

MINUTES
OF THE
METROPOLITAN PLANNING COMMISSION

Date: March 7, 1996
Time: 1:00 p.m.
Place: Looby Center Theater

Roll Call

Present:

Arnett Bodenhamer
Councilmember Stewart Clifton
William Harbison
Janet Jernigan
James Lawson, Vice-Chairman
William Manier
Ann Nielson
Stephen Smith

Absent:

Mayor Philip Bredesen
Gilbert N. Smith, Chairman

Also Present:

Jeff Browning, Executive Director and Secretary
Carolyn Perry, Secretary II

Current Planning & Design Division:

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

Advance Planning and Research Division:

Deborah Fleming, Planner III

Community Plans Division:

Jerry Fawcett, Planning Division Manager
Robert Eadler, Planner II

Vice Chairman Lawson presided and called the meeting to order.

ADOPTION OF AGENDA

Ms. Nielson moved and Mr. Manier seconded the motion, which unanimously passed, to adopt the agenda.

ANNOUNCEMENT OF DEFERRED ITEMS

Mr. Owens announced item 175-75G, The Pointe, had been requested for a second deferral by the applicant. This is a matter which involves construction which has occurred in a residential PUD in the manner that is in violation of specific conditions of approval. These conditions have to do with methods of drainage, and as a result of the construction, the applicant has been sighted by the Codes Department as being in violation of the PUD requirements. The applicant has approached the Commission to change the conditions of approval. This is the second meeting the applicant has asked for deferral. Staff is ready to present this case and the Department of Public Works and Codes Administration representatives are present in the event the Commission would like to hear this case today. Enforcement against this violation has been suspended by Codes Administration pending the consideration of this appeal by the Commission.

Mr. Browning suggested the Commission could hear the presentation by staff and then decide whether or not to act on or defer the matter.

Mr. Bodenhamer stated that when this was approved in 1987 this drainage condition was for the assurance to the downhill neighbors that there would be no run off. He stated the Commission should not punish them for something the developer and realtor already knew, and it should be acted on today.

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

- | | |
|----------|--|
| 31-86-P | Whitworth, Phase 3, deferred two weeks, by applicant. |
| 83-86-P | National Self Storage, deferred two weeks, by applicant. |
| 90P-020G | Heron Walk, deferred two weeks, by applicant. |
| 94P-008U | Keystone Farms, deferred two weeks, by applicant. |
| 95P-036G | Santa Rosa Apartments, deferred two weeks, by applicant. |
| 96S-057G | Christian Subdivision, deferred two weeks, by applicant. |
| 88P-067G | Brandywine Pointe, Phase 11, Section 1, deferred two weeks, by Water Services. |

Ms. Nielson moved and Ms. Jernigan seconded the motion, which unanimously passed, to defer the items listed above with the exception of 175-75G.

APPROVAL OF MINUTES

Ms. Jernigan moved and Mr. Harbison seconded the motion, which unanimously passed, to approve the minutes of the regular meeting of February 22, 1996.

RECOGNITION OF COUNCILMEMBERS

Councilmember Tim Garrett requested that the Commission rehear Subdivision 96S-039G. He stated the petitioner, Mr. Kimbrough, had been told by staff that the subdivision was in order and could be approved.

Mr. Kimbrough later was informed the subdivision required variances, and likely would not be approved by the Planning Commission. Mr. Garrett stated the rehearing would provide Mr. Kimbrough the opportunity to address these issues with the Commission.

Councilmember Bruce Stanley asked the Commission to reconsider area three of the Subarea 14 Plan. Mr. Stanley stated the neighbors in the area preferred low-medium residential density, and this density would be more compatible with imposing conservation zoning within the area.

ADOPTION OF CONSENT AGENDA

Ms. Nielson moved and Mr. Bodenhamer seconded the motion, which carried unanimously, to approve the following items on the consent agenda (item 117-85-P was removed):

APPEAL CASES:

Appeal Case No. 96B-024U
Map 133-11, Parcel 67
Subarea 12
District 26

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 224 square foot addition to the rear of an existing residence within the R10 District, on property abutting the north margin of Paragon Mills Road, approximately 200 feet west of Dewain Drive (.27 acres), requested by Joseph W. Edwards, appellant/owner.

Resolution No. 96-140

"BE IT RESOLVED that the Metropolitan Planning Commission offers the following recommendation for Appeal Case No. 96B-024U to the Board of Zoning Appeals:

The site plan complies with the conditional use criteria."

ZONE CHANGE PROPOSALS:

Zone Change Proposal No. 96Z-024G
Map 164, Part of Parcel 34
Subarea 13
District 29

A request to change from AR2a District to CS District certain property abutting the west margin of Murfreesboro Pike and the east margin of Mt. View Circle (approximately 2.5 acres), requested by Darrell Read, for Albert W. Saddler, owner.

Resolution No. 96-141

"BE IT RESOLVED by the Metropolitan Planning Commission that Zone Change Proposal No. 96Z-024G is **APPROVED**:

This property falls within nonresidential policy in the Subarea 13 Plan. The CS District will implement this policy."

