



METROPOLITAN PLANNING COMMISSION

DRAFT MINUTES

Thursday, January 24, 2013

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:

Stewart Clifton, Vice Chair
Hunter Gee
Derrick Dalton
Judy Cummings
Jeff Haynes
Greg Adkins
Phil Ponder
Andree LeQuire
Councilmember Phil Claiborne

Staff Present:

Rick Bernhardt, Executive Director
Ann Hammond, Assistant Executive Director
Doug Sloan, Assistant Executive Director
Kelly Adams, Admin Services Officer III
Craig Owensby, Public Information Officer
Bob Leeman, Planning Manager II
Brenda Bernards, Planner III
Kathryn Withers, Planner III
Jason Swaggart, Planner II
Greg Johnson, Planner II
Duane Cuthbertson, Planner II
Amy Diaz-Barriga, Planner I
David Edwards, Development Finance Officer
Susan Jones, Legal

Commissioners Absent: Jim McLean

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

Vice Chair Clifton (acting Chair) called the meeting to order at 4:00 p.m.

B. ADOPTION OF AGENDA

Councilmember Claiborne moved and Mr. Gee seconded the motion to adopt the revised agenda (7-0)

C. APPROVAL OF JANUARY 10, 2013 MINUTES

Mr. Haynes moved and Mr. Gee seconded the motion to approve the January 10, 2013 minutes. (7-0)

D. RECOGNITION OF COUNCILMEMBERS

Mr. Ponder arrived at 4:01 p.m.

Councilmember Holleman thanked the commission for the deferral of Item 4, spoke regarding Item 2 in support of viewing the expanded footprint as a tradeoff for lowering the height, and spoke in support of Councilmember McGuire's letter regarding deferral or disapproval of Item 7.

E. ITEMS FOR DEFERRAL / WITHDRAWAL

1. 2013Z-001TX-001

BL2013-354 / CLAIBORNE
SPECIAL EVENTS CENTER

3. 2013Z-001PR-001

1934 OLD MURFREESBORO PIKE

5. 2013SP-001-001

WORTHY & WORTHY

Item 3 was withdrawn.

Mr. Gee moved and Councilmember Claiborne seconded the motion to defer Items 1, 4, and 5. (8-0)

F. CONSENT AGENDA

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

6. 2006S-055G-06 TRAVIS PLACE

8. Exclusion of, including parent companies and subsidiaries of, American Safety Casualty Insurance Company, American Southern Insurance Company, Bond Safeguard Insurance Company, Lexon Insurance Company, and National Grange Mutual Insurance Company, from providing surety bonds for one year pursuant to Section 6-1.2.d of the Metro Subdivision Regulations. (Deferred from the January 10, 2013, Planning Commission meeting)

9. Contract between the Metropolitan Government of Nashville and Davidson County and Gresham, Smith and Partners for Professional Services Related to the Conduct of the Southeast Area Transportation and Land Use Study

10. New Employee Contract for Carrie Logan

Mr. Ponder moved and Mr. Haynes seconded the motion to approve the Consent Agenda. (8-0)

G. PREVIOUSLY DEFERRED ITEMS

The items below were deferred from a previous Planning Commission meeting at the request of the applicant or by the commissioners. For Community Plan Policy items, see H. Community Plan Policy Changes and Associated Cases.

No Cases on this Agenda

H. COMMUNITY PLAN POLICY CHANGES AND ASSOCIATED CASES

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

No Cases on this Agenda

I. RECOMMENDATIONS TO METRO COUNCIL

The Planning Commission will make a recommendation to the Metro Council on the requests below. The Metro Council will make the final decision to approve or disapprove the request.

Zoning Text Amendments

1. 2013Z-001TX-001

BL2013-354 / CLAIBORNE
SPECIAL EVENTS CENTER
Staff Reviewer: Brenda Bernards

A request to amend Title 17 of the Metropolitan Code, Zoning Regulations, by amending Sections 17.04.060, 17.08.030, 17.16.070, 17.16.160 and 17.20.30 to delete "Historic Home Events" as a use and to add "Special Events Center" as a new use to be permitted in certain zoning districts and permitted with conditions in certain zoning districts, requested by the Metro Planning Department, applicant.

Staff Recommendation: Defer Indefinitely

Deferred Indefinitely (8-0)

The Metropolitan Planning Commission Indefinitely Deferred 2013Z-001TX-001. (8-0)

2. 2013Z-007TX-001

NONCONFORMING LOT AREA
Staff Reviewer: Brenda Bernards

A request to amend Title 17 of the Metropolitan Code, Zoning Regulations, by amending Section 17.40.670, pertaining to bulk standards for single-family structures on lots containing less than the minimum required lot area and adding a reference to Table 17.12.020.D, requested by the Metro Planning Department, applicant.

