



METROPOLITAN PLANNING COMMISSION MINUTES

Thursday, December 8, 2011

4:00 pm Regular Meeting

700 Second Avenue South

(between Lindsley Avenue and Middleton Street)

Howard Office Building, Sonny West Conference Center (1st Floor)

MISSION STATEMENT

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

Commissioners Present:

Jim McLean, Chairman
Hunter Gee, Vice Chair
Stewart Clifton
Phil Ponder
Derrick Dalton
Councilmember Phil Claiborne

Staff Present:

Rick Bernhardt, Executive Director
Ann Hammond, Assistant Executive Director
Kelly Armistead, Administrative Services Officer III
Craig Owensby, Public Information Officer
Dennis Corrieri, Planning Technician I
Bob Leeman, Planning Manager II
Brenda Bernards, Planner III
Cindy Wood, Planner III
Jennifer Regen,
Jason Swaggart, Planner II
Greg Johnson, Planner II
Brian Sexton, Planner I
Tifinie Capehart, Planner II
Doug Sloan, Legal

Commissioners Absent: Judy Cummings, Greg Adkins, Jeff Haynes, Andree LeQuire

Richard C. Bernhardt, FAICP, CNU-A

Secretary and Executive Director, Metro Planning Commission

Metro Planning Department of Nashville and Davidson County
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Notice to Public

Please remember to turn off your cell phones.

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

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

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

Writing to the Commission

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

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

Speaking to the Commission

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

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

Legal Notice

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



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MEETING AGENDA

A. CALL TO ORDER

The meeting was called to order at 4:07 p.m.

B. ADOPTION OF AGENDA

Mr. Clifton moved and Mr. Gee seconded the motion to adopt the revised agenda. (6-0)

C. APPROVAL OF NOVEMBER 10, 2011 MINUTES

Mr. Clifton moved and Mr. Gee seconded the motion to approve the minutes of November 10, 2011. (6-0)

D. RECOGNITION OF COUNCILMEMBERS

Council Lady Bennett spoke in support of Items 5, 9, and 15.

Council Lady Evans spoke regarding Item 16 and asked, along with Councilmember Bo Mitchell, that the MPC find the PUD inactive so that modifications can be considered in a thoughtful, transparent, and public way.

Councilman Anthony Davis spoke in support of Items 9, 13, and 19.

Councilman Scott Davis spoke in support of Items 9, 13, and 19.

E. ITEMS FOR DEFERRAL / WITHDRAWAL

1. **2011CP-013-004**
ANTIOCH-PRIEST LAKE COMMUNITY PLAN: 2003 UPDATE
2. **2011SP-024-001**
MEADOWS DOWNS
5. **2011CP-002-001**
PARKWOOD-UNION HILL COMMUNITY PLAN AMENDMENT
6. **2011CP-013-005**
ANTIOCH PRIEST LAKE COMMUNITY PLAN AMENDMENT
14. **2011SP-028-001**
BL2011-71 / BAKER
TOWNS AUTO SALES
18. **2011S-102-001**
KENILWOOD

Mr. Ponder moved and Mr. Dalton seconded the motion to approve the Deferred and Withdrawn Items. (6-0)

F. CONSENT AGENDA

3. **2011Z-021PR-001**
BL2011-68 / WEINER
7201 CHARLOTTE PIKE & CHARLOTTE PIKE (UNNUMBERED)
4. **98P-007-002**
BL2011-75 / BANKS
SEVEN SPRINGS

7. **2011Z-018TX-001**
BL2011-80 / CLAIBORNE
ADAPTIVE RESIDENTIAL USE
9. **2011Z-020TX-001**
BL2011-48 / CLAIBORNE
DOMESTICATED HENS
10. **2006SP-081-001**
BL2011-73 / DUVALL
DAVENPORT DOWNS
11. **2006SP-081-002**
BL2011-74 / DUVALL
DAVENPORT DOWNS
12. **2011SP-025-001**
ENTERPRISE RENT-A-CAR
13. **2011SP-027-001**
BL2011-66 / DAVIS
JOSLIN PET SERVICES
15. **2011Z-023PR-001**
BL2011-70 / BENNETT
3614 BAXTER AVENUE
17. **2011S-096-001**
BATTLEFIELD ESTATES, SECTION 1, RESUBDIVISION
19. **2007SP-122-008**
GALLATIN SPECIFIC PLAN (FINAL: THE DOG SPOT)
20. **A resolution to establish a new fee structure for all Metro Planning Commission zoning code related applications (2012OT-001-001).**

Item 9 was added to the Consent Agenda.

Mr. Ponder moved and Mr. Clifton seconded the motion to approve the Consent Agenda. (6-0)

G. PREVIOUSLY DEFERRED ITEMS

Community Plan Amendments

1. **2011CP-013-004**
ANTIOCH-PRIEST LAKE COMMUNITY PLAN: 2003 UPDATE
Map 149, Parcel(s) 026
Council District 28 (Duane A. Dominy)
Staff Reviewer: Tifine Capehart

A request to amend the Antioch-Priest Lake Community Plan: 2003 Update to change the land use policy from Residential Low-Medium Density (RLM) to T3 Neighborhood Evolving (NE) and Conservation (CO) for property located at 2158 Una Antioch Pike, requested by Pam Meadows, owner. (See also Specific Plan Case # 2011SP-024-001).

Staff Recommendation: DEFER to the January 12, 2012, Planning Commission meeting

The Metropolitan Planning Commission DEFERRED 2011CP-013-004 to the January 12, 2012, Planning Commission meeting at the request of the applicant. (6-0)

Specific Plans

2. 2011SP-024-001

MEADOWS DOWNS

Map 149, Parcel(s) 026

Council District 28 (Duane A. Dominy)

Staff Reviewer: Greg Johnson

A request to rezone from R10 to SP-MR zoning property located at 2158 Una Antioch Pike, approximately 1,915 feet south of Murfreesboro Pike (8.9 acres) and within the Floodplain Overlay District, to permit a maximum of 100 dwelling units within an assisted living and/or nursing facility, requested by Anderson, Delk, Epps and Associates Inc., applicant, Pamela Meadows, owner. (See also Community Plan Amendment Case # 2011CP-013-004)

Staff Recommendation: DEFER to the January 12, 2012, Planning Commission meeting

The Metropolitan Planning Commission DEFERRED 2011SP-014-001 to the January 12, 2012, Planning Commission meeting at the request of the applicant. (6-0)

Zone Changes

3. 2011Z-021PR-001

BL2011-68 / WEINER

7201 CHARLOTTE PIKE & CHARLOTTE PIKE (UNNUMBERED)

Map 115, Parcel(s) 008, 091

Council District 22 (Sheri Weiner)

Staff Reviewer: Jason Swaggart

A request to rezone from CS to OR20 district properties located at 7201 Charlotte Pike and at Charlotte Pike (unnumbered), approximately 3,400 feet east of Old Hickory Boulevard (15.98 acres), requested by F. Clay Bailey Jr., Executor.

Staff Recommendation: APPROVE

APPLICANT REQUEST Rezone from commercial to office and residential

Zone Change - A request to rezone from Commercial Services (CS) to Office and Residential (OR20) district properties located at 7201 Charlotte Pike and at Charlotte Pike (unnumbered), approximately 3,400 feet east of Old Hickory Boulevard (15.98 acres).

Existing Zoning

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

Proposed Zoning

OR20 District - Office/Residential is intended for office and/or multi-family residential units at up to 20 dwelling units per acre.

CRITICAL PLANNING GOALS - N/A

BELLEVUE COMMUNITY PLAN

Land Use Policy

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

Special Policy # 1- The special policy that applies to the subject properties recognizes steep slopes that are unsuitable for nonresidential or intensive residential use. The policy supports small scale commercial uses with a low floor area ratio (0.1 to 0.15), and residential uses limited to 15 units per acre and lower where topographic conditions are severe. Any changes in zoning should be Specific Plan (SP) or be accompanied with a Planned Unit Development (PUD) or other overlay that will ensure that the environmentally sensitive areas are protected.

Consistent with Policy? - While the Commercial Mixed-Use Concentration policy supports the proposed OR20 zoning district, the special policy requires that any zoning be accompanied by a PUD, or that a site plan based zoning district be used. Without an enforceable plan the Planning Commission has no means to enforce the policy intended to protect the environmentally sensitive areas on the property.

Staff's original recommendation was to disapprove the request because it is not consistent with the special policy. After further review, it was found that the property was previously zoned OR20, and was rezoned to CS in 2004. Staff recommended disapproval of CS but Council approved the request. While OR20 would permit a higher floor area than CS, it also permits residential uses which would be more

appropriate at this location. Since the property was originally zoned OR20 and the OR20 zoning district would permit residential uses, then staff is recommending approval of the request.

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: **CS**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Specialty Retail (814)	15.98	0.066	45,941 SF	2004	44	132

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)	15.98	0.054 F	37,588 SF	629	86	121

Traffic changes between typical: **CS** and proposed **OR20**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	-1375	+42	-11

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

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Shopping Center (820)	15.98	0.6 F	417,652 SF	17198	358	1658

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 Office (710)	15.98	0.8 F	556,870 SF	5006	741	703

Traffic changes between maximum: **CS** and proposed **OR20**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	-12192	+383	-955

STAFF RECOMMENDATION - Staff recommends that the request be approved. While the request is not consistent with the special policy that applies to the property it is consistent with the general land use policy, and the OR20 district is more appropriate than the existing CS district.

Approved (6-0), Consent Agenda

Resolution No. RS2011-240

"BE IT RESOLVED by The Metropolitan Planning Commission that 2011Z-021PR-001 is **APPROVED. (6-0)**"

Planned Unit Developments

4. 98P-007-002

BL2011-75 / BANKS
SEVEN SPRINGS (Amend #3: St. Martin Square)
 Map 160, Parcel(s) 046
 Council District 04 (Brady Banks)
 Staff Reviewer: Greg Johnson

A request to amend a portion of the Seven Springs Planned Unit Development Overlay District for property located at 323 Seven Springs Way, opposite Cloverland Drive (3.71 acres), zoned OR40, to permit 144 multi-family units in a four-story building where 72 multi-family units were previously approved, requested by Civil Site Design Group PLLC, applicant, for St. Martin Square Inc., owner.

Staff Recommendation: APPROVE WITH CONDITIONS and DISAPPROVE without all Planning Commission required conditions

APPLICANT REQUEST - Increase the number of residential units from 72 to 144.

PUD Amendment - A request to amend a portion of the Seven Springs Planned Unit Development Overlay District for property located at 323 Seven Springs Way, opposite Cloverland Drive (3.71 acres), zoned Office/Residential (OR40), to permit 144 multi-family units in a four-story building where 72 multi-family units were previously approved.

OR40 District - Office/Residential is intended for office and/or multi-family residential units at up to 40 dwelling units per acre.

CRITICAL PLANNING GOALS - N/A

PLAN DETAILS - This PUD was originally approved by Council in 1999 and was amended in 2004 and 2009. In addition to residential buildings, the PUD approval includes approximately 1.2 million square feet of office and retail space on several lots. The proposed plan asks to amend a portion of the Seven Springs PUD to permit additional residential units beyond what was approved in the 2004 PUD amendment. Under that amendment, two four-story residential buildings were permitted on the east side of the PUD. Each building included 72 residential units for a total of 144 units. One of the two buildings has been constructed and is occupied. The current amendment proposal intends to double the number of dwelling units in the unbuilt residential building from 72 to 144, which would increase the total number of residences within the PUD from 144 to 216. A change of this magnitude requires Council approval.

As noted above, the 2004 PUD amendment permitted two residential buildings. These are located on the east side of the PUD and each is shown on its own lot surrounded by associated parking. Although the proposed amendment would increase the total number of dwellings in one of the buildings, it will not have a major impact on the lot configuration depicted in the preliminary PUD approval. The residential building will maintain a location on its own lot, surrounded by required parking, and meeting the maximum height of four stories. In addition to consistency with the 2004 preliminary PUD amendment, the proposed residential building complies with applicable requirements of the Zoning Code.

Although the increase in the number of residential dwellings requires an amendment to the PUD, the residential density on each lot will remain within the OR40 base zoning district.

PUBLIC WORKS RECOMMENDATION Revise and Resubmit

- 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.
- Provide general plan for solid waste management and recycling. A single dumpster is insufficient for 144 units.

Traffic Comments:

- Comply with revised PUD amendment #2 conditions. Construct WB right turn lane on Old Hickory Blvd at Seven Springs and modify ped facilities and signal as necessary or submit Traffic study that indicates that this project's increased units do not trigger right turn lane construction.
- At development of each remaining parcel conduct TIS update to determine phasing for conditioned roadway improvements.

Amendment Approved with Conditions:

- Proposed north basin to meet current water quality requirements (80%TSS).

Staff recommends approval with conditions and disapproval without all Planning Commission required conditions.

1. The proposal shall comply with all requirements of Council bill O98-1491 for the Seven Springs PUD and previous PUD revisions, except for those that are specifically amended with this application or changed by an updated traffic impact study approved by Metro Public Works.
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 preliminary PUD shall comply with conditions of approval from Metro Public Works and Metro Stormwater.
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. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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 and final PUD plan. If a corrected copy of the preliminary final PUD plan incorporating the conditions of approval therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the preliminary PUD plan shall be presented to the Metro Council as an amendment to this PUD ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.

Approved with conditions and disapproved without all Planning Commission required conditions. (6-0), Consent Agenda

Resolution No. RS2011-241

“BE IT RESOLVED by The Metropolitan Planning Commission that 98P-007-002 is **APPROVED WITH CONDITIONS and DISAPPROVED WITHOUT ALL PLANNING COMMISSION REQUIRED CONDITIONS. (6-0)**

Conditions of Approval:

1. The proposal shall comply with all requirements of Council bill O98-1491 for the Seven Springs PUD and previous PUD revisions, except for those that are specifically amended with this application or changed by an updated traffic impact study approved by Metro Public Works.
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 preliminary PUD shall comply with conditions of approval from Metro Public Works and Metro Stormwater.
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. 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.
6. 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.
7. 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.
8. 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.
9. 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.

10. 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 and final PUD plan. If a corrected copy of the preliminary final PUD plan incorporating the conditions of approval therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the preliminary PUD plan shall be presented to the Metro Council as an amendment to this PUD ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.

The proposed PUD amendment, with conditions, is consistent with the current land use policy and zoning district, and is consistent with the intent of the approved PUD.”

H. COMMUNITY PLAN POLICY CHANGES AND ASSOCIATED CASES

Community Plan Amendments

5. 2011CP-002-001

PARKWOOD-UNION HILL COMMUNITY PLAN AMENDMENT

Council District 3 (Walter Hunt), 8 (Karen Bennett)

Staff Reviewer: Cynthia Wood

A request to amend the Parkwood-Union Hill Community Plan: 2006 Update to change the land use policies for various properties from Civic or Public Benefit in Community Center, Commercial in Community Center, Mixed Housing in Community Center, and Mixed Use in Community Center to T3 Suburban Mixed Use Corridor located along Barnett Drive, Bellshire Drive, Bell Grimes Lane, Darbytown Road, Dickerson Pike, Kemper Drive N., Old Due West Avenue N., Old Hickory Boulevard, Thackery Drive, Tuckahoe Drive, and Westchester Drive, requested by the Metro Planning Department, applicant, various property owners.

Staff Recommendation: APPROVE

The Metropolitan Planning Commission DEFERRED INDEFINITELY 2011CP-002-001 at the request of the applicant. (6-0)

6. 2011CP-013-005

ANTIOCH PRIEST LAKE COMMUNITY PLAN AMENDMENT

Map 162, Parcel(s) 026, 028, 029, 031, 126

Map 163, Parcel(s) 068-071, 334

Council District 32 (Jacobia Dowell)

Staff Reviewer: Cynthia Wood

A request to amend the Antioch-Priest Lake Community Plan: 2003 Update to change the land use policy from Industrial and Distribution (IN) to Natural Conservation (NCO) and Residential Low-Medium (RLM) for various properties located along Antioch Pike, Blue Hole Road and Hickory Hollow Parkway, requested by the Metro Planning Department, applicant, various property owners.

