

**MINUTES OF THE MEETING**  
**OF THE**  
**METROPOLITAN PLANNING COMMISSION**

Date: Thursday, April 20, 1995  
Time: 1:00 p.m.  
Place: Howard Auditorium

**ROLL CALL**

**Present:**

Gilbert N. Smith, Chairman  
Jimmy Allen  
Arnett Bodenhamer  
William Harbison  
Janet Jernigan  
James Lawson  
Ann Nielson  
Councilmember Larry McWhirter

**Absent:**

Mayor Philip Bredesen  
William Manier

**Also Present:**

**Executive Office:**

T. Jeff Browning, Executive Director and Secretary  
Carolyn Perry, Secretary I

**Current Planning and Design Division:**

Edward Owens, Planning Division Manager  
John Bracey, Planner III  
Mitzi Dudley, Planner III  
Tom Martin, Planner III  
Shawn Henry, Planner II  
Charles Hiehle, Planning Technician II

**Advance Planning and Research Division:**

John Palm, Planning Division Manager  
Deborah Fleming, Planner III  
Gerald Yuknavage, Planner I

**Community Plans Division:**

Jerry Fawcett, Planning Division Manager

**Others Present:**

Jim Armstrong, Public Works Department  
Leslie Shechter, Legal Department

Chairman Smith called the meeting to order.

### **ADOPTION OF AGENDA**

Mr. Lawson moved and Ms. Jernigan seconded the motion which was unanimously passed, to adopt the agenda including the addendum items, Appeal Case No. 95B-042U and Subdivision No. 95S-085U.

### **ANNOUNCEMENT OF DEFERRED ITEMS**

Mr. Owens announced there were no deferred items.

### **APPROVAL OF MINUTES**

Mr. Browning stated there was one amendment to the minutes to clarify closing statements regarding Resolution No. 95-234. Ms. Jernigan moved and Mr. Harbison seconded the motion to approve the minutes as amended, which passed unanimously.

### **RECOGNITION OF COUNCILMEMBERS PRESENT**

Councilman Jimmy Summers was present to speak in support of Appeal case 95B-055U, a conditional use permit on Dickerson Road. He stated he was pleased to see this property put to good use and that it would create new jobs and clean up the area.

Councilman Frank Harrison, Jr. was present to speak in favor of Proposal 95M-043U, to abolish the easements referred to in that proposal. He also stated he was in disagreement with Proposal 95Z-036U, to rezone a piece of property from R6 to CS.

### **ADOPTION OF CONSENT AGENDA**

Ms. Jernigan moved and Mr. Lawson seconded the motion to adopt the following items on the consent agenda, which was unanimously passed.

#### **APPEAL CASES:**

**Appeal Case No. 95B-054U**  
Map 117-9, Parcel 72  
(Subarea 10)  
(25th District)

A request for a conditional use permit under the provisions of Section 17.124.360 (Floodplain) as required by Section 17.116.030 to construct a 2,062 square foot addition to an existing single family residence within the RS40 District, on property located on the south margin of Valley Brook Place, approximately 500 feet east of Hilldale Drive (.94 acres), requested by James B. Mason, IV, appellant/owner.

#### **Resolution No.**

**Appeal Case No. 95B-057G**  
Map 31, Parcel 126  
(Subarea 3)  
(1st District)

A request for a conditional use permit under the provisions of Section 17.124.360 (Floodplain) as required by Section 17.116.030 to construct a 720 square foot detached garage within the AR2a District, on property located on the west margin of Lickton Pike and the east margin of I-24 (3.21 acres), requested by Thomas T. Champion, appellant/owner.

**Resolution No.**

**Appeal Case No. 95B-058U**

Map 131-16, Parcel 1.1  
(Subarea 10)  
(33rd District)

A request for a conditional use permit under the provisions of Section 17.124.360 (Floodplain) as required by Section 17.116.030 to construct a 1,200 square foot carport and 300 square foot sun room to an existing residence within the R40 District, on property located on the north margin of Sewanee Road, approximately 730 feet east of Granny White Pike (1.26 acres), requested by Ian D. Montgomery, appellant/owner.

**Resolution No.**

**Appeal Case No. 95B-063U**

Map 69-4, Parcel 92  
(Subarea 3)  
(2nd District)

A request for a conditional use permit under the provisions of Section 17.124.360 (Floodplain) as required by Section 17.116.030 to construct a 2,155 square foot single-family residence within the R15 District, on property located on the south margin of West Hamilton Road, approximately 1,230 feet west of Clarksville Pike (.5 acres), requested by Rita A. Smith, appellant/owner.

**Resolution No.**

**ZONE CHANGE PROPOSALS:**

**Zone Change Proposal No. 95Z-037U**

(Council Bill No. O95-1402)  
Map 58, Part of Parcel 136  
(Subarea 3)  
(2nd District)

A request to change from R15 District to CS District certain property abutting the west margin of Clarksville Pike, located approximately 600 feet south of Kings Lane, (approximately 2 acres), requested by E. B. Smith, Jr., owner.

**Resolution No.**

**PLANNED UNIT DEVELOPMENT OVERLAY DISTRICTS:**

**Request to Revise/Amend a Site Development Plan:**

**Proposal No. 46-83-U**

Metropolitan Airport Center  
Map 108-5, Parcel 2 and Part of 3  
(Subarea 14)  
(13th District)

A request to revise the preliminary site development plan of the Commercial (General) Planned Unit Development District abutting the southeast margin of Airport Center Drive, approximately 990 feet south of Royal Parkway (.66 acres), to permit the development of a 3,256 square foot office facility, requested by Waste Water Engineers, Inc., for Metropolitan Airport Center, Ltd., owner.

**Resolution No.**

**Proposal No. 83-85-P**

Ransom Place, Phase One, Lot Six  
(Precision Tune)  
Map 135-14-B, Part of Parcel 92  
(Subarea 13)  
(29th District)

A request to revise the preliminary site development plan and for final approval of Phase One, Lot Six of the Commercial (General) Planned Unit Development District abutting the southwest margin of Murfreesboro Pike, approximately 230 feet southeast of Ransom Place (.57 acres), to permit the development of a 3,727 square foot general retail sales and service facility, requested by Ransom Place Homes, Inc., owner. (Also requesting final plat approval).

**Resolution No.**

**Proposal No. 189-73-G**

Cherry Creek Apartments, Phase 2  
(formerly Crystal Springs)  
Map 86, Part of Parcels 154 and 280  
(Subarea 14)  
(13th District)

A request for final approval of Phase 2 of the Residential Planned Unit Development District abutting the south margin of Central Pike, approximately 100 feet east of Dodson Chapel Road (18.64 acres), to permit the development of a 220 unit multi-family residential complex with clubhouse, pool and recreation facilities, requested by Merry Land and Investment Company, Inc., owner.

**Resolution No.**

**SUBDIVISIONS:**

**Final Plats:**

**Subdivision No. 95S-084U**

Thomas B. Baker, Jr. Property, Section One  
Map 130-1, Parcels 189, 198 and 199  
(Subarea 7)  
(34th District)

A request to resubdivide three lots abutting the east margin of the Memphis-Bristol Highway, south of Harding Place (1.55 acres), classified within the CS District, requested by Commerce Union Bank and Katherine H. Baker, Co-Trustees, owners/developers, Gresham, Smith and Partners, surveyors.

**Resolution No.**

**Subdivision No. 95S-088U**

Brentwood Meadows, Section Two  
Resubdivision of Lots 39-41

Map 161-9, Parcels 86-88 and 134-136  
(Subarea 12)  
(32nd District)

A request to subdivide three lots abutting the north margin of Brentwood Meadows Circle, approximately 375 feet north of Hickory Meadows Court (1.3 acres), classified within the R15 District, requested by National Resource Company, owner/developer, Thomas, Miller and Partners, surveyor.

**Resolution No.**

**Subdivision No. 95S-095U**  
Addition to Green Hills,  
Resubdivision of Lots 1 and 3  
Map 117-15, Parcels 74 and 76  
(Subarea 10)  
(33rd District)

A request to subdivide two lots into four lots abutting both margins of Observatory Court, approximately 500 feet west of Belmont Boulevard (1.7 acres), classified within the R10 District, requested by Arie Moore W. Bean, owner/developer, Crawford Land Surveying, surveyor.

**Resolution No.**

**Subdivision No. 91P-007G**  
Sunset Oaks, Section Two Resubdivision  
Map 86-4-B, Parcels 29-63  
(Subarea 14)  
(13th District)

A request to create 35 lots abutting the east margin of Old Tulip Grove, approximately 424 feet north of Old Lebanon Dirt Road (9.66 acres), classified within the RS15 Residential Planned Unit Development District, requested by B & P Developments, Inc., owner/developer, C. Michael Moran, surveyor.

**Resolution No.**

**Subdivision No. 95S-085U**  
Four-Forty Center, Phase Two, Lot 1  
Map 118-8, Part of Parcel 364  
(Subarea 11)  
(26th District)

A request to create a lot abutting the north margin of Melrose Avenue, approximately 497 feet east of Eugenia Avenue (1.23 acres), classified within the CG District, requested by Joseph V. Russell and Associates, owner/developer, Dale and Associates, Inc., surveyor.

**Resolution No.**

**Request for Bond Extension:**

**Subdivision No. 44-81-U**  
Villages of Brentwood, Phase Twelve  
Fox Ridge Homes, Inc., principal  
(Request received 03/20/95)

Located abutting the south terminus of Village Trace, approximately 115 feet south of Village Way.

