Office and Residential (OR20) district property located at 2631 Smith Springs Road, approximately 760 feet west of Bell Road (.36 acres).

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
OR20 District

Office/Residential is intended for office and/or multi-family residential units at up to 20 dwelling units per acre. OR20 would allow up to 7 units on 0.36 acres.

DEFERRAL

At the April 14, 2011, meeting the Planning Commission recommended that the request be deferred one meeting and that staff look at a possible land use policy change for the property and or the area. Staff has preliminarily analyzed the area, and finds that the area south of Smith Springs Road and South of Old Smith Springs should be considered for a possible policy amendment. This area consists of 24 properties totaling approximately 16 acres. This area was selected because it lies between two existing Neighborhood Center policy areas along Smith Springs Road with Old Smith Springs Road representing a dividing line from the residential areas north of Smith Springs



Metro Planning Commission Meeting of 04/28/2011

Road. Other property owners in this area have also inquired about zoning to a nonresidential zoning district.

Amending the land use policy from residential to a non-residential policy is a major amendment, and will require additional time to process, including a community meeting. If the Commission wishes to consider amending this areas land use policy, then it should be deferred to the June 9, 2011, Planning Commission meeting. This should give time for staff to hold a community meeting and provide a recommendation for a policy amendment. Since a Council Bill has not been filed for the May Council public hearing, then deferral to June 9, 2011, will not affect the progress of the request which would be heard at the July Council public hearing.

CRITICAL PLANNING GOALS N/A

ANTIOCH/PRIEST LAKE COMMUNITY PLAN

Neighborhood General (NG)

NG is intended to meet a spectrum of housing needs with a variety of housing that is carefully arranged, not randomly located. An Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in these policy areas, to assure appropriate design and that the type of development conforms with the intent of the policy.

Consistent with Policy?

No. While the proposed OR20 zoning district does permit residential uses, which are consistent with the land use policy, it also permits non-residential uses which are not consistent with the land use policy.

PUBLIC WORKS RECOMMENDATION

1. An access study may be required at development.
2. The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works. Final design may vary based on field conditions.

Typical Uses in Existing Zoning District: **R10**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Residential (210)	0.36	4.63 D	1 U	10	1	2



Metro Planning Commission Meeting of 04/28/2011

Typical Uses in Proposed Zoning District: OR20

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	0.36	0.590 F	9,252 SF	214	28	28

Traffic changes between typical: R10 and proposed OR20

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	+204	+27	+26

Maximum Uses in Existing Zoning District: R10

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Residential (210)	0.36	4.63 D	1 U	10	1	2

Maximum Uses in Proposed Zoning District: OR20

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Retail (814)	0.36	0.8 F	12,545 SF	575	18	52

Traffic changes between maximum: R10 and proposed OR20

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	+565	+17	+50

METRO SCHOOL BOARD REPORT

Projected student generation 1 Elementary 1 Middle 1 High

Schools Over/Under Capacity

Students would attend Lakeview Elementary School, J.F. Kennedy Middle School, and Antioch High School. All three schools are identified as over capacity. There is not capacity for additional elementary and middle school students within the cluster, but there is capacity within an adjacent cluster for high school students. This information is based upon data from the school board last updated October 2010.

Fiscal Liability

The fiscal liability for one new elementary student is \$20,000, and the fiscal liability for one new middle school student is \$23,500. This is only for information purposes



Metro Planning Commission Meeting of 04/28/2011

to show the potential impact of this proposal, it is not a staff condition of approval.

STAFF RECOMMENDATION

Staff recommends that the request be deferred to the June 9, 2011, agenda. There is no Council Bill filed for the May Council Public Hearing, and deferring will not affect the progress of the request. The deferral will give staff time for further analysis of the area's land use policies and hold a community meeting for a potential policy amendment. A new recommendation based on the outcome of the community meeting will be presented at the June 9, 2011, MPC meeting. Absent deferral, staff recommends disapproval.

RECOMMENDATIONS TO THE METRO COUNCIL

- **Text Amendment**
- **Specific Plan**
- **Zone Change**
- **Urban Design Overlay**
- **PUD (Amend)**

NO SKETCH

Project No.
Project Name
Council Bill
Council District
School District
Requested by

Text Amendment 2010Z-025TX-001
Home Occupation
BL2011-858
Countywide
Countywide
Councilmember Mike Jameson

Staff Reviewer
Staff Recommendation

Regen
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.

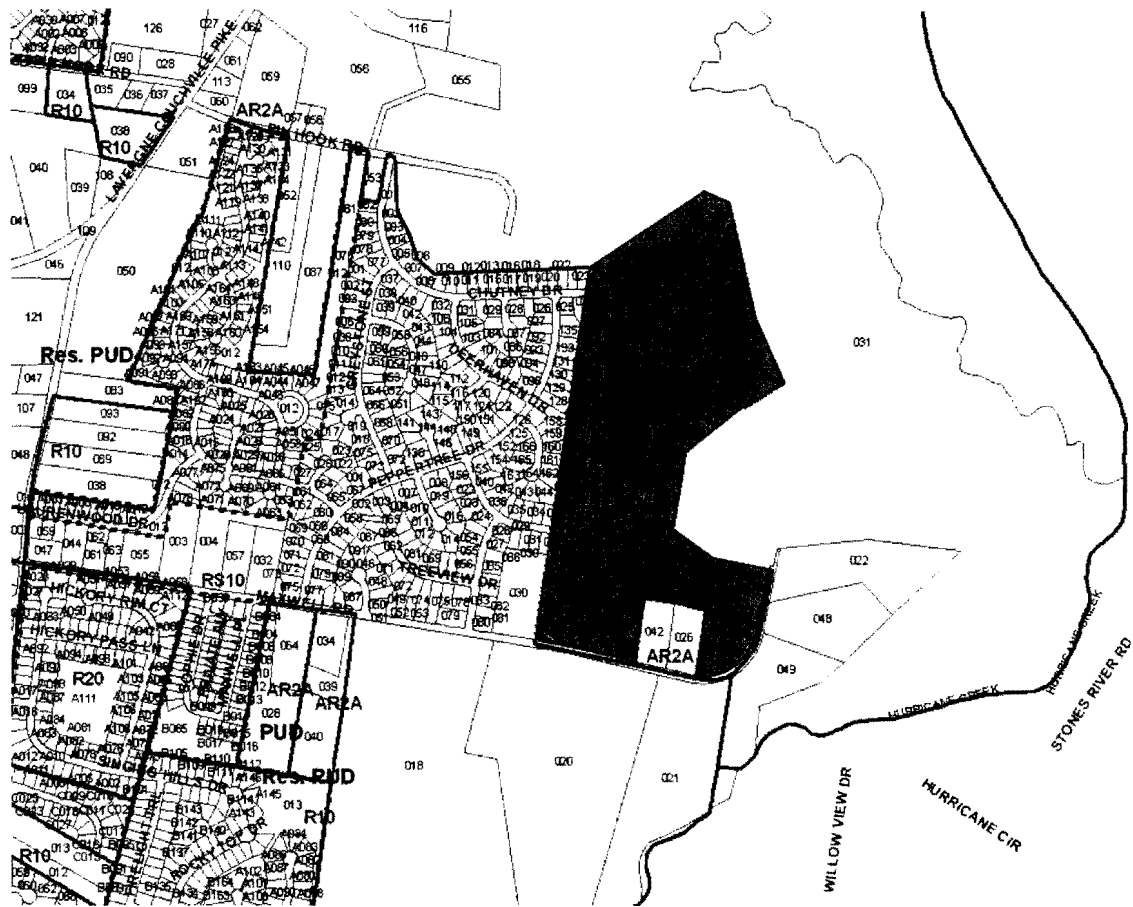
2. Eligible Area. With the exception of Personal Instruction activities that occur outdoors such as tennis or swimming lessons, the home business shall comply with Section 17.16.250.C.2.

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



2006SP-081U-13
DAVENPORT DOWNS (4-YEAR REVIEW)
 Map 165, Parcel(s) 073, 104-106, 130
 Map 176, Parcel(s) 066
 Antioch - Priest Lake
 32 - Sam Coleman



Project No.
Project Name
Council District
School District
Requested by

SP District Review 2006SP-081U-13
Davenport Downs SP
32 – Coleman
6 – Mayes
Metro Planning Department

Staff Reviewer
Staff Recommendation

Bernards
Find the SP District Inactive and direct staff to prepare a report to the Council to continue the implementation of the development plan as adopted and that no rezoning is recommended on this property.

APPLICANT REQUEST

Four year SP review to determine activity.

SP Review

The periodic review of an approved Specific Plan (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.



Metro Planning Commission Meeting of 04/28/2011

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



Metro Planning Commission Meeting of 04/28/2011

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

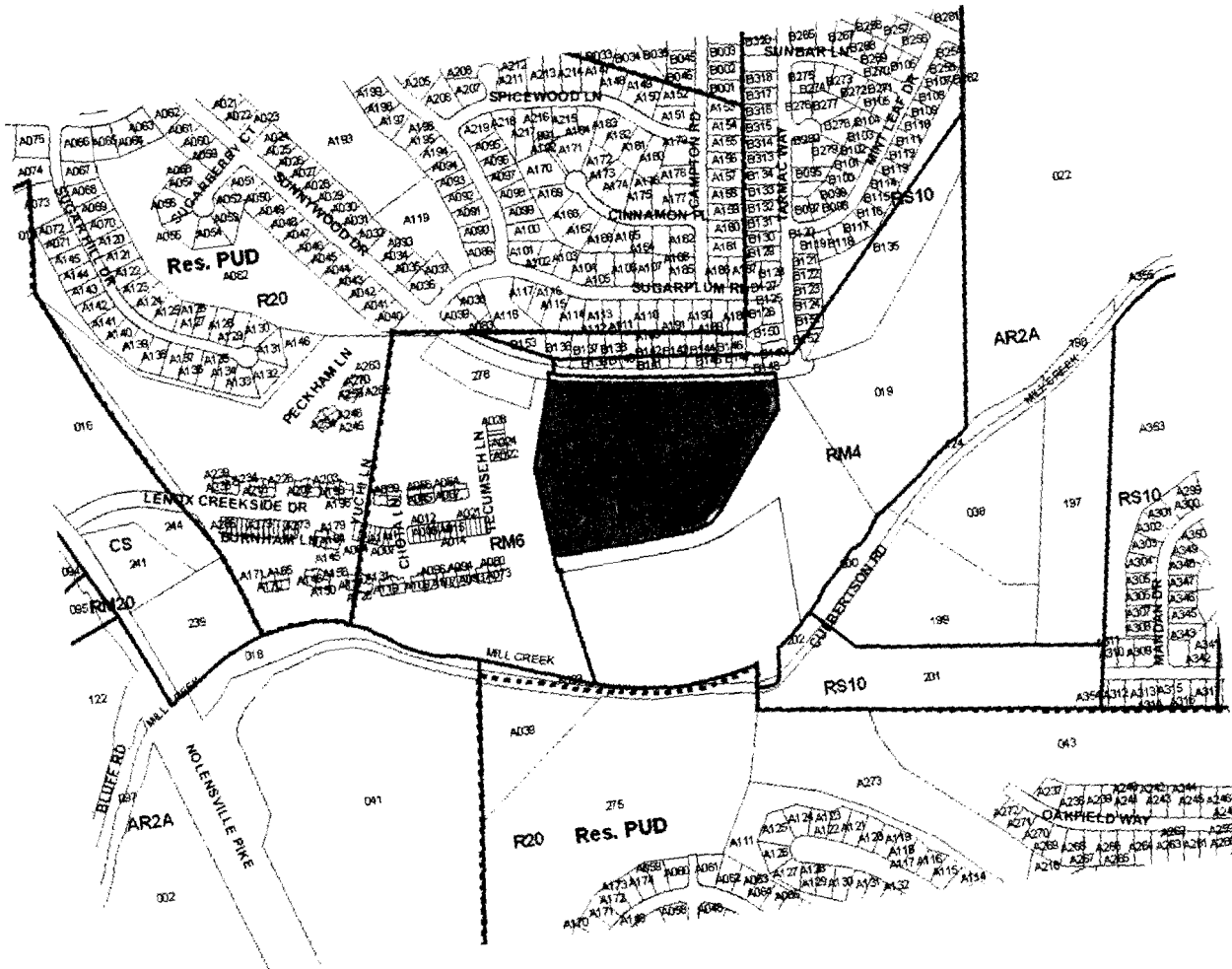
As the SP is consistent with the NG and NC policies of the Antioch/Priest Lake Community Plan, at this time the SP remains appropriate for the site and area. There are no amendments to the plan proposed and no new zoning district is proposed for the property.

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.



2007SP-012G-12
SUGAR VALLEY PLACE (4-YEAR REVIEW)
 Map 181, Parcel(s) 281
 Southeast
 31 - Parker Toler



Project No.
Project Name
Council District
School District
Requested by

SP District Review 2007SP-012G-12
Sugar Valley Place SP
31 – Toler
2 – Brannon
Metro Planning Department

Staff Reviewer
Staff Recommendation

Bernards
Find the SP District Inactive and direct staff to prepare a report to the Council to continue the implementation of the development plan as adopted and that no rezoning is recommended on this property.

APPLICANT REQUEST

Four year SP review to determine activity.