PLANNED UNIT DEVELOPMENT OVERLAY DISTRICTS:

Proposal No. 94-71-G

Bellevue Mall
Map 128, Parcel 148
Subarea 6
District 23

A request to amend the existing Commercial (General) Planned Unit Development District abutting the north margin of the Memphis-Bristol Highway and the west margin of Sawyer Brown Road (102.60 acres), to permit the development of a 200,000 square foot medical office building, requested by Hart-Freeland-Roberts, for Baptist Hospital, owner.

Resolution No. 96-142

"BE IT RESOLVED by the Metropolitan Planning Commission that Proposal No. 94-71-G is given **CONDITIONAL PRELIMINARY APPROVAL AS AN AMENDMENT REQUIRING COUNCIL CONCURRENCE**. The following conditions apply:

1. Receipt of written confirmation of approval from the Stormwater Management and Traffic Engineering sections of the Department of Public Works.
2. Approval by the Metropolitan Council."

Proposal No. 84-85-P

Covenant Baptist Church
Map 140, Part of Parcels 26 and 29
Subarea 6
District 35

A request for final approval for a phase of the Residential Planned Unit Development District abutting the south margin of McCrory Road, east of I-40 (17.0 acres), to permit the development of a 4,653 square foot church facility, requested by Joseph Petrosky, for Covenant Baptist Church, owner. **(Also requesting final plat approval).**

Resolution No. 96-143

“BE IT RESOLVED by the Metropolitan Planning Commission that Proposal No. 84-85-P is given **CONDITIONAL PUD APPROVAL FOR A PHASE; FINAL PLAT APPROVAL:** The following conditions apply:

1. Receipt of written confirmation of approval from the Stormwater Management and Traffic Engineering sections of the Department of Public Works.
2. Compliance with the conditions of approval of septic disposal as set out in the letter of approval from the Metropolitan Department of Public Health, dated February 2, 1996.
3. Compliance with the review comments from the Metropolitan Department of Codes Administration in their memorandum dated February 14, 1996.
4. Recording of a final plat of subdivision which creates the parcel and the posting of any bonds which may be required for necessary public improvements.”

Proposal No. 75-87-P
River Glen
Map 52, Part of Parcel 2
Subarea 14
District 15

A request for final approval for a phase of the Residential Planned Unit Development District abutting the western terminus of Benay Road, 150 feet west of Alandee Road (4.2 acres), to permit the development of 23 detached condominium units, requested by Barge, Waggoner, Sumner and Cannon, for Julius Doochin, owner.

Resolution No. 96-144

“BE IT RESOLVED by the Metropolitan Planning Commission that Proposal No. 75-87-P is given **CONDITIONAL FINAL APPROVAL FOR A PHASE.** The following conditions apply:

1. Written confirmation of final approval from the Stormwater Management and the Traffic Engineering Sections of the Metropolitan Department of Public Works.
2. The recording of a final subdivision plat upon the posting of a bond for all road improvements as required by the Metropolitan Department of Public Works and all water and sewer line extensions as required by the Metropolitan Department of Water Services.”

Proposal No. 90-86-P
Cheswicke
Map 108, Parcel 206 and Part of 234
Subarea 14
District 13

A request to revise a portion of the approved preliminary site development plan of the Residential Planned Unit Development District abutting the south margin of Elm Hill Pike, 1,000 feet east of I-40 (10.0 acres), to permit the development of 31 single-family lots, requested by Warren Engineering, for Braswell, owner.

Resolution No. 96-145

“BE IT RESOLVED by the Metropolitan Planning Commission that Proposal No. 90-86-P is given **CONDITIONAL APPROVAL OF REVISION TO THE PRELIMINARY PLAN**. The following conditions apply:

1. Written confirmation of preliminary approval from the Stormwater Management and the Traffic Engineering Sections of the Metropolitan Department of Public Works.
2. With any subsequent final approval request, the recording of a subdivision plat upon the posting of all performance bonds as may be required.”

Proposal No. 88P-026G
South Harpeth Chase
Map 154, Parcel 12
Subarea 6
District 35

A request to permit the construction of a 4,000 square foot farm equipment storage shed to be used until development of the existing Residential Planned Unit Development District located on the northeast margin of South Harpeth Road, requested by William H. Freeman, for South Harpeth Farms, L.L.C, owner.

Resolution No. 96-146

“BE IT RESOLVED by the Metropolitan Planning Commission that Proposal No. 88P-026G is given **CONDITIONAL FINAL APPROVAL**. The following condition applies:

The driveway is temporary and is not to become a permanent entrance roadway for the PUD.”

