

MINUTES
OF THE
METROPOLITAN PLANNING COMMISSION

Date: February 13, 2003
Time: 4:00 p.m.
Place: Howard Auditorium

Roll Call

Present:

James Lawson, Chairman
Stewart Clifton
Judy Cummings
Tonya Jones
James McLean
Ann Nielson
Douglas Small, Vice Chairman
Councilmember John Summers
Joe Sweat, Mayor's Designee
Victor Tyler

Absent:

Staff Present:

Richard C. Bernhardt, Executive Director
Jerry Fawcett, Planning Manager 2
Kathryn Fuller, Planner 2
Ann Hammond, Assistant Executive Director/Planning
Marcus Hardison, Planner 1
David Kleinfelter, Planner 3
Robert Leeman, Planner 2
Anita McCaig, Planner 2
Preston Mitchell, Planner 2
Carolyn Perry, Administrative Assistant
Marty Sewell, Planner 2
Cynthia Wood, Planner 3
Chris Wooton, Planning Technician 1

Others Present:

Jim Armstrong, Public Works
Brook Fox, Legal Department
Chris Koster, Mayor's Office

Chairman Lawson called the meeting to order.

ADOPTION OF AGENDA

Mr. Clifton moved and Mr. Sweat seconded the motion, which unanimously passed, to adopt the agenda.

APPROVAL OF MINUTES

Ms. Nielson moved and Vice Chairman Small seconded the motion, which unanimously passed, to approve the minutes of the regular meeting of January 23, 2003.

RECOGNITION OF COUNCILMEMBERS

Councilman Phil Ponder spoke in favor of item 2. 2002Z-022T and asked the Commission to leave it on the consent agenda. He also announced item 8. 2003Z-021G-14 and item 9. 2003P-005G-14, Parkway Village, would be indefinitely deferred.

Councilman Jim Shulman spoke regarding item 14. 2002S-339U-10 Glen Echo, Resubdivision and stated people in general area are okay with the 2-lot subdivision, but this is a 3-lot subdivision on today's agenda. The applicant for item 15. 2003S-011U-10, Elder Place Subdivision, has submitted letter to the Commission, which outlines concerns addressed to him.

Councilman Tony Derryberry spoke in favor of item 7. 2003Z-016U-13.

Councilman Charlie Tygard spoke regarding item 3. 2003AZ-003T, and stated it may be too restrictive and asked Commission to be very cautious in their discussion.

Councilmember Brenda Gilmore spoke in favor of item 12. 2003Z-024G-03 and stated the applicant has agreed to CL rather than CS.

Councilman Bruce Stanley spoke in favor of the proposed moratorium on the Commission's consideration of preliminary subdivision plats in the area containing floodplain.

Chairman Lawson recognized former Planning Commission members Bill Harbison and Arnett Bodenhamer.

OTHER BUSINESS

1. Executive Director reports
4. Legislative update

PUBLIC HEARING: ANNOUNCEMENT OF DEFERRED ITEMS AND WITHDRAWN ITEMS

At the beginning of the meeting, staff listed the deferred items as follows:

8. 2003Z-021G-14, deferred indefinitely.
9. 2003P-005G-14, deferred indefinitely.
10. 2003Z-022U-03, deferred until February 27, 2003.
13. 2002S-229G-14, deferred until March 13, 2003.
17. 53-84-U-12, deferred until February 27, 2003.

Ms. Nielson moved and Councilman Summers seconded the motion, which unanimously passed, to close the public hearing and defer the items listed above.

PUBLIC HEARING: ADOPTION OF CONSENT AGENDA

Note: 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.

Ms. Nielson moved and Mr. McLean seconded the motion, which unanimously carried, to close the public hearing and approve the following items on the consent agenda:

OTHER BUSINESS

- 2. Grant agreement between the State of Tennessee and the Metropolitan Planning Commission of Metropolitan Government of Nashville-Davidson County for the Nashville Area Metropolitan Planning Organization

Resolution No. 2003-40

“**BE IT RESOLVED** by the Metropolitan Planning Commission that it **APPROVES** the Grant agreement between the State of Tennessee and the Metropolitan Planning Commission of Metropolitan Government of Nashville-Davidson County for the Nashville Area Metropolitan Planning Organization.”

- 3. Employee contracts for Kathryn Fuller and Jennifer Higgs

Resolution No. 2003-41

“**BE IT RESOLVED** by the Metropolitan Planning Commission that it **APPROVES** employee contracts for Kathryn Fuller and Jennifer Higgs for two years.”

ZONING MAP AMENDMENTS

- 4. **2002Z-114U-13**
Map 149-3b, Parcels 35 and 36
Subarea 14 (1996)
District 28 (Alexander)

A request to change from R10 district to CL district properties at Murfreesboro Pike (unnumbered), at the intersection of Murfreesboro Pike and Brooksboro Place, (1.38 acres), requested by Jeff Browning of Mid South Land Associates, applicant, for Will, Robert, Barbara, and Emily Braswell, owners.

Project No. **Zone Change 2002Z-114U-13**
Associated Case None
Council Bill None
Deferral Deferred 11/13/02
Staff Reviewer Hardison

Staff Recommendation *Approve*

APPLICANT REQUEST Rezone 1.38 acres from Residential (R10) to Commercial Limited (CL) at Murfreesboro Pike (unnumbered).

Existing Zoning
R10 zoning R10 zoning is intended for residential lots with a minimum area of 10,000 square feet.

Proposed Zoning
CL zoning CL zoning is intended for retail, consumer service, financial, restaurant, and office uses.

SUBAREA 13 PLAN POLICY

Residential Medium (RM) RM policy is intended for 4 to 9 dwelling units per acre.

Retail Concentration

Community (RCC) RCC policy is intended to accommodate concentrations of community scale retail such as restaurants, retail, office, and financial uses.

Policy Conflict

None. These properties are located on the border of the Subarea 14 Plan’s RM and RCC policy areas. These properties are adjacent to a section of townhomes to the east and the Edge-o-Lake community to the northeast. There are commercial properties to the west and south of the properties. Although this property is within two policy areas, there is a very limited opportunity for any development on these properties. Any residential development on these properties would have access issues, much the same as the adjacent townhouses. Murfreesboro Pike is a state route that currently in this area has no residential driveways. On state routes TDOT approval is required for driveways. The requested CL district is consistent with the RCC policy and it also is less intense than the applicants originally requested CS district.

RECENT REZONINGS None

TRAFFIC Based on typical uses in CL districts, with on site parking and 10,000 sq. ft. of development per acre is used to calculate traffic generation, such as a restaurant, video rental, and auto parts store this proposed zoning would generate approximately 188 to 1,799 trips per day could be generated by these uses (Institute of Transportation Engineers, 6th Edition, 1996). Other uses at different densities could generate more or less traffic.

Traffic Engineer’s Findings **Approve**

Resolution No. 2003-42

"BE IT RESOLVED by the Metropolitan Planning Commission that Zone Change Proposal No. 2002Z-114U-13 is **APPROVED (9-0)**:"

The proposed CL district is consistent with the Subarea 13 Plan’s Retail Concentration Community (RCC) policy calling for concentrations of community scale retail such as restaurants, retail, office, and financial uses. These properties are located on the border of the Subarea 13 Plan’s Residential Medium (RM) and RCC policy areas. The CL is consistent with the commercial zoning pattern to the west and to the north.”

MANDATORY REFERRALS

- 18. 2003M-018U-11**
- 1301 Pillow St. Right-of-Way Encroachment
- Map 105-7, Parcel 147
- Subarea 11 (1999)
- District 19 (Wallace)

A request for an existing building corner to encroach 1.2 feet and for an existing concrete pad to encroach 1.4 feet into the Alley #187 Right-of-Way, property located at 1301 Pillow Street, as requested by Patrick Brakefield of Charles Hawkins Company, applicant, for John Combs and Cliff’s Cabinet Company, property owner.

Project No. Mandatory Referral 2003M-018U-11
Project Name 1301 Pillow St. Right-of-Way Encroachment
Council Bill None
Staff Reviewer Mitchell

Staff Recommendation *Approve*

APPLICANT REQUEST A request for an existing building corner to encroach 1.2 feet and for an existing concrete pad to encroach 1.4 feet into the Alley #187 Right-of-Way. Property located at 1301 Pillow Street, south of the intersection of Pillow Street and Humphreys Street.

APPLICATION REQUIREMENTS

License to Encroach Agreement Yes – one was submitted in correct form.

Insurance Certificate Yes – one was submitted providing general liability of \$1,000,000 for each occurrence and \$2,000,000 for aggregate coverage, as required by Metro Legal.

Property Owner Sign Application Yes – John Combs of Cliff’s Cabinets.

Tenant Sign Application N/A

DEPARTMENT AND AGENCY

RECOMMENDATIONSAll reviewing departments or agencies recommend approval.

Resolution No. 2003-43

"BE IT RESOLVED by the Metropolitan Planning Commission that Mandatory Referral No. 2003M-018U-11 is **APPROVED (9-0).**"

19. 2003M-019U-05

Capital City Mattress Aerial Encroachment
Map 82-12, Parcel 323
Subarea 5 (1994)
District 6 (Beehan)

A request to install an awning measuring 6.5 feet in length projecting 3 feet over the public sidewalk at 8 feet above the public sidewalk, located at 900 Main Street, requested by Horace Bass of Capital City Mattress Company, Inc., applicant and owner.

Project No. Mandatory Referral 2003M-019U-05
Project Name Capital City Mattress Aerial Encroachment
Council Bill None
Staff Reviewer Mitchell

Staff Recommendation *Approve with Conditions*

APPLICANT REQUEST A request to install an awning, with ‘Showroom Entrance’ embossed upon it, measuring 6.5 feet in length projecting 3 feet over the public sidewalk at 8 feet above the public sidewalk. Property located at 900 Main Street.

APPLICATION REQUIREMENTS

License to Encroach Agreement Yes – one was submitted in correct form.

Insurance Certificate Yes – one was submitted providing general liability of \$1,000,000 for each occurrence and \$2,000,000 for aggregate coverage, as required by Metro Legal.

Property Owner Sign Application Yes – Horace Bass of Capital City Mattress

Tenant Sign Application N/A

**DEPARTMENT AND AGENCY
RECOMMENDATIONS**

Metro Historical Commission The Metro Historical Commission states that any proposed awning for this area must meet applicable East Bank MDHA Redevelopment District design guidelines.

RECOMMENDATION Staff recommends conditional approval subject to the requested awning being reviewed for compliance with the East Bank MDHA Redevelopment District design guidelines before the issuance of any permits.

Resolution No. 2003-44

"BE IT RESOLVED by the Metropolitan Planning Commission that Mandatory Referral No. 2003M-019U-05 is **APPROVED (9-0) with conditions.**"

20. 2003M-020U-09
Gateway Boulevard Property Sale and Easement
Subarea 9 (1997)
District 19 (Wallace)

An ordinance approving a corrected deed conveying fee simple interest, subject to certain retained easements, in property totaling 25,982.42 square feet to the Nashville & Eastern Railroad Authority and a permanent easement on another parcel totaling 1,374.84 square feet to the railroad for construction of the Gateway Boulevard Project, as requested by Metro Legal Department.

Project No. Mandatory Referral 2003M-020U-09
Project Name Gateway Boulevard Project
Property Sale and Easement Dedication
Council Bill BL2003-
Staff Reviewer Mitchell

Staff Recommendation *Approve*

APPLICANT REQUEST An ordinance approving a corrected deed conveying fee simple interest, subject to certain retained easements, in property totaling 25,982.42 square feet to the Nashville & Eastern Railroad Authority and a permanent easement on another parcel totaling 1,374.84 square feet to the railroad for construction of the Gateway Boulevard Project.

APPLICATION REQUIREMENTS None

**DEPARTMENT AND AGENCY
RECOMMENDATIONS**None

RECOMMENDATION All reviewing departments or agencies recommend approval.