Staff Recommendation: APPROVE

The Metropolitan Planning Commission DEFERRED INDEFINITELY 2011CP-013-005 at the request of the applicant. (6-0)

I. RECOMMENDATIONS TO METRO COUNCIL

Zoning Text Amendments

7. 2011Z-018TX-001

BL2011-80 / CLAIBORNE

ADAPTIVE RESIDENTIAL USE

Staff Reviewer: Jennifer Regen

A request to amend Section 17.16.030.E (Adaptive Residential Development) of the Metro Zoning Code to delete in the introductory paragraph the phrase "zoning overlay" and insert "services" in its place, requested by Metro Planning Department.

Staff Recommendation: APPROVE

APPLICANT REQUEST - Modify zoning text to permit adaptive residential developments in Nashville's urban areas.

Text Amendment - A request to amend Section 17.16.030.E (Adaptive Residential Use) of the Metro Zoning Code to delete in the introductory paragraph the phrase "zoning overlay" and insert "services" in its place.

PURPOSE - To support the adaptive reuse of Metro's commercial corridors, this amendment proposes to permit residential uses along commercially zoned major arterials and collector streets in Davidson County's urban areas.

Existing Law - The current Metro Zoning Code allows adaptive residential developments along major arterials and collector streets in portions of the Urban Zoning Overlay (UZO) as approved by the Metro Council on February 2, 2005, via council bill BL2004-492. An adaptive residential development can be a single-family home, two-family dwelling, or multi-family development. These residential uses are permitted with conditions (PC) in office, mixed-use, commercial, shopping center, and industrial zoning districts where at least 40 percent of the proposed project square footage is residential. Where certain performance standards cannot be achieved, an applicant may apply for a special exception permit for review/approval by the Board of Zoning Appeals (BZA). To date, slightly more than 340 adaptive residential dwelling units have been constructed in Davidson County during the past seven years (2004 to present).

Proposed Text Amendment - The amendment proposes to modify the Metro Zoning Code to change the boundary that is used to permit adaptive residential development. The current boundary is the UZO. The amendment would use the USD as the boundary, which would increase the amount of land that could utilize the adaptive residential provisions of the Zoning Code.

STAFF RECOMMENDATION

Approve. The ordinance provides opportunities to reclaim, improve, and redevelop vacant, underutilized, or distressed properties, thereby leveraging private sector investment where Metro has existing public infrastructure (i.e. roads, sidewalks, public safety, libraries, and schools). While the text amendment increases the number of eligible properties on which a single-family, two-family, or multi-family dwelling can be located, it restricts their location to major roads in Davidson County. Further, it serves to relieve the pressure to place multi-family development in the interior of established neighborhoods. Ultimately, the ability to locate residential and commercial uses along Nashville's major roads lends itself to a healthier Nashville. With uses closer to where people live and work, the likelihood of walking or bicycling to the store, restaurant, or work increases.

ORDINANCE NO. BL2011-80

An ordinance amending Title 17 of the Metropolitan Code, Zoning Regulations, to modify Section 17.16.030.E (Adaptive Residential Development) (Proposal No. 2011Z-018TX-001).

WHEREAS, the Metro Council adopted Ordinance BL2004-492 on February 1, 2005 creating the Adaptive Residential Development provisions;

WHEREAS, the Adaptive Residential Development provisions enable the conversion of existing, vacant non-residential buildings and underutilized properties to residential use;

WHEREAS, over 340 residential units have been created along arterials and collector roadways in Metropolitan Government of Nashville and Davidson County;

WHEREAS, continuing to provide opportunities for residential uses along major transit and commercial corridors in Nashville promotes sustainable development.

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

SECTION 1. Amend Section 17.16.030.E (Uses Permitted with Conditions: Residential – Adaptive Residential Development) by **deleting** the phrase "zoning overlay" in the first sentence of the introductory paragraph and **inserting** the phrase "services" in its place.

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

Approved (6-0), Consent Agenda

Resolution No. RS2011-242

"BE IT RESOLVED by The Metropolitan Planning Commission that 2011Z-018TX-001 is **APPROVED. (6-0)**

The amendment increases the number of eligible properties on which residential development can occur by

permitting residential development within certain land zoned for non-residential uses. It restricts possible locations to major roads within Davidson County. This proposal is intended to provide additional use opportunities on many under-utilized commercially-zoned properties on arterial roads and to relieve the pressure to place multi-family development in the interior of established neighborhoods.”

8. 2011Z-019TX-001

BL2011-48 / CLAIBORNE

SIGN: DESTRUCTION OF NON-CONFORMING SIGNS

Staff Reviewer: Rebecca Ratz

A request to amend the Metro Zoning Code, Section 17.40.690 (Nonconforming Signs) by deleting the existing non-conforming standards contained in subsections C, D, and E and inserting new standards requiring a non-conforming sign to comply with the Zoning Code's sign standards when 50% or more of the sign has been destroyed, a new land use is placed on the property, or when a use has been inactive for 30 months or more, requested by Councilmember Phil Claiborne.

Staff Recommendation: APPROVE WITH AMENDMENT

APPLICANT REQUEST - Revise Zoning Code provisions relating to non-conforming signs.

Text Amendment A request to amend Chapter 17.40 of the Metro Zoning Code relative to the destruction of non-conforming signs.

APPLICATION DETAILS

Non-conforming Sign Provisions This ordinance amends the Metropolitan Zoning Code provisions applicable to non-conforming signs. The State of Tennessee non-conforming statute (T.C.A. 13.7.208) allows certain existing, non-conforming businesses to remain when a change in local zoning regulations makes the business no longer technically in compliance with the law. The purpose of the “grandfathering” statute is to prevent a hardship to existing property owners and businesses that were in compliance with the applicable laws at the time a new zoning restriction was enacted.

Tennessee courts have interpreted the non-conforming statute to be applicable to ground signs. The statute requires that if a structure is “destroyed” the new structure shall meet the bulk requirements of the current zoning, i.e. come into compliance. However, the Tennessee non-conforming statute does not specify the meaning of “destruction” leaving it to local government to define. The proposed ordinance seeks to clarify the protections afforded by state law to non-conforming signs.

The Zoning Code currently provides that a non-conforming sign must be brought into compliance with current zoning regulations if the sign is altered, repaired, restored or rebuilt (other than as a result of involuntary damage or casualty) such that the cost of replacement exceeds 50 percent of the estimated cost of the sign.

The proposed ordinance, however, provides that a sign will be deemed “destroyed” if more than 50 percent of the display surface area is altered or repaired. To measure changes that occur over time, all sign permits within one year are to be aggregated for purposes of measuring the 50 percent alteration standard.

ANALYSIS In recent years, similar non-conforming standards - deeming signs destroyed if more than 50 percent of the display surface area is altered or repaired - have been adopted within Urban Design Overlay districts, such as the Downtown Donelson UDO. These standards have been challenged at The Board of Zoning Appeals, who has on several occasions overruled the Council adopted UDO standards, and decided that 50 percent of the sign area does not constitute “destruction.” The proposed ordinance seeks to define “destruction” within Title 17 and eliminate the ambiguity caused by having a definition within an overlay and not the Metro Zoning Code. This ordinance more clearly codifies the intent of the Council when it adopted numerous UDOs county-wide.

Because the State statute governing non-conforming uses is not itself clear regarding what defines “destruction” or how it relates specifically to non-conforming signs, it is reasonable and necessary to create a definition at the local level.

In addition to the changes proposed in the current ordinance, an amendment should be added to the Council bill to allow for an exception to the compliance provisions when a sign is destroyed by involuntary means. This provision has been added to the bill below as section F.

The following chart summarizes the proposed changes to the Zoning Code as they pertain to non-conforming signs:

Current Zoning and Department of Codes Administration Procedures	BL2011-048
Nonconforming Signs	

For voluntary damage, a sign shall be brought into compliance if the sign is altered, repaired, restored or rebuilt to the extent that the cost exceeds fifty percent of the estimated replacement cost of the sign (in current dollar value). All permits within any six consecutive calendar months shall be aggregated for purposes of measuring the fifty percent standard.	A sign shall be brought into compliance with the provisions of this title when the cost exceeds fifty percent or if greater than fifty percent of the display surface area is altered, repaired, replaced, restored or rebuilt. All permits within one year shall be aggregated for purposes of measuring the fifty percent standard.
For single-tenant lots, a nonconforming sign shall be brought into compliance when the principal land use on the lot is changed to a different use as described by the district land use table. For multi-tenant lots, each tenant may replace, alter, repair or restore an associated sign of a size not to exceed fifteen percent of the facade area of the building occupied by the tenant. Use of this provision must be noted on the overall signage plan.	A nonconforming sign shall be brought into compliance when the principal land use on the lot is changed to a different use as described by the district land use table. Applies the same standard to single-tenant and multi-tenant lots.
Not addressed in current code.	A nonconforming sign shall be brought into compliance with this title when the principal land use on the lot has been inactive for a period of 30 months or more.

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

STAFF RECOMMENDATION Staff recommends approval of this ordinance with an amendment that would permit reconstruction of a nonconforming sign should the destruction result from damage by involuntary means.

ORDINANCE NO. BL2011-048

An Ordinance amending Chapter 17.40 of the Metropolitan Code relative to the destruction of nonconforming signs, all of which is more particularly described herein (Proposal No. 2011Z-019TX-001).

WHEREAS, the Metropolitan Council recognizes that Tennessee Code Annotated § 13-7-208 provides certain protections to nonconforming uses, including nonconforming signs; and

WHEREAS, the Metropolitan Council desires to specify what constitutes destruction of a nonconforming sign.

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

Section 1. That Title 17 of the Code of The Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended by amending Section 17.40.690 (Nonconforming signs) by deleting subsections C., D., and E. in their entirety and substituting with the following new subsections C., D., E., F:

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

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

E. A nonconforming sign shall be brought into compliance with this title when the principal land use on the lot has been inactive for a period of thirty months or more. An intent to resume activity shall not qualify the property for continuation of the nonconforming sign.

F. Notwithstanding subsections C, D, and E, a nonconforming sign damaged by any involuntary means may be reconstructed to its pre-damaged condition. (proposed amendment)

Section 2. That 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: Phil Claiborne

Ms. Ratz presented the staff recommendation of approval with amendment.

Julie May, 3310 West End Avenue, spoke against the proposal.

David Crabtree, 2002 Richard Jones Road, spoke against the proposal.

Bill Macke, 2713 Lebanon Road, spoke against the proposal.

Bobby Joslin, 630 Murfreesboro Road, spoke against the proposal.

John Taylor, 3831 Woodmont, spoke against the proposal.

Jane Eakes, 208 McGavock Pike, spoke against the proposal.

Larry Lovelace, 108 Rolling Mill Road, spoke against the proposal.

Teresa Finch, 2708 Old Lebanon Road, spoke against the proposal.

Bill Rush, 1993 Southerland Drive, spoke against the proposal.

Nick Spiva, 4121 Hillsboro Road, spoke against the proposal.

Shawn Henry, 315 Deaderick Street, spoke against the proposal.

Councilman Claiborne moved and Mr. Clifton seconded the motion to close the Public Hearing. (6-0)

Mr. Dalton stated that he is unclear on multiple unit signs and how this new ruling would be applied in those situations. He stated that signage can improve aesthetics of the city, but he also respects and understands the needs of the small business owners. A happy medium needs to be found.

Ms. Ratz clarified that it would apply the same to single or multi tenant situations.

Mr. Gee stated that he understands the intent of the proposal and asked Legal about the lack of a definition of "destroyed" in state law. Are buildings being referenced?

Mr. Sloan stated that buildings would be one structure; signs would be also be considered a structure.

Mr. Gee stated that in his opinion, simply changing out a panel from one tenant to another, or the acquisition of a bank, or a new tenant put into a vacant space certainly doesn't represent the term "destroy" or "destruction". The intent to bring things into compliance is understood, but he does not feel that this is the way to do it.

Mr. Clifton stated that he doesn't know what the answer ultimately should be, but he does not think this is quite ready to approve as it is. Deferral might be the best route to take at this time

Mr. Ponder recommended deferral until January 2012.

Councilmember Claiborne stated that he would be willing to defer with the purpose that Staff and Legal come together and try to hammer out a document that is acceptable to both sides. The MPC has a duty and a responsibility to have something that is definable.

Mr. Clifton moved and Mr. Ponder seconded the motion to defer until the January 26, 2012 Planning Commission meeting. (6-0)

Resolution No. RS2011-243

"BE IT RESOLVED by The Metropolitan Planning Commission that 2011Z-019TX-001 is DEFERRED to the January 26, 2012, Planning Commission meeting. (6-0)"

9. 2011Z-020TX-001

BL2011-47 / BENNETT

DOMESTICATED HENS

Staff Reviewer: Jennifer Regen

A request to amend Title 8 (Health Code) and Title 17 (Zoning Code) to modify the regulations and standards pertaining to the keeping of chickens, requested by Councilmembers Karen Bennett, Anthony Davis, and Peter Westerholm.

Staff Recommendation: APPROVE WITH AMENDMENT

APPLICANT REQUEST - Create a new land use called “Domesticated Hens” to permit the keeping of chickens in Davidson County.

Text Amendment - A request to amend Title 8 (Health Code) and Title 17 (Zoning Code) to modify the regulations and standards pertaining to the keeping of chickens.

This text amendment would allow Davidson County residents to keep chickens as pets and for the non-commercial production of eggs. A person wanting to keep chickens (hens only) on residential property would have to annually obtain a \$25 permit from the Health Department. No permit would be required for AG or AR2a property.

ANALYSIS

Existing Law - Chickens and hens are currently defined in the Zoning Code, Section 17.04.060 (Definitions) as “Domestic Animals/Wildlife” or farm animals. Within the urban services district (USD) and general services district (GSD), farm animals may be kept, if the property is zoned for agricultural use (AG/AR2a). If the property has a residential zoning district such as “R” or “RS” (e.g. RS40), then farm animals are prohibited in the USD, and only allowed in the GSD provided the property contains 5 acres or more.

Prior Legislation - In 2009, the Metro Council considered two zoning text amendment bills related to domestic/exotic animals, BL2009-499 and BL2009-510. While each of these bills addressed the keeping of poultry among other animals, including chickens, they were broader in scope than the current text amendment under consideration. The Metro Council disapproved the substitute bill BL2009-510 which merged the other two bills together on 2nd Reading, September 1, 2009.

Land Uses - The proposed bill creates in the Zoning Code a new definition for “Domesticated Hens” (Section 17.040.060), a new land use in the Zoning Land Use Table (Section 17.08.030), and new accessory use standards (Section 17.16.250). The bill would allow hens (female chickens) in the R and RS districts as an accessory use (A) to a single-family home; roosters (male chickens) are prohibited.

