



# **METROPOLITAN PLANNING COMMISSION**

## **MINUTES**

**April 28, 2022**  
**4:00 pm Regular Meeting**

**2601 Bransford Avenue**  
(Metro School Board Meeting Room)

### **MISSION STATEMENT**

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The Planning Commission guides growth and development as Nashville and Davidson County evolve into a more socially, economically and environmentally sustainable community, with a commitment to preservation of important assets, efficient use of public infrastructure, distinctive and diverse neighborhood character, free and open civic life, and choices in housing and transportation.

Commissioners Present:  
Greg Adkins, Chair  
Jessica Farr, Vice Chair  
Lillian Blackshear  
Edward Henley  
Mina Johnson  
Jeff Haynes  
Councilmember Brett Withers

Commissioners Absent:  
Jim Lawson  
Brian Tibbs

Staff Present:  
Lucy Kempf, Executive Director  
Bob Leeman, Deputy Director  
George Rooker, Assistant Director  
Lisa Milligan, Planning Manager II  
Greg Claxton, Planning Manager I  
Molly Pike, Planner III  
Amelia Lewis, Planner II  
Jason Swaggart, Planner II  
Alex Dickerson, Legal

## Notice to Public

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### Please remember to turn off your cell phones.

Nine of the Planning Commission's ten members are appointed by the Metropolitan Council; the tenth member is the Mayor's representative. The Commission meets on the second and fourth Thursday of each month at 4:00 pm, in the Sonny West Conference Center on the ground floor of the Howard Office Building at 700 Second Avenue South. Only one meeting may be held in December. Special meetings, cancellations, and location changes are advertised on the [Planning Department's main webpage](#).

The Planning Commission makes the final decision on final site plan and subdivision applications. On all other applications, including zone changes, specific plans, overlay districts, and mandatory referrals, the Commission recommends an action to the Council, which has final authority.

Agendas and staff reports are [posted online](#) and emailed to our mailing list on the Friday afternoon before each meeting. They can also be viewed in person from 7:30 am – 4 pm at the Planning Department office in the Metro Office Building at 800 2nd Avenue South. [Subscribe to the agenda mailing list](#)

Planning Commission meetings are shown live on the Metro Nashville Network, Comcast channel 3, [streamed online live](#), and [posted on YouTube](#), usually on the day after the meeting.

### Writing to the Commission

Comments on any agenda item can be mailed, hand-delivered, faxed, or emailed to the Planning Department by 3 pm on the Tuesday prior to meeting day. Written comments can also be brought to the Planning Commission meeting and distributed during the public hearing. Please provide 15 copies of any correspondence brought to the meeting.

Mailing Address: Metro Planning Department, 800 2nd Avenue South, P.O. Box 196300, Nashville, TN 37219-6300  
Fax: (615) 862-7130  
E-mail: [planning.commissioners@nashville.gov](mailto:planning.commissioners@nashville.gov)

### Speaking to the Commission

Anyone can speak before the Commission during a public hearing. A Planning Department staff member presents each case, followed by the applicant, community members opposed to the application, and community members in favor.

Community members may speak for two minutes each. Representatives of neighborhood groups or other organizations may speak for five minutes if written notice is received before the meeting. Applicants may speak for ten minutes, with the option of reserving two minutes for rebuttal after public comments are complete. Councilmembers may speak at the beginning of the meeting, after an item is presented by staff, or during the public hearing on that item, with no time limit.

Items set for consent or deferral will be listed at the start of the meeting.

Meetings are conducted in accordance with the Commission's [Rules and Procedures](#).

### Legal Notice

**As information for our audience, if you are not satisfied with a decision made by the Planning Commission today, you may appeal the decision by petitioning for a writ of cert with the Davidson County Chancery or Circuit Court. Your appeal must be filed within 60 days of the date of the entry of the Planning Commission's decision. To ensure that your appeal is filed in a timely manner, and that all procedural requirements have been met, please be advised that you should contact independent legal counsel.**



The Planning Department does not discriminate on the basis of race, color, national origin, gender, gender identity, sexual orientation, age, religion, creed or disability in admission to, access to, or operations of its programs, services, or activities. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline or any other employment practices because of non-merit factors shall be prohibited. For ADA inquiries, contact Josie Bass, ADA Compliance Coordinator, at (615) 862-7150 or e-mail her at [josie.bass@nashville.gov](mailto:josie.bass@nashville.gov). For Title VI inquiries, contact Human Relations at (615) 880-3370. For all employment-related inquiries, contact Human Resources at (615) 862-6640.

# MEETING AGENDA

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## **A: CALL TO ORDER**

The meeting was called to order at 4:08 p.m.

## **B: ADOPTION OF AGENDA**

Ms. Farr moved and Ms. Blackshear seconded the motion to adopt the agenda. (6-0)

## **C: APPROVAL OF APRIL 14, 2022 MINUTES**

Ms. Farr moved and Ms. Blackshear seconded the motion to approve the April 14, 2022 meeting minutes. (6-0)

## **D: RECOGNITION OF COUNCILMEMBERS**

Councilmember Henderson stated she was present and available for questions regarding Items 13a and 13b.

Councilmember Rhoten spoke regarding Item 25. He requested that if the Commission approved the application, there would be an emergency gate beside Lakeside Estate and the new neighborhood. He expressed concern about drainage that might come onto Hermitage Point.

## **E: ITEMS FOR DEFERRAL / WITHDRAWAL 1, 2, 3a, 3b, 4, 5, 6, 7, 8, 9a, 9b, 10, 11, 17**

Ms. Milligan stated that Ms. Blackshear has recused herself from Items 3a, 3b, 9a and 9b.

Ms. Farr moved and Mr. Haynes seconded the motion to approve the Deferred and Withdrawn Items. (6-0)

## **F: CONSENT AGENDA ITEMS 27, 28, 32**

Ms. Milligan stated that Ms. Blackshear has recused herself from Item 19.

Chairman Adkins asked Ms. Milligan to read the Amendments for Item 26.

Ms. Milligan responded that the Amendments added the following projects to the Capital Improvements Budget. 1) New and replacement Head Start facilities; 2) Initial planning and design for a new Midtown Fire Hall; 3) Broadway Bridge Enhancements, improvements to the Broadway bridge in coordination with TDOT bridge replacement.

Ms. Milligan explained that for Consent Agenda Items, the Commission will not be voting on Item 26. Item 26 is still planned to be for Consent but they will hold that until the end of the meeting and will vote on the other Items for Consent.

Ms. Farr moved and Mr. Henley seconded the motion to approve the Consent Agenda. (6-0)

Ms. Kempf advised that the public hearing is closed for Items 13a and 13b, but wanted to update the Commission. They are not Deferred or on Consent. Mr. Adkins added that the Commission will still vote on those Items but there will not be a public hearing.

Tentative Consent Item: Items noted below as On Consent: Tentative will be read aloud at the beginning of the meeting by a member of the Planning Staff to determine if there is opposition present. If there is opposition present, the items will be heard by the Planning Commission in the order in which they are listed on the agenda. If no opposition is present, the item will be placed on the consent agenda.

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

## G: ITEMS TO BE CONSIDERED

### 1. 2020Z-013TX-001

BL2020-504/Freddie O'Connell  
Staff Reviewer: Dustin Shane

A request to amend Chapters 17.36 and 17.40 of the Metropolitan Code pertaining to creating an Owner Occupied Short Term Rental Overlay district.

**Staff Recommendation: Withdraw.**

**The Metropolitan Planning Commission 2022Z-013TX-001 withdrawn. (6-0)**

### 2. 2020Z-119PR-001

BL2020-479/Freddie O'Connell  
Council District 19 (Freddie O'Connell)  
Staff Reviewer: Logan Elliott

A request to rezone from MUN, MUN-A, MUL-A, MUG, OR20, CS and CF to MUN-NS, MUN-A-NS, MUL-A-NS, MUG-NS, OR20-NS, CS-NS, and CF-NS zoning for various properties located between Rosa L. Parks Boulevard and 2nd Avenue North, from Hume Street, south to Jefferson Street, and located within the Germantown Historic Preservation District Overlay and the Phillips - Jackson Street Redevelopment District Overlay (68.61 acres), requested by Councilmember Freddie O'Connell, applicant; various owners.

**Staff Recommendation: Withdraw.**

**The Metropolitan Planning Commission 2022Z-119PR-001 withdrawn. (6-0)**

### 3a. 2022CP-008-001

#### **NORTH NASHVILLE COMMUNITY PLAN AMENDMENT**

Council District 19 (Freddie O'Connell)  
Staff Reviewer: Cory Clark

A request to amend the North Nashville Community Plan by changing from T4 Urban-Open Space and D District-District Industrial policy to T4 MU-Urban Mixed Use Neighborhood policy for properties located at 2nd Ave N (unnumbered) and 1st Ave N (unnumbered), at the corner of 1st Ave N and 2nd Ave N, zoned IR (1.71 acres), requested by Barge Design Solutions, applicant; Roy Glenn Goodwin, owner (See associate case #2022SP-013-001).

**Staff Recommendation: Defer to the May 12, 2022, Planning Commission meeting.**

**The Metropolitan Planning Commission deferred 2022CP-008-001 to the May 12, 2022, Planning Commission meeting. (5-0-1)**

### 3b. 2022SP-013-001

#### **2ND & VAN BUREN**

Council District 19 (Freddie O'Connell)  
Staff Reviewer: Seth Harrison

A request to rezone from IR to SP zoning for properties located at 2nd Avenue North (unnumbered), 1st Avenue North (unnumbered), 1500 2nd Avenue North and 100 Van Buren Street, at the northwest corner of 1st Ave N and Van Buren Street (2.99 acres), to permit 303 unit multi-family development, requested by Barge Design Solutions, applicant; Toll Southeast LP Company and Roy Glenn Goodwin, owners. (See associated case #2022CP-008-001).

**Staff Recommendation: Defer to the May 12, 2022, Planning Commission meeting.**

**The Metropolitan Planning Commission deferred 2022SP-013-001 to the May 12, 2022, Planning Commission meeting. (5-0-1)**

4. **2007SP-048-001**  
**ZION HILL (AMENDMENT)**  
Council District 02 (Kyonzté Toombs)  
Staff Reviewer: Seth Harrison

A request to amend a Specific Plan on property located at 2433 Buena Vista Pike, approximately 721 feet west of East Ln, zoned SP (5.01 acres), to permit 75 multi-family units, requested by RJX Partners, LLC, applicant; RJX Partners, LLC, owners

**Staff Recommendation: Defer to the May 26, 2022, Planning Commission meeting.**

**The Metropolitan Planning Commission deferred 2007SP-048-001 to the May 26, 2022, Planning Commission meeting. (6-0)**

5. **2021SP-081-001**  
**OLIVERI MIXED-USE**  
Council District 33 (Antoinette Lee)  
Staff Reviewer: Dustin Shane

A request to rezone from AR2a to SP zoning for property located at 4154 Murfreesboro Pike, approximately 350 feet southeast of Parks Retreat Drive and located within the Murfreesboro Pike Urban Design Overlay District (4.09 acres), to permit a multi-family residential development, requested by Anderson, Delk, Epps and Associates, applicant; Oliveri LLC, owner.

**Staff Recommendation: Defer to the May 12, 2022, Planning Commission meeting.**

**The Metropolitan Planning Commission deferred 2021SP-081-001 to the May 12, 2022, Planning Commission meeting. (6-0)**

6. **2022SP-021-001**  
**BERKHAMSTEAD**  
Council District 31 (John Rutherford)  
Staff Reviewer: Logan Elliott

A request to rezone from AR2a to SP zoning for property located at 7088 Burkitt Rd, approximately 550 feet east of Old Burkitt Rd, (11.4 acres), to permit up to 129 multi-family residential units, requested by CSDG, applicant; Blackburn Family Limited Partners II LP, owner.

**Staff Recommendation: Defer to the May 12, 2022, Planning Commission meeting.**

**The Metropolitan Planning Commission deferred 2022SP-021-001 to the May 12, 2022, Planning Commission meeting. (6-0)**

7. **2022SP-023-001**  
**AUTUMN GLEN**  
Council District 15 (Jeff Syracuse)  
Staff Reviewer: Seth Harrison

A request to rezone from RS10 to SP zoning for properties located at 2001 Lebanon Pike and Lebanon Pike (unnumbered), approximately 300 feet southwest of Quinn Circle, (12.67 acres), to permit a mixed-use development, requested by Dale & Associates, applicant; Tennestate Enterprises, Inc., owner.

**Staff Recommendation: Defer to the May 12, 2022, Planning Commission meeting.**

**The Metropolitan Planning Commission deferred 2022SP-023-001 to the May 12, 2022, Planning Commission meeting. (6-0)**

**8. 2022SP-034-001**  
**THE PIKE AT HIGHLAND HEIGHTS**  
Council District 05 (Sean Parker)  
Staff Reviewer: Amelia Lewis

A request to rezone from CL to SP zoning for properties located at 1405, 1407, 1409A Dickerson Pike, approximately 200 feet north of Marie St (3.47 acres), and within the Dickerson Pike Sign Urban Overlay District, to permit all uses within the MUG-A-NS zoning district, requested by Smith Gee Studio, applicant; Dickerson Pike Propco 2, LLC, owner.

**Staff Recommendation: Defer to the May 12, 2022, Planning Commission meeting.**

**The Metropolitan Planning Commission deferred 2022SP-034-001 to the May 12, 2022, Planning Commission meeting. (6-0)**

**9a. 2022HLI-001-001**  
**518 RUSSELL STREET HISTORIC INTERIOR OVERLAY**  
BL2022-1155/Brett Withers  
Council District 06 (Brett Withers)  
Staff Reviewer: Abbie Rickoff

A request to apply a Historic Landmark Interiors Overlay District to property located at 518 Russell Street, at the southwest corner of Russell Street and S. 6th Street, zoned R8 and within the Edgefield Historic Preservation District (0.51 acres), requested by Councilmember Brett Withers, applicant; Tulip Street Partners, LLC, owner. (See associated case #2022NL-001-001)

**Staff Recommendation: Defer to the May 12, 2022, Planning Commission meeting.**

**The Metropolitan Planning Commission deferred 2022HLI-001-001 to the May 12, 2022, Planning Commission meeting. (5-0-1)**

**9b. 2022NL-001-001**  
**TULIP STREET CHURCH NEIGHBORHOOD LANDMARK OVERLAY**  
BL2022-1156/Brett Withers  
Council District 06 (Brett Withers)  
Staff Reviewer: Abbie Rickoff

A request to apply a Neighborhood Landmark Overlay District on property located at 518 Russell Street, at the corner of Russell Street and S. 6th Street, zoned R8 and within the Edgefield Historic Preservation District (0.51 acres), to permit a hotel and special events, requested by Daniels & Chandler Architects, applicant; Tulip Street Partners, LLC, owner. (See associated case #2022HLI-001-001)

**Staff Recommendation: Defer to the May 12, 2022, Planning Commission meeting.**

**The Metropolitan Planning Commission deferred 2022NL-001-001 to the May 12, 2022, Planning Commission meeting. (5-0-1)**

**10. 2021Z-114PR-001**  
Council District 06 (Brett Withers)  
Staff Reviewer: Dustin Shane

A request to rezone from CS and IR to MUG-A zoning for properties located at 501 and 515 Crutcher Street, at the northeast corner of Crutcher Street and South 5th Street (6.82 acres), requested by Dale and Associates, applicant; Terry C. Reeves and W. Lipscomb Davis III, owners.

**Staff Recommendation: Defer to the May 26, 2022, Planning Commission meeting.**

**The Metropolitan Planning Commission deferred 2021Z-114PR-001 to the May 26, 2022, Planning Commission meeting. (6-0)**

**11. 2022Z-003PR-001**

BL2021-143/Jonathan Hall  
Council District 01 (Jonathan Hall)  
Staff Reviewer: Jason Swaggart

A request to rezone from IR to OL zoning for property located at Jennie Brown Lane (unnumbered), south of Ashland City Highway and west of Briley Parkway (17.25 acres), requested by Councilmember Jonathan Hall, applicant; Waste Management, Inc. of Tennessee, owner.

**Staff Recommendation: Defer Indefinitely.**

**The Metropolitan Planning Commission deferred 2022Z-003PR-001 defer indefinitely. (6-0)**

**12. 2022Z-002TX-001**

BL2022-1073/Tom Cash  
Staff Reviewer: Dustin Shane

A request to amend Sections 17.04.060, 17.08.030, 17.16.035, 17.16.170, and 17.20.030 of the Metropolitan Code to delete the "Day Care Home Use", create new "Day Care Home – Small" and "Day Care Home – Large" uses, and to update the requirements for opening a Day Care Home or Day Care Center Use.

**Staff Recommendation: Approve with a substitute.**

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**APPLICANT REQUEST**

Amend the Zoning Code to distinguish between "Day Care Home – Small" and "Day Care Home – Large" uses and to update the requirements for opening a day care home or day care center use.

**PROPOSED AMENDMENTS TO TITLE 17**

The bill as filed would amend the Zoning Code to delete the "Day Care Home" use and replace it with the new "Day Care Home - Small" and "Day Care Home - Large" uses (updating parking requirements for each). The amendment would also specify conditions applicable to each level of Day Care, both as a PC (Permitted with Conditions) use and SE (Special Exception) use.

The proposed changes of the bill as filed are shown below with text to be added shown in underline and text to be deleted shown with strikethrough.

Section 1. That Section 17.04.060 of the Metropolitan Code is hereby amended by amending the definition for "Day care" as follows:

"Day care" means the provision of care for individuals, who are not related to the primary caregiver, for less than twenty-four hours per day. These classes are referenced:

- 1. Accessory to a single-family dwelling: Up to four individuals;
- 2. Day care home - Small: Five through seven individuals;
- ~~23.~~ ~~Day care home - Large: Five Eight~~ through twelve individuals;
- ~~34.~~ Class I: Thirteen through twenty-five individuals;
- ~~45.~~ Class II: Twenty-six through fifty individuals;
- ~~56.~~ Class III: Fifty-one through seventy-five individuals;
- ~~67.~~ Class IV: More than seventy-five individuals;
- ~~78.~~ Parents day out: Day care for pre-teenage children that is not open for more than twelve hours in any one week;
- ~~89.~~ School day care: Day care centers of unlimited size for before, during and after school programs.

Section 2. That the Zoning District Land Use Table in Section 17.08.030 of the Metropolitan Code is hereby amended as shown in Exhibit A.

Section 3. That Section 17.16.035 of the Metropolitan Code shall be modified as follows:

- A. Day Care Center-Up to 75.
  - 1. Play Area. If an outdoor play area is provided, it shall be fenced and attached to the day care structure in a manner which minimizes noise impacts on neighboring residences.
  - 2. Lot Area. Where a minimum lot size is required, the minimum lot area shall be the same as the principal activity, except when in the opinion of the zoning administrator circumstances warrant otherwise.

3. State Regulations. All requirements of the state that pertain to the use and operation of the facility shall be met.

4. Multi-Family Buildings. The zoning administrator may waive the above standards for multi-family housing developments of two hundred or more units if compliance would disqualify an otherwise reasonable location.

B. Day Care Center-Over 75.

1. Play Area. If an outdoor play area is provided, it shall be fenced and attached to the day care structure in a manner which minimizes noise impacts on neighboring residences.

2. Lot Area. Where a minimum lot size is required, the minimum lot area shall be the same as the principal activity, except when in the opinion of the zoning administrator circumstances warrant otherwise.

3. State Regulations. All requirements of the state that pertain to the use and operation of the facility shall be met.

4. Multi-Family Buildings. The zoning administrator may waive the above standards for multi-family housing developments of two hundred or more units if compliance would disqualify an otherwise reasonable location.

C. Day Care Home - Small.

~~1. Circulation. At a minimum, a circular driveway shall be provided with a separate entrance and exit, clearly marked as such, and where cars can be temporarily parked to escort children into and out of the day care facility, while not blocking other cars that want to exit using the circular driveway. To ensure optimum circulation, all parking spaces on the circular driveway shall be parallel parking spaces to prevent cars being backed up into the flow of exiting traffic. Where the facility is located within a mixed-use building on the same property, the zoning administrator may waive the circulation standard provided the applicant can demonstrate, to the zoning administrator's satisfaction, that the standard should not apply due to specific site or use characteristics.~~

1. Location. All day care home - small uses located outside of the Urban Zoning Overlay (UZO) shall be considered a special exception and comply with the requirements of Subsection 17.16.170.D of the Metropolitan Code. Day care home - small uses located within the boundaries of the UZO shall be considered a conditionally permitted use and comply with the requirements of Subsection 17.16.035.C of the Metropolitan Code.

2. Play Area. If an outdoor play area is provided, it shall be fenced and attached to the day care structure in a manner which minimizes noise impacts on neighboring residences.

3. Lot Area. Where a minimum lot size is required, the minimum lot area shall be the same as the principal activity, except when in the opinion of the zoning administrator circumstances warrant otherwise.

4. State Regulations. All requirements of the state that pertain to the use and operation of the facility shall be met.

5. Multi-Family Buildings. The zoning administrator may waive the above standards for multi-family housing developments of two hundred or more units if compliance would disqualify an otherwise reasonable location.

D. Day Care Home - Large.

1. Play Area. If an outdoor play area is provided, it shall be fenced and attached to the day care structure in a manner which minimizes noise impacts on neighboring residences.

2. Lot Area. Where a minimum lot size is required, the minimum lot area shall be the same as the principal activity, except when in the opinion of the zoning administrator circumstances warrant otherwise.

3. State Regulations. All requirements of the state that pertain to the use and operation of the facility shall be met.

4. Multi-Family Buildings. The zoning administrator may waive the above standards for multi-family housing developments of two hundred or more units if compliance would disqualify an otherwise reasonable location.

Section 4. That Subsection 17.16.170.D of the Metropolitan Code is hereby amended as follows:

D. Day Care Home - Small & Day Care Home - Large.

1. The day care home shall only be permitted in an occupied residence or accessory to another institutional use.

2. Lot Size. The minimum lot area shall be the same as the principal activity; except when in the opinion of the board of zoning appeals circumstances warrant otherwise.

3. Street Standard. Day care homes may have driveway access on any street; however, no more than one day care home shall locate on a residential minor local street and not within one hundred feet of the terminus of such street.

4. Spacing. Regardless of classification, no day care center or day care home shall locate on the same street block face or on an opposing street block face. Where a block face is over one thousand feet in length, no day care center or day care home shall locate within one thousand feet of another day care center or day care home, measured in a direct line from property line to property line and including any public right-of-way.

5. Play Area. If an outdoor play area is provided, it shall be fenced and attached to the day care structure in a manner which minimizes noise impacts on neighboring residences.

6. All requirements of the state that pertain to the use and operation of the facility shall be met.

7. The board of zoning appeals may waive the above standards for multifamily housing developments of two hundred or more units if compliance would disqualify an otherwise reasonable location.

Section 5. That Table 17.20.030 of the Metropolitan Code is hereby amended as follows:



Day care home - <u>Large</u>	1 space plus requirement for principal use, plus 2 spaces for patrons
Day care home - <u>Small</u>	1 space plus requirement for principal use, plus 1 space for patrons

**BACKGROUND**

Section 17.04.060 of the Metro Zoning Code classifies “day care home” as a use wherein individuals are provided care by someone not related to their primary caregiver, for less than 24 hours per day. Up to four individuals can be cared for in a single-family dwelling by right; caring for five to twelve individuals is classified as a day care home. Day care uses are distinguished by the number of individuals being cared for, with day care homes being the smallest and day care centers (Class IV, caring for upwards of 75 individuals) being the largest.

Within the residential zoning districts, day care homes are currently only allowed as a special exception (in the other districts where they are permitted it is with conditions, except for DTC zoning, which permits them by right) (Section 17.08.030). The requirements per Section 17.16.170.D for granting a special exception for a day care home include it being accessory to a residential or institutional use as well as street access and spacing requirements that greatly reduce the potential locations for such uses. The parking requirements for day care homes also do not vary based on the number of individuals being provided care (Section 17.20.030). Finally, for those districts in which day care homes are permitted with conditions, a circular driveway with parallel parking spaces is required, further limiting where and how day care homes can be established (Section 17.16.035).

**ANALYSIS**

The bill as filed and the substitute bill would distinguish between two categories of day care home in Section 17.04.060: “Small,” allowing for the care of five to seven individuals, and “Large” for the care of eight to twelve. These two uses would then be regulated in a few different ways. Day care homes – large would remain special exception cases within the residential zoning districts, while day care homes – small would be permitted with conditions in these districts in the UZO. The bill as file would require day care homes, small, outside of the UZO to apply for a Special Exception. Staff is recommending a change to this in the substitute (Section 17.08.030).

Section 17.16.035 details what the requirements are for day care uses that are permitted with conditions in the various zoning districts. First, the amendments would apply the existing regulations governing day care uses to the more intense day care classifications (centers that house up to 75 and those that accommodate over 75). These existing regulations are for play areas to be fenced and attached to the day care structure to minimize noise impacts on neighboring residences. The minimum lot size requirement that gives the Zoning Administrator the option of requiring larger lot sizes if circumstances warrant is also applied. And finally, the exception clause that allows the above two requirements to be waived in the case of multi-family buildings with two hundred or more units is included. (There is also a rule requiring all state regulations be met.)

Second, day care homes – small and – large are distinguished, but the requirement for a circular drive with parallel parking spaces on-site is removed for both classes.

The staff substitute would permit day care home – small uses as a PC use in all parts of the county. This has the effect of creating many more possible locations for day care homes caring for five to seven individuals. For day care home – large uses in residentially zoned districts, a special exception would be required.

As historic levels of growth cause an influx of workers and their families into the county, the need for places of childcare has increased dramatically. Furthermore, new day care facilities need to be located convenient to their patrons’ homes, preferably within residential neighborhoods themselves. The current regulations governing day care uses have restricted the number of small establishments unnecessarily. Strong communities require a network of supporting institutions to function properly. Creating a distinction between small and large day care homes and granting a freer dispersion with fewer requirements to the former will encourage entrepreneurship in this badly needed market segment. Though the need is greater in the center city, it is not limited to the urban core and the area covered by the UZO. Therefore, the staff substitute alters the original bill by proposing that the regulations for day care homes serving seven or fewer individuals be extended countywide.

**ZONING ADMINISTRATOR RECOMMENDATION**

No exception taken.

**FISCAL IMPACT RECOMMENDATION**

The Metro Codes Department will implement this section of the Zoning Code at the time of permit review as is their current practice. The Codes Department anticipates the proposed amendment to be revenue neutral.

**STAFF RECOMMENDATION**

Staff recommends approval with a substitute.

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**SUBSTITUTE ORDINANCE NO. BL2022-1073**

**An Ordinance amending Sections 17.04.060, 17.08.030, 17.16.035, 17.16.170, and 17.20.030 of the Metropolitan Code to delete the “Day Care Home Use”, create new “Day Care Home - Small” and “Day Care Home - Large” uses, and to update the requirements for opening a Day Care Home or Day Care Center Use (Proposal No. 2022Z-002TX-001).**

BE IT ENACTED BY THE METROPOLITAN GOVERNMENT OF NASHVILLE & DAVIDSON COUNTY:

Section 1. That Section 17.04.060 of the Metropolitan Code is hereby amended by amending the definition for “Day care” as follows:

“Day care” means the provision of care for individuals, who are not related to the primary caregiver, for less than twenty-four hours per day. These classes are referenced:

1. Accessory to a single-family dwelling: Up to four individuals;
2. Day care home - Small: Five through seven individuals;
3. Day care home - Large: Eight through twelve individuals;
4. Class I: Thirteen through twenty-five individuals;
5. Class II: Twenty-six through fifty individuals;
6. Class III: Fifty-one through seventy-five individuals;
7. Class IV: More than seventy-five individuals;
8. Parents day out: Day care for pre-teenage children that is not open for more than twelve hours in any one week;
9. School day care: Day care centers of unlimited size for before, during and after school programs.

Section 2. That the Zoning District Land Use Table in Section 17.08.030 of the Metropolitan Code is hereby amended as shown in Exhibit A.

Section 3. That Section 17.16.035 of the Metropolitan Code shall be modified as follows:

A. Day Care Center-Up to 75.

1. Play Area. If an outdoor play area is provided, it shall be fenced and attached to the day care structure in a manner which minimizes noise impacts on neighboring residences.
2. Lot Area. Where a minimum lot size is required, the minimum lot area shall be the same as the principal activity, except when in the opinion of the zoning administrator circumstances warrant otherwise.
3. State Regulations. All requirements of the state that pertain to the use and operation of the facility shall be met.
4. Multi-Family Buildings. The zoning administrator may waive the above standards for multi-family housing developments of two hundred or more units if compliance would disqualify an otherwise reasonable location.

