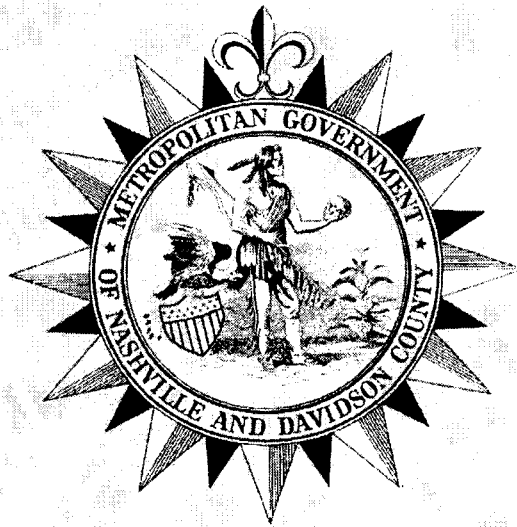


# Metropolitan Planning Commission



Staff Reports

March 8, 2012

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

## **PREVIOUSLY DEFERRED ITEMS**

- **Text Amendment**
- **Subdivision (Final)**

**NO SKETCH**



<b>Project No.</b>	<b>Text Amendment 2012Z-006TX-001</b>
<b>Project Name</b>	<b>Tri-Face Billboards</b>
<b>Council Bill</b>	BL2012-109
<b>Council District</b>	Countywide
<b>School District</b>	Countywide
<b>Sponsored by</b>	Councilmember Johnson
<b>Deferral</b>	Deferred from the February 23, 2012, Planning Commission meeting
<b>Staff Reviewer</b>	Bernards
<b>Staff Recommendation</b>	<i>Disapprove</i>

**APPLICANT REQUEST**

**Require BZA determination to convert certain static non-conforming billboards to tri-face billboards**

Text Amendment

A request to amend Chapter 17.40 of the Metropolitan Code to add requirements for the conversion of non-conforming static billboards to tri-face billboards.

**DEFERRAL**

The Planning Commission deferred this item one meeting in order for the Legal Department to respond to a written statement by an opponent that the proposed text amendment is in direct conflict with TCA 13-7-208. In particular, the Commission directed the Legal Department to determine if the Outdoor West of TN, Inc. (Lamar Advertising of Tri-Cities) v. City of Johnson City case cited by the opponent pertains to this text amendment.

Legal Department Response

The court case cited by the opponent at the February 23, 2012 meeting is not directly on point with the text amendment to require a process for a public hearing, but it does impact this proposed text amendment. A process for the approval of the conversion of a static non-conforming billboard to a tri-face billboard can be established, however, the BZA cannot deny a permit for the conversion based on impact to neighboring properties.

Staff Recommendation

Following the analysis provided by the Legal Department, staff recommends disapproval of this text amendment due to the fact that the proposed public hearing is misleading in that the BZA cannot deny an application based on the criteria in the ordinance.

**CRITICAL PLANNING GOALS**

N/A

**PURPOSE OF THE TEXT AMENDMENT**

This text amendment will require that, before a legally non-conforming static billboard is converted to a tri-face billboard, the Board of Zoning Appeals (BZA) must first determine that the conversion will not result in a greater negative impact on the adjacent properties. For purposes of discussion,



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references to non-conforming billboards in this staff report include only *legally* non-conforming billboards.

### Existing Law

A tri-faced billboard is defined in the Zoning Code as

*"...a non-internally illuminated billboard consisting of a sign face comprised of a series of vertical triangular louvers that can be rotated to show up to three separate sign messages.*

Section 17.32.050.G, tri-face billboards are specifically excluded from the height restrictions.

*"Signs with any copy, graphics, or digital displays that change messages by electronic or mechanical means, other than tri-face billboards, shall not be permitted in the CA, CS, CF, CC, SCR, IWD, IR and IG districts unless the following distance requirements are satisfied, based upon the overall height of the sign:"*

Currently, the Zoning Code does not distinguish between static and tri-face billboards. These are both considered conventional billboards. When regulations for changeable message signs were added to the Zoning Code in May 2008, tri-face billboards were placed into this new category. By adding a definition for tri-faced billboards, and excluding them from the height restrictions imposed on digital signs in January 2011, tri-face billboards were, once again, treated as conventional billboards. The Planning Commission recommended approval of this text amendment at its December 9, 2010, meeting.

### Proposed Bill

Originally, a text amendment that would prohibit the conversion of any non-conforming static billboard to a tri-face billboard was proposed. That text amendment was discussed at the November 10, 2011, Planning Commission meeting and the January 26, 2012, work session. As the sponsor had not intended to prohibit conversions entirely, but to add a public process to conversions, the first bill was withdrawn and substituted with this bill. Neither text amendment was intended to halt the conversion of these billboards but rather to create a public process when the conversions would occur. This new text amendment defines that process for certain conversions of non-conforming static billboards to tri-face billboards.

### **ANALYSIS**

Billboards are considered to be a use and the Zoning Code defines a non-conforming use in the following way:

*"Nonconforming use" means a use originally legally established, but which now does not currently conform to the applicable use regulations of the zoning district in which it is located.*

The state nonconforming use statutes allow 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 use statute to be applicable to advertising signs, which allows the sign face to be changed without losing its protected non-conforming status.



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There are many billboards that were legally installed but changes in the Zoning Code have made them non-conforming, including:

- Increasing the separation distance between billboards from 750 feet to 1,000 feet;
- Requiring all billboards to be on a single pole; and
- Requiring all billboards to be located on a street at least four lanes in width.

Alternatively, a change in circumstance may have made the billboard non-conforming. For example, the required setback for a billboard is 20 feet. But if a street is widened, the billboard may no longer be 20 feet from the property line and would become non-conforming.

Currently, any non-conforming static billboard in the County could be replaced with a tri-face billboard. With this text amendment, certain requests for conversions would require a determination by the BZA.

This bill will not impact the conversion of all non-conforming static billboards. The type of non-conformity will determine which billboards will need to go through this process. Billboards can be non-conforming for one or a combination of reasons:

- They do not meet the bulk standards of the Code (see exception below).
- They do not meet the separation requirements between billboards or other specified uses.
- They are located on a road less than four lanes in width.
- They are supported by two or more poles (see exception below).

State law offers some protections that would exempt certain non-conforming billboards from this new requirement. The scope of the text amendment is discussed in the analysis section. Non-conforming uses are given certain protections in state regulations. State Statute 13-7-208.I, provides that

*(i) Notwithstanding subsection (d), any structure rebuilt on the site must conform to the provisions of the existing zoning regulations as to setbacks, height, bulk, or requirements as to the physical location of a structure upon the site, provided that this subsection (i) shall not apply to off-site signs.*

### Exception for Bulk Standards

This section of state law gives added protection to non-conforming billboards based on bulk regulations. If a billboard is non-conforming only because it does not meet setbacks, height requirements, or other bulk standards, then it is not considered non-conforming. A new billboard would be required to meet all of these standards but those in place prior to the change in the standards do not. As a result, if the non-conformity is based only on a bulk standard, the static billboard could be converted with the application of a permit.

### Exception for Billboard Structure

Any billboard that is non-conforming because it does not meet the separation requirements, and/or is located on road less than four lanes wide, and/or has multiple poles will be required to go to the BZA before being converted to a tri-face billboard. The exception to this is a multi-poled billboard subject to the state requirements for billboards on controlled access highways. The state requires that, when a billboard is replaced, it must be replaced with a similar billboard. For example, a



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multi-poled billboard must be replaced with a multi-poled billboard. As a result, if the non-conformity of a billboard on a controlled access highway is only because it is on more than one pole and meets all separation requirements and is on road at least four lanes wide, the static billboard could be converted with the application of a permit.

### STAFF RECOMMENDATION

Staff recommends disapproval of this bill. While a public notification process could be established for the conversion of a non-conforming static billboard to a tri-face billboard, the BZA would not be able to deny the sign based on impact to adjacent properties.

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### ORDINANCE NO. BL2012-109

An Ordinance amending Chapter 17.40 of the Metropolitan Code to add requirements in the conversion of nonconforming static billboards to tri-face billboards, all of which is more particularly described herein (Proposal No. 2012Z-006TX-001).