SP Review

The periodic review of an approved Specific Plan (R) district known as "Sugar Valley Place", 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 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.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 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



Metro Planning Commission Meeting of 04/28/2011

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.



Metro Planning Commission Meeting of 04/28/2011

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

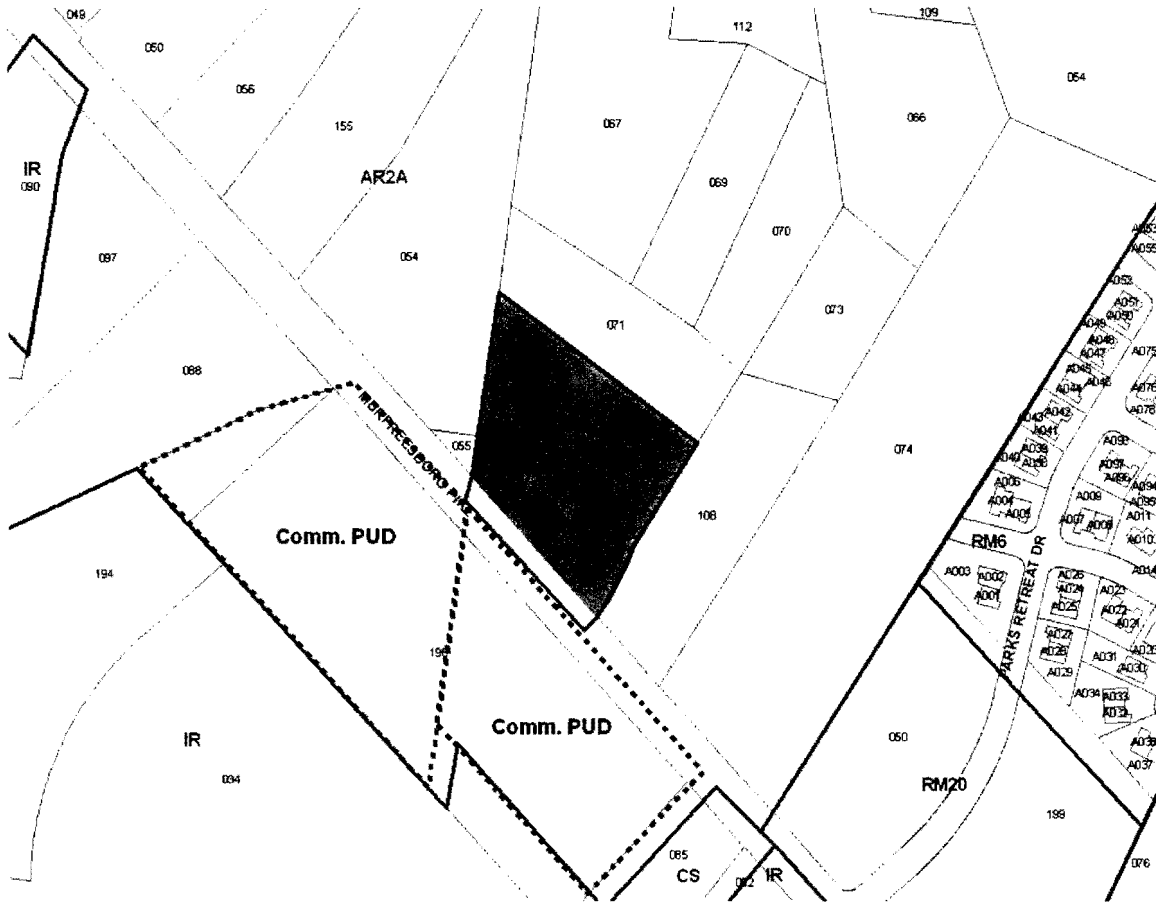
As the SP is consistent with the RLM policy of the Southeast Community Plan, at this time the SP remains appropriate for the site and area. There are no amendments to the plan proposed and no new zoning district is proposed for the property.

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.



2007SP-013G-13
CREEKWAY GARDEN CENTER (4-YEAR REVIEW)
 Map 175, Parcel(s) 072
 Antioch - Priest Lake
 32 - Sam Coleman



Project No. SP District Review 2007SP-013G-13
Project Name Creekway Garden Center SP
Council District 32 – Coleman
School District 6 – Mayes
Requested by Metro Planning Department

Staff Reviewer Bernards
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.

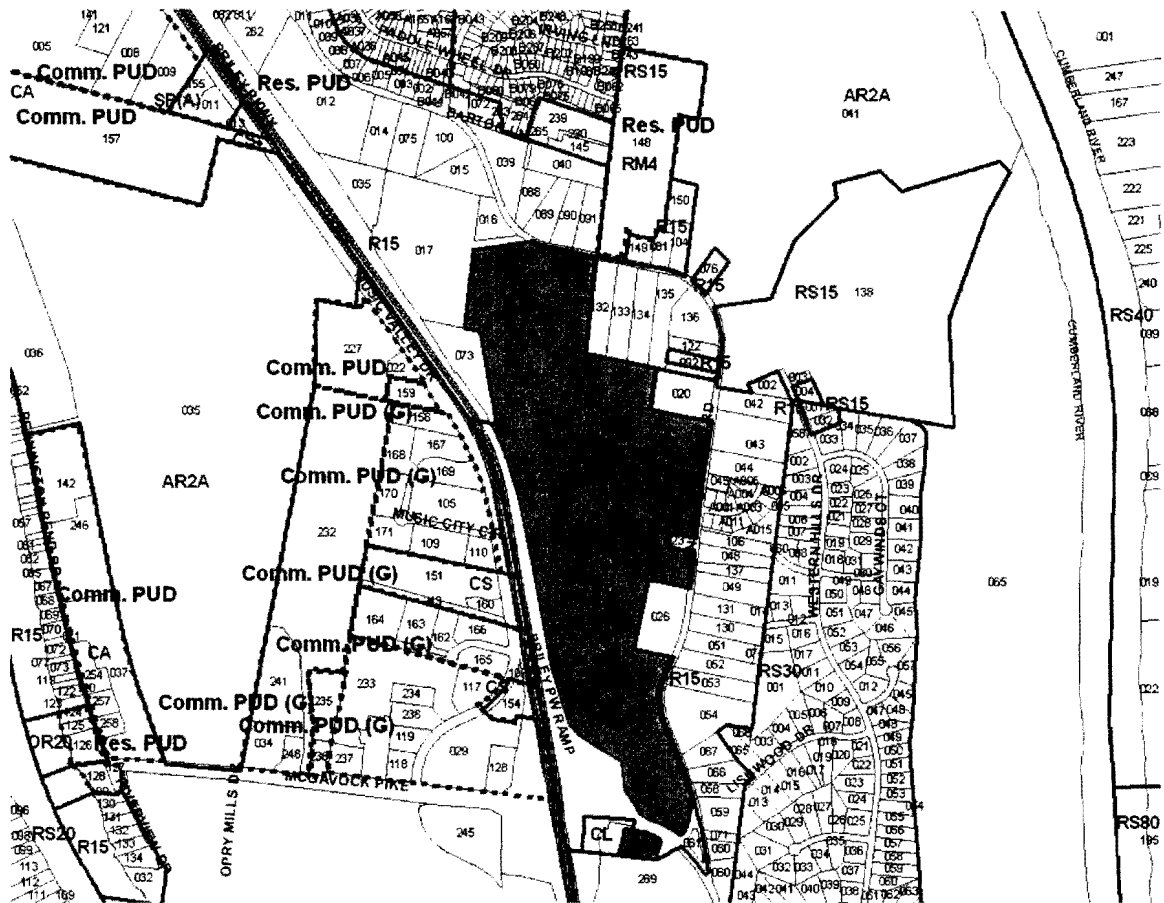
Each development within a SP district is to be reviewed in order to determine if the project is complete or actively under development to implement the approved development concept. If the review determines that the project is complete or actively under development, then no further review is necessary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



2007SP-014U-14
GAYLORD ENTERTAINMENT (4-YEAR REVIEW)
 Map 062, Parcel(s) 030, 111, 249
 Donelson - Hermitage
 15 - Phil Claiborne



Project No. SP District Review 2007SP-014U-14
Project Name Gaylord Entertainment SP
Council District 15 – Claiborne
School District 4 – Shepherd
Requested by Metro Planning Department

Staff Reviewer Bernards
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



Metro Planning Commission Meeting of 04/28/2011

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



Metro Planning Commission Meeting of 04/28/2011

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:

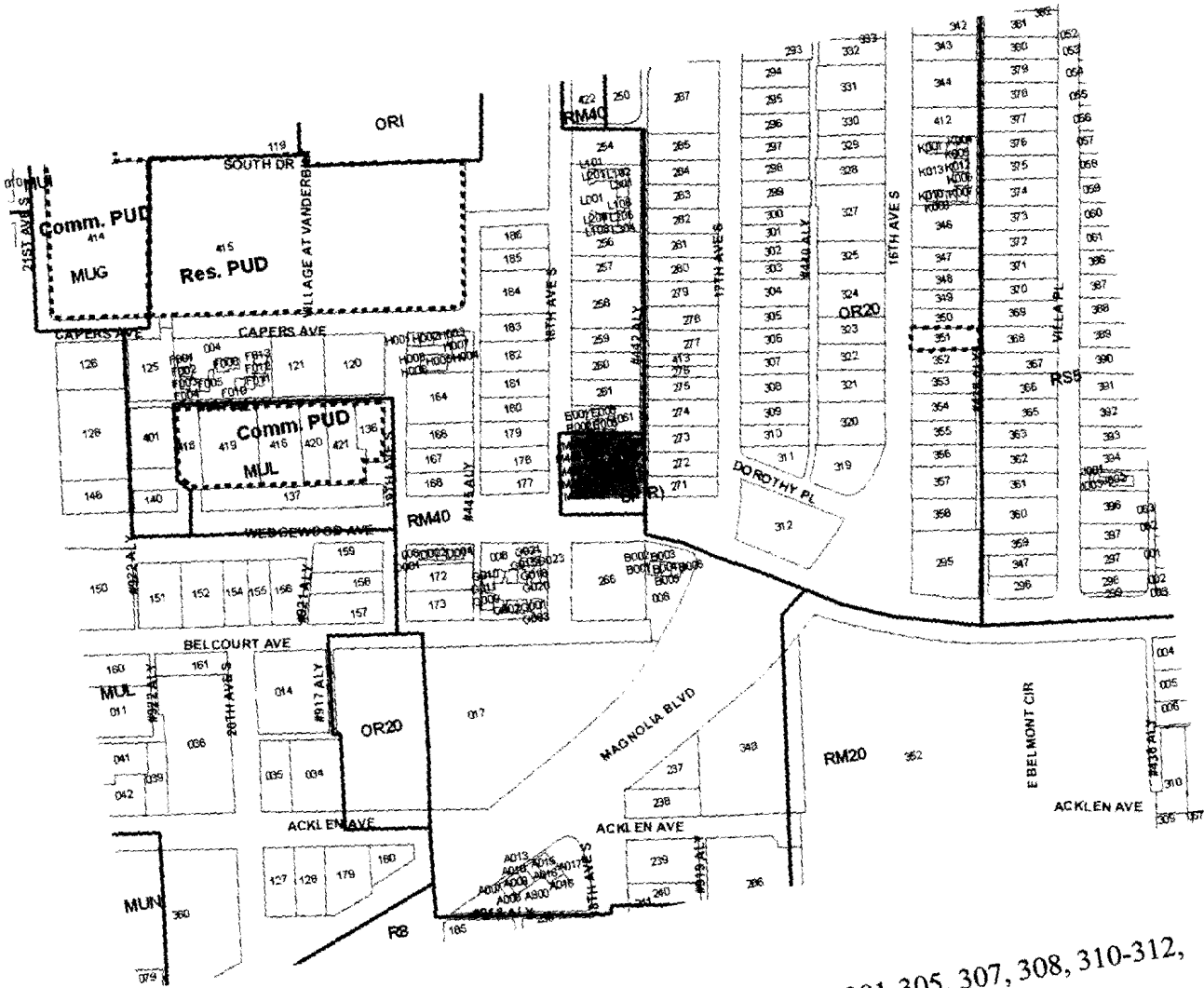
The site in question which is the subject of the Gaylord SP (approximately 100 acres) is used generally 6 to 8 times a year for special events. These events include items such as the NES lineman rodeo, Polaris (Ride and Drive) demonstrations, Club Cadet (mowing demonstrations), Case New Holland (tractors) 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.



2007SP-015U-10
THE GLEN (4-YEAR REVIEW)
 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
 Green Hills - Midtown
 19 - Erica S. Gilmore



Project No. SP District Review 2007SP-015U-10
Project Name The Glen SP
Council District 19 – Gilmore
School District 8 – Hayes
Requested by Metro Planning Department

Staff Reviewer Bernards
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.