Proposal No. 95P-029G
Shurgard Storage
Map 26, Parcel 57
Subarea 4
District 10

A request for final approval for the Commercial (General) Planned Unit Development District abutting the north margin of Gallatin Pike, approximately 800 feet west of Cumberland Hills Drive (4.65 acres), to permit the development of an 83,125 square foot self-service storage facility, requested by Barge, Cauthen and Associates, for Ed Freeman, owner. **(Also requesting final plat approval).**

Resolution No. 96-147

“BE IT RESOLVED by the Metropolitan Planning Commission that Proposal No. 95P-029G is given **CONDITIONAL FINAL PUD APPROVAL; APPROVAL OF FINAL PLAT SUBJECT TO A BOND IN THE AMOUNT OF \$53,200.00**. The following conditions apply:

1. Receipt of written confirmation of approval from the Stormwater Management and Traffic Engineering sections of Public Works.
2. Receipt of modified plans showing the proposed route of the future sanitary sewer main and the associated easement.
3. Conformance with the conditions of approval of the Metropolitan Department of Public Health with regard to the Intermittent Sand Filter and Irrigation system for wastewater disposal.
4. Approval of final plans for water main extension and the posting of bonds required for this public facility prior to recording of the final plat of subdivision.”

SUBDIVISIONS:

Final Plats:

Subdivision No. 95S-214G
 Fitz Subdivision, Resubdivision of Lot 2
 Map 43-15, Parcel 180
 Subarea 4
 District 10

A request to subdivide one lot into two lots abutting the north margin of Manzano Road, approximately 198 feet east of Larkin Springs Road (.47 acres), classified within the R8 District, requested by Dean E. Flint, owner/developer, Land Surveying, Inc., surveyor.

Resolution No. 96-148

“**BE IT RESOLVED** by the Metropolitan Planning Commission that the final Subdivision No. 95S-214G is granted **CONDITIONAL APPROVAL** subject to posting a performance bond in the amount of \$8,800.00.”

Subdivision No. 96S-028U
 Demoss Subdivision
 Map 103-2, Parcels 83-86
 Subarea 7
 District 24

A request to subdivide four lots into four lots abutting the southwest corner of Demoss Road and Maudina Avenue (3.62 acres), classified within the R6 District, requested by B and G Construction, owner/developer, Kevin L. Birdwell, surveyor.

Resolution No. 96-149

“BE IT RESOLVED by the Metropolitan Planning Commission that the final Subdivision No. 96S-028U is **APPROVED.**”

Request for Bond Release:

Subdivision No. 154-73-G
Camden Woods, Phase Three-A
Phillips Builders, Inc., principal

Located abutting the west margin of Tulip Grove Road, approximately 150 feet south of Strombury Drive.

Resolution No. 96-150

"BE IT RESOLVED by the Metropolitan Planning Commission that it hereby APPROVES the request for release of a performance bond for Subdivision No. 154-73-G, Bond No. 93BD-028, Camden Woods, Phase Three-A, in the amount of \$26,000.00, as requested."

Subdivision No. 105-86-P
Farmingham Woods, Phase Four
Phillips Builders, Inc., principal

Located abutting both margins of Farmingham Woods Drive and both margins of Knollcrest Court.

Resolution No. 96-151

"BE IT RESOLVED by the Metropolitan Planning Commission that it hereby APPROVES the request for release of a performance bond for Subdivision No. 105-86-P, Bond No. 93BD-029, Farmingham Woods, Phase Four, in the amount of \$5,000.00, as requested."

MANDATORY REFERRALS:

Proposal No. 96M-008G
Council Bill No. O96-197
Briley Parkway Surplus Property
Subarea 14
District 15

An ordinance authorizing the sale of a remnant tract at the intersection of Two Rivers Parkway and Briley Parkway. **(Easements are to be retained).**

Resolution No. 96-152

"BE IT RESOLVED by the Metropolitan Planning Commission that it **APPROVES** Proposal No. 96M-008G.

Proposal No. 96M-012U
Council Bill No. 096-196
Powell Avenue Surplus Property
Map 118-15, Parcel 14
Subarea 11
District 33

An ordinance authorizing the reversion of the property occupied by the former Powell Avenue Water Pumping Station to adjacent property owners.

Resolution No. 96-153

"BE IT RESOLVED by the Metropolitan Planning Commission that it **APPROVES** Proposal No. 96M-012U.

Proposal No. 96M-013G
Acquisition of Beaman Park
Map 38, Parcels 3, 4, 18 and 27
Map 47, Parcel 4
Subarea 1
District 1

A proposal authorizing the acquisition of approximately 1,500 acres of land in the Joelton area for use as a park/greenway.

Resolution No. 96-154

"BE IT RESOLVED by the Metropolitan Planning Commission that it **APPROVES** Proposal No. 96M-013G.

OTHER BUSINESS:

2. **Capital Budget Amendment:**

A request to amend the 1995-96 Capital Improvements Budget to add a project:

Resolution No. 96-155

"BE IT RESOLVED by the Metropolitan Planning Commission that it **APPROVES** the amendment addition to the 1995-96 Capital Improvements Budget and Program as follows:

I. D. No. 85BE001
School Bus Replacement Project

From:		
\$810,000	Miscellaneous Funds	FY 1995-1996

To: \$1,925,000 Proposed General Obligation Bonds FY 1995-1996

This concluded the items on the consent agenda.

**CONSIDERATION OF THE SUBAREA 14 PLAN: 1995 UPDATE.
(Deferred from meetings of 01/25/96 and 02/22/96).**

Mr. Robert Eadler reported all of the changes the Commission had requested had been included in the final draft of the Subarea 14 Plan and recapped the decisions the Commission had made, concentrating on the multi-media area.