WHEREAS, tri-face billboards are potentially more distracting to motorists than static billboards, and have a more intensive impact on the surrounding community; and

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

WHEREAS, the Metropolitan Council desires to allow nonconforming static billboards to continue to be used as such in accordance with Tennessee Code Annotated § 13-7-208, but require the Board of Zoning Appeals to determine the appropriateness of the conversion of non-conforming static billboards to tri-face billboards.

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 by adding the following provision as a new subsection at the end thereof:

“F. Prior to a nonconforming static billboard being altered, modified, converted, changed, or replaced to result in the billboard becoming a tri-face billboard as defined in section 17.04.060, the metropolitan board of zoning appeals shall determine that the conversion of the billboard will result in no greater negative impacts to adjacent property owners, subject to the provisions of Section 17.40.180.D.”

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: Karen Johnson



**SEE NEXT PAGE**





<b>Project No.</b>	<b>Subdivision 2012S-019-001</b>
<b>Project Name</b>	<b>Beaumont Place Resubdivision</b>
<b>Council District</b>	6 – Westerholm
<b>School District</b>	5 – Porter
<b>Requested by</b>	Tammi Rhoton, owner, Campbell, McRae & Associates Surveying, Inc., surveyor
<b>Deferral</b>	Deferred from the February 9, 2012, Planning Commission meeting at the request of the applicant
<b>Staff Reviewer</b>	Bernards
<b>Staff Recommendation</b>	<i>Defer or Disapprove</i>

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**APPLICANT REQUEST**

**Final plat to create two lots**

Final Plat

A request for final plat approval to create two lots on property located at 215 Manchester Avenue, at the southwest corner of Manchester Avenue and Benjamin Street, zoned One and Two Family Residential (R6) (0.24 acres).

Deferral

This final plat was deferred at the request of the applicant. The applicant had not paid the water and sewer capacity fees required by Water Services and had not requested variances to Sections 3-5.2.b (Infill Subdivisions) and 3-8.2 (Requirements for Sidewalks) of the Subdivision Regulations. At the time of the updating of this staff report, the fees have not been paid and the variances have not been requested. The staff recommendation to defer or disapprove has not changed.

**CRITICAL PLANNING GOALS**

N/A

**PLAN DETAILS**

Final Plat

This is a request to subdivide an existing lot into two lots. There are two structures on the property, a duplex unit and a garage. Planning staff has been told that the purpose of this subdivision is to allow two single-family units. The first is planned for the existing dwelling, which will be converted to a single-family dwelling. The second dwelling is planned to be accommodated in the garage, which will also be converted. The property is in the Urban Zoning Overlay which does not permit detached duplex units, therefore, a subdivision of the lot has been requested. The zoning on the property is R6 which requires a minimum of 6,000 square foot per lot. The property is only 10,388 square feet in size. After a dedication of 39.6 square feet of right-of-way at the corner, the resulting lots will be 5,154 and 5,194 square feet in size.

The Board of Zoning Appeals (BZA) granted a variance to the minimum lot size for this property and also granted variances to rear, side and street setbacks. While the BZA cannot grant a variance to density, it can provide relief for lot size due to the exceptional narrowness, shallowness or shape of a specific lot. The proposed lot fronting on to Benjamin Street will be 50.5 feet in depth.





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The variance granted by the BZA to the requirements of the Zoning Code do not provide relief from the requirements of the Subdivision Regulations. This plat must meet the requirements of the Subdivision Regulations, or variances to these requirements must be granted by the Planning Commission. No variances to the Subdivision Regulations were requested with this application.

This subdivision is subject to the requirements of Section 3-5 Infill Subdivisions which provides regulations for subdividing properties in area previously subdivided, predominantly developed and within the R and RS zoning districts. This section requires newly created lots to be generally comparable with the surrounding lots. Criteria for determining comparability are partially based on the land use policy. For this case, the land use policy is Neighborhood General which supports a range of housing types up to 20 units per acre. Section 3-5.2.b requires newly created lots in this policy to fit in with the character of the area. While there are some irregular shaped parcels that to the rear of this property that were created by deed in the 1960's and 1970's, the proposed subdivision would not be comparable with the predominant character of the area. When granting a variance, to the Subdivision Regulations, the Planning Commission must make findings including that:

*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.*

An analysis of the lots in the immediate area shows there are a number of corner lots for which the same conditions could apply, including the three other lots at the corner of Manchester Avenue and Benjamin Street. Details of the variance process are discussed below.

The required sidewalks on Benjamin Street are not shown on the plat and no request for a variance for the sidewalks has been received. The applicant was given three options to accommodate the sidewalk:

*Prior to the recording of this plat, one of the following options must be implemented*

- a. Submittal of a bond application and posting of a bond with the Planning Department for the sidewalk;*
- b. Construction of sidewalk and including its acceptance by Public Works; or*
- c. The addition of the following note to the plat: "No building permit is to be issued until the proposed sidewalk is constructed per the Department of Public Works' specifications."*

Sidewalks need to be included on the plat or a variance to Section 3-8.2 requiring sidewalks on existing streets needs to be requested by the applicant and granted by the Planning Commission.

### Variance to the Subdivision Regulations

In order for a variance to be granted, the applicant needs to meet the requirements of Section 1-11 regulating variances.

#### ***1-11 Variances***

- 1. General. If the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations, a variance from these regulations may be granted, provided that such variance shall not have the effect*



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*of nullifying the intent and purpose of these regulations. The Planning Commission shall make findings based upon the evidence presented to it 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).*
- 2. Procedures. A petition for any such variance shall be submitted in writing by the applicant along with the initial filing of the concept plan. The petition shall state fully the grounds for the application and all of the facts upon which the petitioner is relying.*
  - 3. Conditions. In approving variances, the Planning Commission may impose such conditions as in its judgment, shall secure substantially the objectives, standards, and requirements of these regulations.*
  - 4. Additional Findings. Certain Sections of the regulations may require additional findings to be made by the Planning Commission in order to permit variances.*

As noted above, the applicant has not requested any variances as required by Section 1-11.2. As there appears to be a number of lots of similar shape and size in the immediate area, the applicant will need to demonstrate that the conditions for the variance are unique to this property and not applicable to other property as required by Section 1-11.1.b.

### **PUBLIC WORKS RECOMMENDATION**

If sidewalks are required, then they should be shown on the plan located with the public right of way per Public Works standards with the required curb and gutter, and be built or bonded prior to recording the plat. Additionally, if sidewalk is constructed driveway ramps must be constructed as per MPW standard drawings.

### **WATER SERVICES RECOMMENDATION**

The applicant's request for a capacity study was received on February 1, 2012. The Water Service Department responded on February 2, 2012 with the required capacity fees based on the study. The Water Services review of the plan cannot be initiated until these fees have been paid. Comments will be forwarded once the fees have been paid and the review complete.

### **STAFF RECOMMENDATION**

The Water Services Department agreed to allow the applicant to submit this request without first paying capacity fees with the expectation that the fees would be paid shortly after the submittal deadline. The applicant was contacted by Water Services several times to have these fees paid. The



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request for the study to determine the fees was not made until February 1, 2012. The study was conducted and capacity fees set on February 2, 2012. At the time of the writing of the staff report, the fees have not been paid. Without the payment, of these fees, Water Services is unable to begin its review of this plat.

As the notices for this request had been mailed, it was placed on the February 9, 2012, agenda. The Planning Commission deferred at the request of the applicant. Staff is recommending deferral of this item in order for the Water Services review to be completed. If the applicant does not agree to the deferral, staff recommends disapproval of this plat as the applicant has not met Water Services requirements for plat review and the plat does not meet the requirements for Sections 3-5.2.b (Infill Subdivisions) and 3-8.2 (Requirements for Sidewalks.)

### **CONDITIONS (if approved)**

1. All required capacity fees shall be paid and any infrastructure required by the Water Services Department shall be built and accepted, or bonded prior to the recording of the plat.
2. Prior to the recording of this plat, one of the following options must be implemented:
  - a. Submittal of a bond application and posting of a bond with the Planning Department for the sidewalk;
  - b. Construction of sidewalk and including its acceptance by Public Works; or
  - c. The addition of the following note to the plat: "No building permit is to be issued until the proposed sidewalk is constructed per the Department of Public Works' specifications."