**Resolution No.**

**Subdivision No. 180-83-G**  
Waterford, Phase Four-B  
Waterford Associates, principal  
(Request received 03/20/95)

Located abutting both margins of Waterford Drive, approximately 200 feet northeast of Riverway Drive.

**Resolution No.**

**Subdivision No. 84-623-G**  
Village by the Creek, Section Twelve  
Robert E. Earheart, principal  
(Request received 03/22/95)

Located on both sides of Standing Stone Drive and both sides of Standing Stone Court.

**Resolution No.**

**Subdivision No. 88S-394U**  
Chateau Valley, Phase One  
Chateau Associates, Ltd., principal  
(Request received 03/13/95)

Located abutting the east terminus of Stokers Lane.

**Resolution No.**

**Subdivision No. 89P-019G**  
Allens Green, Section One  
Zaring Homes, Inc., principal  
(Request received 03/20/95)

Located abutting the south margin of Poplar Creek Road, opposite Rolling River Parkway.

**Resolution No.**

**Subdivision No. 90S-021U**  
MetroCenter, Tracts 15-A and 15-B  
MetroCenter Holdings, Inc., principal  
(Request received 03/20/95)

Located on the east side of Athens Way, between Great Circle Road and French Landing.

**Resolution No.**

**Subdivision No. 90S-046U**  
Pebble Trail, Section Three  
Raymond Ferreira, principal  
(Request received 03/20/95)

Located at the termini of Rader Ridge Road and Countryside Drive.

**Resolution No.**

**Subdivision No. 93S-217U**

Oakwood Subdivision, Phase Six, Section Three  
Centex Real Estate Corporation, principal  
(Request received 03/22/95)

Located abutting both margins of Mountain Laurel Drive, approximately 470 feet northeast of Pebble Creek Drive.

**Resolution No.**

**Request for Bond Release:**

**Subdivision No. 91S-074U**

Hobson Chapel Subdivision  
Nashville Area Habitat for Humanity,  
principal  
(Request received 04/04/95)

Located abutting the northeast margin of Sharpe Avenue and Chapel Avenue.

**Resolution No.**

**Subdivision No. 97-86-P**

Cottonport Plantation, Phase Two  
Radnor Homes, Inc., principal  
(Request received 04/05/95)

Located south of Cloverland Drive, east of Saddlewood Lane.

**Resolution No.**

**Subdivision No. 97-86-P**

Cottonport Plantation, Phase Three  
Radnor Homes, Inc., principal  
(Requested received 04/05/95)

Located south of Cloverland Drive, east of Saddlewood Lane.

**Resolution No.**

**Subdivision No. 88P-047G**

Peppertree Forest, Section Eight  
Allen Earps, principal  
(Request received 04/05/95)

Located abutting the south margin of Pin Hook Road, approximately 200 feet east of Lavergne Couchville Pike.

**MANDATORY REFERRALS:**

**Resolution No.**

**Proposal No. 95M-043U**

Easement Abandonment Former Alley No. 2001  
Map 71-14  
(Subarea 3)  
(5th District)

A proposal to abandon all public utility and drainage easements retained in the former right-of-way of Alley No. 2001 between Vashti Street and Napoleon Street which was closed by Ordinance No. O83-1169, requested by Ray Strickland, owner.

**Resolution No.**

**Proposal No. 95M-044U**

Encroachments at 113 Second Avenue North  
Map 93-6-2  
(Subarea 9)  
(19th District)

A mandatory referral from the Department of Public Works proposing the installation of one sign, nine awnings and eight light fixtures over the sidewalk in front of 113 Second Avenue North, requested by Chris Ewing, agent for Davco Restaurants, Incorporated, proprietor.

**Resolution No.**

This concludes the items on the consent agenda.

**APPEAL CASES:**

**Appeal Case No. 95B-042U**

Map 82-16, Parcel 374  
(Subarea 5)  
(6th District)

A request for a conditional use permit under the provisions of Section 17.124.090 (Group Care) as required by Section 17.24.030 to use an existing building as a group care facility for 12 adults within the RM8 District, on property located on the northwest corner of Shelby Avenue and South Ninth Street (.25 acres), requested by Raymond Richardson, for TKR Residential Carehome, LLC appellant/owner. (Referred from Board of Zoning Appeals 04/13/95).

Mr. Henry presented this application and reminded the Commission this application went to the Board of Zoning Appeals last week and had been returned to the Commission as requested. It has been rescheduled for the BZA, Thursday, April 27, 1995. Mr. Henry stated the group care facility is defined in our Zoning Ordinance as a facility providing residential services for individuals who are handicapped, aged or disabled. He stated in the letter from the Commission to the BZA they had raised the issue of staffing plans on whether or not twenty-four hour staff was going to be available on site. The applicant has responded and intends to provide full time staff on site. They have also contacted several supporting agencies in the area where twenty-four hour behavioral science services are available to service this facility. Also the issue was raised regarding adequate outdoor recreation space and this particular proposal is to house the elderly individuals, fifty-five years of age and older. The Tennessee Department of Health and Human Services has the application for this particular site and are currently reviewing that application. There is no requirement that the state places on these kinds of facilities for outdoor recreation. The building itself comprises a little less than half of the site and if you discount the area for parking, which is behind the building off of the alley, there is about five thousand square feet around the building available for open outdoor space. Another question raised was regarding the proximity of this facility to other group care



homes in the area. The applicant conducted their own study and the Department of Codes Administration has confirmed that there are no other group care facilities that have been issued permits either on that same block face or on an opposing block face. The last issue that was raised was how long this facility has been out of operation. We know it had been issued a group care home permit in 1991. However that operator never obtained the use and occupancy permit and so it has been vacant for about four years. That issue we find, is not a material fact however, this is not a non-conforming piece of property. It could be used to day and be converted to a single family, two family or a multi-family dwelling. What we have here are twelve individuals residing in eleven rooms with one kitchen and three full bathrooms and ten half bathrooms, with parking along the rear. Those are the pertinent issues the Commission raised to the BZA and staff feels that the applicant and Codes Administration has responded to those issues. An important aspect of this area is our Subarea 5 Plan that the Commission should be aware of which calls for this stretch of Shelby Avenue to be developed according to our medium density residential policy. Currently it is zoned RM8 and that RM8 is not consistent with our Subarea 5 long range intended development pattern. As such on Tuesday night of this week, Councilman Ockerman filed a resolution in Council, Council adopted that resolution, which will initiate a rezoning of this stretch of Shelby Avenue. The Subarea 5 Plan states this area is very much in keeping and character with Historic Edgefield. Historic Edgefield is zone R8, therefore the same treatment should be applied to Shelby Avenue. The rezoning will be scheduled for the May 18th, Planning Commission agenda seeking to rezone this section of Shelby Avenue.

In conclusion, Mr. Henry stated the staff recommends the Commission advise the BZA that the application as far as we can tell appears to satisfy the conditional use criteria.

Mr. Ray Richardson stated he was co-owner of the property at 821 Shelby Avenue. He introduced his wife, Terry and stated their plan was to start a group residential home there that would house twelve people and they plan to renovate the property to meet codes and fire regulations. He stated he would be more comfortable if the Commission had questions for him because he was not sure he could ramble on and say what their hopes and dreams are but could answer the Commissions questions.

Mr. Lawson asked where Mr. Richardson was going to get his referrals from and what kind of care will they be providing. Will they mental or physical limitations.

Mr. Richardson stated they would be elderly and limitations would be because of the aged primarily. These will be persons who can escape within three minutes or so if there is a fire. They will be ambulatory, will require some supervision on site at all time and will be provided three meals per day and a place to stay. There will be recreation provided for them on a daily basis.

Ms. Jernigan asked what type of renovation Mr. Richardson was planning on doing and if there would be anything done to the exterior of the property.

Mr. Richardson said they would replace blocks that may be missing, will do any patch work necessary due to weather or sagging of the building, replace loose bricks and will do any changes in the roof where there may be some need to do so, but no major renovation to the exterior.

Ms. Jernigan asked about the staffing pattern.

Mr. Richardson said the staffing would have a person there in the evenings and there will be a different person there during the day and his wife would work full time in addition to that and he would work part time in the facility.

Ms. Nielson asked if they would be supervised twenty-four hours a day.

Mr. Richardson said yes they would supervised twenty-four hours a day.

Mr. Bodenhamer asked if the age limit was restricted to fifty-five and above.

Mr. Richardson said that was what they generally expected.

Mr. Bodenhamer asked if the traffic on Shelby Avenue would be a problem and if there would be some safety protection to make sure no one wanders out into the street.

Mr. Richardson said that was the reason for a supervising person to be there twenty-four hours per day and that they were prepared to put up barriers if they were required or requested by the Commission. He stated if the Commission felt fencing was necessary, they would be prepared to provide it. He said he had a brother in Memphis who runs an identical type facility and they don't have fences or barriers of that sort. The persons in their care would be generally relied upon to take care of themselves, in that regard. They don't wander out into the streets and he didn't expect to house anyone who would have that type of tendency because they would not have that kind of expertise and wouldn't want to take responsibility for anyone with a mental stated would wander out into the street. He stated they were not unwilling to provide whatever barrier required or suggested.

Mr. Lawson asked Mr. Henry if there were stipulations put on this proposal, who would enforce it.