Mr. Browning reminded the Commission all of the points that were open to question had been considered by the Commission and positions were established. Councilmember Stanley had questioned the Commission's position on one of the areas of contention. What is before the Commission is adoption of the subarea plan in full based upon the positions taken by the Commission previously, or as further amended by the Commission.

Mr. Eadler stated that the conservation zoning in Mr. Stanley's district could be done whether policy is residential low-medium policy or residential medium policy, but neither would support office uses.

Councilmember Stanley stated by applying a conservation overlay it would protect the homes themselves and would not allow commercial development.

Vice Chairman Lawson stated a conservation overlay was something that could be determined appropriately at a later date.

Mr. Harbison stated he was under the impression that the Commission almost approved this plan at the last meeting and were just waiting to be sure the language that came back was in fact reflective of what the Commission had decided.

Mr. Harbison moved and Ms. Jernigan seconded the motion to approve the following resolution:

Resolution No. 96-156

“WHEREAS, the Metropolitan Planning Commission directed staff to conduct open workshop style meetings to provide the community the opportunity to work with the Commission's staff on the review and updating of the *Subarea 14 Plan* that was adopted on January 18, 1990; and,

WHEREAS, eleven meetings were held between June 22, 1995 and February 13, 1996 at which community members working in conjunction with the staff of the Metropolitan Planning Commission, did in accordance with county-wide General Plan guidelines, review and update the *Subarea 14 Plan*; and,

WHEREAS, additional efforts were made to obtain public input into the development of this updated plan, including a public meeting on November 16, 1995 as well as a public hearing before the Metropolitan Planning Commission on December 14, 1995; and,

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

NOW, THEREFORE, BE IT RESOLVED that the Metropolitan Planning Commission hereby **ADOPTS** the portion of the *Subarea 14 Plan: 1995 Update* (Subarea Plan), that is applicable within the jurisdiction of the Metropolitan Government (the City of Lakewood excluded), in accordance with sections 11.504 (e), (j), and 18.02 of the charter of the Metropolitan Planning Commission of Nashville and Davidson County as the basis for the Commission's development decisions in that area of the county. The *Subarea 14 Plan: 1995 Update* is also adopted as part of the General Plan.

All voted in favor of the resolution. Mr. Harbison noted that he had been recorded as abstaining on the Commission's position on area 1.

ZONE CHANGE PROPOSALS:

Zone Change Proposal No. 96Z-025U
Map 58-16, Parcels 47 to 49
Map 69-4, Parcels 30, 31, 32, 33 and 36
Subarea 3
District 2

A request to change from R15 District to CS District certain property abutting the west margin of Clarksville Pike, approximately 100 feet north of Fairview Drive (approximately 4.5 acres), requested by Charles E. Kimbrough, for various owners.

Mr. John Reid stated these properties fall within commercial arterial existing policy. The expansion of CS zoning along this edge of Clarksville Pike would not implement that policy and therefore staff is recommending disapproval. Commercial arterial existing policy is a mixed use type of policy which calls for offices, apartments and retail at appropriate locations. There is an abundance of CS zoning across the street. This type of linear commercial pattern is not what is envisioned in the subarea plan for the future. The subarea plan encourages future retail to locate around major intersections and in planned shopping centers. The plan also encourages office, apartments and higher density residential uses between the intersections. Expansion of the CS zoning in a linear fashion would not be suitable.

Mr. Charles Kimbrough, a property owner along Clarksville Pike, stated he had filed the application for rezoning based on staff advice that CS zoning would be appropriate in this location. He further stated there have been no objections from any of the property owners in the area.

Mr. Chan McCullough, representing his sister, Nancy Ryans, an owner of one of the pieces of property, stated he also had been advised by staff that CS zoning would be consistent with the comprehensive plan for the area. He pointed out that the property across the street is zoned CS.

Staff pointed out to the Commission that there is ample property zoned commercially in the area and, given the weak market for commercial zoning in the area, there is no need to add additional commercial zoning.

It would be preferable to fulfill the mixed use portion of commercial arterial existing policy by introducing office or multi family zoning.

Ms. Jernigan asked about the confusing advice the staff was providing.

Mr. Browning stated there was no confusion on the staff's part. One staff member may have advised that there is commercial zoning in the vicinity, and additional commercial zoning would not be considered contrary to the general plan. However, commercial arterial existing policy actually encourages mixed use development including offices and multi family development. These kinds of zoning should be implemented rather than CS zoning, particularly since they would be more compatible with existing residential development to the west.

Mr. Bodenhamer asked what the wrecker service was zoned for and stated he felt it would be good to encourage some redevelopment in this area.

Ms. Nielson asked if this section of land backed up to residential?

Vice Chairman Lawson stated it was purely residential and stated he also felt it needed some redevelopment, but perhaps CS was a little too harsh and did not provide any protection to the residential area.

Mr. Bodenhamer stated the residential area behind the subject property was the only concern he had regarding CS zoning.

Mr. Browning stated staff would concur with other rezoning districts, but CS is a little harsh.