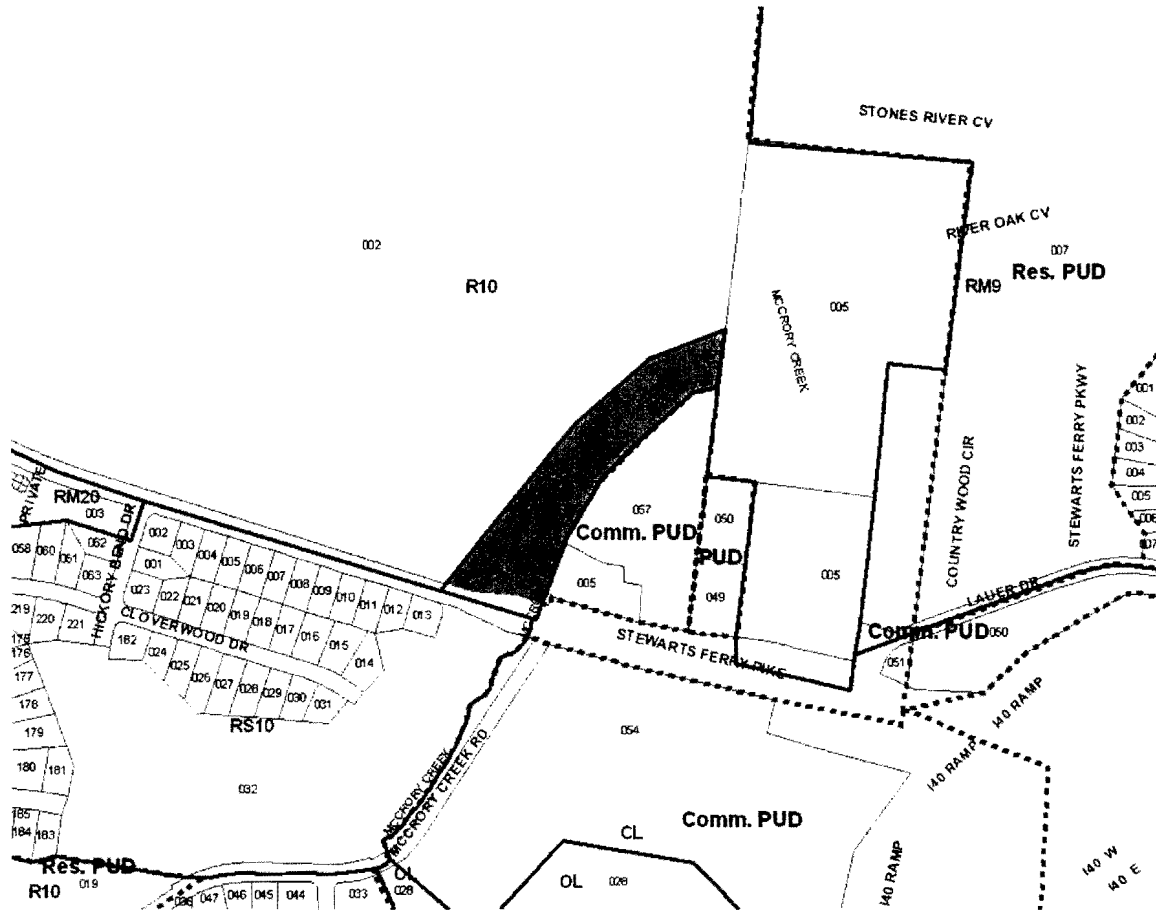
Each development within a SP district is to be reviewed in order to determine if the project is complete or actively under development to implement the approved development concept. If the review determines that the project is complete or actively under development, then no further review is necessary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



2007SP-019U-14
NORTH LAKE TOWNHOMES (4-YEAR REVIEW)
 Map 096, Parcel(s) 059-060
 Donelson - Hermitage
 14 - James Bruce Stanley



Project No. SP District Review 2007SP-019U-14
Project Name Northlake Townhomes SP
Council District 14 – Stanley
School District 4 – Shepherd
Requested by Metro Planning Department

Staff Reviewer Bernards
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 (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.

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 includes 20 townhouse units and a 4,000 square foot warehouse space on approximately 4.57 acres. The residential density for this plan is approximately 4.4 units per acre. The floor area ratio for the warehouse is approximately 0.02, and 0.16 for the overall development. The 20 townhouses units are in two 10-unit buildings.

SPECIFIC PLAN REVIEW

Staff conducted a site visit in March 2011. There did not appear to be any construction activity on the site. A letter



Metro Planning Commission Meeting of 04/28/2011

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 Donelson/Old Hickory/Hermitage Community Plan. The land use policies are Natural Conservation (NCO) and Commercial Mixed Concentration (CMC). The development is consistent with these policies as the overall density is 4.4 units per acre. Approximately 2.04 acres (46%) of this



Metro Planning Commission Meeting of 04/28/2011

property is within a Natural Conservation policy, and approximately 2.5 acres (54%) is within a Commercial Mixed Concentration policy. Commercial Mixed Concentration allows for high density residential development with densities above 20 units per acre. Natural Conservation policy also allows for residential development, but at a very low density of 1 unit per 2 acres. The approved density of 4.4 units per acre is a balance between these policies.

The Planning Commission approved the final site plan for this SP in June 2007.

Amendments/Rezoning

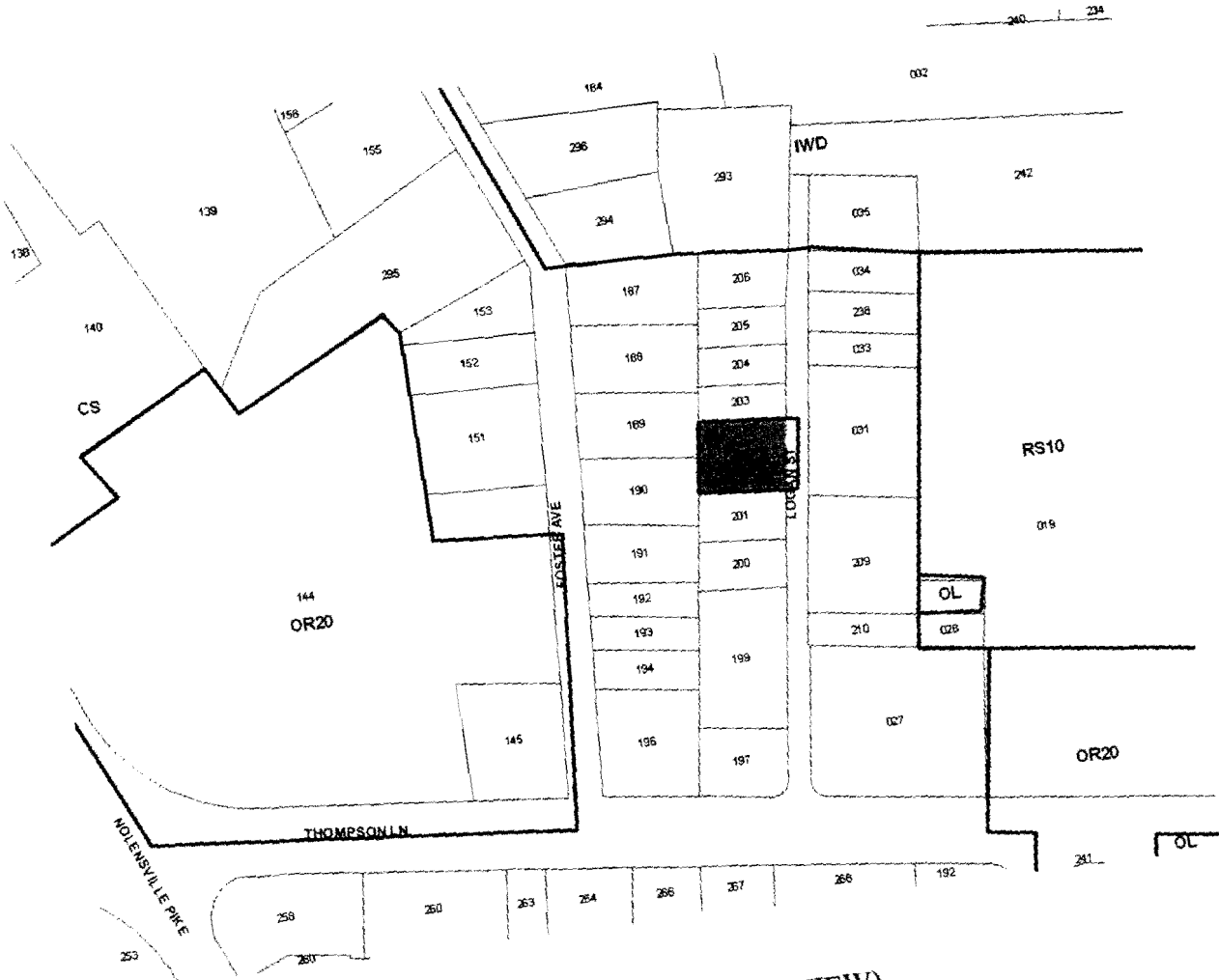
As the SP is consistent with the policies of the Donelson/Old Hickory/Hermitage Community Plan, at this time the SP remains appropriate for the site and area. There are no amendments to the plan proposed and no new zoning district is proposed for the property.

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 North Lake Townhomes 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.



2007SP-026U-11
EUROTECH AUTOMOBILE REPAIR (4-YEAR REVIEW)
 Map 119-09, Parcel(s) 202
 South Nashville
 16 - Anna Page



Project No.
Project Name
Council District
School District
Requested by

SP District Review 2007SP-026U-11
Eurotech Automobile Repair SP
16 – Page
7 – Kindall
Metro Planning Department

Staff Reviewer
Staff Recommendation

Bernards
Find the SP district active

APPLICANT REQUEST

Four year SP review to determine activity.

SP Review

The periodic review of an approved Specific Plan (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



Metro Planning Commission Meeting of 04/28/2011

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.

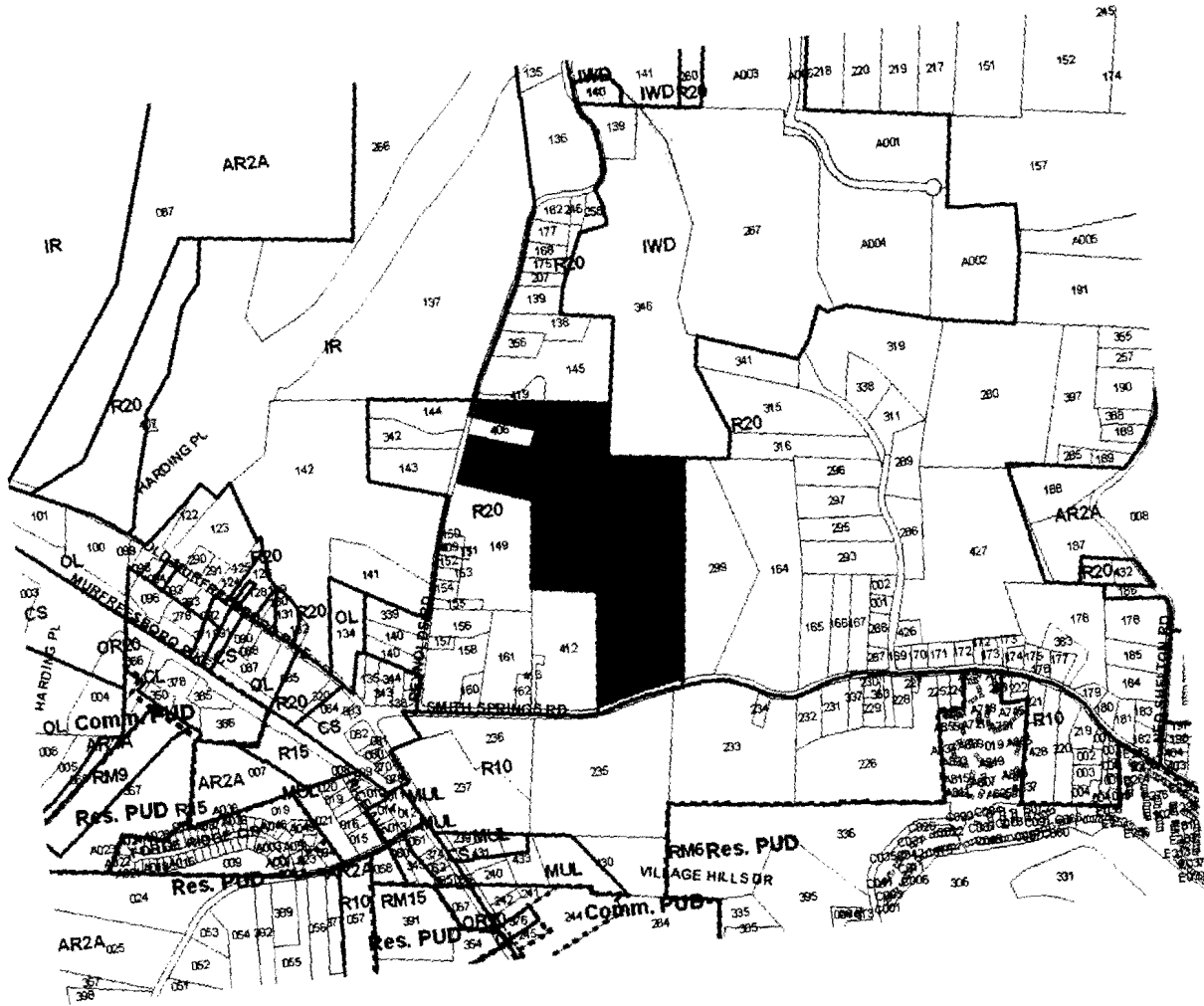
ANALYSIS

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.