B. Day Care Center-Over 75.

1. Play Area. If an outdoor play area is provided, it shall be fenced and attached to the day care structure in a manner which minimizes noise impacts on neighboring residences.
2. Lot Area. Where a minimum lot size is required, the minimum lot area shall be the same as the principal activity, except when in the opinion of the zoning administrator circumstances warrant otherwise.
3. State Regulations. All requirements of the state that pertain to the use and operation of the facility shall be met.
4. Multi-Family Buildings. The zoning administrator may waive the above standards for multi-family housing developments of two hundred or more units if compliance would disqualify an otherwise reasonable location.

C. Day Care Home - Small.

1. Location. All day care home - small uses ~~located outside of the Urban Zoning Overlay (UZO) shall be considered a special exception and comply with the requirements of Subsection 17.16.170.D of the Metropolitan Code. Day care home - small uses located within the boundaries of the UZO shall be considered a conditionally permitted use and comply with the requirements of Subsection 17.16.035.C of the Metropolitan Code.~~

2. Play Area. If an outdoor play area is provided, it shall be fenced and attached to the day care structure in a manner which minimizes noise impacts on neighboring residences.
3. Lot Area. Where a minimum lot size is required, the minimum lot area shall be the same as the principal activity, except when in the opinion of the zoning administrator circumstances warrant otherwise.
4. State Regulations. All requirements of the state that pertain to the use and operation of the facility shall be met.
5. Multi-Family Buildings. The zoning administrator may waive the above standards for multi-family housing developments of two hundred or more units if compliance would disqualify an otherwise reasonable location.

D. Day Care Home - Large.

1. Play Area. If an outdoor play area is provided, it shall be fenced and attached to the day care structure in a manner which minimizes noise impacts on neighboring residences.

2. Lot Area. Where a minimum lot size is required, the minimum lot area shall be the same as the principal activity, except when in the opinion of the zoning administrator circumstances warrant otherwise.
3. State Regulations. All requirements of the state that pertain to the use and operation of the facility shall be met.
4. Multi-Family Buildings. The zoning administrator may waive the above standards for multi-family housing developments of two hundred or more units if compliance would disqualify an otherwise reasonable location.

Section 4. That Subsection 17.16.170.D of the Metropolitan Code is hereby amended as follows:

- D. Day Care Home - ~~Small & Day Care Home~~ - Large.
1. The day care home shall only be permitted in an occupied residence or accessory to another institutional use.
  2. Lot Size. The minimum lot area shall be the same as the principal activity; except when in the opinion of the board of zoning appeals circumstances warrant otherwise.
  3. Street Standard. Day care homes may have driveway access on any street; however, no more than one day care home shall locate on a residential minor local street and not within one hundred feet of the terminus of such street.
  4. Spacing. Regardless of classification, no day care center or day care home shall locate on the same street block face or on an opposing street block face. Where a block face is over one thousand feet in length, no day care center or day care home shall locate within one thousand feet of another day care center or day care home, measured in a direct line from property line to property line and including any public right-of-way.
  5. Play Area. If an outdoor play area is provided, it shall be fenced and attached to the day care structure in a manner which minimizes noise impacts on neighboring residences.
  6. All requirements of the state that pertain to the use and operation of the facility shall be met.
  7. The board of zoning appeals may waive the above standards for multifamily housing developments of two hundred or more units if compliance would disqualify an otherwise reasonable location.

Section 5. That Table 17.20.030 of the Metropolitan Code is hereby amended as follows:

Day care home - Large	1 space plus requirement for principal use, plus 2 spaces for patrons
Day care home - Small	1 space plus requirement for principal use, plus 1 space for patrons

Section 6. That this Ordinance shall take effect five (5) days from and after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

**Approve with a substitute. (6-0)**

**Resolution No. RS2022-116**

"BE IT RESOLVED by The Metropolitan Planning Commission that 2022Z-002TX-001 is approved with a substitute. (6-0)

**13a. 2022Z-004TX-001**

BL2022-1121/Angie Henderson  
Staff Reviewer: Molly Pike

A request to amend Title 17 of the Metropolitan Code of Laws, the Zoning Ordinance of the Metropolitan Government of Nashville and Davidson County, to amend Chapters 17.12, 17.24, 17.28, 17.36, and 17.40 pertaining to the cluster lot option.

**Staff Recommendation: Approve with a second substitute and direct staff to prepare a housekeeping amendment to the Metro Subdivision Regulations.**

**APPLICANT REQUEST**

Amend Chapters 17.12, 17.24, 17.28, 17.36 and 17.40 of the Zoning Code pertaining to the Cluster lot option.

**PROPOSED AMENDMENTS TO TITLE 17**

The proposal would amend the Zoning Code to modify the standards of Section 17.12.090, Cluster lot option. The primary purpose of the amendments is to establish a more focused purpose and intent that is aimed at incentivizing better protection of sensitive environmental resources in exchange for flexibility of lot size, and to directly link the flexibility of lot size to the amount of open space established to protect sensitive features. Additionally, the proposal would rename the former "Cluster lot option" to "Conservation Development" to better reflect the purpose and intent of

the tool and reorganize the standards to make them easier to utilize and implement consistently. The proposal also includes housekeeping amendments in Chapters 17.24, 17.28, 17.36, and 17.40 of the Zoning Code that are necessary to change references to "Cluster lot option" to "Conservation Development," correct errors in code section references, and ensure consistency across the Zoning Code.

### **Recent History**

This proposal came before the Commission at their last meeting on March 24, 2022. The public hearing was held and closed. During that meeting the commission asked three things of staff. First, for staff to develop a zoning code text amendment that would allow for the flexibility of lot size reduction on unconstrained sites and to bring to the commission a timeline for the preparation and approval of such an amendment. Second, staff was asked to analyze when this conservation development proposal should go into effect, allowing for possible development proposals to plan for the enactment of this text amendment, and to propose an enactment date for this proposal. Third, the commission asked to see examples sites showing the effect of the application of this proposal on the development of a residential subdivision in comparison to the current cluster lot option development.

Staff continues to work on the details of the zoning code amendment for unconstrained sites. Allowing time for the analysis, stakeholder input and drafting of the amendment, staff anticipates bringing a proposal to the commission at their July meeting. With this schedule in mind, this tool for a separate development style on unconstrained sites would be in the approval process by the proposed effective date for the conservation development amendment.

Staff recommends an effective date of September 14, 2022, to align with Planning Commission filing deadlines and allow time for dissemination of new standards to staff and applicants. The proposed standards, if adopted with this effective date, would apply to those applications filed for the September 14, 2022, filing deadline and thereafter. Any cases already under review prior to the September 14, 2022, filing deadline would be reviewed under the regulations in place at the time of application submittal. If the overall Council schedule for consideration of this proposal shifts, the effective date should also shift.

Commissioners requested examples of the comparison of the application of the cluster lot option and the conservation development proposal to a subdivision so the difference between the two types of development might be more clearly visualized. These examples have been included in the staff PowerPoint presentation.

Staff has also made minor corrections, related to uniformity of terminology, that were brought to staff's attention during the last Planning Commission meeting. These corrections have been incorporated into the second substitute.

### **BACKGROUND**

The Cluster Lot Option is a set of alternative zoning standards that may be utilized in the design of a Concept Plan for a residential subdivision. The existing Cluster Lot Option standards allow a property owner or developer to propose lots that are smaller than the minimum lot size required by the current zoning applicable to the property in exchange for creation of common open space within the development. The Cluster Lot Option was incorporated into the Zoning Code with adoption of the current code in the late 1990s, and have been subsequently amended twice, most recently in 2007, to add requirements for recreational facilities in cluster lot subdivisions over a certain size.

These Cluster Lot standards in Section 17.12.090 of the Zoning Code do not permit or apply to:

- Multi-family residential (3 or more units on a single lot);
- Nonresidential uses (offices, restaurants, stores); or
- Mixed use (multiple uses on a single property or in a single building)

These current standards are only applicable to properties:

- zoned Single-family residential (RS/RS-A) or One and Two-Family Residential (R/R-A);
- ten times the minimum lot size required by the existing zoning on the property; so, for example, on a site zoned Single-Family Residential RS10, the property must be a minimum of 100,000 square feet in size (ten times the minimum lot size of 10,000 square feet) in order to qualify; and
- proposed to be subdivided into individual lots with 1 or 2 units on each lot.

The current standards require a minimum of 15 percent of the gross acreage of the site be set aside as open space. In exchange, lots within the development may be reduced in size the equivalent of two zoning districts smaller than the existing zoning as long as standards for landscape buffer yards and perimeter lots are met; for example, on a site zoned RS10, lots may be reduced from 10,000 square feet to 5,000 square feet.

For any site that does not meet the minimum size requirement or any other standard of the existing cluster lot option there is still the option of a conventional subdivision or a rezoning to meet the particular development needs.

### **EVALUATION AND ENGAGEMENT**

In response to comments and concerns shared with the Commission, the Commission directed staff to evaluate the current cluster lot option standards and look for opportunities for improvement. Staff analyzed data on past

subdivision concept plans during a four year period to gain an understanding of the number of concept plans utilizing the cluster lot option, and key characteristics of those plans, including the transect location, zoning, number of lots and amount of open space created.

In addition to the data analysis, staff also conducted outreach to obtain feedback from key stakeholders. Three targeted stakeholder groups were assembled. The first was comprised of residents and neighborhood leaders representing many different geographic areas across the County where subdivision concept plans have been proposed. The second was comprised of representatives of environmental and conservation advocacy organizations, as protection of sensitive environmental features is one of the stated purposes of the current cluster lot option standards. The third was comprised of representatives of the development community who regularly participate in the planning and subdivision process. Staff met virtually with each stakeholder working group twice, for a total of six sessions. Staff provided an overview of the current standards and sought feedback from the stakeholders on key issues related to the tool including open space standards, flexibility of lot size, and maximum lot yield. The feedback received at these sessions was incorporated into an initial draft of possible amendments, which were made available on the Planning website for feedback from stakeholders and the broader public in late summer 2021. The feedback received on this preliminary draft shaped the initial proposal introduced at Metro Council.

Concurrently with introduction of the legislation, Staff presented the proposal to a meeting of the combined stakeholders in February 2022 to afford those stakeholders who participated throughout the process an opportunity to ask questions and share feedback directly. Additionally, the proposed amendments were made available on the Planning Department website for a period of review and public comment prior to placing this item on a Planning Commission agenda. The amendment currently proposed for consideration incorporates additional revisions and refinements made to address comments and feedback received since the most recent stakeholder meeting and posting of the revised draft.

## **ANALYSIS**

The Commission directed staff to evaluate the cluster lot option in part because of comments received from the public expressing concern that the flexibility afforded by the tool was not appropriately balanced with the requirements, and that the alternative lot patterns the cluster lot option tool permits were not always achieving the intended purpose. Through the course of the more focused stakeholder engagement, it became apparent that part of this concern arises from stakeholders having very different understandings about the intended purpose of the tool. The current cluster lot option standards articulate multiple purposes including flexibility of design, creation of common open space, and preservation of natural features. Sometimes these purposes compete, and the standards are not organized in a way that links them clearly to the purpose.

The proposed amendment focuses on preservation of natural areas. Natural features, including steep slopes and hillsides, streams and floodplains, problem soils, archaeological resources, and native forests or vegetation are important community assets, both for the ecological services they provide and their contribution to Nashville's unique character. NashvilleNext identifies the importance of utilizing sensitive development techniques to minimize hazards associated with development in natural areas, and to balance preservation and development to create resiliency. Much of Nashville's zoning was applied in the 1970s and 1990s, prior to adoption of the current community vision and goals laid out in NashvilleNext, but unless proposed for change by a property owner or Councilmember, the current zoning on a property permits certain amounts and forms of development. Allowing for flexibility in development patterns within existing zoning allowances can help achieve community goals of better balancing development and existing zoning with protection and conservation of sensitive natural areas, and alternative lot sizes or development patterns may be more palatable to communities if they can easily perceive that those alternative lot sizes are helping protect valuable sensitive features in a meaningful way.

The proposed amendments to the Zoning Code would require the preservation of some natural areas under certain situations by allowing for flexibility in lot size in a residential subdivision.

The criteria for a conservation development is twofold. First, the development site must meet a size requirement of no less than ten times the minimum lot size required by the existing zoning on the property. This is the same requirement as used with the existing cluster lot option. For example, in the R10 district the minimum area for the subdivision would be one hundred thousand square feet. (Ten thousand square feet minimum lot size times ten).

The second requirement is that the development site must have at minimum 10 percent natural area. For example, a twenty acre site would have to have existing sensitive natural features of at least 2 acres before this type of development would be triggered.

When the criteria of development size and presence of natural features are met, this style of development would be required. Staff determined that for this to meet the intent of the standard and be an effective tool in preserving these natural areas there must be a requirement that they be preserved. By preserving these areas, a development may reduce the size of the lots by the percentage of the development preserved in natural area open space. For example, if a development contains 15 percent natural area protected in natural area open space, lot size may be reduced 15 percent. In no case shall the size of any lot be reduced to less than 3,750 square feet, no matter how much natural

area is protected. The amount of natural area that would need to be protected to achieve this smallest minimum lot size of 3,750 square feet varies by zoning district; for example, on a site zoned RS20, approximately 80% of the site would need to be protected in natural areas before this amount of lot size reduction could be achieved.

Another minimum standard established in this amendment is the 20 percent preservation requirement threshold. If less than 20 percent of the site is defined natural areas, all the natural area present must be undisturbed and in open space. If more than 20 percent of the site is natural features, a minimum of 20 percent is required to be preserved.

It is recognized that some parcels of land will have more than 20 percent sensitive natural features. When this is the situation, the land may be developed in a way that preserves the amount that makes the most sense and in the location that best suits the development requirements. The amount of natural area preservation is not limited to 20 percent of the parcel. The developer may elect to set aside more land. Any set aside must be undisturbed if to be credited toward lot size flexibility. As an incentive to preserve more natural features, the amount of lot size flexibility is directly linked to the amount of area preserved. While the preservation is a required standard, the amount and location will be adjusted according to the land itself.

This amendment establishes a requirement for the preservation of these areas by placing them in platted open space and not permitting disturbance or requiring a recreational facility. Minimal disturbance with the addition of trails, gazebos and conservation-oriented uses would be permitted in this type of open space. Since not all natural areas are conducive to this type of recreation feature, they are not a requirement. The preservation of natural features is the amenity in this type of development. If natural open space is a requirement, then this area must be maintained. This amendment outlines who owns and manages the open space.

This Conservation Development amendment is not intended to address all the problems or issues that have been identified with the creation of new residential subdivisions. These standards are intended to guide development on parcels with environmentally sensitive areas by encouraging these decisions to be based on the characteristics of the land in a site-specific way. This amendment provides incentives to reduce the disturbance of the areas that define this region, and by linking the flexibility of lot size available directly to the amount and quality of the natural area open space provided, ensures a balance between flexibility and protection. For any site that does not meet the minimum size requirement or any other standard of the proposed Conservation Development standard there is still the option of a conventional subdivision or a rezoning to meet the particular development needs.

Staff has continued to refine the proposal based on feedback received in response to the most recent stakeholder meeting and public comment opportunities. Stakeholders with a focus on T2 Rural areas expressed some concern that the one-to-one relationship of open space protected to lot size reduction might inadvertently be offering more lot size flexibility without achieving protection of natural areas beyond what the Rural Subdivision Regulations already require. To address this concern, and to ensure that the Rural Subdivision Regulations continue to function as intended when adopted by the Commission, staff is recommending a second substitute ordinance that would clarify the natural area open space requirements as they apply to subdivisions which must meet the Rural Subdivision Regulations, and in those subdivisions, to cap lot size reduction at a two district maximum, consistent with the current cluster lot option allowances.

Staff recommends an effective date of September 14, 2022 to align with Planning Commission filing deadlines and allow time for dissemination of new standards to staff and applicants. The proposed standards, if adopted with this effective date, would apply to those applications filed for the September 14, 2022 filing deadline and thereafter. Any cases already under review prior to the September 14, 2022 filing deadline would be reviewed under the regulations in place at the time of application submittal. If the overall Council schedule for consideration of this proposal shifts, the effective date should also shift.

Through the course of the stakeholder meetings and analysis of existing code, staff received feedback from some stakeholders about the importance of additional zoning tools to ensure efficient use of land less constrained by the natural features described in this document. In addition to calling for protection of sensitive natural areas, NashvilleNext also establishes goals for diversity of housing opportunities. Sites that are unconstrained by natural areas play an important role in enabling our community to meet both environmental and housing goals, by providing opportunities for housing diversity without impacting sensitive environmental features found elsewhere in the county. The existence of natural areas on a proposed development site can prove to be challenging but not every piece of property is, by its very nature, meant to have the same pattern of development. By encouraging development and redevelopment of unconstrained sites, necessary housing may be provided for our growing population.

Additionally, stakeholders mentioned their desire to see a requirement for a type of formal or usable open space to provide amenities such as active recreation opportunities. The size and type of open space might be tied to the size of a proposed subdivision, for example. On constrained sites which would be subject to Conservation Development, the protection of natural areas is the priority, and the natural areas serve as a neighborhood amenity; however, staff acknowledges that incorporation of recreational open spaces is important consideration on unconstrained sites.

In response to stakeholder feedback regarding unconstrained sites and recognizing the importance of having zoning tools that are appropriately calibrated to different site conditions and contexts, staff is currently evaluating and

preparing a separate amendment to the zoning code to create a second zoning tool to allow for the flexibility of lot size for property that does not have the requisite natural areas defined by this current amendment, BL2022-1121 (Proposal2022Z-004TX-001). The purpose and intent of this second tool for unconstrained sites would be focused on the encouragement of provision of diverse and flexible housing to meet current and future needs, and incorporation of recreational or usable open space appropriate to the scale and form of the development. To ensure consistency with NashvilleNext and community character policy goals, this tool is currently being structured to afford flexibility to sites zoned R/RS10, R/RS15 and perhaps R/RS20, outside of T2 Rural policy areas. Staff continues to develop and refine the specifics of this second tool for unconstrained sites and anticipates bringing it to the Commission for consideration in the very near future. Having two separate zoning tools will ensure that the purpose and applicability of each is clear, and that the standards of each tool are calibrated to ensure that the stated goals and intent are met.

Staff's recommendation remains unchanged from the previous hearing by the Planning Commission. Given there have been no changes, staff recommends that the public hearing remain closed. If the Planning Commission chooses to reopen the public hearing, staff recommends that it be reopened and then the item deferred so that persons wishing to attend are given the opportunity.

**ZONING ADMINISTRATOR RECOMMENDATION**

No exception taken to this bill.

**FISCAL IMPACT RECOMMENDATION**

The Metro Planning Department currently reviews subdivisions utilizing the cluster lot option and will review subdivisions that trigger Conservation Development. There will be additional demand on staff to conduct a more nuanced plan review and to verify information via field visits to inspect the location of natural areas and the associated protection fencing.

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**STAFF RECOMMENDATION**

Staff recommends approval of a second substitute and recommends that the Planning Commission direct staff to undertake a properly noticed housekeeping amendment to the Metro Subdivision Regulations for purposes of replacing all references to the "cluster lot option" with references to "conservation development."

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**SECOND SUBSTITUTE ORDINANCE NO. BL2022-1121**

An ordinance to amend Title 17 of the Metropolitan Code of Laws, the Zoning Ordinance of the Metropolitan Government of Nashville and Davidson County, to amend Chapters 17.12, 17.24, 17.28, 17.36, and 17.40 pertaining to the cluster lot option, all of which is described herein (Proposal No. 2022Z-004TX-001).

WHEREAS, Metro Nashville and Davidson County is characterized by rolling hills, steep bluffs, valleys, floodplains, forests, and numerous rivers and streams; and

WHEREAS, NashvilleNext, Metro's General Plan adopted in 2015, identifies such natural areas as important community assets that provide benefits including enhancing air and water quality, moderating temperature, providing wildlife habitat, and better quality of life for residents; and

WHEREAS, NashvilleNext identifies the importance of sensitive development techniques to minimize hazards associated with development in natural areas and to balance preservation and development to create resiliency; and

WHEREAS, allowing for flexibility in development patterns within existing zoning allowances can help to achieve goals to balance development with protection and conservation of sensitive natural areas; and

WHEREAS, updating the standards of the zoning code pertaining to the cluster lot option will help ensure that flexibility of lot size and development pattern are appropriately balanced and linked with the quantity and quality of natural area conservation achieved by the proposed development.

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

Section 1. That Chapter 17.12 of the Metropolitan Code is hereby amended by deleting section 17.12.090 Cluster Lot Option in its entirety and replacing it with the following:

17.12.090 - Conservation Development

- A. Purpose and Intent. Conservation development is a set of standards that shall be utilized in the design of subdivisions as provided in this section. The purpose of these standards is to:
1. Preserve unique or sensitive natural resources such as steep slopes; hillsides; streams, wetlands, floodways, and floodplains; problem soils; archaeological resources; and native forests or unique vegetation through the creation of natural open space.
  2. Encourage the creation of lots on less environmentally sensitive areas of the site.
  3. Provide flexibility in design of subdivisions within existing zoning districts to promote environmental resource protection.
- B. Applicability. Subdivisions proposed in the R/R-A and RS/RS-A zoning districts that meet both of the following standards shall utilize the provisions of this section.
1. Minimum Site Area. The minimum site area of no less than ten (10) times the minimum lot area for the base zoning district as established by Table 17.12.020A. For example, in the R10 district the minimum area for the subdivision would be one hundred thousand square feet. (Ten thousand square feet minimum lot size times ten).
  2. Minimum Natural Area. A minimum of ten percent of the site contains any, or a combination of, the following:
    - a. Areas shown on FEMA maps as part of the 100 year floodplain or identified in local studies as confirmed by Metro Stormwater;
    - b. All perennial and intermittent streams, floodways, and associated buffers, as determined by Metro Stormwater or the State;
    - c. Areas of natural slopes of 20% or greater of at least 10,000 square foot contiguous area;
    - d. Areas containing problem soils as established by Section 17.28.050; Wetlands, as determined by Metro Stormwater;
    - e. Known habitat for federally or state listed or proposed rare, threatened, or endangered species;
    - f. Areas containing a protected Cedar Glade plant species as established by Section 17.28.060;
    - g. Archaeological or historic sites, cemeteries, and burial grounds; or
    - h. Protected, heritage and historic and specimen trees, as defined by Section 17.40.450 of the Metro Zoning Code.
- C. Maximum Lot Yield. The determination of the maximum lot yield shall be based on assigning 20% of the gross acreage of the site to open space and infrastructure. The remaining 80% of the gross acreage shall be divided by the minimum lot size of the base zoning district to determine the maximum yield. Yield shall not be based on the minimum lot size as described in Section D Lot Size Flexibility.
- D. Conservation and Design Flexibility. In order to accomplish the purposes of this section, flexibility in lot sizes may be proposed in exchange for protection of the natural areas present on the site in natural open space according to the following standards:
1. Conservation Areas
    - a. Subdivisions subject to the Rural Character Subdivision Regulations shall follow the procedures of those regulations for identification and protection of Primary Conservation Lands in ~~common~~ natural open space. In no case shall the standards of this section be construed to lessen the requirements for protection of Primary Conservation Lands as identified in the Rural Character Subdivision Regulations or establish a lower minimum open space threshold for such developments. If less than 20 percent of the site is Primary Conservation Land, then trees, if applicable, as specified in 17.12.090.B.2 shall be included as Natural Area required to be preserved in open space.
    - b. All other subdivisions shall set aside as ~~common~~ natural open space those portions of the site containing natural areas for purposes of conserving those resources according to the following:
      - i. If less than or equal to 20 percent of the site contains these natural areas, then the entire area shall be set aside in ~~common~~ natural open space.
      - ii. If more than 20 percent of the site contains natural areas, then a minimum of 20 percent of the site shall be set aside as natural open space.  
The applicant is encouraged, but not required, as part of this chapter, to set aside areas of common open space in excess of 20 percent in exchange for additional design flexibility.
  2. Common open space may be provided for other purposes besides protection of natural areas, but such open space shall not contribute to the flexibility of lot sizes afforded by this section.
  3. ~~Lot sizes for single-family lots may be reduced in size from the minimum required by the base zoning district by equivalent percentage of the site that is in the natural area protected in common open space or in primary conservation land, if applicable. For example, on a site zoned RS15 with ten percent of the site set aside as natural area, the lots may be reduced in size by ten percent, or to a minimum of 13,500 square feet in area. On a site zoned RS15 with 35 percent set aside as open space protecting natural area, the lots may be reduced in size by 35%, or to a minimum of 9,750 square feet.~~
- 3. Lot Size Flexibility**
- a. Subdivisions subject to the Rural Character Subdivision Regulations may reduce lots in size from the minimum required by the base zoning district by equivalent percentage of the site that is in the natural area protected in natural open space and such lots shall be reduced in lot area no more than the equivalent minimum lot size of two smaller base zoning districts. For example, a rural character subdivision in a RS20 district with 20 percent natural open space may create lots reduced in size by 20 percent. On a similar RS20 site with 60 percent natural open space, lots may be reduced the equivalent in size to a RS10 district, but no smaller.
  - b. All other subdivisions may reduce lots in size from the minimum required by the base zoning district by equivalent percentage of the site that is in the natural area protected in natural open space. For example, on a site zoned RS15 with ten percent of the site set aside as natural open space, the lots may be reduced in size by ten percent, or to a



minimum of 13,500 square feet in area. On a site zoned RS15 with 35 percent of the site set aside as natural open space, the lots may be reduced in size by 35 percent, or to a minimum of 9,750 square feet.

4. In no case shall the minimum lot size be reduced below 3,750 square feet.
  5. Lots proposed for duplexes must meet the minimum lot size of the base zoning district (no reduction in area permitted) and shall comply with the standards of 17.16.030.D of this title.
  6. Development in hillside and floodplain areas shall follow those standards as set out in Chapter 17.28. If the natural area preservation required in those sections is greater than the area required here, then that chapter shall prevail. In no case shall the required natural area preservation be less than that required in this section.
  7. ~~Trees removed pursuant to this section~~ preservation or removal proposed in a conservation development shall follow the standards of Chapter ~~17.28.065~~ 17.24. If the tree or natural area preservation required in that section is greater than the area required here, then the requirements of that section shall prevail. In no case shall the required natural area preservation be less than that required in this section.
  8. The standards for the review of critical lots as provided in the adopted Subdivision Regulations shall apply.
  9. The bulk standards and landscaping requirements of a comparable zoning district which most closely resembles the alternative lot sizes proposed for any given phase of development shall be employed for that phase of the subdivision.
  10. A standard C landscape buffer yard as per 17.24 Article IV Landscape Buffer Yard Requirements shall be required along the perimeter of the development when perimeter lots are reduced in size from the minimum lot size required by the base zoning district. If all perimeter lots meet the minimum size of the base zoning, no landscape buffer yard is required.
- E. Natural Open Space. Open space provided for the purposes of protecting natural areas and in exchange for flexibility of design, as described above, shall be called natural open space and subject to the standards below. These standards are not applicable to common areas or open spaces that may be provided for other purposes.
1. All natural open space provided in accordance with this section shall be platted with the first phase of development that includes any lots utilizing alternative lot sizes as provided for above and shall be identified on the plat as protected natural open space. Consideration shall be given to the timing of platting of natural open space for large developments that contain natural area located in a portion of the site that may be inaccessible to the first phases of development.
  2. Clearing, grading or disturbance of natural open space shall be prohibited, except for essential infrastructure. Roadways and other essential utilities necessary to serve the development may be permitted to cross a natural open space provided that this development minimizes impacts to this area. Preliminary grading and construction plans that demonstrate the limits of disturbance, feasibility of construction and overall impacts to the area at a level of detail beyond that normally required at the concept plan (preliminary plat) phase shall be required prior to approval of a plan incorporating such infrastructure. The portion of the natural open space that must be disturbed to accommodate essential infrastructure shall not contribute toward the required minimum natural open space or flexibility of lot size afforded by the previous section.
  3. Protected natural open space shall be located and identified in the field by the applicant prior to the issuance of a tree removal or grading permit to ensure there is no disturbance of these areas during the construction process.
  4. Configuration and Access. To the maximum extent practicable given the configuration of natural areas, the open space shall be in a contiguous tract. Consideration should be given to the preservation of natural area that adjoins neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected open space in an adjacent development. The open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with pedestrian access to the open space via direct access or an access easement designated on the plat.
  5. Permitted Uses of Natural Open Space. The following uses may be located or installed within natural open space without affecting the contribution of those areas to flexibility of lot size afforded by the previous section:
    - a. Conservation of natural resources;
    - b. Paved greenway trails or trailhead facilities identified in the Metropolitan Parks and Greenways Master Plan and located within publicly accessible greenway conservation easements to the benefit of the Metropolitan Greenways Commission or Metro Parks;
    - c. Walking or bicycle trails provided they are constructed of pervious paving materials;
    - d. Passive recreation areas such as picnic shelters, gazebos, or shared docks;
    - e. Required stormwater mitigation measures such as reforestation that do not require grading;
    - f. Other conservation-oriented uses compatible with the purposes of this section.
  6. Prohibited Uses of Natural Open Space.
    - a. Clearing, grading, disturbance, or tree removal except as specifically authorized in the permitted uses;
    - b. Roads, parking lots, impervious surfaces, and infrastructure;
    - c. Active recreational or play facilities including but not limited to tennis courts, basketball courts, swimming pools, playgrounds, baseball/softball diamonds or volleyball courts or other facilities that incorporate impervious surface; and
    - d. Impoundments, such as retention and detention basins, and other conventional stormwater facilities.
  7. Ownership and Management.
    - a. Natural Open space within a conservation development shall be owned and maintained by an incorporated association for the mutual benefit of residents or property owners within the development and shall be adequately described on a recorded plat of subdivision approved by the planning commission. All property owners within a

conservation subdivision shall be a member of the association which shall be responsible for the assessment of dues to cover the recurring costs of maintaining all natural open space areas. Articles of incorporation and bylaws shall be submitted and approved according to the subdivision regulations.