Mr. Chan McCullough stated the recommendations for multi-family and office might be possible but not very likely. These lots are already subdivided and built on, and assembly of several lots for reuse would likely not be economically viable.

Mr. Lawson stated CS development would also require assembly of properties.

Mr. McCullough stated that assembly of two or three lots would be feasible and could be used for commercial use. However, assembly of more lots would be needed to accomplish multi family development. Office use could occur on individual lots; however, demand for office space is low.

Mr. Reid stated that MUL would be a possible option to encourage the mixed use concept. That would allow limited commercial and some higher density residential as well. The range of uses are limited to each building going up to 3,000 square feet of maximum floor area, no drive through restaurants, residential, and buffering restrictions are higher.

Ms. Nielson moved and Manier seconded the motion to disapprove the request.

Mr. Bodenhamer asked if there was any chance for the applicants and staff to get together and see if they could work anything else out because this area needs development.

Ms. Nielson said if there was a possibility of that she would withdraw her motion.

Mr. Manier withdrew his second.

Mr. Reid stated he had talked to the applicant about MUL but the square footage would exceed the maximum. Staff could certainly discuss it with them again.

Ms. Nielson moved and Mr. Harbison seconded the motion to defer this matter for two weeks. The motion carried unanimously.

PLANNED UNIT DEVELOPMENT OVERLAY DISTRICTS:

Proposal No. 175-75-G
The Pointe
Map 143-2-A, Parcels 80 and 81
Subarea 6
District 35

A request to revise the approved final site development plan for the Residential Planned unit Development District abutting the eastern margin of Harpeth Trace Drive, west of State Route 100, to permit a revised drainage plan for the 11 single-family lot development, requested by Dale and Associates, for Perry W. Moskovitz, owner. **(Deferred from meeting of 02/22/96).**

Mr. Tom Martin stated this is a subdivision of eleven lots approved in 1987. When this property was approved as an eleven lot subdivision there were questions raised about its effect on areas downhill behind it. The residents down hill asked for assurance from the Commission that the development of these lots would not impact them. A solution was worked out by the staff, Department of Public Works and the developer to direct all roof, driveway and other impervious surface drainage to the street in front of the houses, and to prohibit drainage from impervious surfaces from being directed down hill.

The applicant agreed to these conditions. Now the applicant is asking the Commission to relieve him of the condition on lots four and five. The homes have been constructed with drainage to the rear of the houses (down hill), and not to the street as required by the PUD. Previous to this, homes have been constructed in compliance with the condition.

Roy Dale, engineer for the developer, stated directing the roof drainage down hill did not materially increase the amount of drainage being received by residents down hill, and these two houses should not be required to adhere to the condition included in the PUD's earlier approval.

Mr. Dale stated building permits were issued on lots four and five, and the houses were essentially completed before it was discovered the drainage condition was not met. He stated the houses have already been sold, and the Commission's approval of this revision would alleviate the owners from having to retrofit the two houses to adhere to the drainage condition.

Mr. Dale stated there was no intent on the part of the architect or designer to deviate from the standards set forth. Public Works has been furnished with calculations. Once the rest of this development is approved, the rest of the buildings are built and they are draining towards the front and not towards the rear, there will be a decrease in the amount of runoff. This developer should not have been burdened to the extent of trying to decrease the runoff. He asked that these two buildings be allowed to remain as they are and asked the

Commission to make a decision based upon common sense and not one based upon the fact that something was deviated from.

Ms. Nielson asked if the developer only wanted to remove these conditions on these two lots.

Mr. Martin stated that was correct.

Mr. Manier asked if this was noted on the recorded plat?

Mr. Martin stated it was noted on the recorded plat.

Mr. Manier stated that was constrictive notice and nobody could say they did not know.

Mr. Martin stated he building permits were issued to the same gentleman that developed the subdivision, the same person that agreed to the conditions of approval.

Mr. Ed Owens stated this was a very contentious issue at that time and there was a tremendous amount of community opposition to any more development on the top of this hill. This was a very thoroughly investigated and specifically worked out development approach for these lots. There was no one involved at that time, particularly the developer, who was not fully aware of exactly what was being specified and how these properties were to be engineered. Staff's position is that factors have not changed, and the condition should be enforced.

Ms. Nielson asked if the Commission were to disapprove, what would happen?

Mr. Owens stated planning staff and Public Works have gone out to look at this situation. It is a joint opinion that this is correctable. The downspouting system can be modified to satisfy the condition.

Mr. Don Schwartz, zoning inspection chief from Codes Administration, stated there have been complaints about this drainage. He was informed of this over one year ago prior to the sale of the homes and met with Mr. Moscovitz, Mr. Zeitlin and Sonny West, the Zoning Administrator, to discuss possible remedies. The decision was made that Mr. Moscovitz would develop a plan that would be acceptable to the Department of Public Works that would alleviate the problem by following the approved plan.

Ms. Nielson asked if the deferral was to get this worked out?

Councilmember Dale stated it was to allow Mr. Moscovitz to talk to the people downhill and provide some evidence there are no complaints and no detrimental conditions.