Mr. Henry stated if the Commission was inclined to make a recommendation to BZA that there be conditions or stipulations, based on the application and the Board agrees with those stipulations, then Codes Administration would enforce that.

Mr. Lawson asked if the Commission did not put any stipulations on the proposal there would be no monitoring of activities there at all.

Mr. Henry stated that was his understanding. Codes may be in the room but usually they respond to complaints, if there are complaints, they investigate.

Ms. Jernigan asked Mr. Henry the Department of Human Services required a license or if there were any requirements.

Mr. Henry stated they would be required to obtain a license from the Tennessee Department of Human Services. The Richardsons have applied for a license to care for people fifty-five years and older and the application is being reviewed. He stated he wanted to be sure the Commission understood there were no requirements for outdoor recreation.

Ms. Jernigan said the Commission didn't know about the other requirements and if they had been satisfied because they are still under review.

Mr. Harbison said that was not the Commission's input.

Mr. Lawson asked why it wasn't for the Commission's input.

Mr. Harbison stated the Commission should deal with the conditional use criteria only.

Mr. Henry confirmed Mr. Harbison's statement that the Commission's concern was for the site plan and if it is at an appropriate location.

Ms. Nancy Jane Baker, president of Historical Edgefield, stated this property is a piece of their neighborhood. The boundaries of Historic Edgefield include both sides of Shelby Avenue to both sides of Woodland Street and from Fifth to Tenth. There is growing concern in the neighborhood among the neighbors that live there. This is a residential district that they have fought long and hard to keep residential. They have a growing number of group home applications coming into their area, this makes the third one in less than eighteen months. It is something they are concerned about. They are appreciative of the residential group homes that are good neighbors but they are beginning to see a trend of a number of group homes coming toward Historic Edgefield. She pointed out the property has not been in use for the

last two years and it has been a rather derelict property and are delighted to see someone trying to do something with it however, they do have grave concerns about what is going on. This is part of the local historic district so it will have to have regulations and go before the requirements of the Historic Zoning Commission. Their major concerns fall within the area of safety for the residents of this home. Ninth and Shelby is an extremely busy intersection. Ninth is one of the cross streets throughout the neighborhood that goes all the way between Woodland and Shelby and there is a lot of traffic especially during peak traffic times during the early morning and late in the afternoon and Shelby itself is never quiet, it always has traffic on it. They were worried about the residents of this home and their physical safety with the traffic numbers on those roads. The neighborhood would request that if the Commission is going to do something with this particular case, that they put a requirement on it that would benefit the safety of the applicant and the residents of this particular area with some kind of fencing that will protect them from the traffic on Shelby. She also mentioned that if the residents are going to be moved from this particular site to another site for recreational activities or some other type of activities that have to do with the day to day living of the residents, they will have to be loaded on Ninth which makes that an extremely difficult area because it is a somewhat narrow street and does have a lot of traffic on it. She stated the last reason that she and the other neighbors were concerned is not really one that she would like to bring into focus but she felt she must, is that is not the safest end of Shelby. Last fall the local newspapers did an expose on our drug dealers and they were in a house caddy corner across the street from this particular structure. They pointed out a number of unsavory illegal activities that went on. It is not something the neighborhood is delighted to air before people but it is a very grave concern to them that the applicant is requesting to put elderly people in an area that is not overly safe for their physical being. It is the neighborhood's desire to see the property used in the best applicable way but they do not feel that a group home in this particular area would be the best for the neighborhood or the residents that would be in the group home.

Mr. Bodenhamer asked Mr. Henry if he understood correctly that someone had made application to do something similar to this before.

Mr. Henry stated it had been used in the past going back to 1982 as the same thing that is being proposed now.

Ms. Baker stated that it had been vacant for the past two years.

Mr. Browning stated Mr. Henry had indicated that a permit had been taken out from the same kind of use in 1991 but it has not been acted upon.

Mr. Bodenhamer asked if that permit was approved by the Planning Commission.

Mr. Henry stated the Planning Commission did act on that particular case.

Ms. Nielson stated that if in fact they were to put up fencing, what type of fencing would they be allowed to put up.

Ms. Baker stated it would have to go before the Historic Zoning Commission and conform with regulations for Edgefield.

Chairman Smith asked if that meant it would have to be wrought iron.

Ms. Baker stated it would be picket fencing.

Mr. Bodenhamer moved and Mr. Harbison seconded the motion.

Mr. McWhirter asked if there was, with the new regulations that govern this sort of proposal and the Americans with Disabilities Act concern, are there requirements for ability to safely load persons into a wheel chair to a vehicle, that the vehicle be off the road during the loading or unloading.

Mr. Henry stated he couldn't answer the ADA questions but he said the applicants were proposing to do any loading on the back of the site in one of their parking spaces that is a handicap parking space with a ramp and will not be on the street at all during the procedure.

Ms. Jernigan stated that the safety issues were valid issues with older adults and that she wasn't sure that if any of them would have connotative disabilities or not but mental status can change fairly quickly if a person is becoming more frail and wandering into the street and other thing could occur pretty easily and pretty quickly. Especially when you have twelve people and only one person there supervising at a particular time.

Ms. Nielson asked if the Commission were to put any advisement on it and raise the issues of safety would it be appropriate.

Chairman Smith stated it would.

Ms. Nielson stated she would like to amend the motion and Mr. Bodenhamer seconded the motion which passed unanimously.

Councilman McWhirter said he didn't understand what was added to the motion.

Chairman Smith clarified that the Commission was going to ask the Board of Zoning Appeals to take a good look at the safety requirements and safety suggestions.

Ms. Nielson asked if it were appropriate for the Commission to make suggestions but they needed the advise the BZA of their concerns.

Councilman McWhirter asked Ms. Jernigan, since she was the reining expert on this subject, if there was anything she could tell them that might be a good idea they wouldn't think of.

Ms. Jernigan stated the fencing was a good idea and in their adult day care program they had people that came from various group homes and their ratio is one staff person per four people. She said she knew how quickly some of them could be come confused and wander out the door. It is a real issue and problem even with a much higher staff ratio. Not knowing who the people are or what their mental status is or what their physical limitations may or may not be, safety is just always an issue when you have that many older people if they have disabilities in any type of group setting. She personally hated to see that many people in one residence because it is an institutional type setting and she had a lot of philosophical issues and concerns about it but it was outside the realm of the Commissions responsibility. Fencing would be one of the main concern.

Councilman McWhirter stated that is the way he felt and wondered if they shouldn't go ahead and recommend fencing because it sounds like the likelihood of someone being able to get out is probably much greater than it would be in another facility.

Ms. Jernigan stated that if these people were ambulatory than that is definitely true.

Chairman Smith said it would be appropriate to define what it is the Commission means by safety.

Mr. Bodenhamer said he had no problem with the amendment and the safety thing because he raised the issue but he is not sure that is what the Commission is supposed to do.

Mr. Harbison stated that the staffing problem is probably is a licensing criteria as opposed to a land use criteria.

Chairman Smith asked Ms. Nielson if she was satisfied with advising the BZA of the safety factors or if she wanted to specifically use the term fencing.

Ms. Nielson stated it is not just fencing, it is loading and unloading and transporting these residents away from the facility.

Chairman Smith suggested they leave it as safety and explain to BZA what they are thinking about and if they wish to define it with a petitioner further than they can. He stated the had a motion and a second which carried unanimously.

**Resolution No.**

**Appeal Case No. 95B-055U**

Map 60-4, Parcel 22

(Subarea 5)

(4th District)

A request for a conditional use permit under the provisions of Section 17.124.090 (Intermediate Impact) as required by Section 17.60.030 to convert an existing 106,300 square foot building, construct a 31,200 square foot expansion, install a 500 foot transmission tower and 15 satellite dishes for a television station within the CS District, on property located on the northeast corner of Maplewood Lane and Dickerson Pike (16.28 acres), requested by Peter A. Linstrom, AIA, for WNAB Channel 58, appellant, Wal-Mart Properties, Inc., owner.

Mr. Henry stated the construction activity proposed would be to add on to the building and have a satellite dish field and a transmission tower in the northeast corner of the site. Next door is an undeveloped PUD and as pointed out in the staff report compatibility with the Subarea 5 Plan policies are that this area is specified as commercial mixed concentration which accommodates a number of non-residential land uses. The report pointed out also that a landscape screen was originally constructed on the project when Sam's was built. That was intended to shield the area from the residential area across the street and staff is asking the Commission to advise the Board of Zoning Appeals that they should, with this application, insure that landscaping is improved and made to be a continuous screen. The tower that is proposed, has been looked at by the FAA and their guidelines require that this tower be no taller than one thousand and forty-nine feet above sea level. When considering the elevation of this property, which is somewhere in the six hundred foot range, it is going to limit the height of this tower below the five hundred feet that they would ultimately like to have. They are going to build two hundred feet of tower initially and ultimately they want to expand that. Staff thinks it is appropriate for the Commission to pass along that information to the BZA, that they should consider the limitation of the tower in accordance with Federal Aviation standards. In regard to traffic and parking, the traffic engineer has approved the application. This basically an office use will not generate any more traffic or need any more parking than the previous Sam's use of the property. With those two advisement's, staff recommends approval.

Mr. Bodenhamer asked if there would be any fencing around the satellite dishes.

Mr. Henry there was fencing around that whole part of the property, the north side and the eastern boundary.

Mr. Lawson moved and Ms. Nielson seconded the motion.