**SEE NEXT PAGE**



# **RECOMMENDATIONS TO THE METRO COUNCIL**

- **Specific Plans**
- **Zone Changes**
- **PUD (Cancellation & Amendments)**



**2012SP-004-001**  
**GALLATIN PIKE AUTO SALES**  
Map 051-11, Parcel(s) 072  
Madison  
08 - Karen Bennett



<b>Project No.</b>	<b>Zone Change 2012SP-004-001</b>
<b>Project Name</b>	<b>Gallatin Pike Auto Sales</b>
<b>Council District</b>	8 – Bennett
<b>School District</b>	3 – North
<b>Requested by</b>	Anthony Cherry, applicant, Sabah Badel and Ibrahim Suleiman, owners
<b>Staff Reviewer</b>	Swaggart
<b>Staff Recommendation</b>	<i>Approve the SP with conditions and disapprove without all conditions</i>

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**APPLICANT REQUEST**

**Permit vehicle sales and repair uses and all other uses permitted by CS district.**

SP Development Plan

A request to rezone from Commercial Services (CS) to Specific Plan-Auto (SP-A) zoning for property located at Gallatin Pike (unnumbered), approximately 1,590 feet north of Walton Lane (0.91 acres), to permit automobile sales (used), auto repair and all other uses permitted by the CS District.

Existing Zoning

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

Proposed Zoning

Specific Plan-Auto (SP-A) District 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

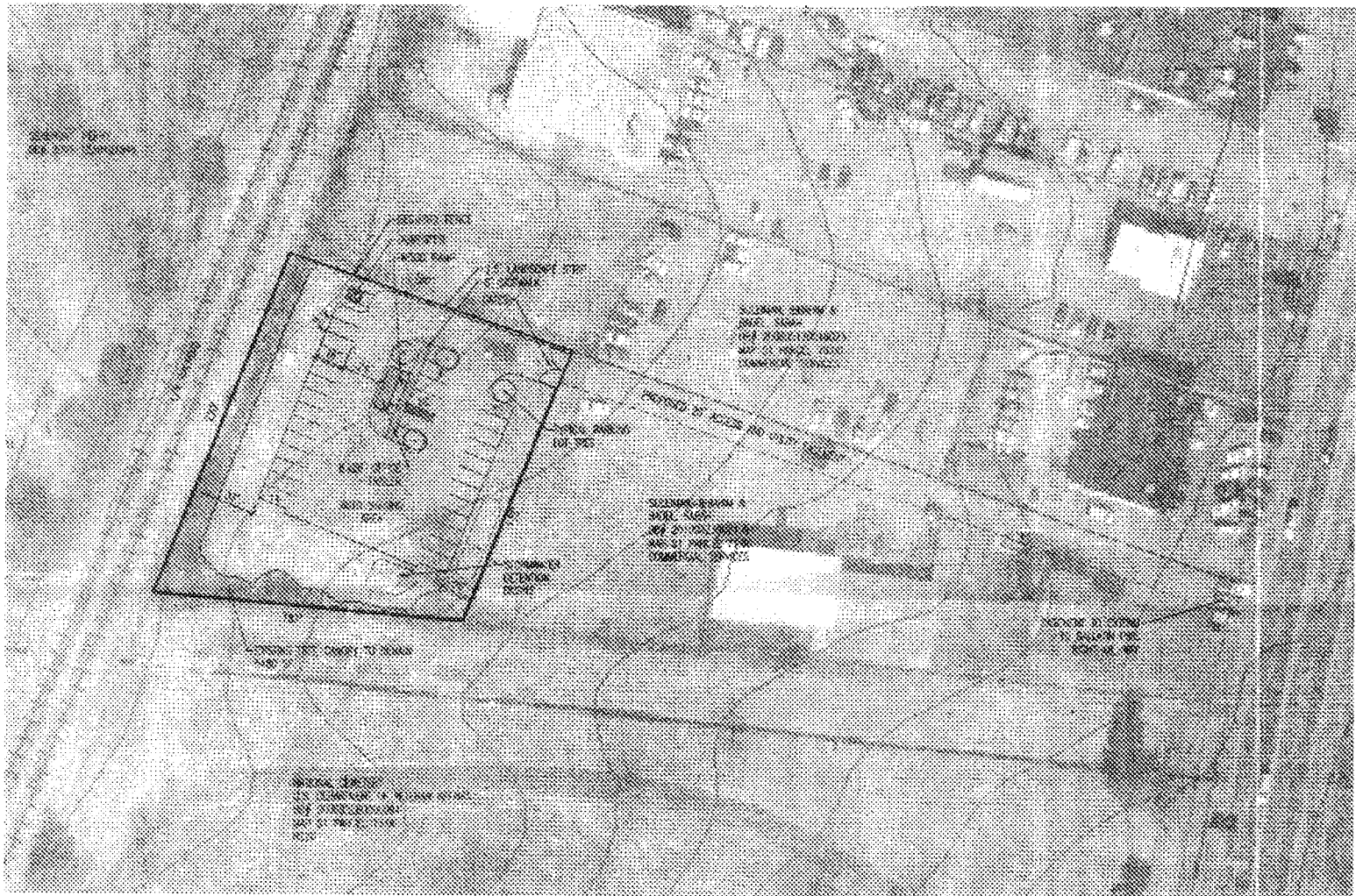
**MADISON COMMUNITY PLAN**

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. *The specific policy for this area also “encourages” auto uses to relocate to the “Auto Mile” north of this site along Gallatin.*

Consistent with Policy?

Yes. The Suburban Mixed-Use (T3-CM) policy promotes a variety of land uses from residential to commercial including auto related uses. While the specific T3-CM policy for this site “encourages” auto related uses to relocate to the “Auto Mile”, it would not prohibit approval of auto uses under all circumstances. The subject site is located at the rear of an existing used car lot, and will not be





## Metro Planning Commission Meeting of 03/08/2012

visible from Gallatin Pike. As it will not be visible from Gallatin Pike, it will have no noticeable impact on the corridor. It is more appropriate to permit the proposed auto use at this location rather than locating it elsewhere along the corridor or in another area where it may have a negative impact. There is a residential area west of the site; however, it is separated from the subject site by a railroad track.

### **PLAN DETAILS**

The intent of this request is to permit used auto sale, auto repair and all other uses permitted in the Commercial Services zoning district. The subject property is located just west of Gallatin Pike. It does not have frontage along Gallatin Pike but is separated by another parcel. The property abuts a national veteran's cemetery to the south and a railroad track to the west. The property is a little under an acre in size and is currently undeveloped. This is a development plan only. Prior to the issuance of any permits, a final site plan must be approved by the Planning Department.

#### Site plan

The proposed site plan identifies a 208 square foot office, and associated parking. The proposed office building will be a modular building (trailer). The plan identifies 30 parking spaces. The plan identifies an existing tree canopy along the western and southern property line which is to remain. The plan also identifies a fence along the western and southern property lines. The minimum height of the fence is six feet. Access to the site will be from Gallatin Pike via a 20 foot access easement, which is depicted on the plan.

#### Staff Analysis

As stated above, this particular request can be considered consistent with the Suburban Mixed-Use Corridor land use policy. The only property that could potentially be impacted by this request is the cemetery to the south. As proposed the existing tree canopy is to remain along the south property line. The plan also calls for a solid fence to be located along the property line which will provide additional buffering. Staff recommends that a Standard B-Landscape buffer yard be provided along the southern property line in addition to the fence and existing vegetation. To soften the appearance of the proposal from the cemetery, staff is also recommending that the fence be located north of the buffer yard so that the area immediately adjacent to the cemetery is vegetated.

### **STORMWATER RECOMMENDATION**

Approve

### **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.
- All construction that is required to be completed in the public Right of Way a permit must be obtained from the Metro Public Works Permit office. Contact MPW Permit office at (615) 862-8782.
- Record or label recording document for "Proposed 20 foot Access and Utility Easement" on the plans.