SEE NEXT PAGE



2011SP-004-001
SMITH SPRINGS ROAD
 Map 135, Parcel(s) 146-148, 163
 Antioch - Priest Lake
 29 - Vivian Wilhoite



Project No.	Zone Change 2011SP-004-001
Project Name	Smith Springs Road SP
Council Districts	29 – Wilhoite
School Districts	6 – Mayes
Requested by	Dale & Associates, applicant, for Stevenson Trust No. 8, owner
Staff Reviewer	Bernards
Staff Recommendation	<i>Approve with conditions</i>

APPLICANT REQUEST

Permit industrial, office, warehousing and multi-family.

Preliminary SP

A request to rezone from Single and Two-Family Residential (R20), Multi-Family Residential (RM9), and Industrial/Warehousing and Distributing (IWD) to Specific Plan-Mixed-Use (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.

Existing Zoning

R20 District

R20 requires a minimum 20,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 2.31 dwelling units per acre including 25% duplex lots.

RM9 District

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

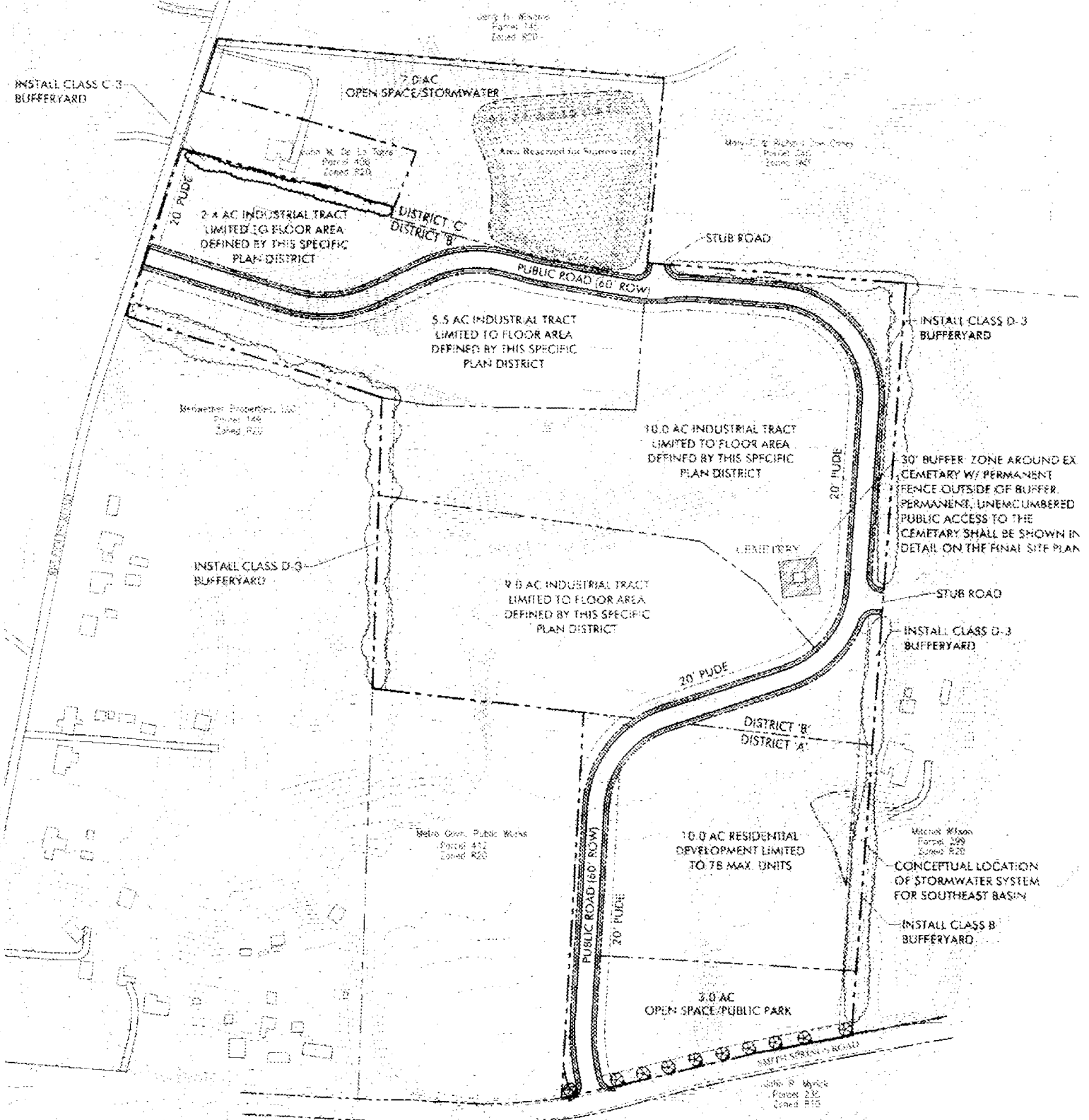
IWD District

Industrial Warehousing/Distribution is intended for a wide range of warehousing, wholesaling, and bulk distribution uses.

Proposed Zoning

SP-MU District

Specific Plan-Mixed Use is a zoning District category that provides for additional flexibility of design, including the relationship of streets to buildings, to provide the ability to implement the specific details of the General Plan. This Specific Plan includes office, warehouse, industrial, multi-family and open space uses.





Metro Planning Commission Meeting of 04/28/2011

CRITICAL PLANNING GOALS N/A

**ANTIOCH/PRIEST LAKE
COMMUNITY PLAN**

Neighborhood General(NG)

NG is intended to meet a spectrum of housing needs with a variety of housing that is carefully arranged, not randomly located. An Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in these policy areas, to assure appropriate design and that the type of development conforms with the intent of the policy.

Industrial (IN)

IN areas are dominated by one or more activities that are industrial in character. Types of uses intended in IN areas include non-hazardous manufacturing, distribution centers and mixed business parks containing compatible industrial and non-industrial uses. On sites for which there is no endorsed campus or master plan, an Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in this policy area.

Consistent with Policy?

Yes. The area proposed for multi-family uses is located within the NG policy and the area proposed for industrial uses and open space are located within the IN policy. Currently, the portion of these properties zoned R20 fall within the IN policy area. This plan will bring these properties into conformance with the land use policy.

PLAN DETAILS

The proposed SP includes three districts, each with its own land uses and bulk standards. While a plan is included showing a potential lot layout, this is meant to be illustrative only and to outline permitted uses and their locations. A public street is shown with stubs streets to the north and east. This will be the location of the street with minor alterations that might improve the horizontal or vertical alignments.

District A

District A, with approximately 13 acres in area, is proposed for residential uses to provide a transition from Smith Springs Road to the District B. The uses and bulk standards for this district are similar to those for the RM6 zoning district with a maximum density of 78 residential units. The SP includes setback, height, floor area ratio (FAR) and impervious surface ratio (ISR). Limits are placed on the use of vinyl siding and a B landscape buffer yard is shown on the eastern boundary. The proposed plan



Metro Planning Commission Meeting of 04/28/2011

provides setbacks but does not discuss building orientation. A condition is proposed to require buildings on lots adjacent to Smith Springs Road be oriented towards Smith Springs Road, with the primary pedestrian entrances facing the street.

District B

District B, with approximately 28.6 acres in area, is proposed for industrial, office, and warehouse uses in the center of the property and fronting on Reynolds Road. Uses permitted within this sub-district are those allowed under the Industrial Warehousing/ Distribution (IWD) zoning district with the addition of medium manufacturing. The bulk standards of the IWD zoning district will apply in District B and there is a maximum floor area of 950,000 square feet proposed.

Various building materials are identified. These include various types of concrete, brick and stone, architectural metals and glazing. Gloss, highly reflective metals are prohibited as the primary building material.

A 30 foot D landscape buffer is identified along the west, east and northwest boundary adjacent to the existing R20 zoning districts.

District C

District C is approximately 7 acres in area and is proposed for open space or park only. No permanent structures are permitted. It will be placed in a separate parcel and maintained by a Property Owners Association.

Sidewalks

Sidewalks are shown on the new public street. Sidewalks will also be required on Smith Springs Road with the development of District A.

Signs

Signs for District A are limited to one six foot ground sign with external lighting and shall be a monument style sign. Signs for District B are limited to building signs and six foot ground signs, that shall be monument style signs, with external lighting. No permanent signage shall be permitted in District C.

Any phase of development in District B that will include multiple stories and/or tenants shall submit an overall sign program with the final site plan.

Cemetery

There is a cemetery located near the eastern property line. A 30 foot buffer with a permanent fence outside of the buffer is shown around the cemetery. A note on the plan



Metro Planning Commission Meeting of 04/28/2011

states that permanent, unencumbered access to the cemetery shall be shown on the final site plan.

HISTORICAL COMMISSION RECOMMENDATION

“We agree with the proposed 30’ buffer zone around the existing cemetery as well as the installation of a permanent fence outside of the buffer. The cemetery is not easily accessible at the moment, but the property owner told me that he has plans to build up the grade around it. Hopefully this will improve accessibility to the cemetery—if, by chance, descendants come searching for it. We will continue to research the history of the cemetery for our own files, and hope one day it can be properly surveyed.”

NES RECOMMENDATION

- 1) Developer drawing should show any existing utilities easements on property and the utility poles on the property and/or r-o-w.
- 2) 20 foot public utility easement required adjacent to all public r-o-w.
- 3) NES can meet with developer/engineer upon request to determine electrical service options
- 4) NES needs any drawings that will cover any road improvements to Metro r-o-w that Public Works will require.
- 5) 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 (see NES Construction Guidelines under “Builders and Contractors” tab @ www.nespower.com).
- 6) NES needs to know if the developer has other options on property next to this area, if so NES needs an overall concept plan.
- 7) 20 foot public utility easement shall be clear of any permanent footings and structures.

PUBLIC WORKS RECOMMENDATION

The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works. Final design may vary based on field conditions.

A TIS will be required prior to development

Maximum Uses in Existing Zoning District: R20

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Residential (210)	6.56	2.31 D	15 U	144	12	16



Metro Planning Commission Meeting of 04/28/2011

Maximum Uses in Existing Zoning District: RM9

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Multi-Family Residential (220)	8.3	9 D	74 U	572	40	59

Maximum Uses in Existing Zoning District: IWD

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Warehousing (150)	28.27	0.8 F	985,152 SF	3508	296	316

Maximum Uses in Proposed Zoning District: SP-MU

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Warehousing (150)	28.6	0.8 F	996,652 SF	3549	299	319

Maximum Uses in Proposed Zoning District: SP-MU

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Multi-Family Residential (220)	13	6 D	78 U	597	42	61

Traffic changes between Maximum: R20, RM9, IWD, and proposed SP-MU

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	-78	-7	-11

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 approval with conditions of the Smith Spring Road SP. The proposed uses are consistent with the Neighborhood General and Industrial land use policies on the property.

CONDITIONS

1. A sidewalk, meeting Public Works standards, shall be required along Smith Springs Road with the first phase of development within District A.



Metro Planning Commission Meeting of 04/28/2011

2. Ground signs in District A and B shall be monument style signs.
3. Buildings on lots adjacent to Smith Springs Road shall be oriented towards Smith Springs Road, with the primary pedestrian entrances facing the street.
4. Any phase of development in District B that will include multiple stories and/or tenants shall submit an overall sign program with the final site plan.
5. The uses of this SP shall be limited to those uses shown on the plan.
6. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Commission or Council approval, the property shall be subject to the standards, regulations and requirements of the RM6 zoning district for District A, IWD zoning district for District B and AR2a zoning district for District C as of the date of the applicable request or application.
7. A corrected copy of the preliminary SP plan incorporating the conditions of approval by the Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. The corrected copy provided to the Planning Department shall include printed copy of the preliminary SP plan and a single PDF that contains the plan and all related SP documents. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.
8. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall



Metro Planning Commission Meeting of 04/28/2011

not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.

9. 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.

SEE NEXT PAGE



Project No.	Zone Change 2011Z-009PR-001
Council Bill	BL2011-883
Council District	6 – Jameson
School District	7 – Kindall
Requested by	Metro Planning Department, applicant, 501 LLC, owner
Staff Reviewer	Johnson
Staff Recommendation	<i>Approve</i>

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

- | | |
|---|---|
| <ul style="list-style-type: none"> • Preserves Historic Resources • Creates Walkable Neighborhoods • Supports Infill Development • Promotes Compact Building Design | <p>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.</p> |
|---|---|

**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



Metro Planning Commission Meeting of 04/28/2011

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.



Metro Planning Commission Meeting of 04/28/2011

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.