Councilman McWhirter said he definitely wanted them to add the advisement about the tower height because he knew where they were coming when they get past there and he wanted them to stay in the air all the way.

Mr. Lawson said he was assuming with his motion, it would include the tower height limitations.

Mr. McWhirter said he would like to hear from the applicant to see if not being able to go to the five hundred feet would ruin the deal or if the Commission would send it on only to find them continually lobbying for that extra height because that becomes a very critical factor on a hill that tall.

Mr. Dan Barge III, a civil engineer for the project, stated they were aware of FAA limitations, but he personally was not aware of the one thousand forty-nine feet specifically above sea level. They will honor that plane.

With motion made and seconded, it carried unanimously.

**Resolution No.**

**Appeal Case No. 95B-056U**  
Map 117-10, Parcels 121 and 135  
Map 117-14, Parcels 50 and 159  
(Subarea 10)  
(25th District)

A request for a conditional use permit under the provisions of Section 17.124.250 (Group Assembly, Extensive) as required by Section 17.60.030 to construct a 40,000 square foot theater (2,800 seats) as part of a 281,200 square foot mixed-use development ("Green Hills Commons") within the CS District, on property located on the southeast corner of Crestmoor Road and Cleghorn Avenue (7.72 acres), requested by Ed Cooper, for Regal Cinema, appellant, South Central Bell Telephone Company, owner.

Mr. Henry stated the property on the zoning map is within the CS district. The property is currently occupied by the vacant South Central Bell building which will be torn down for this construction project. There is an access onto Cleghorn and two access ramps onto Crestmoor on the north side of the site and no access from the Green Hills Mall side. The reason this is before the Commission is because this particular mixed use development includes a theater. If it were not for the theater the Commission would not be seeing this application, it would simply go upstairs for a permit to build this mixed use retail and restaurant facility. Thirty-five thousand square feet of this two hundred and eighty-one square feet is devoted to fun scape, which is defined in our code as commercial entertainment. It will have video arcades primarily, interactive video electronic type games. It is the twenty-eight hundred seat theater which brings it to the Commission to review as a conditional use. There are three main issues, the compatibility, parking and traffic. In regard to compatibility, the Subarea Ten Plan identified this area as a regional activity center, one of five regional activity centers. The intent of the regional activity center is to promote mixed use, intensification, office, residential, retail and restaurants. Staff feels this proposal is going in that direction. In regard to parking, the application is proposing to provide more parking than is actually required, in fact they are providing eighty spaces more than is necessary under base zoning. In regard to the traffic generation, as they indicated in the staff report, that they were unable to make comment on that traffic generation because they had not received a traffic impact study. That came in last Friday. The Metro traffic engineers reviewed that traffic impact study and had made a few recommendations to the applicant and the applicant and traffic engineer sat down and worked some things out. One of those is to do away with the two access ramps that currently run off of Crestmoor and to provide one large entrance onto Crestmoor. That will alleviate the site distance problem at the western most access ramp as you pull out of the property and try to make a left hand turn. The traffic engineer is satisfied with that. The traffic engineer also agrees with the recommendation in the traffic impact study, that there be added a one hundred and fifty foot left turn lane on Crestmoor for vehicles entering into this development. That will be the primary access into and out of the development. The other access again is the ramp which accesses Cleghorn Avenue. Also along Crestmoor Avenue the proposal is to provide a continuous sidewalk along the property and actually extend that sidewalk to the sidewalk that begins at the corner of Green Hills Village Drive and Crestmoor. Currently there is a sidewalk along the library, but it stops there. They are proposing to continue that sidewalk around the corner to the La Paz property. In regard to the ramp at Cleghorn, the problem the traffic engineer has is that the ramp for South Central Bell and the ramp for the Dillard's portion of the mall are too close. They are substandard so at a minimum the traffic engineer says that ramp

needs to be moved as far to the north as possible. The ideal situation however, would be for this development to work out an arrangement with The Mall at Green Hills to provide a joint access entrance and exit off of Cleghorn and the traffic engineer is encouraging that. In addition, one draw back to this application is that there is no direct access being provided from mall area for people that want to park at this facility. In order to do that they would have to make a right hand turn out onto Cleghorn and make a U-turn back into this property or go out onto Crestmoor and then enter the property from that side. Staff is recommending that the Commission ask the BZA to consider a more direct access, preferably at the driveway that runs between Dillard's Department Store and the Dillard's parking structure. Finally the level of service at the major intersections effected by this development will all remain at level service D and the traffic engineer is satisfied with that. With those suggested improvements to the circulation's system that the traffic engineer is recommending staff concurs and asks the Commission to recommend those to the BZA.

Ms. Nielson asked if Mr. Henry was suggesting that the improvements should be on Cleghorn where this development and Dillard's come together that they either improve that or create access between Dillard's and the parking garage. She asked if that was either/or or both.

Mr. Henry stated both were needed because the crucial component of the circulation pattern is to try to get traffic directly from the Green Hills property onto this property without having to access a public road.

Ms. Jernigan stated she thought there was access of the east side of the building now and asked if those shops were still in the building because there is parking in front of the building.

Mr. Henry stated that parking will be removed. The new building will extend out to Green Hills Village Drive.

Mr. Harbison asked how realistic that was and asked if people were expected to get into their cars and move them from the shopping center to the new facility parking lot and that he thought people would just walk and leave their car parked.

Mr. Henry stated the front of the building is facing the Green Hills Mall parking lot and staffs concern is that that parking lot will fill up very quickly to make the walk shorter going to the mall or going to the development. If that parking lot is full, they have to get out onto a public street to get into the new development property.

Mr. Harbison ask how the Commission could say they have to work out an arrangement with another private party as part of our approval.

Chairman Smith said it was part of the Commissions role and they were allowed to do that.

Mr. Henry stated the applicant has been very straight forward in letting staff know that they have been talking with the Mall at Green Hills, the Dillard's people, the Castner Knott people and everyone involved on trying to arrange the joint access at Cleghorn, which is on the site plan. At this stage they have not come to an agreement with those parties and so they are not able to show us a solution.

Ms. Jernigan asked if the main entrances to the theater were located facing the Green Hills parking lot side or were they facing the development parking lot.

Mr. stated the theater would be accessed from the rear of the building and there would pedestrian access from the front of the building.

Mr. Dan Barge, III, a civil engineer on the project, stated they would like to see people enter between Dillard's and their parking garage, park in the new development parking lot, purchase movie tickets and then shop at Dillard's while they are waiting for the movie to start. He stated Regal Cinema will be

operating the theater and they are in negotiation with Dillard's and all the stores in the area. With respect to the primary entrance, it is located in the rear of the building next to the parking deck.

Chairman Smith stated it was appropriate for the Commission to advise the BZA and let them handle the details.

Mr. Lawson asked to what extent the traffic impact study showed an increase to higher levels of service D. He said he was having a real problem with this type of development in Green Hills. He thought it would be a travesty. You can say it is level D and D starts at one and goes up to ten and how close are we to ten. We get complaints and concerns about the traffic in that area now and we have done a major traffic impact study there and have some recommendations but don't know when those recommendations are ever going to ever be bought by anybody who is actually going to fund it. He said he saw a lot of problems when they talk about I and that when a center of this magnitude is opened, the residents that use that public library are not going to be able to find parking. A lot of the people who use that public library are folks who are our senior citizens. They are going to be denied parking because people are going to migrate to convenient parking spaces and he doesn't care what signs are put up or how many but it is going to happen and he said he had a real concern about that. He said he didn't feel comfortable about the traffic study and wanted to know to what degree is that pushing us to the worst level of traffic. He wanted to see the numbers in order to feel comfortable about that because traffic in that area is horrible.

Mr. Browning stated the Green Hills Traffic Study was based on peak hour traffic demand. A facility like this will not follow the peak hour, it will be off peak and that is one the advantages of having this kind of facility. You are not looking at a net increase of whatever number of parking spaces, that property has been occupied by pretty intensive use of the five story building for several years that drew office workers that happened to be at the peak hour. You now don't have that so you are netting some out before you begin to increase it with this kind of development.

Mr. Lawson said that on that point he said he was very familiar with South Central Bell and the occupancy of that building because he wife worked there for ten years, but he felt that if you have a concentration of people going into an office complex, it is going to truly follow you peak hour traffic flows. They are coming in and most of them are staying and eating in the area at lunch time and their car is very seldom moved, however, with this kind of establishment unless its hours of operation are after six p.m. then he would disagree with that statement. He thought there would be a heavy mix of individuals who are going to the movies or going to these other activities when they are available and they are going to hit peak times.

At that point Mr. Browning reminded the Commission they were only reviewing this development because of the theaters. He stated they would probably find that the theaters probably do eighty percent of their business at off peak hours.

Mr. John Roper, representing Regal Cinemas, stated they have entered a study to the traffic engineer that shows that seventy percent of the use of the theater will come starting the evening hours of Friday night and running through Sunday afternoon. Thirty percent of that usage will be from Monday through Friday. A affect of the traffic from the theater drawing will be extremely minimal. He further believed that the combination of the retail and the theater will cause the traffic to spanned over the day as opposed to peak time traffic hours and so there should be, if not negligible, certainly minimal effect on the Green Hills parking.

Mr. Harbison told Mr. Lawson that this development, if the staff report is right, maybe should confirm this, this is a use as of right except for the theater. That is the only thing that is before the Commission.