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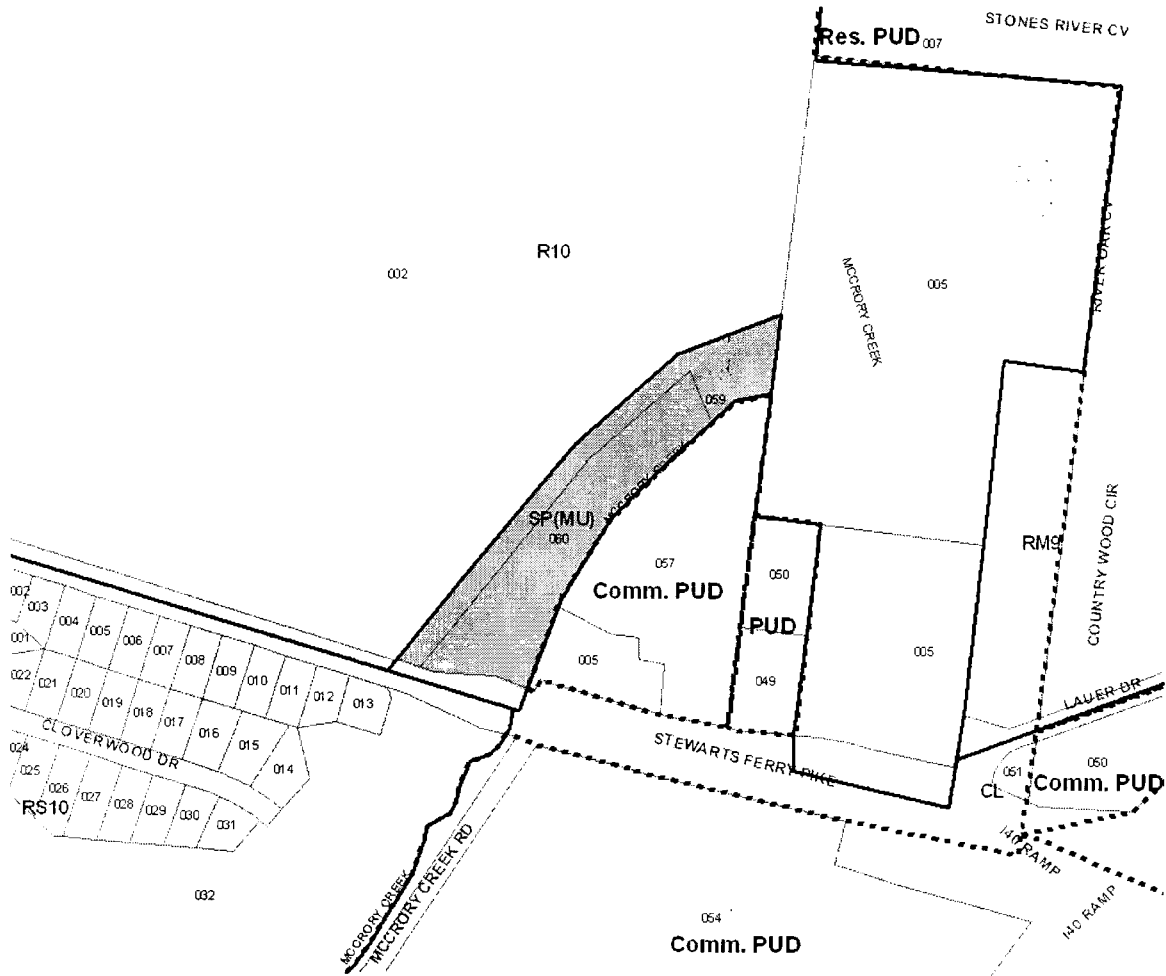
### STAFF RECOMMENDATION

Staff recommends approval with conditions. As proposed the request is consistent with the Suburban Mixed-Use Corridor land use policy.

### CONDITIONS

1. Permitted land uses within the SP shall be automobile sales (used), automobile repair, and all other uses permitted by the CS zoning district.
2. Prior to the approval of any final site plan, the proposed access easement shall be recorded with the Register of Deeds and the instrument number for the easement shall be shown on the final site plan.
3. Zoning Note No. 1 shall be deleted in its entirety and replaced with the following note: "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 CS zoning district as of the date of the applicable request or application."
4. A Standard B-Landscape buffer yard shall be required along the southern property line adjacent to the cemetery. Existing trees may be counted towards the planting requirements for the buffer yard.
5. The proposed fence along the southern property line shall be relocated to the north side of the required Standard B-Landscape buffer yard.
6. 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.
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.

**SEE NEXT PAGE**



**2012SP-007-001**  
**DOLLAR GENERAL (STEWARTS FERRY)**  
 Map 096, Parcel(s) 059-060  
 Donelson - Hermitage  
 14 - James Bruce Stanley





<b>Project No.</b>	<b>Zone Change 2012SP-007-001</b>
<b>Project Name</b>	<b>Dollar General Stewarts Ferry</b>
<b>Council District</b>	14 – Stanley
<b>School District</b>	4 – Shepherd
<b>Requested by</b>	Dale & Associates, applicant, Heritage Bank, owner.
<b>Staff Reviewer</b>	Johnson
<b>Staff Recommendation</b>	<i>Approve with conditions, disapprove without all conditions</i>

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**APPLICANT REQUEST**

**Permit retail uses**

Preliminary SP

A request to rezone from Specific Plan – Mixed Use (SP-MU) to Specific Plan – Commercial (SP-C) zoning properties located at 541 and 551 Stewarts Ferry Pike, approximately 1,130 feet west of Lauer Drive (4.57 acres), and within the Floodplain Overlay District, to permit a 12,480 square foot retail use, replacing 20 townhomes and a 4,000 square foot warehouse previously approved.

Existing Zoning

Specific Plan – Mixed Use (SP-MU) District is a zoning District category that provides for additional flexibility of design, including the relationship of streets to buildings, to provide the ability to implement the specific details of the General Plan. This Specific Plan includes residential and warehouse uses.

Proposed Zoning

Specific Plan – Commercial (SP-C) District 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 retail uses.

**CRITICAL PLANNING GOALS**

N/A

**DONELSON – HERMITAGE COMMUNITY PLAN**

Commercial Mixed Concentration (CMC)

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

Natural Conservation (NCO)

NCO policy is intended for undeveloped areas with the presence of steep terrain, unstable soils, and floodway/floodplain. Low intensity community facility development and very low density residential development (not exceeding one dwelling unit per two acres) may be appropriate land uses.

Consistent with Policy?

Yes. The CMC policy permits all types of retail uses, including the proposed retail use. CMC policy also includes design principles including recommendations for providing substantial





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landscaping along parking lot frontages and within parking areas and constructing sidewalk along property frontages. The site plan illustrates the intent to meet these design principles through the construction of sidewalk and the inclusion of landscaping along the street frontage and surrounding the parking areas.

The NCO policy is generally applied to environmentally-sensitive features. The site is bisected by the floodway boundary, which is the reason for the application of the NCO policy. A portion of the proposed development is located within the required floodway buffers, but not within the floodway or floodplain. The applicant will be required to receive approval from the Metro Stormwater Management Committee prior to developing within these buffers. The applicant proposes a significant number of tree plantings within the floodway buffers for mitigation of the proposed development.

### PLAN DETAILS

Shown below is a table comparing currently-approved SP to the proposed SP in terms of the proposed impact of development.

	Current SP	Proposed SP	Percent change
Total Land Disturbance	2.826 acres	1.981 acres	<b>30.0% reduction</b>
Total Floor Area (FAR)	18,421 square feet	12,480 square feet	<b>32.2% reduction</b>
Total Impervious Area	1.668 acres	0.909 acres	<b>45.5% reduction</b>
Total Green Space	2.890 acres	3.649 acres	<b>26.2% increase</b>
Land uses	20 townhomes and 4,000 square feet of warehouse	12,480 square feet of retail	

In terms of land disturbance, FAR, and impervious area, the construction of the proposed SP would have less impact on the site than the approved SP. Although not calculated on the plan by the applicant, the proposed SP will have a smaller footprint in the floodway buffer than the approved SP.