Resolution No. 2003-45

"BE IT RESOLVED by the Metropolitan Planning Commission that Mandatory Referral No. 2003M-020U-09 is **APPROVED (9-0).**"

This concluded the items on the consent agenda.

**PUBLIC HEARING: A request to adopt the Bellevue Community Plan:
2003 Update**

Ms. McCaig stated staff recommends approval.

Project No. Request to Adopt the Bellevue
Community Plan: 2002 Update
Staff Reviewer Wood and McCaig

Staff Recommendation *Approve*

REQUEST Adopt the Bellevue Community Plan: 2002 Update with the following items designated for follow-up.

Areas (including Highway 70S) will be reassessed for neighborhood-scaled office potential subject to community input.

A Special Policy Design Detail will be developed with property owners and surrounding neighborhoods for the area centered on Kroger and Collins Road.

Follow-up discussions will be held regarding traditional neighborhoods and conservation subdivisions as alternative development patterns.

This item was deferred indefinitely at the December 12, 2002, meeting of the Commission and returns to the agenda following an additional community meeting at the request of Councilmembers Charlie Tygard and Bob Bogen.

SUBAREA PLAN This plan replaces the Subarea 6 Plan: 1996 Update

Detailed Neighborhood Design Plan A Detailed Neighborhood Design Plan is included for the Highway 100/Old Harding Pike Triangle

Public Participation Staff met with over 300 residents, property owners, and business owners in this community during a series of workshops and meetings held during March –October 2002. Staff presented the final plan at the last meeting on October 22, 2002.

This item was deferred at the December 12, 2002 MPC meeting. An additional community meeting was held Thursday, January 30, 2003.

Highlights Many of the current land use policies remain unchanged. Most of the changes have involved Natural Conservation policy areas. The language for Natural Conservation policy has been changed so that it no longer provides for development at 2-4 dwelling units/acre under certain conditions. Instead, areas appropriate for 2-4 dwelling units/acre have been identified and specifically mapped as Residential Low-Medium Density policy areas. Also, Natural Conservation areas that are zoned too intensively to implement the policy have been assigned to more appropriate policy categories that fit their zoning and development patterns. Three Neighborhood Centers have been designated: the Bellevue Town center at Old Harding Pike and Bellevue Road, the Highway 100/Old Harding Pike Triangle, and the Loveless Café/Motel area at the intersection of Highway 100 and McCrory Lane.

Councilman Bob Bogen stated after many community meetings there is now substantial support to adopt the Bellevue Community Plan.

Mr. Dwayne Whitt, Ms. Brenda Steine, and Mr. Greg Tidwell spoke in favor of the proposal and asked for approval of the plan.

Mr. Remo Circo expressed concerns regarding future changes in the land usage.

Ms. Paula Winters asked for deferral and expressed concerns regarding not looking at many of the rural areas.

Mr. John Rumble, President of Bellevue Citizens for Planned Growth disagreed with Ms. Winters and stated staff reviewed all the land use maps for the area and were they were discussed. He asked the Commission to support the plan.

Councilman Charlie Tygard asked for the Commission's support for approval of the plan, but also supported the suggestions to revisit 3 areas for further review.

Ms. Karen Hieronymus stated she had concerns regarding approval of this plan because of the mention of office space along Highway 70.

Ms. Nielson moved and Mr. Clifton seconded the motion, which carried unanimously, to close the public hearing.

Ms. Jones expressed concerns regarding approving the plan and then amending it to study the 3 areas Councilman Tygard mentioned. The current zoning is what counts and the Subarea Plan will give us a plan to work with.

Ms. Jones moved and Mr. McLean seconded the motion to defer the plan indefinitely.

Mr. Clifton stated he did not agree with that motion and that we may never be complete in Bellevue. There are reasons to go ahead and approve it. We are substantially changing the Subarea Plan.

Mr. Clifton called for a vote and Mr. Tyler seconded the motion.

Ms. Jones, Mr. McLean and Ms. Nielson were in favor of indefinite deferral.

Ms. Sweat, Mr. Tyler, Ms. Cummings, Mr. Clifton, Chairman Lawson, Vice Chairman Small and Councilman Summers were in opposition to deferral.

The motion failed.

Mr. Sweat moved and Councilman Summers seconded the motion, which carried, to approve the plan with the understanding specific areas would be addressed at a later date.

Councilmember Summers moved for a substitute motion to adopt the plan before the Commission today and within 60 days have staff make suggestions for areas to bring back for review. Mr. Sweat seconded the motion, which carried with Ms. Jones in opposition.

Resolution No. 2003-46

“WHEREAS, the Metropolitan Planning Commission directed Planning Department staff to conduct open community meetings to provide the community the opportunity to work with the staff on the updating of the *Subarea 6 Plan: 1996 Update* that was adopted on August 8, 1996; and

WHEREAS, from March 7, 2002 to January 30, 2003, the Metropolitan Planning Department staff working extensively with residents, Councilmembers, property owners, and civic and business interests, including conducting nine community meetings and a four-day community design charrette in the community, prepared an updated plan for the Bellevue community, also known as Subarea 6; and

WHEREAS, public hearings were held by the Metropolitan Planning Commission on December 12, 2002 and on February 13, 2003 to obtain additional input regarding the proposed *Bellevue Community Plan: 2003 Update*; and

WHEREAS, the Metropolitan Planning Commission is empowered under state statute and the charter of the Metropolitan Government of Nashville and Davidson County to adopt master or general plans for smaller areas of the county;

NOW, THEREFORE, BE IT RESOLVED that the Metropolitan Planning Commission hereby **ADOPTS** the *Bellevue Community Plan: 2003 Update* (Subarea Plan), including those actions taken by the Planning Commission on February 13, 2003, in accordance with sections 11.504 (e), (j), and 18.02 of the charter of the Metropolitan Government of Nashville and Davidson County as the basis for the Commission's development decisions in that area of the county. The *Bellevue Community Plan: 2003 Update* is also adopted as part of the General Plan.

PUBLIC HEARING: Proposed Moratorium on Commission Consideration of Preliminary Subdivision Plats in areas containing floodplain

Project Name Proposed Moratorium on Commission Consideration of Preliminary Subdivision Plats in Areas Containing Floodplain

Associated Case None

Council Bill None

Staff Reviewer Bernhardt

Staff Recommendation *Approve 90-day moratorium on Commission consideration of preliminary subdivision plats for: 1) property that contains 50% or more of its area within the 100-year floodplain; and 2) any application that does not set aside at least 50% of the designated floodplain to be preserved in its natural, predevelopment state. Staff recommends that this moratorium apply to preliminary plats filed after January 23, 2003.*

Background Legislation is currently pending in the Metro Council that would significantly change the Metro Code provisions with respect to development in the floodplain. Planning Department staff has met both with members of Council and representatives of the development community to attempt to develop legislation that will provide meaningful protection of remaining floodway lands in Davidson County, while still providing adequate development opportunities. A substitute ordinance has been prepared by staff that takes a different approach to protection of floodplain areas than the bill currently pending in the Council.

It is unclear at this time what floodplain protection legislation, if any, the Council will adopt. Subdivisions approved by the Commission prior to the Metro Council's final consideration of may be inconsistent with any new floodplain legislation approved by the Council. Out of respect for the Council's work to address these floodplain issues, staff is proposing that the Commission consider a moratorium on new preliminary subdivision plats. In this way, the Commission can ensure that new subdivisions will comply with all new floodplain restrictions, if any, adopted by the Council.

Options Available to the

Commission **The Commission has several options available to it with respect to a moratorium, including:**

Impose a moratorium on all preliminary and final subdivision plats, including those currently filed with the Commission. The effect of this option would be to defer consideration of all subdivision plats, including those on the 2/13/03 Commission agenda. This option would also include a moratorium on consideration of any additional phases in subdivisions for which a preliminary plat has been approved as well as a final plat for one or more phases.

Impose a moratorium only on preliminary plat applications that have not yet received Commission approval, regardless of when the applications were filed. This option would not delay consideration of any final subdivision plats, but would not differentiate between applications not yet filed and those already "in the system."

Not impose any moratorium at all. This option would require the Commission to continue to apply existing floodplain Zoning Code provisions in the face of knowledge that the Council may change those provisions in the near future.

In addition to several options as to the scope of the moratorium the Commission may choose to apply, the Commission also has numerous options as to the length of the moratorium. A moratorium must have a

finite length in order to avoid being declared illegal. The Commission can chose a duration for the moratorium of 60, 90, 120, or any other reasonable number of days. Finally, the effect of the moratorium can be increased or decreased depending on the percentage of the property that must be within the floodplain before the moratorium will apply.

Recommendation As explained above, staff believes that a moratorium on approval of new subdivisions is appropriate in deference to the Metro Council's ongoing consideration of new floodplain development restrictions. Staff also believes, however, that any moratorium should be significantly limited in order to avoid unexpected delays for applicants currently in the review process. Accordingly, staff recommends that the Commission adopt a resolution imposing a moratorium as follows:

The Commission will not consider any preliminary subdivision plats that were not filed on or before January 23, 2003. The moratorium would apply only to preliminary subdivision plats and not to final plats, previously approved preliminary plats, Planned Unit Developments, or zoning applications.

**The moratorium would apply to property where either:
More than 50% of the site is within the designated 100 year floodplain; or**

b. The proposed preliminary plat does not set aside at least 50% of the floodplain in an area to be preserved and left in its predevelopment natural state;

3. The moratorium would last no more than 90 days from the adoption of the moratorium or until the Metro Council adopts a new ordinance affecting floodplain development, whichever is sooner. The Planning Department would continue to receive and review applications for preliminary subdivision plats. No preliminary plat will be placed on the Commission's agenda for the duration of the moratorium, however. When the Commission considers the preliminary plat it will be required to comply with the Zoning Code provisions limiting floodplain development in place at the time it is considered by the Commission, not the provisions in effect when the application is filed with the Commission.

Councilman Bob Bogen stated he support the moratorium.

An unidentified man asked if this would affect item 16. 2003S-028U-08.

Mr. Bernhardt stated it would not.

Mr. Roy Dale stated he had worked very hard with staff to put this together and stated he didn't see the need for the moratorium. He encouraged the Commission not to adopt it.

Ms. Nielson moved and Mr. Sweat seconded the motion, which carried unanimously, to closed the public hearing and adopt the Moratorium on Consideration of Preliminary Plats in area containing floodplain.

Resolution No. 2003-47

A RESOLUTION ADOPTING A ON CERTAIN SUBDIVISION
DEVELOPMENT IN THE ONE-HUNDRED-YEAR FLOODPLAIN IN THE
NASHVILLE/DAVIDSON COUNTY AREA

WHEREAS, there is legislation pending before the Metropolitan Council that would seek to prohibit development in certain areas of the 100-year floodplain; and,

WHEREAS, the Metropolitan Planning Commission desires to allow for a reasonable amount of time to work out the details of a plan for comprehensive floodplain legislation; and,

WHEREAS, the Metropolitan Planning Commission believes it would be destructive of the plan if subdivision applicants were allowed to proceed with plat approval and eventual construction, when said construction would defeat the purpose of the plan;

NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN PLANNING COMMISSION THAT:

1. The Planning Commission hereby issues a moratorium on certain subdivision development under the terms and conditions contained herein.
2. The Planning Commission shall not review (place on the Planning Commission agenda) or approve any preliminary subdivision plat where:
 - (a) The application filing date for said plat is after January 23, 2003; and,
 - (b) Greater than fifty-per cent (50%) of the land covered by the plat is within the designated 100-year floodplain; and,
 - (c) At least fifty-per cent (50%) of the floodplain area on the plat is not set aside as area to be preserved and left in a predevelopment natural state.
3. This moratorium shall not apply to:
 - (a) Preliminary plats bearing an application date of January 23, 2003 or earlier; nor to,
 - (b) Preliminary plats where fifty-per cent (50%) or less of the land covered by the plat is within the designated 100-year floodplain; nor to,
 - (c) Preliminary plats where at least fifty-per cent (50%) of the floodplain area on the plat is designated as an area to be preserved and left in a predevelopment natural state; nor to,
 - (d) Final plat review.
4. This moratorium shall take effect immediately upon its adoption and last for a maximum of ninety (90) days from the date of adoption or until the Metropolitan Council adopts comprehensive floodway legislation, whichever is sooner.