Mr. Lawson stated this is correctable situation. We can not pick up a house and move it and its foundation when they have encroached on a line two or three feet. But this is something that has been agreed to and is correctable by some measure.

Mr. Tom Palko, from Public Works, stated there was some retrofit done to the existing subdivision roads. Public Works went through a lot of effort and actually paid two thirds of the cost to retrofit the existing subdivision so it would accommodate the water from these eleven lots. The developer went to all the meetings and signed the plan that clearly stated that all drainage would come to the street.

Mr. Martin stated in February of 1995 Mr. Dale proposed taking the downspouts into French drains down the hillside. Public Works rejected the solution because it would be injecting runoff into substrata in the colluvial soil. Shortly after that, the houses were still under construction, Mr. Schwartz notified the applicant and the real estate agent and potential buyers before sale of the homes that there were potential problems.

Mr. Manier moved and Ms. Jernigan seconded the motion, which was approved by all except Mr. Harbison who abstained, to approve the following resolution:

Resolution No. 96-157

“BE IT RESOLVED by the Metropolitan Planning Commission that Proposal No. 175-75-G is **DISAPPROVED:**

The Commission determined that protection of downstream residences from increased runoff is necessary and that the applicant has not justified any grounds for departing from the existing requirements.”

Proposal No. 72-85-P (Public Hearing)
Lokey Properties
Map 163, Parcel 334
Subarea 13
District 28

A request to cancel the approved preliminary site development plan for the Commercial (General) Planned Unit Development District, 2,800 feet west of Bell Road, 160 feet south of Hickory Hollow Parkway (4.43 acres), requested by Bobby Lawson, owner.

Mr. Martin stated this was a PUD for a self service storage facility which was never built. The base zone on this property is CH which would still implement the land use policies of the subarea plan with the cancellation of the PUD district. Staff recommends this request to cancel.

No one was present to speak at the public hearing.

Ms. Nielson moved and Ms. Jernigan seconded the motion, which carried unanimously, to close the public hearing and approve the following resolution:

Resolution No. 96-158

“BE IT RESOLVED by the Metropolitan Planning Commission that Proposal No. 72-85-P is given **APPROVAL FOR THE CANCELLATION OF THE EXISTING COMMERCIAL PUD.**

Proposal No. 108-85-P (Public Hearing)
Pioneer Stor-N Lok
Map 135-1, Parcel 53
Subarea 13
District 27

A request to cancel the approved preliminary site development plan for the Commercial (General) Planned Unit Development District abutting the southwest margin of Murfreesboro Pike and the east margin of Town Park Drive (5.34 acres), requested by Barbara Eatherly, owner.

Mr. Martin stated this was an unbuilt commercial PUD which was approved for self service storage. The base zone is CS and would implement the policies of the Subarea 13 Plan for commercial mixed concentration and staff recommends approval.

No one was present to speak at the public hearing.

Mr. Bodenhamer moved and Ms. Nielson seconded the motion to close the public hearing and to approve the following resolution:

Resolution No. 96-159

“BE IT RESOLVED by the Metropolitan Planning Commission that Proposal No. 108-85-P is given **APPROVAL FOR CANCELLATION OF THE EXISTING COMMERCIAL PUD.**

The motion carried with all voting in favor except for Mr. Steve Smith who abstained.

Proposal No. 117-85-P
Country Oaks Commercial
Map 135, Parcels 266 and 72
Subarea 13
District 28

A request to amend the approved preliminary site development plan for the Commercial (General) Planned Unit Development District abutting the southwest margin of Murfreesboro Pike, approximately 400 feet east of Una-Antioch Pike (16.0 acres), requested by Ragan-Smith Associates, for Fairland Retail Associates, optionee.

Mr. Martin stated this was the item removed from the consent agenda by the request of a neighbor. This case is before the Commission because the applicant is adding land to a PUD and adding a driveway which would now touch Una-Antioch Pike and staff recommends approval.

Ms. Evelyn Sutton stated one of the provisions on the preliminary was that the developer upgrade Shumate Lane. She asked a condition of this new amendment be made that the roadway and the new section of the roadway be upgraded by the developer.

Mr. Martin stated a feature of the plan was to reconstruct Shumate Lane to nonresidential roadway standards.

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

Resolution No. 96-160

“BE IT RESOLVED by the Metropolitan Planning Commission that Proposal No. 117-85-P is given **APPROVAL AS AN AMENDMENT REQUIRING COUNCIL CONCURRENCE.**

SUBDIVISIONS:

Preliminary Plats:

Subdivision No. 96S-076U (Public Hearing)

Metroplex, Section 14
Map 134, Parcel 235
Subarea 13
District 27

A request to subdivide one lot into three lots abutting the north margin of Metroplex Drive, approximately 1,040 feet north of Harding Place (5.07 acres), classified within the CG District, requested by Walter G. Knestrick, owner/developer, Barge, Waggoner, Sumner and Cannon, Inc., surveyor.

Mr. Henry stated there were three buildings involved. This is a preliminary plat and staff and all reviewing agencies are recommending approval. The final plat is not in order yet but will be before the Commission soon.