Accessory Use Standards

<i>Domesticated Hens</i>		
	Existing Standards	Proposed Standards
Zoning	R/RS80 - R/RS20	R/RS (any district)
Lot Size Minimum	5 + acres	None
Tax District	GSD	USD or GSD
Type of Poultry	no standards	Chickens <u>only</u> ; no ducks, turkeys, pheasants, quail
# of Chickens	unlimited	2, 4 or 6 poultry (depending on lot size)
Chicken Breeds	no standards	Any domestic breed
Hens	no standards	Yes
Roosters	no standards	No, prohibited
Chicken Location	no standards	Side or rear yard only
Chickens Run At-Large	no standards	No
Enclosure Required	no standards	Yes (covered and uncovered)
Predator-Proof Enclosure	no standards	Yes, no fencing with holes larger than 1 inch.
Minimum Area Per Chicken	no standards	Yes, 2 square feet per hen in henhouse and 6 square feet per hen for fenced enclosure.
Setbacks	no standards	10' property line; 25' any residential structure <i>(to be amended)</i>
Slaughtering	no standards	No, prohibited
Training for Fighting / Sport	no standards	No, prohibited
Breeding	no standards	No, prohibited
Removal of Dead Chickens	no standards	Yes, call to Metro Public Works “Dead Animal Removal” <i>(to be amended)</i>
Health Department Permit	no standards	Yes
Codes Department Permit	no standards	Yes, for henhouse enclosure <i>(to be amended)</i>

Health Department Permit - The bill would require any person wanting to keep chickens to obtain annually a \$25 permit from the Metro Health Department; one permit per a person. A permit holder would be required to live on the same property where the chickens are kept, whether the permit holder was the property owner or a tenant; property must be primary residence of permit holder. Permits could be

revoked or suspended by the Health Department for violations or risk to public health. A fine of \$50.00 per day for each offense may also be imposed by Metro Government.

Executive Order 33 - The current Metro Zoning Code requires chickens to be located in the GSD on a lot of at least five acres in size. These requirements do not support a livable and sustainable city as articulated by Mayor Karl Dean in Executive Order 33 which created the Green Ribbon Committee. By modifying the Zoning Code to permit residents to have chickens as pets and for personal consumption of eggs only (no meat), this ordinance supports a locally-based food system, a goal of the Green Ribbon Committee.

Countywide Effect -While this bill increases the number of eligible properties on which poultry can be kept, deed restrictions and homeowner's association rules prohibiting the keeping animals would still apply.

Enforcement - The standards in this bill were written to be enforceable by both the Metro Codes and Health Departments.

Community Input - The bill sponsor, Councilmember Karen Bennett, held a community meeting on Monday, November 18, 2011 at the Skyline Medical Center. Along with 50 to 60 people who attended the meeting, representatives from the Health Department, Codes Department, and Metro Council Office were also invited to attend. Also, the Nashville Food Policy Council has provided comments, which are provided below, and suggested changes to the sponsor on the proposed amendment. The Nashville Food Policy Council recommends the following changes to the bill:

- Reduce number of hens allowed on a property from a maximum of six (6) to a maximum of four (4) on a property.
- Increase the annual permit fee for the first year, decrease the annual fee for subsequent years, and provide on-line permit renewal.
- Allow hens in "R" zoning districts, but with restrictions to prevent overcrowding in areas where two-family dwellings are located.
- Decrease the setback distance required between the permit holder's residential dwelling and the hen house structure.
- Review legislation one year after the effective date to make any needed modifications to address issues that arose during the first year.

Proposed Amendments -Several amendments are to be prepared by the Metro Council Office for the bill sponsor. These amendments will be considered by the Metro Council at its meeting on Tuesday, January 3, 2012:

- 1) **Building Permit:** No building permit will be required for a hen house structure. As currently written, the bill requires a building permit for such a structure. *Codes Department supports this amendment.*
- 2) **Setback:** A 25 foot setback from a neighboring residential structure will be required instead of a 25 foot setback from any residential structure. As currently written, the bill requires a property owner to have the hen house structure set back 25 feet from his/her own personal residence. *Health and Codes Departments support this amendment.*
- 3) **Public Health and Safety:** Provisions related to public health and safety (e.g. predator proof enclosures, sanitation) will be removed from the Zoning Code (Title 17) and placed in Health Code (Title 8). *Health and Codes Departments support this amendment.*
- 4) **Dead Animal Removal:** Property owners will not be required to call Metro Public Works to remove a dead hen. As currently written, the property owner would be required to call Metro Public Works – Dead Animal Removal to have a dead hen removed from the property. *Health and Public Works Departments support this amendment.*
- 5) **Sunrise / Sunset Provisions:** Domesticated hens would be allowed in Davidson County for two years from the effective date of the legislation. If the Metro Council decided to allow domesticated hens after the two year period, then the Council could adopt a resolution to allow the use to continue (sunrise provision). In the event the Metro Council chose not to allow hens after the two year period, they would be prohibited with no further action required by the Council (sunset provision). *Bill sponsor supports these amendments.*

PUBLIC WORKS RECOMMENDATION This bill, if adopted, will require the dead hens to be placed in a plastic bag and left near the curb for pickup. Presently there is one dead animal truck that has an extremely heavy workload, therefore significant immediate and ongoing investment of additional equipment and staff will be required to ensure pickup in a timely manner.

HEALTH RECOMMENDATION - The Department of Public Health has several comments regarding the bill's annual permit fee, inspections, enforcement, and removal of dead animals. The Department of Public Health report is attached.

CODES RECOMMENDATION - The Department of Codes & Building Safety exempts accessory structures containing 100 square feet or less from the building permit requirement. The Metropolitan Building Code contains no building code requirements for such structures of 100 square feet or less (storage sheds, tool sheds, dog houses, henhouses, play houses, etc.). Specifically, I [Director of Codes] am unaware of any building code requirements for the construction of a small henhouse (structure) under Title 16 of the Metro Code of Laws. It is, therefore, unnecessary that the ordinance require a building permit for the construction of the henhouse.

The Department of Codes & Building Safety recommends that the following sentence (proposed for 17.16.250 B. 4. b.) be deleted without substitution from Ordinance No. BL2011-47:

". . . A building permit issued pursuant to Title 16 of the Metropolitan Code shall be obtained prior to the construction of a henhouse, regardless of the size of the structure. Henhouses are expressly deemed to be a "structure" for purposes of Title 16 of the Metropolitan Code."

STAFF RECOMMENDATION Staff recommends approval of this bill with the proposed amendments. This bill increases the number of properties eligible to keep chickens while protecting adjoining properties from potential nuisance effects. Further, the bill promotes a green strategy as envisioned in Executive Order 33. By permitting chickens on properties less than five acres in size and within the USD, more residents can reduce their reliance on the existing regional and national food network.

ORDINANCE NO. BL2011-47

An ordinance to amend Title 8 and Title 17 of the Metropolitan Code to modify the regulations and standards pertaining to the keeping of chickens (Proposal No. 2011Z-020TX-001).

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

Section 1. Section 8.12.020 of the Metropolitan Code is hereby deleted and replaced with the following new Section 8.12.020:

8.12.020 Keeping of chickens.

A. No person shall keep chickens within the metropolitan government area in such a manner that a nuisance is created.

B. The keeping of chickens shall be in compliance with all applicable zoning laws pursuant to Title 17 of the Metropolitan Code.

C. An annual permit issued by the department of health shall be required for the keeping of domesticated hens on residential property where allowed by Title 17 of the Metropolitan Code, provided that no permit shall be required for property that is zoned for agricultural uses.

1. The annual permit to keep domesticated hens may not be assigned to another person. In addition, the permit authorizes the keeping of hens only upon the property described in the permit. The permittee must occupy the residence on the property where the hens are kept as the permittee's personal, primary residence. An applicant for a permit must either own the property or have permission from the property owner to be eligible for a permit.
2. Only one (1) permit is allowed per permittee. In the event the permittee is absent from the property for longer than sixty (60) days, the permit automatically shall terminate and become void. The issuance of a permit does not create a vested right to renewal of the permit beyond the stated term thereof.
3. The first permit year shall extend from the date of issuance through December 31, 2011. Thereafter the permit year shall be January 1 through December 31.
4. Fees. The fee for an annual permit to keep domesticated hens is twenty-five dollars (\$25.00).

D. Food storage and removal. All stored food for the domesticated hens must be kept either indoors or in a weather-resistant container designed to prevent access by animals. Uneaten food shall be removed daily.

E. Waste storage and removal. Provision must be made for the storage and removal of chicken manure. All manure for composting or fertilizing shall be contained in a well-aerated garden compost pile. All other manure not used for composting or fertilizing shall be removed. In addition, the henhouse and surrounding area must be kept free from trash and accumulated droppings.

F. No domesticated hens shall be used or trained for the purpose of fighting for amusement, sport, or financial gain.

G. Application for permit. Every applicant for a permit to keep domesticated hens shall:

1. Complete and file an application on a form prescribed by the department of health.
2. Deposit the prescribed permit fee with the department of health at the time the application is filed. Any material misstatement or omission shall be grounds for denial, suspension or revocation of the permit.

H. Approval of permit. The department of health shall issue a permit if the applicant has demonstrated compliance with the criteria and standards in this section.

I. Denial, suspension or revocation of permit. The department of health shall deny a permit if the applicant has not demonstrated compliance with all provisions of this section. A permit to keep domesticated hens may be suspended or revoked by the department of health where there is a risk to public health or safety or for any violation of or failure to comply with any of the provisions of this section or with the provisions of any other applicable ordinance or law. Any denial, revocation or suspension of a permit shall be in writing and shall include notification of the right to and procedure for appeal.

J. Penalty. In addition to any other enforcement action which the Metropolitan Government may take, violation of any provision of this section shall be subject to a fine of fifty dollars (\$50.00) may be imposed. Each day that a violation continues shall be treated as a separate offense.

K. The department of health shall have the authority to adopt and implement rules and regulations necessary to further the provisions of this Section, provided they are not in conflict with the requirements of this Section.

L. Where used in this Section, the designation of "department of health" shall also include the division of Metropolitan animal control services.

Section 2. Section 17.040.060 of the Metropolitan Code (Definitions of General Terms) is hereby amended by adding the following definition: "Domesticated hens" means female chickens that may, where permitted, be kept and maintained for the non-commercial production of eggs, education, companionship, or recreation. Other types of fowl and poultry shall not be considered domesticated hens.

Section 3. Section 17.08.030 of the Metropolitan Code (Zoning Land Use Table: Residential Uses) is hereby amended by adding "Domesticated hens" as a use permitted by right (P) in the AG and AR2a districts, and as an accessory use (A) in all R and RS districts.

Section 4. Section 17.16.250 of the Metropolitan Code (Land Use Development Standards: Accessory Uses – Residential Accessory Uses) is hereby amended by adding the following new subsection B., and re-lettering the remaining subsections accordingly:

B. Domesticated hens.

1. Type and number. Except upon property zoned for agricultural use or for properties in the R and RS districts of five (5) acres or more in size, a parcel of land shall contain the maximum number of domesticated hens identified below. Only hens are allowed; roosters are expressly prohibited. There is no restriction on domestic hen breeds.

Max. # Poultry	Parcel Area (sq. ft.)	Acreage
2	0 to 5,009	0.0 to .11
4	5,010 to 10,236	.12 to .23
6	10,237 or more	.24 or more

3. Location. All domesticated hens shall be kept in the side and rear yards of a residential property subject to the setback standards contained in this subsection. No domesticated hens shall be kept in the front yard.
4. Enclosure.
 - a. All domesticated hens shall be kept outside of a habitable structure in a predator-proof enclosure, a portion of which must be a covered henhouse, and a portion of which must be a fenced area complying with the provisions of Chapter 16.24 of the Metropolitan Code applicable to the construction of fences.
 - b. In addition to the fenced enclosure, hens shall be provided with a covered, predator-resistant henhouse. A minimum of two (2) square feet per hen shall be provided for henhouses and six (6) square feet per bird for fenced enclosures. A building permit issued pursuant to Title 16 of the Metropolitan Code shall be obtained prior to the construction of a henhouse, regardless of the size of the structure. Henhouses are expressly deemed to be a "structure" for purposes of Title 16 of the Metropolitan Code.
 - c. Fenced enclosures and henhouses must be properly ventilated, clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact.
 - d. The henhouse and fenced enclosure must provide adequate ventilation, adequate sun and shade, and must be constructed in a manner to resist access by rodents, wild birds, and predators, including dogs and cats.
 - e. Henhouses shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator- and bird-resistant wire of less than one (1) inch openings.
5. Setbacks. An enclosure shall be located twenty-five (25) feet away from any residential structure located in a residential zone district and ten (10) feet from any property line.
6. Sanitation, Nuisance, and Humane Treatment.
 - a. No perceptible odor from the hens or the hen enclosure shall be present at any property line.
 - b. All feed shall be stored in a rodent – and predator-proof container having a metal lid.
 - c. No slaughtering of domesticated hens may occur on the property.
 - d. Any dead domesticated hens shall be removed from the property as quickly as possible by contacting the Metro Public Works Department and requesting "Dead Animal Removal".
 - e. No breeding of chickens shall occur on the property.
 - f. No domesticated hens shall be used or trained for the purpose of fighting for amusement, sport, or financial gain.
7. Permit required. A valid permit issued by the department of health pursuant to Section 8.12.020 of the Metropolitan Code shall be obtained and maintained at all times.

Section 5. In the event that any portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other portion of this Ordinance.

Section 6. That this Ordinance shall take effect immediately 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: Karen Bennett, Anthony Davis, Peter Westerholm

**The Department of Public Health Report
RE: BL2011-47**

PUBLIC HEALTH RISKS

- The Centers for Disease Control and Prevention says "keeping chickens poses a potential health risk"¹ and recommends households with children under five years of age not keep them. People with suppressed immune systems (the elderly, pregnant women, diabetics, patients receiving chemotherapy and people infected with HIV) also are more susceptible to infection and should stay at a distance, at least. The CDC's essential guidance is that people who come into contact with chickens or their habitats should be aware of this

potential and follow sensible sanitation practices. These include thorough hand-washing as well as keeping chickens and their related gear out of the house, particularly food-preparation areas (not washing the chickens' water or food dishes in the kitchen sink, for example). As the ordinance authorizes MPH D to implement rules and regulations for the keeping of chickens, we would anticipate integrating an educational component into the permitting process.

REGULATION

- It is assumed here that MPH D will be responsible for permitting and enforcing all aspects of BL2011-47 with the exception of hen coop building permits _ including set-back requirements _ which will be the responsibility of the Codes Department; and the removal of dead chickens, which is assigned to Public Works.

If, as Councilmember Bennett has suggested, the ordinance is amended to be silent on the issue of dead chicken removal, MPH D assumes that current practice will be observed. Current practice is to refer all calls for the removal of dead animals to the Public Works Department's Dead Animal Removal service. It is neither in the best interests nor the intention of the Health Department to obligate its Animal Care and Control division to collecting chicken carcasses.

- It is unclear whether an on-site inspection prior to initial permit issuance or annual renewal is contemplated by the ordinance. For example, Section 8.12.020 (H) says: ``Approval of Permit. The department of health shall issue a permit if the applicant has demonstrated compliance with the criteria and standards in this section.``

If ``demonstrated`` is interpreted to mean ``to show clearly`` (Webster's New World Dictionary) then we believe that would require a visit to the site, to see with our own eyes that food was properly stored, provision had been made for the removal of waste, and so forth as specified in the ordinance. If an affirmation by the applicant that all standards have been met is to be considered sufficient, we would respectfully request that be spelled out clearly in the ordinance.

- We believe that complaints beyond those generated by permitted operations should be expected, based on an increase in non-permitted chicken-keeping under cover of the availability of legal means.
- MPH D anticipates the \$25 permit fee would always be a supplement to general fund support unless the program grows to roughly 3,000 permits on issue, which would generate \$75,000 a year and allow for a full-time chicken-control operation. It seems unlikely this level would be reached in the foreseeable future. Until then this program would create opportunity costs within the Animal Care and Control program (i.e., an employee who otherwise would be trying to catch a loose dog will instead be chasing a loose chicken) unless additional resources are supplied.