PUBLIC HEARING: Amendments to Subdivision Regulations

Ms. Hammond stated staff recommends approval.

Project Name Subdivision Regulation Changes
Staff Reviewer Hammond

Staff Recommendation *Approve*

RATIONALE FOR PROPOSED

CHANGES The following changes are recommended to resolve conflicting standards and policies between sections of the Subdivision Regulations, between Subdivision Regulations and Tennessee Statutes, between Subdivision Regulations and standard MPC practice, and between Subdivision Regulations and the Zoning Code.

**SUMMARY OF PROPOSED
CHANGES**

PURPOSE: Add as a “purpose” statement the authorizing language from the Tennessee Code Annotated that allows local governments to regulate the subdivision of land. This language should appear in Metro Subdivision Regulations to clarify the purpose of these regulations.

LOT FRONTAGE: Correct a conflict within the regulations to clarify that lots are, indeed, permitted to front upon private streets in Planned Unit Developments. This is consistent with the intent of the regulations.

LOT WIDTH: Complete a change made by the Planning Commission several years ago to eliminate minimum lot width. Currently there is one section in the Subdivision Regulations that still requires a minimum 50-foot lot width. This section should be removed because it is in error and conflicts with the Planning Commission’s prior decision.

COLLECTOR STREET PLAN: Clarify that, in addition to the Major Street Plan and the General Plan, the Collector Street Plan establishes the present and future “network” of public streets.

CONDITIONS FOR USE OF CUL-DE-SACS: The purpose of this proposed change is to create consistency with the Planning Commission’s practice of requiring interconnected streets. The change describes circumstances where cul-de-sac and loop streets are appropriate, and adds a cautionary statement to guide the layout of connected streets so as to avoid high volumes of through traffic.

POSTING OF SIGN REQUIRED AT END OF TEMPORARY CUL-DE-SACS so homebuyers will be aware of the future street extension when making purchase decisions. This change conforms the regulations to current accepted practice.

AMEND DEFINITION OF FLOODPLAIN to distinguish between its two components – the regulated floodway and the floodway fringe, and make reference to the technical definitions in the Stormwater Management Manual.

AMEND DEFINITION OF “YARD” to clarify that accessory buildings can be placed in the required rear yard, as permitted by the Zoning Code.

UPDATE NUMBER OF SUBDIVISION PLAN COPIES REQUIRED FOR PRELIMINARY REVIEW AND FINAL REVIEW. This change is needed to have sufficient copies to circulate to reviewing departments, and reflects current practice.

UPDATE LENGTH OF PLAN REVIEW CYCLE to be consistent with the Planning Commission’s approved schedule.

CHANGE LANGUAGE TO CLEARLY STATE GREENWAY DEDICATION REQUIREMENTS, specifically that the regulated floodway, as well as the greenway corridor just outside the floodway must be dedicated. Though this is currently implied, making the requirement explicit will make the standard clearer to both applicants and plan reviewers.

POSTING OF SIGNS REQUIRED WHERE PUBLIC ACCESS GREENWAY TRAILS ARE EXPECTED TO BE CONSTRUCTED so homebuyers will be aware of the future public trail when making purchase decisions. This change conforms the regulations to current accepted practice.

~~□~~ CORRECT THE FORM NEEDED TO CERTIFY THAT PRIVATE STREETS HAVE BEEN CONSTRUCTED TO THE STANDARDS REQUIRED BY METROPOLITAN GOVERNMENT. Construction of streets to applicable engineering standards can only be certified by a registered engineer. The form currently in the regulations incorrectly calls upon the developer and contractor to make this certification.

PROPOSED TEXT CHANGES

In the amendments recommended below, language to be deleted is struck through and language to be added is in boldface type.

Amend CHAPTER 1, GENERAL PROVISIONS by inserting as a purpose statement between “Authority” and “Jurisdiction” the authorizing language from Tennessee Code Annotated Section 13-4-303.

1-2.5 Purpose – These regulations are intended to “provide for the harmonious development of the municipality and its environs, for the coordination of streets within subdivisions with other existing or planned streets or with the plan of the municipality or of the region in which the municipality is located, for adequate open spaces for traffic, recreation, light and air, and for a distribution of

population and traffic which will tend to create conditions favorable to health, safety, convenience and prosperity.” (Section 13-4-303, Tennessee Code Annotated)

Amend Section 2-4.2 A. Frontage to permit lots with frontage on a private street. Other standards in the regulations imply that lots may front upon private streets as well as public streets (2-10.1 and 2-10.2). In practice, Planned Unit Development subdivisions are approved from time to time with private streets providing lot frontage.

2-4.2 A. Frontage – Each lot shall have frontage on a public **street or, where permitted, on a private street** to enable vehicular access to be provided. Flag lots generally shall not be permitted. In the event the Planning Commission finds that due to unusual topographic conditions, direct lot frontage on a street is precluded, it may ~~recommend a waiver~~ **waive the requirement**.

Amend Section 2-4.7 Lot Resubdivision Comparability by deleting the last paragraph in the section, labeled “D”. This paragraph requires a minimum lot width of 50 feet where property is being resubdivided. The minimum lot width standard was removed from the subdivision regulations several years ago, and this paragraph stands in conflict to that change. In addition, the last phrase of the paragraph restricts the ability to use the cluster lot option in a resubdivision to create a more environmentally sensitive development. The cluster lot and lot comparability regulations protect surrounding residences from inappropriately small lots.

2-4.7 Lot Resubdivision Comparability

~~D. Regardless of the calculated frontages and areas, no lot may be created with less than fifty (50) feet of frontage (34 feet on a Cul-de-Sac) or less area than the minimum required by the zone district.~~

Amend Section 2-6.2.2 Street Construction and Related Requirements, paragraph D. Arrangement of Streets to reference the Collector Street Plan specifically, to resolve the conflict between the Commission’s street connectivity policy and the language of the regulations, and to more clearly define appropriate conditions for terminated streets (cul-de-sacs).

Arrangement of Streets:

All streets shall be properly integrated with the existing and proposed system of streets and dedicated rights-of-way as established on **one or more of the following**: the Major Street Plan, **the Collector Street Plan, and** ~~or~~ the adopted General Plan.

All streets shall be properly related to special traffic generators, such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

Minor local streets shall be laid out to conform as much as possible to the topography, to **provide for the efficient dispersal of internal traffic while discouraging** ~~discourage use by~~ **high volumes of** through traffic, **and** to permit efficient drainage and accommodate utility systems, ~~and to require the minimum number of streets necessary to provide convenient and safe access to property.~~

The use of an interconnected street system shall be encouraged to broadly disperse internal traffic and provide maximum alternatives for access to property for both public and private movement.

The use of curvilinear streets **shall be encouraged where conformance with existing topography will minimize the volume of cut and fill; the use of** cul-de-sac, or looped streets shall be permitted where ~~such use will result in a more desirable layout~~ **topographic features or configuration of property boundaries prevent street connections.**

Amend Section 2-6.2.2 Street Construction and Related Requirements, paragraph E. (1) Dead End Street (Temporary) by adding a new sentence to make explicit the requirement that temporary dead end streets be signed to disclose that the street will be extended in the future.

E. Dead-end Streets

1. Dead-end Streets (Temporary) -- The arrangement of streets shall provide for the continuation of streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, and efficient provision of utilities or when such continuation is in accordance with the Major Street Plan or Collector Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary turnaround shall be provided on all temporary dead-end streets exceeding 300 feet in length, with a notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutting property owners whenever the street is continued. The reconstruction of the temporary turnaround into the normal right-of-way shall be the responsibility of the attaching developer (see 2-6.2.2 D (5)). Temporary turn-arounds shall have a minimum slope of one percent as measured from the center. **Additionally, a sign shall be placed at the terminus of the temporary cul-de-sac that reads as follows: "Temporary Dead-End Street, Street to be extended by the authority of the Metro Government of Nashville and Davidson County".**

Amend Section 5-2 Words and Terms Defined by clarifying the definition of Floodplain to specify that the floodplain includes the "regulated floodway" and the "floodway fringe". These terms are used daily in development review and the definition should be changed to reflect actual use and acknowledge the regulatory differences that apply to each floodplain component.

5-2 Words and Terms Defined.

Flood Plain – A land area adjoining a river, stream, watercourse, bay, or lake which is likely to be flooded. The flood plain is composed of **the regulated floodway and the a-floodway fringe, as further defined in Volume 1, Regulations, of the Metropolitan Government Stormwater Management Manual .**

Amend Section 5-2 Words and Terms Defined by clarifying the definition of Yard to acknowledge that accessory buildings may be placed in the required "rear yard" as permitted by the zoning ordinance.

5-2 Words and Terms Defined.

~~Yard — That area of any lot, as defined by the Zoning Regulations, to be unobstructed by buildings including front, sides, and rear.~~

Yard – The area of any lot where building is restricted by the Zoning Regulations, including front and side yards which shall remain unobstructed by buildings, and rear yard which shall remain unobstructed by the principal building.

Amend Section 3-3.1 B. to update the number of preliminary plat copies required at time of submittal for multiple agency review.

B. Be accompanied by a minimum of ~~nine~~ **fourteen (14)** copies of the preliminary plat prepared at a convenient scale no smaller than one inch equals one hundred feet.

Amend Section 3-3.1 D. to update the length of the review cycle as approved by the Planning Commission on its updated schedule.

D. Be presented to the Planning Commission staff at least ~~twenty-eight (28) days~~ **six (6) weeks** prior to a regular meeting of the Planning Commission.

Amend Section 3-4.1 D. to update the number of final plat copies required at time of submittal for multiple agency review.

D. Be a reproducible record plat the size, material, and inking of which shall be as specified by the Metropolitan Davidson County Register of Deeds and shall be accompanied by a minimum of ~~nine (9)~~ **fourteen (14)** copies of the final subdivision plat as prepared at a scale no smaller than one (1) inch equal one hundred (100) feet.

Amend Section 3-4.1 F. to update the length of the review cycle as approved by the Planning Commission on its updated schedule.

F. Be presented to the Executive Director at least ~~twenty-eight (28) days~~ **six (6) weeks** prior to the regular meeting of the Commission at which the plat is to be considered.

Amend the “TABLE OF CONTENTS” reference to “OPEN SPACE CONSERVATION EASEMENTS” as follows:

~~2-7.4~~ **2-7.5 OPEN SPACE CONSERVATION EASEMENTS**

Amend Section 2-7.5, **Open Space Conservation Easements**, second and third paragraphs to clarify that, in subdivisions contiguous to greenways designated in the General Plan, including the Metropolitan Parks and Greenways Master Plan, the conservation easement required along a creek with regulated floodway shall include the “floodway” as well as the specified width of greenway corridor immediately outside the floodway. The change conforms the language to the actual requirements of the Greenways Commission. Insert a new paragraph to make explicit the requirement that the location of future public greenway trails be posted with signs to disclose that a public access trail will be built in the future.