- b. In limited circumstances where the natural open space is identified on the Greenways Master Plan or within the Parks Master Plan, the developer may offer the open space for dedication to Metro Parks subject to approval and acceptance by Metro Parks Board and Metro Council as appropriate.
  - c. Natural Open Space Management Plan. With the concept plan applicants shall submit a plan for the management of the open space and common facilities which allocates responsibility and guidelines for maintenance and operation of the open space and any facilities located within the open space areas. If the open space is restricted via a conservation easement in the favor of a bona fide land trust or other permanently established organization legally able to accept such easements, a stewardship plan or other management plan associated with the conservation easement may be provided in lieu of the open space management plan.
  - d. Failure to maintain. When the failure of an association or other responsible party to properly maintain a natural open space results in a public nuisance, the zoning administrator is empowered to initiate appropriate measures to eliminate the nuisance. If public funds are utilized to remove a nuisance and/or maintain ~~common~~ natural open space, those costs shall be assessed proportionally against all property owners within the development in the form of a tax lien. This provision shall not apply to any natural open space that has been dedicated to and accepted by the metropolitan government.
- F. Application Requirements.
1. The subdivision concept plan (preliminary plat) shall clearly indicate that a conservation development is proposed and shall be prepared in accordance with the procedures and requirements of the Metro Subdivision Regulations.
  2. Concurrent with the submittal of the concept plan, the applicant shall prepare and submit a site analysis map that identifies the natural areas. Documentation of, or determinations regarding the areas from appropriate Metro, State or Federal agencies or official maps or resources, if applicable, shall also be provided.
  3. Preliminary grading and construction plans that demonstrate the limits of disturbance, feasibility of construction and overall impacts to a natural area at a level of detail beyond that normally required at the concept plan (preliminary plat) phase shall be required prior to approval of a conservation plan.

Section 2. That Chapter 17.24 of the Metropolitan Code is hereby amended by deleting subsection 17.24.100.B.3 and replacing it with the following:

3. Compliance with this subsection B. shall be calculated using gross acreage of the property but shall not include the following:

- a. The portion of the land area currently or proposed to be covered by buildings;
  - b. The fenced area of any athletic field;
  - c. The area of a lake or pond which is covered by water year round; and
  - d. Open areas of golf facilities.
- e. Natural areas preserved in open space pursuant to 17.12.090 Conservation Development.

Section 3. That Chapter 17.24 of the Metropolitan Code is hereby amended by deleting subsection 17.24.110.D and replacing it with the following:

D. Fencing of Tree Protection Zone or Natural Area Open Space. Prior to the commencement of construction, the developer shall enclose the entire tree protection zone or natural area open space within a fence or similar barrier as follows:

1. Chain link fencing at least four feet in height and secured using appropriate posts spaced not more than ten feet apart.
2. During construction, each tree protection zone shall be identified with a temporary sign or signs to clearly demarcate the extent of the zone. The developer shall maintain the protective barrier during the entire construction process and shall make certain that it is observed by the contractor.

Section 4. That Chapter 17.24 of the Metropolitan Code are hereby amended to modify subsection 17.24.110 to insert the following as subsection 17.24.110.D and re-letter the subsequent subsections:

D. Development Prohibited within the Natural Areas. All development activities shall be prohibited within any tree protection zone established for a natural area preserved in open space pursuant to Section 17.12.090 Conservation Development.

Section 5. That Chapter 17.28 of the Metropolitan Code is hereby amended by deleting subsection 17.28.030.A.2 and replacing it with the following:

2. Single and/or two-family subdivisions in areas characterized by twenty percent or greater slopes shall employ the conservation development provisions of Section 17.12.090. In general, lots so created shall be grouped on those

portions of the site that have natural slopes of less than twenty percent. The planning commission may authorize lots on natural slopes ranging up to twenty five percent, subject to the special standards and conditions noted above. Large contiguous areas containing natural slopes in excess of twenty-five percent should be recorded as either common or natural open space and permanently maintained in a natural state.

Section 6. That Chapter 17.28 of the Metropolitan Code is hereby amended by deleting subsection 17.28.040.C.2 and replacing it with the following:

2. Grouped lots. A single and/or two-family subdivision proposed on property containing natural floodplain and floodway areas shall employ the conservation development Section 17.12.090 or the Planned Unit Development (PUD) cluster lot option of Section 17.36.070. Residential lots under the conservation development or PUD cluster lot option may be grouped within the manipulated areas of the natural floodplain. Any residential lot, or any portion of a residential lot, containing natural floodplain shall be designated as a "critical lot" and minimum finished floor elevations shall be established on the final plat of subdivision approved by the metropolitan planning commission and the department of water and sewerage services. Protected floodway and floodplain areas shall not be excluded from the calculation of gross land area for purposes of determining lot yield pursuant to Section 17.12.090.

Section 7. That Chapter 17.28 of the Metropolitan Code is hereby amended by deleting Section 17.28.060 and replacing it with the following:

17.28.060 – Protection of Cedar Glade plant communities.

A residential subdivision or multifamily development proposed on land containing a designated Cedar Glade environment shall make all reasonable effort to preserve that environment through the use of conservation development afforded by this title.

Section 8. That Chapter 17.36 of the Metropolitan Code is hereby amended by deleting subsection 17.36.070.A.1 and replacing it with the following:

1. Residential lots within a PUD district may be grouped to a greater extent than allowed by the conservation development provisions of Section 17.12.090 in return for extraordinary protection of environmentally sensitive areas in a natural state. With proper environmental protection, a PUD master development plan may recapture up to one hundred percent of the average density achievable by similarly zoned land with no environmental constraints. The actual achievable density for any given master development plan may be less depending upon the extent of environmentally sensitive areas to be protected and the minimum lot requirements established below.

Section 9. That Chapter 17.36 of the Metropolitan Code is hereby amended by deleting subsection 17.36.070.C.3 and replacing it with the following:

3. Perimeter lots otherwise abutting a conventional R/R-A or RS/RS-A subdivision may be reduced in size the equivalent of one zoning district with the installation of a standard B landscape buffer yard located within common or natural open space, as applicable. Perimeter lots may be reduced in size the equivalent of two zoning districts with the installation of a standard C landscape buffer yard.

Section 10. That Chapter 17.36 of the Metropolitan Code is hereby amended by deleting subsection 17.36.150 and replacing it with the following:

17.36.150 – General provisions

- A. Properties encompassed by a mapped greenway overlay district are encouraged to utilize the conservation development option (Section 17.12.090) or planned unit development (Article II of this chapter) provisions of this title, thereby protecting the functional integrity of the adopted greenway master plan.
- B. In consideration of a subdivision plat utilizing the conservation development ~~authority~~ provisions of Section 17.12.090 or a PUD master development plan containing property within a greenway overlay district, the planning commission shall solicit a recommendation from the metropolitan greenways commission staff regarding the objectives of the adopted greenway plan as they relate to the subject property. The planning commission shall base its approval or disapproval on the extent to which a property owner has taken all reasonable measures to orient development in a manner which protects the value of those areas within the district for incorporation into a greenway system.

Section 11. That Chapter 17.36 of the Metropolitan Code is hereby amended by deleting section 17.36.160 and replacing it with the following:

17.36.160 - Dedication incentives

Development incentives are established by this section to encourage participation in the implementation of a comprehensive greenway network. In return for a development bonus, the landowner shall locate all development outside the overlay district, design and orient all development in a manner which protects the functional and operational integrity of the greenway network and dedicate all areas within the overlay district for public use by conveyance of easements, property title or equivalent means. The following incentives may be applied to properties lying within a mapped greenway overlay district, and are to be considered bonuses granted above and beyond all other incentives established elsewhere in this title.

- A. Residential development in the R/R-A and RS/RS-A districts utilizing the conservation development provisions of Section 17.12.090 or the PUD cluster provisions of Article II of this chapter may utilize the development bonus provisions of Section 17.36.090 for a corresponding amount of land area dedicated for public greenway use. Area dedicated for public greenway use in a PUD or conservation development may count one and one-half times towards satisfying minimum common or natural open space, as applicable to the requirements of Section 17.36.070.B or 17.12.090.
- B. Multifamily development in the RM and mixed-use districts may achieve a twenty-five percent bonus in achievable density derived from that amount of land area dedicated for public greenway use. Area dedicated for public greenway use in a PUD development may count one and one-half times towards satisfying the minimum common open space requirement of Section 17.36.070B; all protected trees within the area of dedication may count one and one-half times in satisfying the tree density requirements of Section 17.24.100.
- C. Nonresidential development may be granted a floor area ratio (FAR) bonus of twenty-five percent for that amount of land area dedicated for public greenway use. All protected trees within the area of greenway dedication may count one and one-half times in satisfying the tree density requirements of Section 17.24.100.

Section 12. That Chapter 17.40 of the Metropolitan Code is hereby amended to modify the list of Sections/Tables in subsection 17.40.340.A as follows:

17.12.090 (conservation development)

Section 13. That Chapter 17.40 of the Metropolitan Code is hereby amended by deleting the introductory paragraph of Section 17.40.380 and replacing it with the following:

Requests for exceptions from the hillside development standards of Chapter 17.28 shall be administered and decided in conformance with the requirements of this article. The board shall have no authority to vary lot areas within platted residential developments utilizing lot area averaging or conservation development provisions of Chapter 17.12.

Section 14. That Chapter 17.40 of the Metropolitan Code is hereby amended by deleting subsection 17.40.470.A.2. and replacing it with the following:

2. Except for development approved pursuant to 17.12.090 Conservation Development each application for a tree removal permit shall be accompanied by a tree survey based upon current information. An application for a tree removal permit for a Conservation Development approved pursuant to 17.12.090 shall submit a tree survey for any trees located outside of the natural areas required to be preserved in open space. The survey shall show the location, size and type of retained, protected and heritage trees upon the site, including common or scientific names. The survey shall indicate which retained, protected and heritage trees are intended for removal and/or grubbing and which will be left undisturbed. A final site plan prepared to the same scale shall be submitted which illustrates the following:

- a. The locations of existing and proposed buildings, layout of roads, utilities, parking areas for vehicles, storage areas for construction materials, and other items that disturb or compact the soil in tree root zones.
- b. Existing and proposed grades and subsequent erosion control measures to prevent siltation over the roots of protected and heritage trees and appropriate tree protection fencing for those trees.
- c. For a conservation development approved pursuant to 17.12.090 survey plans shall locate and label all natural areas to be preserved and show and label the limits of disturbance.
- d. For a conservation development approved pursuant to 17.12.090, the site analysis plan shall be included with the submittal.

Section 15. Be it further enacted that this ordinance shall take effect immediately after its passage and such change be published in a newspaper of general circulation, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

**Sponsor(s)** Angie Henderson, Kathleen Murphy, Brett Withers, Burkley Allen, Thom Druffel, Emily Benedict

Ms. Pike presented the staff recommendation to approve with a second substitute and direct staff to prepare a housekeeping amendment to the Metro Subdivision Regulations.

Mr. Henley felt more comfortable with what he has seen. He thought it was a lot clearer on how that will be implemented from the walk through that was just done. He said his questions have all been met from the presentation.

Mr. Haynes said he was good.

Ms. Farr asked if each lot can have a portion of the undevelopable, like the lots overlapped with the floodplain.

Ms. Milligan explained that it was 10% natural area. If you have 10%, all 10% was set aside. If you have 20%, you set that aside. If you have more than 20%, you only have to set aside 20%. Further, property in a floodplain was not necessarily undevelopable, there were just different standards. The more you set aside, the more flexibility you get regarding your lot sizes. So, if you have 40% and you set aside 40%, you can adjust your lot 40%. If you have 40% and only set aside 20%, you can only adjust your lot 20%.

Ms. Farr said the examples really helped and she felt better about it. She liked the statement in the Staff report that this will not cure all of the issues, but this is another tool, and so she felt good moving forward.

Ms. Blackshear stated she has reviewed the video of the public hearing and appreciated the staff's work, the Councilmember's and folks' comments and so, she was comfortable approving this.

Ms. Johnson thought the update cleared up the language and since the basic regulation has remained the same, she was comfortable with this proposed regulation. She said no matter how much the lot size reduces, size will get smaller but yield will remain the same. She felt, in that sense, it was a thoughtful legislation.

**Ms. Johnson moved and Mr. Henley seconded the motion to approve with a second substitute and direct staff to prepare a housekeeping amendment to the Metro Subdivision Regulations. (6-0)**

**Resolution No. RS2022-117**

"BE IT RESOLVED by The Metropolitan Planning Commission that 2022Z-004TX-001 is approved with a second substitute and direct staff to prepare a housekeeping amendment to the Metro Subdivision Regulation. (6-0)

**13b. 2022Z-005TX-001**

BL2022-1122/Angie Henderson  
Staff Reviewer: Molly Pike

A request to amend Titles 2 and 17 of the Metropolitan Code of Laws, to amend Chapters 17.24 and 17.28 pertaining to Tree Protection and Replacement, and to amend Chapters 2.226, 17.04, 17.12, 17.20, 17.24, 17.28, and 17.40 to make associated housekeeping amendments.

**Staff Recommendation: Approve amendments to Title 17 with a substitute.**

**APPLICANT REQUEST**

Amend Titles 2 and 17 of the Metropolitan Code of Laws, to amend Chapters 17.24 and 17.28 pertaining to the Tree Protection and Replacement, and to amend Chapters 2.226, 17.04, 17.12, 17.20, 17.24, 17.28, and 17.40 to make associated housekeeping amendments.

**PROPOSED AMENDMENTS TO TITLE 2**

Although the legislation includes changes to Title 2 – Administration, this report will focus on changes to Title 17 – Zoning.

**PROPOSED AMENDMENTS TO TITLE 17**

The proposal would amend the Zoning Code to relocate the Tree Protection and Replacement Standards from 17.24 and 17.40 to 17.28, and make associated housekeeping amendments

**BACKGROUND**

The previous item on this agenda was the Cluster Lot Option amendment, BL 2022-1121 (2022Z-004TX-001). The purpose of that amendment is to protect the sensitive environmental features that contribute to Nashville's unique

character by contributing to the beauty and interest of neighborhoods and provide environmental services such as stormwater management by allowing for flexibility of lot size in some residential subdivisions.

This proposed amendment, BL2022-1122 (2022Z-005TX-001), is a companion to that proposed legislation, BL2022-1121. This amendment will relocate 17.24 Article II Tree Protection and Replacement and 17.40.450 Designation of tree types to a newly created section, 17.28.065 Trees. The proposed code section about conservation development recognizes trees as a natural feature rather than solely as a landscaping requirement. As such it seemed imperative that these existing sections of the zoning code pertaining to trees be relocated to Chapter 17.28 Environmental and Operational Performance Standards where there are existing sections that speak to other natural areas such as floodplains/floodways, problem soils and cedar glades.

**ANALYSIS**

This amendment relocates existing sections of the zoning code pertaining to tree preservation and replacement so that these standards are consolidated into a single proposed section in Chapter 17.28. Additionally, the proposal includes housekeeping amendments to update references to tree preservation throughout the code.

One code section that is proposed to be amended is 2.226 Tree Replacement and Protection on Certain Metro Properties. While it is not the usual duty of Planning staff to recommend amendments to the Metro Code outside of Title 17, 2.226 contains a reference to Title 17 that needs to be corrected if this amendment is approved.

The proposal is primarily accomplishing relocation of existing standards without substantive changes to the requirements, with a few minor exceptions. Given the importance placed on protection of natural areas in certain kinds of residential subdivisions by the proposed conservation development legislation, minor updates are needed to standards pertaining to tree and natural area protection fencing to ensure these areas remain protected during construction. The amendment establishes a standard for the language on the signage required on tree protection fencing, adds a tree replacement requirement for any trees removed from an area inside tree protection fence and proposed for preservation, and clarifies how tree protection fencing and silt fencing should be coordinated.

Staff recommends an effective date of September 14, 2022 to align with Planning Commission filing deadlines and allow time for dissemination of new standards to staff and applicants. The proposed standards, if adopted with this effective date, would apply to those applications filed for the September 14, 2022 filing deadline and thereafter. Any cases already under review prior to the September 14, 2022 filing deadline would be reviewed under the regulations in place at the time of application submittal. If the overall Council schedule for consideration of this proposal shifts, the effective date should also shift.

**ZONING ADMINISTRATOR RECOMMENDATION**

No exception taken to this bill.

**FISCAL IMPACT RECOMMENDATION**

The Metro Codes Department will implement this section of the Zoning Code at the time of permit review as is their current practice. The Codes Department anticipates the proposed amendment to be revenue neutral.

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**STAFF RECOMMENDATION**

Staff recommends approval of the amendments to Title 17 with a substitute.

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**SUBSTITUTE ORDINANCE NO. BL2022-1122**

An ordinance to amend Titles 2 and 17 of the Metropolitan Code of Laws, to amend Chapters 17.24 and 17.28 pertaining to Tree Protection and Replacement, and to amend Chapters 2.226, 17.04, 17.12, 17.20, 17.24, 17.28, and 17.40 to make associated housekeeping amendments, all of which is described herein (Proposal No. 2022Z-005TX-001).

WHEREAS, Metro Nashville and Davidson County is characterized by rolling hills, steep bluffs, valleys, floodplains, forests, and numerous rivers and streams; and

WHEREAS, NashvilleNext, Metro’s General Plan adopted in 2015, identifies such natural areas as important community assets that provide benefits including enhancing air and water quality, moderating temperature, providing wildlife habitat, and better quality of life for residents; and

WHEREAS, NashvilleNext identifies the importance of sensitive development techniques to minimize hazards associated with development in natural areas and to balance preservation and development to create resiliency; and

WHEREAS, allowing for flexibility in development patterns within existing zoning allowances can help to achieve goals to balance development with protection and conservation of sensitive natural areas; and

WHEREAS, updating the standards of the zoning code pertaining to the cluster lot option will help ensure that flexibility of lot size and development pattern are appropriately balanced and linked with the quantity and quality of natural area conservation achieved by the proposed development.

WHEREAS, the creation of 17.12.090 Conservation Development acknowledges that trees are a natural area worthy of protection.

WHEREAS, the consolidation of tree protection standards in a single Chapter of the code ensures the consistent implementation of environmental standards.

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

Section 1. That Chapter 2.226 of the Metropolitan Code is hereby amended by deleting Section 2.226.060 and replacing it with the following:

2.226.060 – Panel review and replacement standards

The panel will review metropolitan government projects and land-management activities on metro government properties of the responsible agencies that include the removal of covered trees over ninety aggregate inches in diameter at breast height ("DBH") or of any single specimen covered tree over thirty inches in DBH. Projects subject to the tree density requirements of Chapter 17.28 shall comply with Section 2.226.080 of the Metropolitan Code and not this section. The removals of covered trees over ninety aggregate inches in DBH or of any single specimen tree over thirty inches in DBH will be subject to the replacement standards contained in this section. Covered trees that are less than six inches in DBH and/or located within a public utility easement will not count toward the aggregate total or the single specimen requirement. Covered trees located in the metro government rights-of-way will not count as removals under this section unless located in a planting strip of at least four feet in width measured from the road or curb to the sidewalk, or they are being removed for a new metro government sidewalk installation. This protocol will not apply to areas within metro parks that are (1) greenways or trails, (2) managed as grasslands or mixed-grass meadows, (3) areas designated as protected natural areas in the Metro Parks Natural Resource Management Plan, or (4) impacted by infrastructure maintenance or repair. Metro parks will supply an annual report of the counts to the tree review panel on covered tree removals in these exempted areas for data and public information purposes. The panel will review the projects for compliance with the replacement standards and will pursue retention where feasible. The panel may provide a recommendation of an alternate plan to the department head of the responsible agency that is proposing the removal, or their designee. The tree replacement standards for all covered trees are as follows:

<b>Replacement Standards</b>	
<b>Size of Tree Removed (DBH)</b>	<b>Number of New Canopy Trees Required</b>
≤ 10 inches	1
10.1 to 15 inches	2
15.1 to 20 inches	3
Greater than 20.1 inches	4

If authorized as a substitute for canopy trees, understory trees shall be planted at twice the rate of canopy trees. Replacement trees shall be nursery stock, at least 2.0 inches DBH, and six feet tall. Responsible agencies can track trees planted on their properties or within the metro government right-of-way and may apply them to the replacements required under this section if the planting occurred within one year of the tree removal activity.

Section 2. That Chapter 2.226 of the Metropolitan Code is hereby amended by deleting section 2.226.080 and replacing it with the following:

2.226.080 – Enhanced tree requirements

Metro projects having tree density requirements pursuant to Chapter 17.28 of the Metropolitan Code shall have a twenty percent higher tree density requirement than private development. The urban forester with the department of codes administration will review projects for compliance with this standard.

Section 3. That Chapter 17.04 of the Metropolitan Code is hereby amended to modify section 17.04.060 by deleting the definitions of Tree, heritage; Tree, historic and specimen; Tree, prohibited; and Tree, protected; and replacing them with the following:

Tree, heritage. "Heritage tree" means any tree meeting the criteria established in 17.28.065 of this title.

Tree, historic and specimen. "Historic and Specimen tree" means any tree meeting the criteria established in Section 17.28.065 of this title.

Tree, prohibited. "Prohibited tree" means any tree which, by the nature of its fruit, root system, brittleness of wood, or susceptibility to disease, is not allowed as a replacement tree.

Tree, protected. "Protected tree" means any tree meeting the criteria established in Section 17.28.065 of this title.

Section 4. That Chapter 17.12.090 of the Metropolitan Code is hereby amended by deleting subsection 17.12.090.D.7 and replacing it with the following:

Tree preservation or removal proposed in a conservation development shall follow the standards of Chapter 17.28.065. If the tree or natural area preservation required in that section is greater than the area required here, then the requirements of that section shall prevail. In no case shall the required natural area preservation be less than that required in this section.

Section 4~~5~~. That Chapter 17.20 of the Metropolitan Code is hereby amended by deleting subsection 17.20.120.C.2.c.v and replacing it with the following:

v. Trees installed pursuant to this section shall be eligible for credit toward the tree density required by Chapter 17.28 of this title.

Section 5~~6~~. That Chapter 17.24 of the Metropolitan Code is hereby amended by deleting section 17.24.010 and replacing it with the following:

17.24.010 – Purpose and intent.

The general purpose of this chapter is to set standards for landscaping, buffering, and tree requirements in order to implement the precepts of the general plan and the associated subarea plans, as well as the requirements of the various zone districts set out previously, including properties zoned DTC district as set forth in Chapter 17.37. This chapter further establishes standards for screening and landscaping parking areas to reduce their impact on adjacent properties and public thoroughfares, as well as to mitigate the environmental impacts of large areas of unbroken pavement; establishes standards for buffering between different zone districts or selected land uses to mitigate the results of differing activities; and sets standards for plant materials, maintenance of required plants, planning in scenic easements and standards for the screening of unsightly areas.

Section 6~~7~~. That Chapter 17.24 of the Metropolitan Code is hereby amended by deleting subsection 17.24.075.C.3 and replacing it with the following:

3. Trees installed pursuant to this section shall be eligible for credit toward the tree density required by 17.28.065 Trees.

Section 7~~8~~. That Chapter 17.24 of the Metropolitan Code is hereby amended by deleting subsection 17.24.080.B and replacing it with the following:



B. Watering. All required landscaping, excluding trees planted or preserved on residential property in accordance with Section 17.28.065.C of this title, shall be watered by one of the following methods:

1. An underground sprinkler system;
2. An outside hose attachment within one hundred feet of all landscaping.

Section ~~8~~9. That Chapter 17.28 of the Metropolitan Code is hereby amended to insert a new subsection 17.28.020.E as follows and renumber the subsequent subsections accordingly:

E. Trees are acknowledged to be an important part of the natural environment and as such shall be protected and replaced as provided in this chapter.

Section ~~8~~10. That Chapter 17.24 of the Metropolitan Code is hereby amended by deleting Article II – Tree Protection and Replacement, including sections 17.24.090, 17.24.100, 17.24.110, and 17.24.120, in its entirety and renumbering the subsequent Articles.

Section ~~9~~11. That Chapter 17.28 of the Metropolitan Code is hereby amended to create a new section as follows:

17.28.065 - Trees

A. Designation of tree types.

1. Designation of Protected Trees. A protected tree is any existing tree with at least a six-inch diameter at breast height (DBH); or any existing tree two inches in DBH or larger located in the public right-of-way. To qualify as a protected tree, the tree shall not be listed on the most recent edition of the Tennessee Invasive Exotic Plant List and shall be in fair or better condition with no major insect or pathological problems.

2. Designation of a Heritage Tree.

a. A heritage tree is any tree that meets the one or more of the following criteria:

i. Any tree with a DBH that meets or exceeds the following sizes:

<b>TREE TYPE</b>	<b>DBH</b>	<b>EXAMPLES but not limited to:</b>
Deciduous Canopy	24"	Oak, Maple, Poplar, Planetree, Ginko
Evergreen Tall	10"	Am Holly, So. Magnolia, Pine, Spruce, Cedar
Deciduous Understory	8"	Redbud, Dogwood, Flowering Cherry, Jap. Magnolia, Jap. Maple
Evergreen Low	8"	Dwf. Magnolia, Hemlock, Hybrid Holly, Cherry Laurel (tree form)

ii. Any tree registered in the Metro Historic or Specimen Tree program; or

iii. Any tree listed on the Tennessee Champion Tree list or the Tennessee Landmark and Historic Tree Registry as maintained by the Tennessee Division of Forestry.

b. In addition to the criteria listed above, to qualify as a heritage tree the tree shall meet all of the following:

i. Shall not be listed on the most recent edition of the Tennessee Invasive Exotic Plant List;

ii. Must have a life expectancy of greater than fifteen years;

iii. Must have a structurally sound trunk without extensive decay;

iv. Must have no more than one major and several minor dead limbs; and

v. Must have no major insect or pathological problems.

3. Designation of Historic and Specimen Trees. Historic and Specimen Trees program is a volunteer program in which trees shall be designated by the Metropolitan Beautification and Environment Commission based on advice from the Metropolitan Tree Advisory Committee and consent of the property owner. No historic or specimen tree shall be removed without a finding by the Metropolitan Beautification and Environment Commission that the tree is a hazard or a determination that it is not economically or practically feasible to develop the parcel without

removing the tree. All trees in the Historic and Specimen Trees program shall also be designated as Heritage trees as defined in Section 17.28.065 Trees.

#### B. Tree Preservation

1. It is the intent of this section to minimize the removal of trees and to ensure that property owners and developers take reasonable measures to design and locate the proposed improvements so that the number of trees to be removed is minimized. In particular, the design shall attempt to preserve protected, heritage, and specimen and historic trees, which meet the criteria set forth in Section 17.28.065.A, designation of tree types. For purposes of this chapter, the term 'retained tree' means a tree that is selected to be saved or preserved for purposes of being counted toward the required tree density for the property and which is not listed on the most recent edition of the Tennessee Invasive Exotic Plant List and which is in fair or better condition, with no major insect or pathological problems.