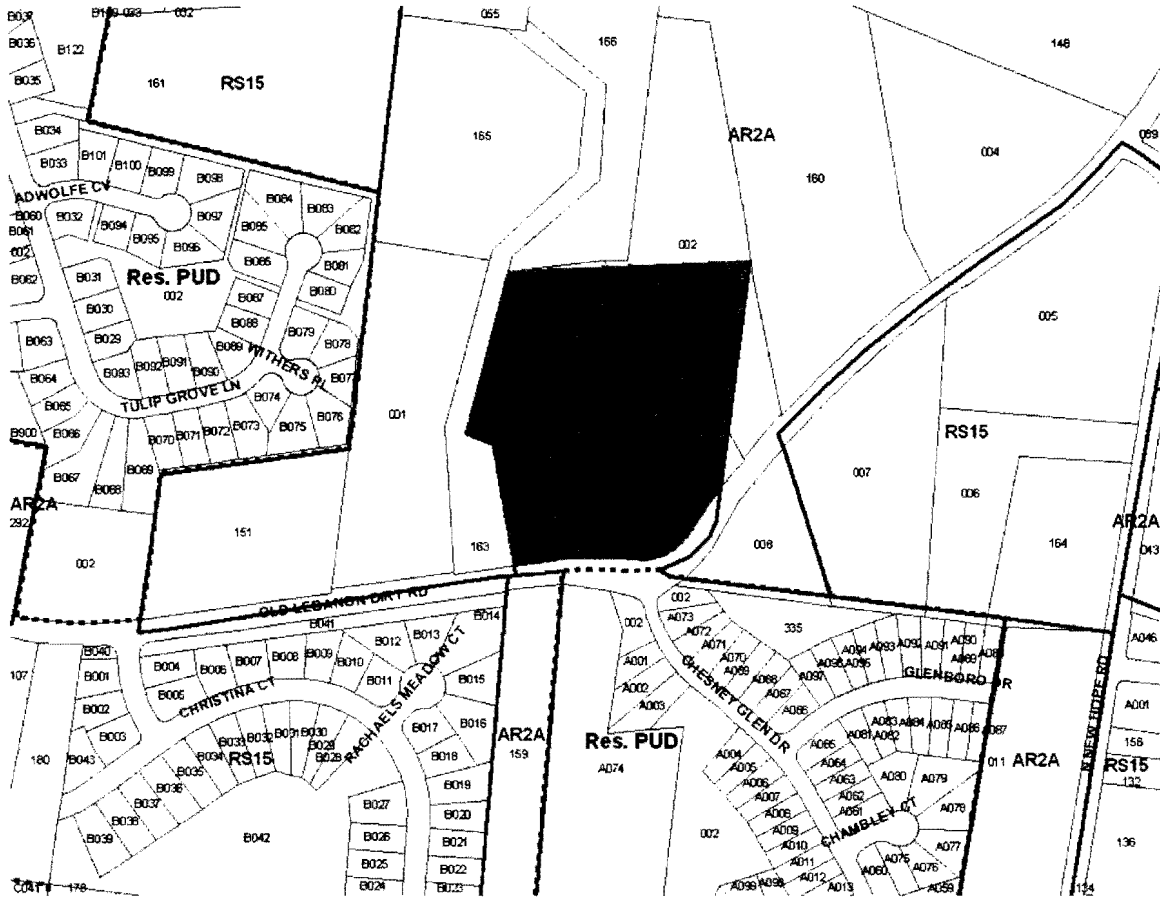
METRO SCHOOL BOARD REPORT

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.



2011Z-010PR-001
 787, 795 & 799 OLD LEBANON DIRT ROAD
 Map 087, 187 and Part of Parcel(s) 002-003
 Donelson - Hermitage
 12 - Jim Gotto



Project No.	Zone Change 2011Z-010PR-001
Council Bill	BL2011-892
Council District	12 – Gotto
School District	4 – Shepherd
Requested by	Jim Gotto, applicant, Graham and Dorothy Reed and Darren and Kimberly Reed, owners
Staff Reviewer	Sexton
Staff Recommendation	<i>Approve</i>

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.



Metro Planning Commission Meeting of 04/28/2011

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

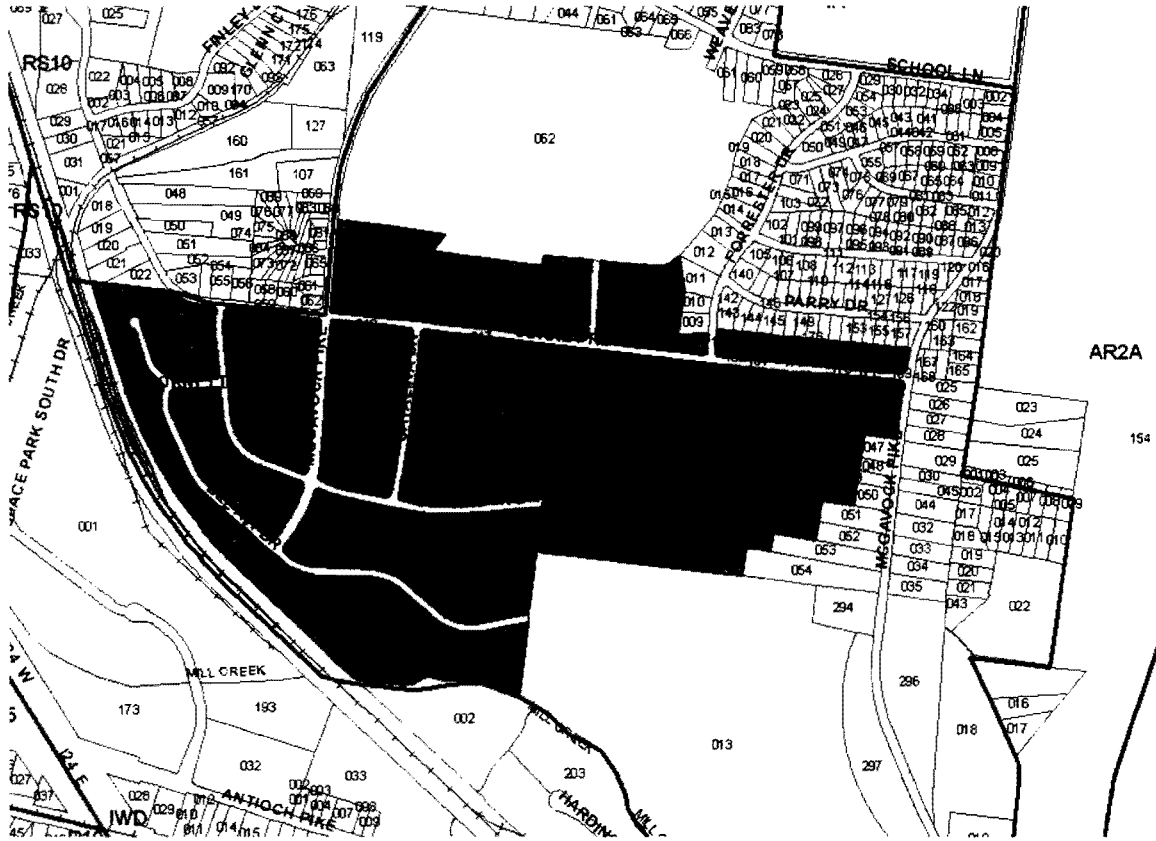
Projected Student Generation

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.

SEE NEXT PAGE



2011Z-011PR-001
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
 Antioch - Priest Lake
 13 - Carl Burch; 28 - Duane Dominy



Project No.
Council Bill
Council District
School District
Requested by

Zone Change 2011Z-011PR-001
BL2011-895
13 – Burch, 28 – Dominy
6 – Mayes, 7 – Kindall
Councilmembers Carl Burch and Duane Dominy for various property owners

Staff Reviewer
Staff Recommendation

Johnson
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



Metro Planning Commission Meeting of 04/28/2011

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.

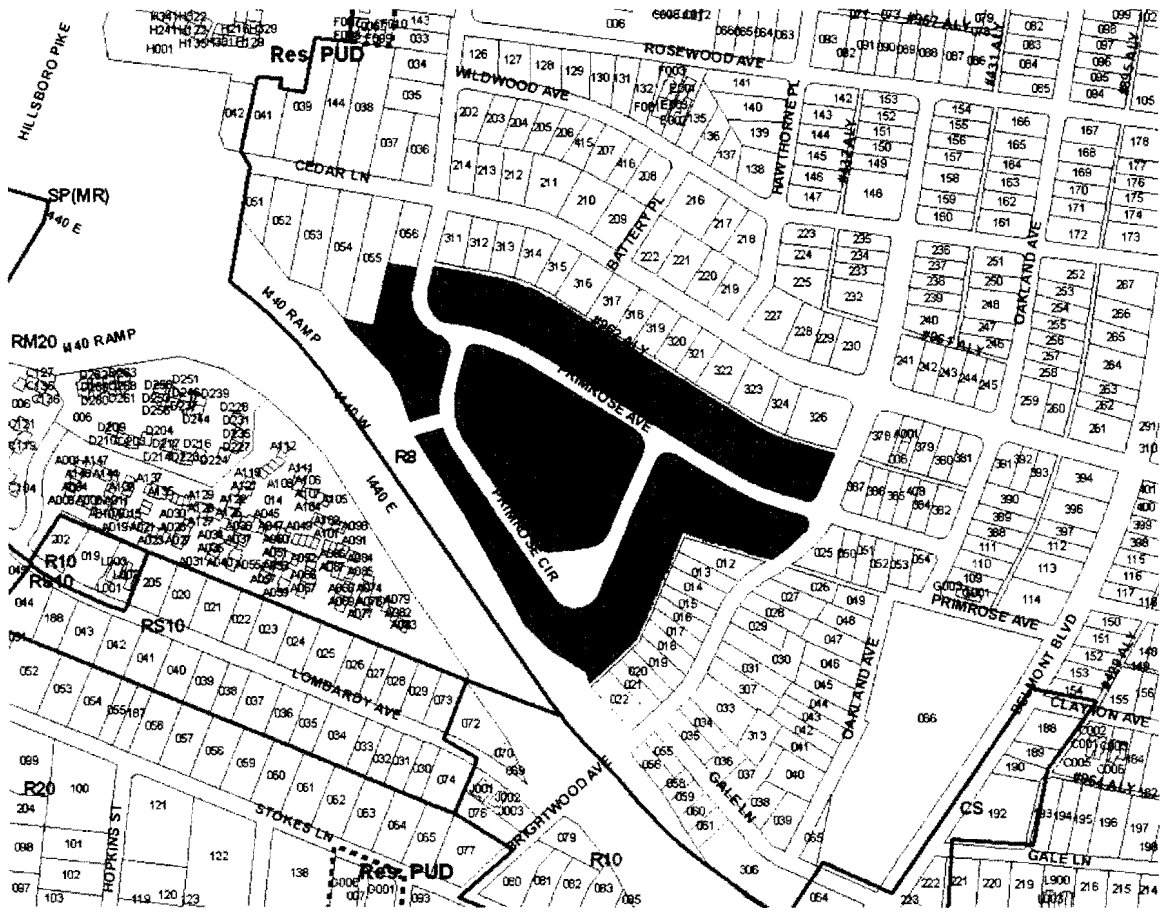
METROPOLITAN DEVELOPMENT AND HOUSING (MDHA) RECOMMENDATION

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.

SEE NEXT PAGE



2011UD-001-001
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
 Green Hills - Midtown
 18 - Kristine LaLonde



Project No.	Urban Design Overlay 2011UD-001-001
Project Name	Primrose Urban Design Overlay
Council Bill	BL2011-880
Council District	18 – LaLonde
School District	8 – Hayes
Requested by	Metro Planning Department on behalf of Councilmember Kristine LaLonde
Staff Reviewer	Withers
Staff Recommendation	<i>Approve</i>

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



Metro Planning Commission Meeting of 04/28/2011

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.



Metro Planning Commission Meeting of 04/28/2011

Subdistrict 2

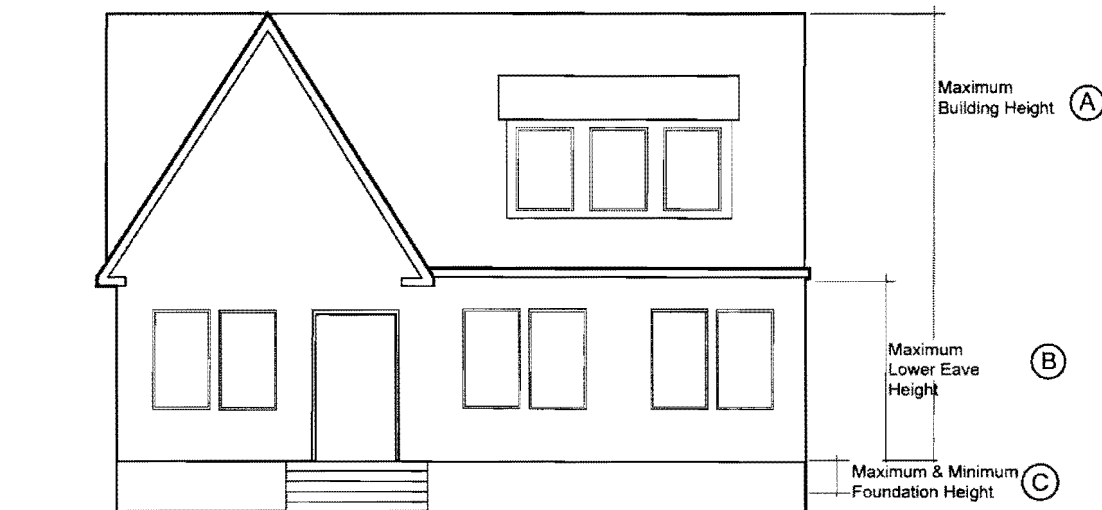
These lots are of similar character to the lots of Subdistrict 1, but were impacted by the construction of I-440 and essentially do not have rear yards. These lots are also less than the minimum lot size required by the R8 zoning district and are ineligible to construct a duplex. To allow a small increase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





Metro Planning Commission Meeting of 04/28/2011

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.