Staff Recommendation: Approve

APPLICANT REQUEST

Bulk standards for nonconforming residential lots

ZONING TEXT AMENDMENT

A request to amend Title 17 of the Metropolitan Code, Zoning Regulations, by amending Section 17.40.670, pertaining to bulk standards for single-family structures on lots containing less than the minimum required lot area and adding a reference to Table 17.12.020.D.

CRITICAL PLANNING GOALS

N/A

EXISTING ZONING CODE

Currently, within the R, RS, RM, RM-A, AR2a and AG districts, a single-family structure may be constructed on a legally created lot that contains less than the required minimum lot area, provided the lot contains a minimum area of 3,750 square feet and existed prior to the effective date of the current code. The bulk standards that currently apply to the lot are those of the zoning district, no matter the actual size of the lot.

PROPOSED ZONING CODE

The proposed text amendment makes two housekeeping and one substantive change to this section of the code. As the section deals with three types of nonconforming lots, residential, agricultural and industrial, it has been broken into three subsections for greater clarity. As Table 17.12.020.D Alternative Zoning Districts includes minimum lot sizes, a reference to this table has been added to this section. The substantive change, modeled after the cluster lot standards currently in the zoning code, would allow the bulk standards of the equivalent smaller district. For example, the bulk standards of the RS7.5 district would apply to an 8,000 square foot lot in the RS10 district, or the bulk standards of the R6 district would apply to a 7,500 square foot lot in the R8 district.

ANALYSIS

Staff is recommending approval of the two housekeeping amendments of this proposed text amendment. The first housekeeping amendment breaks out the three types of nonconforming lots, residential, agricultural and industrial into their own subsections. This will provide greater clarity to this section. The second housekeeping amendment adds a reference to Table 17.12.020.D. This table contains the bulk standards of the Alternative Zoning Districts and includes minimum lot sizes. Staff is recommending approval of the changes to the applicable bulk standards because it will apply more appropriate bulk standards to buildable lots that are nonconforming. Applying the current side setbacks to a smaller lot often results in long narrow structures. Using bulk standards that are more appropriate to the actual lot size will enable the development of structures more fitting to the lot size.

Staff recommends approval of this bill.

Ordinance No. _____

An Ordinance amending Title 17 of the Metropolitan Code, Zoning Regulations, by amending Section 17.40.670, pertaining to bulk standards for single-family structures on lots containing less than the minimum required lot area and adding a reference to Table 17.12.020.D. (Proposal No. 2013Z-007TX-001)

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

Section 1. Section 17.40.670, Nonconforming Lot Area, is hereby amended by deleting it in its entirety and replacing it with the following new Section 17.40.670"

"The following provisions shall apply to legally created lots less than the required minimum lot area.

A. Single Family Structures in Residential and Agricultural Districts. Within the R, RS, RM, RM-A, AR2a and AG districts, a single-family structure may be constructed on a legally created lot that contains less than the minimum lot area required by Tables 17.12.020A, 17.12.020B, 17.12.020C or 17.12.020D, provided the lot contains a minimum area of three thousand seven hundred fifty square feet and existed prior to the effective date of the ordinance codified in this title. The bulk standards of the district where the lot size would not be nonconforming shall be employed for that lot. For example, the standards of the RS7.5 district would apply to an 8,000 square foot lot in the RS10 district or the standards of the R6 district would apply to a 7,500 square foot lot in the R8 district.

B. Two Family Structures in Agricultural Districts. A two-acre or larger lot (or parcel) in the AG district legally created prior to the effective date of the ordinance codified in this title shall be permitted a two-family structure.

C. Industrial Districts. A nonconforming lot in a IWD, IR or IG district that was legally created prior to the effective date of the ordinance codified in this title shall have all development and use opportunities otherwise afforded by this title."

Section 2. Be it further enacted, that this ordinance 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.

Introduced by Phil Claiborne

Ms. Bernards presented the staff recommendation of approval.

Dr. Cummings arrived at 4:11 p.m.

Mike Kenner, 4603 Indiana, spoke in support of staff recommendation of approval.

Frank Stabile, 5203 Kentucky Avenue, spoke in opposition to the application and requested deferral in order to get more details from the developer at the February 5 Community Meeting.

Frank Parrish, 5010 Kentucky Avenue, spoke in opposition to the application and requested deferral until after the February 5 Community Meeting.