¹ www.cdc.gov/healthypets/pdf/intown_flocks.pdf



Domesticated Hens and Their Role in the Nashville Food System
Domesticated Hens Ordinance Number BL2011-47, Zoning Code Text Amendment 2011Z-020TX-001

Urban Chickens' Role in the Nashville Food System

In March 2010 the American Planning Association (APA) released the *Zoning Practice: Urban Agriculture Report*, in response to the growing urban agriculture movement. In that release, APA categorized Extensive and Intensive urban agriculture activities. This definition allows municipalities to understand the impact that agricultural activities may have from a land use and zoning perspective. Limited livestock (which includes chickens) is categorized below as an activity that is extensive in area but that is *less intense* than other agricultural activities such as farmers markets or urban farms¹:

	INTENSIVE	LESS INTENSIVE
Extensive in Area	rural or periurban farms and associated agricultural activities	backyard and community gardens, limited livestock, and farmstands
Less Extensive in Area	urban farms, farmers markets, and composting operations	backyard and community gardens

¹ Policy Guide on Community and Regional Food Planning. (2010). Retrieved from American Planning Association <http://www.planning.org/policy/guides/adopted/food.htm>.

Domesticated Hens may be appropriate in the Nashville – Davidson County local food system because they offer several benefits. Limited livestock - specifically domesticated hens - may provide many positive impacts to a local food system. It has economic impacts (2 to 3 hens at a cost of less than one dollar a week, may produce 2 to 3 dozen eggs per week, where a dozen 'organic' eggs may cost \$3 or more per week)², social impacts (caring for chickens provides educational experiences and teaches responsibility), and health impacts (one egg contains 6 grams of protein, 13 essential vitamins and minerals and contains choline an essential nutrient that helps reduce harmful birth defects³).

The APA report recognized that limited livestock may still impose some negative impacts that municipalities should consider when crafting 'chicken' ordinances. As a result, successful ordinances cited in the APA report restrict the number of hens, forbid the keeping of roosters, require permits for coops, and forbid slaughtering. The report states that such provisions allow a city to consider the use as a permissible agricultural activity in zoning districts not specifically designated as agricultural, thus cultivating limited livestock as a component of the local food system. The Nashville Domesticated Hens ordinance fares well in providing such provisions, while other provisions in the ordinance could be amended to better foster the inclusion of hens within the local food system.

Nashville Food Policy Council Recommendations to Amend the Domesticated Hen Ordinance

The NFPC researched a number of city 'chicken' ordinances to see how Nashville's proposed ordinance fares in comparison from a food system and food security perspective. Based on that research the following amendments are suggested for the proposed Domesticated Hen Ordinance:

- 1) Reduce the maximum number of poultry from 6 for parcels .24 acres or more to a maximum of 4 for parcels .12 acres or more.

Reason: Most cities limit the maximum number of chickens to 3 or 4. Some allow more but only by special use permits. Two to three chickens may produce one to two dozen eggs per week, an amount an average family may consume. Reducing the maximum number of chickens may discourage the sale of unwanted eggs due to over production.

- 2) Keep the annual fee requirement, but increase the fee for the first year, and require a reduced fee for subsequent years.

Reason: The NFPC understands that permit fees help to cover administrative costs associated with permit application review and on-site inspections (in which case a recommendation to reduce on-site inspections is provided later in this paper). However, a high annual permit fee may discourage the keeping of hens for low-income families as the annual fee may become a financial burden. Therefore, a higher up front permit fee may encourage more due diligence at the outset, and a lower annual permit fee may encourage re-application.

- 3) Consider domesticated hens as a Use Permitted with Conditions in R zoning districts where two-family residential land uses are permitted.

Reason: Section 8.12.020.C. 2 of the Domesticated Hens ordinance states - only one (1) permit is allowed per permittee. The NFPC questions the issuance of one permit per permittee in R zoning districts where two-family residential land uses are permitted. Conceivably, each primary resident could obtain a permit, resulting in two coops in close proximity on one lot or parcel. Overtime this could result in the overcrowding of chicken coops in R zoning districts where groupings of two-family (duplex) residential land uses are commonly found. Perhaps Domesticated Hens should be a land use that is permitted with Conditions in R zoning districts where specific conditions would be enforced to avoid the overcrowding of chicken coops in residential areas where two-family residential land uses are allowed.

- 4) An item that the NFPC thinks needs additional research or consideration is the distance of the coop in relation to primary and *adjacent* residential structures.

Reason: The NFPC seeks further information on the requirement that the enclosure be located 25 feet from any residential structure. In particular, there is uncertainty around the impact of this set-back provision on the owners of the primary residence and whether or not it may be too restrictive. Also, the term *adjacent* is defined in The Metropolitan Nashville Davidson County Zoning Code Title 17 as meaning "nearby property touching the property lines of a parcel being considered and including property across the street." This clarifies what structures the permittee should consider when measuring the 25 foot distance requirement and subsequently will provide objectivity during the permitting stage with regard to the 25 foot distance requirement.

² Harrison, J. (2011) Saving Money - Economics of Home Produced Eggs. *The Poultry Pages: Poultry Help & Information – Keeping Chickens*.

Retrieved from: http://www.poultry.allotment.org.uk/Chicken_a/keeping_chickens/chicken_eggs_economics.php.

³ Zeisel SH. Choline: Critical role during fetal development and dietary requirements in adults. *Annu Rev Nutr*, 2006; 26:229-50.

The Domesticated Hen Ordinance fares well by excluding the keeping of roosters, forbidding breeding, fighting, and slaughtering, and by including other nuisance clauses that regulate odor, and the storage of feed. The ordinance also creates an appropriate framework by requiring applicable permits from the Metro Health Department and the Metro Codes Department, however, the NFPC suggests the following actions to help facilitate the administration of Domesticated Hen permits.

1. Health Department and Code Department Permits
 - a. Minimize oversight from Health Department by designing the permit application to capture all needed information to reduce on-site inspections. Only require on-site inspections if nuisance issues as defined in the ordinance are reported. Consider creating partnerships with qualifying non-profits to assist with on-site inspections.
 - b. Allow annual reapplication permits for the Health Department and Codes to be obtained online and through an online payment system. System would require the original permit number. The original permit number would flag permits with citations, prohibiting online reapplication.
 - c. Consider a review upon the completion of the first year after the adoption of the ordinance (or a review after the majority of permits issued reach the one year renewal) to consider amendments to the ordinance that address issues that arose within the first year.

Sampling of other ordinances:

- **Little Rock, AR.** Chickens must be at least 5 feet from owner's residence and at least 25 feet away from any other residence. Housing must have three square feet of floor space per chicken over 4 months of age. There is a four-hen limit.
- **Louisville, KY.** Five hens and one "non-crowing poultry" are permitted for lots less than a half an acre. Must be in a pen and not allowed to roam on the owner's land.
- **Charlotte, NC.** A permit is required to maintain domestic fowl. The premises must first be inspected for cleanliness and space requirements, and the permit cost is \$40 annually.
- **St. Louis, MO.** You can keep up to four chickens without a permit. To keep more, a permit, costing is \$40 is required.
- Review of 25 backyard chicken ordinances: <http://www.scribd.com/doc/35744919/Urban-Chicken-Ordinance-Research-Paper>
- "The City Chicken" – a review of chicken laws around the United States: <http://thecitychicken.com/chickenlaws.html>

In summary, it is the intention of the Nashville Food Policy Council to share information and knowledge about local food system issues and to recommend policies that facilitate an increase in the production and distribution of fresh, healthy, locally grown food to Nashville residents. The NFPC is especially focused on policies that improve access to local and healthy food for Nashville's under-resourced residents. The NFPC commends the Nashville Metropolitan Council for considering this ordinance.

Approved with amendment or the substitute bill. (6-0), Consent Agenda

Resolution No. RS2011-244

"BE IT RESOLVED by The Metropolitan Planning Commission that 2011Z-020TX-001 is **APPROVED WITH AMENDMENT OR THE SUBSTITUTE BILL. (6-0)**

The bill promotes a green strategy as envisioned in Executive Order 33 by permitting chickens on properties less than five acres in size and within the Urban Services District."

Specific Plans

10. 2006SP-081-001

BL2011-73 / DUVALL

DAVENPORT DOWNS (AMENDMENT #1)

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

Council District 33 (Robert Duvall)

Staff Reviewer: Jason Swaggart

A request to amend the Davenport Downs Specific Plan District for properties located at 4334 Maxwell Road and Maxwell Road (unnumbered), approximately 430 feet east of Flagstone Drive (65.74 acres), to permit 207 residential units where 318 residential units were previously approved, requested by Dale & Associates, applicant, Pinnacle National Bank and Robert and Delores Davenport, owners. (See also Specific Plan Case # 2006SP-081-002).

Staff Recommendation: APPROVE WITH CONDITIONS and DISAPPROVE without all Planning Commission required conditions

APPLICANT REQUEST - Amend SP to permit 207 residential units and rezone a portion to AR2a.

SP Amendment (2006SP-081-001) -A request to amend the Davenport Downs Specific Plan District for properties located at 4334 Maxwell Road and Maxwell Road (unnumbered), approximately 430 feet east of Flagstone Drive (65.74 acres), to permit 207 residential units where 318 residential units were previously approved.

Zone Change (2006SP-081-002) - A request to rezone from Specific Plan (SP) District to Agricultural and Residential (AR2a) for property located at Maxwell Road (unnumbered), approximately 1,575 feet east of Flagstone Drive (9.52 acres) and within the Floodplain Overlay District.

SP-R District - Specific Plan-Residential 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 only one residential building type.

AR2a District - Agricultural/Residential requires a minimum lot size of two 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 two acres. The AR2a District is intended to implement the natural conservation or rural land use policies of the general plan.

CRITICAL PLANNING GOALS

- **Preserves Sensitive Environmental Features**
- **Creates Open Space**
- **Creates Walkable Neighborhoods**

As proposed, the plan preserves 33 percent of the site in open space. The site contains numerous sink holes and the layout has been designed around these environmentally sensitive features. While the plan protects sensitive environmental features by placing them in open space, it also provides numerous active open areas which will benefit the community. The plan provides connectivity to the adjacent subdivision to the west and allows for future connectivity to the east. Sidewalks are provided along all the streets and provide for safe pedestrian movement throughout, including pedestrian connections to the active open areas.

SOUTHEAST NASHVILLE COMMUNITY PLAN

Land Use Policy

Neighborhood Center (NC) - NC is intended for small, intense areas that may contain multiple functions and are intended to act as local centers of activity. Ideally, a neighborhood center is a "walk-to" area within a five minute walk of the surrounding neighborhood it serves. The key types of uses intended within NC areas are those that meet daily convenience needs and/or provide a place to gather and socialize. Appropriate uses include single and multi-family residential, public benefit activities and small scale office and commercial uses. An Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in these policy areas, to assure appropriate design and that the type of development conforms with the intent of the policy.

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 to the intent of the policy.

Consistent with Policy? - Yes. The proposed amendment is consistent with the Neighborhood General land use policy. While the proposed AR2a zoning district is not completely in keeping with the Neighborhood Center land use policy since the district only permits low intensity development, the AR2a represents a holding pattern and does not preclude an opportunity for a future zone change to a zoning district that better implements the policy. The AR2a is consistent with the policy in that it allows for residential uses.

This report details two separate requests that impact the Davenport Downs Specific Plan District. The first request is to amend the SP, and the second request is to rezone a portion of the SP to AR2a.

History -The Davenport Downs Specific Plan was originally approved by the Planning Commission on July 13, 2006, for 328 single-family detached and attached units. Council amended the SP in order to reduce the number of units to 318 total, and was subsequently approved by Council on March 21, 2007. The Planning Commission approved a final site plan for phase one, which also included a revision to the overall site plan in October of 2007. The final plan was for 61 units and the revision reduced the overall number of units to 301.

Plan Amendment Detail - The proposed plan calls for 207 single-family lots with a density of approximately 3.2 units per acre. A majority of the lots will be front loaded and 36 will be alley loaded. The alley loaded lots are in phase one and are consistent with the previously approved final site plan. The minimum lot area for front loaded lots is 5,500 square feet and the minimum lot area for alley loaded lots is 3,400 square feet.

The primary access point is from Maxwell Road. Road connections are proposed to the Peppertree Forest Subdivision to the west, connecting to Chutney Drive and Trail Water Drive. A stub street is also provided to the east and provides for a future extension of Trail Water Drive. Sidewalks are shown along all streets.

As proposed, the plan calls for approximately 21.5 acres of open space, which is approximately 33 percent of the site. The property contains numerous sink holes and all the areas known to have sink holes are shown in open space.

Rezoning Detail - The area proposed for AR2a consists of approximately 9.5 acres. The SP plan for the area consists of 20 single-family lots and an area designated for a future park.

The proposed amendment is consistent with the Neighborhood General land use policy. While the proposed AR2a zoning district is not consistent with the property's Neighborhood Center land use policy, it returns the property back to its previous zoning. The AR2a zoning district is a low intensity district and the property could be rezoned in the future to a district more compatible with the policy. The SP also provides for a street connection to the area proposed for AR2a. This will permit connectivity if the property develops in the future.

Taking all of the sinkholes on the property into account, the plan provides good internal connectivity including connectivity to the adjacent development to the west. The layout also provides various active open space areas that will provide recreational opportunities. The street and open space layout are very important features in this plan. Due to their significance, the applicant has agreed to ensure that the layout with the final site plan will not significantly change. Significant deviations from this layout would require Council approval. Staff is recommending approval of the amendment with conditions. If the conditions are not included in the plan considered by Council then staff recommends disapproval.

PUBLIC WORKS RECOMMENDATION

1. The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works. Final design may vary based on field conditions.
2. The proposed development street names will require further coordination with Public Works.
3. As planned, extend Chutney and Trail Water Drive to provide a secondary access to the proposed project site.
4. Maxwell Road shall be improved along the property frontage to provide one-half of Metro's standard ST-252 cross section.
5. Prior to construction plan preparation, provide geotechnical report on sinkholes near roadways.
6. Prior to platting the 100th lot, a dedicated right turn lane shall be constructed for southbound traffic on Old Hickory Boulevard at Murfreesboro Road. This lane shall be designed with 100ft of storage and a taper per AASHTO standards.
7. Prior to platting the 100th lot, Maxwell Road is to receive a full width pavement overlay from Lavergne/Couchville Pike to the property limits of the revised SP. The paving is to be a minimum of 2 ea. 11 feet striped travel lanes with a minimum of 2 feet gravel shoulders. This work is to be coordinated with the Public Works Paving section inspector.
8. No final plats are to be recorded until all off-site improvements have been designed, constructed and/or bonded.

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

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)	65.7	-	318 L	3015	233	304

Maximum Uses in Existing: **SP Amendment**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Residential()	65.7	-	207 L	2031	155	207

Traffic changes between maximum: **SP** and proposed **SP Amendment**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	- 111 L	-984	-78	-97

STORMWATER RECOMMENDATION

Approved

METRO SCHOOL BOARD REPORT

Projected student generation **44 Elementary** **33 Middle** **29 High**

Schools Over/Under Capacity -Students would attend Mt. View Elementary School, J.F. Kennedy Middle School, and Antioch High School. Mt. View Elementary and J.F. Kennedy Middle School are identified as over capacity. There is capacity within the cluster for middle school students, but there is no capacity within the cluster for additional elementary students. This information is based upon data from the school board last updated September 2011.

Fiscal Liability - The fiscal liability of 33 new elementary students is \$775,500 (33 X \$23,500 per student). This is only for information purposes to show the potential impact of this proposal, it is not a staff condition of approval.

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

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

Metropolitan Planning Commission in accordance with its schedule and requirements shall constitute a waiver of this requirement by the Board of Education.