### Zoning History

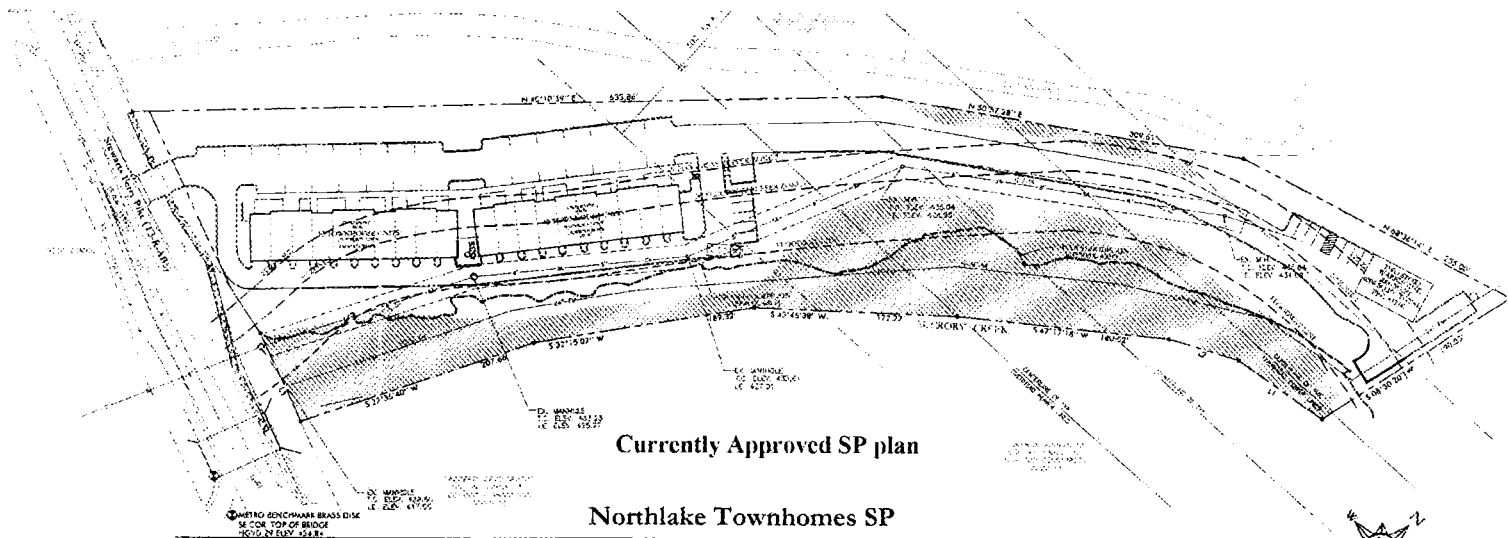
In 2007, an SP was approved for this property for 20 townhomes and 4,000 square feet of warehouse space. That plan was not constructed. Although the current request is also for an SP zoning district, the requested commercial land uses are significantly different than the residential and warehouse uses proposed under the currently-approved SP. Prior to the currently-approved SP, the site was in the CS zoning district, which would have permitted the proposed retail use, subject to any necessary variances from the Stormwater Management Committee.

### Existing Conditions and Site Plan

The site is currently vacant and vegetated. The front of the site, where development is proposed, is bisected by floodway. Under the proposed SP, a retail use is proposed that will occupy the front of the site along Stewarts Ferry Pike. One access driveway will connect the business to Stewarts Ferry Pike.

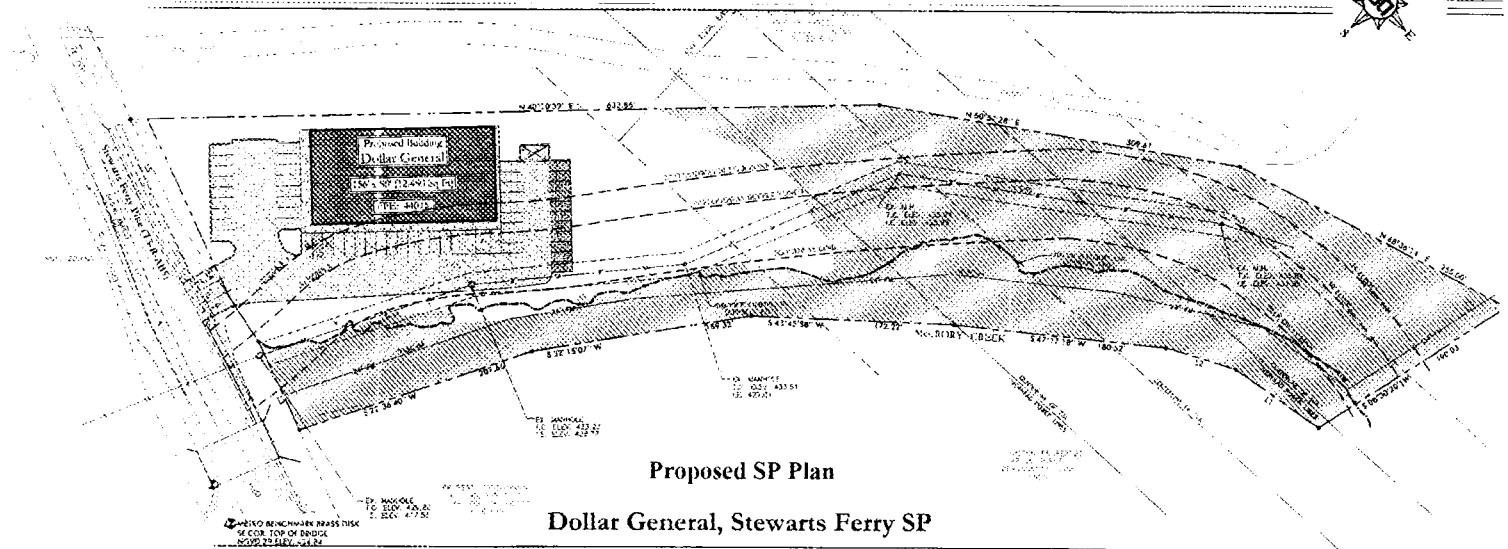
### Floodway and Floodway Buffers

The proposed development is not within the floodway or floodplain. However, a portion of the proposed development is located within the floodway buffers. Development within the floodway



Currently Approved SP plan

Northlake Townhomes SP



Proposed SP Plan

Dollar General, Stewarts Ferry SP



## Metro Planning Commission Meeting of 03/08/2012

buffers is not permitted by Metro Stormwater regulations. The applicant has applied for a variance to the Metro Stormwater Management Committee to permit development within the floodway buffers. A similar variance was approved by the Stormwater Management Committee with the previous SP from 2007. The current SP proposal would require a smaller buffer encroachment than what was approved under the currently-approved SP. The applicant proposes substantial tree planting within the buffer as mitigation to the disturbance of the floodway buffers.

### Street Frontage

Two rows of parking are shown along the street frontage with additional parking along the side and rear of the proposed retail building. To be consistent with the CMC land use policy, the applicant proposes a significant amount of landscaping along the Stewarts Ferry Pike street frontage to provide visual and physical separation between the parking area and the street frontage.

### Greenway Easement

The site is identified by the Donelson-Hermitage Community Plan as a possible location for a greenway along McCrory Creek. The applicant has added a note to the plan requiring the dedication of a greenway easement along the creek with the final plat.

### Signage

A signage plan and signage standards were not addressed in the SP proposal. The retail use will likely include a proposal for a ground sign. Any ground signs for the proposed use shall have a maximum height of 6 feet with a maximum display surface area of 36 square feet.

## **PUBLIC WORKS RECOMMENDATION**

- The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works. Final design may vary based on field conditions.
- Construct left turn lane by extending existing left turn lane on Stewarts Ferry Pike past proposed access drive with transitions per Manual on Uniform Traffic Control Devices (MUTCD) and American Association of State Highway and Transportation Officials (AASHTO) standards.