Metro Planning Commission Meeting of 04/28/2011

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.



Metro Planning Commission Meeting of 04/28/2011

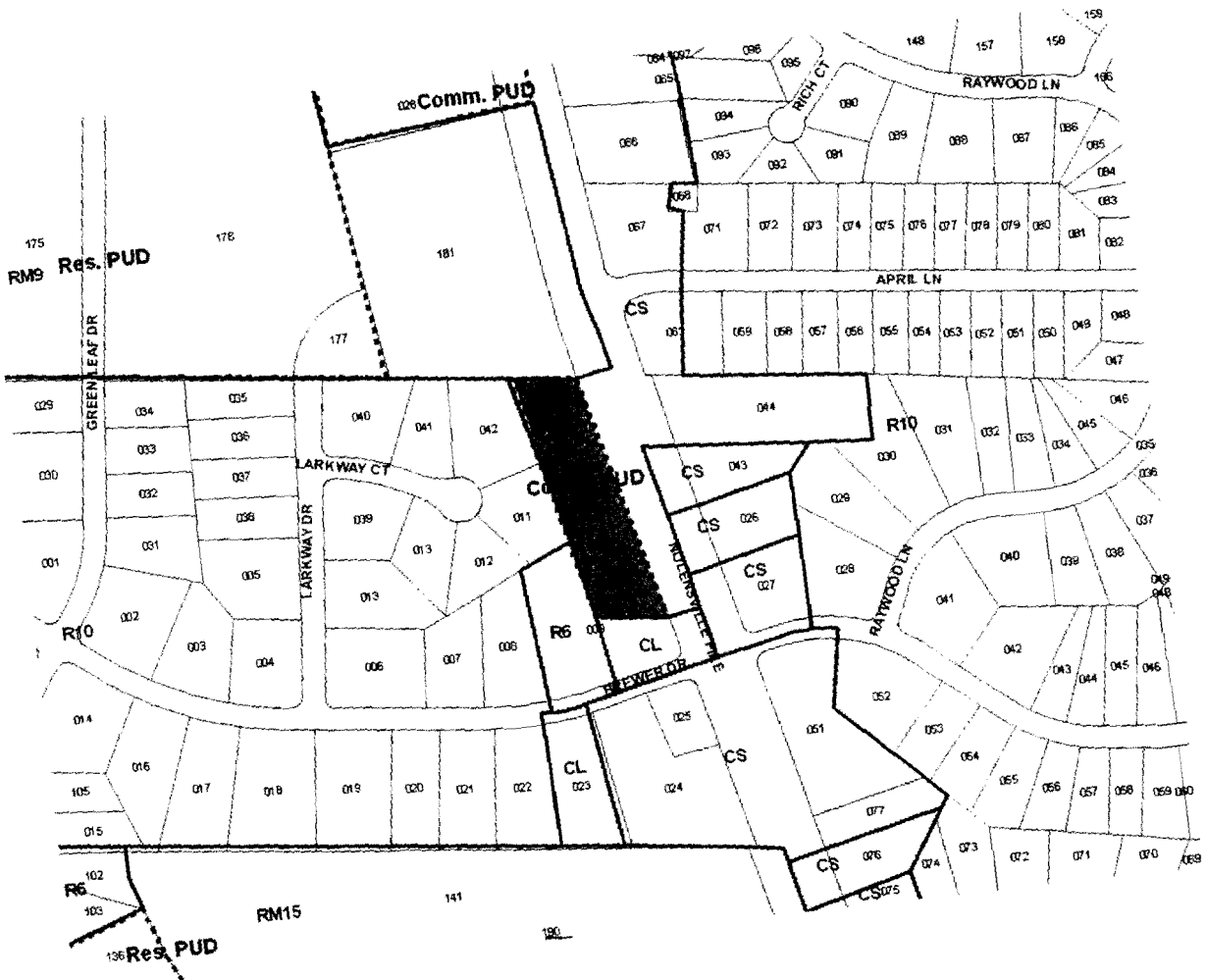
On-site parking should be per code providing a minimum of 2 parking spaces on site per single family unit.

(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.

SEE NEXT PAGE



158-75P-001
BAR-B-CUTIE (AMENDMENT #1)
 Map 161-08, Parcel(s) 010
 Southeast
 27 - Randy Foster



Project No. **Planned Unit Development 158-75P-001**
Project Name **Bar-B-Cutie**
Council District 27 – Foster
School District 2 – Brannon
Requested by MSB Architecture LLC, applicant, James McFarland et ux, owners

Staff Reviewer Johnson
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 GOALS N/A