STAFF RECOMMENDATION

Staff recommends approval of 2006SP-081-001 with conditions and approval of 2006SP-081-002. The proposed amendment is consistent with the land use policy, and while the proposed AR2a district is not consistent with the land use policy, it only permits low intensity development. It does not preclude future redevelopment of the property and Disapprove without all Planning Commission required conditions

CONDITIONS FOR 2006SP-081-001

1. Permitted uses include single-family residential and any other use permitted in the RS7.5 zoning district.
2. Any deviation from the layout shown on the Development Plan shall be approved by the Planning Commission, and any deviation that the Planning Commission finds that changes the basic development concept shall require Council approval.
3. 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.
4. The proposed development street names will require further coordination with Public Works.
5. As planned, extend Chutney and Trail Water Drive to provide a secondary access to the proposed project site.
6. Maxwell Road shall be improved along the property frontage to provide one-half of Metro's standard ST-252 cross section.
7. Prior to construction plan preparation, provide geotechnical report on sinkholes near roadways.
8. Prior to platting the 100th lot, a dedicated right turn lane shall be constructed for southbound traffic on Old Hickory Boulevard at Murfreesboro Road. This lane shall be designed with 100ft of storage and a taper per AASHTO standards.
9. Prior to platting the 100th lot, Maxwell Road is to receive a full width pavement overlay from Lavergne/Couchville Pike to the property limits of the revised SP. The paving is to be a minimum of 2 ea. 11 feet striped travel lanes with a minimum of 2 feet gravel shoulders. This work is to be coordinated with the Public Works Paving section inspector.
10. No final plats are to be recorded until all off-site improvements have been designed, constructed and/or bonded.
11. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Council approval, the property shall be subject to the standards, regulations and requirements of the RS7.5 zoning district as of the date of the applicable request or application.
12. Due to the potential impact of this development on the public school system, the applicant is required by Planning Commission policy to offer for dedication a school site in compliance with the standards of Section 17.16.040 for elementary schools with a capacity of 500 students. This land dedication requirement is proportional to the development's student generation potential. Such site shall be in accordance with the site condition and location criteria of the Metropolitan Board of Education and shall be within the Cane Ridge High School cluster. The Board of Education may decline such dedication if it finds that a site is not needed or desired. No final plat for development of any residential uses on the site shall be approved until a school site has been dedicated to the Metro Board of Education or the Board has acted to relieve the applicant of this requirement. However, failure of the Board of Education to act prior to final plat consideration and approval by the Metropolitan Planning Commission in accordance with its schedule and requirements shall constitute a waiver of this requirement by the Board of Education.
13. A corrected copy of the preliminary SP plan incorporating the conditions of approval by Metro 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.
14. 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.

Approved with conditions and disapproved without all Planning Commission required conditions. (6-0); Consent Agenda

Resolution No. RS2011-245

"BE IT RESOLVED by The Metropolitan Planning Commission that 2006SP-081-001 is **APPROVED WITH CONDITIONS and DISAPPROVED WITHOUT ALL PLANNING COMMISSION REQUIRED CONDITIONS. (6-0)**

Conditions of Approval:

1. Permitted uses include single-family residential and any other use permitted in the RS7.5 zoning district.
2. Any deviation from the layout shown on the Development Plan shall be approved by the Planning Commission, and any deviation that the Planning Commission finds that changes the basic development concept shall require Council approval.
3. 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.
4. The proposed development street names will require further coordination with Public Works.
5. As planned, extend Chutney and Trail Water Drive to provide a secondary access to the proposed project site.
6. Maxwell Road shall be improved along the property frontage to provide one-half of Metro's standard ST-252 cross section.
7. Prior to construction plan preparation, provide geotechnical report on sinkholes near roadways.
8. Prior to platting the 100th lot, a dedicated right turn lane shall be constructed for southbound traffic on Old Hickory Boulevard at Murfreesboro Road. This lane shall be designed with 100ft of storage and a taper per AASHTO standards.
9. Prior to platting the 100th lot, Maxwell Road is to receive a full width pavement overlay from Lavergne/Couchville Pike to the property limits of the revised SP. The paving is to be a minimum of 2 ea. 11 feet striped travel lanes with a minimum of 2 feet gravel shoulders. This work is to be coordinated with the Public Works Paving section inspector.
10. No final plats are to be recorded until all off-site improvements have been designed, constructed and/or bonded.
11. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Council approval, the property shall be subject to the standards, regulations and requirements of the RS7.5 zoning district as of the date of the applicable request or application.
12. Due to the potential impact of this development on the public school system, the applicant is required by Planning Commission policy to offer for dedication a school site in compliance with the standards of Section 17.16.040 for elementary schools with a capacity of 500 students. This land dedication requirement is proportional to the development's student generation potential. Such site shall be in accordance with the site condition and location criteria of the Metropolitan Board of Education and shall be within the Cane Ridge High School cluster. The Board of Education may decline such dedication if it finds that a site is not needed or desired. No final plat for development of any residential uses on the site shall be approved until a school site has been dedicated to the Metro Board of Education or the Board has acted to relieve the applicant of this requirement. However, failure of the Board of Education to act prior to final plat consideration and approval by the Metropolitan Planning Commission in accordance with its schedule and requirements shall constitute a waiver of this requirement by the Board of Education.
13. A corrected copy of the preliminary SP plan incorporating the conditions of approval by Metro 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.
14. 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.

The proposed amendment, with conditions, is consistent with the Neighborhood General and Neighborhood Center land use policies.”

11. 2006SP-081-002

BL2011-74 / DUVALL

DAVENPORT DOWNS

Map 176, Parcel(s) 066

Council District 33 (Robert Duvall)

Staff Reviewer: Jason Swaggart

A request to rezone from SP District to AR2a for property located at Maxwell Road (unnumbered), approximately 1,575 feet east of Flagstone Drive (9.52 acres) and within the Floodplain Overlay District, requested by Dale & Associates, applicant, Robert and Delores Davenport, owners. (See also Specific Plan Case # 2006SP-081-001).

Staff Recommendation: APPROVE

APPLICANT REQUEST - Amend SP to permit 207 residential units and rezone a portion to AR2a.

SP Amendment (2006SP-081-001) - A request to amend the Davenport Downs Specific Plan District for properties located at 4334 Maxwell Road and Maxwell Road (unnumbered), approximately 430 feet east of Flagstone Drive (65.74 acres), to permit 207 residential units where 318 residential units were previously approved.

Zone Change (2006SP-081-002) - A request to rezone from Specific Plan (SP) District to Agricultural and Residential (AR2a) for property located at Maxwell Road (unnumbered), approximately 1,575 feet east of Flagstone Drive (9.52 acres) and within the Floodplain Overlay District.

Zoning Districts

SP-R District - Specific Plan-Residential 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 only one residential building type.

AR2a District - Agricultural/Residential requires a minimum lot size of two 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 two acres. The AR2a District is intended to implement the natural conservation or rural land use policies of the general plan.

CRITICAL PLANNING GOALS

- Preserves Sensitive Environmental Features
- Creates Open Space
- Creates Walkable Neighborhoods

As proposed, the plan preserves 33 percent of the site in open space. The site contains numerous sink holes and the layout has been designed around these environmentally sensitive features. While the plan protects sensitive environmental features by placing them in open space, it also provides numerous active open areas which will benefit the community. The plan provides connectivity to the adjacent subdivision to the west and allows for future connectivity to the east. Sidewalks are provided along all the streets and provide for safe pedestrian movement throughout, including pedestrian connections to the active open areas.

SOUTHEAST NASHVILLE COMMUNITY PLAN

Land Use Policy

Neighborhood Center (NC) - NC is intended for small, intense areas that may contain multiple functions and are intended to act as local centers of activity. Ideally, a neighborhood center is a "walk-to" area within a five minute walk of the surrounding neighborhood it serves. The key types of uses intended within NC areas are those that meet daily convenience needs and/or provide a place to gather and socialize. Appropriate uses include single and multi-family residential, public benefit activities and small scale office and commercial uses. An Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in these policy areas, to assure appropriate design and that the type of development conforms with the intent of the policy.

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 to the intent of the policy.

Consistent with Policy? - Yes. The proposed amendment is consistent with the Neighborhood General land use policy. While the proposed AR2a zoning district is not completely in keeping with the Neighborhood Center land use policy since the district only permits low intensity development, the AR2a represents a holding pattern and does not preclude an opportunity for a future zone change to a zoning district that better implements the policy. The AR2a is consistent with the policy in that it allows for residential uses.

REQUEST DETAILS

This report details two separate requests that impact the Davenport Downs Specific Plan District. The first request is to amend the SP, and the second request is to rezone a portion of the SP to AR2a.

History -The Davenport Downs Specific Plan was originally approved by the Planning Commission on July 13, 2006, for 328 single-family detached and attached units. Council amended the SP in order to reduce the number of units to 318 total, and was subsequently approved by Council on March 21, 2007. The Planning Commission approved a final site plan for phase one, which also included a revision to the overall site plan in October of 2007. The final plan was for 61 units and the revision reduced the overall number of units to 301.

Plan Amendment Detail - The proposed plan calls for 207 single-family lots with a density of approximately 3.2 units per acre. A majority of the lots will be front loaded and 36 will be alley loaded. The alley loaded lots are in phase one and are consistent with the previously approved final site plan. The minimum lot area for front loaded lots is 5,500 square feet and the minimum lot area for alley loaded lots is 3,400 square feet.

The primary access point is from Maxwell Road. Road connections are proposed to the Peppertree Forest Subdivision to the west, connecting to Chutney Drive and Trail Water Drive. A stub street is also provided to the east and provides for a future extension of Trail Water Drive. Sidewalks are shown along all streets.

As proposed, the plan calls for approximately 21.5 acres of open space, which is approximately 33 percent of the site. The property contains numerous sink holes and all the areas known to have sink holes are shown in open space.

Rezoning Detail - The area proposed for AR2a consists of approximately 9.5 acres. The SP plan for the area consists of 20 single-family lots and an area designated for a future park.

ANALYSIS

The proposed amendment is consistent with the Neighborhood General land use policy. While the proposed AR2a zoning district is not consistent with the property's Neighborhood Center land use policy, it returns the property back to its previous zoning. The AR2a zoning district is a low intensity district and the property could be rezoned in the future to a district more compatible with the policy. The SP also provides for a street connection to the area proposed for AR2a. This will permit connectivity if the property develops in the future.

Taking all of the sinkholes on the property into account, the plan provides good internal connectivity including connectivity to the adjacent development to the west. The layout also provides various active open space areas that will provide recreational opportunities. The street and open space layout are very important features in this plan. Due to their significance, the applicant has agreed to ensure that the layout with the final site plan will not significantly change. Significant deviations from this layout would require Council approval. Staff is recommending approval of the amendment with conditions. If the conditions are not included in the plan considered by Council then staff recommends disapproval.

PUBLIC WORKS RECOMMENDATION

1. The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works. Final design may vary based on field conditions.
2. The proposed development street names will require further coordination with Public Works.
3. As planned, extend Chutney and Trail Water Drive to provide a secondary access to the proposed project site.
4. Maxwell Road shall be improved along the property frontage to provide one-half of Metro's standard ST-252 cross section.
5. Prior to construction plan preparation, provide geotechnical report on sinkholes near roadways.
6. Prior to platting the 100th lot, a dedicated right turn lane shall be constructed for southbound traffic on Old Hickory Boulevard at Murfreesboro Road. This lane shall be designed with 100ft of storage and a taper per AASHTO standards.
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8. No final plats are to be recorded until all off-site improvements have been designed, constructed and/or bonded.

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

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)	65.7	-	318 L	3015	233	304

Maximum Uses in Existing: **SP Amendment**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Residential ()	65.7	-	207 L	2031	155	207

Traffic changes between maximum: **SP** and proposed **SP Amendment**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	- 111 L	-984	-78	-97

STORMWATER RECOMMENDATION Approved

METRO SCHOOL BOARD REPORT

44 Elementary 33 Middle 29 High

Schools Over/Under Capacity -Students would attend Mt. View Elementary School, J.F. Kennedy Middle School, and Antioch High School. Mt. View Elementary and J.F. Kennedy Middle School are identified as over capacity. There is capacity within the cluster for middle school students, but there is no capacity within the cluster for additional elementary students. This information is based upon data from the school board last updated September 2011.

Fiscal Liability - The fiscal liability of 33 new elementary students is \$775,500 (33 X \$23,500 per student). This is only for information purposes to show the potential impact of this proposal, it is not a staff condition of approval.

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

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

STAFF RECOMMENDATION

Staff recommends approval of 2006SP-081-001 with conditions and approval of 2006SP-081-002. The proposed amendment is consistent with the land use policy, and while the proposed AR2a district is not consistent with the land use policy, it only permits low intensity development. It does not preclude future redevelopment of the property and Disapprove without all Planning Commission required conditions

Approved (6-0), Consent Agenda

Resolution No. RS2011-246

"BE IT RESOLVED by The Metropolitan Planning Commission that 2006SP-081-002 is **APPROVED. (6-0)**

Application of the AR2a zoning in this location will permit low intensity development and will not preclude future redevelopment of the property at a density more consistent with the Neighborhood Center land use policy."

12. 2011SP-025-001

ENTERPRISE RENT-A-CAR (PRELIM & FINAL)

Map 081-02, Parcel(s) 205

Council District 02 (Frank R. Harrison)

Staff Reviewer: Greg Johnson

A request to rezone from CS to SP-A zoning and for final site plan approval for property located at 2712 Clarksville Pike, approximately 250 feet east of Ed Temple Boulevard (0.37 acres), to permit vehicular rental/leasing and all other uses permitted by the CS District, requested by Enterprise Rent-A-Car, applicant, Ken Seo and Kyung Han, owners.

Staff Recommendation: APPROVE preliminary and final SP WITH CONDITIONS and DISAPPROVE SP without all Planning Commission required conditions.

APPLICANT REQUEST - Permit vehicle rental/leasing use and all other uses permitted by CS district

Preliminary and Final SP -A request to rezone from Commercial-Service (CS) to Specific Plan – Auto (SP-A) zoning and for final site plan approval for property located at 2712 Clarksville Pike, approximately 250 feet east of Ed Temple Boulevard (0.37 acres), to permit vehicular rental/leasing and all other uses permitted by the CS district.

Existing Zoning

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

Proposed Zoning

SP-A District - Specific Plan-Auto 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 automobile uses.

CRITICAL PLANNING GOALS N/A

NORTH NASHVILLE COMMUNITY PLAN

Existing Policy

T3 Suburban Mixed Use Corridor (T3 CM) - T3 CM policy is intended to enhance suburban mixed use corridors by encouraging a greater mix of higher density residential and mixed use development along the corridor, placing commercial uses at intersections with residential uses between intersections; creating buildings that are compatible with the general character of suburban neighborhoods; and a street design that moves vehicular traffic efficiently while accommodating sidewalks, bikeways, and mass transit.

Consistent with Policy? - Yes, the T3 Mixed Use Corridor policy promotes a combination of residential and non-residential development that could permit auto-related land uses on the subject site.

PLAN DETAILS

In 2006, a Council bill removed most automobile-related uses from the list of uses permitted under the CS zoning classification. This SP request proposes to have auto rental and leasing uses added back to the uses permitted for the subject property.

Site plan - The applicant submitted a site plan with the SP application showing the intent to reuse the existing building and much of the existing site conditions. Realignment of the parking area is shown on the site plan, which includes the closure of one of the two existing driveway access points to the site from Clarksville Pike. The site plan demonstrates compliance with parking requirements of the Zoning Code.

Street frontage and signage -SP zoning districts for auto uses are reviewed with the intent to improve the street frontage of each district. The site plan for this SP shows several street frontage improvements including new landscaping, enlarged landscaping areas, reduced driveway length along Clarksville Pike, and extension of sidewalk. An existing pole sign exists at the front of the property. The applicant intends to reuse this sign for the proposed business. A condition of approval has been added to require removal of the sign if it fails to qualify for protection under the Zoning Code as a nonconforming sign. If the sign is removed, any new ground signs shall be limited to monument signs with a maximum height of 6 feet and a maximum display area of 32 square feet.