2-7.5 Open Space Conservation Easements – Open Space Conservation easements shall be required in subdivisions contiguous to greenways as indicated ~~on the Countywide Greenways Plan or the Countywide Parks in the General Plan, including the Metropolitan Parks and Greenways Master Plan.~~ The location and size of the easement shall be recommended by the Metropolitan Greenways Commission. The conservation easement shall **include the stream bed plus a corridor at least be a minimum of 25 feet wide, measured from top of bank, outward,** in areas where the primary function of the greenway is as an urban **or neighborhood** transportation connector **and the waterway is not a regulated floodway.** In areas where the greenway is intended to protect the natural environment of and public access to the major waterways in Davidson County, and serve the multifunctional roles of recreation, transportation, and habitat protection, the **conservation easement shall include the floodway plus a corridor at least minimum width shall be 75 feet in width,** measured from the **outer** edge of the floodway. In cases where the maximum cross-slope of the land included in the easement is greater than 15%, the easement width shall be extended to include an area at least 25 feet in width where a cross-slope of 15% or less exists, to enable an ADA accessible trail acceptable to the Greenways Commission Director to be constructed. In cases, such as those where the entire site has steep slopes, and the Planning Commission determines that this proves a hardship to the property owner, a review for alternative routes will be granted.

Signs indicating the presence of a future public greenway trail shall be located every 100 feet along the property at the edge of the conservation easement prior to issuance of the first building permit. Signs shall posted with the text facing inward on the building lot(s). The developer shall be responsible for the maintenance of all signs until all lots within the subdivision have been sold to the ultimate home purchaser.

Paths, when constructed, shall be built to meet the specifications of the Metropolitan Greenways Commission and the Metropolitan Greenways Design Standards for Nashville and Davidson County.

Amend Section 4-1.2 **Composition of Performance Bond** to accurately list the security instruments that are acceptable to Metro Legal Department and reflected on the bond application form provided by the developer when applying for final plat approval prior to installation and dedication of required improvements. The change below allows for the assignment of a “certificate of deposit” but removes those other assignments not acceptable to the Legal Department (i.e., savings accounts, money market funds, development loans, debit securities).

4-1.2 Composition of Performance Bond — For the purpose of these regulations, performance bond shall mean two documents, these being a Performance Agreement and an accompanying security document. The Performance Agreement will stipulate the work to be performed by general categories and

the estimated value or cost of each category. The Performance Agreement will also stipulate a completion date for all of the work to be performed.

The security document may be in a form as follows and shall express the value in a total amount equaling the sum of all work categories:

Surety Bond – issued by an insurance company licensed in the State of Tennessee and shall be non-expiring.

Irrevocable Letter of Credit – issued by or confirmed by a financial institution located in Davidson County, Tennessee, **or any adjoining county.**

Any such credit shall bear an expiration date which exceeds the expiration date of the Performance Agreement by a period of no less than six months.

Cashier's or Certified Check – issued by a financial institution located in Davidson County, Tennessee and shall be non-expiring.

Assignment of Certificate of Deposit – shall be issued by a financial institution located within Davidson County, Tennessee, or any adjoining county, shall be non-expiring and have automatic roll-over features.

~~Assignments, which include but are not limited to:~~

~~Savings Accounts~~

~~Money Market Funds~~

~~Certificates of Deposit~~

~~Development Loans~~

~~Debit Securities~~

Any such assignment shall be from a financial institution located in Davidson County, Tennessee and shall be non-expiring.

Chairman Lawson asked Mr. Fox if he's had a chance to review these changes.

Mr. Fox stated he had to some degree and asked if there was a specific question.

Chairman Lawson stated this would change the Commission's authority.

Joe McConnell and Mr. Paul Weatherford, MEC, expressed concerns regarding eliminating cul-de-sacs because housing costs will go up; and many other problems he could foresee.

Mr. Harold Delk spoke regarding the cul-de-sac regulation and stated that he agreed with the concept, but the regulations are over restrictive and go too far.

Councilmember Stanley spoke in favor of improved access for emergency activity, but expressed concerns regarding traffic using existing neighborhoods as a cut through.

Mr. John Stern asked if cul-de-sacs would actually be eliminated.

Ms. Hammond stated there would some situations where they would be permitted, such as areas with topographical and floodplain problems.

Ms. Nielson moved and Mr. McLean seconded the motion, which carried unanimously, to close the public hearing.

Ms. Cummings left at 5:30, at this point in the agenda.

Councilman Summers stated he would like to review this more.

Vice Chairman Small stated the cul-de-sac revision seems to be very controversial and asked how this would change what the Commission has been practicing all along.

Mr. Bernhardt stated this would not change anything the Commission has been doing for the last couple of years, but would put their practices in writing.

Mr. McLean moved that the regulations be approved as written with the change of any applications filed before June 1, 2003 be reviewed under the existing regulations.

Mr. Clifton stated he is in general support of these regulations.

Mr. Bernhardt stated staff would have no objection to June 1, 2003.

Mr. Sweat stated he is generally in favor of this and agreed there should be signs posted regarding future development and connectivity. We should be aware that moving away from cul-de-sacs would be increasing the cost of housing.

Mr. McLean moved and Mr. Sweat seconded the motion, to approve the regulations as submitted with the change that any plan submitted before June 1, 2003, be reviewed under the existing regulations.

The Commission discussed the whether the cut-off date should be June 1, 2003, or July 1, 2003.

Mr. McLean amended his motion and Mr. Sweat amended his second to approve the regulations as submitted with the change that any plan submitted before July 1, 2003, be reviewed under the existing regulations.

Resolution No. 2003-48

“BE IT RESOLVED by the Metropolitan Planning Commission that it APPROVES (8-0) the Subdivision Regulation Amendment to Section 2-6.2.2 Street Construction and Related Requirements, paragraph D. Arrangement of Streets, to become effective on July 1, 2003; and APPROVES (8-0) the remaining Subdivision Regulation Amendments to correct regulatory conflicts, to become effective on 2/13/03.

Mr. Kleinfelter announced 2 items have been resolved that had been pulled from the consent agenda.

2. 2002Z-022T Council Bill No. BL2002-1226

A request to amend the text of the Zoning Code by changing Section 17.16.220 to allow Commercial Amusement (outside) uses as a Special Exception in the IR and IWD zoning districts, requested by Planning Department staff and sponsored by Councilmember Phil Ponder.

Project No. Zone Change 2002Z-022T
Associated Case None
Council Bill BL2002-1226 referred back to the Planning Commission by the Metro Council.
Staff Reviewer Leeman

Staff Recommendation *Approve as amended.*

REQUEST Change the text of the Zoning Code to permit Commercial Amusement (outside) uses in the IR and IWD districts as a Special Exception (SE) to be approved by the Board of Zoning Appeals (BZA). A substitute bill has been introduced, which replaces the original bill.

ANALYSIS The original bill included language that would have required the outside commercial amusement use to cease if it was determined that a permitted and otherwise legal industrial use of adjoining property posed a danger. The original bill also included language requiring new buildings greater than 1,500 square feet to be designed as an industrial warehouse or other function that can economically be converted to a use permitted by right in the IR or IWD districts, as applicable.

The substitute bill is consistent with the intent of the original bill to allow IR (Industrial Restrictive) and IWD (Industrial Warehouse and Distribution) zoned properties to be used for low-impact uses while still leaving the opportunity for the intended industrial uses in the future by only allowing outside commercial amusement uses a maximum building size of 1,500 square feet. The low-impact uses will allow the preservation of valuable industrial land that can be converted for industrial uses in the future. Commercial Amusement (outside) will serve as a holding use until industrial uses are constructed.

Definition: Commercial

Amusement (outside) Commercial Amusement (outside) is defined as: "...the provision of entertainment or games of skill to the general public for a fee where any portion of the activity takes place outside the building, including but not limited to a golf driving range, archery range or miniature golf course. This use does not include a stadium."

This text change will only permit Commercial Amusement (outside) uses as a SE, which must be reviewed and approved by the BZA. Should adjoining industrial properties pose a health or safety risk, the BZA will have the ability to deny the Commercial Amusement (outside) use. The proposed text also limits any structures to 1,500 square feet of gross floor area.

The specific changes to the Zoning Code are shown below:

Table: 17.08.030

Land Use	AG AR2a	RS80 - RS3. 5	R8 0- R6	RM6 0- RM2	M H P	M	M	M	M	O	O	O	OR20 - OR40	O R	C N	C L	C S	C A	C F	C C	S C	S C	S C	IWD	IR	I G
Commercial amusement (outside)									P	P	P					P	P	P	P	P	P	P	P	SE	SE	

- A. By amending Section 17.08.030 **District Land Use Tables.** by adding Commercial Amusement (outside) as SE (special exception) in the IR and IWD zoning districts.
- B. By amending Section 17.16.220 **Recreation and entertainment special exceptions.** to insert in alphabetical order and appropriately numbered "Commercial Amusement (outside) as follows:

Buildings. Any new structure constructed on the property shall be no greater in size than one thousand, five hundred square feet.

Setback. Where any building or outdoor storage area, excluding passenger car parking lots, abuts a residential zone district or district permitting residential use, there shall be a minimum setback of one hundred feet from the property line.

Landscape Buffer. Along all residential zone districts and districts permitting residential use, screening in the form of landscape buffer yard standard A shall be applied along common property lines.

Lighting. All light and glare shall be directed on-site to ensure surrounding properties are not adversely impacted by increases in direct or indirect ambient lighting levels.

Street Standard. At a minimum, driveway access shall be from a collector street.

The board of zoning appeals may stipulate, based on the zoning pattern and nature of the land uses in the immediate area, whether a maximum of sixty or seventy decibels noise level on the A-weighted scale shall be permitted to occur at the site boundary."

Resolution No. 2003-49

"BE IT RESOLVED by the Metropolitan Planning Commission that Zone Change Proposal No. 2003Z-022T is **APPROVED (8-0)**:

The proposed substitute bill is consistent with the intent of the original bill to allow IR (Industrial Restrictive) and IWD (Industrial Warehouse and Distribution) zoned properties to be used for low-impact uses while still leaving the opportunity for the intended industrial uses in the future by only allowing outside commercial amusement uses as a Special Exception (SE), to be approved by the Board of Zoning Appeals."

12. 2003Z-024G-03
Map 67, Parcel 149
Subarea 3 (1998)
District 1 (Gilmore)

A request to change from CN and AR2a districts to CS district property at Old Hickory Boulevard (unnumbered), at the intersection of Old Hickory Boulevard and Ashland City Highway, (5.68 acres), requested by James A. and Hilda M. Lewis, owners.

Project No. Zone Change 2003Z-024G-03
Associated Case None
Council Bill BL2003-1332
Staff Reviewer Hardison

Staff Recommendation *Approve CL, but disapprove CS, which is currently in BL2003-1332.*

APPLICANT REQUEST Rezone 5.68 acres from Commercial Neighborhood (CN) and Agricultural/Residential (AR2a) to Commercial Limited (CL) at Old Hickory Boulevard (unnumbered).

Existing Zoning

CN zoning CN zoning is intended for very low intensity retail, office, and commercial service uses at a neighborhood-scale.

AR2a zoning AR2a zoning is intended for agricultural uses and residential uses at 1 unit per 2 acres.

Proposed Zoning

CL zoning CL is intended for retail, consumer service, financial, restaurant, and office uses.

SUBAREA 3 PLAN POLICY

Interim-Nonurban (IN) IN policy is designed for areas that are physically suitable for urban development, but are not expected to urbanize in the next twenty years. The predominant type of development in IN areas is low density residential that is rural in character. Agricultural uses and low intensity commercial (convenience or neighborhood scale) or community uses are also common in IN areas.

Policy Conflict Although this area is IN policy, when rezoning was requested for parcels 147 and 145 in 1998, staff identified this intersection as an unmapped commercial node. The properties at this intersection are all currently zoned for commercial uses. Staff recommends approval of the CL zoning since this property is located at the intersection of two major arterial roads and is moving closer to the neighborhood retail goals of the Subarea 3 plan. Ultimately, the Subarea 3 Plan envisions more neighborhood-oriented commercial uses at this intersection. Rezoning the existing CN portion of the property to CL, plus the increased depth area, is an incremental step forward toward achieving the subarea plan's neighborhood retail policy. Further commercial zoning at this intersection should not extend beyond this parcel.

RECENT REZONINGS Yes. MPC recommended approval 5/28/98 (98Z-084G) rezoning parcel 37 (now parcels 145 and 147) from AR2a and CS to CL. Council approved on 7/24/98 (O98-1245).