Maggie Odle, 5300 Michigan, spoke in opposition to the application, noted that these houses are a detriment to the neighborhood, and requested a deferral.

A motion was made and Mr. Clifton closed the Public Hearing.

Ms. LeQuire inquired if the staff has thought through the effect this will have county wide.

Ms. Bernards noted that these types of lots can be found throughout the county, but there is not one particular area that this would impact.

Mr. Bernhardt clarified that some of the issues that have been brought up about these types of platted lots are not issues that this text amendment will solve.

Frank Stabile stated that more buildable lots are being created.

Mr. Bernhardt again clarified that this text change does not create any new lots and that for this text amendment to take effect, the lot already had to have been platted.

Mr. Adkins asked Councilmember Claiborne if the original intent was to solve all issues or just width.

Councilmember Claiborne stated that the original intent was to address an immediate need that was presented, but if other things would make this a better adjustment to the code, then they can certainly be done.

Mr. Adkins stated that while it's tough to address every issue, this is moving in the right direction.

Mr. Gee inquired if there will be an implication on larger lots.

Mr. Bernhardt clarified that this would only apply if the lot could not meet the normal setback requirements.

Mr. Ponder inquired in there would only be three feet between each structure.

Ms. Bernards confirmed, stating it has to be three feet off the property line.

Mr. Ponder spoke in support of deferral until after the Community Meeting.

Councilmember Claiborne agreed with Mr. Ponder and noted that if deferred, it would provide time to look at some consideration for height guidelines that would make these houses fit better in the context of the area.

Mr. Bernhardt stated that coming up with a solution has to be more universal; contextual issues need to be talked through.

Councilmember Claiborne moved and Mr. Ponder seconded the motion to defer to the second meeting in March.

Mr. Adkins stated that efforts for infill and development do not need to be diminished.

Councilmember Claiborne stated that deferral will not project that message; instead, it will show that we are trying to get the best product we can from the beginning.

Mr. Gee asked to see real examples; Ms. Bernards presented several example photos.

Mike Kenner, developer, stated that he believes there should be a height cap.

Mr. Gee asked for clarification on the staff recommendation as well as terms for deferral.

Mr. Bernhardt stated that if deferred one month, staff can bring back something narrow with the understanding that it will not deal with all issues that people are concerned with.

Mr. Adkins suggested that it only focus on width and height.

Councilmember Claiborne amended and Mr. Ponder seconded the amendment to defer to the February 28, 2013 Planning Commission meeting. (9-0)

Resolution No. RS2013-20

"BE IT RESOLVED by The Metropolitan Planning Commission that 2013Z-007TX-001 is Deferred to the February 28, 2013, Planning Commission meeting. (9-0)

Zone Changes

3. 2013Z-001PR-001

1934 OLD MURFREESBORO PIKE

Map 135, Parcel(s) 134

Council District 29 (Karen Y. Johnson)

Staff Reviewer: Duane Cuthbertson

A request to rezone from OL and CS to IWD zoning property located at 1934 Old Murfreesboro Pike, approximately 150 feet north of Smith Springs Road (4.77 acres), requested by Galyon Northcutt Surveying, applicant, Mitchell Whitson, owner.

Staff Recommendation: Withdraw

Withdrawn (8-0)

The Metropolitan Planning Commission Withdrew 2013Z-001PR-001. (8-0)

4. 2013Z-004PR-001

BL2013-348 / LANGSTER

MR: MIDTOWN REZONING (No. 2)

Map: Various, Parcel: Various

Council District 21 (Edith Taylor Langster)

Staff Reviewer: Greg Johnson

A request to rezone from MUL-A, CF and ORI to MUG-A (28.58 acres) and MUI-A (53.12 acres) zoning for various properties in Midtown between I-440 and I-40 (81.70 acres in total), requested by the Metro Planning Department, applicant, various property owners.

Staff Recommendation: Approve

Deferred to the April 25, 2013 Planning Commission meeting. (8-0)

The Metropolitan Planning Commission Deferred 2013Z-004PR-001 to the April 25, 2013, Planning Commission meeting. (8-0)

Specific Plan

5. 2013SP-001-001

WORTHY & WORTHY

Map 081-15, Parcel(s) 365-366

Council District 21 (Edith Taylor Langster)

Staff Reviewer: Greg Johnson

A request to rezone from RS5 to SP-R zoning and for final site plan approval for properties located at 1729 and 1731 Knowles Street, at the southeast corner of Knowles Street and Dr. D.B. Todd Jr. Boulevard, (0.34 acres), to permit a maximum of five residential units, requested by Artmas L. Worthy and the Metro Planning Department, applicants.