Mr. Lawson stated that may be true but that is not to say that I can't express an opinion on the whole development and since it is before the Commission for review because of that reason, we are not excluded from any other considerations since it is here. So to tell me that the only reason it is here is because of the theater does no exclude a look at the whole operation. He said he felt what they would find is another situation that this city is going to create and impose on the people of Green Hills an unacceptable quality of



life because of the traffic problems that exist out there and because this city is not willing to do something with the infrastructure out there to reduce the problems.

Mr. Roper stated they had several options that haven't been discussed. He pointed out on a diagram, building B has a drop off point and that was placed in recommendation of the staff. One option they have because of the parking is actually tucked underneath the building, it makes it work architecturally, they could indeed have a drive down ramp and feed into the parking area instead of using the Green Hills Mall parking lot if all possible. Another option would be to better coordinate with the library in making sure they do have access to parking or perhaps have a ramp down on the right side of the building and the restaurant. He stated they certainly willing to arrange for an access point to feed back into the mall or vice-versa.

Ms. Jernigan asked what it was he was proposing to protect the library parking.

Mr. Roper said they had been asked by Councilman Kleinfelter to consider how they might enhance the library, and they have agreed they would add dollars to the area, perhaps to landscape it or if the city agrees perhaps a walk over. He felt that through landscaping and buffering they could add some protection to the library parking as well.

Mr. Browning said one point he made is that the city does own its own parking there for the library. It is to the side of the library.

Chairman Smith said the point Mr. Lawson was making is that if the library parking lot gets filled with the restaurant goers or shoppers or theater goers, then there is no space for the library parking.

Mr. Harbison stated the library is open at theater time.

Mr. Barge said there are cross parking easements on the forward portion of the Bell property for the library that will remain in place. The library patrons will have the ability to park on the forward portion of the developments space as they do now.

Mr. Owens stated Metro designed its library and turned the front door of the library towards the parking area which is not owned by Metro. Most of the library patrons today are parking on private property. The Metro library's parking lot is the lot to the side, which will remain so in essence the public has been using private property for a number of years simply by the way we designed and oriented the library. That is why you see some of the parking in front of the library being changed because it is being changed by the initiative of the property owner. The proposal is still to retain a large parking area opposite the front door of the library, more so as a courtesy than anything else. Staff would agree that there are a number of difficult logistics to be worked out. This is a complicated design and it is always complicated when you get into a very intensive urban development where you are trying to integrate a mixed use development and staff would be supportive of maintaining a little bit of design flexibility to work some of these issues out.

Chairman Smith said that it was his understanding that when the Commission sent this on to the BZA it won't come back for that approval.

Mr. Owens stated that it would be appropriate for the Commission to express their concerns, but it is suggested to not be too specific on the actual solution.

Mr. Browning said in others we were depending a lot on having cross easements between uses in the general area but maybe not be specific on the locations.

Mr. Owens said that in a mixed use activity center our primary emphasis is on ease of pedestrian access and vehicular convenience if very much of a secondary nature. This is not the type of access that you want to pay too much attention to internally. You want people to be able to walk back and forth and as was pointed out, get into this area, park once and be done with it.

Mr. Allen asked how many of these people were additional people that would be coming in that wouldn't be shopping there. It would be bring in that many more automobiles in to that area which is grossly overdone right now.

Mr. Henry said he could answer that from the traffic impact study. It recognized that fifty percent of the people coming onto this site are already in the area. Fifteen percent are on site at the Green Hills Mall or at the library. Thirty-five percent would be pass by traffic already on those roads that stop by.

Mr. Allen asked what percentage of gain will this produce as far as additional people because of the theater itself. He said that bothered him because they talk about having twenty-eight hundred seats.

Mr. Roper stated the under the current code requirement in Metro, it requires one space for four seats. That is seven hundred parking spaces that is required for the theater and they have that covered. The theater in the whole time in its historical use has every shown more than approximately seventy- nine percent use at any one time. So he knew it would be less than that seven hundred cars. There have been approximately six hundred and thirteen parking at the South Central Bell building on continuous basis over the last number of years. He didn't think that would be a dramatic impact for the hours that the theater is operating and terms of the total number of parking spaces required and in terms of what it has been in the past.

Mr. Lawson asked what the theater hours would be.

Mr. Roper said it would be from approximately lunch time through around midnight. Most of the traffic would be generated on Friday and Saturday evenings.

Mr. Lawson asked how many movies they would show between noon and six o'clock Monday through Friday.

Mr. Roper said they run approximately every two and a half hours and they are randomly shown so there is at least a fifteen minute difference between movies so you do have a balance of the traffic coming and going from that center.

Mr. Lawson said so you have what, may be three.

Mr. Roper said maybe four.

Mr. Lawson said so if you take four and you are turning your traffic potentially over four times during cycle.

Mr. Roper stated you are never reaching capacity. Anything close to capacity will come on Friday and Saturday evening hours.

Mr. Lawson said he wasn't talking about those kind of capacities. He said he was talking about business hours, the traffic that is going to occur at Hillsboro Road and Crestmoor and on the way down as people are accessing this particular complex. That intersection is already over burdened. The traffic is going to turn over four times, so how many cars does that represent from individuals that are having to come through that intersection to get to the theaters.

Mr. Roper said Monday through Friday it would probably be a hundred cars per day. He said Regal had done four theaters in this area and they had a pretty good feel for how the traffic is worked at those theaters. They are in high impact areas and have been able to work the traffic very effectively. Again, it is because of the blend.

Mr. Lawson said he would really like to see those studies.

Mr. Roper stated he didn't say they had studies, but that they have theaters operating effectively in those locations.

Mr. Allen asked what time in the afternoon would the movies start.

Mr. Roper said the movies would start around one o'clock p.m. daily but again the traffic impact starts approximately at six thirty on Friday evening and then again on Saturday evening.

Mr. Allen said so that would put it there between four thirty and five o'clock in the afternoon.

Mr. Roper said they would have a showing during that time and ask Mr. Allen if that was his question.

Mr. Allen said isn't that about the time it would be changing from one movie to another.

Councilman McWhirter said the point is, that not many people would be there. They might be some people coming to the seven o'clock show but they wouldn't be there that early.

Mr. Allen asked how he could determine that.

Councilman McWhirter said he could determine it because when he is able to get off and go during the day he is the only one there. Until schools are out and until people can get off work they just can't get there. The seven and nine showings are the movies people come to. He said he thought it was a great improvement rather than bringing back a five story office building.

Mr. Barge said he was just a civil engineer, not a traffic engineer, but you would have people that are going to go to the movies that are still driving to Nippers Corner or driving to Bellevue and cluttering up other areas. This theater is primarily for the demographic area of Green Hills. It is a very local deal and for patrons that are having to drive elsewhere in town, it would be more convenient.

Mr. Lawson stated he wouldn't argue that, that it was a good project. He just had a fundamental problem with putting this mass of a development, creating more traffic at those intersections in Nashville. He said he had not heard anything from staff or the developers that could change that.

Mr. Bodenhamer asked if anyone had any numbers, that when this building was active with South Central Bell, how many people and cars there were.

Mr. Harbison said it had been stated there were approximately six hundred thirteen.

Mr. Roper said he would like to point out the site, with its zoning, does allow up to three hundred and thirty-seven feet of development. What they have tried to do is use a mixed use development here that would lessen that burden and by doing that they have reduced the amount of footage and lessened the burden on Green Hills and the corridors leading in and out. By right the owners would have the right to do over three hundred and thirty thousand feet of development.

Mr. Ed Cooper stated he lived in Green Hills, about two miles away from the development and the problem he has when he wants to go to a movie, is that they have to drive across town and have to go through Harding Road or out to Bellevue. As a resident of Green Hills and the neighbors that have called him about it, they are excited about it because finally they don't have to get out into all the traffic to go to other parts of town to go see a movie or perhaps to go out to eat. Everyone seems to be pretty enthusiastic about the opportunity to stay in Green Hills and shop and go to the movies instead of going one place to shop and another place to the movies. It seems to be an exciting thing for the neighborhood to have some around the families can go to and just park one time and do a number of different things.

Chairman Smith asked Mr. Lawson if he wanted to hear from the traffic engineer.

Mr. Lawson said he didn't need him.

Mr. Roper said Regal Cinemas were doing projects all over the eastern seaboard, it is a Tennessee company and they look at this project as being a real landmark for their development in Tennessee. They want Green Hills not only to work economically but they want it to work for the community.

Councilman McWhirter moved that the Commission accept the staff's recommendation with the revision that they give a little leeway in negotiating the access point. He said he agreed with Mr. Harbison about the fact that he wasn't sure the Commission could require for approval that they get an unrelated third party to agree to something. The other thing is to possibly to work out some of the things Mr. Owens was talking about in terms of what the best access is. He said he thought this is exactly what is needed in a congested area, is an off peak use and to eliminate this from going back into the office role.

With motion made, Mr. Harbison seconded, which carried, with Mr. Lawson in opposition.

#### **Resolution No.**

#### **ZONE CHANGE PROPOSALS:**

##### **Zone Change Proposal No. 95Z-035G**

Map 50, Parcels 50 and 52

Map 50, Part of Parcels 49, 49.1, 51 and 53

(3rd District)

A request to change from CS, CH and R8 Districts to CG District certain property abutting the west margin of Dickerson Pike, approximately 1,600 feet north of Oakview Drive at I-65 (approximately 51 acres), requested by Jack Jenkins, for Jenkins Properties, Alice Cranford, Carolene Cothren, Pegasus Properties, and Metro Government, owners.