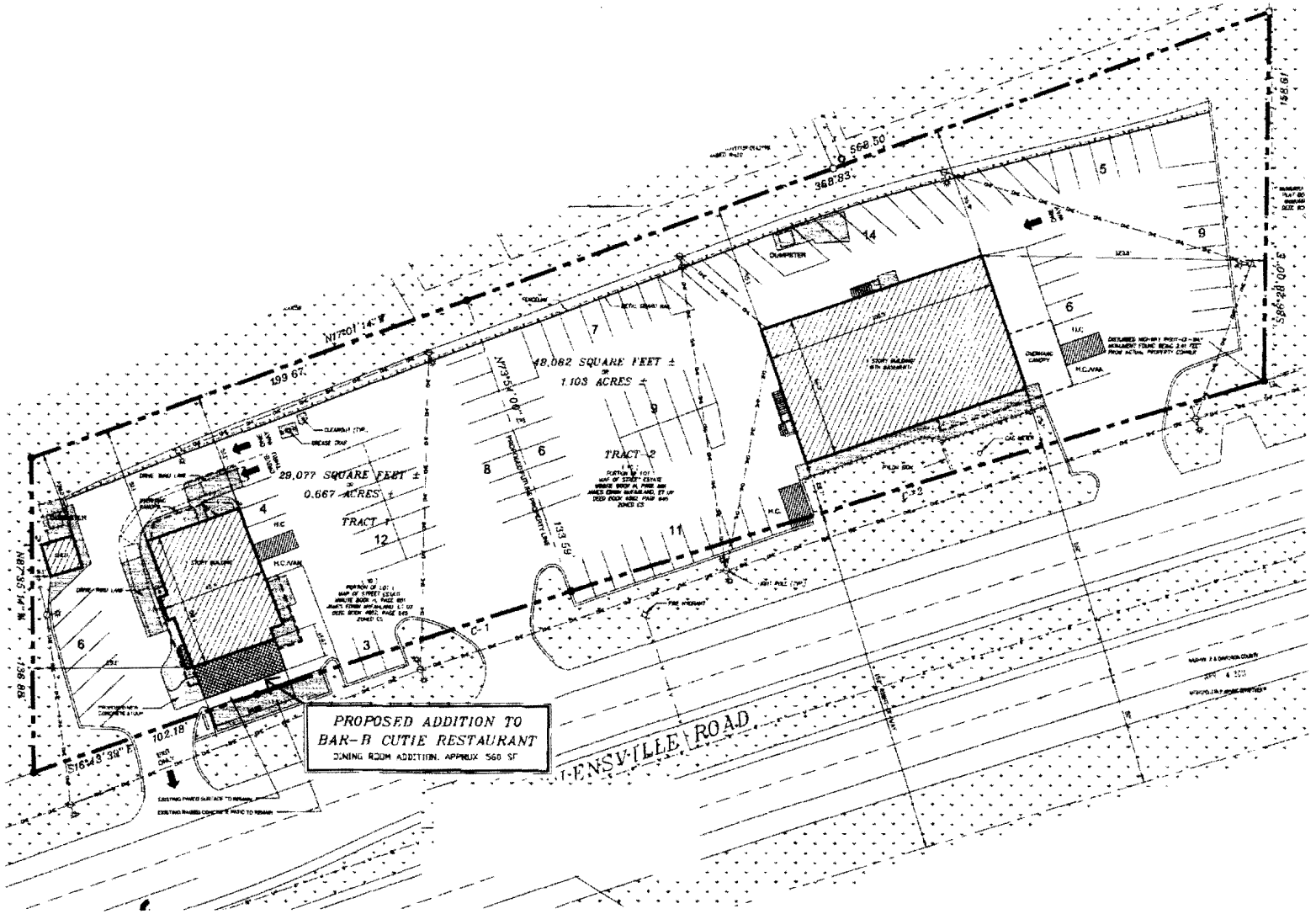
PUD AMENDMENT
Plan Details

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



**PROPOSED ADDITION TO
BAR-R CUTIE RESTAURANT**
DINING ROOM ADDITION, APPROX 560 SF

TENSVILLE ROAD

28,077 SQUARE FEET ±
0.667 ACRES ±
TRACT 1

18,082 SQUARE FEET ±
1.103 ACRES ±
TRACT 2

PORTION OF A
MAP OF CERTAIN
LANDS AS SHOWN
ON PLAT FILED IN
COUNTY RECORDS
BOOK 100, PAGE 100
DATED 10/1/50

PORTION OF A
MAP OF CERTAIN
LANDS AS SHOWN
ON PLAT FILED IN
COUNTY RECORDS
BOOK 100, PAGE 100
DATED 10/1/50

DEVELOPERS HOLDING RIGHTS IN
RELANDMENT FROM ROAD 24 FEET
FROM N.W. CORNER ONLY

S16°48'39" W

N17°01'14" W

S17°01'14" W

S16°48'39" W

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

199.67

199.67

199.67

199.67

199.67

199.67

199.67

199.67

360.83

360.83

360.83

360.83

360.83

360.83

360.83

360.83

568.50

568.50

568.50

568.50

568.50

568.50

568.50

568.50

198.91

198.91

198.91

198.91

198.91

198.91

198.91

198.91

3,000.00

3,000.00

3,000.00

3,000.00

3,000.00

3,000.00

3,000.00

3,000.00

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18

102.18



Metro Planning Commission Meeting of 04/28/2011

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

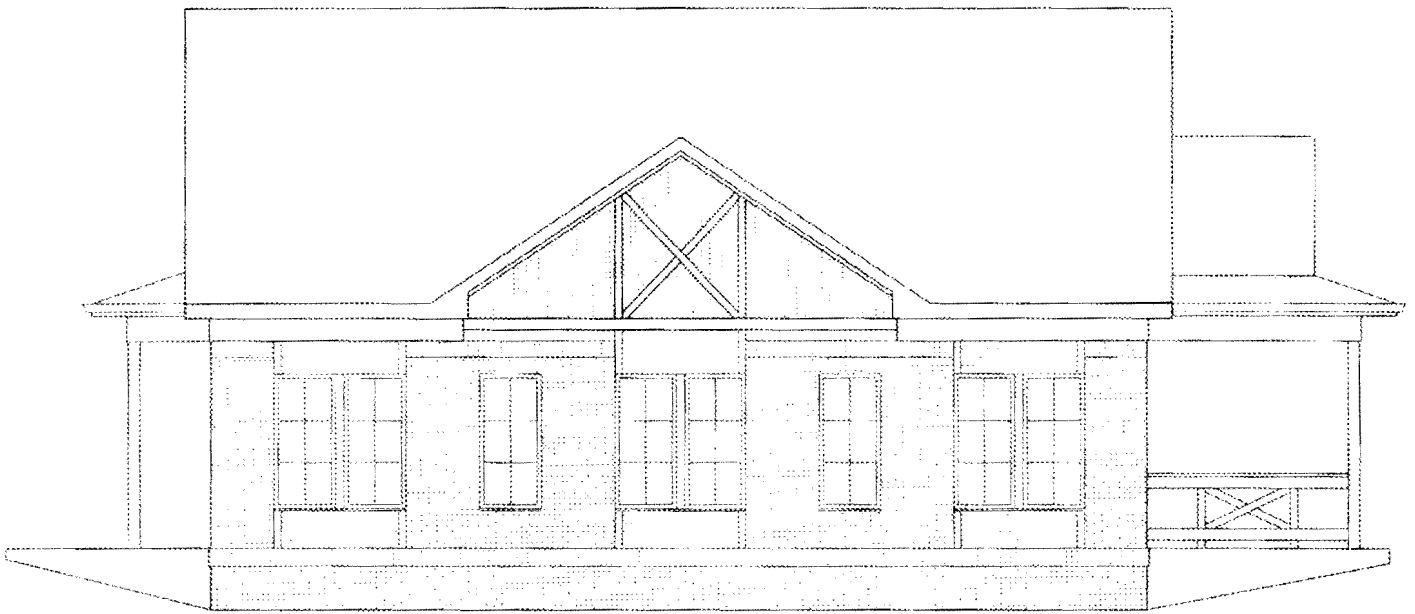
Approved

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



PROPOSED ELEVATION - EAST

BAR-B-CUTIE, NOLENSVILLE PIKE

04-01-11



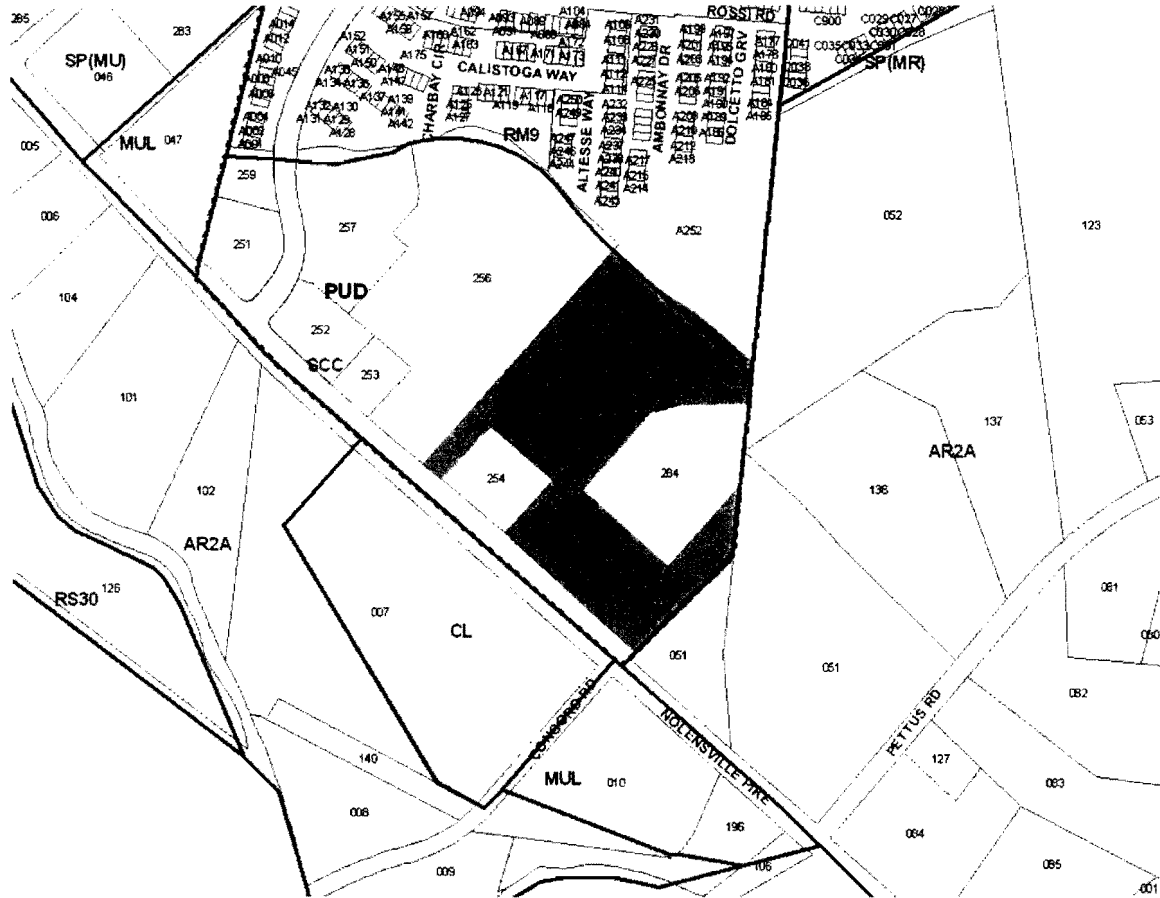
Metro Planning Commission Meeting of 04/28/2011

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.

SEE NEXT PAGE

PLANNING COMMISSION ACTIONS

- **PUD (Revision)**



2004P-013-002
MILL CREEK TOWN CENTRE (GOODWILL)
 Map 181, Part of Parcel(s) 255
 Southeast
 31 - Parker Toler



Project No. **Planned Unit Development 2004P-013-001**
Project Name **Mill Creek Towne Centre**
Council District 31 – Toler
School District 2 – Brannon
Requested by Perry Engineering LLC, applicant, for Legg Investments-Nolensville LLC, owner

Staff Reviewer Swaggart
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 GOALS

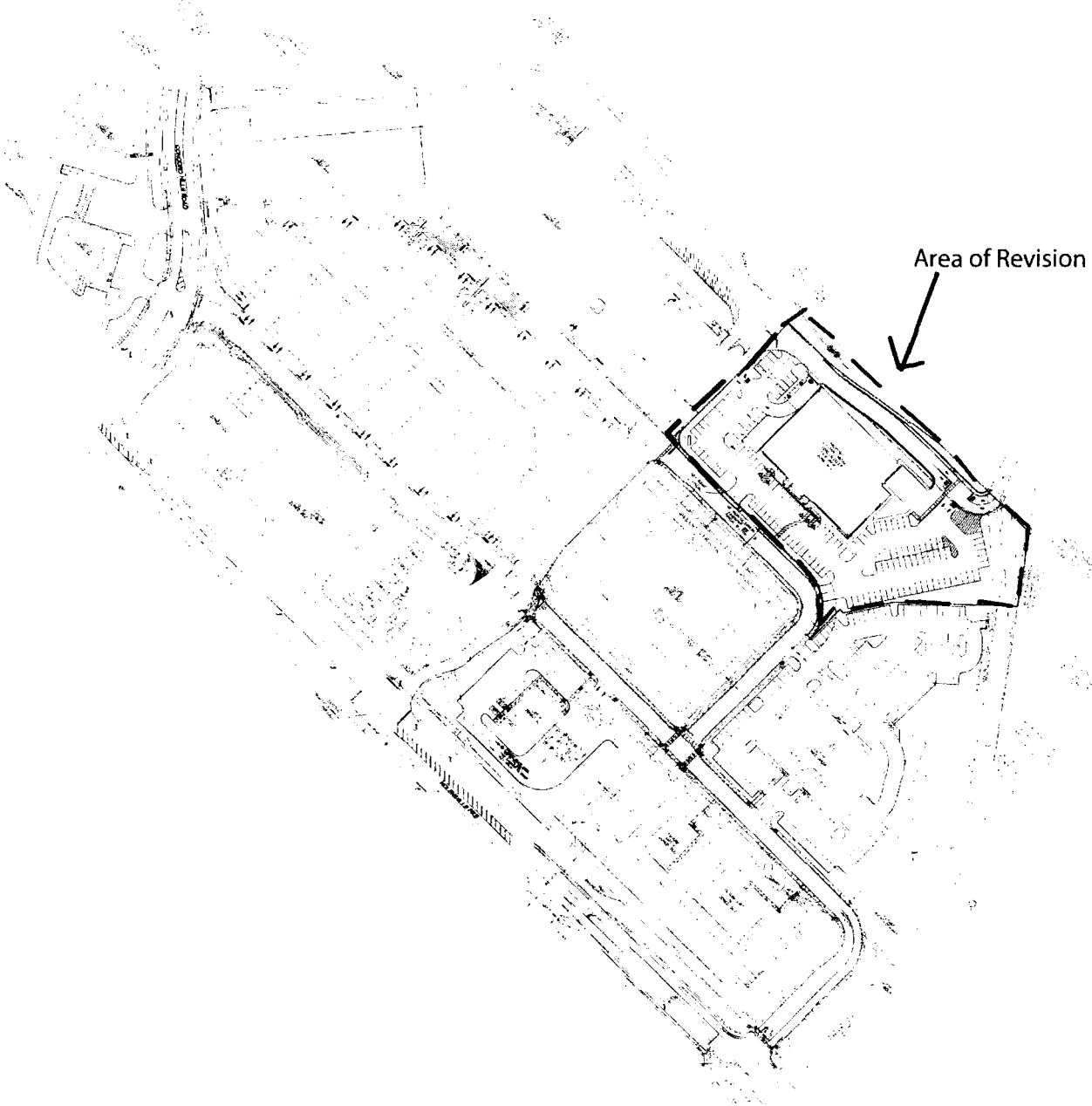
N/A

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

Proposed





Metro Planning Commission Meeting of 04/28/2011

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.

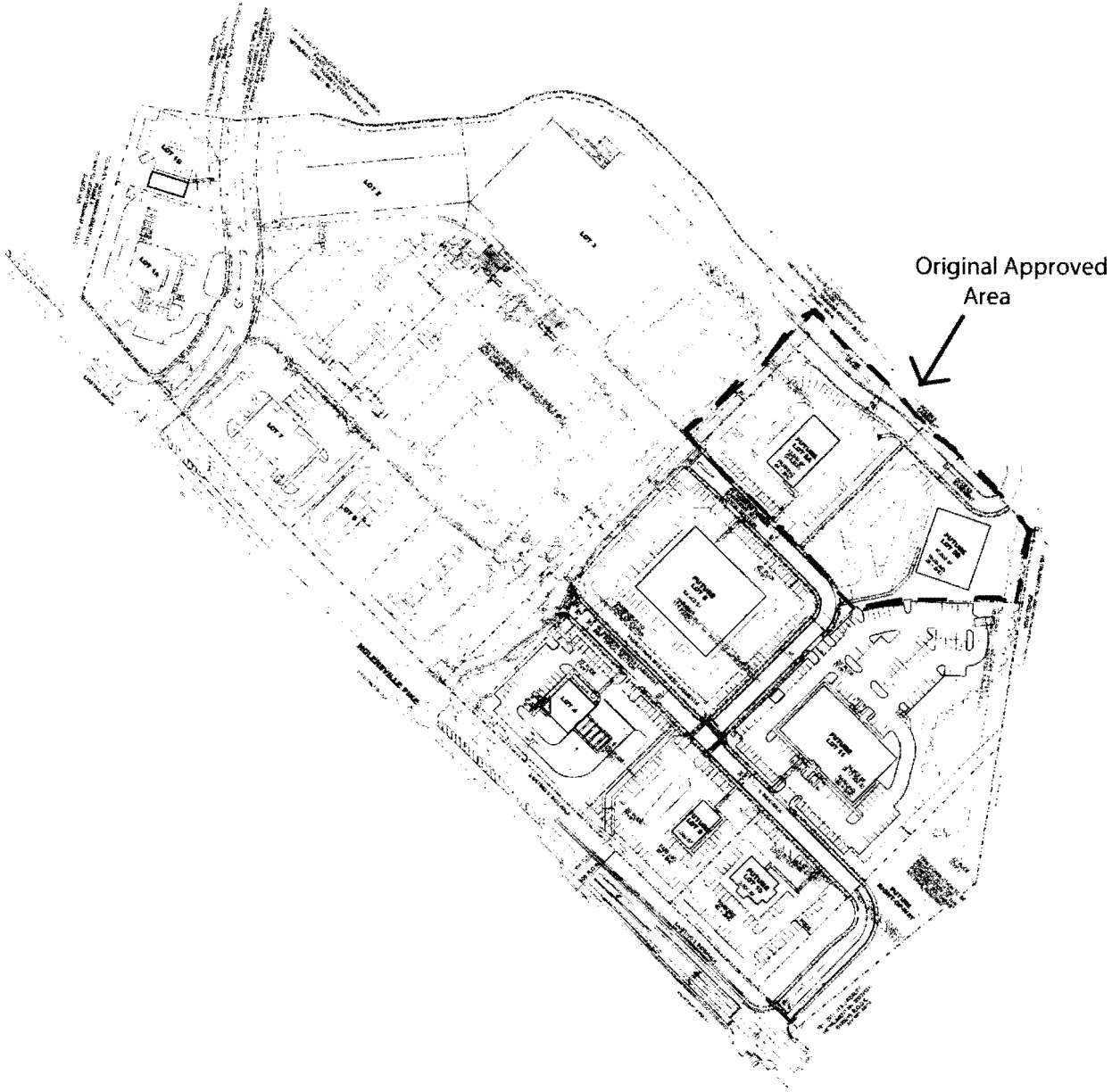
STAFF RECOMMENDATION

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

Approved 11-17-09

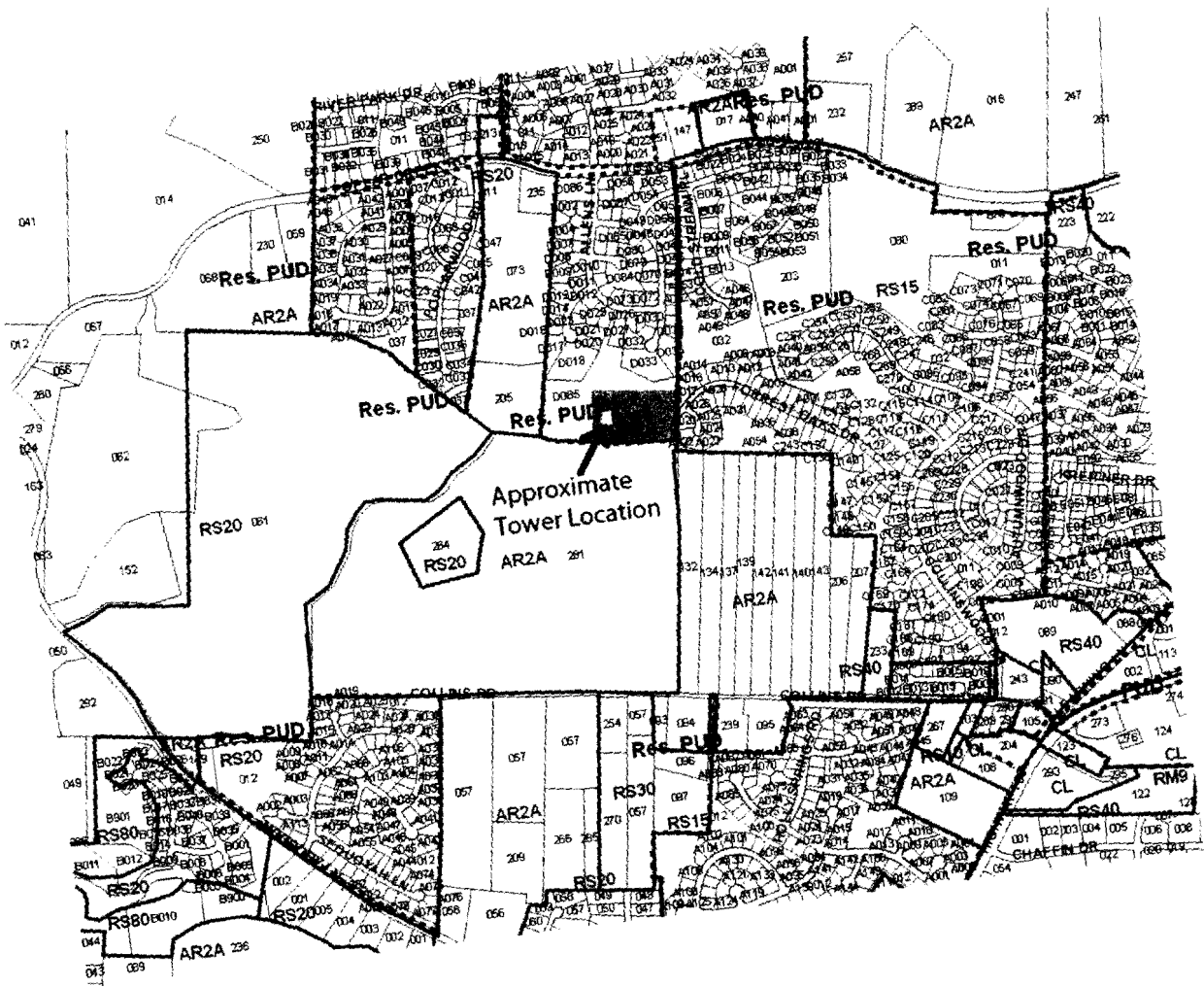




Metro Planning Commission Meeting of 04/28/2011

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.