No one was present to speak at the public hearing.

Ms. Nielson moved and Mr. Harbison seconded the motion, which carried unanimously, to close the public hearing and approve the following resolution:

Resolution No. 96-161

“**BE IT RESOLVED** by the Metropolitan Planning Commission that the PRELIMINARY Plan of Subdivision No. 96S-076U, is granted **APPROVAL.**”

Subdivision No. 96S-080U (Public Hearing)

Royal Park Business Center, Lots 4 and 11
Map 107, Parcels 143 and 150
Subarea 14
District 15

A request to change a street name and withdraw the offer of dedicating a street abutting the southeast margin of Rachel Drive, approximately 440 feet southwest of Shacklett Drive (12.0 acres), requested by Third National Bank in Nashville and Royal Park Investments, L.P., owners/developers, Ragan-Smith Associates, Inc., surveyor. **(Also requesting final plat approval).**

Mr. Henry stated staff was recommending approval of the name change from Schacklett Court to Ellery Court. Staff was recommending disapproval of removing the Schacklett Drive extension. Mr. Henry explained that this segment of Shacklett Drive was required to improve accessibility to Larkwood Subdivision. Because of the subdivision’s location beneath the airport runway, land use policy called for the subdivision to transition from residential to commercial uses. He stated the commercial development could be expedited with improved access to the subdivision. Mr. Henry further pointed out that some of the

existing points of access may be closed in the future due to interchange redesign at Donelson Pike. Thus, it was necessary to take measures to ensure adequate access to the subdivision.

Mr. George Daniels, with Regan-Smith/Murphy, requested the street name changed and also the elimination of Shacklett Drive. He stated the dedication was required in 1991 because of the impending intersection redesign at Donelson Pike. However, he stated those plans are no longer contemplated. Mr. Daniels stated the Shacklett Drive extension bisected the remaining parcel within the subdivision, which made the parcel more difficult to market.

Mr. Manier asked if the street segment were still bonded.

Mr. Daniels said it is bonded each and every year.

Mr. Stewart Heaton, representing Royal Park Investments and SunTrust, stated it was not in the best interest of the Larkwood residents to mix the type of uses of traffic and there would still be two entrances and exits.

Mr. Axton West, with Southeast Venture Corporation, stated Royal Park has restrictive covenants and building standards. One of their concerns is the possibility of tractor/trailer traffic within the residential subdivision.

Councilmember Roy Dale stated he had talked with residents of the subdivision and they do not want this connection to take place.

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

Mr. Harbison asked how something like this stayed bonded for years without being constructed.

Mr. Browning stated there was a requirement of the Commission, but the developer did not want to make the improvements at that point in time.

Mr. Manier moved and Ms. Nielson seconded the motion , which carried unanimously, to close the public hearing and to approve the following resolution:

Resolution No. 96-162

“**BE IT RESOLVED** by the Metropolitan Planning Commission that the PRELIMINARY and FINAL Plan of Subdivision No. 96S-080U, is granted **APPROVAL**.”

Subdivision No. 96S-081U (Public Hearing)
Tea Garden Place
Map 150, Parcel 92
Subarea 13
District 29

A request for preliminary approval for five lots abutting the northwest corner of Hamilton Church Road and Tea Garden Way (1.1 acres), classified within the R8 District, requested by Kenneth Victory, optionee, MEC, Inc., surveyor.

Mr. Henry stated this proposal was for five lots with a minimum of 8,000 square feet. There is twelve feet of right-of-way being reserved along Hamilton Church Road for its eventual widening and staff is recommending approval.

No one was present to speak at the public hearing.

Ms. Nielson moved and Ms. Jernigan seconded the motion, which carried unanimously, to close the public hearing and approve the following resolution:

Resolution No. 96-163

“**BE IT RESOLVED** by the Metropolitan Planning Commission that the PRELIMINARY Plan of Subdivision No. 96S-081U, is granted **APPROVAL**.”

Request for Rehearing:

Subdivision No. 96S-039G

Dale Kimbrough Lots
Map 33, Parcel 197
Subarea 2
District 10

A request to subdivide one lot into two lots abutting the south margin of Lowes Lane, approximately 1,035 feet west of Old Dickerson Pike (1.93 acres), classified within the R20 District, requested by Dale M. and Donna G. Kimbrough, owners/developers, Tommy E. Walker, surveyor.

Mr. Henry stated this was the item Councilmember Garrett spoke about earlier. Mr. Henry stated that the Commission should decide if there is new information which would justify rehearing the matter. If so, the rehearing would be advertised for the next meeting.

Mr. Henry reminded the Commission that the subdivision was disapproved because the subdivision created lots that were more than four times deeper than wide, thus violating the four to one ratio rule. He stated no additional information had been presented to justify rehearing the case.

Mr. Dale Kimbrough stated that in October of 1995 he was told by staff that the subdivision as presented would meet all regulations and could be approved. Mr. Kimbrough stated he incurred the costs of having the property surveyed and a plat prepared for Commission action. He said he followed all the guidelines and was not notified about the public hearing on this proposal until his request had been disapproved. He stated he had invested over \$26,000 in this lot. The hardship is the \$26,000 he has borrowed on the recommendation that the subdivision could be done without any problems. No one in the area opposes the proposal because it will upgrade the neighborhood.