Ms. Dudley stated the Subarea 2 planning process is almost complete and the Citizens Advisory Committee will be recommending to the Commission that they apply industrial policy to this area. It meets the general plans criteria for industrial areas. It is a flat site, now that it has been filled in and it has good access to the interchange with Briley Parkway. The only reason this is not on the consent agenda is that staff has heard from the Director of Public Property, Joe Swing, that an adjoining parcel which is included in this request is owned by Metro and although the petitioner thought that Metro would be willing to sell it to him, Joe Swing has indicated that Metro is not ready to sell at this time. This is already a Council bill and the staff would like to suggest that whether this parcel is included in the Council bill or if it is deleted out, either way the proposal will meet policy and the staff recommends approval.

Mr. Lawson moved and Ms. Jernigan seconded the motion which was carried unanimously.

#### **Resolution No.**

##### **Zone Change Proposal No. 95Z-036U**

Map 71-10, Parcels 83, 84, 86, 87 and 88

(Subarea 3)

(5th District)

A request to change from R6 District to CS District certain property abutting the northwest corner of Weakley Avenue and Brick Church Pike (.74 acres), requested by R. C. Calligan, for IMFM, Inc., and M. H. Webb, owners.

Ms. Dudley stated this is the proposal Councilman Harrison had spoke to the Commission about earlier. The Subarea 3 Plan applies commercial arterial existing policy to this area. There was a lot of discussion

due to the proximity to the industrial zoning further south and some problems there have been in the past with encroachment, such as industrial businesses in the neighborhood. A lot of thought went into assigning policy to this area during the planning process. As a result of that, a design plan was developed. What this proposes, is that the area long Brick Church Pike back to the first street to the west, which is Bessy Avenue, is all proposed to be in commercial policy but the design plan is such that it would encourage consolidation of all the parcels so that you could control the access, limiting it to just to Brick Church Pike, so you wouldn't have commercial access effecting the west side of Bessey Street where it is expected to stay residential. Buffering is also recommended. The problem is, that it is sometimes difficult to implement these plans. Not all of the effected property owners are interested in rezoning at this time. Staff feels like it is possible to support this rezoning and that it wouldn't necessarily make implementation of the plan impossible at a later date. If the parcels that we are considering today, were developed in such a way that it made consolidation impossible later on for those along Bessy, then what we might should do is make those stay in residential zoning or if needed, apply an transitional zoning district such as OP. It could be, that the parcels along Brick Church Pike develop in such as way so that later, when those on Bessey want to join in, they can all be consolidated then. It is sort of an alternate solution that might still allow this design plan to be implemented. The other solution, of course, is to hold off all rezoning until all the property owners are ready to change the zoning. Staff recommends approval.

Mr. Browning asked Ms. Dudley if it was her opinion that the Councilman has concern that the proper consolidation of properties is occurring here at the outset, is that why he has asked for disapproval.

Ms. Dudley stated she thought that was his concern and also because he hasn't heard from the applicant and has no idea how the applicant proposes to develop the property and without that knowledge and with his interest in this design plan he is hesitant to go ahead with any rezoning.

Mr. Browning said it may be a sensitive situation as to how the residential and commercial may interface and with adequate knowledge, there is some concern about this.

Ms. Jernigan mentioned they had also talked about widening Brick Church Pike and asked what the time frame was for that.

Ms. Dudley said she wasn't sure what the time frame was on that but that he also expressed a concern that if the rezoning took place before the property were acquired it might effect the price on the property. She said that from what she understood, that it didn't work that way. The property will be valued at its potential worth and so if this doesn't go into our plans as commercial, then they will have to pay the true cost.

Councilman McWhirter said this proposal looked really strange to him and he is not used to seeing the Commission doing this sort of thing. Not only is it stripping out a side of the street that apparently has held off commercial, but it is not even taking all of them, it is leaving one person stuck between two. That is what people have tried to do for a long time his own district on Donelson Pike and areas that need to be transitioned and he has resisted with the help of the Commission, allowing that front piece to strip out on a commercial artery when the goal is to try to transition the entire area. The area in the proposal may be a terribly depressed area to the point where something has to be done but apparently a lot of people must be still living there.

Ms. Dudley stated many of the lots were vacant.

Ms. Nielson asked if it would be appropriate for the Commission to defer this proposal before it went to Council.

Mr. Browning stated it was not a Council bill and the quickest it could go to public hearing would be July.

Mr. Lawson said he thought it would be good for the staff and Councilman Harrison to get together for a discussion and come back with recommendations.

Mr. Lawson moved and Ms. Nielson seconded the motion which was carried unanimously.

**Resolution No.**

**PLANNED UNIT DEVELOPMENT OVERLAY DISTRICTS:**

**District Applications and Finals:**

**Proposal No. 95P-009G**  
Robertson Highlands Commercial PUD  
Map 128, Parcel 119  
(Subarea 6)  
(23rd District)

A request to modify the conditions of preliminary approval for a Commercial (Neighborhood) Planned Unit Development District abutting the east margin of Old Hickory Boulevard, approximately 1,847 feet south of Ridgelake Parkway extended (4.91 acres), classified R20, to permit the development of a 15,000 square foot convenience facility, requested by Barge, Waggoner, Sumner and Cannon, Inc., for Terry O'Rourke and James C. Vance, owners. (Conditional Preliminary Approval by the Planning Commission on 03/23/95).

Mr. Martin reminded the Commission that this was the PUD they heard on March 23, for a neighborhood convenience facility in Bellevue. The site is on the east side of Old Hickory Blvd. It is a fifteen thousand square foot convenience center. As reported in the staff report, there was a condition of approval at that time which was verification by Metro Water Services that the project can be serviced, the sanitary sewers in a manner which conforms to state guidelines. That condition was set as a result of some discussions between Harpeth Valley Utility District and Metro Water Services over the continued availability of sewer services.

Chairman Smith asked if the was before the Commission today to remove that condition.

Mr. Martin said that was correct.

Chairman Smith asked if there was any other information they needed to be aware of other than what was in the minutes.

Mr. Martin said no.

Mr. Lawson moved and Mr. Harbison seconded the motion which carried unanimously.

**Resolution No.**

**Request to Revise/Amend a Site Development Plan:**

**SUBDIVISIONS:**

**Preliminary Plats:**

**Subdivision No. 95S-077G**  
Neals Three Lot Subdivision  
Resubdivision of Lot Three  
Map 159, Parcel 128  
(Subarea 10)

(34th District)

A request to subdivide a lot into two lots abutting the southeast corner of Old Hickory Boulevard and High Lea Road (2.15 acres), classified within the R40 District, requested by Ernie and Jennifer Gendron, owners/developers, Ragan-Smith Associates, Inc., surveyor.

Mr. Bracey stated this item was open for public hearing. The property meets all the requirements of subdivision regulations and staff recommends approval.

Mr. Ernie Gendron stated this was a nice flat lot with water and sewer and asked the Commission to approve this proposal.

Mr. Mark Neal stated he used to live in that house and that he was not really in opposition to the proposal but wanted to ask what the dimensions of the lot that the proposal is for because he came before the Commission two years ago and asked for this subdivision and his request was denied.

Mr. Bracy discussed the dimensions with Mr. Neal and he was satisfied with the information and surrendered the floor.

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

**Resolution No.**

**Subdivision No. 95S-082G**

Chase Pointe

Map 22, Parcels 31 and 214-216

(Subarea 1)

(1st District)

A request to create 55 lots abutting the west margin of Union Hill Road, approximately 1,088 feet north of Clay Lick Road (23.39 acres), classified within the RS10 District, requested by Billy W. Spain et ux, owners, Earl Allen, developer, Ragan-Smith Associates, Inc., surveyor.

Mr. Bracey stated this proposal was also open for public hearing. The plan meets all the requirements of the regulations and staff is recommending approval.

Mr. Billy Spain, owner of the property, said they have had several meeting over the past year for the property zone change and have met with the community and the residents and have complied with the Subarea Plan as to proper zoning and asked for approval for this preliminary plan.

Ms. Jernigan moved and Ms. Nielson seconded the motion which carried unanimously and to close the public hearing.

**Resolution No.**

**MANDATORY REFERRALS:**

**Proposal No. 95M-042U**

Awning at 425 Broadway

Map 93-6-3, Parcel 106

(Subarea 9)

(19th District)

A mandatory referral from the Department of Public Works proposing the erection of an 8'5" by 9'9" awning over the sidewalk in front of 425 Broadway, requested by David B. Lyons, attorney for Grey Wolf Productions, LLC, owner.

Ms. Dudley stated this was a resolution which was in Council which would authorize the construction of a six foot by fourteen foot awning over the side walk for Wolfy's Restaurant. The awning has already been constructed and it was erected without the benefit of all the necessary permits and it also is in violation with several sections of the Metro Code. Public Works has gone ahead and offered a conditional approval of the awning subject to obtaining the necessary variances to the code from the Board of Building Code Appeals. The violations are the poles are erected right of the right-of-way and it extends too far over the sidewalk. In addition to that, they have also erected these poles over an easement for NES where they have some underground electrical equipment. The petitioner has worked out an agreement with NES which would allow NES to get to their easement whenever they need to for repairs. The agreement would hold NES harmless from any damage they may do to the awning. Staff recommends also that this could be approvable subject to the petitioner obtaining the necessary variances from the Building Code Board of Appeals.