2. Any tree with a diameter at breast height (DBH) of twenty-four inches or more, or that qualifies as a heritage tree under Section 17.28.065.A of this title, shall be survey located and depicted on the final site plan.

#### C. Replacement of trees.

1. Trees removed pursuant to Section 17.40.470, tree removal permit procedures, shall be replaced at the expense of the property owner or developer to meet the required tree density standard.

2. Any retained tree that is removed without a tree removal permit shall be replaced on an inch for inch basis as specified 17.28.065.D.

#### 3. Tree density.

a. Each property, other than those residential properties provided for below. of this section, shall attain a tree density factor of at least twenty-two units per acre using retained or replacement trees, or a combination of both.

##### b. Residential properties shall attain the following tree density factors:

i. Property within a single and/or two-family residential subdivision for which the preliminary site plan is filed with the planning commission after the date of enactment of this subsection shall attain a tree density factor of at least fourteen units per acre using retained or replacement trees, or a combination of both, excluding the area of the building lots. Proof of compliance with this requirement shall be provided prior to the release of any applicable public infrastructure bonds.

ii. Requirements for individual single and two-family residential lots.

(1). Individual single and two-family lots, other than those lots zoned AG or AR2a, shall include at least one two-inch caliper tree for each thirty feet of lot frontage (or portion thereof), excluding alley frontage. Such trees must be chosen from the Urban Forestry Recommended and Prohibited Tree and Shrub List, and shall be of a form and quality set out in the American Standard for Nursery Stock (ANSI Z60.1, latest edition).

(2). Individual single and two-family lots on a cul-de-sac shall attain a tree density factor of at least two two-inch caliper trees for each thirty feet of lot frontage (or portion thereof). Such trees must be chosen from the Urban Forestry Recommended and Prohibited Tree and Shrub List, and shall be of a form and quality set out in the American Standard for Nursery Stock (ANSI Z60.1, latest edition).

(3). If the width of an individual single or two-family lot is less than twenty-five percent of the average lot depth, the lot shall attain a tree density factor of at least seven units per acre using retained or replacement trees, or both.

(4). Proof of compliance with this subsection shall be provided prior to the issuance of a certificate of occupancy.

iii. Alternative tree density requirements for single and two-family residential lots. In lieu of the requirements of subsection 2.a.ii of this section, a home builder may petition the urban forester for credit for retaining existing trees on the building lot, provided that the overall tree density, including both replacement and retained trees, is not less than seven units per acre. Retained trees used to satisfy this requirement shall be protected according to Section 17.28.065.A. Proof of compliance with this requirement shall be provided prior to the issuance of a certificate of occupancy.

c. Compliance with this subsection 3. Tree density, shall be calculated using gross acreage of the property but shall not include the following:

i. The portion of the land area currently or proposed to be covered by buildings;

- ii. The fenced area of any athletic field;
- iii. The area of a lake or pond which is covered by water year round; and
- iv. Open areas of golf facilities.
- v. Natural areas preserved in open space pursuant to 17.12.090 Conservation Development.

d. Retained and replacement trees shall contribute toward the tree density.

e. Tree density schedules shall be calculated according to the following schedules.

**Retained Tree Schedule**

UNITS represents basal area  
DBH refers to diameter at breast height

DBH	UNITS	DBH	UNITS	DBH	UNITS	DBH	UNITS
6	1.8	20	6.0	34	11.9	48	28.8
8	2.4	22	6.6	36	12.6	50	30.0
10	3.0	24	8.4	38	13.3	52	31.2
12	3.6	26	9.1	40	20.0	54	35.1
14	4.2	28	9.8	42	23.1	56	36.4
16	4.8	30	10.5	44	26.1	58	37.7
18	5.4	32	11.2	46	27.6	60	42.0

**Heritage Tree Schedule**

UNITS represents basal area  
DBH refers to diameter at breast height

DBH	UNITS	DBH	UNITS	DBH	UNITS
8	3.2	14	5.6	20	8.0
10	4.0	16	6.4	22	8.8
12	4.8	18	7.2	24*	9.6

\*Greater than 24" equals DBH x 0.5 per inch

**Replacement Tree Schedule**

UNITS represents basal area  
CAL refers to caliper size (a tree's diameter measured six inches from the top of the root ball)

<b>Canopy Trees</b>							
CAL	UNITS	CAL	UNITS	CAL	UNITS	CAL	UNITS
2	0.5	5	0.9	8	1.3	11	1.9
3	0.6	6	1.0	9	1.5	12	2.1
4	0.7	7	1.2	10	1.7	14	2.3

<b>Understory and Columnar Trees</b>							
CAL	UNITS	CAL	UNITS	CAL	UNITS	CAL	UNITS
2	0.25	5	0.5	8	0.7	11	1.0
3	0.3	6	0.5	9	0.8	12	1.1

<b>Understory and Columnar Trees</b>							
<b>CAL</b>	<b>UNITS</b>	<b>CAL</b>	<b>UNITS</b>	<b>CAL</b>	<b>UNITS</b>	<b>CAL</b>	<b>UNITS</b>
4	0.4	7	0.6	10	0.9	14	1.2

4. Existing prohibited trees may be counted for full credit of the tree density requirement if in the opinion of the urban forester, they are healthy existing trees.
5. Single-trunk replacement trees shall be (i) a minimum width of two-inch calipers; (ii) a minimum height of six feet; and (iii) shall consist of recommended species listed in the Urban Forestry Recommended and Prohibited Tree and Shrub List.
6. A retained tree moved from one location to another on the site may be given credit upon approval of the urban forester.
7. Except for sites located within the Downtown Code (DTC) zoning district, credit toward the required tree density may be given for the installation of street trees that meet the following criteria:
  - a. Street trees shall be chosen from the Urban Forestry Recommended and Prohibited Tree and Shrub List and shall be a minimum of two-inch caliper and a minimum of six feet in overall height. Canopy trees shall be installed except where conflicts with overhead utility lines exist; in those instances, understory trees may be substituted.
  - b. Street trees installed for tree density credit shall be depicted on the landscape plan.
  - c. The proposed location of street trees and planting area dimensions and standards shall be subject to review and approval by the urban forester and metro public works.
  - d. The owner of the property frontage along which the street trees are installed shall maintain street trees installed per this title to International Society of Arboriculture standards.
8. Subdivision developments, other than single and two-family residential subdivisions required to meet the tree density requirements of subsection B2. of this section, shall be exempt from the tree replacement provisions of this title during the phases of construction to install streets, utilities and drainage structures required to be installed or bonded prior to recording of a final plat, so long as: (1) the tree survey includes the area to be disturbed by the construction of streets, utilities and required drainage facilities; and (2) the removal of protected and heritage trees, as set forth in subsection 17.28.065, is confined to the area of disturbance determined by the planning commission to be the minimum area necessary to install the infrastructure required by the subdivision regulations; and (3) so long as no protected and heritage trees, as set forth in subsection 17.28.065, are to be removed outside of the agreed upon disturbed area. Development of individual parcels within the subdivision must comply with the tree replacement provisions unless exempted by other provisions of this title.
9. Existing developments not otherwise exempted shall comply with the tree replacement provisions of this title when undergoing expansions as follows:
  - a. No additional compliance is required if there is no enlargement of the lot, or in the improved portion of the existing lot, and either:
    - i. The value of any one expansion is less than twenty-five percent, or the value of multiple expansions during any five-year period is less than fifty percent, of the value of all improvements on the lot prior to expansion; or
    - ii. The total building square footage of any one expansion is less than twenty-five percent, or the total building square footage of multiple expansions during any five-year period is less than fifty percent of the total building square feet of all improvements on the lot prior to expansion.
  - b. When the previously improved portion of a lot is enlarged, or additional area is incorporated into the lot, only the additional area or expanded area of improvement is required to be brought into compliance with the tree replacement requirements, if either:
    - i. The value of any one expansion is less than twenty-five percent, or the value of multiple expansions during any five-year period is less than fifty percent of the value of all improvements on the lot prior to expansion; or
    - ii. The total building square footage of any one expansion is less than twenty-five percent, or the total building square footage of multiple expansions during any five-year period is less than fifty percent of the total building square footage of all improvements on the lot prior to expansion.

c. Total compliance is required if exemption cannot be claimed under other provisions of this section.

10. Any replacement tree planted for credit shall be replaced by a tree of equal or greater diameter than originally planted if the tree dies. Under no circumstances shall any replacement tree, planted for credit, be removed by the owner or developer without the prior permission of the urban forester. All trees and shrubs required by this code shall be inspected within three years of initial planting. Notwithstanding the foregoing provision of this subsection to the contrary, there is no requirement that a replacement tree planted for credit be replaced if the tree dies as a result of a natural disaster or other act of God. For purposes of this section, 'natural disaster' shall not include drought.

11. Where construction work will be completed under a phased schedule, site work and tree removal for the entire tract may be completed at one time and replacement or addition of trees can be deferred for a maximum of five years, so long as each phase is in compliance with the tree density requirements upon completion of that phase, and so long as the entire site is in compliance with the tree density requirements within five years, or upon completion of the entire project, whichever occurs first.

12. Notwithstanding any provisions of this title to the contrary, the board of zoning appeals may hear and decide appeals from any order, requirement, decision or determination made by the urban forester in carrying out the enforcement of this chapter.

#### D. Protection of trees during development activities.

1. Generally. To assure the health and survival of retained trees, the following kinds of tree injuries shall be prohibited during all development activities:

- a. Mechanical injuries to roots, trunk and branches;
- b. Injuries by chemical poisoning;
- c. Injuries by grade changes;
- d. Injuries by excavations; and
- e. Injuries by paving.

2. Tree Protection Zone. A circular tree protection zone shall be established around each retained tree as shown in Figure 17.28

a. If the drip line is less than ten feet, the protection zone shall be ten feet.

b. If the drip line is more than ten feet, the protection zone shall be the full drip line of the tree.

c. The configuration of the tree protection zone may be adjusted upon recommendation of the urban forester and upon verification that measures will be taken during construction or installation to protect the well-being of the tree.

3. Development Prohibited within the Tree Protection Zone. All development activities except those specifically permitted by subsection 6 of this section shall be prohibited within the tree protection zone provided for any protected trees or natural area created by section 17.12.090 conservation development, including any construction of buildings, structures, paving surfaces, and storm-water retention/detention ponds. All temporary construction activities shall also be prohibited within tree protection areas, including all digging, concrete washing, storage of construction material, and parking of construction vehicles.

4. Development Prohibited within the Natural Areas. All development activities shall be prohibited within any tree protection zone established for a natural area preserved in open space pursuant to Section 17.12.090 Conservation Development.

5. Fencing of Tree Protection Zone or Natural Area Open Space. Prior to the commencement of construction, the developer shall enclose the entire tree protection zone or natural area open space within a fence as follows:

a. Chain link fencing at least four feet in height and secured using appropriate posts spaced not more than ten feet apart.

b. During construction, each tree protection zone shall be identified with a temporary sign or signs to clearly demarcate the extent of the zone. Signs shall be installed on the tree protection fence visible on all sides of the fenced-in area at a rate of at least one sign for every 150 linear feet. The size of each sign must be a minimum of two feet by two feet and shall contain the following language in English and Spanish: "TREE PROTECTION ZONE:

KEEP OUT. ZONA DE LA PROTECCION DEL ARBOL. NO SE PERMITE ENTRAR". The developer shall maintain the protective barrier during the entire construction process and shall make certain that it is observed by the contractor.

c. The location of tree fence shall be coordinated with any required silt fence. Tree fence shall be located toward the tree with the silt fence outside to prevent erosion inside a tree preservation area.

#### 6. Permitted Activities within Tree Protection Zone.

a. Utility Excavation. Excavating or trenching by duly constituted utilities shall be permitted within the tree protection zone, except where the trees are historic or specimen, in which case utility lines shall be tunneled beneath tree roots in order to protect feeder roots. The urban forester may propose rules and regulations governing and/or limiting excavation or trenching by duly constituted utilities in the tree protection zone. Upon approval by the metropolitan planning commission of such rules and regulations pursuant to Metropolitan Code of Laws Section 2.104.020, excavation and trenching in the tree protection zone shall be permitted only pursuant to such rules and regulations.

b. Sodding and Groundcover. Placement of sod or other groundcovers and the preparation of the ground surface for such covers shall be permitted within the tree protection zone.

#### 7. Inspections.

a. All retained trees, pursuant to a tree survey shall be inspected by the urban forester one year following completion of the project to ensure that they are surviving in a healthy condition.

b. Retained trees which require repair or replacement shall be determined by the urban forester.

c. Any retained tree which is damaged during construction, or with damage occurring as a result of construction, shall be repaired according to accepted International Society of Arboriculture practices, or replaced on an inch for inch basis. Trees planted to replace damaged or removed protected trees shall not be counted toward the site TDU.

d. The owner shall be notified in writing of the urban forester's determinations.

8. Trees destroyed by natural disaster. There is no requirement that a retained tree be replaced if the tree dies as a result of natural disaster or other act of God, including a drought. For purposes of this subsection, 'drought' means a prolonged period of dryness that has caused extensive damage to, or prevented the successful growth of, crops within the Middle Tennessee area.

#### E. Less desirable trees.

The urban forester shall compile a list of plants which are considered less desirable in the area of the metropolitan government. Upon adoption following public hearing and comment by the metropolitan planning commission, such list shall have the force and effect of regulation. The metropolitan beautification and environment commission, upon advice of the tree advisory board, may add or delete trees from such list from time to time following public hearing. Once such list of less desirable plants is duly adopted, the plants included therein may not be used to satisfy the requirements of Section 17.28.065.C, except as specifically permitted therein. Use of such trees in excess of the requirements of sections listed above is not prohibited.

Section ~~40~~12. That Chapter 17.36 of the Metropolitan Code is hereby amended by deleting section 17.36.160 and replacing it with the following:

#### 17.36.160 – Dedication incentives.

Development incentives are established by this section to encourage participation in the implementation of a comprehensive greenway network. In return for a development bonus, the landowner shall locate all development outside the overlay district, design and orient all development in a manner which protects the functional and operational integrity of the greenway network, and dedicate all areas within the overlay district for public use by conveyance of easements, property title or equivalent means. The following incentives may be applied to properties lying within a mapped greenway overlay district, and are to be considered bonuses granted above and beyond all other cluster incentives established elsewhere in this title.

- D. Multifamily development in the RM and mixed-use districts may achieve a twenty-five percent bonus in achievable density derived from that amount of land area dedicated for public greenway use. Area dedicated for public greenway use in a PUD development may count one and one-half times towards satisfying the minimum common open space requirement of Section 17.36.070B; all protected trees within the area of dedication may count one and one-half times in satisfying the tree density requirements of Section 17.28.065.

- E. Nonresidential development may be granted a floor area ratio (FAR) bonus of twenty-five percent for that amount of land area dedicated for public greenway use. All protected trees within the area of greenway dedication may count one and one-half times in satisfying the tree density requirements of Section 17.28.065.
- F. Nonresidential development may be granted a floor area ratio (FAR) bonus of twenty-five percent for that amount of land area dedicated for public greenway use. All protected trees within the area of greenway dedication may count one and one-half times in satisfying the tree density requirements of Section 17.28.065.

Section ~~44~~13. That Chapter 17.40 of the Metropolitan Code is hereby amended by deleting section 17.40.440 and replacing it with the following:

17.40.440 – General.

Unless exempt from the provisions of this chapter, no person shall remove or in any way damage any retained, protected or heritage tree without first obtaining a permit from the zoning administrator. Any tree which is damaged, destroyed or removed without the required tree permit shall be repaired according to accepted International Society of Arboriculture practices, or replaced with the equivalent density units of replacement trees as provided in Chapters 17.24 and 17.28.

Section ~~42~~14. That Chapter 17.40 of the Metropolitan Code is hereby amended by deleting section 17.40.450 in its entirety.

Section ~~43~~15. That Chapter 17.40 of the Metropolitan Code is hereby amended by deleting subsection 17.40.470.B and replacing it with the following:

B. Tree Removal Permit Review Criteria. No permit for the removal of a retained, protected or heritage tree shall be granted unless the petitioner demonstrates one or more of the following conditions:

1. The site has received development, site plan or subdivision approval.
2. The tree is located in such proximity to an existing structure that the safety, utility or structural integrity of the structure is materially impaired.
3. The tree materially interferes with the installation, servicing or functioning of existing or infrastructure, utility lines or services for which there is no feasible relocation alternative.
4. The tree creates a substantial hazard to motor, bicycle or pedestrian traffic by virtue of physical proximity to traffic or impairment of vision.
5. The tree is diseased, insect ridden or weakened by age, abuse, storm or fire and is likely to cause injury or damage to people, buildings or other improvements.
6. The removal of the tree is necessary to promote the growth of surrounding protected and heritage trees. Under this provision, the applicant must demonstrate a preference for protecting heritage trees. Trees removed pursuant to this subsection are exempt from tree replacement requirements.
7. Any law or regulation requires the removal.
8. The site will maintain the required tree density after the removal of specified trees either with retained trees or with the installation of replacement trees in accordance with section 17.28.065.C Replacement of Trees.

Section ~~44~~16. Be it further enacted that this ordinance shall take effect immediately after its passage and such change be published in a newspaper of general circulation, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

**Sponsor(s)** Angie Henderson, Kathleen Murphy, Brett Withers, Burkley Allen, Thom Druffel, Emily Benedict

**Ms. Johnson moved and Mr. Henley seconded the motion to approve amendments to Title 17 with a substitute. (6-0)**

**Resolution No. RS2022-118**

“BE IT RESOLVED by The Metropolitan Planning Commission that 2022Z-005TX-001 is approved amendments to Title 17 with a substitute. (6-0)

## 14. 2022Z-006TX-001

BL2022-1216/Freddie O'Connell

Staff Reviewer: Harriett Brooks

A request to amend Title 17 of the Metropolitan Code of Laws to update the land use table pertaining to Commercial Amusement (outside) uses within the Downtown Code.

**Staff Recommendation: Approve.**

### APPLICANT REQUEST

Amend Title 17 of the Metropolitan Code pertaining to outside commercial amusement uses in the Downtown Core.

### BACKGROUND

*NashvilleNext*, Metro's General Plan, identifies the Downtown Core (bounded by Dr. MLK Jr. Blvd on the North, Korean Veterans Blvd on the South, the Cumberland River on the East, and CSX rail tracks on the west) as the primary commercial center of Downtown. The surrounding neighborhoods that comprise the Downtown Code, the North, South and West Use Districts, are classified as T6 Urban Neighborhoods characterized by a diverse arrangement of high density residential and mixed-use development (Figure 1).

Under 17.040.060 of the Metro Code, "outside commercial amusement" is defined as "the provision of entertainment or games of skill to the general public for a fee, or a permanent event space, where any of the activity takes place outside of a building." This definition encompasses an array of potential uses, including some business types that may predominantly residential mixed-use neighborhoods due to the significant sensory and auditory impacts on surrounding properties.

The Board of Zoning Appeals is empowered to consider the compatibility of certain land uses with established review criteria when they are permitted by special exception.

### PROPOSED AMENDMENTS TO TITLE 17

The ordinance proposes the following updates to Title 17 of the Metropolitan Code of Laws:

1. Amend section 17.08.030 of the Zoning Code by changing Commercial Amusement (outside) from P (Permitted) to SE (Special Exception) for the North, South and West Use Areas of the DTC zoning district;
2. Amend Chapter 17.37 by changing Commercial Amusement (outside) from P (Permitted) to SE (Special Exception) for the North, South and West Use Areas on page 58 of the Downtown Code;
3. And Amend Section 17.16.220 by deleting subsection C and replacing it as follows:
  1. Commercial Amusement (outside).
    - a. Applicable to all zoning districts where Commercial Amusement (outside) is a SE use:
      - a. Lighting. All light and glare shall be directed on-site to ensure surrounding properties are not adversely impacted by increases in direct or indirect ambient lighting levels.
      - b. The board of zoning appeals may stipulate, based on the zoning pattern and nature of the land uses in the immediate area, whether a maximum of sixty or seventy decibels noise level on the A-weighted scale shall be permitted to occur at the site boundary.
    2. Applicable only to IWD and IR zoning districts:
      - a. Buildings. Any new structure constructed on the property shall be no greater in size than one thousand, five hundred square feet.
      - b. Setback. Where any building or outdoor storage area, excluding passenger car parking lots, abuts a residential zone district or district permitting residential use, there shall be a minimum setback of one hundred feet from the property line.
      - c. Landscape Buffer. Along all residential zone districts and districts permitting residential use, screening in the form of landscape buffer yard standard A shall be applied along common property lines.
      - d. Street Standard. At a minimum, driveway access shall be from a collector street.
  3. Applicable only to the North, South, and West Use Areas of the DTC zoning district:
    - a. Hours of Operation: All events including sound amplification shall only take place between the hours of 9:00 AM and 11:00 PM. The board of zoning appeals may further restrict the hours and days of operation.
    - b. Traffic Management Study. A traffic management study shall be required.
    - c. Lot Area. A minimum lot size of one acre shall be required for a Commercial Amusement (outside) use.
    - d. Separation from Residential Properties. Prior to conducting a special exception hearing before the board of zoning appeals, the planning department shall determine if the subject lot proposed for the Commercial Amusement (outside) use is within five hundred feet of the property line of a lot with a residential use (including multifamily). If it is determined that the subject lot is within five hundred feet of a residential use, the special exception shall not be approved.



**ANALYSIS OF BL2022-1216**

As Downtown continues to redevelop with a diverse mixture of land uses, ensuring compatibility of uses within these neighborhoods is critical to the sustained growth of residential units envisioned by the policy. Outdoor commercial entertainment uses—such as venues and event spaces—can animate and activate their surroundings in a desirable way. At the same time, careful consideration is required to ensure compatibility with the needs of residents in mixed-use neighborhoods, particularly those immediately outside the Central Business District.

This bill sets guidelines for noise and light-levels to minimize sensory impact on surrounding properties in all zoning districts where Commercial Amusement (Outside) is a *Special Exception* use. In IWD and IR zoning districts, this bill maintains all existing requirements for building size and setback, landscape buffers, and street access to minimize adverse impacts on residential properties abutting these uses.

In the North, South, and West Use Areas of the Downtown Code zoning district, this bill provides requirements for hours of operation, traffic management studies, minimum lot area, and requires a minimum 500 ft separation from existing residential uses for Commercial Amusement (Outside) uses.

Lastly, by changing Commercial Amusement (Outside) from a *Permitted* to a *Special Exception* use for the North, South, and West Use Areas of the Downtown Code, this ordinance enables the Board of Zoning Appeals to evaluate compatibility with surrounding properties on a case-by-case basis and anticipate potential conflicts or undesirable outcomes.

**ZONING ADMINISTRATOR RECOMMENDATION**

No exception taken to this bill.

**STAFF RECOMMENDATION**

Staff recommends approval.

**Approve. (6-0)**

**Resolution No. RS2022-119**

“BE IT RESOLVED by The Metropolitan Planning Commission that 2022Z-006TX-001 is approved. (6-0)

**15. 2022SP-019-001**

**MERIDIAN COURT**

Council District 05 (Sean Parker)  
Staff Reviewer: Amelia Lewis

A request to rezone from a CL and RS5 to SP zoning on properties located at 120, 121, 124, 125 Meridian Ct, and 123 Marie St, and a portion of property located at 1405, 1407, 1409 A Dickerson Pike, approximately 500 feet east of Dickerson Pike, (2.5 acres), and located within the Detached Accessory Dwelling Unit Overlay District, to permit a multi-family development, requested by Smith Gee Studio, applicant; Dickerson Pike PropCo II and Dana Moss, owners.

**Staff Recommendation: Staff Recommendation: Approve with conditions and disapprove without all conditions.**

**APPLICANT REQUEST**

**Preliminary SP to permit 26 multi-family units.**

Zone Change

A request to rezone from Commercial Limited (CL) and Single-Family Residential (RS5) to Specific Plan (SP) zoning on properties located at 120, 121, 124, 125 Meridian Ct, and 123 Marie St, and a portion of property located at 1405, 1407, 1409 A Dickerson Pike, approximately 500 feet east of Dickerson Pike, (2.5 acres), and located within the Detached Accessory Dwelling Unit (DADU) Overlay District, to permit a multi-family development.

**Existing Zoning**

Commercial Limited (CL) is intended for retail, consumer service, financial, restaurant, and office uses.

Single-Family Residential (RS5) requires a minimum 5,000 square foot lot and is intended for single-family dwellings at a density of 7.41 dwelling units per acre. *Approximately 1.24 acres of the site is zoned RS5, which would permit a maximum of ten lots, based on acreage alone.*

Detached Accessory Dwelling Unit (DADU) Overlay is intended to provide additional housing options in the Urban Zoning Overlay and the Highland Heights Study Area, as adopted by the Metropolitan Planning Commission on June 14, 2018. *The five RS5 parcels included in the rezoning boundary are within the DADU Overlay.*

### **Proposed Zoning**

Specific Plan-Mixed Residential (SP-MR) is a zoning district category that provides for additional flexibility of design, including the relationship of streets to buildings, to provide the ability to implement the specific details of the General Plan. *This Specific Plan includes a mixture of housing types and a total of 26 units.*

### **EAST NASHVILLE COMMUNITY PLAN**

T4 Urban Neighborhood Evolving (T4 NE) is intended to create and enhance urban residential neighborhoods that provide more housing choices, improved pedestrian, bicycle and vehicular connectivity, and moderate to high density development patterns with shallow setbacks and minimal spacing between buildings. T4 NE areas are served by high levels of connectivity with complete street networks, sidewalks, bikeways and existing or planned mass transit. T4 NE policy may be applied either to undeveloped or substantially under-developed “greenfield” areas or to developed areas where redevelopment and infill produce a different character that includes increased housing diversity and connectivity. Successful infill and redevelopment in existing neighborhoods needs to take into account considerations such as timing and some elements of the existing developed character, such as the street network and block structure and proximity to centers and corridors.

T4 Urban Mixed Use Corridor (T4 CM) is intended to enhance urban mixed use corridors by encouraging a greater mix of higher density residential and mixed use development along the corridor, placing commercial uses at intersections with residential uses between intersections; creating buildings that are compatible with the general character of urban neighborhoods; and a street design that moves vehicular traffic efficiently while accommodating sidewalks, bikeways, and mass transit.

### **Supplemental Policy**

The site is within the Highland Heights Study Supplemental Policy which was approved and adopted by the Planning Commission on June 14, 2018. The Highland Heights Study was completed after an extensive community engagement process and resulted in updates to the community character policies for the area, as well as establishment of a supplementary Building Regulating Plan and Mobility Plan for the area. The community character policy for this site, T4 NE and T4 CM did not change with adoption of the Highland Heights plan.

The majority of the site is within the R4 Subdistrict of the Building Regulating Plan, which is intended to create and enhance neighborhoods with greater housing choice and improved connectivity, consistent with the goals of the general T4 NE policy. The R4 Subdistrict supports a range of residential uses, including two-family and multi-family residential, at varying intensities depending on the location and context. The R4 Subdistrict also supports a variety of building forms, including house (1 unit), detached accessory dwelling unit, house (2 unit), plex or manor house, house court, and low rise townhouse.

The Mobility Plan component of the Highland Heights Study, which was incorporated into the Major and Collector Street Plan (MCSP), calls for a new collector road north-south through the site connecting Gatewood Avenue to Marie Street. The road is referred to as the Luton Street extension throughout the report. The portion of the site in the M2 subdistrict is shown where the proposed road is located.

### **SITE CONTEXT AND PLAN DETAILS**

The site is comprised of several parcels, located east of Dickerson Pike and north of Marie Street. Four of the parcels, zoned RS5, are located at the terminus of Meridian Court. One parcel, zoned RS5, is located on the north side of Marie Street. Immediately north of this parcel, are three parcels zoned CL, partially included in the bounds of the SP. These parcels have frontage on Dickerson Pike, however only the rear portion of the parcels are within the proposed SP.

The five parcels zoned RS5 have been developed with existing single-story single-family structures. The CL parcels have been developed with non-residential uses. The surrounding parcels to the east and south of the subject site are zoned RS5 and have been developed with single-family residential structures. The properties to the west are zoned commercial and have been developed with non-residential uses. To the north is a Specific Plan (SP) district that was approved in 2021 for a mixed use development. This development also included a portion of the Luton Street extension, as shown in the Highland Heights plan. This planned road ends at the southern property line of the SP.

The proposed site plan includes a proposed new road and six multi-family structures with a total of 26 units. The proposed public road is an extension of the Luton Street connector from the SP to the north, through the site, and

connecting to Marie Street to the south. There is also an east-west road, identified as Meridian Court included in the plan.