Staff Recommendation: Defer to the February 14, 2013, Planning Commission meeting.

J. PLANNING COMMISSION ACTIONS

The Planning Commission will make the final decision on the items below.

Subdivision: Concept Plans

6. 2006S-055G-06

TRAVIS PLACE

Map 126, Parcel(s) 566, 568-570 Map 140, Parcel(s) 207
Council District 35 (Bo Mitchell)
Staff Reviewer: Jason Swaggart

A request to extend preliminary approval for Travis Place Subdivision which was approved for 140 single-family residential lots and a variance from Section 1-9.2 of the Subdivision Regulations which prohibits the extension of a preliminary plat approved under the old Subdivision Regulations adopted March 21, 1991, requested by Civil Site Design Group, applicant.

Staff Recommendation: Approve and grant a variance to Section 1-9.2 of the Subdivision Regulations to allow the plat extension.

APPLICANT REQUEST

Extend Preliminary Plat

Preliminary Plat Extension

A request to extend preliminary approval for Travis Place Subdivision which was approved for 140 single-family residential lots and a variance from Section 1-9.2 of the Subdivision Regulations which prohibits the extension of a preliminary plat approved under the old Subdivision Regulations adopted March 21, 1991.

Existing Zoning

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

SUBDIVISION DETAILS

The original preliminary plat for Travis Place Subdivision was approved by the Planning Commission on February 23, 2006, under the previous Subdivision Regulations that were adopted March 21, 1991. The approved plat includes 135 single-family residential cluster lots (overall density slightly over three units per acre). Under the cluster lot option lots have a minimum lot size of 5,000 square feet.

A final plat was previously submitted for phase one, which if recorded, would negate the need to extend the preliminary approval. Instead of bonding all the improvements the applicant chose to reduce the bond by constructing some of the required infrastructure prior to recording the plat. According to the applicant, construction halted because of economic conditions and the plat was never recorded.

Extension/Variance Request

The applicant has requested that the plat be extended under the old regulations, which will require a variance from Section 1-9.2 of the current regulations. It is important to note that an extension, which also required a variance from the aforementioned section, was approved by the Planning Commission on February 28, 2008. That extension was approved for one year.

The current Subdivision Regulations, which were adopted on March 9, 2006, do not allow for extensions of approvals for preliminary plats. Section 1-9.2 of the current regulations states that "Any subdivision submitted as a complete application or approved in preliminary or final form, but not yet expired, prior to the effective date may, at the discretion of the applicant, continue under the subdivision regulations adopted March 21, 1991, as amended, but no extensions shall be granted for these subdivisions."

Section 1-11 of the Subdivision Regulations permits the Planning Commission to grant variances if it is found that extraordinary hardships or practical difficulties may result from strict compliance with these regulations provided that such variance does not have the effect of nullifying the intent and purpose of these regulations.

The findings are based on a number of criteria. These include conditions unique to the property that are not applicable generally to other property and the particular physical conditions of the property involved. The physical conditions must cause a particular hardship to the owner, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out.

Between 2006 and 2008 construction plans were approved and construction of the subdivision was initiated. According to the applicant the following has taken place:

- The site is graded to approximately 80% complete for Phase 1.
- The box culvert at station 4+50 is installed
- Detention Pond #1 is partially graded
- Detention Pond #2 is graded with outlet structure.

Staff Analysis

Staff has visited the site and infrastructure is in place as indicated by the applicant. Since significant progress has been made in developing the subdivision as originally approved then it would be appropriate to approve the extension. If the extension is not approved then it would require that the applicant file a new application for concept plan approval, and the plan would have to meet current regulations or obtain a variance from regulations that the current plan did not meet. This would slow down the development of this subdivision and would create a hardship for the applicant, and would not be practical since significant construction has occurred. Development of the subdivision would also remove an eye sore to the community.

STAFF RECOMMENDATION

Staff recommends approval of a variance from Section 1-9.2 of the Subdivision Regulations to extend the preliminary plat approval to February 24, 2017.