TRAFFIC The proposed zone change would permit a total of 19 units. This number of units would create approximately 123 vehicle trips per day (Institute of Transportation Engineers, 6th Edition, 1996). Other uses at different densities could generate more or less traffic.

Traffic Engineer's Findings Approve

Ms. Nielson moved and Mr. McLean seconded the motion, which carried unanimously, to approve the following resolution:

Resolution No. 2003-50

"BE IT RESOLVED by the Metropolitan Planning Commission that Zone Change Proposal No. 2003Z-024G-03 is **APPROVED CL; DISAPPROVED CS (8-0) which is currently in BL2003-1332:**

The proposed CL district is consistent with the Subarea 3 Plan's unmapped neighborhood retail policy calling for neighborhood scale commercial uses such as retail, restaurant, and office. It is also consistent with the existing zoning pattern at this intersection of two major arterial roads."

**PUBLIC HEARING:
ZONING MAP AMENDMENTS**

- 1. 2002Z-019T**
Council Bill No. BL2002-1021

A council bill to amend Section 17.28.040 of the Zoning Ordinance text regarding floodplain and floodway development standards, requested by Councilmember Stanley.

Mr. Kleinfelter stated staff recommends disapproval of the proposed bill and approval of the substitute bill.

Project No. Text Change 2002Z-019T
Associated Case None.
Council Bill BL2002-1021
Staff Reviewer Regen

Staff Recommendation *Disapprove original bill, but approve proposed substitute bill.*

REQUEST Amend Section 17.28.040 of the Zoning Code by deleting the current provisions related to development of the floodway and floodplain within Davidson County and inserting new restrictions for the protection and preservation of natural floodplain areas.

ANALYSIS

Status of Council Bill On April 2, 2002, Councilmember Bruce Stanley introduced a council bill, BL2002-1021, to amend the Zoning Code provisions governing development in the floodway and floodplain of Davidson County. This bill would delete the current zoning code provisions regarding floodplain development in their entirety and provide new restrictions. The bill was deferred indefinitely by the Council in May 2002. At its January 7, 2003, meeting, the Council held a public hearing on the bill. Councilmember Stanley has now deferred the bill until the February 18, 2003, Council meeting.

Existing Code The Zoning Code protects the natural floodplain through floodway and floodplain development standards contained in Section 17.28.040. These standards apply to all new single-family or duplex development on lots less than one acre in size. Therefore, farms, residential estate lots, multi-family, commercial, office, and industrial developments are required only to comply with the Stormwater Management Code, Chapter 15.64 of the Metropolitan Code of Laws. The stormwater code requires balancing on-site the floodplain's cut and fill as well as providing floodway buffers along waterways within

the county.

Residential developments subject to the Zoning Code may develop in one of two ways: conventional subdivision or a cluster-lot subdivision.

Conventional: Within a lot's boundary, floodplain may exist, however, the floodplain area must be deducted from the lot's overall size when determining compliance with the zoning district's minimum lot size.

Cluster-Lot: Lots may be developed within the floodplain, however, up to 50% of the site's natural floodplain area must remain in an undeveloped state.

Neither the Stormwater Management Code nor the Zoning Code allows development within the floodway – that is strictly prohibited.

Bill BL2002-1021 The bill currently pending in the Metro Council deletes the existing floodplain provisions and creates new restrictions for residential and non-residential development. By identifying each and every zoning district where development may occur in the natural floodplain, and expanding the regulations to non-residential development, the bill's intent is to address development of Davidson County's remaining natural floodplain areas.

Staff recommends disapproval of this bill because its use of "proper" and "improper" districts for development prevents further development in a significant portion of the county such as downtown and in industrial areas along the Cumberland River, where the river serves as a transportation highway. In addition, the bill indicates certain non-residential zoning districts are "proper" for development, but no standards for such development, which would perpetuate a major flaw in the current zoning provisions.

Actual Text The specific changes to the Zoning Code proposed by BL2002-1021 are listed below: By amending Section 17.28.040 Floodplain/floodway development standards, by **deleting** the provisions in their entirety and **substituting in lieu thereof** the following new provisions:

A. Floodplain/floodway Sites. Floodplain/floodway development on property encumbered by natural floodplain or floodway on the effective date of this ordinance shall comply with the following, except where required for the installation of streets and utilities:

1. Proper Zoning Districts. The following zoning districts designated in Chapter 17.08 (Zoning Districts and Land Uses), Section(s) 17.08.010 and 17.08.020 shall be proper for floodplain/floodway development:

Agricultural districts (AG, AR2a),
Single-Family Districts (RS80, RS40, RS30, RS20),
One and Two-Family Districts (R80, R40, R30, R20),
Multi-Family Districts (RM2, RM4, RM6, RM 9),
Institutional District (I),
Mixed-Use Districts (MUN, MUL),
Office Districts (ON, OL),
Commercial Districts (CN, CL),
Shopping Center District (SCN)

2. Improper Zoning Districts. The following zoning districts designated in Chapter 17.08 (Zoning Districts and Land Uses), Section(s) 17.08.010 and 17.08.020 shall be improper for floodplain/floodway development:

Single Family Districts (RS15, RS10, RS7.5, RS5, RS3.75),
One and Two Family Districts (R15, R10, R8, R6),
Multi-Family Districts (RM15, RM20, RM 40, RM60),
Mobile home park district (MHP),
Mixed-Use Districts (MUG, MUI),
Office Districts (OR20, OR40, OG, ORI),
Commercial Districts (CS, CA, CF, CC),

Shopping Center Districts (SCC, SCR),
Industrial Districts (IWD, IR, IG)

3. Cluster Lots. A single and/or two-family subdivision with an average parcel size of less than one acre on property containing natural floodplain and floodway areas is encouraged to employ the cluster lot option of Section 17.12.080. Residential lots under the cluster lot option may cluster lots within the manipulated areas of the natural floodplain. At a minimum, one-half of the natural floodplain area including all of the floodway area shall be designated as common open space and maintained in a natural state, with the clearing of trees and brush exceeding eight inches in diameter prohibited. Any lot containing natural floodplain shall be designated as a "critical lot" and minimum finished floor elevations shall be established on the final plat of subdivision approved by the metropolitan planning commission and the department of public works.

Variances and Special Exception Uses. No variances or special exceptions that will permit an improper use on parcels encumbered by a natural floodplain/floodway shall be permitted.

Proposed Substitute Bill Similar to the original bill, the proposed substitute bill deletes the existing zoning code provisions and creates new restrictions for residential and non-residential development. Staff recommends approval of the substitute bill for four reasons:

1. It eliminates the concept of proper and improper zoning districts.
2. It recognizes that continued, unfettered development within the floodplain may jeopardize the long-term, environmental viability of rivers and creeks within Davidson County or Metro's eligibility for federal flood insurance.
3. It recognizes that clustering single-family and two-family residential developments serves to better protect floodplains by creating a system of interconnected open space areas within, and between, developments.
4. It enhances water quality by protecting the natural and built environments.

The proposed substitute bill does the following:

Protects 50% of the floodplain / floodway in its natural, undeveloped state;

Applies floodplain/floodway protection to all new residential and non-residential except in six intensive zoning districts (CC, CF, IWD, IR, IG, MUI, and MUG).

Creates a "no touch zone" within the natural floodplain / floodway where no manipulation of the natural floodplain / floodway can occur (except for greenway trail).

Provides limited exceptions to the "no touch zone" via a variance approved by the Stormwater Management Committee for greenways, and compliance with flood insurance standards and FEMA to maintain Metro's eligibility for federal flood insurance.

Actual Text The specific changes to the Zoning Code proposed by BL2002-1021 are listed below:

By amending Section 17.28.040, "Floodplain/Floodway Development Standards", by **deleting** the existing text in its entirety and **inserting** the following:

Development Constraints. Except as noted below, all development proposed on property encumbered by natural floodplain or floodway on the effective date of the ordinance codified shall leave a minimum of fifty percent of the natural floodplain area, including all of the floodway area, undisturbed and unmanipulated, and in its original, natural state as it existed prior to any development or all of the floodway area plus fifty feet on each side of the waterway, whichever is greater. Such area shall be adjacent to the floodway or as otherwise approved by the metro planning commission, to better maintain natural conditions designated as common open space and in its natural state, with the clearing of trees and brush prohibited.

Limited encroachments into the preserved floodplain may be authorized as a variance by the Stormwater Management Committee, as set forth in Section 15.64 of the Metropolitan Code of Laws. Such variances shall be approved only if the Committee finds that the encroachment reduces the flood danger and is necessary to improve and enhance the environmental quality of the affected floodplain section. Variances shall not be approved for greater than twenty percent of the floodplain area required to be preserved.

Floodway and floodplain areas may be used for public greenways and parks, as designed and authorized by the Metropolitan Parks and Recreation Department.

All development shall be undertaken consistent with the flood insurance standards and requirements of the Federal Emergency Management Agency, as necessary, to maintain the eligibility of the federal flood insurance program within Davidson County.

Properties zoned CC, CF, MUI, MUG, IR, IG and IWD shall not be limited by this section, but shall otherwise conform to all provisions of Section 15.64, Stormwater Management of the Metropolitan Code of Laws.

Residential Development. Residential development on property encumbered by natural floodplain or floodway on the effective date of the ordinance codified in this section shall comply with the following, except for the installation of streets and utilities where required by the planning commission to alleviate an undue hardship:

1. Single or Two-Family Lots. The following provisions of this section shall not apply to single or two-family lots equal to or greater than one acre in size. For lots of less than one acre, land area designated as natural floodplain or floodway on the effective date of said section may be included within a lot, but if manipulated, shall not be counted towards satisfying the minimum lot size requirements of the base zoning district. Any residential lot, or any portion of a residential lot, containing natural floodplain shall be designated as a "critical lot" and minimum finished floor elevations shall be established on the final plat of subdivision approved by the metropolitan planning commission and the department of public works.
2. Cluster Lots. A single and/or two-family subdivision proposed on property containing natural floodplain and floodway areas is encouraged to employ the cluster lot option of Sections 17.12.080 or 17.36.070. Residential lots under the cluster lot option may be clustered within the manipulated areas of the natural floodplain. Any residential lot, or any portion of a residential lot, containing natural floodplain shall be designated as a "critical lot" and minimum finished floor elevations shall be established on the final plat of subdivision approved by the metropolitan planning commission and the department of public works.

Councilman Stanley stated there has been a long-standing need for a bill that will stabilize floodplain development, and recognized many people that have helped him in his efforts. He stated he is in favor of the substitute ordinance.

Councilman Summers moved and Ms. Nielson seconded the motion, which carried unanimously, to approve the substitute the bill and disapprove the original bill.

Resolution No. 2003-51

"BE IT RESOLVED by the Metropolitan Planning Commission that Zone Change Proposal No. 2002Z-019T is **DISAPPROVED original request; APPROVED (8-0) substitute bill:**

The proposed substitute bill deletes the existing zoning code provisions and creates new restrictions for residential and non-residential development. These changes strengthen and clarify the requirements for floodplain development, including the addition of standards for certain non-residential districts."

3. 2003Z-003T Council Bill No. BL2003-1336

A request to amend Section 17.04.060 (Definitions) of the Zoning Ordinance modifying the definition of "Recreation Center", requested by Councilmember John Summers.

Ms. Hammond stated staff is requesting a one meeting deferral on this bill.

Project No. Text Change 2003Z-003T
Associated Case None
Council Bill BL2003-1336
Staff Reviewer Regen

Staff Recommendation *Approve*

REQUEST Request from Councilmember John Summers to modify the special exception standards for “Recreation Center”.

ANALYSIS

Existing Code A Recreation Center use can be a community center, playground, park, swimming pool, tennis courts, or athletic playing field that is available to the public or members of a club. Permitted by special exception in residential zoning districts or districts permitting residential use, these facilities are subject to the Board of Zoning Appeals approval. Section 17.16.220 of the Zoning Code sets forth three development standards that a “Recreation Center” must comply with relative to setback, landscaping, and driveway access.