METRO STORMWATER RECOMMENDATION No Agency Review Required for the Final SP (Stormwater).

PUBLIC WORKS RECOMMENDATION No Exception 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.

STAFF RECOMMENDATION

Staff recommends approval with conditions of the preliminary SP and of the final SP and disapproval of the SP without all of the Planning Commission approved conditions. The proposed use is consistent with the land use policy. The site plan includes proposed changes to the street frontage that will improve the property frontage along Clarksville Pike.

CONDITIONS

1. The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works.
2. The existing ground sign may be re-faced for the proposed auto use. If the existing ground sign fails to qualify for protection under the Zoning Code as a nonconforming sign, or is removed voluntarily, any new ground signs shall be limited to monument signs with a maximum height of 6 feet and a maximum display area of 32 square feet. The number of permitted ground signs shall be based on the requirements of the Zoning Code for CS zoning.
3. This SP shall permit Vehicular rental/leasing in addition to all uses permitted by the CS zoning district.
4. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Council approval, the property shall be subject to the standards, regulations and requirements of the CS zoning district as of the date of the applicable request or application.
5. A corrected copy of the preliminary SP plan incorporating the conditions of approval by Metro 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.
6. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further

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

7. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
8. The SP final site plan as approved by the Planning Commission will be used to determine compliance, both in the issuance of permits for construction and field inspection. While minor changes may be allowed, significant deviation from the approved site plans may require reapproval by the Planning Commission and/or Metro Council.

Approved preliminary and final SP with conditions and disapproved SP without all Planning Commission required conditions. (6-0), Consent Agenda

Resolution No. RS2011-247

“BE IT RESOLVED by The Metropolitan Planning Commission that 2011SP-025-001 is APPROVED WITH CONDITIONS PRELIMINARY AND FINAL SP and DISAPPROVED WITHOUT ALL PLANNING COMMISSION REQUIRED CONDITIONS. (6-0)

Conditions of Approval:

1. The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works.
2. The existing ground sign may be re-faced for the proposed auto use. If the existing ground sign fails to qualify for protection under the Zoning Code as a nonconforming sign, or is removed voluntarily, any new ground signs shall be limited to monument signs with a maximum height of 6 feet and a maximum display area of 32 square feet. The number of permitted ground signs shall be based on the requirements of the Zoning Code for CS zoning.
3. This SP shall permit Vehicular rental/leasing in addition to all uses permitted by the CS zoning district.
4. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Council approval, the property shall be subject to the standards, regulations and requirements of the CS zoning district as of the date of the applicable request or application.
5. A corrected copy of the preliminary SP plan incorporating the conditions of approval by Metro 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.
6. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
7. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
8. The SP final site plan as approved by the Planning Commission will be used to determine compliance, both in the issuance of permits for construction and field inspection. While minor changes may be allowed, significant deviation from the approved site plans may require reapproval by the Planning Commission and/or Metro Council.

The proposed SP, with conditions, is consistent with the T3 Mixed Use Corridor land use policy.”

13. 2011SP-027-001

BL2011-66 / DAVIS

JOSLIN PET SERVICES (PRELIM & FINAL)

Map 072-07, Part of Parcel(s) 131-132

Council District 07 (Anthony Davis)

Staff Reviewer: Jason Swaggart

A request to rezone from MUL to SP-C zoning and for final site plan approval for a portion of properties located at 2300 and 2302 Riverside Drive, at the intersection of Riverside Drive and McGavock Pike (0.19 acres), to permit an animal boarding facility and all other uses permitted by the MUL zoning district, requested by Joslin Pet Services and the Metro Planning Department, applicants, DC Partners, LLC, owner.

Staff Recommendation: APPROVE WITH CONDITIONS and DISAPPROVE without all Planning Commission required conditions

APPLICANT REQUEST - Rezoning to permit an animal boarding facility and final site plan.

Zone Change and Final Site Plan Approval - A request to rezone from Mixed-Use Limited (MUL) to Specific Plan – Commercial (SP-C) zoning and for final site plan approval for a portion of properties located at 2300 and 2302 Riverside Drive, at the intersection of Riverside Drive and McGavock Pike (0.19 acres), to permit an animal boarding facility and all other uses permitted by the MUL zoning district.

Existing Zoning

MUL District - Mixed Use Limited is intended for a moderate intensity mixture of residential, retail, restaurant, and office uses.

Proposed Zoning

SP-C District - Specific Plan-Commercial 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 commercial uses.

CRITICAL PLANNING GOALS - N/A

EAST NASHVILLE COMMUNITY PLAN

Land Use Policy

Neighborhood Center (NC) - NC is intended for small, intense areas that may contain multiple functions and are intended to act as local centers of activity. Ideally, a neighborhood center is a "walk-to" area within a five minute walk of the surrounding neighborhood it serves. The key types of uses intended within NC areas are those that meet daily convenience needs and/or provide a place to gather and socialize. Appropriate uses include single- and multi-family residential, public benefit activities and small scale office and commercial uses.

Consistent with Policy? - Yes. This request is to add one new use to the list of uses already permitted in the MUL zoning district. The proposed Animal Boarding Facility is a use supported by the land use policy. The area to be rezoned consists of a portion of an existing commercial building that includes various uses. The intersection of Riverside Drive and McGavock Pike is already an active center for the surrounding area, and the proposed animal boarding facility will provide additional services for the area. The plan also provides site improvements such as landscaping which will help soften the visual impact of the hardscape consistent with the policy. This site is within the Economic Development Incentive Area. Because the proposed SP is consistent with the policy, the Planning Department is co-sponsoring the application consistent with the approved Economic Development Incentive policy.

REQUEST DETAILS

The request is to rezone a portion of two parcels from MUL to SP in order to permit an animal boarding facility and all uses permitted by the MUL zoning district. The properties are located at the northwest corner of Riverside Drive and McGavock Pike in Inglewood. The properties are developed with a building located along Riverside Drive and McGavock Pike, consisting of various commercial uses, and a structure behind the larger building that is used for storage. The two properties subject to this zone change contain approximately 0.66 acres (28,749 square feet), and the total area proposed in the SP is approximately 0.19 acres (8,276 square feet).

Site Plan - The plan identifies the area and building proposed to be rezoned to SP. The plan limits the animal boarding use to 1,600 square feet. Other permitted uses would be limited by the bulk regulations for the MUL zoning district. An outdoor play area is shown at the rear of the building and will be enclosed by an eight foot solid privacy fence. The plan identifies an existing hedge row that is approximately seven feet in width and eight feet tall along the northern and eastern perimeter of the outdoor play area. Additional landscaping is proposed along Riverside Drive and McGavock Pike in above-ground planters.

Parking for the SP will be provided outside the SP boundary but on the same property. The parking area will be located just west of the SP and will also provide additional parking for the rest of the commercial spaces within the building but outside of the SP. The proposed animal boarding facility requires five parking spaces. The offsite parking area will have to provide a minimum of five parking spaces and be constructed prior to the issuance of any building permits. The SP also requires that any change in use will require an updated parking agreement that shall be approved by the Planning Department.

The proposed SP will not permit any free-standing signage. Building signs are limited to one building sign along Riverside Drive and one building sign along McGavock Pike. The SP limits the area of any sign to 48 square feet.

ANALYSIS

Staff has no issues with the proposed SP district. The SP permits uses that are consistent with the site's Neighborhood Center Land Use policy. Because the proposed SP is for an existing building, major modifications are neither proposed nor needed; however, the plan does propose some new landscaping along Riverside Drive and McGavock Pike which will improve the appearance along these roadways.

Due to the nature of the animal boarding facility use, it is important to ensure that adjacent residential properties are adequately protected. The closest residential structure will be approximately 79 feet away from the structure proposed for the animal boarding facility. In order to minimize any negative impacts the SP prohibits overnight boarding. The solid eight foot tall fence and dense vegetation between the outside play area and closest house will also help buffer any daytime noise. Given the existing site conditions, *staff believes that the restricted hours and the eight foot tall solid fence combined with a solid row of evergreen plants will provide reasonable buffering to compensate for the lack of separation, provided the impacted property owners believe that the visual and noise impacts of the facility would be mitigated.*

While the SP does not propose any on-site parking, adequate parking is required off-site directly adjacent to the site. The Zoning Code currently permits off-site parking in similar situations. The off-site parking area will also provide parking for other businesses in the area. It is also important to note that approximately three parking spaces are currently located within the SP boundary. These spaces are along McGavock Pike and are pull-in spaces, requiring reversing onto McGavock to exit. This is an unsafe situation and the applicant has proposed to close the spaces and replace them with landscaping in above ground planters in order to restrict vehicular access to the area.

As proposed, there are no major issues with the request. The primary concern is that the adjacent residents are not negatively impacted by the possible noise associated with the proposed animal boarding facility use. While staff finds that the proposed restrictions coupled with the existing fencing and landscaping should provide good protection, staff also feels that the voices of the residents who may be impacted by this proposal should be considered. At the time this report was written, staff has received no comments regarding this matter. Since concerns have not been received, staff recommends approval as the request is consistent with the property's land use policy.

STORMWATER RECOMMENDATION No grading permit required

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.

STAFF RECOMMENDATION

Staff recommends approval with conditions ad the proposed request is consistent with the Neighborhood Center land use policy and disapproval without all Planning Commission required conditions.

CONDITIONS

1. No Use and Occupancy Permit (U&O) shall be issued until the offsite parking area is constructed and approved by the Metro Codes Department, or the applicant provides adequate parking at another location that is approved by the Metro Planning Commission.
2. Landscaping shall not be removed, and dead plants shall be replaced within 30 days.
3. 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 MUL zoning district as of the date of the applicable request or application.
4. A corrected copy of the preliminary SP plan incorporating the conditions of approval by the Metro 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.
5. Minor modifications to the SP development plan or final site plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
6. 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.

Approved with conditions and disapproved without all Planning Commission required conditions. (6-0), Consent Agenda

Resolution No. RS2011-248

"BE IT RESOLVED by The Metropolitan Planning Commission that 2011SP-027-001 is **APPROVED WITH CONDITIONS** and

DISAPPROVED WITHOUT ALL PLANNING COMMISSION REQUIRED CONDITIONS. (6-0)

Conditions of Approval:

1. No Use and Occupancy Permit (U&O) shall be issued until the offsite parking area is constructed and approved by the Metro Codes Department, or the applicant provides adequate parking at another location that is approved by the Metro Planning Commission.
2. Landscaping shall not be removed, and dead plants shall be replaced within 30 days.
3. 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 MUL zoning district as of the date of the applicable request or application.
4. A corrected copy of the preliminary SP plan incorporating the conditions of approval by the Metro 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.
5. Minor modifications to the SP development plan or final site plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
6. 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.

The proposed SP, with conditions, is consistent with the Neighborhood Center land use policy.”

14. 2011SP-028-001

BL2011-71 / BAKER

TOWNS AUTO SALES (PRELIM & FINAL)

Map 091-13, Parcel(s) 355

Council District 20 (Buddy Baker)

Staff Reviewer: Greg Johnson

A request to rezone from CS to SP-A zoning and for final site plan approval for property located at 5909 Charlotte Pike, approximately 1,235 feet west of Ocoola Avenue (0.75 acres), to permit auto repair, auto sales, used, and all other uses permitted by the CS District, requested by Hamid Rabiee, applicant, Carl and Denise Guye, owners.

Staff Recommendation: DEFER to the January 12, 2012, Planning Commission meeting

The Metropolitan Planning Commission DEFERRED 2011SP-028-001 to the January 12, 2012, Planning Commission meeting at the request of the applicant. (6-0)

Zone Changes

15. 2011Z-023PR-001

BL2011-70 / BENNETT

3614 BAXTER AVENUE

Map 072-02, Part of Parcel(s) 105

Council District 08 (Karen Bennett)

Staff Reviewer: Greg Johnson

A request to rezone from the RS5 to ON district a portion of property located at 3614 Baxter Avenue, approximately 390 feet north of Hart Lane (0.12 acres), requested by Anderson, Delk, Epps & Associates, Inc., applicant, on behalf of Kelley Properties, LLC, owner.

Staff Recommendation: APPROVE WITH A CONDITION

APPLICANT REQUEST - Zone change to permit an office use

Zone Change - A request to rezone from the Single-Family Residential (RS5) to Office-Neighborhood (ON) district a portion of property located at 3614 Baxter Avenue, approximately 390 feet north of Hart Lane (0.12 acres).

Existing Zoning

RS5 District - RS5 requires a minimum 5,000 square foot lot and is intended for single-family dwellings at a density of 7.41 dwelling units per acre.

ON District - Office Neighborhood is intended for low intensity office uses.

CRITICAL PLANNING GOALS - N/A

EAST NASHVILLE COMMUNITY PLAN

Existing Policy

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? - Yes. The proposed ON zoning district is located on the edge of the NG policy, adjacent to the Gallatin Pike SP. The NG policy allows for occasional transitional office uses at the edge of the policy, next to an intense center or incompatible district. The site is located at the edge of the policy, adjacent to the Gallatin Pike SP. The small size of the site will ensure that any transitional office uses located there will remain modest in size.

ANALYSIS

The zone change request is located on the back portion of a residential lot adjacent to the Gallatin Pike SP. Because an office cannot be accessed through a residential district, the site will be accessed through the parking lot of the adjacent grocery store lot on Gallatin Pike. A condition of approval has been added to provide an access easement to the site from the adjacent commercial property on Gallatin Pike.

The zone change is requested because the office building on the site was operating illegally and was cited by Metro Codes. The building was constructed to serve as an accessory building to the adjacent grocery store along Gallatin Pike. Approval of the proposed zone change will fix a zoning violation.

If the site within the zone change request is subdivided from the existing lot, both lots will comply with the minimum standards of the Zoning Code for minimum lot size and building setbacks.

PUBLIC WORKS RECOMMENDATION

No exception taken with condition to provide parking per metro code at the time of development.

Typical Uses in Existing Zoning District: **RS5**

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)	0.12	7.41 D	1 L	10	1	2

Typical Uses in Proposed Zoning District: **ON**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	0.12	0.078	407 SF	20	3	3

Traffic changes between typical: **RS5** and proposed **ON**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	+10	+2	+1

Maximum Uses in Existing Zoning District: **RS5**

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)	0.12	7.41 D	1 L	10	1	2

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

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	0.12	0.4 F	2,090 SF	68	9	9

Traffic changes between maximum: **RS5** and proposed **ON**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	+58	+8	+7

METRO SCHOOL BOARD REPORT

Because the proposed zone change request is not expected to generate additional students, a school board report was not prepared for this report.

STAFF RECOMMENDATION

Staff recommends approval with a condition of the proposed ON zoning district. The intent to provide a small transitional office use between a residential zone and the Gallatin Pike SP is consistent with NG policy.

CONDITION

- Prior to third reading at Metro Council, an access easement to the site from Gallatin Pike through the adjacent commercial lot to the east shall be recorded at the Register of Deeds.

Approved with a condition. (6-0), Consent Agenda

Resolution No. RS2011-249

“BE IT RESOLVED by The Metropolitan Planning Commission that 2011Z-023PR-001 is **APPROVED WITH A CONDITION.**
(6-0)

Condition of Approval:

- Prior to third reading at Metro Council, an access easement to the site from Gallatin Pike through the adjacent commercial lot to the east shall be recorded at the Register of Deeds.

The proposed zoning district is consistent with the Neighborhood General land use policy.”

Planned Unit Developments

16. 134-84P-001

DEVON HILLS (PERIODIC REVIEW)

Map 143, Parcel(s) 050

Council District 34 (Carter Todd)

Staff Reviewer: Brenda Bernards

A request to the Metro Planning Department for a periodic review of a portion of the Devon Hills Residential Planned Unit Development district located at 2816 Old Hickory Boulevard, approximately 500 feet north of Highway 100, zoned RM4 (49.66 acres), approved for a multifamily development, requested by Councilmember Carter Todd, applicant, Colonial Properties Services, Inc., owner.