As the site is located at the end of an existing cul-de-sac that is not intended to be extended west into the SP site, the proposal would include creating a pedestrian and bicycle path extending from the existing Meridian Court to the proposed new portion of Meridian Court in the SP. This connection would be closed from vehicular access, with the exception of emergency vehicles.

Buildings A and B are stacked flat buildings, 3.5 stories in height, and oriented to the new proposed Luton Street. A new public street, identified as Meridian Court, is located on the east side of the proposed Luton Street, and is located between buildings A and B. Buildings C, D, E, F, are oriented to Meridian Court. Buildings C and D are attached townhomes, limited to 3.5 stories in height. Buildings E and F are located on the eastern property line in a manor home structure, limited to 2.5 stories in height. The buildings are oriented to both streets to screen surface parking. Single-story garages are located at the northeast and southeast corner of the site to provide additional parking to residents. The units in buildings A, B, C, and D, have rear loaded garages.

As the building heights step down from the western portion of the site to the eastern portion, which abuts an existing neighborhood, landscape buffers on the east and south property lines are shown on the SP plan. Architectural standards include street level entries, materials, minimum glazing, and minimum stoops and porches.

### **ANALYSIS**

The proposed plan is consistent with the policies and the supplemental policy on the site. The proposed SP contains needed roadways to meet the Mobility Plan in the Highland Heights plan and unit typology is consistent with the R4 subdistrict.

The Urban Mixed-Use Corridor (T4 CM) is intended to enhance urban mixed use corridors by encouraging a greater mix of higher density residential and mixed use development along the corridor. The intensity called for in this policy, and with the Highland Heights Plan, is supported by the improved infrastructure in and surrounding the site. The proposed Luton Street connector provides this infrastructure to serve the SP development and likely will also serve future density along Dickerson Pike.

The proposed SP is consistent with the goals and intent of the Urban Neighborhood Evolving (T4 NE) Policy and the R4 subdistrict. The intent of the R4 subdistrict as outlined in the plan is, "to create and enhance neighborhoods with greater housing choice, improved connectivity, and more creative, innovative, and environmentally sensitive development techniques. Improve existing street, sidewalk, bikeway, and stormwater infrastructure to T4 Urban Transect standards through new private-sector development." The proposed SP consists of 26 multi-family units in three different building types throughout the site. The proposed SP provides a transition within the site and a likely transition from future corridor development, envisioned by the policies, and into the existing neighborhood towards the east.

### **FIRE MARSHAL RECOMMENDATION**

#### **Approve with conditions**

- Limited building detail, and/or building construction information provided. Construction must meet all applicable building and fire codes. Any additional fire code or access issues will be addressed during the construction permitting process.

### **METRO HISTORIC RECOMMENDATION**

#### **Approve**

### **STORMWATER RECOMMENDATION**

#### **Approve with conditions**

- Utility conflicts will not be permitted at the time of final submittal. Current layout indicates that a bioretention pond on the west side of the Luton Street extension is to be placed over conflicting sewer mains and a manhole.
- Must comply with all regulations in the Stormwater Management Manual at the time of final submittal.

### **WATER SERVICES RECOMMENDATION**

#### **Approve with conditions**

- Approved as a Preliminary SP only. Public and/or private Water and Sanitary Sewer construction plans must be submitted and approved prior to Final Site Plan/SP approval. The approved construction plans must match the Final Site Plan/SP plans. Submittal of an availability study is required before the Final SP can be reviewed. Once this study has been submitted, the applicant will need to address any outstanding issues brought forth by the results of this study. A minimum of 30% W&S Capacity must be paid before issuance of building permits.

### **NASHVILLE DOT RECOMMENDATION**

#### **Approve with conditions**

- Final construction plans shall comply with the design regulations established by NDOT.
- Final design and improvements may vary based on actual field conditions. With final: Callout roadway sections, ramps (including ADA), sidewalks, curb & gutter, etc. per NDOT detail standards. Dimension all ROW pavement widths for clarity. Note: A private hauler will be required for waste/recycle (dumpster) disposal. Label site Dumpster locations.
- On the site plan, reduced road section pavement width is being proposed for portions of Meridian Court ROW;
- For the portion of Meridian Court ROW limiting public roadway connectivity;
  - Remove the parklet callouts (including benches) and provide grass only furnishing zones between back of curb and sidewalks.
  - Confirm pavement width and turning needs to accommodate fire through reduced section.
  - Provide removable bollards in reduced pavement width, permitting only removal by emergency services.
  - Provide turning easements into each private drive off Meridian Court.
  - Callout 'emergency access only' signage on both sides of reduced section of Meridian Court ROW.
  - Provide 'Dead End' signage at Meridian Court entrances.
  - Position bollards in reduced section, so Westbound approaching drivers have some ability to turn around at dead end.
  - Provide 'No parking/blocking' signage for reduced ROW section on Meridian Court.

**TRAFFIC & PARKING RECOMMENDATION**

**Approve with conditions**

- No on-street parking shall be permitted on Meridian Court, and the existing cross section of ST-252 (50' of ROW) continued through to Luton St.
- A maximum of 2 bedrooms per unit is permitted to satisfy the parking requirements of the proposed 26 multi-family units, totaling 52 spaces. Parking shall be per code requirements.
- Only on-street parking along frontage of Luton St. shall be eligible to count towards parking requirements.

Maximum Uses in Existing Zoning District: **RS5**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Residential (210)	1.63	8.712 D	10 U	125	12	11

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

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Retail (820)	0.87	0.6 F	22,738 SF	858	21	87

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

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Multi-Family Residential 3-10 (221)	2.50	20 D	26 U	140	9	12

Traffic changes between maximum: **RS5/CL and SP**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	-843	-24	-86

## **METRO SCHOOL BOARD REPORT**

**Projected student generation existing CL and RS5 district: 1 Elementary 1 Middle 1 High**

**Projected student generation proposed SP-R district: 5 Elementary 4 Middle 3 High**

The proposed SP is anticipated to generate nine additional students beyond what is generated under the current IR zoning. Students would attend Shwab Elementary, Jere Baxter Middle School, and Maplewood High School. All three schools have been identified as having additional capacity. This information is based upon the 2020-2021 MNPS School Enrollment and Utilization report provided by Metro Schools.

### **STAFF RECOMMENDATION**

Staff recommends approval with conditions and disapproval without all conditions.

### **CONDITIONS**

1. Permitted uses shall be limited to a maximum of 26 multi-family units. Short term rental property owner-occupied and short term rental property not owner-occupied shall be prohibited
2. The entire length of the north/south road, from Gatewood Avenue to Marie Street as shown in the Highland Heights Plan, shall be included with the first final site plan submitted, if phased. If not phased, the entire length of the road shall be included with the submission of the final site plan. The developer has the option of pursuing either of the following regarding the construction of the road:
  - a. The right-of-way shall be platted and improvements bonded prior to the issuance of any building permits. If the right-of-way has been platted and bonded with the adjacent developments: 2020SP-051-001 and 2022SP-034-001/2022Z-039PR-001, then the final site plan shall indicate as such and reference the adjacent cases. No U&Os shall be issued until the roadway is completed.
  - b. The applicant will be required to submit and receive approval for roadway plans in accordance with Nashville DOT standards. The road shall be constructed to Nashville DOT standards and the improved right-of-way platted or dedicated prior to issuance of any U&O permits.
3. On the corrected plan set, revise note 3 under Architectural Standards on page 9 to read, "Building facades shall be constructed of brick, brick veneer, stone, cast stone, cementitious siding, glass, or materials substantially similar in form and function, unless otherwise approved on detailed building elevations included with the preliminary SP."
4. On the corrected plan set, remove the following language on note 9 under Access & Parking on page nine, "Bicycle parking shall be provided per the standards of the Metro Zoning Code at Final SP."
5. On the corrected plan set, page 13, under road infrastructure conditions, revise to be consistent with the language in condition 2 of this report.
6. On the corrected plan set, revise note 1 on page 13: The purpose of this SP is to permit the development of 26 multi-family units and construct a portion of right-of-way.
7. On the corrected plan set, update note 2 on page 13 to RM20-A-NS.
8. On the corrected plan set, update the sketch at the bottom of page 13.
9. The application of the Detached Accessory Dwelling (DADU) Overlay shall not apply to this property.
10. With the final site plan, submit elevations consistent with the architectural standards included with the Preliminary SP.
11. Comply with all conditions and requirements of Metro reviewing agencies.
12. A corrected copy of the Preliminary SP plan, incorporating the conditions of approval by Metro Council, shall be provided to the Planning Department prior to or with final site plan application.
13. If a development standard, not including permitted uses, is absent from the SP plan and/or Council approval, the property shall be subject to the standards, regulations and requirements of the RM20-A-NS zoning district as of the date of the applicable request or application. Uses are limited as described in the Council ordinance.
14. The final site plan shall depict the required public sidewalks, any required grass strip or frontage zone and the location of all existing and proposed vertical obstructions within the required sidewalk and grass strip or frontage zone. Prior to the issuance of use and occupancy permits, existing vertical obstructions shall be relocated outside of the required sidewalk. Vertical obstructions are only permitted within the required grass strip or frontage zone.
15. The Preliminary SP plan is the site plan and associated documents. If applicable, remove all notes and references that indicate that the site plan is illustrative, conceptual, etc.
16. Minor modifications to the Preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council, that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
17. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.

Ms. Lewis presented the staff recommendation to approve with conditions and disapprove without all conditions.

Scott Morton, Smith Gee Studio, 625 Taylor Street, spoke in favor of the application.

Debra Grant Jarman, 128 Meridian Court, spoke in opposition to the application. She expressed concern regarding the school bus having difficulty getting in and out and wanted to see Meridian Court remain a dead-end street.

Scott Morton stated they have been in conversation with Public Works and have committed to providing the T-turnaround which would facilitate the dead-end turnaround access for the school bus and other vehicles.

Councilmember Parker said they have had a considerable amount of discussion about this development. He appreciated Ms. Grant's concern about wanting to be sure the emergency access was not going to turn into a road with through traffic. Mr. Parker said he was confident that will not be the case and they won't be able to just go and open this up. He said he was in support of the application at its present state.

**Mr. Adkins closed the Public Hearing.**

Ms. Farr stated it seemed like a creative project and in looking at the conditions, it seemed as though the proper protections were in place. She thought, in terms of the school bus and emergency vehicles, they will not get a permit until that was addressed. She felt this was a creative way to get much needed housing into an area where more housing is needed and supported staff recommendation.

Ms. Blackshear agreed with Ms. Farr. She felt the analysis was good regarding the various buildings, the heights, and making sure the density made sense as it related to the configuration of the development. Ms. Blackshear asked if the turnaround was required for permitting of the development.

Ms. Lewis responded that there had to be an ability for large vehicles to turn, back up and rotate. NDOT will be requiring that those bollards be placed a little bit further back on that stretch so it will still allow cars to turn around and exit back out.

Ms. Milligan added that this was the first step in a multi layered process of review. She said this was the preliminary site plan. The next step, if approved at Council, will be final site plan, and that was when they get into technical details like needed turnaround, material type and landscaping. Then there is building permit review and individual permit review for each building.

Ms. Blackshear stated that was helpful. She said, with the NDOT recommendation, there was language that says they basically had to comply with what NDOT required, and it made sense there was a multi layered review from NDOT, and with that, she was fine.

Ms. Johnson appreciated the thoughtfulness of this project. She stated her initial concern was emergency exit connectivity and school bus turnaround. Ms. Johnson said during the presentation and commitment from the Developer, the issues were resolved and she is very comfortable supporting this.

Mr. Henley thought that getting something that benefitted the entire community out of this project was great. He said looking at the NDOT recommendations has addressed his concerns. Mr. Henley felt like the concerns from the community member has been or will be dealt with and he liked the plan.

Mr. Haynes said there was nothing further he can add.

Mr. Adkins asked if they could add that the intent was to permanently make sure the street does not open back up.

Ms. Milligan replied that the plan becomes part of the Bill and is adopted as part of the Bill that indicates it is for emergency vehicular only, but if the Councilmember wanted to work with them to get additional language as a condition, that can be done between now and Council because it would be amendable.

**Mr. Haynes moved and Ms. Farr seconded the motion to approve with conditions and disapprove without all conditions. (6-0)**

**Resolution No. RS2022-120**

"BE IT RESOLVED by The Metropolitan Planning Commission that 2022SP-019-001 is approved with conditions and disapproved without all conditions. (6-0)

**CONDITIONS**

1. Permitted uses shall be limited to a maximum of 26 multi-family units. Short term rental property owner-occupied and short term rental property not owner-occupied shall be prohibited
2. The entire length of the north/south road, from Gatewood Avenue to Marie Street as shown in the Highland Heights Plan, shall be included with the first final site plan submitted, if phased. If not phased, the entire length of the

road shall be included with the submission of the final site plan. The developer has the option of pursuing either of the following regarding the construction of the road:

- a. The right-of-way shall be platted and improvements bonded prior to the issuance of any building permits. If the right-of-way has been platted and bonded with the adjacent developments: 2020SP-051-001 and 2022SP-034-001/2022Z-039PR-001, then the final site plan shall indicate as such and reference the adjacent cases. No U&Os shall be issued until the roadway is completed.
  - b. The applicant will be required to submit and receive approval for roadway plans in accordance with Nashville DOT standards. The road shall be constructed to Nashville DOT standards and the improved right-of-way platted or dedicated prior to issuance of any U&O permits.
3. On the corrected plan set, revise note 3 under Architectural Standards on page 9 to read, "Building facades shall be constructed of brick, brick veneer, stone, cast stone, cementitious siding, glass, or materials substantially similar in form and function, unless otherwise approved on detailed building elevations included with the preliminary SP."
  4. On the corrected plan set, remove the following language on note 9 under Access & Parking on page nine, "Bicycle parking shall be provided per the standards of the Metro Zoning Code at Final SP."
  5. On the corrected plan set, page 13, under road infrastructure conditions, revise to be consistent with the language in condition 2 of this report.
  6. On the corrected plan set, revise note 1 on page 13: The purpose of this SP is to permit the development of 26 multi-family units and construct a portion of right-of-way.
  7. On the corrected plan set, update note 2 on page 13 to RM20-A-NS.
  8. On the corrected plan set, update the sketch at the bottom of page 13.
  9. The application of the Detached Accessory Dwelling (DADU) Overlay shall not apply to this property.
  10. With the final site plan, submit elevations consistent with the architectural standards included with the Preliminary SP.
  11. Comply with all conditions and requirements of Metro reviewing agencies.
  12. A corrected copy of the Preliminary SP plan, incorporating the conditions of approval by Metro Council, shall be provided to the Planning Department prior to or with final site plan application.
  13. If a development standard, not including permitted uses, is absent from the SP plan and/or Council approval, the property shall be subject to the standards, regulations and requirements of the RM20-A-NS zoning district as of the date of the applicable request or application. Uses are limited as described in the Council ordinance.
  14. The final site plan shall depict the required public sidewalks, any required grass strip or frontage zone and the location of all existing and proposed vertical obstructions within the required sidewalk and grass strip or frontage zone. Prior to the issuance of use and occupancy permits, existing vertical obstructions shall be relocated outside of the required sidewalk. Vertical obstructions are only permitted within the required grass strip or frontage zone.
  15. The Preliminary SP plan is the site plan and associated documents. If applicable, remove all notes and references that indicate that the site plan is illustrative, conceptual, etc.
  16. Minor modifications to the Preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council, that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
  17. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.

**16. 2022SP-022-001**  
**1526 23RD AVENUE NORTH**

Council District 21 (Brandon Taylor)  
Staff Reviewer: Abbie Rickoff

A request to rezone from RS5 to SP zoning for property located at 1526 23rd Ave. N., approximately 75 feet south of Formosa Street, within the DADU Overlay District, (0.17 acres), to permit one attached two-family residential unit, requested by Dale & Associates, applicant; Michael Rauchut, owner.

**Staff Recommendation: Approve with conditions and disapprove without all conditions.**

**APPLICANT REQUEST**

**Zone change from RS5 to SP-R.**

Zone Change

A request to rezone from Single-Family Residential (RS5) to Specific Plan-Residential (SP-R) zoning for property located at 1526 23rd Ave. N., approximately 75 feet south of Formosa Street, within the DADU Overlay District, to permit one attached two-family residential unit (0.17 acres).

## **Existing Zoning**

Single-Family Residential (RS5) requires a minimum 5,000 square foot lot and is intended for single-family dwellings at a density of 7.41 dwelling units per acre. *RS5 would permit a maximum of one unit.*

Detached Accessory Dwelling Unit (DADU) Overlay District would permit a detached, self-sufficient dwelling unit accessory to a principal structure, subject to existing standards for detached accessory dwelling units in Section 17.16.030.G of the Zoning Code, which includes requirements for, but not limited to, ownership, lot area, setbacks, bulk and massing, design, and access. *The Codes Department provides final determinations of DADU eligibility.*

## **Proposed Zoning**

Specific Plan-Residential (SP-R) is a zoning district category that provides for additional flexibility of design, including the relationship of streets to buildings, to provide the ability to implement the specific details of the General Plan. This Specific Plan includes only one residential building type.

*Application of the DADU Overlay would not change under the proposed zoning. Uses would be limited to the uses proposed in the SP.*

## **NORTH NASHVILLE COMMUNITY PLAN**

T4 Urban Neighborhood Maintenance (T4 NM) is intended to maintain the general character of existing urban residential neighborhoods. T4 NM areas will experience some change over time, primarily when buildings are expanded or replaced. When this occurs, efforts should be made to retain the existing character of the neighborhood. T4 NM areas are served by high levels of connectivity with complete street networks, sidewalks, bikeways and existing or planned mass transit. Enhancements may be made to improve pedestrian, bicycle

## **SITE AND CONTEXT**

The 0.17-acre vacant site is located on the east side of 23<sup>rd</sup> Avenue North, south of Formosa Street. Alley #546 runs along the rear of the site. The surrounding development pattern is varied and includes a mixture of single and two-family residential uses, and a moderate concentration of vacant properties. Many of the existing two-family residential uses are legally nonconforming due to establishment prior to the current RS5 zoning. The DADU Overlay was recently adopted for this site and the surrounding area to provide additional housing opportunity for property owners.

## **SITE PLAN**

The site plan includes one attached two-family residential unit. Units A and B are attached as one structure, with front porches and walkways proposed to each unit. Detached garages are proposed at the back of the site as one attached structure, containing 4 total covered parking spaces for the two units. Vehicular access is provided from the rear alley to the garages. The maximum height is proposed as two stories in 35 feet. The plan does not specify the maximum height of the garage structure. Areas of right-of-way dedication are proposed along 23<sup>rd</sup> Avenue North, where the existing curb cut will be removed and replaced with a five-foot sidewalk and four-foot planting strip. Approximately 1.5 feet of right-of-way dedication is proposed along the rear alley.

## **ANALYSIS**

The goal of the T4 NM policy is to retain the existing urban residential character of an area, while acknowledging that some areas will experience change over time. When change occurs, it is important to respect and retain the existing development pattern of the area. The DADU Overlay was adopted to allow additional housing opportunities by permitting a second unit as an accessory use, at a level of intensity that is in keeping with the existing development pattern, consistent with the goals of the T4 NM policy.

The site is located within a larger area of RS5 zoning, characterized by an established street grid with rear alleys and rectangular-shaped lots, typical of urban residential neighborhoods in Nashville. The property's frontage, depth, size, and configuration are consistent with surrounding parcels along the block. The site is located along the east side 23<sup>rd</sup> Avenue North, a local street, with the benefit of an existing rear alley that services properties on the east side of 23<sup>rd</sup> Avenue North and the west side of 22<sup>nd</sup> Avenue North. The property's existing lot depth and available alley access provide the opportunity for a second unit under the existing DADU Overlay, where accessory units are required to be located behind the principal structure. This locational requirement, coupled with the bulk and massing standards of DADUs, would support an accessory unit at the rear of the property under the existing zoning entitlements, where the intent is for the second unit to appear subordinate to the primary residence.

The newly adopted DADU Overlay, which permits detached accessory dwelling units as an accessory use to the principal structure, would permit a second unit subject to the DADU standards of the Metro Zoning Code. However, staff understands that there was an extensive community engagement process for the current proposal that began prior to the adoption of the DADU Overlay, when zoning entitlements would not have permitted an accessory residential unit. Given that the rezone process started prior to the adoption of the DADU Overlay, staff supports the proposed SP in this instance, subject to the conditions included below which are intended to provide for a level of



intensity expected by the policy. Staff is unlikely to support other rezone requests for two-family residential uses within a DADU overlay.

**FIRE MARSHAL RECOMMENDATION**

**Approve with conditions**

- Limited building detail, and/ or building construction information provided. Construction must meet all applicable building and fire codes. Any additional fire code or access issues will be addressed during the construction permitting process. Future development or construction may require changes to meet adopted fire and building codes.

**STORMWATER RECOMMENDATION**

**Approve with conditions**

- Must comply with all Residential Infill regulations.

**WATER SERVICES RECOMMENDATION**

**Approve with conditions**

- Approved as a Preliminary SP only. Public and/or private water and sanitary sewer construction plans must be submitted and approved prior to Final Site Plan/SP approval. The approved construction plans must match the Final Site Plan/SP plans. W&S Capacity must be paid before issuance of building permits.

**NASHVILLE DOT RECOMMENDATION**

**Approve with conditions**

- Final constructions plans shall comply with the design regulations established by NDOT. Final design and improvements may vary based on actual field conditions.

**TRAFFIC RECOMMENDATION**

**Approve with conditions**

- Ensure final designs follow code.

Maximum Uses in Existing Zoning District: **RS5**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Residential (210)	0.17	8.712 D	1 U	15	5	1

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

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Multi-Family Residential 3-10 (221)	0.17	-	2 U	9	1	1

Traffic changes between maximum: **RS5 and SP**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	+1 U	-6	-4	-

**METRO SCHOOL BOARD REPORT**

Projected student generation existing RS5 zoning districts: 0 Elementary 0 Middle 0 High

Projected student generation proposed SP-R district: 0 Elementary 0 Middle 0 High

The proposed SP-R zoning is not expected to generate any additional students beyond the existing RS5 zoning. Students would attend Churchwell Elementary School, John Early Middle School, and Pearl-Cohn High School. All three schools have been identified as having additional capacity. This information is based upon the 2020-2021 MNPS School Enrollment and Utilization report provided by Metro Schools.

**STAFF RECOMMENDATION**

Staff recommends approval with conditions and disapproval without all conditions.

**CONDITIONS**

1. Permitted uses shall be limited to one attached two-family residential unit. Short Term Rental Property (STRP) – owner-occupied and not owner-occupied shall be prohibited.
2. On the corrected copy, update the rear setback of the accessory structure to be ten (10) feet.
3. On the corrected copy, add note: Landscaping and TDU requirements shall be provided per the Metro Zoning Ordinance.
4. Maximum height of the two-family residential structure shall be limited to two stories in 35 feet to the roofline. Roof pitch shall be from 3:12 to 12:12, excluding small roof sections over porches, entryways, or similar features.
5. Maximum height of the accessory structure shall comply with the accessory structure building height controls of the Metro Zoning Ordinance.
6. Maximum building coverage of the accessory structure shall comply with the accessory building floor area controls of the Metro Zoning Ordinance and shall appear subordinate in scale and massing to the principal residential structure.
7. The accessory structure shall not contain accessory residential uses.
8. Maximum building coverage shall not exceed fifty (50) percent of the site.
9. Vehicular access shall be from rear alley only.
10. Height shall be measured per the Metro Zoning Ordinance.
11. Comply with all conditions and requirements of Metro reviewing agencies.
12. With the submittal of the final site plan, provide architectural elevations complying with all architectural standards outlined on the preliminary SP for review and approval.
13. A corrected copy of the preliminary SP plan incorporating the conditions of approval by Metro Council shall be provided to the Planning Department prior to or with final site plan application.
14. If a development standard, not including permitted uses, is absent from the SP plan and/or Council approval, the property shall be subject to the standards, regulations and requirements of the RS5 zoning district as of the date of the applicable request or application. Uses are limited as described in the Council ordinance.
15. The final site plan shall depict the required public sidewalks, any required grass strip or frontage zone and the location of all existing and proposed vertical obstructions within the required sidewalk and grass strip or frontage zone. Prior to the issuance of use and occupancy permits, existing vertical obstructions shall be relocated outside of the required sidewalk. Vertical obstructions are only permitted within the required grass strip or frontage zone.
16. The Preliminary SP plan is the site plan and associated documents. If applicable, remove all notes and references that indicate that the site plan is illustrative, conceptual, etc.
17. The final site plan shall label all internal driveways as “Private Driveways”. A note shall be added to the final site plan that the driveways shall be maintained by the Property Owners’ Association.
18. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council, that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
19. The requirements of the Metro Fire Marshal’s Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any of any building permits.

**Approve with conditions and disapprove without all conditions. (6-0)**

**Resolution No. RS2022-121**

“BE IT RESOLVED by The Metropolitan Planning Commission that 2022SP-022-001 is approved with conditions and disapproved without all conditions. (6-0)

**CONDITIONS**

1. Permitted uses shall be limited to one attached two-family residential unit. Short Term Rental Property (STRP) – owner-occupied and not owner-occupied shall be prohibited.
2. On the corrected copy, update the rear setback of the accessory structure to be ten (10) feet.
3. On the corrected copy, add note: Landscaping and TDU requirements shall be provided per the Metro Zoning Ordinance.
4. Maximum height of the two-family residential structure shall be limited to two stories in 35 feet to the roofline. Roof pitch shall be from 3:12 to 12:12, excluding small roof sections over porches, entryways, or similar features.
5. Maximum height of the accessory structure shall comply with the accessory structure building height controls of the Metro Zoning Ordinance.
6. Maximum building coverage of the accessory structure shall comply with the accessory building floor area controls of the Metro Zoning Ordinance and shall appear subordinate in scale and massing to the principal residential structure.
7. The accessory structure shall not contain accessory residential uses.
8. Maximum building coverage shall not exceed fifty (50) percent of the site.
9. Vehicular access shall be from rear alley only.
10. Height shall be measured per the Metro Zoning Ordinance.

11. Comply with all conditions and requirements of Metro reviewing agencies.
12. With the submittal of the final site plan, provide architectural elevations complying with all architectural standards outlined on the preliminary SP for review and approval.
13. A corrected copy of the preliminary SP plan incorporating the conditions of approval by Metro Council shall be provided to the Planning Department prior to or with final site plan application.
14. If a development standard, not including permitted uses, is absent from the SP plan and/or Council approval, the property shall be subject to the standards, regulations and requirements of the RS5 zoning district as of the date of the applicable request or application. Uses are limited as described in the Council ordinance.
15. The final site plan shall depict the required public sidewalks, any required grass strip or frontage zone and the location of all existing and proposed vertical obstructions within the required sidewalk and grass strip or frontage zone. Prior to the issuance of use and occupancy permits, existing vertical obstructions shall be relocated outside of the required sidewalk. Vertical obstructions are only permitted within the required grass strip or frontage zone.
16. The Preliminary SP plan is the site plan and associated documents. If applicable, remove all notes and references that indicate that the site plan is illustrative, conceptual, etc.
17. The final site plan shall label all internal driveways as "Private Driveways". A note shall be added to the final site plan that the driveways shall be maintained by the Property Owners' Association.
18. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council, that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
19. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any of any building permits.

**17. 2022SP-026-001**  
**4046 & 4060 MURFREESBORO PIKE**  
 Council District 33 (Antoinette Lee)  
 Staff Reviewer: Logan Elliott

A request to rezone from AR2A to SP on properties located at 4046 & 4060 Murfreesboro Pike, approximately 667 feet northeast of Maxwell RD, zoned AR2A (10.12 acres), requested by RJX Partners, LLC, applicant; Cooper, Louise TN Real Estate Trust, The & Mortie Q. Dickens, owners

**Staff Recommendation: Defer to the May 12, 2022, Planning Commission meeting.**

**The Metropolitan Planning Commission deferred 2022SP-026-001 to the May 12, 2022, Planning Commission meeting. (6-0)**

**18a. 2022HL-003-001**  
**5797 MT. VIEW ROAD HISTORIC LANDMARK**  
 BL2022-1193& BL2022-1194/Joy Styles  
 Council District 32 (Joy Styles)  
 Staff Reviewer: Logan Elliott

A request to apply a Historic Landmark Overlay District to property located at 5797 Mt. View Road, approximately 1,500 feet north of Asheford Trace, zoned AR2a (1.11 acres), requested by Councilmember Joy Styles, applicant; Cara Berkeley, owner.