Approved and granted a variance to Section 1-9.2 of the Subdivision Regulations to allow the plat extension. (8-0) Consent Agenda

Resolution No. RS2013-21

“BE IT RESOLVED by The Metropolitan Planning Commission that 2006S-055G-06 is Approved and granted a variance to Section 1-9.2 of the Subdivision Regulations to allow the plat extension. (8-0)

7. 2013S-003-001

WOODMONT ESTATES

Map 116-08, Parcel(s) 168, 185
Council District 25 (Sean McGuire)
Staff Reviewer: Greg Johnson

A request for concept plan approval to create five lots and open space for up to six residential units on properties located at 3721 and 3731 Woodmont Boulevard, at the southeast corner of Woodmont Boulevard and Estes Road, zoned One and Two Family Residential (R20) (3.35 acres), requested by Dewey-Estes Engineering, LLC, applicant, Robert Bell, Margery Bell, and Richard Cohen, owners.

Staff Recommendation: Approve with conditions including revised conditions from the Fire Marshal.

APPLICANT REQUEST

Conceptual layout for five lots

Concept Plan

A request for concept plan approval to create five lots and open space for up to six residential units on properties located at 3721 and 3731 Woodmont Boulevard, at the southeast corner of Woodmont Boulevard and Estes Road, zoned One and Two Family Residential (R20) (3.35 acres).

Existing Zoning

One and Two Family Residential (R20) requires a minimum 20,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 2.31 dwelling units per acre including 25 percent duplex lots. *R20 would permit a maximum of seven lots with one duplex lot for a total of eight units.*

CRITICAL PLANNING GOALS

N/A

PLAN DETAILS

The site consists of two existing lots along Woodmont Boulevard containing one single-family dwelling. The concept plan proposes a five lot subdivision with the four lots facing Woodmont Boulevard and a fifth duplex lot facing Estes Road.

Lots 1 through 4 are oriented toward Woodmont Boulevard, and will be required by the Zoning Code to have their front facades facing that street. Lots 3 and 4 will take access through an existing driveway from Woodmont Boulevard. Lots 1, 2, and 5 will take access from Estes Road through a shared driveway.

The existing R20 zoning district permits duplexes in addition to single-family development. However, subdivisions of four lots or more are limited to duplexes on a maximum of 25 percent of the new lots. This subdivision is limited to one duplex lot, which is proposed for Lot 5. Duplexes are permitted to be detached in this location because the subdivision is outside of the Urban Zoning Overlay district.

The proposed lots comply with the R20 zoning district and the Subdivision Regulations. All are larger than 20,000 square feet in size.

ANALYSIS

The concept plan complies with the applicable requirements of the Subdivision Regulations and Zoning Code. The lots along Woodmont Boulevard will be similar in size and lot frontage to the existing residential lots across the street. Only one new lot will be created with Estes Road frontage. This lot is designated as a duplex lot and will face the side yards of lots across Estes Road.

FIRE MARSHAL RECOMMENDATION

Revision from 9 lots to 6 lots but lot #6 has no access easement. Still needs fire hydrant flow data.

STORMWATER RECOMMENDATION

Concept plan approved with conditions (Stormwater):

1. Add buffer note to concept plan.
2. For the roadside ditch along Estes, ditch alteration may require new storm infrastructure (to be determined during development plan review process).

PUBLIC WORKS RECOMMENDATION

Approve with conditions

- 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.
- If sidewalks are required, then they should be shown on the plan per Public Works standards with the required curb and gutter and grass strip.
- Final location of sidewalks to be determined with construction documents, existing walls, utilities, etc. may require modifications.
- Label and dimension the ROW on Estes and Woodmont at the property corners.

STAFF RECOMMENDATION

Staff recommends deferral to the February 14, 2013 Planning Commission. If the Fire Marshal's office recommends approval of the concept plan prior to the January 24, 2013 meeting, staff recommends approval with conditions. The concept plan complies with the requirements of the Subdivision Regulations and the Zoning Code while maintaining the character of surrounding lots.

CONDITIONS

1. This concept plan shall comply with comments listed above from the Fire, Stormwater, and Public Works departments.
2. Pursuant to 2-3.5.e of the Metro Subdivision Regulations, because this application has received conditional approval from the Planning Commission, that approval shall expire unless revised plans showing the conditions on the face of the plans are submitted prior to any application for a final plat, and in no event more than 30 days after the date of conditional approval by the Planning Commission.

Mr. Johnson presented the staff recommendation of approval with conditions including revised conditions from the Fire Marshal.

Dr. Cummings asked for clarification from staff regarding their mention that the Community Character Manual does not play a role under this RLM.

Mr. Johnson explained that in the subdivision regulations, there is an area that talks about how policy applies a subdivision – basically density and community character. Community character refers to frontage, length, and size of lots and how they compare to the surrounding lots. Under RLM, the subdivision regulations only consider the density of the proposed subdivision, not the size and shape of the proposed lots.