Mr. Lawson said this reminded him of some of the other errors the Commission sees occasionally from other parts of the government where they have allowed for thing to be built and then they come to the Commission for approval after the fact. He said he had a problem with that.

Mr. Bodenhamer stated that the petitioner did this on his own.

Chairman Smith said he also had a problem with it and the first person that walks into it and breaks his arm or his nose are going to want to know why the Commission approved it and the next person down the street will want to know why he has to go get a permit on the front end and why he just can't go build what he wants to.

Mr. Allen said that was his opinion also.

Chairman Smith said that he felt that when you get caught and when you don't check things out first you have to correct it.

Mr. Allen moved and Ms. Jernigan seconded the motion.

Councilman McWhirter said he was told that there were other situations like that, such as Mere Bull's for example. He said he was not real sure that the Commission is being real consistent. There seems to be a lot of strange things going on around this petition. There have been complaints of strange selective police enforcement and just a lot of weird thing going around. He said he didn't know what kind of options the Commission has but that they may not know everything that is going on. His understanding was, is that this person had talked to some people with the city, even MDHA before this was done and that he was really confused about it.

Mr. Bodenhamer said he thought the Commission had corrected mistakes that were far greater than this one and that they would really be setting a precedence if they disapproved or don't allow him to comply with whatever he needs to comply with on the awning as well as on the post.

Mr. Lawson said that some of the issues that had been raised in the past where our inspectors have missed some things and that is a big difference because if the Commission doesn't approve it the homeowner or builder who has an asset he can't sell. That is a tremendously big difference because someone is really going to suffer. In this situation, there is someone who has not acted in earnest and gone on and done something and if he takes the sign down he is not suffering, he will have to rebuild it.

Chairman Smith said he was a little concerned about the safety of the position of the poles.



Mr. Harbison said he didn't think staff was saying the Commission is going to say it is a nonconformity and that if the Commission allows this to be done we would be saying to do it right. We wouldn't be saying just to do anything you wanted to, we will be saying to do it right.

Chairman Smith said he thought staff was saying it could stay as it is.

Ms. Dudley said that was correct, if they are able to get the permits.

Mr. Owens reminded the Commission they were sending a recommendation to the Council and this would not be the final decision.

Mr. Browning stated the order that Mandatory Referral comes to the Commission and goes to the Council is that the Commission is advising on the appropriateness of Metro granting the license for permission to encroach into the public right-of-way.

Mr. Harbison asked if the Commission voted no, would that be saying the Commission doesn't think it is wise to have this in a public right-of-way.

Mr. Lawson said that if there is a legitimate reason to encroach or to be contrary to some established policy it would be different, but then they come to the Commission and say here is the reason for it, does it make since to you and if it does, give me permission to do it. That is one issue but the other issue is to go ahead and do it and say I'll come back and give my apologies later.

Mr. Harbison said he understood what Mr. Lawson was saying but that Mr. Bodenhamer's point was a good one about the Commission being flexible when they need to be.

Ms. Jernigan said she thought the Commission should always be flexible but when it is a cost that is fairly minor its different. Its whether the Commission is setting a precedent that they are going to have to say an encroachment is fine anytime it comes along. Actually the issue is to whether they are just going to overlook all of them.

Mr. Bodenhamer said he felt whoever this is doesn't deserve the punishment and the Commission shouldn't make this recommendation to disapprove to Council because there so many others and there is no right way to do wrong. He said that whatever level it is when someone else has done something wrong and the Commission has approved it or gone along with it or given them some relief.

Mr. Harbison said the staff report recommends approval and asked why approval had been recommended. He seemed like to him that somebody is saying it is not such a bad thing.

Mr. Browning stated that staff had heard how they had built this without permits, did basically everything wrong that could be wrong and now they have gone back and tried to request forgiveness at every turn that they could. It is a situation where the staff threw up their hands and said the real ill was that they went and did before they asked permission in the first place. It is very much like the subdivisions, they are going and doing the evil deed and then coming in and asking for forgiveness. He said he did not disagree with the Commission taking position that you simply cannot go and do and then ask for permission.

Chairman Smith said there was a motion and a second to disapprove which carried with Councilman McWhirter abstaining and \*\*\*\*\*?

**Resolution No.**

**OTHER BUSINESS:**

1. Policy for Funding Phased Off-site Improvements. (Deferred from meetings of 03/09/95, 03/23/95 and 04/06/95).

Mr. Browning stated he and Mr. Owens had a meeting with the building community regarding funding of off site improvements. Mr. Bob Allen, representing Phillips Builders, Paul Johnson, who does his own subdividing and construction, Mike Anderson and Harold Delk who are engineers that do a lot of engineering work for the large developers and Tom White, attorney for the home builders were present. It was not a revelation to these people that the Planning Commission is requiring private contributions. They were interested in the new procedure which is to begin requiring that contribution at the outset of development particularly for those improvements that are not going to actually be installed initially but will come forth later sometime during the middle portion of the development. That is going to pertain to traffic related improvements for the most part. It is those improvements that will not become warranted until traffic is built up to a certain level. When you contrast that with extending a water and sewer line, and often a developer does have to extend the utilities to his site, he is going to have to have them there for the first dwelling unit built and so those will almost always be front ended. The bottom line is that they have asked that there be some additional time for consideration of this policy and staff agrees with that although we are not enforcing that and the Commission is aware of that but at least you are postponing the actual implementation of that policy.

There was consensus reached that under whatever policy we operate there has to be some understanding of the limits that are established regarding how far out one goes in identifying improvements that have to be made with a project. There have been instances when we have identified intersections as far away as two miles where it has been stated after a review of a plan that we believe you are going to increase traffic out at this intersection and so therefore there ought to be an improvement at that intersection and you ought to contribute some percentage. The developers have taken the position that, as long as we continue that practice, it is going to be difficult if not impossible to forecast, even with the traffic study, what the realm may be in which they have to consider improvements. If that is still remains in doubt, they do not know they may be subject to in trying to work up their financial performance.

The second point they agreed on was that if we could establish a realm somehow, there was agreement that it is appropriate to establish a fair per unit cost at the very out set of the development. That will usually be done on a per lot or per dwelling unit or per square foot basis. This will enable the developer to establish the performa. An example would be, if you have a five hundred lot subdivision and a fifty thousand dollar traffic signal, then you know the assessment would be one hundred dollars per lot. There was not agreement on exactly how you do that calculation because if I change that and say you have a five hundred lot subdivision but the traffic signal will be warranted after two hundred and fifty of those lots are constructed then that full cost, from staffs perspective, should be build in the first two hundred and fifty lots at two hundred dollars per lot. The reason for that is, that if that is when it is warranted thetas when it has to be installed and the money has to be available.

Finally, there was consensus there should be some flexibility incorporated into any system to take into account, known circumstances and to some extent, perhaps the reputations of individuals and firms involved. There was not consensus on the means of exercising this flexibility nor was the consensus on the amount of flexibility. The staff believes the Planning Commission has greater discretion than we do but we believe that even the Planning Commission has relatively restricted discretion in treating developments differently. The developers want to minimize the contributions on the front end because that is at the point where they have greater other front end costs so they would like to scoot the costs into later subsequent phases. Staff points out that this will work with not much problem on those developments like the Phillips Builders and Paul Johnson because they if they break their developments into phases they still remain under the same ownership so whether they pay on the front end of phase one or two or pay in phase five or six, they are the ones that ultimately paying. Quantitatively, we have probably had more developments that break up into fragmented ownership and if you begin to get a big disparity in how much is paid per section in order to lighten the load in the front end, you are getting back into the same game that some developers are going to get away with paying nothing and others are going to get a heavier load. Mr. Johnson doesn't even agree with the philosophy here. He feels like this should be Metro's concern. That the developers

ought to work all this out. We disagree with that point of view because it is we who have to tell them if they are having to pay through a small phase, or are having to pay an inordinate portion of an improvement. He said he thought others felt that we have got to maintain a more equitable approach and that the developers agree the point of developing a per unit cost. We concluded that the staff would report to the Commission and would suggest that further dialogue should occur on at least the following points. One, should the per unit contribution be based upon the size of the total development or upon the portion of the development that will meet the warrant requiring stipulation of the improvement. Two, to what extent will the Planning Commission provide flexibility to a developer in varying improvement contributions among different phases. Three to what extent will MPC provide flexibility in the method and timing of contributions depending upon who the developer is proven record or typically a large builder.

He stated they did agree if they are using the assignment of the certificates of deposit or bonds, then you are not actually putting up the cash on the front end. There was general consensus in the meeting that use of any of those two greatly lightens the load and ought to be a major part of reaching consensus on this question.

Mr. Browning stated they were going to meet again and will return to the Commission in two weeks with further information.

2. Presentation by IDE Associates, Inc. on progress on the Southeast Arterial Corridor Study.

Mr. Joe Chester of IDE Associates briefed the commission on the status of the Southeast Arterial alignment project. He summarized the three interchange locations under consideration along I-24, the two intersection locations along Nolensville Pike and the various alignments connecting the two and three locations. Mr. Chester pointed out that this arterial has the potential to serve both a regional and local arterial function. If an alignment can be developed that connects Concorde Road with Hobson Pike a new circumferential can be created in the southeast part of the county. Finally he summarized the comments made at the public meeting held on Monday, April 17. Most of the community seemed to support an interchange at Old Hickory/Hobson or the new location and an alignment that intersected Concorde Road at Nolensville.