**Staff Recommendation: Approve.**

**APPLICANT REQUEST**  
**Apply a Historic Landmark Overlay District.**

Historic Landmark Overlay

A request to apply a Historic Landmark Overlay District to property located at 5797 Mt. View Road, approximately 1,500 feet north of Asheford Trace, zoned Agricultural/Residential (AR2a) (1.11 acres).

**Existing Zoning**

Agricultural/Residential (AR2a) requires a minimum lot size of two acres and intended for uses that generally occur in rural areas, including single-family, two-family, and mobile homes at a density of one dwelling unit per two acres. The

AR2a District is intended to implement the natural conservation or rural land use policies of the general plan. AR2a would permit a maximum of 1 unit.

### **Proposed Overlay**

Historic Landmark Overlay District (HL) is applied to a building, structure, site or object, its appurtenances and the property it is located on, of high historical, cultural, architectural or archaeological importance; whose demolition or destruction would constitute an irreplaceable loss to the quality and character of Nashville and Davidson County.

### **ANTIOCH - PRIEST LAKE COMMUNITY PLAN**

T3 Suburban Neighborhood Maintenance (T3 NM) is intended to maintain the general character of developed suburban residential neighborhoods. T3 NM areas will experience some change over time, primarily when buildings are expanded or replaced. When this occurs, efforts should be made to retain the existing character of the neighborhood. T3 NM areas have an established development pattern consisting of low- to moderate-density residential development and institutional land uses. Enhancements may be made to improve pedestrian, bicycle, and vehicular connectivity.

### **REQUEST DETAILS**

The Metro Historic Zoning Commission (MHZC) considered this application at its April 20, 2022, meeting. Historic Zoning Commission staff recommended approval of this application. Metro Historic Commission staff provided the following background information:

#### **A Short History of 5797 Mt. View Road, “Fairview” - The Rucker Farmhouse:**

Located at 5797 Mount View Road in Nashville’s Antioch community, this circa 1875 farmhouse is the seat of a former dairy farm known as “Farview.” Established by white settlers in the early nineteenth century alongside a stage road connecting Franklin and Lebanon, the hilltop farm was owned by the Rucker family from 1874-1979. With a view of the surrounding countryside, the vernacular Italianate-style house is located just west of Murfreesboro Pike, a turnpike constructed in the 1830s between Nashville and Murfreesboro.

Until the late twentieth century, this section of southeast Davidson County remained largely a rural farming community known as “Una” near the village of Antioch. In the 1970s, suburban growth centered along the I-24 corridor and the Hickory Hollow Mall and continued growing with residential subdivisions, industries, and retail shopping in the 1980s and 1990s. The Antioch area experienced a housing boom in the early 2000s due in part to its proximity to manufacturing facilities in nearby Smyrna such as the Nissan automobile factory.

The 140-year old house was documented in the 1980s by the Tennessee State Historic Preservation Office as DV.01106 and was documented in 2002 by the Metro Historical Commission, which recommended the property as potentially eligible for listing on the National Register of Historic Places under Criterion C for architectural significance and under Criterion A for its historical significance. The author concurs with this recommendation.

### **METRO HISTORIC ZONING COMMISSION RECOMMENDATION**

On April 20, 2022, the Metro Historic Zoning Commission reviewed the request and recommended approval of the Historic Landmark designation. In addition, they adopted the existing design guidelines for Historic Landmarks to guide changes on the property.

### **STAFF RECOMMENDATION**

The proposed Historic Landmark Overlay District is intended to preserve the historic structures on the property through the implementation of development guidelines by the Metro Historic Zoning Commission and Staff. The T3 NM policy encourages the preservation of the existing character of neighborhoods and staff recommends approval of the Historic Landmark Overlay District.

### **Approve. (6-0)**

#### **Resolution No. RS2022-122**

“BE IT RESOLVED by The Metropolitan Planning Commission that 2022HL-003-001 is approved. (6-0)

**18b. 2022NL-002-001**  
**5797 MT. VIEW ROAD NEIGHBORHOOD LANDMARK**

BL2022-1195/Joy Styles  
Council District 32 (Joy Styles)  
Staff Reviewer: Logan Elliott

A request to apply a Neighborhood Landmark Overlay District for property located at 5797 Mount View Road, approximately 1,500 feet northeast of Asheford Trace (1.11 acres), requested by Cara Berkeley, applicant and owner.

**Staff Recommendation: Approve with conditions.**

**APPLICANT REQUEST**

**Apply a Neighborhood Landmark Overlay District.**

Neighborhood Landmark Overlay

A request to apply a Neighborhood Landmark Overlay District for property located at 5797 Mount View Road, approximately 1,500 feet northeast of Asheford Trace (1.11 acres).

**Existing Zoning**

Agricultural/Residential (AR2a) requires a minimum lot size of two acres and intended for uses that generally occur in rural areas, including single-family, two-family, and mobile homes at a density of one dwelling unit per two acres. The AR2a District is intended to implement the natural conservation or rural land use policies of the general plan. *AR2a would permit a maximum of 1 unit.*

**Proposed Overlay**

Neighborhood Landmark Overlay District (NLOD) is intended to preserve and protect landmark features whose demolition or destruction would constitute an irreplaceable loss to the quality and character of the neighborhood or community.

**ANTIOCH - PRIEST LAKE COMMUNITY PLAN**

T3 Suburban Neighborhood Maintenance (T3 NM) is intended to maintain the general character of developed suburban residential neighborhoods. T3 NM areas will experience some change over time, primarily when buildings are expanded or replaced. When this occurs, efforts should be made to retain the existing character of the neighborhood. T3 NM areas have an established development pattern consisting of low- to moderate-density residential development and institutional land uses. Enhancements may be made to improve pedestrian, bicycle, and vehicular connectivity.

Applications to establish a Neighborhood Landmark district follow similar procedures as a rezoning application because the creation of an overlay district is considered an amendment to the Official Zoning Map. The role of the Planning Commission for this application is to consider the criteria to establish a Neighborhood Landmark District and make a recommendation to the Metro Council. This application does not propose any site work or exterior modifications to the existing structures and staff does not find a Development Plan necessary to determine that the proposal is compliant with the purpose and intent of the Neighborhood Landmark district. The application proposes to permit a short-term rental property - owner-occupied as a land uses within an existing accessory structure in addition to the current single-family residential use of the primary structure on site. The subject site is well buffered by landscaping with agricultural uses abutting the property.

Section 17.40.160.H. of the Metro Zoning Code provides findings for approval for the Planning Commission to consider in the review of a Neighborhood Landmark District. These include:

- a. The feature is a critical component of the neighborhood context and structure
- b. The retention of the feature is necessary to preserve and enhance the character of the neighborhood
- c. That adaptive reuse, as described in the development plan, will facilitate protection and preservation of the identified feature
- d. That the proposed use(s) in the development plan is compatible with and sensitive to abutting properties and the overall neighborhood fabric and appropriate to preserve and maintain the district.

Staff finds that the proposed development plan meets all the above criteria. The existing structure at 5797 Mt. View is a critical component of the neighborhood context and structure. The retention of the feature is necessary to preserve the neighborhood character and the proposed reuse of the building and the associated accessory structures will facilitate its preservation. Also, the proposed use is compatible and sensitive to surrounding properties considering the use will occupy an existing structure. Staff recommends approval of the Neighborhood Landmark District and the proposed Development Plan.

**METRO HISTORIC ZONING COMMISSION**

**Approve**

- At the 4/20/22 MHZC Public Hearing, the commission confirmed that the building is historic and therefore would meet one of the requirements for a neighborhood landmark.

**FIRE MARSHALL RECOMMENDATION**

**Approve with conditions**

- Rezoning request to allow STR in accessory dwelling. Not an approval for use as an event venue. Use as an event venue will require compliance with applicable fire and building codes for assembly occupancy use.

**NASHVILLE DOT RECOMMENDATION**

**Approve**

**TRAFFIC & PARKING RECOMMENDATION**

**Approve with conditions**

- Parking shall be provided on site.

**STORMWATER RECOMMENDATION**

**Approve with conditions**

- Must comply with all regulations in the Stormwater Management Manual at the time of final submittal.

**WATER SERVICES RECOMMENDATION**

**Approve**

**STAFF RECOMMENDATION**

Staff recommends approve with conditions.

**Conditions**

1. Permitted uses shall be limited to a maximum of 1 single-family residential unit and 1 short-term rental property - owner-occupied unit. Short term rental property – not owner-occupied shall be prohibited.
2. The short-term rental property - owner-occupied use shall only be permitted within a currently existing structure on site.
3. The area in front of the fence and adjacent to Mt. View Road shall not be utilized for on-site parking.
4. Comply with all conditions and requirements of Metro reviewing agencies.
5. Should the applicant choose to modify the landmark in the future to add more uses, an amendment will be necessary and Council approval required.

**Approve with conditions. (6-0)**

**Resolution No. RS2022-123**

“BE IT RESOLVED by The Metropolitan Planning Commission that 2022NL-002-001 is approved with conditions. (6-0)

**Conditions**

1. Permitted uses shall be limited to a maximum of 1 single-family residential unit and 1 short-term rental property - owner-occupied unit. Short term rental property – not owner-occupied shall be prohibited.
2. The short-term rental property - owner-occupied use shall only be permitted within a currently existing structure on site.
3. The area in front of the fence and adjacent to Mt. View Road shall not be utilized for on-site parking.
4. Comply with all conditions and requirements of Metro reviewing agencies.
5. Should the applicant choose to modify the landmark in the future to add more uses, an amendment will be necessary and Council approval required.

**19. 2022Z-005PR-001**

Council District 02 (Kyonzté Toombs)

Staff Reviewer: Dustin Shane

A request to rezone from R8 to RM9-A-NS zoning for property located at 3113 Cliff Drive, at the southeast corner of Alpine Ave and Cliff Dr (0.55 acres), requested by Scott Davis, applicant; Michael D Barnes, owner.

**Staff Recommendation: Approve.**

**APPLICANT REQUEST**

**Zone change from R8 to RM9-A-NS.**

Zone Change

A request to rezone from R8 to RM9-A-NS zoning for property located at 3113 Cliff Drive, at the southeast corner of Alpine Ave and Cliff Dr (0.55 acres).

### **Existing Zoning**

One and Two-Family Residential (R8) requires a minimum 8,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 5.79 dwelling units per acre including 25 percent duplex lots. *R8 would permit a maximum of 2 lots with 2 duplex lots for a total of 4 units. The Codes Department provides final determinations of duplex eligibility.*

### **Proposed Zoning**

Multi-Family Residential-Alternative-No Short Term Rental (RM9-A-NS) is intended for single-family, duplex, and multi-family dwellings at a density of nine dwelling units per acre and is designed to create walkable neighborhoods through the use of appropriate building placement and bulk standards. *RM9-A would permit a maximum of 8 units based on acreage alone. Short term rental properties are prohibited.*

### **BORDEAUX – WHITES CREEK – HAYNES TRINITY COMMUNITY PLAN**

T4 Urban Neighborhood Evolving (T4 NE) is intended to create and enhance urban residential neighborhoods that provide more housing choices, improved pedestrian, bicycle and vehicular connectivity, and moderate to high density development patterns with shallow setbacks and minimal spacing between buildings. T4 NE areas are served by high levels of connectivity with complete street networks, sidewalks, bikeways and existing or planned mass transit. T4 NE policy may be applied either to undeveloped or substantially under-developed “greenfield” areas or to developed areas where redevelopment and infill produce a different character that includes increased housing diversity and connectivity. Successful infill and redevelopment in existing neighborhoods needs to take into account considerations such as timing and some elements of the existing developed character, such as the street network and block structure and proximity to centers and corridors.

Conservation (CO) is intended to preserve environmentally sensitive land features through protection and remediation. CO policy applies in all Transect Categories except T1 Natural, T5 Center, and T6 Downtown. CO policy identifies land with sensitive environmental features including, but not limited to, steep slopes, floodway/floodplains, rare or special plant or animal habitats, wetlands, and unstable or problem soils. The guidance for preserving or enhancing these features varies with what Transect they are in and whether or not they have already been disturbed.

### Supplemental Policy

This site is located within the Haynes Trinity Small Area Plan area of the Bordeaux-Whites Creek-Haynes Trinity Community Plan area. The intent of the supplemental policy is to create and enhance neighborhoods with greater housing choice, improved connectivity, and more creative, innovative, and environmentally sensitive development techniques. The policy calls for improvement of the existing street, sidewalk, bikeway, and stormwater infrastructure to T4 Urban Transect standards through new private-sector development.

### **ANALYSIS**

The application consists of one parcel (Map 070-09, Parcel 149) totaling 0.55 acres in size located at the southern corner of the intersection of Cliff Drive and Alpine Avenue, two blocks northwest of Buena Vista Pike. The property currently contains two single-family homes each with driveway access onto Cliff Drive. The northerly home also has access to Alpine Avenue, which is a substandard right-of-way more akin to an alley. Surrounding uses include one- and two-family homes zoned R8 and R10. Adjacent and to the southwest is property zoned SP permitting 27 townhomes. CL zoning is located in the next block to the southwest closer to Buena Vista Pike.

The application proposes to rezone the property from R8 to RM9–A–NS. The application initially requested RM20 zoning but was amended in line with staff comments based on the surrounding context—a reduction in density of five units per acre that also ensures good urban design through the Alternative district guidelines. The property is within the T4 Urban Neighborhood Evolving (T4 NE) policy area. T4 NE policy is intended to enhance urban neighborhoods with higher densities and/or smaller lot sizes and an integrated mixture of housing types that provide greater housing choice. The CCM lists RM9–A, which would permit up to 9 units per acre, as an appropriate zoning under T4 NE policy. One of the stated goals of the policy is to create neighborhoods that feature moderate to high-density residential buildings with minimal spacing. RM9–A–NS would support this intent to a greater degree than conventional R8 zoning.

The rezoning request is further supported by the fact that this property is within the transition area from the first-tier center to the south along Clarksville Pike as identified in NashvilleNext. Allowing more density at this location within close proximity to two arterials (Clarksville Pike and Buena Vista Pike) will channel density toward centers and multi-modal corridors in accordance with the guidance of the General Plan. For these reasons, staff recommends approval of the rezoning.

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
One and Two-Family Residential* (210)	0.55	5.445 D	4 U	54	8	5

\*Based on two-family lots

Maximum Uses in Proposed Zoning District: **RM9-A-NS**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Multi-Family Residential 3-10 (221)	0.55	20 D	5 U	26	1	3

Traffic changes between maximum: **R8 and RM9-A-NS**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	+1 U	-28	-7	-2

**METRO SCHOOL BOARD REPORT**

Projected student generation existing R8 district: 0 Elementary 0 Middle 0 High

Projected student generation proposed RM9-A-NS district: 1 Elementary 0 Middle 0 High

The proposed RM-9-A zoning is expected to generate 1 more student than the existing R8 zoning district. Students would attend Cumberland Elementary School, Haynes Middle School, and Whites Creek High School. All three schools are identified as having capacity for additional students. This information is based upon the 2020-2021 MNPS School Enrollment and Utilization report provided by Metro Schools.

**STAFF RECOMMENDATION**

Staff recommends approval.

**Approve. (5-0-1)**

**Resolution No. RS2022-124**

"BE IT RESOLVED by The Metropolitan Planning Commission that 2022Z-005PR-001 is approved. (5-0-1)

**20. 2022Z-030PR-001**

Council District 17 (Colby Sledge)

Staff Reviewer: Abbie Rickoff

A request to rezone from IWD to MUL-A-NS zoning for properties located at 2251 Winford Avenue and 802 Longview Avenue, approximately 92 feet north of Eugenia Avenue (0.72 acres), requested by Smith Gee Studio, applicant; William Ruff & Snyddwood GP, owners.

**Staff Recommendation: Approve.**

**APPLICANT REQUEST**

**Zone change from IWD to MUL-A-NS.**

Zone Change

A request to rezone from Industrial Warehousing/Distribution (IWD) to Mixed Use Limited-Alternative-No Short Term Rentals (MUL-A-NS) zoning for properties located at 2251 Winford Avenue and 802 Longview Avenue, approximately 92 feet north of Eugenia Avenue (0.72 acres).

**Existing Zoning**

Industrial Warehousing/Distribution (IWD) is intended for a wide range of warehousing, wholesaling, and bulk distribution uses.

**Proposed Zoning**



Mixed Use Limited-Alternative-No Short Term Rentals (MUL-A-NS) is intended for a moderate intensity mixture of residential, retail, restaurant, and office uses and is designed to create walkable neighborhoods through the use of appropriate building placement and bulk standards. The -NS designation prohibits Short Term Rental Property – Owner Occupied and Short Term Rental Property - Not-Owner Occupied uses from the district.

**SOUTH NASHVILLE COMMUNITY PLAN**

T4 Urban Mixed Use Neighborhood (T4 MU) is intended to maintain, enhance, and create urban, mixed use neighborhoods with a development pattern that contains a variety of housing along with mixed use, commercial, institutional, and even light industrial development. T4 MU areas are served by high levels of connectivity with complete street networks, sidewalks, bikeways, and existing or planned mass transit.

Conservation (CO) is intended to preserve environmentally sensitive land features through protection and remediation. CO policy applies in all Transect Categories except T1 Natural, T5 Center, and T6 Downtown. CO policy identifies land with sensitive environmental features including, but not limited to, steep slopes, floodway/floodplains, rare or special plant or animal habitats, wetlands, and unstable or problem soils. The guidance for preserving or enhancing these features varies with what Transect they are in and whether or not they have already been disturbed.

**ANALYSIS**

The 0.72-acre site includes two parcels located on the north side of Longview Avenue, south of Interstate 440, north of Thompson Lane and west of Nolensville Pike. Winford Avenue wraps the eastern boundary of the site and bypasses the interstate. Eugenia Avenue terminates at the western corner, where it wraps to the east to Longview Avenue. The eastern parcel currently contains an industrial land use, and the western parcel is developed with a residential use. The surrounding area includes primarily industrial, office or medical, and vacant properties, with scattered commercial and single-family residential uses.

The MUL-A-NS district is consistent with the T4 MU policy at this site, which covers a larger area that spans south of the interstate, west of Nolensville Pike. The MUL-A-NS district permits residential and mixed-use development in an area that is intended to evolve into an urban mixed use neighborhood, consistent with the T4 MU policy. Uses permitted by MUL-A-NS will contribute to the mixed use character that is anticipated by the policy, and the Alternative district standards will provide building placement and design standards intended to achieve an urban character and enhance the pedestrian realm. The site is also located within a large Transition area identified by the NashvilleNext Growth & Preservation Map. The Transition area feeds into to a Tier 1 Center to the south, extending along two priority corridors (Thompson Lane and Nolensville Pike). Centers are intended to be the focus of coordinated growth where additional intensity is expected to support existing and future transit service. The proposed rezone would support uses that are appropriate for a Transition area in this location, adjacent to a major center and in proximity to two corridors. The current IWD zoning is not supported by the T4 MU policy.

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

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Warehousing (150)	0.72	0.8 F	25,091 SF	85	4	4

Maximum Uses in Proposed Zoning District: **MUL-A-NS**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Multi-Family Residential 3-10 (221)	0.36	1.0 F	16 U	85	5	8

Maximum Uses in Proposed Zoning District: **MUL-A-NS**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Retail (820)	0.18	1.0 F	7,841 SF	296	8	30

Maximum Uses in Proposed Zoning District: **MUL-A-NS**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Restaurant (932)	0.18	1.0 F	7,841 SF	880	78	76

Traffic changes between maximum: **IWD and MUL-A-NS**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	-	+1,176	+87	+110

**METRO SCHOOL BOARD REPORT**

Given the mix of uses permitted by MUL-A-NS, the number of residential units ultimately built on site may vary and an assumption as to impact at this point is premature.

**STAFF RECOMMENDATION**

Staff recommends approval.

**Approve. (6-0)**

**Resolution No. RS2022-125**

“BE IT RESOLVED by The Metropolitan Planning Commission that 2022Z-030PR-001 is approved. (5-0-1)

**21. 2022Z-045PR-001**

Council District 05 (Sean Parker)

Staff Reviewer: Amelia Lewis

A request to rezone from RS5 to R6-A zoning for property located at 221 Lucile St, approximately 290 feet west of Meridian St (0.16 acres), requested by Aarika Patel applicant and owner.

**Staff Recommendation: Approve with conditions.**

**APPLICANT REQUEST**

**Zone change from RS5 to R6-A.**

Zone Change

A request to rezone from Single-Family Residential (RS5) to One and Two-Family Residential – Alternative (R6-A) zoning for property located at 221 Lucile Street, approximately 290 feet west of Meridian Street (0.16 acres).

**Existing Zoning**

Single-Family Residential (RS5) requires a minimum 5,000 square foot lot and is intended for single-family dwellings at a density of 7.41 dwelling units per acre. *Based on the acreage, RS5 would permit a maximum of one lot and one unit.*

**Proposed Zoning**

One and Two-Family Residential – Alternative (R6-A) requires a minimum 6,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 7.71 dwelling units per acre including 25 percent duplex lots. *R6-A would permit a maximum of one duplex lot for a maximum of two units. Metro Codes provides final determinations on duplex eligibility.*

**EAST NASHVILLE COMMUNITY PLAN**

T4 Urban Neighborhood Evolving (T4 NE) is intended to create and enhance urban residential neighborhoods that provide more housing choices, improved pedestrian, bicycle and vehicular connectivity, and moderate to high density development patterns with shallow setbacks and minimal spacing between buildings. T4 NE areas are served by high levels of connectivity with complete street networks, sidewalks, bikeways and existing or planned mass transit. T4 NE policy may be applied either to undeveloped or substantially under-developed “greenfield” areas or to developed areas where redevelopment and infill produce a different character that includes increased housing diversity and connectivity. Successful infill and redevelopment in existing neighborhoods needs to take into account considerations

such as timing and some elements of the existing developed character, such as the street network and block structure and proximity to centers and corridors.

Supplemental Policy

The site is within the Highland Heights Study Supplemental Policy which was approved and adopted by the Planning Commission on June 14, 2018. The Highland Heights Study was completed after an extensive community engagement process and resulted in updates to the community character policies for the area, as well as establishment of a supplementary Building Regulating Plan and Mobility Plan for the area. The community character policy for this site, T4 NE, did not change with adoption of the Highland Heights plan.

This site is within the R4 Subdistrict of the Building Regulating Plan, which is intended to create and enhance neighborhoods with greater housing choice and improved connectivity, consistent with the goals of the general T4 NE policy. The R4 Subdistrict supports a range of residential uses, including two-family and multi-family residential, at varying intensities depending on the location and context. The R4 Subdistrict also supports a variety of building forms, including house (1 unit), detached accessory dwelling unit, house (2 unit), plex or manor house, house court, and low rise townhouse.

There is an unbuilt right-of-way associated with Alley #2017 to the rear of this property. The Mobility Plan component of the Highland Heights Study, which was incorporated into the Major and Collector Street Plan (MCSP), calls for this alley right-of-way to be constructed as a public alley with any new development or redevelopment.

**SITE AND CONTEXT**

The 0.16-acre site is located on the north side of Lucile Street, between Meridian Street and Dickerson Pike. The site contains an existing single-family residential structure. The properties along Lucile Street are primarily zoned RS5 and developed with single family uses. There are some two-family uses and parcels zoned R6-A along the street as well. To the west of the site, along Lucile are several specific plan (SP) developments containing multi-family units. Higher intensity residential and non-residential zonings are along Dickerson Pike to the west.

**ANALYSIS**

The requested R6-A zoning is supported by the T4 NE policy and the R4 Subdistrict of the Highland Heights Study. The proposed zoning allows for one or two-family residential uses, which would increase housing choice in the area. The standards for building placement, parking and access included in the R6-A district are consistent with the goals of the T4 NE policy and R4 Subdistrict to create urban development patterns and walkable streets.

The Highland Heights Study envisioned that the R4 area would accommodate additional density with the installation of infrastructure, specifically an integrated road and alley network. The Mobility Plan provides a blueprint for this road and alley network and identifies unbuilt Alley #2017 as part of the future network. The existing right-of-way associated with Alley #2017 is approximately 10 feet in width, where 20 feet is required to meet the Public Works standard. The alley right-of-way does not extend all the way to Meridian Street on the east or Dickerson Pike on the west, but instead turns north and south to connect to Lucile Street and Marie Street.

The R6-A zoning district requires access to be taken from the alley if an improved alley exists, but construction of an unbuilt alley is not a requirement of the zoning district. Additionally, for the alley to meet all Metro Public Works standards and be acceptable for public maintenance, the alley would need to be designed, engineered and constructed in a cohesive manner, rather than on a lot-by-lot basis. To ensure that the intent of the policy regarding the alley is met, staff recommends a condition requiring that one-half of the additional alley right-of-way necessary to meet Public Works standards be dedicated prior to building permit. The right-of-way dedication will ensure that the alley can be constructed through this area in the future, as more lots along the block redevelop, implementing the goals of the policy over time.

The requested R6-A district is on the lower end of the range of zoning districts supported by T4 NE policy and in the R4 Subdistrict of the Highland Heights Study and represents a limited increase in density consistent with the zoning of the surrounding area.

**FIRE MARSHAL RECOMMENDATION**  
**Approve**

Maximum Uses in Existing Zoning District: **RS5**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Residential (210)	0.16	8.712 D	1 U	15	5	1

Maximum Uses in Proposed Zoning District: **R6-A**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
One and Two-Family Residential* (210)	0.16	7.260 D	2 U	28	7	2

Based on two-family lots

Traffic changes between maximum: **RS5 and R6-A**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	+1 U	+13	+2	+1

**METRO SCHOOL BOARD REPORT**

Projected student generation existing RS5 district: 0 Elementary 0 Middle 0 High

Projected student generation proposed R6-A district: 0 Elementary 0 Middle 0 High

The proposed R6-A zoning district is not expected to generate any additional students than what is typically generated under the existing RS5 zoning district. Students would attend Shwab Elementary School, Jere Baxter Middle School, and Maplewood High School. All three schools have been identified as having additional capacity. This information is based upon the 2020-2021 MNPS School Enrollment and Utilization report provided by Metro Schools.

**STAFF RECOMMENDATION**

Staff recommends approval with conditions.

**CONDITIONS**

1. Prior to the issuance of building permits, half of the remaining right-of-way for Alley #2017 required to meet the Public Works standard shall be dedicated.

**Approve with conditions. (6-0)**

**Resolution No. RS2022-126**

"BE IT RESOLVED by The Metropolitan Planning Commission that 2022Z-045PR-001 is approved with conditions. (6-0)

**CONDITIONS**

1. Prior to the issuance of building permits, half of the remaining right-of-way for Alley #2017 required to meet the Public Works standard shall be dedicated.

**22. 2022Z-046PR-001**

Council District 27 (Robert Nash)

Staff Reviewer: Amelia Lewis

A request to rezone from AR2a to RS10 zoning for property located at 219 Tusculum Road, approximately 440 feet west of Old Tusculum Road (3.3 acres), requested by JLG Corp, applicant; Egber Abdullah, owner.

**Staff Recommendation: Approve.**

**APPLICANT REQUEST**

**Zone change from AR2a to RS10.**

Zone Change

A request to rezone from Agricultural/Residential (AR2a) to Single-Family Residential (RS10) zoning for property located at 219 Tusculum Road, approximately 440 feet west of Old Tusculum Road (3.3 acres).

**Existing Zoning**

Agricultural/Residential (AR2a) requires a minimum lot size of two acres and intended for uses that generally occur in rural areas, including single-family, two-family, and mobile homes at a density of one dwelling unit per two acres. The

AR2a District is intended to implement the natural conservation or rural land use policies of the general plan. AR2a would permit a maximum of one lot and a maximum of two units.

**Proposed Zoning**

Single-Family Residential (RS10) requires a minimum of 10,000 square foot lot and is intended for single-family dwellings at a density of 3.7 dwelling units per acre. RS10 would permit a maximum of 14 lots and 14 units, based on acreage alone. Application of the Subdivision Regulations may result in fewer lots.

**SOUTHEAST NASHVILLE COMMUNITY PLAN**

T3 Suburban Neighborhood Maintenance (T3 NM) is intended to maintain the general character of developed suburban residential neighborhoods. T3 NM areas will experience some change over time, primarily when buildings are expanded or replaced. When this occurs, efforts should be made to retain the existing character of the neighborhood. T3 NM areas have an established development pattern consisting of low- to moderate-density residential development and institutional land uses. Enhancements may be made to improve pedestrian, bicycle, and vehicular connectivity.