Mr. Gee asked for clarification on what the commission is to consider; if the commission finds that this application meets all the subdivision regulations as well as the zoning code regulations, does the commission have an option to disapprove?

Susan Jones, Legal, noted that subdivision regulations provide that the commission shall state the specific reason for disapproval. They also state that the reviews must entail if it meets the requirements of the code as well as the subdivision regulations; if not, the commission has to state the basis for the disapproval.

Mr. Bernhardt clarified that in this case, the commission functions in an administrative role, not a policy role.

Mr. Clifton inquired if there is any general language in the subdivision regulations that speaks in terms regarding compatibility and consistency.

Mr. Johnson noted that in the first part of the subdivision regulations, there is some language stating the purpose is to provide or allow harmonious development within the community.

Dr. Cummings inquired if a traffic impact study was conducted.

Mr. Bernhardt noted that a traffic impact study is not required because it is such a small development; the applicant is not trying to change the allowed intensity.

Bricke Murfree, representing applicant, spoke in support of the application. He noted that the original request of eight lots was reduced to five and clarified that one of the five lots is the existing Tudor home on the property. He stated that his client is committed to making this consistent with the surrounding neighborhood, preserving the existing Tudor home, preserving the existing stone wall around the perimeter of the property, and making an effort to preserve any trees on the property that aren't diseased or under the footprint of a proposed house. His client has also agreed to preserve the existing half acre common area. Design guidelines will be placed on these properties and the setback will be pushed back on all properties facing Woodmont.

Kevin Estes, engineer, spoke in support of the application and noted that the applicant will provide rain gardens and pervious pavement to meet the Storm Water requirements.

Virginia Williams, 3717 Woodmont Blvd, spoke in opposition to the application, noting shock and surprise that this property could be subdivided. She also noted that the character of Woodmont between Estes and Hillsboro Road was started a long time ago and these homes have survived and thrived for almost 100 years.

Chris Champion, 3811 Dartmouth Ave, spoke in opposition to the application and expressed storm water concerns; improving the situation might not be a possibility, but making it worse doesn't make sense.

Susan Briley, 3800 Dartmouth Ave, spoke in opposition to the application and stated storm water and traffic concerns.

Charlotte Cooper, 3409 Trimble Road, spoke in opposition to the application and stated that it is not in keeping with the Green Hills/Midtown Community Plan.

Leslie Sitton, 3818 Dartmouth Ave, spoke in opposition to the application and noted concerns with increased storm water runoff and traffic.

Margo Chambers, 3803 Princeton Avenue, spoke in opposition to the application and noted that an ADA compliant sidewalk plan has not been outlined to the neighbors; asked the commission to honor Councilmember McGuire's request for disapproval or deferral.

Jennifer Pennington, 3700 Woodlawn Drive, spoke in opposition to the proposal and noted that the lot sizes will have bigger footprints that most of the rest of the neighborhood percentage wise. She also noted that the distance between the structures is much smaller than the rest of the neighborhood.

Carolette Forbess, 3912 Woodmont Blvd, spoke in opposition to the application and stated that this is a historic area that demands to be preserved and cherished.

James Cook, 3804 Dartmouth Ave, spoke in opposition to the application, stated that he was never informed of any community meeting, and expressed storm water and access point concerns.

Clay Bailey, 3806 Dartmouth Ave, spoke in opposition to the application, stated that he was never informed of any community meeting, and expressed storm water concerns.

Bell Lowe Newton, 3950 Woodlawn Drive, spoke in opposition to the application and noted that all parties have approved this except the neighbors – and the neighbors are the ones that have to live with it. The neighbors participate in community meetings, in community character meetings; they explained what they wanted then, and they are expressing it now. Asked the commission to disapprove.

Sharon Pigott, 3713 Woodmont, spoke in opposition to the application and noted that she does not recall receiving any notice regarding duplexes being allowed. These are landmark homes; it would be a shame to pepper them with new ones. Would like to see the proposed design guidelines.

Mary Pillow Thompson, 3802 Woodmont Lane, spoke in opposition to the application and stated that the neighbors do not want this; it needs to be preserved as it is.

Deborah Taber, 3910 Woodmont Blvd, spoke in opposition to the application and stated storm water and traffic concerns.

Lance Whitcomb, 3900 Woodmont, spoke in opposition to the application and stated traffic concerns.

Michael Niedermeyer, 3717 Woodmont Blvd, spoke in opposition to the application and stated that this will not fit with the character of the neighborhood.

Craig Wierum, 3715 Woodmont Land, spoke in opposition to the application. He noted that it is a travesty to destroy this area and that the will of the people should be more important than the desire of a single builder.