### Maximum Uses in Existing Zoning District: SP-MU

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Multi-Family Residential (220)	4.57	-	20 U	245	14	29

### Maximum Uses in Existing Zoning District: SP-MU

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Self-Storage Facility (151)	4.57	-	4,000 SF	10	1	2

### Maximum Uses in Proposed Zoning District: SP-C

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Retail (817)	4.57	-	12,480 SF	572	18	52



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Traffic changes between maximum: SP-MU and proposed SP-C

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	+317	+3	+21

### METRO STORMWATER RECOMMENDATION

- Show undisturbed buffers (or provide variance).
- Add Buffer Note to plans:  
(The buffer along waterways will be an area where the surface is left in a natural state, and is not disturbed by construction activity. This is in accordance with the Stormwater Management Manual Volume 1 - Regulations.)
- Add Preliminary Note to plans:  
(This drawing is for illustration purposes to indicate the basic premise of the development. The final lot count and details of the plan shall be governed by the appropriate regulations at the time of final application.)

### STAFF RECOMMENDATION

Staff recommends approval with conditions of the SP request. The proposed retail use is consistent with the CMC zoning district. Although some development is proposed within the NCO policy, development must receive approval from the Metro Stormwater Management Committee to permit construction within the floodway buffers.

### CONDITIONS

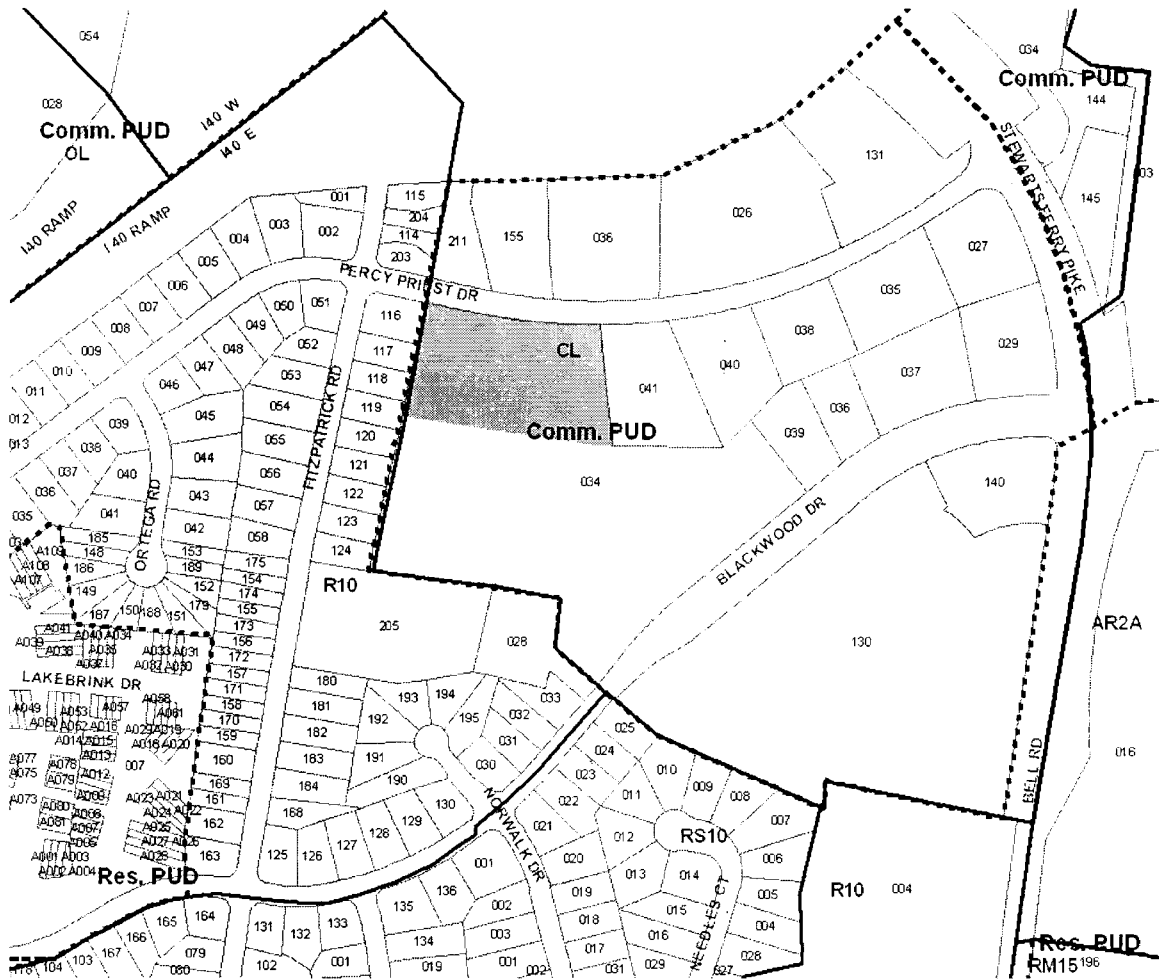
1. Ground signs shall have a maximum height of 6 feet and a maximum display area of 36 square feet.
2. The proposal shall comply with comments listed above from Metro Public Works and Metro Stormwater.
3. The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works.
4. This SP shall permit retail uses only.
5. 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.
6. 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



## **Metro Planning Commission Meeting of 03/08/2012**

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.

7. 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.
8. 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.



**2012Z-007PR-001**  
 PERCY PRIEST DRIVE (UNNUMB)  
 Map 097-13, Part of Parcel(s) 034  
**155-74P-003**  
 LARCHWOOD (CANCEL A PORTION)  
 Map 097-13, Part of Parcel(s) 034  
 Donelson - Hermitage  
 13 - Josh Stites





## Metro Planning Commission Meeting of 03/08/2012

**Items #5  
a & b**

<b>Project Nos.</b>	<b>Zone Change 2012Z-007PR-001 and Plan Unit Development 155-74P-003</b>
<b>Project Name</b>	<b>Larchwood Commercial</b>
<b>Council District</b>	13 – Stites
<b>School District</b>	4 – Shepherd
<b>Requested by</b>	Klober Engineering Services, applicant for MDREA, Inc., owners
<b>Staff Reviewer</b>	Swaggart
<b>Staff Recommendation</b>	<i>Disapprove zone change and PUD cancellation</i>

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### APPLICANT REQUEST

**Rezone property from CL to CS and cancel PUD overlay.**

#### Zone Change

A request to rezone from the Commercial Limited (CL) to Commercial Service (CS) district for a portion of property located at Percy Priest Drive (unnumbered), approximately 1,075 feet west of Bell Road (3.36 acres).

#### Cancel PUD

A request to cancel a portion of the Larchwood Commercial Planned Unit Development Overlay District located on a portion of property at Percy Priest Drive (unnumbered), approximately 1,075 feet west of Bell Road (3.36 acres), zoned Commercial Limited (CL) and proposed for Commercial Services (CS).

#### **Existing Zoning**

Commercial Limited (CL) District is intended for retail, consumer service, financial, restaurant, and office uses. *While the property is zoned CL it is also within a PUD overlay. The overlay may further restrict development standards as well as limit uses from what is permitted under CL.*

#### **Proposed Zoning**

Commercial Service (CS) District is intended for retail, consumer service, financial, restaurant, office, self-storage, light manufacturing and small warehouse uses. *The area proposed for CS is currently within a PUD overlay, which the applicant has requested to be canceled. If the overlay is canceled then the proposed area would be subject to the proposed CS district only.*

#### **CRITICAL PLANNING GOALS**

N/A

#### **DONELSON – HERMITAGE COMMUNITY PLAN**

Commercial Mixed Concentration

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.





## Metro Planning Commission Meeting of 03/08/2012

### Consistent with Policy?

No. While the CMC land use policy generally supports CS zoning as well as other moderate to intense commercial districts, the policy recognizes that some recommended activities have the potential to adversely affect adjacent residential development. The area proposed for CS zoning is in a location adjacent to residential development and is currently approved for office uses which are intended to provide a transition from the more commercial area east of the subject area. The layout of the commercial and office uses was a deliberate aspect of the Planned Unit Development, which was intended to provide a comprehensive plan for development including the transition of uses from commercial to residential. The proposed CS zoning district would permit a variety of uses that would not provide the "planned" transition that is appropriate at this location. Also, a majority of the overlay is currently developed consistent with the council approved plan. Removing a portion of the overlay and permitting it to develop inconsistent with the overlay is not appropriate.