Conservation (CO) is intended to preserve environmentally sensitive land features through protection and remediation. CO policy applies in all Transect Categories except T1 Natural, T5 Center, and T6 Downtown. CO policy identifies land with sensitive environmental features including, but not limited to, steep slopes, floodway/floodplains, rare or special plant or animal habitats, wetlands, and unstable or problem soils. The guidance for preserving or enhancing these features varies with what Transect they are in and whether or not they have already been disturbed.

**SITE AND CONTEXT**

The 3.3 acre site is located on the south side of Tusculum Road. The site is currently undeveloped. To the east, west, and south of the subject site the properties are zoned RS10, One and Two-Family Residential (R10), and AR2a. There are some two-family uses in the area, although most are single-family residential. The parcels on the north side of Tusculum Road are zoned R10 and RS10 and have been developed with a civic use, Cole Elementary School, and a majority single-family residential uses.

**ANALYSIS**

There are two policies on the site, Suburban Neighborhood Maintenance (T3 NM) and Conservation (CO). The intent of T3 NM Policy is to maintain the general character of suburban neighborhoods as characterized by their development pattern, building form, land use, and associated public realm. Additionally, the policy guidance provides the following when considering rezonings: A site’s location in relation to centers and corridors will be weighed when considering which zoning districts would be appropriate in a given situation. The size of the site, environmental conditions on and near the site, the existing neighborhood character, and the character of adjacent Transect and policy areas will be considered.

The site is over three acres with the potential to develop additional lots consistent with the surrounding properties. The site is located along an arterial, in which the policy suggests that the development along the corridor should complement the development behind the corridor. The proposed RS10 zoning district is able to complement the surrounding develop as the proposed zoning district is consistent with the surrounding RS10 and R10 zoning district in regards to lot size and land use.

The CO Policy is in place due to steep slopes ranging from 15 percent to over 25 percent on the site. With any proposed development on the site as a result of a future subdivision, the slope affected portion of the site would need to remain undisturbed.

**FIRE MARSHAL RECOMMENDATION**

**Approve**

Maximum Uses in Existing Zoning District: **AR2a**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
One and Two-Family Residential* (210)	3.30	0.50 D	2 U	28	7	2

\*Based on two-family lots

Maximum Uses in Proposed Zoning District: **RS10**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Residential (210)	3.30	4.356 D	14 U	170	15	16

Traffic changes between maximum: **AR2a and RS10**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	+12 U	+142	+8	+14

**METRO SCHOOL BOARD REPORT**

Projected student generation existing AR2a district: 0 Elementary 0 Middle 0 High  
 Projected student generation proposed RS10 district: 4 Elementary 3 Middle 3 High

The proposed RS10 zoning district is expected to generate 10 additional students than what is typically generated under the existing AR2a zoning district. Students would attend Cole Elementary School, Antioch Middle School, and Cane Ridge High School. Antioch Middle School has been identified as having additional capacity, while Cole Elementary and Cane Ridge High School have been identified as having no additional capacity. This information is based upon the 2020-2021 MNPS School Enrollment and Utilization report provided by Metro Schools.

**STAFF RECOMMENDATION**

Staff recommends approval.

**Approve. (6-0)**

**Resolution No. RS2022-127**

“BE IT RESOLVED by The Metropolitan Planning Commission that 2022Z-046PR-001 is approved. (6-0)

**23. 2022Z-049PR-001**

Council District 21 (Brandon Taylor)

Staff Reviewer: Dustin Shane

A request to rezone from RS5 to R6 zoning for property located at 1720 Cockrill Street, approximately 145 feet east of Dr D B Todd Jr Blvd (0.19 acres), requested by Donnel D. Johnson, Sr., applicant and owner.

**Staff Recommendation: Approve.**

**APPLICANT REQUEST**

**Zone change from RS5 to R6.**

Zone Change

A request to rezone from Single-Family Residential (RS5) zoning to One and Two-Family Residential (R6) zoning for property located at 1720 Cockrill Street, approximately 145 feet east of Dr D B Todd Jr Boulevard (0.19 acres).

**Existing Zoning**

Single-Family Residential (RS5) requires a minimum 5,000 square foot lot and is intended for single-family dwellings at a density of 7.41 dwelling units per acre. *RS5 would permit a maximum of 1 unit based on acreage alone.*

**Proposed Zoning**

One and Two-Family Residential (R6) requires a minimum 6,000 square foot lot and is intended for single-family dwellings and duplexes at an overall density of 7.71 dwelling units per acre including 25 percent duplex lots. *R6 would permit 1 duplex lot for a total of 2 units. Metro Codes provides final determinations on duplex eligibility.*

**NORTH NASHVILLE COMMUNITY PLAN**

T4 Urban Neighborhood Maintenance (T4 NM) is intended to maintain the general character of existing urban residential neighborhoods. T4 NM areas will experience some change over time, primarily when buildings are expanded or replaced. When this occurs, efforts should be made to retain the existing character of the neighborhood.

T4 NM areas are served by high levels of connectivity with complete street networks, sidewalks, bikeways and existing or planned mass transit. Enhancements may be made to improve pedestrian, bicycle and vehicular connectivity.

**ANALYSIS**

The application consists of one parcel (Map 081-15, Parcel 203) totaling 0.19 acres in size and located approximately 140 feet northeast of the intersection of Dr D B Todd Jr Boulevard and Cockrill Street. The property is vacant but previously contained a duplex that was lost to fire. Surrounding uses to the north, east, and across Cockrill Street to the south include single-family residential uses and vacant residential land zoned RS5. Adjacent to the west is an SP consisting of three detached multi-family units fronting Dr D B Todd Jr Boulevard.

The application proposes to rezone the property from RS5 to R6. The requested R6 zoning is supported by the T4 NM policy. The proposed zoning allows for one or two-family residential uses, which would restore the increased housing choice that existed before the recent fire. The proposed R6 zoning district incorporates additional intensity into the neighborhood in a manner that helps transition down from the more intense multi-family use to the west at the intersection with Dr D B Todd Jr Boulevard (an arterial boulevard). However, T4 NM policy would not support further rezonings to the east as distance from the intersection increases.

The request is consistent with the formerly existing intensity on the property and consistent with the surrounding context, which includes two-family uses dispersed throughout the neighborhood. For these reasons, staff recommends approval of the rezoning.

**FIRE RECOMMENDATION**

**Approve with conditions**

- Limited building detail, and/ or building construction information provided. Construction must meet all applicable building and fire codes. Any additional fire code or access issues will be addressed during the construction permitting process. Future development or construction may require changes to meet adopted fire and building codes.

**Maximum Uses in Existing Zoning District: RS5**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Residential (210)	0.19	8.712 D	1 U	15	5	1

**Maximum Uses in Proposed Zoning District: R6**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
One and Two-Family Residential* (210)	0.19	7.260 D	2 U	28	7	2

\*Based on two-family lots

**Traffic changes between maximum: RS5 and R6**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-	+1 U	+13	+2	+1

**METRO SCHOOL BOARD REPORT**

**Projected student generation existing RS5 districts: 0 Elementary 0 Middle 0 High**

**Projected student generation proposed R6 district: 0 Elementary 0 Middle 0 High**

The proposed R6 zoning is not expected to generate any more students than the existing RS5 zoning district. Any additional students would attend Churchwell Elementary School, John Early Middle School, and Pearl-Cohn High School. All three schools are identified as having capacity for additional students. This information is based upon the 2020-2021 MNPS School Enrollment and Utilization report provided by Metro Schools.

**STAFF RECOMMENDATION**

Staff recommends approval.

**Approve. (6-0)**

**Resolution No. RS2022-128**

"BE IT RESOLVED by The Metropolitan Planning Commission that 2022Z-049PR-001 is approved. (6-0)

**24. 2022S-068-001**

**THOMAS HARDINGS FIRST SUBDIVISION**

Council District 19 (Freddie O'Connell)

Staff Reviewer: Jason Swaggart

A request for final plat approval to create three lots on property located at 1217 Phillips Street, approximately 141 feet east of 14th Ave North, zoned RM20 (0.46 acres), requested by Rocky Montoya, applicant; Clark UMC Community Development Corporation, Inc, owner.

**Staff Recommendation: Approve with conditions.**

**APPLICANT REQUEST**

**Final Plat to create 3 lots.**

Final Plat

A request for final plat approval to create three lots on property located at 1217 Phillips Street, approximately 141 feet east of 14th Ave North, zoned Multi-Family Residential (RM20), (0.46 acres).

**SITE DATA AND CONTEXT**

**Location:** The site is located on the south side of Phillips Street between 12<sup>th</sup> Ave. N. and 14<sup>th</sup> Ave. N.

**Street Type:** Phillips Street is classified as a local street.

**Approximate Acreage:** The proposed area for subdivision is approximately 0.46 acres or 20,037 square feet.

**Parcel/Site History:** This site is comprised of one parcel. The parcel was created in 2019, by plat.

**Zoning History:** The parcel is zoned RM20. The previous zoning was RM8.

**Existing land use and configuration:** The site consists of vacant residential land.

**Surrounding land use/zoning:**

North: Residential/Multi-Family Residential (RM20)

South: Residential /Multi-Family Residential (RM20)

East: Residential/Multi-Family Residential (RM20)

West: Residential /Multi-Family Residential (RM20)

**Zoning:** Multi-Family Residential (RM20)

Min. lot size for single-family: 3,750 square feet

Max. height: 3 stories

Min. Contextual (per Zoning Code)

Min. rear setback: 20'

Min. side setback for all properties: 5'

Maximum Building Coverage: 0.6

**PROPOSAL DETAILS**

This proposal is for subdivision development under existing zoning entitlements. No rezoning is proposed with this application.

**Number of lots:** 3 lots.

**Lot sizes:** Lots 1 and 2 are 6,710 sq. ft. and Lot 3 is 6,784 sq. ft. It is important to note that while the lots are zoned for multi-family the minimum lot size to permit multi-family in the RM20 zoning district is 7,500 sq. ft. Since the lots are below the minimum lot size for multi-family, then the lots would be limited to single and/or one and two-family.

**Access:** All three proposed lots have frontage along Phillips Street. The plat limits access for all three lots to the rear alley. No driveways would be permitted onto Phillips Street.



**Subdivision Variances or Exceptions Requested:** None

**APPLICABLE SUBDIVISION REGULATIONS**

Volume III of NashvilleNext, the General Plan for Nashville and Davidson County, contains the Community Character Manual (CCM) which establishes land use policies for all properties across the county. The land use policies established in CCM are based on a planning tool called the Transect, which describes a range of development patterns from most to least developed.

Prior versions of Subdivision Regulations for Nashville and Davidson County contained a uniform set of standards that were applied Metro-wide. This did not take into account the diverse character that exists across the County. In order to achieve harmonious development within the diversity of development patterns that exist in Nashville and Davidson County, the Planning Commission has adopted the current Subdivision Regulations. The Subdivision Regulations incorporate the General Plan policies by including rules or standards for each specific transect. This allows policies of the General Plan to be followed through application of the varying Subdivision Regulations to reflect the unique characteristics found in the different transects. The site is within the Urban Neighborhood Evolving (T4 NE) policy. For T4 NE, the conventional regulations found in Chapter 3 are utilized.

**3-1 General Requirements**

This subdivision is required to meet on standards of Chapter 3. Staff finds that all standards are met.

**3-2 Monument Requirements**

Complies. Monuments will be set after plat approval.

**3-3 Suitability of the Land**

Staff finds that the land is suitable for development consistent with this section.

**3-4 Lot Requirements**

All proposed lots comply with the minimum lot size of the zoning code for single and one and two-family residential development. Under the RM20 zoning district, multi-family requires a 7,500 sq. ft. lot. Since the lots are less than 7,500 sq. ft. in size, multi-family would not be permitted. Any development proposed on the resulting lots will be required to meet the bulk standards and all other applicable regulations of RM20 zoning at the time of building permit.

**3-5 Infill Subdivisions**

In order to ensure compatibility with the General Plan, the Commission has adopted specific regulations applicable to infill subdivisions, defined as residential lots resulting from a proposed subdivision within the R, R-A, RS, and RS-A zoning districts on an existing street. If a proposed infill subdivision meets all of the adopted applicable regulations, then the subdivision is found to be harmonious and compatible with the goals of the General Plan.

Not applicable. This section does not apply to multi-family zoning districts.

**3-6 Blocks**

Not applicable. No new blocks are being created.

**3-7 Improvements**

No public infrastructure or improvements are required with this subdivision. Construction plans for any required private improvements (private stormwater, water and sewer lines and connections) will be reviewed at the time of building permit.

**3-8 Requirements for Sidewalks and Related Pedestrian and Bicycle Facilities**

Not applicable. Sidewalks are required only in association with new streets. The proposed subdivision is located on an existing street. Sidewalks may be required at the time of building permit pursuant to Section 17.20.120 of the Zoning Code.

**3-9 Requirements for Streets**

Not applicable. No new streets are proposed.

**3-10 Requirements for Dedication, Reservations, or Improvements**

A right-of-way dedication is proposed along Phillips Street.

**3-11 Inspections During Construction**

This section is applicable at the time of construction, which for this proposed subdivision, will occur only after issuance of a building permit approved by Metro Codes and all other reviewing agencies.

**3-12 Street Name, Regulatory and Warning Signs for Public Streets**

Not applicable. No new streets are proposed.

**3-13 Street Names, Regulatory and Warning Signs for Private Streets**

Not applicable. No private streets are proposed.

**3-14 Drainage and Storm Sewers**

Drainage and storm sewer requirements are reviewed by Metro Stormwater. Metro Stormwater has reviewed the proposed concept plan and found it to comply with all applicable standards of this section. Stormwater recommends approval.

**3-15 Public Water Facilities**

Metro Water Services has reviewed this proposed concept plan for water and has recommended approval with conditions.

**3-16 Sewerage Facilities**

Metro Water Services has reviewed this proposed concept plan for sewer and has recommended approval with conditions.

**3-17 Underground Utilities**

Utilities are required to be located underground whenever a new street is proposed. The concept plan notes all new utilities will be placed underground as required.

**PLANNING STAFF COMMENTS**

The proposed subdivision meets the standards of the subdivision regulations and zoning code. Future development will be required to meet the standards of the Metro Zoning Code in regard to setbacks, etc. Staff recommends approval with conditions as the proposed subdivision meets the requirements of the Zoning Code and Subdivision Regulations.

**COMMENTS FROM OTHER REVIEWING AGENCIES**

**FIRE MARSHAL RECOMMENDATION**

**Approve with conditions**

- Limited building detail, and/ or building construction information provided. Construction must meet all applicable building and fire codes. Any additional fire code or access issues will be addressed during the construction permitting process. Future development or construction may require changes to meet adopted fire and building codes.

**STORMWATER RECOMMENDATION**

**Approve**

**NASHVILLE DOT RECOMMENDATION**

**Approve with conditions**

- New driveway connections or access points will require a permit from NDOT. Adequate sight distance must be provided per AASHTO for new driveway connections.

**TRAFFIC AND PARKING RECOMMENDATION**

**Approve**

**WATER SERVICES RECOMMENDATION**

**Approved with conditions**

- MWS APPROVES WITH CONDITIONS A REVISED PLAT designating the lots as non-buildable until public water main plans are submitted/approved. The plat would then have to be re-submitted to remove the note while indicating the proposed public improvements, re-approved conditional on construction and completion of Metro Project No \_\_\_\_\_ and on posting a bond with Planning to ensure the improvements, and then ultimately re-recorded. CITYWORKS UPDATED 4/22/2022. WS WILL PROVIDE A STAMPED APPROVED PLAT UPON UPDATE/RESUBMITTAL BY THE SURVEYOR OR PLANNING. EMAIL TO GROUP 4/22/2022.

**CONDITIONS**

1. Comply with all conditions and requirements of all Metro agencies.
2. Add the following note: All lots are not buildable until approved by water services. No building permits shall be issued.
3. If recorded with the above note, the plat will need to be rerecorded to remove the note prior to issuance of building permits. A bond may be required for any needed public infrastructure improvements. The plat will not be recorded until improvements have been completed or bonded.

4. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.

**STAFF RECOMMENDATION**

Staff recommends approval with conditions.

**RECOMMENDED ACTION**

Motion to approve proposed subdivision Case No. 2022S-068-001 based upon finding that the subdivision complies with the applicable standards of the Metro Subdivision Regulations, Metro Zoning Code, and other applicable laws, ordinances and resolutions as noted in the staff report, subject to all the staff recommended conditions.

**Approve with conditions. (6-0)**

**Resolution No. RS2022-129**

"BE IT RESOLVED by The Metropolitan Planning Commission that 2022S-068-001 is approved with conditions. (6-0)

**CONDITIONS**

1. Comply with all conditions and requirements of all Metro agencies.
2. Add the following note: All lots are not buildable until approved by water services. No building permits shall be issued.
3. If recorded with the above note, the plat will need to be rerecorded to remove the note prior to issuance of building permits. A bond may be required for any needed public infrastructure improvements. The plat will not be recorded until improvements have been completed or bonded.
4. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.

**25. 2022S-076-001**

**MAGNOLIA EAST**

Council District 14 (Kevin Rhoten)

Staff Reviewer: Jason Swaggart

A request for concept plan approval to create 18 cluster lots on property located at 3739 Hoggett Ford Road, approximately 190 feet east of Hermitage Point Dr, zoned RS15 and (7.81 acres), requested by Gresham Smith, applicant; Beazer Homes, LLC, owner.

**Staff Recommendation: Approve with conditions, including a variance from Section 3-8 of the Subdivision Regulations.**

**APPLICANT REQUEST**

**Concept plan approval to create 18 cluster lots.**

Concept Plan

A request for concept plan approval to create 18 cluster lots on property located at 3739 Hoggett Ford Road, approximately 190 feet east of Hermitage Point Dr, zoned Single-Family Residential (RS15), (7.81 acres).

**SITE DATA AND CONTEXT**

**Location:** The site is located on the north side of Hoggett Ford Road, just west of Hermitage Point Drive. Greenwood Drive stubs into the site from the east. Dodson Chapel Pike is approximately a quarter mile to the east.

**Street Type:** The site has frontage onto Hoggett Ford Road which is classified as a local. Direct access to Hoggett Ford Road is not proposed.

**Approximate Acreage:** The proposed area for subdivision is approximately 7.81 acres or 340,203 square feet.

**Parcel/Site History:** This site is comprised of one parcel. The parcel was created in 2019.

**Zoning History:** The parcel is zoned RS15. Prior to RS15, it was zoned R15.

**Existing land use and configuration:** The site consists vacant residential land.

**Surrounding land use/zoning:**

North: Residential/Single-Family Residential (RS15)

South: Residential/Multi-Family Residential (RM9)/UDO

East: Residential/Single-Family Residential (RS15)

West: Residential/Single-Family Residential (SP)

**Zoning:** Single-Family Residential (RS15)

Min. lot size: 15,000 square feet

Max. height: 3 stories

Min. front and rear setback: 20'

Min. side setback: 10'

Maximum Building Coverage: 0.35

### **PROPOSAL DETAILS**

This proposal is for subdivision development under existing zoning entitlements. No rezoning is proposed with this application. This proposal utilizes the by-right Cluster Lot Option standards of Section 17.12.090 of the Metro Zoning Code.

**Number of lots:** 18 single-family lots.

**Lot sizes:** Lot sizes range from 0.17 acres (7,560 square feet) to 0.18 acres (7,628 square feet).

**Access:** Access is proposed from Greenwood Drive and Pierside Drive. Both roads are stubbed to the subject site and are intended to be extended with the redevelopment of the subject site.

### **CLUSTER LOT OPTION**

#### **Plan Requirements (Section 17.12.090.A)**

The concept plan establishes that clustering is proposed and displays the layout of all lots and common areas. This cluster lot proposal includes only single-family lots. The concept plan delineates the alternative lot sizes to be employed and describes the land areas required to satisfy open space requirements.

#### **Minimum Area Required to be Eligible (Section 17.12.090.B)**

The minimum area within the cluster lot subdivision shall be no less than ten times the minimum lot area for the base zoning district. The site is zoned RS15. RS15 requires a minimum 15,000 sq. ft. lot size. The site contains approximately 340,203 sq. ft. and exceeds the minimum area requirement to be eligible to utilize the cluster lot option.

#### **Maximum Lot Yield (Section 17.12.090.E)**

The Cluster Lot Option includes specific standards for calculation of maximum lot yield within a cluster lot subdivision that ensure that the maximum number of lots does not exceed what is permitted by the existing base zoning. The Zoning Code specifies that the lot yield shall be based on the gross acreage of the site, minus 15 percent of areas reserved for streets, and then division of the remaining 85 percent of the gross area by the minimum lot size of the base zoning district.

The gross area of this site is approximately 10.63 acres or 340,203 sq. ft. The minimum lot size of the existing zoning district, RS15, is 15,000 sq. ft.

$340,203 \text{ sq. ft.} \times 0.15 = 51,030 \text{ sq. ft.}$  (15% of the gross site area reserved for streets)

$340,203 \text{ sq. ft.} - 51,030 \text{ sq. ft.} = 289,173 \text{ sq. ft.}$  (85% of the gross area remaining to lots)

$289,173 \text{ sq. ft.} / 15,000 \text{ sq. ft.} = 19 \text{ lots}$

#### **Open Space Requirements (Section 17.12.090.D)**

A minimum of 15 percent of the gross land area of each phase is required to be provided as open space in a cluster lot subdivision. The proposed concept plan includes only one phase. The total open space provided is approximately 2.95 acres or 27% of the site. The proposed open space exceeds the minimum requirement.

#### **Alternative Lot Sizes (Section 17.12.090.C)**

Lots within a cluster lot subdivision may be reduced in area the equivalent of two smaller base zone districts. The subject site is zoned RS15 and a reduction of two base zone districts would be down to the RS7.5 zone district. The RS7.5 zoning district requires a minimum lot size of 7,500 sq. ft. The smallest lot proposed in this subdivision exceeds the minimum 7,500 sq. ft. lot size requirement.

Perimeter lots oriented to an existing street are required to be at least ninety percent of the minimum lot size of the actual zoning of the property. This application does not include any perimeter lots oriented to an existing street.

Minimum lot size for perimeter lots not oriented to an existing street depend on the abutting residential zoning district. Lots may be reduced in size the equivalent of one zoning district (RS15 to RS10) with the installation of a standard B landscape buffer yard located within common open space or reduced the equivalent of two zoning districts (RS15 to RS7.5) with the installation of a standard C landscape buffer yard located within common open space. As proposed,

all lots abutting a residential zoning district either meet the minimum lot size requirement or include a standard C landscape buffer.

The bulk standards of the zoning district which most closely resembles the alternative lot sizes chosen for any given phase of the development shall be employed for that phase of the subdivision. As proposed, this concept plan meets this requirement. Bulk standards will be applied with individual building permits.

**Landscape Buffer Yard Requirements (Article IV)**

When incompatible zoning districts abut, the Zoning Code requires landscape buffer yards between the incompatible districts. The zoning districts abutting the northern and eastern property lines are zoned RS15. The adjacent lots to the north and the east are similar in size to the proposed lots; therefore, a buffer is technically not required on those sides. The plan provides a buffer yard along the eastern property line and is intended to protect existing vegetation including mature stands of trees. Open space is proposed between existing lots to the north and a buffer yard is not required. The property to the west is zoned SP and a buffer yard is not required.

**Hillside Development Standards (Section 17.28.030)**

In general, lots created under the cluster lot option shall be clustered on those portions of the site that have natural slopes of less than 20% grade. Areas with natural slopes that are 25% or greater shall be placed outside of building envelopes and preserved to the greatest extent possible. The Planning Commission may authorize lots with natural slopes 25% or greater subject to the concept plan demonstrating that the lots can meet the critical lot standards. These standards generally require building envelopes to be outside of the areas with 25% or steeper slopes. It is important to note that the Subdivision Regulations also includes hillside development standards. There are no lots proposed with natural slopes of 25% or greater.

**Floodplain/Floodway Development Standards (Section 17.28.40)**

In general, new development should stay outside or have limited encroachment into areas designated as floodplain or floodway. This site is not located within floodplain or floodway.

**Recreational Facilities (Section 17.12.090.G)**

This section establishes the requirements for recreational facilities in subdivisions utilizing the cluster lot option. Recreational facilities are required for cluster lot subdivisions that contain 25 or more residential units. One facility is required for cluster lot subdivisions with 25 to 99 units. An additional facility is required for every 100 units in excess of 99. Recreational facilities can include, but are not limited to playgrounds, swimming pools, ball fields, gazebos, picnic areas and walking trails. The plan does not call for any recreational facilities. In this case, the plan would permit up to 18 units; therefore, no facilities are required.

**APPLICABLE SUBDIVISION REGULATIONS**

Volume III of NashvilleNext, the General Plan for Nashville and Davidson County, contains the Community Character Manual (CCM) which establishes land use policies for all properties across the county. The land use policies established in CCM are based on a planning tool called the Transect, which describes a range of development patterns from most to least developed.

Prior versions of Subdivision Regulations for Nashville and Davidson County contained a uniform set of standards that were applied Metro-wide. This did not take into account the diverse character that exists across the County. In order to achieve harmonious development within the diversity of development patterns that exist in Nashville and Davidson County, the Planning Commission has adopted the current Subdivision Regulations. The Subdivision Regulations incorporate the General Plan policies by including rules or standards for each specific transect. This allows policies of the General Plan to be followed through application of the varying Subdivision Regulations to reflect the unique characteristics found in the different transects. The site is within the Suburban Neighborhood Evolving (T3 NE) policy. For T3 NE, the conventional regulations found in Chapter 3 are utilized.

**3-1 General Requirements**

This subdivision is required to meet on standards of Chapter 3. Staff finds that all standards are met.

**3-2 Monument Requirements**

Does not apply to concept plans. Monuments will be set after final plat approval.

**3-3 Suitability of the Land**

Staff finds that the land is suitable for development consistent with this section.

**3-4 Lot Requirements**

All proposed lots comply with the minimum lot size of the zoning code. Any development proposed on the resulting lots will be required to meet the bulk standards and all other applicable regulations of the RS15 zoning district and cluster lot requirements at the time of building permit.

### **3-5 Infill Subdivisions**

In order to ensure compatibility with the General Plan, the Commission has adopted specific regulations applicable to infill subdivisions, defined as residential lots resulting from a proposed subdivision within the R, R-A, RS, and RS-A zoning districts on an existing street. If a proposed infill subdivision meets all of the adopted applicable regulations, then the subdivision is found to be harmonious and compatible with the goals of the General Plan.

Not applicable. No lots are proposed on an existing street.

### **3-6 Blocks**

All proposed block lengths meet the distance requirements as established in the subdivision regulations.

### **3-7 Improvements**

Construction plans for any required public or private improvements (stormwater facilities, water and sewer, public roads, etc.) will be reviewed with the final site plan.

### **3-8 Requirements for Sidewalks and Related Pedestrian and Bicycle Facilities**

Sidewalks are required in association with new streets. The proposed subdivision includes new public streets. As proposed a sidewalk is provided on only one side of the new street and will require that the Commission approve a variance from the sidewalk requirements (see details under the variance summary).

### **3-9 Requirements for Streets**

All streets as shown on the concept plan meet the minimum requirements for a public street.

### **3-10 Requirements for Dedication, Reservations, or Improvements**

Right-of-way and easements for this project will be dedicated with final plat.

### **3-11 Inspections During Construction**

This section is applicable at the time of construction, which for this proposed subdivision, will occur only after issuance of a building permit approved by Metro Codes and all other reviewing agencies.

### **3-12 Street Name, Regulatory and Warning Signs for Public Streets**

Public Works will require the review and approval of streets with the submittal of the final site plan. Street names for new streets will be reserved at that time.

### **3-13 Street Names, Regulatory and Warning Signs for Private Streets**

Not applicable to this case. The concept plan does not propose any new private streets.

### **3-14 Drainage and Storm Sewers**

Drainage and storm sewer requirements are reviewed by Metro Stormwater. Metro Stormwater has reviewed the proposed concept plan and found it to comply with all applicable standards of this section. Stormwater recommends approval.

### **3-15 Public Water Facilities**

Metro Water Services has reviewed this proposed concept plan for water and has recommended approval.

### **3-16 Sewerage Facilities**

Metro Water Services has reviewed this proposed concept plan for sewer and has recommended approval with conditions.

### **3-17 Underground Utilities**

Utilities are required to be located underground whenever a new street is proposed. The concept plan notes all new utilities will be placed underground as required.

**Subdivision Variances or Exceptions Requested:** Yes. This request requires a variance from Section 3-8, Requirements for Sidewalks and Related Pedestrian and Bicycle Facilities. Section 3-8 requires that sidewalks be constructed on both sides of a new public street. As proposed, the plan includes a sidewalk on only one side of the new street.