Staff Recommendation: FIND THE PUD ACTIVE

APPLICANT REQUEST - Periodic Review of the a portion of the Devon Hills PUD

PUD Review A request to the Metro Planning Department for a periodic review of a portion of the Devon Hills Residential Planned Unit Development district located at 2816 Old Hickory Boulevard, approximately 500 feet north of Highway 100, zoned Multi-Family Residential (RM4), approved for a multifamily development, (49.66 acres).

Existing Base Zoning

RM4 District RM4 is intended for single-family, duplex, and multi-family dwellings at a density of 4 dwelling units per acre.

CRITICAL PLANNING GOALS N/A

PERIODIC PUD REVIEW Section 17.40.120 H of the Metro Zoning Ordinance authorizes a councilmember to request, and the Metropolitan Planning Commission to review, any Planned Unit Development (PUD) overlay district, or portion thereof, to determine whether the PUD is "inactive," and if so, to recommend to the Council what action should be taken with respect to the PUD. The Commission determines whether the PUD is "inactive" by examining whether development activity has occurred within six years from the date of the initial enactment, subsequent amendment, or re-approval by the Metro Council. If the Planning Commission determines the PUD to be inactive, the Commission is required to recommend legislation to the Council to re-approve, amend, or cancel the PUD.

PLAN DETAILS The Devon Hills PUD, 250.77 acres in size, was originally approved for 997 multi-family residential units in a mix of stacked flats and townhouse units. Over time, the PUD has been amended and the mix of units has changed to include single-family and two-family units and a reduction in multi-family units. At this time, there are 183 single-family lots, 16 two-family units and 350 apartment units. The portion of the PUD under review would permit an additional 350 apartment units.

A revision to PUD to permit 350 apartment units in Phase I and the rough grading for an additional 350 apartment units in Phase II on the east side of Old Hickory Boulevard was approved by the Planning Commission in July 1994. Phase I has been constructed and is occupied. Phase II is the portion of the PUD under review.

ANALYSIS

Classification of the PUD Under 17.40.120 H., the Commission is first required to determine whether the portion of the Devon Hills PUD is active or inactive by examining whether development activity has occurred within six years from the date of the initial enactment, subsequent amendment, or re-approval by the Metro Council.

Section 17.40.120 H.3.a. of the Metro Code requires the Planning Commission to make three findings in order to determine whether a PUD has been active or inactive:

- i. Six or more years have elapsed since the latter of
 - (1) The effective date of the initial enacting ordinance of the PUD,
 - (2) The effective date of any ordinance approving an amendment to the PUD,
 - (3) The effective date of any ordinance re-approving or amending a PUD after it has been reviewed and decided in accordance with subsection 5.a. or b. of this section, or
 - (4) The deadline for action by the metropolitan council in accordance with subsection 5.d. of this section, and

The initial enacting ordinance for the Devon Hills PUD became effective December 4, 1984. There have been no amendments to this portion of the PUD requiring Metro Council approval since the initial enacting date.

- ii. Construction has not begun on the portion of the PUD under review; construction shall mean physical improvements such as, but not limited to, water and sewer lines, footings, and/or foundations developed on the portion of the PUD under review; clearing, grading, the storage of building materials, or the placement of temporary structures shall not constitute beginning construction, and

While construction has not begun on this portion of the PUD, water and sewer lines and roadways have been stubbed out to the edge of the property. Also, stormwater facilities to serve Phase I were constructed on property within Phase II. Additional facilities will need to be constructed to serve any further development.

- iii. Neither right-of-way acquisition from a third party nor construction has begun on off-site improvement(s) required to be constructed by the metropolitan council as a condition of the PUD approval.

A traffic signal that was required to serve both phases has been installed. The water and sewer lines installed to serve Phase I were sized to serve both phases. The roadways constructed for Phase I were designed to serve both phases. While neither the lines nor roadway have been extended to Phase II they were installed in Phase I and designed with the capacity to also serve Phase II.

Staff has reviewed each of these three issues and determined that the off-site improvements made to facilitate the construction of Phase II of the Devon Hills PUD meets Section 17.40.120.H.3.a.iii. Accordingly, staff recommends that the Planning Commission make the finding that this portion of the Devon Hills PUD is active.

Section 17.40.120 H.3.a. states that the Commission "may also take into consideration the aggregate of actions, if any, taken by the owner of the PUD within the prior 12 months to develop the portion of the PUD under review." A letter was sent via certified mail requesting details of any development activity on the property over the past 12 months. The owner of the PUD contacted staff and provided documentation of activity as detailed below.

- Renewal of Stormwater Management Committee Variance

The variance was originally granted in 2008, and renewed in 2009, 2010 and 2011. Planning staff reviewed each request and had no objections.

- **Geotechnical Investigation**

Determining where problem soils exist in order to select appropriate locations for building sites

- **Developed a revised Preliminary Plan for Phase II**

Based on the geotechnical investigations the number of units has been reduced from 350 to approximately 250 and buildings will be concentrated on the lower points of the property

- **Additional Geotechnical Investigation**

A field study of the proposed revised site layout is underway to further refine the plan based on site conditions.

- **Preparation Planning Department Submittal**

An application for a revision to the preliminary plan for Phase II is anticipated for submittal to the Planning Department in December 2011 or January 2012

With the off-site improvements made to serve this portion of the PUD and the actions taken by the property owner to develop this portion of the PUD, staff recommends that the Planning Commission make the finding the Devon Hills PUD is active for purposes of 17.40.120.H.

Planning Commission

Recommendation to Metro Council

If the Planning Commission determines the PUD to be active, then no further action is required. If the Commission determines the PUD to be inactive, then the Commission is required to recommend legislation to the Council to re-approve, amend, or cancel the PUD.

With respect to the legislation to be recommended to the Metro Council, the Planning Commission is directed by the Code to take two distinct steps.

First, the Commission is to determine whether the "existing PUD is consistent with the goals, policies, and objectives of the General Plan and any applicable specific redevelopment, historic, neighborhood, or community plans."

Second, the Commission is to recommend the legislation, and include, as required:

(a) The appropriate base zoning district(s), if different from current base zoning, to retain and implement the PUD overlay district as it exists.

(b) Any amendment(s) to the inactive PUD's master development plan and base zoning district(s) to reflect existing conditions and circumstances, including the land use policies of the general plan and the zoning of properties in the area.

(c) Base zoning district(s) consistent with the adopted general plan, should the PUD overlay district be recommended for cancellation.

Consistency with Policy The land use policy on this property and all properties within the PUD is RLM. This policy supports a variety of housing types within a density range of two to four dwelling units per acre. The Devon Hills PUD covers 250.77 acres with 899 residential units for an overall density of 3.58 units per acre. This fits within the RLM policy. The property is zoned RM4 which permits a maximum of four units per acre. The zoning district is appropriate for the land use policy.

Recommended Legislation If the PUD is found to be inactive, staff recommends that the PUD be maintained as approved as it "is consistent with the goals, policies, and objectives of the General Plan and any applicable specific redevelopment, historic, neighborhood, or community plans."

STAFF RECOMMENDATION In accordance with the requirements of 17.40.120 H, staff recommends that the Planning Commission find this portion of the Devon Hills PUD to be active. If the Planning Commission finds the PUD to be inactive, staff recommends that the PUD be maintained as approved.

Section 17.40.120 H: Periodic Review of Planned Unit Developments

H. Periodic Review of Planned Unit Developments.

1. **Authorization to Review.** The metropolitan planning commission is authorized to review any planned unit development overlay district (PUD), or portion thereof, to determine whether development activity has occurred within six years from the date of the latter of initial enactment, subsequent amendment, or re-approval by the metropolitan council, and, if determined inactive in accordance with subsection

4.a. of this section, to recommend legislation to the council to re-approve, amend or cancel the PUD and make conforming changes to the base zoning if necessary.

2. **Initiation.** Review of a PUD or portion thereof to determine inactivity may be initiated by the metropolitan planning commission

a. On its own initiative,

b. By written request of a member of the metropolitan council, or

c. By written request of a property owner within the area of the PUD overlay requested for review.

d. **Notice of Review.** Within five business days of the initiation of a review, the planning commission shall send written notice to the district

councilmember(s) for the district(s) in which the PUD is located, to the zoning administrator, and to the owner(s) of property in the portion of the PUD overlay district to be reviewed.

3. Metropolitan Planning Commission Procedure. Within 90 days from the initiation of its review, the planning commission shall hold a public hearing in accordance with the planning commission's adopted Rules and Procedures to concurrently consider if the PUD or portion thereof should be classified as inactive and, if found inactive, provide a recommendation to the metropolitan council on legislation to re-approve, amend or cancel the PUD and make conforming changes to the base zoning district if necessary.

a. Determination of Inactivity. To determine that a PUD or portion thereof is inactive, the planning commission shall establish each of the findings i. through iii. below. The planning commission may also take into consideration the aggregate of actions, if any, taken by the owner of the PUD within the prior 12 months to develop the portion of the PUD under review.

i. Six or more years have elapsed since the latter of

(1) The effective date of the initial enacting ordinance of the PUD,
(2) The effective date of any ordinance approving an amendment to the PUD,
(3) The effective date of any ordinance re-approving or amending a PUD after it has been reviewed and decided in accordance with subsection 5.a. or b. of this section, or

(4) The deadline for action by the metropolitan council in accordance with subsection 5.d. of this section, and

ii. Construction has not begun on the portion of the PUD under review; construction shall mean physical improvements such as, but not limited to, water and sewer lines, footings, and/or foundations developed on the portion of the PUD under review; clearing, grading, the storage of building materials, or the placement of temporary structures shall not constitute beginning construction, and

iii. Neither right-of-way acquisition from a third party nor construction has begun on off-site improvement(s) required to be constructed by the metropolitan council as a condition of the PUD approval.

b. Recommendation to Metropolitan Council. If the planning commission determines that the PUD or portion thereof under review is inactive, the commission shall recommend legislation to the metropolitan council to re-approve, amend, or cancel the PUD, or portion thereof that is determined to be inactive, including conforming changes to the base zoning district if necessary. In recommending legislation, the planning commission shall:

i. Determine whether the existing PUD is consistent with the goals, policies, and objectives of the General Plan and any applicable specific redevelopment, historic, neighborhood, or community plans adopted by the metropolitan government.

ii. Recommend legislation to re-approve, amend, or cancel the existing overlay district, including as required:

(a) The appropriate base zoning district(s), if different from current base zoning, to retain and implement the PUD overlay district as it exists.
(b) Any amendment(s) to the inactive PUD's master development plan and base zoning district(s) to reflect existing conditions and circumstances, including the land use policies of the general plan and the zoning of properties in the area.
(c) Base zoning district(s) consistent with the adopted general plan, should the PUD overlay district be recommended for cancellation.

Failure of the planning commission to act within 90 days from the initiation of a review shall be considered a recommendation to re-approve by ordinance the existing PUD overlay district without alteration.

c. When Inactivity Not Established. If the planning commission determines that the PUD or portion thereof under review does not meet the criteria of Section 17.40.120.H.4.a for inactivity, the PUD review is concluded, the limitations of subsection 5 are terminated, and a re-review of the PUD shall not be initiated in the manner of subsection 2 of this section for 12 months following the commission's determination.

4. Metropolitan Council Consideration. The procedures of Article III of this chapter (Amendments) shall apply to metropolitan council consideration of ordinance(s) to:

a. Re-approve the existing PUD master plan and apply the appropriate base zoning district(s), if different from current base zoning,
b. Amend the PUD master plan, or
c. Cancel the PUD overlay district, including any change(s) to the underlying base zoning district.
d. Decline to take action by ordinance. If the metropolitan council does not act to re-approve, amend, or cancel the PUD within six months of receipt of the planning commission's recommended legislation, the property may be developed in accordance with the master development plan last approved by the metropolitan council, or subsequently revised by the planning commission.
5. No grading permit nor any building permit for new building construction shall be issued within the PUD overlay district or portion thereof for which a review has been initiated until the earlier of:
a. The metropolitan council's final action to re-approve, amend or cancel the PUD overlay district, or
b. Six months following the planning commission's submission of a recommendation to the metropolitan council, or the deadline for that submission should the commission fail to act.

Ms. Bernards presented the staff recommendation of finding the PUD active.

Tom White, representing property owner, spoke in support of staff recommendation.

Julia Landstreet, 4318 Sunnybrook Drive, spoke against the proposal.

Eleanor Willis, 50 Vaughn Road, spoke against the proposal and requested that the PUD be declared inactive so that it can be fully reviewed by all interested parties in light of the changes made since the PUD was originally approved in 1984.

Bob Parrish, 8958 Hwy 70, spoke against the proposal, stating that circumstances surrounding this property have changed drastically since the PUD was originally approved. He requested that the Planning Commission find the PUD inactive, thereby allowing a full review of this property and appropriate planning for its best use.

Mary Pat Boatfield, 1314 Cardinal Avenue, spoke against the proposal and asked the Commission to find the PUD inactive in order to allow for a full review of this property.

Jane Hardy, 208 Elmington Avenue, spoke against the proposal and noted that Parks have done their part in updating how they manage the parks and how they have invested in the properties around it and it would be good for the developer to be required to do the same.

Tom White, on rebuttal, stated that the PUD is clearly active and his client fully expects a full site plan review.

Council Lady Evans stated that construction under Item 2 refers to construction on that portion of the PUD under review, not to the entire PUD and noted that it is very clear from the Staff Report that there has been no construction on the portion under review.

Mr. Clifton moved and Mr. Ponder seconded the motion to close the Public Hearing. (6-0)

Councilmember Claiborne asked Legal to address the proposed possible issues.

Mr. Sloan explained the three findings that the Commission must prove to find the PUD inactive.

Mr. Dalton inquired if the Commission is looking at the PUD as a whole or this portion specifically.

Mr. Sloan clarified that the review of activity is specific to the portion of the PUD that is before the Commission and noted that the requirement of the Commission is to distinguish other elements that are not named in the provision as to whether or not they show that there is construction or that there is not construction. This review and this determination is not a vested right argument.

Councilmember Claiborne inquired if the utility lines have been moved to the boundary of the undeveloped portion of the PUD and if construction has actually taken place on the portion that is under review.

Ms. Bernards clarified that water and sewer lines are stubbed to the edge of property line.

Phillip Percy with Littlejohn Engineering stated that there is construction that has been done on this property.

Mr. Sloan clarified Council's definition of what is construction and what is not considered construction and noted that it is at the discretion of this commission to determine whether the things that have been listed so far by the property owner and other advocates rise to the level to meet construction on site.

Mr. Bernhardt stated that staff has not found any specific requirements that were on the PUD that were requirements of Council.

Mr. Ponder asked staff to clarify their recommendation. Is there any way we know specifically when the utilities were installed? There has not been any activity on this site that has indicated a structure being built.

Ms. Bernards clarified that that is correct, what they are doing now is the preparation for that.

Mr. Ponder inquired if the Commission was being asked to approve staff recommendation on supplemental information.

Mr. Bernhardt stated concerns with setting a precedent.

Mr. Sloan noted a fourth finding is the aggregate of actions.

Mr. Gee stated that the aggregate of actions is not for the commission to determine whether it constitutes construction but simply whether it constitutes activity.

Mr. Sloan clarified that, yes, it is whether the aggregate of actions makes that portion of the PUD active or not.

Mr. Clifton stated that there are compelling arguments on each side, noted that we have people that are capable of bringing this situation to a

win-win, and stated that a deferral might be the best course of action.

Mr. Bernhardt stated that the Commission has 90 days to respond.

Mr. Gee stated willingness to entertain a deferral, but would strongly encourage and suggest that the developer and his team work with Parks and other adjacent property owners on a new plan.