### **PUD Overlay History**

The Larchwood Commercial PUD Overlay District was originally approved by Metro Council in 1974. Since the original approval, the plan has been amended and revised numerous times. A majority of the PUD is developed. The subject portion of the PUD is part of a larger undeveloped property. The subject portion of the overlay was last approved for a 19,200 square foot, two-story motel, and a 15,400 square foot, two-story office building. The most western portion of the property which is directly adjacent to an existing residential area is approved for the office building.

### **STORMWATER RECOMMENDATION**

#### **Zone Change Request**

- Ignore

#### **PUD Request**

- Approved

### **PUBLIC WORKS RECOMMENDATION**

#### **Zone Change Request**

- Traffic study may be required at time of development

#### **PUD Request**

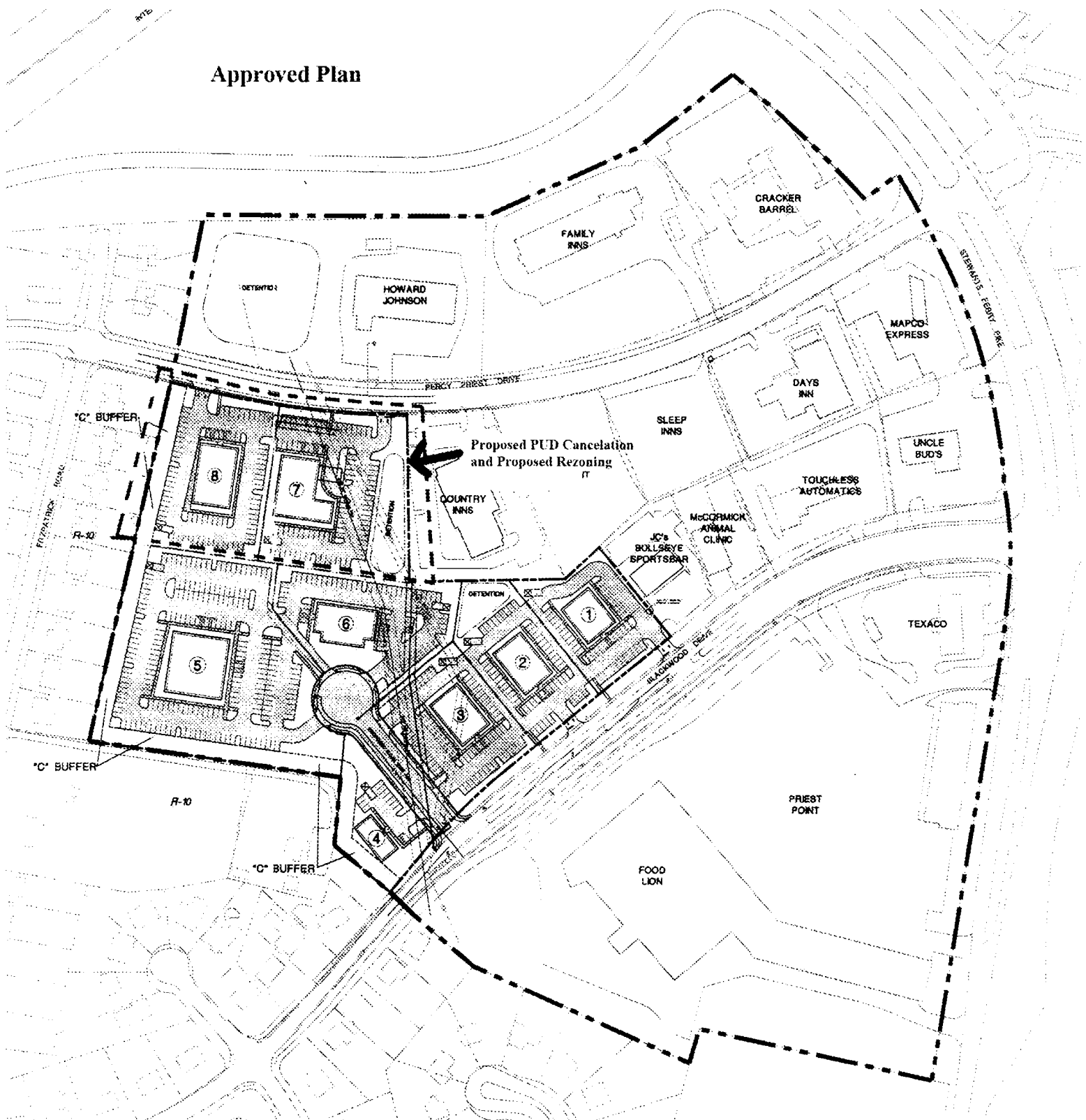
- The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works. Final design may vary based on field conditions.

Maximum Uses in Existing Zoning District: CL

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Veterinarian Clinic (640)	1.68	-	3,300 SF*	NA	14	16

\*Regulated by PUD Overlay

# Approved Plan



Proposed PUD Cancellation  
and Proposed Rezoning



COUNTRY  
INNS

10' BUFFER

R-10

10' BUFFER

R-10

10' BUFFER

CRACKER  
BARREL

FAMILY  
INNS

HOWARD  
JOHNSON

DETACHED

MAPCO'S  
EXPRESS

DAYS  
INN

UNCLE  
BUD'S

TOUGHLESS  
AUTOMATICS

SLEEP  
INNS

JC'S  
BULLSEYE  
SPORTSBAR

MCCORMICK  
ANIMAL  
CLINIC

DETACHED

TEXACO

PRIEST  
POINT

FOOD  
LION

PASTOR WALK

PASTOR WALK

BLACKWOOD  
DRIVE

STEWARTS EIGHTY FIVE

PERCY ZIBBELL DRIVE



## Metro Planning Commission Meeting of 03/08/2012

Maximum Uses in Existing Zoning District: CL

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Fast Food Restaurant (934)	1.68	-	4,000 SF*	1985	198	136

\*Regulated by PUD Overlay

Maximum Uses in Proposed Zoning District: CS

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	3.36	0.6	87,816 SF	1208	170	178

Traffic changes between maximum: CL and proposed CS

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	NA	-42	+26

### STAFF RECOMMENDATION

Staff recommends that the request to rezone the property from CL to CS be disapproved and that the request to cancel the PUD overlay be disapproved. The approved PUD on this site was intended to coordinate the transition of uses to permit commercial and offices uses, while maintaining an appropriate transition with the residential development to the east. The proposed PUD cancellation and zone change would negatively alter this intent by permitting more intense commercial uses adjacent to residential development.





## Metro Planning Commission Meeting of 03/08/2012

**Items #6  
a & b**

<b>Project Nos.</b>	<b>Zone Change 2012Z-008PR-001 and Planned Unit Development 2002P-002-001</b>
<b>Project Name</b>	<b>Magnolia Station</b>
<b>Council District</b>	10 – Pardue
<b>School District</b>	3 – North
<b>Requested by</b>	Dale & Associates, applicant, for Magnolia Station Homeowners Association Inc., owner
<b>Staff Reviewer</b>	Johnson
<b>Staff Recommendation</b>	<i>Approve zone change. Approve PUD amendment and cancellation with conditions and disapprove without all conditions.</i>

### **APPLICANT REQUEST**

**Zone change from multi-family to one and two family residential uses and cancel a portion of a PUD, and amend the remainder of the PUD to relocate open space.**

#### Zone change

A request to rezone from Multi-Family Residential (RM4) to One and Two Family Residential (R40) district property located at Tinnin Road (unnumbered), approximately 750 feet north of Springfield Highway (1.42 acres).

#### Amend and Cancel a portion of PUD

A request to cancel a portion of the Magnolia Station Residential Planned Unit Development District Overlay on property located at Tinnin Road (unnumbered) and to amend a portion of the PUD located at 1900 Tinnin Road, approximately 750 feet north of Springfield Highway (6.26 acres), to delete six unbuilt dwelling units and convert the area shown for those dwelling units to open space within the PUD, and to delete a different 1.42 acres of open space land from the PUD (parcel 221).

#### Existing Zoning

**RM4** is intended for single-family, duplex, and multi-family dwellings at a density of up to four dwelling units per acre.