Proposed Text Change The proposed council bill, if approved by Metro Council, **modifies** the special exception standards as follows:

Establishes a 100-foot setback for developed outdoor recreational areas (includes athletic fields);
Requires no setback for parking lots serving the Recreation Center;
Increases the required minimum size of the landscape buffer yard from 5 feet to 10 feet; and
Permits a Recreation Center use on a local street provided it is located on less than 5 acres and will not have a substantial impact on the surrounding area.

Staff recommends approval of this council bill as it improves the compatibility of recreational facilities intended for active outdoor play and abutting residential homes through increased buffering. These changes also help to reduce the impact of light, glare, noise, and traffic generated by the facilities and spectators on the surrounding neighborhood.

Mr. Joe Edgens, the Executive Director of Facilities and Operations for Metro Nashville Public Schools, has indicated these changes will not significantly affect the expansion or construction of new public schools in Davidson County.

Actual Text The specific changes to the Zoning Code are listed below:

Amend Section 17.16.220 “Recreation and Entertainment Special Exceptions” by **modifying** the development standards as follows:

Recreation Center.

Setback. Where any building, ~~or~~ outdoor storage area, **or developed outdoor recreation area that includes athletic fields, excluding passenger car parking lots** abuts a residential zone district or district permitting residential use, there shall be a minimum setback of one hundred feet from the property line. **The setback requirement shall not apply to passenger car parking lots built for recreation center users.**

Landscape Buffer Yard. Along all residential zone districts and districts permitting residential use, screening in the form of landscape buffer yard standard ~~A-B~~ shall be applied along common property lines.

Street Standard. At a minimum, driveway access shall be from a collector street. **A recreation center of less than 5 acres may be accessed from a local street upon a finding by the board that the surrounding area will not be substantially impacted.**

Mr. Bill Harbison stated he is an alumnus of MBA and stated he remembered from his time on the Commission efforts of balancing the institutions, whatever they are. This imposes many requirements for athletic fields. Particularly, how aggressively organizations will have to acquire land and move into residential areas. He suggested this does need more study.

Mr. Dan Barge III stated he appreciated Councilman Summer's willingness to defer. This comes under the BZA and they have the purview to set whatever setback they want to.

Mr. Earl Venick, President of the Woodlawn Neighborhood Association stated they are in support of Councilman Summers' bill and asked the Commission to approve it.

Mr. George Dean, representing Harding Academy, this will cause a barge on the BZA, the lights are a major concern, suppose there is no lighting, and that will have an effect on the way they look at it. With the hundred-foot buffer it will cause institutions to purchase more property and intrude further into residential areas.

Councilman Summers moved and Ms. Nielson seconded the motion, which carried unanimously, to close the public hearing and defer this matter for one meeting.

Councilman Summers summarized his concerns regarding this proposal.

Mr. Sweat stated he is very much in favor of the proposal and that he hopes Councilman Summers will not change it.

5. 2002Z-122G-03
Map 69, Parcels 77 and 78
Subarea 3 (1998)
District 1 (Gilmore)

A request to change from RS15 district to AR2a district properties at Ashland City Highway (unnumbered), abutting the western margin of Ashland City Highway, (51.41 acres), requested by CJRT, Inc., applicant, for Terry and Kim Flatt, owners.

Mr. Hardison stated staff recommends approval.

Project No. **Zone Change 2002Z-122G-03**
Associated Case None
Council Bill BL 2002-1252
Deferral Deferred 12/12/02 and 1/23/03
Staff Reviewer Hardison

Staff Recommendation *Approve*

APPLICANT REQUEST Rezone 51.41 acres from Residential (RS15) to Agricultural (AR2a) at Ashland City Highway (unnumbered).

Existing Zoning

RS15 zoning RS15 zoning is intended for single-family dwellings at 2.47 units per acres.

Proposed Zoning

AR2a zoning AR2a zoning is intended for agricultural uses and residential uses at 1 unit per 2 acres.

SUBAREA 3 PLAN POLICY

Natural Conservation (NC) NC policy is intended for mostly undeveloped areas of steeply sloping terrain, floodplains or other environmental features that are constraints to development at urban intensities. The area of these properties are around Whites Creek is classified NC due to both steep slopes and the floodway and floodplain of Whites Creek.

Policy Conflict

None. The Subarea 3 Plan states: "NC policy is applied to the floodplains of Whites Creek and Ewing Creek because they are substantial floodplains that should be preserved to the greatest extent possible." By rezoning this property to AR2a the chance for a large residential development will be removed from this environmentally sensitive area.

RECENT REZONINGS None

TRAFFIC The proposed zone change would permit a total of 25 units. This number of units would create approximately 165 vehicle trips per day (Institute of Transportation Engineers, 6th Edition, 1996). Other uses at different densities could generate more or less traffic.

Traffic Engineer's Findings Approve

SCHOOLS

Students Generated 4 Elementary 3 Middle 3 High School

Schools Over/Under Capacity **Students will attend Bordeaux Elementary School, Ewing Park Middle School, and Whites Creek High School. Whites Creek High has not been identified as being overcrowded by the Metro School Board, but Bordeaux Elementary and Ewing Park Middle have been identified as being overcrowded.**

Students Generated

By The Existing RS15 21 Elementary 16 Middle 14 High School

Mr. Dan Lane spoke in favor of proposal and stated this would be a greenway like Shelby Bottoms. He asked for the Commission's approval.

Matt Walker read a letter from the Geographic Information Director at Tennessee State University and asked the Commission to disapprove the proposal.

Mr. Chris Utley, spoke in opposition to the proposal and stated the Health Department also has concerns regarding this proposal.

Mr. T. J. Thompson spoke in opposition to the proposal and stated this would be a dirt farm, a strip mining activity and a hatchery for mosquitoes.

Mr. James Tant, co-owner of the property, asked for approval on the rezoning issue and stated he owns the property and is not leasing it.

Mr. James Utley asked the Commission if they would like to live and look at an open ditch. The State has said they would only accept gray dirt and there is not a shovel full of gray dirt in that place.

Mr. Chad Meadows, co-owner of the property, stated that when they acquired the property it was a big ugly ditch and have since then satisfied storm water control, but in the condition it is in it is more of a mosquito trap than what is being proposed.

Ms. Peggy Brown stated there are a number of unanswered questions regarding this property and expressed concerns regarding mosquitoes, West Nile Virus, Encephalitis, and stated this is totally unacceptable.

Mr. Henry Pillow spoke in opposition to the proposal and stated they already have a mosquito problem and this would only increase it.

Councilmember Brenda Gilmore stated this is an extremely controversial issue. The community is suspicious of this property because there is already property on Ashland City Highway that has not been operated properly. At one time there was a proposal for homes on this property, but the community did not want those proposed small homes. There are other wetlands in Davidson County, but we are unfamiliar with them. This could also assist in flooding. This needs to be studied to see if it meets the criteria. She asked for assistance from the Commission and for a performance bond along with a function bond. Parks has said they would accept the greenway and wetlands, so that would give some monitoring. She cautiously offered her support for the proposal. If this does not prove to be good for the community I will withdraw my support.

Chairman Lawson explained the bonding would not be under the purview of the Commission, but that they would help in every way possible.

Councilman Summers moved and Ms. Nielson seconded the motion to close the public hearing and approve.

Mr. Sweat stated he is against this because the residents have raised some very good questions and asked if this could be deferred.

Chairman Lawson explained this has been deferred several times and reminded the Commission this is a zoning issue.

Vice Chairman Small stated the Subarea plan supports this.

Mr. Sweat moved to disapprove.

Chairman Lawson stated there are already a motion and a second on the floor.

The motion, carried with Mr. Sweat in opposition.

Mr. Clifton left at 7:25, at this point in the agenda.

Resolution No. 2003-52

"BE IT RESOLVED by the Metropolitan Planning Commission that Zone Change Proposal No. 2002Z-122G-03 is **APPROVED (7-1)**:

The proposed AR2a district is consistent with the Subarea 3 Plan's Natural Conservation (NC) policy calling for low-intensity development or preservation of environmentally sensitive areas such as floodplain and steep topography. The NC policy was applied to this area due to the Whites Creek and Ewing Creek floodplains that are intended to be preserved to the greatest extent possible."

- 6. 2003Z-014U-14**
Map 84-15, Parcel 164
Map 95-4, Parcels 32 and 33
Subarea 14 (1996)
District 15 (Loring)

A request to change from R10 and R20 districts to OL district properties at 119 Fairway Drive and 208 and 212 McGavock Pike, abutting the western margin of McGavock Pike and the eastern margin of Fairway Drive, (2.49 acres), requested by Hoyte and Jane Eakes of HJL, L.P., owners.

Ms. Scott stated staff recommends disapproval.

Project No.	Zone Change 2003Z-014U-14
Council Bill	None
Deferral	Deferred 1/23/03
Staff Reviewer	Scott

Staff Recommendation *Approve rezoning of property located at 119 Fairway Drive from R10 to OL. Disapprove as contrary to the General Plan of rezoning the property located at 208 and 212 McGavock Pike. The OL district does not implement the Subarea 14 Plan's RLM policy.*

APPLICANT REQUEST **Rezone 0.8 acres from Residential (R10) to Office Limited (OL) at 119 Fairway Drive and rezone 1.69 acres from Residential (R20) to Office Limited (OL) at 208 and 212 McGavock Pike.**

Existing Zoning

R10 zoning R10 zoning is intended for single-family and duplexes at 3.7 dwelling units per acre.

R20 zoning R20 zoning is intended for single-family and duplexes at 1.85 dwelling units per acre.

Proposed Zoning

OL zoning OL is intended for moderate intensity office uses.

SUBAREA 14 PLAN POLICY

Residential Low Medium (RLM) RLM policy is intended for 2 to 4 residential units per acre.

Commercial Arterial Existing

(CAE) CAE policy is intended for limited application to established and committed areas of primarily commercial development in a linear pattern along arterial streets. Predominant uses in CAE are retail, office and some higher density residential.

Policy Conflict None for the property located at 119 Fairway Drive. The Subarea 14 Plan defines this area as CAE policy. The OL district is consistent with the intent of the CAE policy. The request to rezone 119 Fairway Drive is not in conflict with its CAE policy.

Yes for the properties located along McGavock Pike. These properties are located in the RLM policy area. These properties are one parcel south of the CAE policy area. The subject property is separated from the CAE policy area by one parcel, 206 McGavock Pike, which is zoned commercial, but located within the RLM policy. 206 McGavock Pike was originally rezoned in 1976 to Office and Parking (OP) as a transition between the commercial and residential uses. The OP was changed to CL in 1998 with the zoning update. The CAE policy states, "Increases in depth are inappropriate next to areas of residential policy." Staff recommends disapproval since OL would allow office use to encroach into the residential area.

REZONINGS Yes. MPC recommended approval on 3/16/89 (89Z-039U) rezoning parcel 17 (the property located adjacent to the south property line of 119 Fairway Drive) from R10 to OP. Metro Council approved the bill on 6/19/89. In the 1998 zoning update, the OP district was changed to OR20.

ZONE CHANGE DETAILS The property located at 119 Fairway Drive is located directly across the street from an access drive into a commercial shopping center. The property located to the north of 119 Fairway Drive is the first residential lot in a distinctly residential neighborhood.

TRAFFIC Based upon typical uses in OL districts, with on site parking and 10,000 square feet of development per acre used to calculate traffic generation, such as general office, approximately 88 to 186 trips per day would be generated by these uses (Institute of Transportation Engineers, 6th Edition, 1996). Other uses at different densities could generate more or less traffic.

Metro Traffic Engineer's Findings Approve

Councilman J. B. Loring spoke in favor of the proposal, stated he and the surrounding residents are very glad this property has been purchased, and asked for approval.

Mr. Jim Oldham supported the change, but stated he was skeptical because past experiences in the area.