Chairman McLean asked the developer if there is a plan that is in the works, and if so, what is the timeline.

The developer stated that yes, there is a plan in the works to be filed in about a month.

Mr. Dalton stated that if asked to vote today, he would vote against it but would also be open to a deferral in order to find a happy medium.

Mr. Clifton moved and Mr. Dalton seconded the motion to defer to the January 12, 2012 Planning Commission meeting. (6-0)

Resolution No. RS2011-250

“BE IT RESOLVED by The Metropolitan Planning Commission that 134-84P-001 is DEFERRED to the January 12, 2012, Planning Commission meeting. (6-0)”

J. PLANNING COMMISSION ACTIONS

Subdivision: Final Plats

17. 2011S-096-001

BATTLEFIELD ESTATES, SECTION 1, RESUBDIVISION

Map 118-06, Parcel(s) 028, 033.01, 156

Council District 17 (Sandra Moore)

Staff Reviewer: Brenda Bernards

A request for final plat approval to create two lots, for an exception to permit a flag lot, and for a variance to Section 3-4.2.d.2 for properties located at 2931 Vaulx Lane, approximately 290 feet north of Gale Lane, zoned R10, (0.58 acres), requested by William Smallman, owner, Campbell, McRae & Associates Surveying Inc., surveyor.

Staff Recommendation: APPROVE, and grant a variance to Section 3-4.2.d.2 of the Subdivision Regulations for a flag lot

APPLICANT REQUEST - Final plat to create two lots

Final Plat - A request for final plat approval to create two lots, an exception to permit a flag lot, and a variance to Section 3-4.2.d.2 for properties located at 2931 Vaulx Lane, approximately 290 feet north of Gale Lane, zoned One and Two Family Residential (R10)

CRITICAL PLANNING GOALS - N/A

PLAN DETAILS

The proposed subdivision takes three parcels and creates two lots. One of the new lots will be a flag lot. Section 3-4.2.d of the Subdivision Regulations prohibit flag lots but the Planning Commission may grant an exception of certain conditions are met. The proposed subdivision meets all but one of these conditions. A variance has been requested for that condition.

- d. *Flag Lots. Residential flag lots shall not be permitted. The Planning Commission may grant an exception if all of the following conditions are met:*
1. *There is limited area for lot frontage on a street.*
The properties are deep but with limited frontage.
 2. *The proposed lots fit into the character of the area and are consistent with the general plan.*
There are several long lots in the area where duplexes have been built with one unit behind the other. In order to be in keeping with the general plan, these new lots will be limited to single-family residences. The applicant has requested a variance to this condition so that one duplex unit and one single family unit would be permitted. Details of the variance request are described below.
 3. *All minimum standards of the Zoning Code shall be met.*
All standards of the Zoning Code are met.
 4. *No more than three lots are proposed.*

Two lots are proposed.

5. *The residential unit on the lot with frontage comparable to other lots in the area shall face the street.*
The frontage is comparable.
6. *The flag lot private drive and/or access easement shall connect to a street.*
The access connects to the street.
7. *The flag lot private drive and/or access easement shall be at least ten feet wide for its entire length.*
The access is twenty feet wide.
8. *The flag lot shared access easement shall be part of one non-frontage lot and under the same ownership as that lot.*
The access is part of the rear lot.

A sidewalk is required and shown on the plat.

Variance Requirements -Section 1-11.1 of the Subdivision Regulations states that the Planning Commission may grant variances to the regulations when it finds that extraordinary hardships or practical difficulties may result from strict compliance with the regulations, provided that the variance does not nullify the intent and purpose of the regulations.

Section 1-11.1 of the Subdivision Regulations states that the Planning Commission may grant variances to the regulations when it finds that extraordinary hardships or practical difficulties may result from strict compliance with the regulations, provided that the variance does not nullify the intent and purpose of the regulations. It further states that findings shall be based upon the evidence presented in each specific case that:

- a. *The granting of the variance shall not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.*
- b. *The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.*
- c. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out.*
- d. *The variance shall not in any manner vary from the provisions of the adopted General Plan, including its constituent elements, the Major Street Plan, or the Zoning Code for Metropolitan Nashville and Davidson County (Zoning Code).*

Analysis -The intent of the regulation for which the variance is sought is to limit where flag lots can be platted. As noted above, a number of criteria must be met in order for the Planning Commission to allow an exception for a flag lot. The applicant is asking for a variance to allow three residential units. The granting of the variance will not nullify the intent of the regulation. In addition, staff finds the following as evidence for this variance consistent with Section 1-11.1, a – d above:

- a. The granting of the variance would not be detrimental to the surrounding area as this plat will reconfigure three existing parcels into two lots in order to better provide access to the rear lot. Access is now available through an ingress/egress easement.
- b. There are no other subdivisions in the immediate area that are experiencing the same situation, and therefore, the conditions for which this variance is sought are unique to this development within this general area.
- c. Because of the configuration of the parcels, the applicant has requested the subdivision. The properties could be developed without the plat as the rear lot can be accessed via an easement. This request reduces the number of residential units that could be developed.
- d. Currently, two duplex units are permitted on these properties. The applicant has requested the subdivision in order to better provide access to the rear lot. While the request would exceed the RLM policy density of 2-4 units per acres, it will reduce the number of units permitted bringing this property closer to the policy. This is an appropriate location for these three units as these properties are in close proximity to properties designated as Regional Concentration Community which include retail and other services and a mixed-housing development currently under construction. This subdivision is in a location suitable for infill development and with the plat, sidewalks will be constructed along Vault Lane.

STAFF RECOMMENDATION

Staff recommends approval of the flag lot and a variance to Section 3-4.2.d.2, as with the variance, the plat meets the requirements of the Subdivision Regulations.

Approved and granted a variance to Section 3-4.2.d.2 of the Subdivision Regulations for a flag lot. (6-0), Consent Agenda

Resolution No. RS2011-251

"BE IT RESOLVED by The Metropolitan Planning Commission that 2011S-096-001 is **APPROVED AND GRANTED A**

18. 2011S-102-001

KENILWOOD

Map 132-07, Parcel(s) 071
Council District 16 (Tony Tenpenny)
Staff Reviewer: Brian Sexton

A request for final plat approval to create three lots and dedicate easements on property located at 4200 Kenilwood Drive, approximately 1,450 feet north of Sidco Drive, zoned IWD (8.0 acres), requested by Douglas Durr, owner, Cherry Land Surveying, Inc., surveyor.

Staff Recommendation: DISAPPROVE. Approve with conditions if the current development achieves compliance with the requirements of Metro Stormwater prior to the December 8, 2011, Planning Commission meeting.

The Metropolitan Planning Commission DEFERRED 2011S-102-001 to the January 12, 2012, Planning Commission meeting at the request of the applicant. (6-0)

Specific Plan: final site plans

19. 2007SP-122-008

GALLATIN SPECIFIC PLAN (FINAL: THE DOG SPOT)

Map 083-01, Parcel(s) 158
Council District 05 (Scott Davis)
Staff Reviewer: Bob Leeman

A request for final site plan approval for property located at 1004 Gallatin Avenue, approximately 150 feet north of Granada Avenue (0.21 acres), to permit an animal boarding facility within an existing structure and to permit a modification from the conditions pertaining to the use allowing the facility to be closer than 200 feet from a residence, requested by Gary C. Baker, owner.

Staff Recommendation: APPROVE modification for use condition and APPROVE WITH CONDITIONS the final site plan

APPLICANT REQUEST - Modification to use requirements and final site plan approval.

Final Site Plan Approval - A request for final site plan approval for property located at 1004 Gallatin Avenue, approximately 150 feet north of Granada Avenue (0.21 acres), to permit an animal boarding facility within an existing structure and to permit a modification from the conditions requiring 200 feet of separation between the facility and any residences.

History - A final site plan for the Dog Spot was approved with conditions by the Planning Commission on January 13, 2011. The plan that was submitted by the applicant and approved by the Planning Commission included numerous improvements at the front of the building. The business subsequently opened prior to making the approved improvements and without a Use and Occupancy (U&O) permit. The owner was cited by Metro Codes for operating without a U&O and removing a stop work order. After being cited and continuing to operate the owner submitted this proposal.

CRITICAL PLANNING GOALS N/A

REQUEST DETAILS

This is a request for a modification to the required setback (Condition # 1 below) to allow final site plan approval for an animal boarding facility. The property is approximately 9,147 square feet in size (0.21 acres), and is located on the west side of Gallatin Avenue between Granada Avenue and Sharpe Avenue. The property is developed and contains a 2,400 square foot building.

The Gallatin Pike Improvement District permits animal boarding facilities *with conditions* within portions of the Mixed Use land use category in Subdistricts 1 and 2 (BL2010-736). The conditions are as follows:

1. **Setback.** No part of any building or structure in which animals are housed shall be closer than two hundred feet, and no kennel run shall be located within one hundred feet, from any existing residence.
2. **Building Temperature.** Enclosures must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an impervious material to permit proper cleaning and disinfecting.
3. **Cages.** Each animal boarded at the facility shall have sufficient space to stand up, lie down and turn around without touching the sides or top of cages. Cages are to be of material and construction that permits cleaning and sanitizing. Cage floors of concrete, unless radiantly heated, shall have a resting board or some type of bedding.

4. Runs. Each run must have at least a six-foot high fence completely surrounding it. Fences must be maintained in escape-proof condition. Runs shall provide an adequate exercise area and protection from the weather. All animal quarters and runs are to be kept clean, dry and in a sanitary condition.
5. Watering of Animals. All animals shall have fresh water available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and shall be of the removable type.
6. On-Site Waste Collection. All on-site waste shall be housed either within the kennel building or an accessory structure, and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week. The drainage of all liquid by-products shall be discharged into a permitted sanitary sewer line or septic tank and shall not be disposed of by way of storm sewers, creeks, streams or rivers.
7. Modifications to the Conditions. The Planning Commission may modify the conditions above if the proposed modification is consistent with the principles and further the objectives of the Gallatin Pike SP.

The subject property is located within Subdistrict 1 of the Gallatin Pike SP. The land use category is Mixed Use and permits the animal boarding facility use, **if** it meets the above listed conditions. *The building on the property which will house the animals is located closer than 200 feet from four homes and does not meet the setback requirement (# 1 above).*

As specified by condition number seven, the Planning Commission **may** modify any of the required conditions if the Planning Commission finds that the applicant has provided an acceptable alternative to the condition being modified and that the overall site plan is consistent with the principles and furthers the objectives of the Gallatin Pike SP.

Site Plan - The site plan identifies the existing building and proposed alterations/improvements. Five parking spaces are required and nine are provided. Five spaces are shown at the rear of the building and four are shown in front of the building. The five spaces at the rear are accessed by an alley and the front space has direct access to Gallatin Avenue. These four spaces are pull-in, requiring reversing onto Gallatin Avenue to exit.

Two fenced and separate outdoor dog areas – one for small dogs and one for large dogs – are located at the rear of the building. Both dog areas are enclosed as required for the use.

Landscaping is shown at the rear of the building. Landscaping is also shown along the front of the building. The landscaping at the front of the building is provided in above-ground planters.

ANALYSIS

The proposed animal boarding facility use is permitted with conditions. The conditions are intended to ensure the use will not negatively impact any nearby residential properties, and the safety and wellbeing of any animals being boarded. **This request is different from other requests in the Gallatin SP for final site plan approval because the use is permitted with conditions. Since the request does not meet all the conditions, it must meet appropriate performance standards not required for routine requests for final site plan approval. (If the request met all the required conditions, then it would not be required to meet additional performance standards, and since there is no proposed expansion it would be subject to Section B.1.C. of the SP. The aforementioned section only requires that the uses be permitted and that parking requirements are met. It also would not require approval from the Planning Commission, but could be reviewed and approved at an administrative level.)**

As proposed, the request does not meet the first condition, which requires any building or structure housing animals to be at least 200 feet away from a residence. The building proposed to house animals is closer than 200 feet from residences. The addresses for properties located within 200 feet are as follows:

- 1040 Sharpe Ave
- 1042 Sharpe Ave
- 1044 Sharpe Ave
- 1041 Granada Ave

For staff to recommend approval of a modification to the setback requirement, the request must meet additional performance standards to achieve the same purposes as the required setback requirement, and demonstrate that the overall site plan is consistent with the principles and furthers the objectives of the Gallatin Pike SP. Offsets which are intended to buffer nearby residents from the animal boarding facility could include a variety of improvements designed to buffer the sight and sounds from the proposed facility. Site improvements that would meet the goals of the Gallatin Pike SP could include a variety of improvements, including closing off the parking along Gallatin Avenue, providing landscaping along Gallatin Avenue or a combination of the two.

As proposed, the plan offers landscaping and a solid wood fence between the building and the homes within 200 feet. It is also important to note that a building on the adjacent property to the north sits between the building to house animals and three homes to the northwest. Given the existing site conditions, *a nine foot tall solid fence combined with a solid row of evergreen plants could provide reasonable buffering to compensate for the lack of separation provided the impacted property owners believe that the visual and noise impacts of the facility would be mitigated.*

The plan proposes some landscaping along the front of the building. While the proposed landscaping consists of only potted plants, it does enhance the frontage along Gallatin Road consistent with the goal for landscaping and buffering found in the SP which is intended to soften the visual impact of development.

Staff finds that the proposed improvements along the rear of the site should adequately mitigate the distance requirement for the use and that the landscaping in front of the building will enhance the appearance of the building along Gallatin Pike. Staff recommends that the Commission approve the proposed modification to the use requirements and approve the final site plan with conditions. The proposed condition requires that the landscaping be maintained.

STORMWATER RECOMMENDATION No grading permit required.

PUBLIC WORKS RECOMMENDATION

If revisions are requested for The Dog Spot, Public Works will support changes that are consistent with the principles and objectives of the Gallatin Pike SP.

Any work within the public right-of-way requires a permit, and compliance with the design regulations established by the Department of Public Works.

STAFF RECOMMENDATION

Staff recommends approval of the modification as proposed and a finding that the proposed improvements will adequately mitigate the buffer requirement for the use, and that overall, the plan is consistent with the principles and furthers the objectives of the Gallatin Pike SP, and approval of the final site plan with conditions.

CONDITIONS

1. The landscaping shown on the site plan and supplemental documents provided by the applicant shall be maintained. In no event shall the landscaping be removed, and dead plants shall be replaced within 30 days.
2. All signage shall meet the sign standards established by the Gallatin Pike SP.

Approved modification for use condition and approved with conditions the final site plan. (6-0), Consent Agenda

Resolution No. RS2011-252

“BE IT RESOLVED by The Metropolitan Planning Commission that 2007SP-122-008 is **APPROVED WITH CONDITIONS FOR MODIFICATION AND APPROVED WITH CONDITIONS THE FINAL SITE PLAN. (6-0)**”

K. OTHER BUSINESS

20. A resolution to establish a new fee structure for all Metro Planning Commission zoning code related applications (2012OT-001-001).

Approved (6-0), Consent Agenda

Resolution No. RS2011-253

“BE IT RESOLVED by The Metropolitan Planning Commission that the resolution to establish a new fee structure for all Metro Planning Commission zoning code related applications (2012OT-001-001) is **APPROVED. (6-0)**”

21. Nashville Chamber of Commerce: 20 Years of Partnership

22. Historic Zoning Commission Report

21. Board of Parks and Recreation Report

22. Executive Committee Report

23. Executive Director Report

24. Legislative Update

L. MPC CALENDAR OF UPCOMING MATTERS

January 12, 2012

Work Session

2:30pm, 800 Second Ave. South, Metro Office Building, Nash Room

Topic: Bellevue Community Plan Update

MPC Meeting

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

January 26, 2012

MPC Meeting

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

M. ADJOURNMENT

The meeting was adjourned at 6:34 p.m.

Chairman

Secretary