89P-019-001
HARPETH GLEN (AMERICAN TOWER)
Map 155, Parcel(s) 074
Bellevue
35 - Bo Mitchell



Project No. **Planned Unit Development 89P-019-001**
Project Name **Harpeth Glen (American Tower)**
Council District 35 – Mitchell
School Board District 9 – Simmons
Requested By RETEL Brokerage Services, Inc., applicant for Charles W. Griffin, owner

Staff Reviewer Swaggart
Staff Recommendation *Disapprove unless plan is approved by 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.*

APPLICANT REQUEST

Permit a 195 foot tall cell tower

Preliminary PUD revision and final approval

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 Single-Family Residential (RS20), to permit a 195 foot tall monopole cellular tower, where 11 single-family residential lots were previously approved.

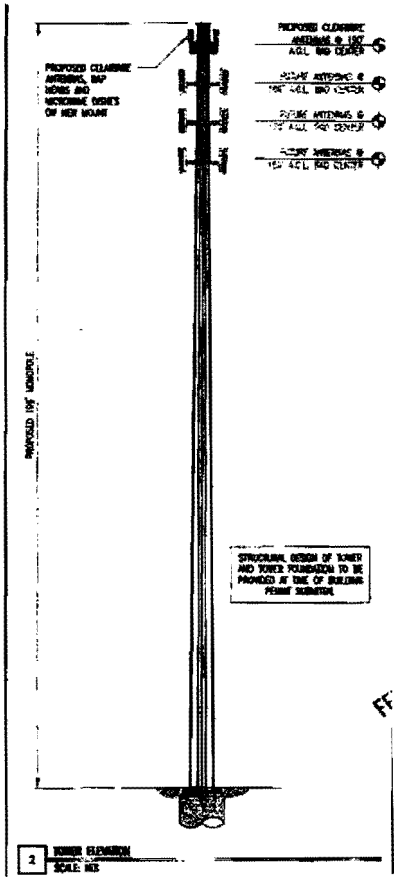
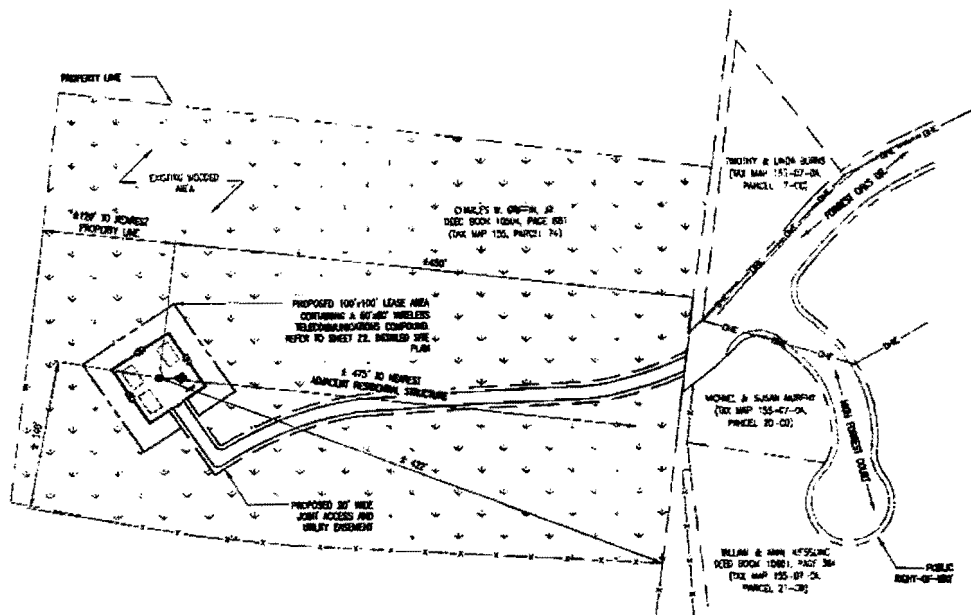
Zoning
RS20

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

PLAN DETAILS

The Harpeth Glen Plan Unit Development (PUD) was approved by Council in 1989, and was then called the Griffin Property. The development was approved for 94 single-family lots. To date, 80 lots have been platted and are occupied; however, there is final approval for 91 lots. While the remaining 11 lots have final site plan approval, they have not been platted.

The request is to replace the remaining 11 lots with a cell tower on this portion of the PUD. The 11 lots to be replaced are located along the southeastern boundary of the PUD, and are not accessed from within the development, but are accessed from Poplar Creek Estates (PUD No. 312-84-G), an adjacent development via Forest Oaks Drive.





Metro Planning Commission Meeting of 04/28/2011

Site Plan

The site plan identifies the location for the proposed 195 foot tall cell tower. The tower provides space for up to four carriers and three or more antenna applications such as 911. The cell tower will be on a 10,000 square foot leased space. The tower is located close to the western property line. The closest home to the proposed tower site is approximately 520 feet away and is located in Popular Creek Estates. The closest home within Harpeth Glen is approximately 576 feet away. Access to the tower will be from the western terminus of Forest Oaks Drive.

Zoning Ordinance requirements

The Metro Zoning Codes classifies cell towers as “telephone services”, and the use is permitted with conditions within the RS20 zoning district. Section 17.16.080.C of the Metro Zoning Ordinance details the conditions for telephone service (cell tower), and is as follows:

C. Telephone Service.

1. Telephone Service. An applicant for a new microwave or cellular tower shall demonstrate that existing towers, buildings or structures within the proposed service area cannot accommodate the equipment planned to be located on the proposed new tower. Factors to be considered in evaluating the practicality of siting the proposed equipment on existing or approved towers shall include, but are not necessarily limited to, structural capacity, radio interference and geographic service area requirements.
2. Lot Size. In residential zone districts, the minimum lot size shall comply with the zone district bulk provisions.
3. Setback. Telephone services, including accessory buildings and vehicle parking areas shall comply with the setback provisions of the applicable zone district. In nonresidential zone districts, no tower shall locate within twenty feet of a residential zone district or district permitting residential use.
4. Landscape Buffer Yard. Along all residential zone districts and districts permitting residential use, screening in the form of Landscape Buffer Yard Standard A shall be applied.



Metro Planning Commission Meeting of 04/28/2011

5. Height. The maximum height of telephone facilities shall be determined by the height control provisions of Chapter 17.12, except in the MUN, ON, CN and SCN zone districts a height control plane slope of 1.5:1 shall apply. Where a proposed tower cannot comply with the maximum height provisions, the applicant shall be required to submit for a special exception permit per Section 17.16.180(B)(1).
6. Notification. Prior to the issuance of a zoning permit, and immediately after receiving an application for a new tower, the zoning administrator or, if applicable, the executive director of the planning department shall notify the district councilmember that an application for a new tower has been submitted. Such notification shall only be required when a tower is proposed within a residential district, a district permitting residential uses (excluding the MUI, ORI, CF, CC and SCR districts), or within one thousand feet of the zoning boundary line of a residential district or a district permitting residential uses. Within thirty days from the date on which the tower application was filed, the district councilmember may hold a community meeting on the proposed tower. If a meeting is held, the applicant shall attend and provide information about the tower's safety, technical necessity, visual aspects, and alternative tower sites and designs considered.

Additional Information

In addition to a site plan, the applicant has submitted information as required by the Metro Zoning Code as specified in the previous section of this report. As submitted, the request complies with all of the criteria above except for the landscape buffer yard requirement (No. 4).

Analysis

There are two questions to be addressed, one of which is outlined in Section 17.40.120G of the Metro Zoning Code. This Section of the Code states that a change to the Council approved plan may be considered as a Revision by the Planning Commission if "In the judgment of the Commission, the change does not alter the basic development concept of the PUD." If it is not a Revision (which is what the applicant requested in this case), then it would be considered as an Amendment by the Council. If it is an Amendment, then the Metro Council would make the final decision whether to grant the change to the PUD plan, but if it is a Revision, then the Planning Commission



Metro Planning Commission Meeting of 04/28/2011

would make the final decision. The second question is if the Metro Zoning Code requirements permit the cell tower at this location, and should the Commission recommend approval?

As proposed, the request will remove 11 single-family lots, which were approved by Metro Council and will replace them with a cell tower. The cell tower was never contemplated in the original Council approved plan, nor was it contemplated by the residents who bought into the development. The property the tower is proposed is zoned RS20 and the tower is permitted with conditions in the RS20 district. While it is permitted with conditions in RS20, the PUD overlay requires a site plan which identifies the details of the development. Since a cell tower was not a part of the original plan approved by Council, staff is recommending that it be considered an Amendment to the PUD since it does alter the basic development concept of the PUD and is a significant change. *Staff recommends that the request be considered an amendment to the PUD, which requires Council approval.*

As stated above, cell towers are permitted with conditions within the RS20 zoning district. While staff considers the request a major change to the PUD, requiring Council approval, *staff recommends that the request be approved with conditions.* The proposed request meets all zoning requirements stated above with the exception that the plan does not identify a landscape buffer yard. Because the tower will be located so far away from any residence and the lot is heavily forested, then a formal buffer yard may not be necessary; however, since it is a Code requirement and no unique hardship has been identified, staff recommends disapproval of a variance to this requirement and that a condition be added to the plan if approved.

In previous similar requests, Metro Legal informed staff that, while the Planning Commission does have the authority under Federal Law to deny request for cell towers, such denial must be supported by substantial and material evidence contained within the written administrative record.

According to a memo received in 2009, from Metro Legal, state or local governments cannot (1) unreasonably discriminate among providers of functionally equivalent services; and (2) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.



Metro Planning Commission Meeting of 04/28/2011

For your convenience, the memo has been included at the end of this report.

For a state or local government to legally deny a cell tower, it would be required to support the denial with substantial and material evidence that the proposed tower is not needed and that the carrier's service would not be negatively impacted without the new tower.

Since the request substantially meets all zoning requirements, staff recommends that the request be approved with conditions as an amendment to the PUD.

If the amendment is approved by the Metro Council, the final site plan would then need to be re-considered by the Planning Commission at a later date.

**PUBLIC WORKS
RECOMMENDATION**

No Exception Taken

**STORMWATER
RECOMMENDATION**

Disapprove

STAFF RECOMMENDATION

Staff recommends that the request be disapproved because it has not been approved by Stormwater. If approved by Stormwater prior to the April 28, 2011, Planning Commission meeting, then staff recommends disapproval of the request as a revision, but approval with conditions of the request as an amendment.

CONDITIONS (If approved)

1. Provide landscape buffer yard as required by Metro Code.
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 Stormwater Management division of Water Services.
3. 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.



Metro Planning Commission Meeting of 04/28/2011

4. 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.
5. 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.
6. 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.
7. 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.
8. 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.



Metro Planning Commission Meeting of 04/28/2011



MEMORANDUM

Department of Law
Sue Cain, Director
862-6341

TO: RICK BERNHARDT, EXECUTIVE DIRECTOR, PLANNING DEPARTMENT

FROM: TED MORRISSEY, ASSISTANT METROPOLITAN ATTORNEY

SUBJECT: CELL TOWER REGULATION

DATE: APRIL 10, 2009

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

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

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

(7) Preservation of local zoning authority

(A) General authority

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

(B) Limitations

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

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

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

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

(iii) Any decision by a State or local government or instrumentality thereof to



Metro Planning Commission Meeting of 04/28/2011

deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by *substantial evidence contained in a written record*.

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

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

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

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