Chairman Lawson explained this could be used for anything allowable under the zoning.

Ms. Jane Eakes, property owner stated this would only be used for parking.

Councilman Summers moved and Mr. McLean seconded the motion, which carried unanimously, to close the public hearing and approve staff recommendation.

Resolution No. 2003-53

"BE IT RESOLVED by the Metropolitan Planning Commission that Zone Change Proposal No. 2003Z-014U-14 is **APPROVED (8-0) rezoning of property at 119 Fairway Drive and DISAPPROVE as contrary to the General Plan rezoning the properties at 208 and 212 McGavock Pike:**

The proposed OL district at 119 Fairway Drive is consistent with the Subarea 14 Plan’s Commercial Arterial Existing (CAE) policy calling for commercial development in a linear pattern along arterial streets, while the proposed OL district at 208 and 212 McGavock Pike is not consistent with the Subarea 14 Plan’s Residential Low Medium (RLM) policy calling for residential development at 2 to 4 dwelling units per acre.”

7. 2003Z-016U-13
Map 135, Part of Parcel 163
Subarea 13 (1996)
District 13 (Derryberry)

A request to change from R20 district to CS (29.3 acres) and MUL (4 acres) districts property at Smith Springs Road (unnumbered), abutting the northern margin of Smith Springs Road, (33.3 acres), requested by J. E. Stevenson, trustee.

Mr. Hardison stated staff recommends disapproval as contrary to the General Plan.

Project No. Zone Change 2003Z-016U-13
Associated Case None
Council Bill BL2003-1326
Deferral Deferred 1/23/03
Staff Reviewer Hardison

Staff Recommendation *Disapprove as contrary to the General Plan. The CS and MUL districts do not implement the intent of the RM policy.*

APPLICANT REQUEST Rezone 33.3 acres from Residential (R20) to Commercial Service (CS) and Mixed Use Limited (MUL) at Smith Springs Road (unnumbered).

Existing Zoning

R20 zoning R20 zoning is intended for single-family homes and duplexes at 1.85 units per acre.

Proposed Zoning

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

MUL zoning MUL zoning is intended for a medium intensity mixture of residential, retail, and office uses.

SUBAREA 13 PLAN POLICY

Residential Medium (RM) RM policy allows four to nine dwelling units per acre.

Policy Conflict Yes. The Subarea 13 Plan defines this area as RM policy. The CS and MUL zonings will not implement the intent of the RM policy. The Subarea 13 Plan states: “*Nonresidential uses ... should not extend east of Reynolds Road or east of Una Elementary School into this RM policy area.*” Staff recommends disapproval because rezoning this property for commercial uses is contrary to the intent of the Subarea 13 Plan and would set a precedent for nonresidential uses in the RM policy area.

RECENT REZONINGS None

TRAFFIC Based on typical uses in CS and MUL districts, this proposed zoning would generate approximately 15,638 to 18,858 trips per day could be generated by these uses (Institute of Transportation Engineers, 6th Edition, 1996). Other uses at different densities could generate more or less traffic.

Traffic Engineer's Findings The Public Works Department has indicated they can do no further review of this item without additional information. No Traffic impact study has been submitted.

Based upon the Public Works Department's request, staff recommends that the applicant be required to submit a Traffic Impact Study pursuant to Section 17.20.140 of the Code.

Mr. John Myers stated that not too many years ago the area residents were threatened with a quarry on this property. Seems as though the owner and Councilmember just want to get this zoned commercial. Councilman Derryberry will tell you this is very much needed. Less than a mile away there is already unused commercially zoned property. He stated he is adamantly opposed to this proposal.

Mr. Roy Dale, representing the owner, stated the owner wants to do something good for the area. This is not suitable for residential use because no one would want to liver there.

Councilmember Janis Sontany stated she is very opposed to this. In so many of our neighborhoods we are having trouble sustaining them and this will not help sustain this neighborhood. It is encroachment into this neighborhood. She asked for disapproval.

Mr. Richard Corner stated this is exhibit of the poster child for spot zoning

Ms. Neilson moved and Mr. McLean seconded the motion, which carried unanimously, to close the public hearing and disapprove as contrary to the General Plan.

Resolution No. 2003-54

"BE IT RESOLVED by the Metropolitan Planning Commission that Zone Change Proposal No. 2003Z-016U-13 is **DISAPPROVED (8-0) as contrary to the General Plan:**

The proposed CS and MUL districts are not consistent with the Subarea 13 Plan's Residential Medium (RM) policy calling for residential development between 4 and 9 dwelling units per acre. The subarea plan also states that non-residential uses should not extend east of Reynolds Road or east of Una Elementary School."

11. 2003Z-023U-05
Map 72-13, Parcel 215
Subarea 5 (1994)
District 7 (Campbell)

A request to change from R6 district to RM9 at 946 Strouse Avenue, abutting the southern margin of Strouse Avenue, (0.93 acres), requested by David Gregory, owner.

Mr. Hardison stated staff is recommending disapproval.

Project No. Zone Change 2003Z-023U-05
Associated Case None
Council Bill None
Staff Reviewer Hardison

Staff Recommendation *Disapprove*

APPLICANT REQUEST Rezone 0.93 acres from Residential (R6) to Residential Multi-Family (RM9) at 946 Strouse Avenue.

Existing Zoning

R6 zoning R6 zoning is intended for single-family homes and duplexes at 6.17 units per acre.

Proposed Zoning

RM9 zoning RM9 is intended for multi-family residential dwelling at 9 units per acre.

SUBAREA 5 PLAN POLICY

Residential Medium (RM) RM policy calls for four to nine dwelling units per acre.

Policy Conflict Yes. Although the RM9 zoning is at the high end of the RM policy’s density range, the Subarea 5 Plan has specific instructions for multi-family zoning in this area. This property is in the area of the Nashville Auto-Diesel College. The Subarea 5 Plan states the following about this area: *“Within [this] area, there is an area that has been zoned for multi-family residential development for decades. Despite that zoning, it is still mostly a single- and two-family residential neighborhood, except for the historic Nashville Auto-Diesel College and a few multi-family structures. It extends from north of McClurkin Avenue to south of Douglas Avenue. Reflecting the preference expressed by the CAC, it is recommended that zoning be applied to this area that limits development to the one- and two-family type residential development that currently characterizes this area.”*

Although the RM9 district is within the density range of the RM policy, based upon the above statements from the Subarea 5 Plan, staff cannot support multi-family zoning on this property.

RECENT REZONINGS None

TRAFFIC The proposed zone change would permit a total of eight units. This number of units would create approximately 52 vehicle trips per day (Institute of Transportation Engineers, 6th Edition, 1996). Other uses at different densities could generate more or less traffic.

Traffic Engineer’s Findings Approve

SCHOOLS

Students Generated 1 Elementary 1 Middle 1 High School

Schools Over/Under Capacity Students will attend Hattie Cotton Elementary School, Gar-Mar Middle School, and Maplewood High School. Gar-Mar Middle and Maplewood High have not been identified as being overcrowded by the Metro School Board, but Hattie Cotton Elementary has been identified as being overcrowded.

Mr. Shawn Henry, Attorney with Tune, Eskind and White, stated Mr. Gregory is one of many that provide housing for students of the Nashville Auto Diesel College. He read a letter from the college that stated Mr. Gregory provides good housing and the students he provides those services for are well behaved and maintain good grades. He stated this area is in transition and requested approval.

Mr. John Wendt, spoke in opposition to the proposal and expressed concerns regarding the undesirable changes, speeding cars, traffic, front yards being turned into parking lots and unruly persons. NADC has built a new dorm and that will provide housing for their students without changing single-family residential homes into multi-family residences. He presented a petition with 75 names on it in opposition to the proposal.

Beverly Hillbert spoke in opposition and stated that Mr. Gregory, from day one, has violated codes.

Mr. James Bush stated that at a certain point we have to say that the number of people in our neighborhood has maxed out.

Councilman Summers moved and Mr. Sweat seconded the motion, which carried unanimously, to close the public hearing and disapprove.

Resolution No. 2003-55

"BE IT RESOLVED by the Metropolitan Planning Commission that Zone Change Proposal No. 2003Z-023U-04 is **DISAPPROVED (8-0)**:

The proposed RM9 district is not consistent with the Subarea 5 Plan’s Residential Medium (RM) policy calling for 4 to 9 single-family dwelling units per acre. Although the RM9 district may be consistent with the intended density range, it is not consistent with the intent to preserve a single-family zoning pattern in the area.”

PRELIMINARY SUBDIVISION PLATS

14. 2002S-339U-10

Glen Echo, Resubdivision of Lot 12
Map 117-15, Parcel 11
Subarea 10 (1994)
District 25 (Shulman)

A request for preliminary plat approval to subdivide one lot into three lots abutting the northwest margin of Hillmont Drive, approximately 125 feet northeast of Glen Echo Road, (.89 acres), classified R10 district, requested by Eugene Collins, owner/developer, Barge, Waggoner, Sumner and Cannon, Inc., surveyor.

Mr. Kleinfelter explained the advantages of a higher intensity and stated there has been community meetings held and they were in favor of changing the policy to allow the larger lots to have 2 single-family homes on them.

Mr. Mitchell stated staff recommends disapproval.

Project No. Subdivision 2002S-339U-10
Project Name Glen Echo Resubdivision of Lot 12
Associated Cases None
Staff Reviewer Mitchell

Staff Recommendation *Disapprove as contrary to the Subarea 10 Plan’s RL (Residential Low-Density) land use policy and for failure to pass Lot Comparability tests for minimum lot size and minimum lot width. In addition, staff recommends disapproval of the requested sidewalk variance along Hillmont Drive.*

Note: Per the Planning Commission’s request, staff is examining this area and working with the community to determine if an increase in density is appropriate in this area. The results of that process are not yet available, but the information will be provided to the Commission at the 2/13/03 meeting. A community meeting is scheduled to address the issue on 2/10/03.

APPLICANT REQUEST

Preliminary Plat Preliminary & Final Plat Final Plat

Subdivide a 0.89-acre tract into a 3-lot subdivision, at a proposed density of 3.4 dwellings units per acre, as well as a subdivision variance granting relief from requirements for sidewalk, curb, and gutter along existing roadway.

ZONING R10 district, requiring a minimum lot size of 10,000 square feet

SUBAREA 10 POLICY

RL (Residential Low-Density) This subdivision falls within the Subarea 10 Policy’s Residential Low-Density (RL) policy. The RL policy was applied to this area because it is developed residentially with densities at or below 2 dwelling units per acre. According to the Subarea 10 Plan, “the intent of this plan is

to ensure that future development of infill sites conform with the existing character of surrounding areas...and the plan recommends that the prevailing character and densities of these areas be conserved.” The proposed plan provides a density of 3.37 dwelling units per acre. Even if one lot was removed, the density would still exceed 2 dwelling units per acre because the proposed density would be 2.24 dwelling units per acre.

SUBDIVISION DETAILS The 0.89-acre tract lies along the north margin of Hillmont Drive, and just north of Glen Echo Road. The applicant is proposing three lots, ranging from 43.3 to 51.7 feet in width, and lot sizes ranging from 12,519 sq. ft. to 13,292 sq. ft.

SUBDIVISION VARIANCES

(Sec. 2-6.1, Sidewalks) The subdivision regulations require a 5-foot wide public sidewalk and a 4-foot wide grass strip along the frontage of the residential properties. The applicant has requested a sidewalk variance due to the absence of sidewalks along Hillmont Drive and the amount of roadwork that would be required to meet Metro Public Works sidewalk construction standards.

(Sec. 2-4.7, Lot Comparability) Having run a lot comparability study for the proposed subdivision, staff finds that all three lots fail the minimum lot width requirement. The comparability test, which takes into account the lot frontage on lots within 300 feet of the subject lot, requires that each lot provide not less than 103 feet of lot frontage.