Stanley McDonald, 3708 Woodmont Blvd, spoke in opposition to the application and requested that a traffic study be conducted. He also stated storm water concerns.

Kevin Estes noted that the builder is a member of this neighborhood and also clarified that all Storm Water Standards and Requirements will be met.

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

Mr. Clifton asked to hear from Metro Stormwater.

Steve Mishu, Metro Stormwater, clarified that the storm water plan they have seen so far is conceptual; the final designs will come only after this is approved. New construction will be at least four feet higher than the 100 year; it will be built to today's standards. A more comprehensive plan will be reviewed before development occurs and nothing will be approved until it meets all requirements.

Dr. Cummings clarified that new construction is not permitted to add to the flood problem.

Mr. Haynes stated that it is his understanding that the current infrastructure is inadequate to support the current runoff.

Mr. Ponder asked for clarification on the exact floodplain area.

Steve Mishu explained that requirements state that you have to meet them if you are in or adjacent to the floodplain; even if this property isn't in the floodplain, if it's adjacent, it will still have to meet all requirements.

Councilmember Claiborne clarified that it is the opinion of the staff that all requirements have been met.

Mr. Johnson confirmed.

Councilmember Claiborne asked Legal counsel if the commission recommends disapproval, would the applicant have standing to appeal the decision in Chancery Court. If so, what is the likelihood that they would prevail?

Susan Jones, Legal, clarified that whatever is in the record will be the basis on which the court looks. Does the record support the action that the commission took?

Mr. Haynes asked staff and/or counsel to clarify what "generally consistent" and "harmonious" means within the Subdivision Regulations.

Mr. Bernhardt stated the technical aspects refer to density, lot pattern, etc. Harmonious – this is no different than the lots across the street to the northeast, west, and east. It is roughly the same frontage in terms of along Woodmont. The proposed development is consistent.

Councilmember Claiborne expressed empathy for the neighbors and stated that if the commission was looking at this from a zoning point of view, things could be different. But based on the role the commission is taking in this case, there isn't much room to do anything other than to recognize the staff recommendation as correct.

Mr. Ponder also expressed empathy for the neighbors and asked if "harmonious" included any obligation on the developer's part to have a harmonious look in the homes that are being proposed as far as certain architecture.

Mr. Bernhardt stated that Subdivision Regulations do not regulate architecture.

Mr. Ponder asked for sidewalk possibility clarification.

Mr. Johnson clarified that the plan does show sidewalks as well as the existing stone wall.

Mr. Clifton inquired if sidewalks can be built to ADA standards along with keeping the stone wall.

Devin Doyle, Metro Public Works, stated that those issues are typically addressed during the construction phase, but from an ADA perspective as it relates to width, there is plenty of width between the existing curb face and the wall structure to meet ADA standards. There is no distance limitation that limits them from meeting any width of path of travel.

Dr. Cummings inquired about utilities and specifically referred to poles that are sometimes right in the middle of sidewalks.

Mr. Doyle stated that he is unaware of any issues, including utilities, which would prevent them from meeting ADA standards.

Kevin Estes noted that sidewalks can easily bend around poles if necessary.

Mr. Clifton clarified with Kevin Estes that if approved, they would not waive the sidewalks.

Mr. Estes confirmed that if approved, their intention is to install sidewalks.

Dr. Cummings requested that the development plan come back to be reviewed by the commission.

Dr. Cummings inquired if there are any site distance issues.

Mr. Doyle stated that all site distance requirements will have to be met, but he is unaware of any site distance issues. Public Works has no concerns regarding traffic.

Dr. Cummings referred to comments made by several of the neighbors on Dartmouth regarding not receiving notification.

Mr. Johnson stated that notification is sent out to property owners within 300 feet of the property line.

Mr. Gee stated that no testimony has been given that this doesn't meet subdivision regulations; it is harmonious for reasons mentioned by Mr. Bernhardt earlier. He stated that the commission doesn't seem to have much of a choice.

Mr. Haynes stated that he can see a case for "harmonious", but he can't get to "consistent". He inquired if the applicant were to appeal a disapproval ruling, how he would fight the consistency aspect.

Susan Jones clarified that Subdivision Regulations have been adopted for the harmonious development of the land. Once they are adopted, then you refer to them for the criteria to apply to each individual application. The court would more than likely look to see whether the action taken by the commission was based on the zoning code or the subdivision regulations. If there is data to support an element that was not met, that would have to be given some weight. If there is any evidence in the record to support the board's decision, then the court is supposed to uphold the board's decision.