#### Proposed Zoning

**R40 District** requires a minimum 40,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of up to 1.16 dwelling units per acre including 25 percent duplex lots.

### **CRITICAL PLANNING GOALS**

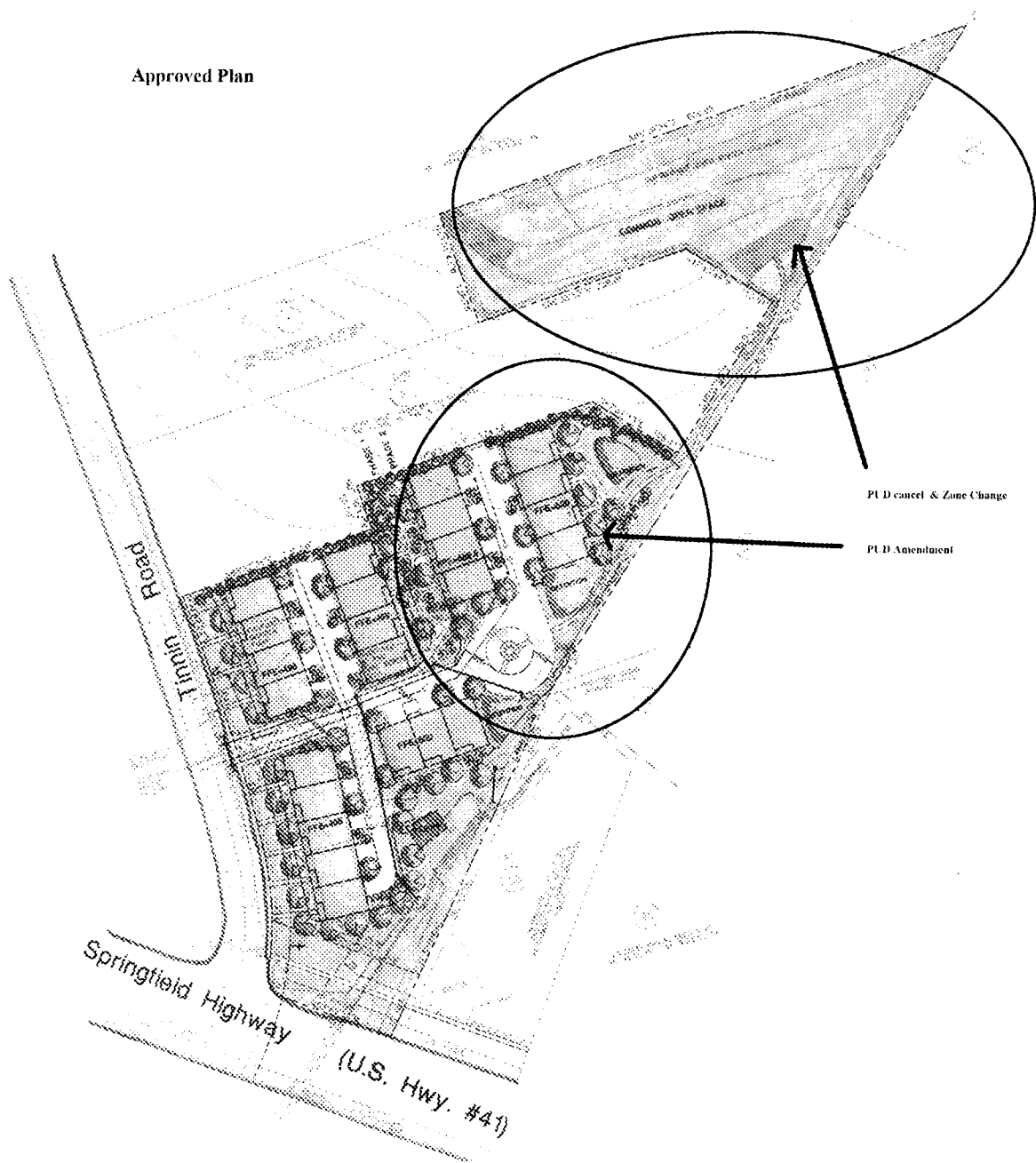
N/A

### **PARKWOOD-UNION HILL COMMUNITY PLAN**

Residential Low (RL)

RL policy is intended to conserve large areas of established, low density (one to two dwelling units per acre) residential development. The predominant development type is single-family homes.

Approved Plan



PUD cancel & Zone Change

PUD Amendment





## Metro Planning Commission Meeting of 03/08/2012

### Consistent with Policy?

Yes. The proposed R40 zoning district and the associated PUD amendment are consistent with the density requirements for the RL land use policy.

### **REQUEST DETAILS**

The applicant requests include:

1. Cancellation of a portion (1.42 acres) of the Magnolia Station Residential PUD, which currently serves as the required open space for the PUD.
2. Changing the zoning district of the cancelled portion from the RM4 to the R40 zoning district.
3. Amending the remaining PUD layout to place the required open space on a portion of the PUD that was previously planned for six attached residential dwelling units.

### PUD proposal

The Magnolia Station PUD was originally approved in 2002, for 24 attached residential units (townhomes). After the original approval, it was revised to reduce the total to 20 units. To date, 14 units have been constructed. The PUD amendment will further reduce the total number of permitted dwelling units within the PUD from 20 to the existing 14 units. Other than the cancellation of a portion of the PUD and the conversion of six approved dwelling units to open space, no other changes to the PUD are proposed.

### Zone Change

As described above, the proposed zone change will be consistent with the Residential Low land use policy in terms of the permitted residential density. R40 requires a minimum lots size of 40,000 square feet to permit development.

### **ANALYSIS**

The proposed PUD amendment and cancellation do not compromise the intent of the original PUD approval. The existing 14 residential units follow the layout of the original approval. The open space approved under the original plan (the area that is requested for cancellation) has a relatively weak connection to the remainder of the PUD. A formal walkway was never constructed to provide access to the open space. The revised open space location will have a stronger relationship to the residential units within the PUD.

### **STORMWATER RECOMMENDATION**

Cancellation & Amendment approved

### **PUBLIC WORKS RECOMMENDATION**

No exception taken

Maximum Uses in Existing Zoning District: **RM4**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Open Space ()	1.42	-	0*	0	0	0

\*Regulated by PUD Overlay



## Metro Planning Commission Meeting of 03/08/2012

Maximum Uses in Proposed Zoning District: **R40**

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)	1.42	1.16 D	2 U	20	2	3

Traffic changes between maximum: **RM4** and proposed **R40**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	+20	+2	+3

### SCHOOL BOARD REPORT

Projected student generation      0 Elementary      0 Middle      0 High

#### Schools Over/Under Capacity

Students would attend Goodlettsville Elementary School, Goodlettsville Middle School, or Hunters Lane High School. Of these, Goodlettsville Elementary School and Goodlettsville Middle School have been identified as being over capacity by the Metro School Board. There is capacity for elementary and middle school students within the cluster. This information is based upon data from the school board last updated October 2011.

### STAFF RECOMMENDATION

Staff recommends approval of the zone change because it is consistent with the RL land use policy. Staff recommends approval of the PUD amendment and cancellation because these do not change the intent of the PUD as it was originally approved. Staff recommends disapproval of the PUD amendment if staff conditions are not included.

### PUD CONDITIONS

1. All Conditions of BL2002-1081 shall continue to apply where applicable.
2. This approval does not include any signs. Signs in planned unit developments must be approved by the Metro Department of Codes Administration except in specific instances when the Metro Council directs the Metro Planning Commission to review such signs.
3. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
4. If the PUD final site plan or final plat indicates that there is less acreage than what is shown on the approved preliminary plan, the final site plan shall be appropriately adjusted to show the actual total acreage, which may require that the total number of dwelling units or total floor area be reduced.
5. Prior to any additional development applications for this property, and in no event later than 120 days after the effective date of the enacting ordinance, the applicant shall provide the Planning Department with a corrected copy of the preliminary PUD plan. If a corrected copy of the preliminary PUD plan incorporating the conditions of approval therein is not provided to the



## **Metro Planning Commission Meeting of 03/08/2012**

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.