Regarding minimum lot size under the lot comparability test, all three lots fail the test by not providing a minimum lot size of 28,230 sq.ft.

(Sec. 2-4.2[E], Lot Dimensions) Each proposed lot does not pass the “4:1 Rule”, which requires that the lot width, at the front yard line, shall not be less than 25% of the average lot depth. Based on the depths of the proposed lots, the 4:1 Rule calls for minimum lot widths – at the front yard line – to range from 59.6 feet to 63 feet.

TRAFFIC ENGINEER’S

FINDINGS Recommends approval

SIMILAR CASE A similar case (Glen Echo, Resubdivision of Lot 17) was brought before the Metro Planning Commission in October of 1995 and then again in February of 1996. In both attempts, the application was disapproved by the Planning Commission because of failed lot comparability tests and because the requested subdivision was not consistent with the General Plan. Mr. Floyd Price, Attorney representing Mr. Eugene Collins, referred to a similar development that was approved by the Commission on June 13, 2002, approximately one block away from this one. At this point Mr. Collins is willing to put restrictive covenants on the deeds that these homes will always be single-family residents and that he will not do anything until the plan discussed earlier is completed.

Mr. Eugene Collins, property owner, explained the proposal and stated the approval of this would be good for the neighborhood in the future.

Mr. John Brittingham, adjacent property owner, spoke in opposition to the proposal and stated that when the Glen Echo property was approved in June of 2002, the Hillmont residents were not notified and that is evidence it is not part of the same area.

Mr. Russell Parham referred to the quality of life in the neighborhood and agreed with staff recommendation.

Mr. A. M. Lucas spoke in favor of the proposal and stated Mr. Collins is doing a good thing for the neighborhood. When you build a half million-dollar house you don’t have renters.

Mr. Harold Runnvold stated he was very much opposed to 3 homes being put on lots that size.

Councilman Summers moved and Ms. Nielson seconded the motion, which carried unanimously, to close the public hearing.

Mr. Sweat moved and Ms. Nielson seconded the motion, which carried unanimously, to disapprove.

Councilmember Summers suggested adding to the motion to have staff continue with their investigation of the zoning change.

Vice Chairman Small stated staff did exactly what the Commission asked them to do and found there was a consensus in the neighborhood not to subdivide into more than 2 lots. He stated he would have to vote against the motion as stated.

Councilman Summers clarified his statement.

Mr. Fox suggested the Commission vote on the motions separately.

Chairman Lawson stated the motion is to disapprove.

The motion carried unanimously to disapprove.

Resolution No. 2003-56

“BE IT RESOLVED by the Metropolitan Planning Commission that Subdivision No. 2002S-339U-10, is **DISAPPROVED (8-0).**”

Councilmember Summers moved and Mr. Sweat seconded the motion, which carried, to have staff continue their investigation regarding zoning in the area.

15. 2003S-011U-10
Elder Place Subdivision
Map 116-12, Parcel 110
Subarea 10 (1994)
District 25 (Shulman)

A request for preliminary plat approval for eight cluster lots abutting the east margin of Estes Road, approximately 993 feet north of Abbott Martin Road, (5.07 acres), classified R20 district, requested by William L. and Linda G. Elder, owners/developers, Civil Site Design Group, surveyor.

Mr. Mitchell stated staff recommends

Project Number 2003S-011U-10
Project Name Elder Place Subdivision
Associated Cases None
Staff Reviewer Mitchell

Staff Recommendation *Approve with conditions*

APPLICANT REQUEST

Preliminary Plat Preliminary & Final Plat Final Plat

Subdivide a 5.07-acre tract into an 8-lot cluster lot subdivision, at a proposed density of 1.58 dwellings units per acre.

ZONING R20 district, requiring a minimum lot size of 20,000 square feet

CLUSTER LOT OPTION The cluster lot option allows the applicant to reduce minimum lot sizes two base zone districts from the base zone classification of R20 (minimum 20,000 sq. ft. lots) to R10 (minimum 10,000 sq. ft. lots). Although allowed to reduce minimum lot size two base zone districts, the applicant will use the R10 district as the alternative lot size for bulk standard compliance for lots 3, 4, 5, 6, and 7 and the R15 alternative bulk standards for lots 2 and 8. Proposed lots range from 11,277 sq. ft. to 40,283 sq. ft.

Applicant has justified utilizing the cluster lot option because a tributary to Sugartree Creek encumbers the easternmost portion of the property. In addition, the applicant is proposing that 22% of the site will be preserved as natural vegetation or open space. Pursuant to Section 17.12.080(D) of the Metro Zoning Ordinance, open space provisions require a minimum of 15% open space per phase. This subdivision is proposed to be constructed in one phase.

SUBAREA 10 POLICY This subdivision falls within the Subarea 10 Policy’s Residential Low-Medium (RLM) policy that supports and provides opportunities for new residential development within a density range of 2 to 4 units per acre. Total lot yield permitted for this subdivision is nine lots. The applicant proposes eight lots, at a density of 1.58 dwelling units per acre.

SUBDIVISION DETAILS The 5.07-acre tract is located along the east margin of Estes Road, between Harding Pike and Hillsboro Boulevard. The proposed eight lots are located on either side of a single, curvilinear, spine road that dead-ends into a permanent cul-de-sac west of the Sugartree Creek tributary. The proposal includes one possible detention area located in the northeast corner of the subdivision and adjacent to the tributary. Additionally, the applicant is proposing to extend the head of the cul-de-sac into the open space area to promote utilization of the open space and tributary as recreational space for the residents.

SUBDIVISION VARIANCES None

TRAFFIC ENGINEER’S

FINDINGS Recommends approval

CONDITIONS Staff recommends conditional approval of this plat subject to a revised plat being submitted before the Planning Commission meeting:

Add the following note: “Wheelchair accessible curb ramps, complying with applicable Metro Public Works standards, shall be constructed at street crossings.”

Add the following note: “Existing vegetation located to the rear of new lots (perimeter vegetation) will be preserved.”

Mr. Kennedy stated he has had most of his questions answered, but is still wondering how to retain the neighborhood integrity.

Mr. Kevin Gangware requested approval.

Ms. Nielson moved and Mr. Sweat seconded the motion, which carried unanimously, to close the public hearing.

Mr. McLean moved and Ms. Nielson seconded the motion, which carried unanimously, to approve the following resolution:

Resolution No. 2003-57

“BE IT RESOLVED by the Metropolitan Planning Commission that Subdivision No. 2003S-011U-10, is **APPROVED WITH ADDENDUM CONDITION (8-0)**.

Staff recommends approval subject to the following conditions:

1. Add the following note: "Wheelchair accessible curb ramps, complying with applicable Metro Public Works standards, shall be constructed at street crossings."
2. Add the following note: "Existing vegetation within 10 feet around the border of this tract (perimeter vegetation) will be preserved, unless new vegetation or some other form of buffer can be agreed to at specific locations around the tract by the owner of the lot where the border is in question and the owner of the respective bordering property. This requirement does not prohibit the developer of this new tract from leaving other existing vegetation that extends 10 feet or more from the border of the tract, nor does it prohibit the developer from adding additional vegetation, if required by the Metropolitan Code, within the 10-foot border."

16. 2003S-028U-08
 Harding Bosley Tract
 Map 81, Parcels 57-63
 Subarea 8 (1995)
 District 20 (Haddox)

A request for preliminary and final plat approval for 24 lots between Ed Temple Boulevard and 28th Avenue North, (5.28 acres), classified RS5 district, requested by Westport Development Company, owner/developer, Cherry Land Surveying, Inc., surveyor.

Mr. Leeman stated staff recommends approval with conditions.

Project No. **Subdivision 2003S-28U-08**
Project Name **Harding Bosley Tract**
Associated Cases None
Deferral Deferred by the Planning Commission on 1-23-03 because this plat contains more than 50% floodplain and the Planning Commission planned to discuss a floodplain development moratorium, at the 2/13/03 Planning Commission meeting.

Staff Reviewer Fuller

Staff Recommendation *Approve with conditions.*

APPLICANT REQUEST
 Preliminary Plat Preliminary & Final Plat Final Plat

Subdivide 5.38 acres into a 24-lot cluster subdivision.

ZONING **The RS5 district requires a minimum lot size of 5,000 square feet.**

CLUSTER LOT OPTION The cluster lot option allows the applicant to reduce minimum lot sizes two base zone districts from the base zone classification of RS5 (minimum 5,000 sq. ft. lots) to R3.75 (minimum 3,700 sq. ft. lots). Proposed lots range from 4,442 sq. ft. to 6,317 sq. ft.

Pursuant to Section 17.12.080(D) of the Metro Zoning Ordinance, cluster lot subdivisions require a minimum of 15% open space per phase. The applicant successfully complies with this requirement by proposing a total of 2.81 acres (52%) of open space – which exceeds the minimum open space acreage required.

SUBDIVISION DETAILS A preliminary plat was not required for this subdivision because the property fronts existing streets and no new streets are being proposed (Subdivision Regulation 3-3.1- E.).

Access to the lots will be through a private access easement/alley between the rows of lots. Two curb cuts on 28th Avenue North will be required for the alley. This will prevent the need for curb cuts for each driveway on 28th Avenue North and Ed Temple Boulevard.

The applicant intends for lots 14-24 to be oriented to front the golf course on the opposite side of Ed Temple Boulevard, essentially the rear of the lots will face 28th Avenue North. There are existing houses on the opposite side of 28th Avenue North the front the street. A situation would be created where the rear of the new houses face the front of the existing houses. Staff feels that this would deteriorate the neighborhood fabric of 28th Avenue North and recommends that houses be required to front 28th Avenue North.

CONDITIONS Subject to a revised plat prior to recordation showing the following:

The existing house and two sheds on the property will be removed or a demolition bond shall be posted prior to the recording of the final plat.

A note needs to be added to the plat that the buildings with frontage on 28th Avenue North will front 28th Avenue North and the buildings with frontage on Ed Temple Boulevard will front Ed Temple Boulevard. Performance bonds must be posted to secure the satisfactory construction of water and sewer improvements, stormwater improvements and sidewalks prior to the recording of the final plat. Sewer capacity must also be purchased prior to the recording of the final plat.

Mr. Dan Barge III, stated this item was deferred 2 weeks ago because of the floodplain issue, but protects the 52% of it. He explained the proposal and asked for approval.

Mr. Mike Shields stated this is an affordable housing project and will enhance the neighborhood. He asked for approval.

Mr. Milton Gill spoke in opposition to the proposal and expressed concerns regarding flood damage, availability of other locations, and accessibility for emergency vehicles. He explained regulations that have been violated.

Councilmember Summers moved and Ms. Nielson seconded the motion, which carried unanimously, to close the public hearing.

Chairman Lawson question the regulations violations referred to by Mr. Gill.

Mr. Fox stated we weren't at the Stormwater Management Board meeting and we go by their staff's and our staff's recommendations. There is a representative from the Legal Department that attends those meetings.

Mr. McLean moved and Ms. Nielson seconded the motion, which carried unanimously, to approve staff recommendation.

Resolution No. 2003-58

“BE IT RESOLVED by the Metropolitan Planning Commission that Subdivision No. 2003S-028U-08, is **APPROVED WITH CONDITIONS (8-0)**.

Staff recommends approval subject to the following conditions:

1. The existing house and two sheds on the property will be removed or a demolition bond shall be posted prior to the recording of the final plat.
2. A note needs to be added to the plat that the buildings with frontage on 28th Avenue North will front 28th Avenue North and the buildings with frontage on Ed Temple Boulevard will front Ed Temple Boulevard.

3. Performance bonds must be posted to secure the satisfactory construction of water and sewer improvements, stormwater improvements and sidewalks prior to the recording of the final plat. Sewer capacity must also be purchased prior to the recording of the final plat.”

ADJOURNMENT

Their being no further business, upon motion made, seconded and passed, the meeting adjourned at 9:15 p.m.

Chairman

Secretary

Minute approval this 27th day of February 2003