Mr. Haynes stated that "consistency" and "harmonious" are subjective. He also stated that he understands the neighbors' concerns regarding the lack of design guidelines.

Mr. Ponder out at 6:25 p.m.

Mr. Adkins stated that the current law and what the applicant is proposing does not leave much choice; it's just a matter of approving the right plan for the area. He expressed understanding of the neighbor's concerns, but does not see how a case could be made against staff recommendation.

Ms. LeQuire requested that the commission be allowed to review the development plan.

Mr. Clifton stated that he is not sure that the best product possible has been presented. He read a letter submitted by Councilmember McGuire requesting either deferral to allow more time for discussion between the neighborhood and the applicant, or disapproval. Mr. Clifton asked the commission to give some consideration to the Councilmember's request due to the enormity of change for the area and defer.

Mr. Haynes noted that the neighborhood needs to go in to this with a spirit of compromise or there will not be any progress made during the deferral.

Mr. Clifton noted that the developer needs to be open to things they don't necessarily have to do, but should do.

Susan Jones noted that the subdivision regulations state that a decision must be made within 30 days.

Mr. Haynes moved and Mr. Dalton seconded the motion to defer to the February 14, 2013, Planning Commission meeting.

Mr. Clifton clarified that the Public Hearing is closed.

The vote was taken. (8-0)

Resolution No. RS2013-22

"BE IT RESOLVED by The Metropolitan Planning Commission that 2013S-003-001 is Deferred to the February 14, 2013, Planning Commission meeting. (8-0)

K. OTHER BUSINESS

8. Exclusion of, including parent companies and subsidiaries of, American Safety Casualty Insurance Company, American Southern Insurance Company, Bond Safeguard Insurance Company, Lexon Insurance Company, and National Grange Mutual Insurance Company, from providing surety bonds for one year pursuant to Section 6-1.2.d of the Metro Subdivision Regulations. (Deferred from the January 10, 2013, Planning Commission meeting)

Approved (8-0), Consent Agenda

Resolution No. RS2013-23

"BE IT RESOLVED by The Metropolitan Planning Commission that exclusion of, including parent companies and subsidiaries of, American Safety Casualty Insurance Company, American Southern Insurance Company, Bond Safeguard Insurance Company, Lexon Insurance Company, and National Grange Mutual Insurance Company, from providing surety bonds for one year pursuant to Section 6-1.2.d of the Metro Subdivision Regulations is Approved. (8-0)

9. Contract between the Metropolitan Government of Nashville and Davidson County and Gresham, Smith and Partners for Professional Services Related to the Conduct of the Southeast Area Transportation and Land Use Study

Approved (8-0), Consent Agenda

Resolution No. RS2013-24

"BE IT RESOLVED by The Metropolitan Planning Commission that the contract between the Metropolitan Government of Nashville and Davidson County and Gresham, Smith, and Partners for Professional Services Related to the Conduct of the Southeast Area Transportation and Land Use Study is Approved. (8-0)

10. New Employee Contract for Carrie Logan

Approved (8-0), Consent Agenda

Resolution No. RS2013-25

"BE IT RESOLVED by The Metropolitan Planning Commission that the new employee contract for Carrie Logan is Approved. (8-0)

11. MPC Retreat Discussion
12. Historic Zoning Commission Report
13. Board of Parks and Recreation Report
14. Executive Committee Report
15. Executive Director Report
16. Legislative Update

L. MPC CALENDAR OF UPCOMING MATTERS

January 24, 2013

MPC Meeting

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

January 28, 2013

Fairgrounds Master Plan Phase 2 Public Presentation. Phase 2 provides the market analysis and economic projections for a mixed-use development at the fairgrounds site.

6:00 pm to 8:00 pm, 700 Second Ave. South, Howard Office Building, Sonny West Conference Center

January 29, 2013

Fairgrounds Master Plan Phase 2 Presentation to joint meeting of Planning Commissioners, Parks and Recreation Commissioners, and Board of Fair Commissioners. Phase 2 provides the market analysis and economic projections for a mixed-use development at the fairgrounds site.

11:30 am to 1:30 pm, 700 Second Ave. South, Howard Office Building, Sonny West Conference Center

February 14, 2013

MPC Meeting

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

February 16, 2013

General Plan Meeting

The Leadership and Role of Cities in Tomorrow's World- Gov. Parris Glendening (SGA)

11:00 am, 615 Church Street, Nashville Main Library Auditorium

M. ADJOURNMENT

The meeting adjourned at 6:49 p.m.

Chairman

Secretary