Mr. Harbison stated he was very sympathetic with someone who had tried to do all the right things. However, he questioned the Commission’s authority to essentially grant a variance because of a mistake made by the staff?

Mr. Browning stated that the Commission could rehear this matter. However, the Commission would have to find a basis to approve a variance to the subdivision requirements in order to reverse its previous position of disapproval.

Vice Chairman Lawson stated the Commission needed to make sure they had followed due process by giving the applicant fair and equal treatment.

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

Resolution No. 96-164

“**BE IT RESOLVED** by the Metropolitan Planning Commission that the REQUEST FOR REHEARING of Subdivision No. 96S-039G, is **APPROVED** for the meeting of March 21, 1996.”

Final Plats:

Subdivision No. 96S-036A
Somerset Farms, Section 3, Lot 200
Map 141-7-B, Parcel 51
Subarea 6
District 35

A request to amend the building envelope on a lot abutting the southeast corner of Autumn Court and Somerset Farms Circle (.15 acres), classified within the R10 Residential Planned Unit Development District, requested by Somerset Farms, owner/developer, John Kohl and Company, surveyor.

Mr. Martin stated this building envelope violation was due to a surveying error. The building is forth-seven feet wide and the building permit was taken out for a 40 foot wide house. Codes went to the site and the site was staked and the corners were marked and the building was on the setback line.

Mr. Stephen Smith moved and Mr. Harbison seconded the motion, which carried unanimously, to approve the following resolution:

Resolution No. 96-165

“**BE IT RESOLVED** by the Metropolitan Planning Commission that a revision to the FINAL plat of Subdivision No. 96S-036A, is **APPROVED**.”

Subdivision No. 96S-082A
Poplar Creek Estates, Phase 3B, Lot 11
Map 155-7-A, Parcel 24
Subarea 6
District 35

A request to amend the building envelope on a lot abutting the east margin of High Forrest Court, approximately 146 feet south of Forrest Oaks Drive (.32 acres), classified within the RS30 Residential

Planned Unit Development District, requested by Robert P. and Lee Ann Towns, Jr., owners/developers, Joseph G. Petrosky Associates, Inc., surveyor.

Mr. Martin stated this lot is located in a cul-de-sac and there is an encroachment of approximately 3.1 feet into the front setback. He stated the applicant acknowledges an error was made in establishing the setback.

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

Resolution No. 96-166

“**BE IT RESOLVED** by the Metropolitan Planning Commission that a revision to the FINAL plat of Subdivision No. 96S-082A, is **APPROVED.**”

Request for Bond Extension:

Subdivision No. 89P-022U
Melrose Shopping Center
Land Trust Corporation, principal

Located abutting the west margin of Franklin Pike, between Gale Lane and Kirkwood Avenue.

Mr. Henry stated this request was for a six month extension. The bond is \$25,550 and it covers a sidewalk segment and some landscaping. There is some testing still required by Water Services. Staff has received notice from Breeze Hill neighbors complaining that some of the landscaping is dead or dying. Staff is recommending an extension of six months to give the developer and Water Services time to complete all work.

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

Resolution No. 96-167

"BE IT RESOLVED by the Metropolitan Planning Commission that it hereby APPROVES the request for an extension of the performance bond for Subdivision No. 89P-022U, Bond No. 93BD-056, Melrose Shopping Center, until September 7, 1996, as requested, said approval being contingent upon posting an amended letter of credit in the amount of \$25,500.00 by April 11, 1996 and extending the expiration date to December 30, 1996. Failure of principal to provide amended security documents shall be grounds for collection without further notification."

OTHER BUSINESS:

1. Amendment to contract with TDOT for Intelligent Transportation System (ITS) Early Deployment Plan grant.

Deborah Fleming asked the Commission for an amendment of the contract. In 1994 the Commission approved a contract with TDOT for a special grant for the Intelligent Transportation System for tourist,

visitors and travelers in and around Nashville. A consultant firm was hired and developed a contract which included a scope of work. TDOT now says they can not reimburse the Commission because work orders had not been issued. Normally work orders are in connection with some type of construction contract. Ms. Fleming stated TDOT has agreed to drop that provision in the contract and instead of work orders they will accept a scope of work.

Ms. Nielson moved and Ms. Jernigan seconded the motion, which carried unanimously, to adopt the amendment to the TDOT Intelligent Transportation System contract.

3. Staff assessment of the Subarea 14 Plan update citizen participation Process.

Mr. Fawcett recapped the procedure and citizen participation process followed in the Subarea 14 Plan update.

4. Legislative Update.

Mr. Owens provided an update on the current legislative status of items previously considered by the Commission.

PLATS PROCESSED ADMINISTRATIVELY:

This item was deferred until the March 21st meeting.

ADJOURNMENT:

There being no further business, upon motion made, seconded and passed, the meeting adjourned at 5:00 p.m.

Chairman

Secretary

Minute Approval:
This 21st day of March, 1996