3. Review of Housing Plan (presented at 04/06/95 meeting).

Mr. Browning reminded the Commission that the Housing Functional Plan was presented to them at the last meeting and copies of the document were distributed for review. Staff would like any comments on the document from the Commission.

Mr. Lawson stated that he had several concerns with the plan in its current draft. He thought the historical analysis and background material was excellent and well done, but he felt the plan did not set a future housing agenda forcefully enough for this city. This was not really a plan for action but a report. In particular the plan should: have an Executive summary composed of brief statements that are action oriented, not just suggestive; emphasize the need for public down payment assistance for lower income households; suggest ways to spread out affordable housing opportunities throughout the county rather than allowing them to continue to be targeted into continually into certain neighborhoods; emphasize the linkage between affordable housing opportunities and economic development; and finally reconcile the forecast needs for affordable housing in the plan with those numbers produced for Nashville's Agenda.

Ms. Jernigan indicated that she had some concerns about the statements relating to the life expectancy of the Baby Boom generation. They will live longer than expected.

Staff was directed to make corrections to the document and represent it to the Commission.

4. Approval of MPO consultant contracts for transportation studies.

Mr. Palm presented four contracts for Planning Commission approval on behalf of the Nashville Metropolitan Planning Organization. The MPO approved all contracts as recommended by the selection committees at their April 19, 1995 meeting.

1. A contract with Gresham, Smith and Partners in the amount of \$284,435.00 for the Regional Incident Management Study.
2. A contract with Neel-Schaffer and Associates in the amount of \$36,644.00 for Regional Transportation Data Collection.
3. A contract with Neel-Schaffer and Associates in the amount of \$52,264.00 for the Jefferson Street Corridor Study and Williamson County I-840 Interchange Impact Analysis.
4. A contract with Huddleston-Steele Engineering in the amount of \$76,813.00 for Thoroughfare Plan Updates (City of Hendersonville, City of Murfreesboro and Rutherford County).

The Metro legal department has reviewed the contracts and approved them for signature.

5. Presentation and adoption of FY 1995-2000 Capital Improvements Budget and Program recommendations.

Mr. Palm gave a brief presentation on the draft 1995-2000 Capital Improvements Budget and Program (CIBP). The staff has been working on the CIBP with the Commission's Capital Improvements Subcommittee over the last 6 weeks. The subcommittee recommends a \$1.2 billion program to the Commission with \$187.5 million in non-education GSD General Obligation bond funding and \$22.9 million in USD General Obligation Bond funding. The recommended program will require an additional two cents in the debt service fund to implement.

The program this year emphasizes 5 major areas; Downtown Redevelopment; Education; Public Safety; Sewer Overflow Abatement and Transportation. The Downtown Redevelopment emphasis consists of several arena related projects, added funding for the Capital Mall Redevelopment Area and funding for the Metro Office Building Campus around the Courthouse. The Education program contains all the projects approved by the Board of Education (2 new elementary schools, improvements to 17 other elementary schools and 4 middle schools). Mr. Palm pointed out that the Board of Education has the authority under the Metro Charter to call for a referendum to provide the funding for these projects. Public Safety is a major emphasis area in this year's program. The program recommended by the subcommittee includes funding for a new police substation plan, countywide fire protection to the USD standard, radio communications upgrade and added jail space. The program contains all the projects necessary to construct the sewer overflow abatement program required by the state. Finally the program recommends funding for the Franklin Street Corridor project downtown, reconstruction of the Una-Antioch/Mt. View/Blue Hole Road intersection, several transit projects, and funding for several major intersection improvements. Mr. Palm concluded his remarks by stating that this CIBP has considerably fewer G.O. Bond projects than previous programs due to the high cost of the arena and public safety projects.

Mr. Smith recommended moving the Nashville-Cheatham County railroad project to the first year in the program.

Mr. Lawson moved and Mr. Bodenhamer seconded which carried unanimously to recommend the draft program to the Mayor with the Railroad project moved to the first year of the program.

**Resolution No.**

6. Employee Contract - Gerald Yuknavage.

Mr. Lawson moved and Mr. Bodenhamer seconded the motion which carried unanimously.

**Resolution No.**

7. Legislative Update.

**PLATS PROCESSED ADMINISTRATIVELY**

April 6 through April 19, 1995

92S-253U	RANDELL HOUSE SUBDIVISION REVISION A plat to resubdivide two lots into two lots.
95S-059U	FLORENCE HEREFORD SUBDIVISION A plat to divide one parcel into two lots.
95S-101U	FIFTY FOURTH AVENUE SUBDIVISION A plat to subdivide one lot into two lots.
95S-103G	R.L. TALLEY, LOTS 1 & 2 A plat to create two lots.
95S-104G	R.L. TALLEY, LOT 5 A plat to create one lot.
95S-109G	RIVERSIDE, LOTS 151 & 152 A plat to relocate the common line between two lots
95S-111G	1701 BAKERS GROVE ROAD A plat to create one lot.

**ADJOURNMENT:**

There being no further business, upon motion made, seconded and passed, the meeting adjourned at 4:50 p.m.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

Minute approval:  
This 4th day of May, 1995

"BE IT RESOLVED that the Metropolitan Planning Commission offers the following recommendation for Appeal Case No. 95B-054U to the Board of Zoning Appeals.

The site plan complies with the conditional use criteria."

"BE IT RESOLVED that the Metropolitan Planning Commission offers the following recommendation for Appeal Case No. 95B-055U to the Board of Zoning Appeals.

The Planning Commission advises the Board of Zoning Appeals to limit the tower height in accordance with Federal Aviation Administration (FAA) standards and to insure that landscape screening is provided along the southeast perimeter of the paved service area to supplement the existing discontinuous landscaping. With these conditions, the site plan is satisfactory."

"BE IT RESOLVED that the Metropolitan Planning Commission offers the following recommendation for Appeal Case No. 95B-056U to the Board of Zoning Appeals.

The Planning Commission advises the Board of Zoning Appeals that the proposed theater is a compatible land use component in the Green Hills Regional Activity Center (Subarea 10 Plan), the off-street parking area is more than adequate, and the traffic generated by this project will be safely accommodated along major streets.

The Metro Traffic Engineer has approved the applicant's traffic impact study. However, two traffic circulation issues involving this property and the adjoining 'Mall at Green Hills' property need to be addressed more definitively to minimize circuitous traffic movements: direct vehicular access should be provided between these two complementary land uses to maximize internal traffic flow; and, at the Cleghorn Avenue entrance a joint access ramp and common driveway should be provided to replace the two side-by-side ramps and independent driveways."



"BE IT RESOLVED that the Metropolitan Planning Commission offers the following recommendation for Appeal Case No. 95B-057G to the Board of Zoning Appeals.

The site plan complies with the conditional use criteria."

"BE IT RESOLVED that the Metropolitan Planning Commission offers the following recommendation for Appeal Case No. 95B-058U to the Board of Zoning Appeals:

The site plan complies with the conditional use criteria."

"BE IT RESOLVED that the Metropolitan Planning Commission offers the following recommendation for Appeal Case No. 95B-063U to the Board of Zoning Appeals.

The site plan complies with the conditional use criteria."

"BE IT RESOLVED by the Metropolitan Planning Commission that the following Zone Change Proposal No. 95Z-035G is APPROVED.

This site is in Subarea 2, where the planning process is nearing completion. The Citizen's Advisory Committee will be recommending that the Commission apply industrial policy to this area, largely because of its ease of access to the proposed Briley Parkway. The General Plan emphasizes that good accessibility is essential for industrial areas due to the high volumes of overall traffic generated by industrial uses. Additionally, the topography of this site is such that it will support large footprint uses while also shielding itself from the residential areas to the west.

Parcel 53 belongs to the Metropolitan Government and the director of public property has requested that this not be included in the rezoning. The Commission took note of that request and approved this proposal with or without parcel 53 included."

The Commission DEFERRED a recommendation on Zone Change Proposal No. 95Z-036U.

This proposal case was deferred, so that staff and the district councilmember can study this proposal further.

"BE IT RESOLVED by the Metropolitan Planning Commission that the following Zone Change Proposal No. 95Z-037U is APPROVED.

This site is in Subarea 3 and is designated with 'commercial arterial existing' policy. The requested CS district will implement this policy classification. The depth of commercial zoning proposed equals that of the commercial PUD zoning on the east side of Clarksville Pike. The Commission envisions commercial uses developing in a nodal fashion around the intersection of Clarksville Pike and Kings Lane, as encouraged by the General Plan."

"BE IT RESOLVED by the Metropolitan Planning Commission that it DISAPPROVES Proposal No. 95M-042U.

The Commission expressed concern that this awning was constructed before acquiring the necessary building permits, and was constructed in violating of several sections of the building code."

"BE IT RESOLVED by the Metropolitan Planning Commission that it APPROVES  
Proposal No. 95M-043U.



"BE IT RESOLVED by the Metropolitan Planning Commission that it APPROVES  
Proposal No. 95M-044U.

"BE IT RESOLVED that the Metropolitan Planning Commission offers the following recommendation for Appeal Case No. 95B-042U to the Board of Zoning Appeals.

The site plan complies with the conditional use criteria; however, the Board is advised to consider the personal safety of the residents given the close proximity of Shelby Avenue traffic."