Section 1-11, Variances, permits the Planning Commission to grant variances to the Subdivision Regulations when it finds that extraordinary hardships or practical difficulties may result from strict compliance with the regulations. While the regulations grant the Commission the authority to grant variances, the regulations state that "such variance shall not have the effect of nullifying the intent and purpose of the Subdivision Regulations." In order to grant a variance, the Commission must find that:

1. The granting of the variance shall not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.
3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out.
4. The variance shall not in any manner vary from the provisions of the adopted General Plan, including its constituent elements, the Major Street Plan, or the Zoning Code for Metropolitan Nashville and Davidson County (Zoning Code).

**Variance Analysis**

The intent of having a sidewalk on only one side of the proposed new street is to shrink the development footprint to preserve existing vegetation including large mature trees that run along the eastern property line adjacent to Hermitage Point. As proposed, staff finds that the variance from the sidewalk requirements meets the standards of Section 1-11.

**PLANNING STAFF COMMENTS**

With the approval of the necessary variance, the proposed subdivision meets the standards of the Subdivision Regulations and Zoning Code. Future development will be required to meet the standards of the Metro Zoning Code regarding setbacks, etc. Staff recommends approval with conditions as the proposed subdivision meets the requirements of the Zoning Code and Subdivision Regulations.

**FROM OTHER REVIEWING AGENCIES**

**FIRE MARSHAL RECOMMENDATION**

**Approve with conditions**

- Limited building detail, and/ or building construction information provided. Construction must meet all applicable building and fire codes. Any additional fire code or access issues will be addressed during the construction permitting process. Future development or construction may require changes to meet adopted fire and building codes.

**STORMWATER RECOMMENDATION**

**Approve with conditions**

- Must comply with all regulations in the Stormwater Management Manual at the time of final submittal.

**NASHVILLE DOT RECOMMENDATION**

**Approve with conditions**

- Final construction plans and road grades shall comply with the design regulations established by the Department of Public Works. Slopes along roadways shall not exceed 3:1.

**TRAFFIC AND PARKING RECOMMENDATION**

**Approve**

**WATER SERVICES RECOMMENDATION**

**Approve with conditions**

- Approved as a Concept Plan only. Public and/or private water and sanitary sewer construction plans must be submitted and approved prior to Final Site Plan/SP approval. The approved construction plans must match the Final Site Plan/SP plans. Submittal of an availability study is required before the Final SP can be reviewed. Once this study has been submitted, the applicant will need to address any outstanding issues brought forth by the results of this study. A minimum of 30% of W&S Capacity must be paid before issuance of building permits.

**CONDITIONS**

1. Comply with all conditions and requirements of Metro agencies.
2. The final site plan shall adequately demonstrate that the existing vegetation along the eastern property line is preserved consistent with the intent of the variance to allow for sidewalk on only one side of the proposed street. If it is determined that the existing vegetation is not adequately protected, then a sidewalk may be required on both sides of the proposed street.
3. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.

**STAFF RECOMMENDATION**

Staff recommends approval with conditions including a variance from Section 3-8 of the Subdivision Regulations.

**RECOMMENDED ACTION**

Motion to approve proposed subdivision Case No. 2022S-076-001 based upon finding that the subdivision complies with the applicable standards of the Metro Subdivision Regulations (with variance), Metro Zoning Code, and other

applicable laws, ordinances and resolutions as noted in the staff report, subject to all of the staff recommended conditions.

Ms. Blackshear has recused herself from this Item.

Mr. Swaggart presented the staff recommendation to approve with conditions, including a variance from Section 3-8 of the Subdivision Regulations.

Matt Williams, Beazer Homes, spoke in favor of the application.

Kate Fields, 4072 Magnolia Farms Drive, spoke in opposition to the application. She expressed concern regarding an existing sink hole in the area, erosion in her and her neighbors' backyards and feared further erosion. Ms. Fields would like to see a soil erosion test to ensure this will not further shift their backyards.

Katie Castellon, 4100 Magnolia Farms Drive, spoke in opposition to the application. She expressed concern with the deception of Beazer Homes.

Lori Schweers, 133 Hermitage Point Drive, stated she is speaking on behalf of herself and the Hermitage Point HOA, and spoke in opposition to the application. She stated there were concerns with the suitability of this land for development. She asked that the Commission slow down on the approval process and gather more answers regarding the suitability of the soil and if this property should be considered a critical lot. Ms. Schweers addressed the sink hole and erosion and was concerned with more land being disturbed. Further, she expressed safety concerns and home value concerns with opening the street to through traffic.

Anne Weber, 205 Hermitage Point Drive, spoke in opposition to the application. She desired a deferral and a 3-6 month waiting period to get an independent soil and erosion test done. She felt connectivity between Central Pike and Hoggett Ford would add safety issues and wear and tear on their streets.

Kathy Whittler, 204 Hermitage Point Drive, spoke in opposition to the application. She has witnessed erosion and water run-off and is concerned with new issues coming forth from this new build and wanted to reiterate testing the soil.

Mr. Williams addressed the concerns of the steep slope erosion. He said it was not a sink hole, it was an erosion area and not because of the soil type. He explained it was because of grading and draining issues that were performed during construction that will be warranted and repaired by Beazer. He said soil tests have been performed and was suitable for construction.

**Mr. Adkins closed the Public Hearing.**

Mr. Haynes felt this project was troubling. He said the neighbors have a reasonable request for deferral.

Mr. Henley felt that in Mr. William's rebuttal, there were some comments that seemed there was information out there that may have not been presented to the community. If there was a deferral, it would be a great opportunity for conversation.

Ms. Johnson would like to have extra time because erosion control and soil has been brought up. The applicant mentioned an active investigation and she would love to see that investigation and why the erosion occurred in the first place. Ms. Johnson said she is in favor of a deferral and requested that the applicant accept it to stop the clock.

Ms. Milligan said there are no problem soils identified on this property from their records. There are limited areas of what would be considered steep slopes. The area of Magnolia Farms, where there may have been the erosion issue, has a different topography and there are some slopes in that area that are not present on this property.

Ms. Johnson felt they are missing critical information.

Ms. Farr asked Mr. Dickerson, because this is a concept plan, what impacts their decisions. She stated they have to find a reason why it was not meeting the standards.

Mr. Dickerson stated they have to comply with the subdivision regulations, but the regulations also include a broad list of other ordinances, laws and sources of law that you can consider on which you can base a denial decision.

Mr. Haynes said another neighborhood meeting would be critical because it seemed there were some transparency and credibility questions.



Ms. Milligan said the time frame, per state law, is sixty days from the date it was first considered and that sixty days from today is June 27<sup>th</sup>. There are four meetings within the sixty days.

Mr. Haynes suggested a three meeting deferral, which would give an extra meeting for contingency. He wanted to ask the applicant to have an additional community meeting, have the applicant perform any additional soil testing and share those with the neighborhood and to have Storm Water to give the Commission a report.

**Mr. Haynes moved and Mr. Henley seconded the motion to defer to the June 9, 2022 Planning Commission meeting. (5-0-1) Ms. Blackshear has recused herself.**

Mr. Adkins called for a 10 minute break.

**Resolution No. RS2022-130**

“BE IT RESOLVED by The Metropolitan Planning Commission that 2022S-076-001 is deferred to the June 9, 2022 Planning Commission meeting. (5-0-1)

**26. CIB FY2022-23  
FY22-23 CAPITAL IMPROVEMENTS BUDGET**

Staff Reviewer: Greg Claxton

Submit the FY2022-23 Capital Improvements Budget for consideration by Mayor John Cooper.

**Staff Recommendation: Approve.**

**CAPITAL IMPROVEMENTS BUDGET**

Submit the FY2022-23 Capital Improvements Budget for consideration by the Mayor.

**BACKGROUND**

The Charter of the Metropolitan Government for Nashville and Davidson County requires that the Planning Commission submit a list of recommended capital improvements that are necessary or desirable to be constructed or provided during the next six years.

The Capital Improvements Budget is a planning tool to prioritize and coordinate investments in long-term, durable improvements. Investments are considered to be capital improvements when they:

- Have a lifetime greater than 10 years and
- Cost more than \$50,000.

Capital improvements include Metro facilities and equipment, such as office buildings, fire trucks, or information systems. Capital improvements also include infrastructure, such as water and sewer lines, roads and sidewalks, parks, and libraries.

Some Metro investments shape private market activity by influencing where people want to live or business owners want to locate. Some investments, such as providing access to water, sewer, or transportation networks, are required for any development pattern beyond very low density rural character. In other cases, Metro investments in parks, schools, or other public spaces are amenities or resources that make a place more desirable for a home or business. Projects that interact with the private market in either of these ways should be guided by the General Plan. Other Metro investments, such as vehicles or hospital equipment, have limited impact on the private market and are not guided by the General Plan.

Identifying and funding most capital improvements involve two separate documents:

- **The Capital Improvements Budget (CIB):** All capital improvements requested from Departments and members of the Metro Council with a six-year time horizon. By Charter, any capital improvement must be included in the Capital Improvements Budget. Planning Commission compiles and makes recommendations on the CIB.
- **Capital Spending Plan:** Recommended projects during the first fiscal year of the CIB, proposed to be funded through General Obligation bonds. The Mayor submits the Capital Spending Plan to the Metro Council, which approves new bonds through a bond resolution.

Other capital improvements are funded through ordinances or resolutions authorizing the use of 4% funds, operating funds, or revenue bonds. Planning Commission does not make recommendations on the Capital Spending Plan or other funding authorizations.

Developing, recommending, adopting, and funding capital projects bring Metro Departments, Planning Commission, the Mayor, and Metro Council together, with public oversight, to decide what investments to make each year.

**CAPITAL IMPROVEMENTS BUDGET PROCESS**

Councilmembers begin the CIB process by requesting projects in October. Requests are reviewed by implementing departments and the Planning Department to develop cost estimates and identify how requests align with long-range plans. Planning staff compile these responses in a report submitted to the Metro Council, typically by December 15. The Council’s Budget & Finance and Planning, Zoning, & Historical Committees jointly work with all Councilmembers to establish Council priorities for projects requested for the next year’s Capital Improvements Budget.

The Metro Charter specifies the process to create the Capital Improvements Budget. Each year begins with the Finance Department collecting requested projects from Metro Departments. By Charter, Finance delivers these requests to the Planning Commission four months before the end of the Fiscal Year.

Once project requests are submitted, Planning staff assess them for alignment with Metro’s General Plan, NashvilleNext. The Planning Commission must recommend project priorities to the Mayor by sixty days before the start of the next Fiscal Year, which is on May 2 each year. This staff report and CIB are in support of this step in the process. Copies of the draft Capital Improvements Budget are posted online in document form at <https://www.nashville.gov/departments/planning/long-range-planning/capital-improvements>.

Once the Mayor has received the Planning Commission’s recommendations, the Charter requires the Mayor to submit his recommended Capital Improvements Budget to the Metro Council by May 15 each year. Metro Council must adopt the Capital Improvements Budget (with any modifications or amendments as it sees fit) by June 15.

**COORDINATION WITH DEPARTMENT MASTER PLANS**

Metro Departments conduct their own master and functional plans to guide operations and capital investments. They identify department needs and priorities for different capital programs. Though not formally part of NashvilleNext or the Capital Improvements Budget, these master plans play a critical role in achieving the community’s vision for Nashville’s future. Because they involve more detailed and technical planning, departments may also uncover issues that make NashvilleNext difficult to implement.

Planning staff supports other departments’ efforts to update their master plans to ensure they are coordinated with NashvilleNext and provide a transparent way of supporting capital project requests. Additionally, if departments discover aspects of NashvilleNext that are difficult to implement, Planning staff may bring those issues to Planning Commission to determine if a change to NashvilleNext is required. This ensures that NashvilleNext remains relevant and up-to-date.

**FY 2022-23 Capital Improvements Budget**

The FY2022-23 Capital Improvements Budget includes requests for 890 projects costing \$15.2 billion. That spending is phased over the current fiscal year (FY2022-23) plus five further years (FY2023-24 through FY2027-28). An additional 87 projects identify spending from FY2028-29 to FY2031-32, to indicate needs beyond the six year timeframe of the CIB.

The six year CIB includes spending requests drawing on a variety of funding sources:

<b>Funding Method</b>	<b>Spending requests</b>
C Proposed G.O. Bonds	\$11,135,531,100
E Proposed Revenue Bonds	\$2,691,170,500
F Federal Funds	\$981,750,000
G State Funds	\$213,385,000
M Proposed 4% Funds	\$44,480,100
H Enterprise Funds	\$44,300,000
B Approved G.O. Bonds	\$39,851,500
A Miscellaneous Funds	\$25,500,000

The CIB also identifies projects by type, such as new standalone assets, ongoing programs, or asset protection.

<b>Project Type</b>	<b>Description</b>	<b>Count of projects</b>
<b>Single asset</b>	A single asset is a new or rehabilitated physical asset that is purchased once, has a useful life of more than ten years, and is expensive to purchase.	516
<b>Capital program</b>	A capital program is a collection of smaller infrastructure improvements organized by an overarching plan.	256
<b>Asset protection</b>	Asset protection involves major renovations or improvements to existing facilities that would extend the useful life and/or add value to the asset.	152
<b>Study or plan</b>	Funding for a study or plan.	44
<b>Contingency</b>	Funding for project start-up and unexpected costs.	14

The FY2022-23 CIB organizes project requests in three sections:

- I. **Projects Funded by the Urban Services District:** a brief list of all projects requesting funding from the Urban Services District.
- II. **Projects Funded by the General Services District:** a brief list of all projects requesting funding from the General Services District.
- III. **Detail Project Descriptions:** detailed descriptions of each requested project.

Section III reports projects' titles and descriptions, department, project status, council district, tax district, and project type, as well as requested funding by year. Projects also include maps, when available.

Organization of departments and projects shifted with this year's document. Requests from Metro Council members not otherwise included in Department programs have been pulled into a separate section (Metro Council). This section begins with a list of projects prioritized by Councilmembers, regardless of where they appear in the document. This is intended to better reflect the prioritization process that Council conducts each year. In addition, NDOT and MTA have been grouped into a Transportation section.

Projects are organized by departments, with departments grouped as follows:

- a. **Metro Council** (includes requests from Metro Council members not shown with other departments)
- b. **Schools**
- c. **Enterprises** (Water & Sewer, Farmer's Market, Municipal Auditorium, State Fair Board, and District Energy System,)
- d. **Facilities & technology** (includes Administrative, the Agricultural Extension, County Clerk, Election Commission, Finance, General Services, Health, Information Technology Service, Metro Action Commission, and Social Services)
- e. **Safety** (includes District Attorney, Fire, Juvenile Court, Office of Emergency Management, and Police)
- f. **Development & culture** (includes Arts Commission, Historical Commission, MDHA, Parks, Planning Commission, and Public Library)
- g. **Transportation** (includes MTA and NDOT)

#### **ALIGNMENT WITH THE GENERAL PLAN**

Based on substantial community engagement, NashvilleNext identifies how Nashvillians want Nashville and Davidson County to manage change over the next 25 years. Aligning capital investments to this vision is a critical tool in achieving the community's desires. For FY2022-23, Planning staff conducted an assessment of projects based on NashvilleNext.

#### *Alignment with the Guiding Principles*

The General Plan includes seven Guiding Principles that represent the fundamental values expressed by Nashvillians throughout the process of creating NashvilleNext. In the long run, Metro's investments should support all of these principles, though spending in individual years may focus on some principles more than others.

The chart below shows the seven Guiding Principles and the number of projects that support each:

<b>Guiding Principle</b>	<b>Number of projects supported</b>
Ensure opportunity for all	435
Expand accessibility	507
Create economic prosperity	467
Foster strong neighborhoods	857

Advance education	557
Champion the environment	444
Be Nashville	445

*Alignment with the Growth and Preservation Concept Map*

The Growth and Preservation Concept Map gives geographic context to capital investment decisions.

The Growth & Preservation Concept Map reflects Nashvillians’ desires for how and where Nashville should grow and where it should preserve in the future. It identifies a green network that provides access to nature, requires environmental protection, and preserves natural resources. It also identifies and seeks to preserve the physical character of rural, suburban, and urban areas.

Smaller and larger activity centers accommodate most future growth, improve public spaces, support transit, provide walkable areas close to most parts of the county, and sustain economic activity. The locations of these centers are generally where centers and mixed use areas were identified in prior Community Plans. Infill development should be encouraged along transit and multimodal corridors in between and immediately around activity and employment centers.

The Concept Map also identifies a network of more frequent and reliable transit service. These routes should be more direct, with fewer stops. The most heavily used routes will be identified for high-capacity transit running outside of traffic.

<b>Concept Map summary</b>	<b>Number of projects supported</b>
Expands the Green Network	112
Located to support existing conditions	297
Supports a First Tier Center	234
Supports a lower tier Center or Corridor	244
Program aligned with NashvilleNext	101

*Efficient government*

Finally, a core goal of the Capital Improvements Budget is to promote effective, efficient capital spending. Planning staff have developed criteria to assess projects that support efficient government:

- **Project need:** Expanding services, improving services or maintaining services.
- **Condition:** Projects that renovate or replace an existing facility, which is obsolete or cannot support the department’s operations.
- **Resource leveraging:** Projects whose funding includes outside money. Projects that support enterprise operations.
- **Project leveraging:** Projects that cluster with or coordinate with other department projects.
- **Planning context:** Projects based on a master plan, that are a priority for a board or commission, developed with public input, or whose implementation will include additional public input.
- **Regional collaboration:** Projects that support regional collaboration or intergovernmental agreements or that were developed through a regional planning process.

**PRIORITIZATION**

The Capital Improvements Budget includes several sources of priority.

**Capital Priority Group**

Departments identify one Capital Priority Group for each project. The Groups are:

- Mayor’s Priority: Community and economic development
- Mayor’s Priority: Transit and infrastructure
- Mayor’s Priority: Public Safety
- Mayor’s Priority: Educational outcome and youth
- Mayor’s Priority: Affordable housing and the homeless
- Central government operations

**Department priorities**

When submitting their project requests, Metro departments assign each project a priority, using the following system for identifying their priority:

<b>Code</b>	<b>Priority</b>
<b>1001</b>	Appropriated and unexpended
<b>1002</b>	Required in the year shown
<b>1003</b>	Preferred in the year shown
<b>1004</b>	Requested in the year shown
<b>1005</b>	Needed for consideration in future CIBs

**Council priorities**

Councilmembers request projects by October 15 each year. Projects are assessed by the Metro Departments responsible for implementing each request, if funded, as well as the Planning Department. The Planning Department compiles a report identifying how projects align with Department master plans and the General Plan and provides it to Council, typically by December 15. A joint meeting of the Metro Council’s Budget & Finance and Planning, Zoning, & Historical Committees meets to develop Council priorities.

Each Councilmember was able to submit 100 points to prioritize projects anywhere in the County. Points were totaled by project and placed in order to assign a priority rank. All prioritized projects are listed in rank order with points assigned at the beginning of the Metro Council section in Part III.

Across all Councilmembers submitting priorities, 178 projects received some level of prioritization. Council priorities are reflected in Section III (Detailed project listing) as follows:

<i>Capital group</i>	<b>Mayor's Priority: Transportation</b>
<i>MPC rec priority</i>	<b>B Recommend as planned if funding available</b>
<i>Dept priority</i>	<b>1003: Preferred in FY2023</b>
<i>Council priority</i>	<b>12 of 178</b>

**MPC Recommendations**

In adopting the Capital Improvements Budget, the Planning Commission assigns a priority recommendation to each project. The draft CIB includes staff’s recommendations. An overview of these recommendations follows in the next section.

**FY2022-23 RECOMMENDATIONS**

Staff recommends submitting the Capital Improvements Budget to the Mayor with the following recommendations identified:

**A: Recommend as planned (67 projects)**

Projects are Recommended As Planned when they substantially advance the Guiding Principles, align with the Growth & Preservation Concept Map, and use Metro resources efficiently. Projects whose funding has already been secured, or that need additional funding to be completed, are also Recommended As Planned. Planning Commission recommends projects not funding levels. In some cases, projects may not need to be fully funded in FY23.

Most recommended projects are requesting new General Obligation bonds. However, two sets of requests are identified as “already funded projects.” Projects from the Arts Commission reflect previously set-aside funds from prior capital spending plans. Projects backed by water and sewer revenue bonds are backed by Water Services’ revenues and are addressed separately.

<b>Department</b>	<b>Project ID</b>	<b>Project Title</b>	
Arts Commission	23AR0005	Fire Station #25 Public Art Project	
	23AR0006	Southeast Police Precinct Public Art Project	
	18AR0003	Mill Ridge Park Public Art Project	
	23AR0004	Old Hickory Community Center Public Art Project	
	23AR0007	Arthur Avenue Bridge Lighting Public Art Project	
	14AR0001	Public Art Projects	
	17AR0009	Nolensville Pike Public Art Transit Shelters	
	21AR0004	North Nashville Transit Center Public Art	
	18AR0005	Donelson Library Public Art Project	
	18AR0007	Collection Management	
	20AR0002	Fairgrounds Public Art	
	23AR0001	Public Artwork for Permanent Supportive Housing	
	23AR0003	Wharf Park Public Art Project	
	17AR0001	Madison Area Public Arts Projects	
	23AR0002	Nashville's Youth Campus for Empowerment (NYCE) Public Art Project	
	Water & Sewer	21WS0012	CENTRAL WASTEWATER TREATMENT PLANT
		21WS0002	ADMINISTRATION BUILDING PROJECTS
		21WS0003	BIOSOLIDS AND ODOR CONTROL
		21WS0005	GENERAL WATER TREATMENT PLANT FACILITIES REPLACEMENT AND REFURBISHMENT
		21WS0006	DEPARTMENTAL FLEET / VEHICLES ADDITIONS / REPLACEMENTS
21WS0007		OMOHUNDRO WATER TREATMENT COMPLEX / REYER PUMPING STATION	
21WS0008		K.R. HARRINGTON WATER TREATMENT PLANT	
21WS0009		RESERVOIRS	
21WS0022		CAPITAL PROJECTS - SEWER PROJECTS	
17WS0001		STORMWATER - FEMA/TEMA PARTICIPATION - REPETITIVE FLOOD DAMAGE HOME BUYOUT	
21WS0011		LABORATORY	
21WS0015		SECURITY	
21WS0010		RTE-WATER & WASTEWATER PUMPING STATIONS	
21WS0020		ENGINEERING - DEVELOPMENT ASSISTANCE / COMPLIANCE	
09WS0019		CLEAN WATER NASHVILLE PROGRAM: CONSENT DECREE RELATED PROJECTS AND PROJECT MGMT, SCHRADER LANE	
21WS0014		DRY CREEK WASTEWATER TREATMENT PLANT	
21WS0021		CAPITAL PROJECTS - WATER PROJECTS	
21WS0019		SYSTEM SERVICES - COLLECTION AND DISTRIBUTION SYSTEMS	
<b>Department</b>		<b>Project ID</b>	<b>Project Title</b>
		21WS0018	CUSTOMER SERVICE CENTER

Water & Sewer (cont'd)	21WS0017	INFORMATION SERVICES / DATA INTEGRITY
	21WS0016	DEPARTMENTAL CONTINGENCY FOR UNPLANNED AND EMERGENCY EVENTS
	21WS0013	WHITES CREEK WASTEWATER TREATMENT PLANT
<b>Core asset protection</b>		
Fire Department	16FD0002	MAJOR REPAIR/MAINTENANCE
	17FD0001	UPDATE FIRE DEPARTMENT MASTER PLAN (TRI DATA STUDY)
General Services	20GS0006	MSE relocation planning/design
	20GS0002	Building Operations Major Maintenance
Library	18PL0003	FACILITIES MASTER PLAN - BLDG INFRASTRUCTURE REPAIRS & MAINTENANCE / RENOVATIONS / FF&E FOR RENOVATION PROJECTS
MTA	15MT0006	RTA THROUGH MTA GRANT MATCHES
	15MT0001	MATCHES FOR MTA FEDERAL AND STATE GRANT
	15MT0002	REPLACEMENT BUSES - 40', 45', AND 60' TRANSIT BUSES
MNPS	16BE0022	EXTERIOR BUILDING IMPROVEMENTS - MAINTENANCE
	14BE0041	ELECTRICAL UPGRADES
	17BE0001	TECHNOLOGY - FACILITY INFRASTRUCTURE IMPROVEMENT PROGECTS
	03BE0053	ROOFING - REPLACEMENT / REPAIR
NDOT	22PW0002	State of Good Repair
<b>Council priority</b>		
Council	23DS0008	Pedestrian Bridge (Peeler Park to Stones River Greenway)
	19DS0029	Improvements At Timothy Park
	23FD0007	To build new Fire Station in District 31/Antioch/Cane Ridge Area
	19PR0056	Madison Station Boulevard Park
	22PR0004	Browns Creek Greenway - 440 to Cumberland River
<b>Current commitments</b>		
General Services	19GS0004	ECC/OEM new facility
	23GS0003	POL Mounted Patrol Construction - Phase 2
Parks	22PR0011	Riverfront Park Planning, Design, and Construction
Planning Commission	23PC0001	2nd Avenue District Recovery Phase II

Department	Project ID	Project Title
<b>Fifth grade transition</b>		
MNPS	03BE0027	ALEX GREEN ELEMENTARY RENOVATION
	04BE0033	WESTMEADE ELEMENTARY - REPLACE
	17BE0004	ANTIOCH CLUSTER - NEW ELEMENTARY SCHOOL
	18BE0004	Cane Ridge Cluster Elementary (Burkitt Ridge)
	04BE0029	PERCY PRIEST ELEMENTARY REPLACEMENT
<b>Other</b>		
Council	19DS0153	Park Space Along Murfreesboro Pike
NDOT	22PW0006	Active Transportation / Bikeways
	22PW0001	Sidewalk Construction

**B: Recommend as planned if funding available (850 projects)**

Projects that are in alignment with NashvilleNext. Most projects in FY23 are Recommended As Planned If Funding Is Available. Due to the number of projects, projects with a “B” recommendation are not listed here. They are available in the Draft CIB.

**C: Recommend further work (45 projects)**

The Planning Commission will Recommend Further Work when different projects can be usefully aligned with one another to reduce costs or improve service or when projects require additional development before they can be recommended.

Department	Project ID	Project Title
Council	23 projects	Traffic calming requests <i>Multiple traffic calming requests were submitted and grouped with NDOT’s request for funding for its Traffic Calming program. However, these should be submitted through NDOT’s Traffic Calming application to be included in its program prioritization.</i>
	23DS0075	Reconfigure Traffic Patterns/Lights at Thompson/Southlake <i>Recommend further discussion with NDOT.</i>
	23DS0031	New traffic study/pattern/circle at Riverside/McGavock intersection <i>NDOT Traffic section will perform a traffic signal warrant analysis.</i>
	23DS0100	Haywood Ln road widening from Nolensville to Chambers <i>NDOT Traffic section will perform a traffic signal warrant analysis.</i>
	23DS0099	Improvement to Sawyer Brown Rd at narrow 1.5 lane section <i>Recommend further coordination with NDOT to develop request.</i>
	21DS0062	Main Street lighting improvements <i>Countywide review in place. See 22PW0013.</i>
	20DS0077	Windsor Dr. Stormwater runoff mitigation project <i>Recommend further discussion with MWS.</i>
	23DS0094	Sound Wall/Barriers along I-40 District 21 areas <i>Recommend further coordination with NDOT and TDOT.</i>



Department	Project ID	Project Title
Council (cont'd)	23DS0089	Traffic Signal at 31st Ave N and Parthenon <i>NDOT Traffic section will perform a traffic signal warrant analysis.</i>
	23DS0088	Traffic Signal at 31st Ave N and Parthenon <i>NDOT Traffic section will perform a traffic signal warrant analysis.</i>
	23DS0069	Lighting Improvements and/or change to LED - districtwide <i>Countywide review in place. See 22PW0013.</i>
	23DS0074	Blair stormwater improvements <i>Recommend further discussion with MWS.</i>
	23DS0071	Dodson Chapel Rd improvements <i>Recommend further coordination with NDOT to develop study scope.</i>
	23DS0076	Crosswalk on 21st near Linden <i>NDOT to conduct safety audit through Vision Zero Action Plan.</i>
	23DS0118	LED Lighting in all North Nashville Alleyways <i>Recommend coordination with NDOT to determine study area and schedule for deployment.</i>
	19DS0118	Upgrade The Music City Bikeway, Including Providing Lighting <i>Develop more focused scope.</i>
	23DS0128	4 Mast arms at the intersection of Hickory Hollow Parkway and Bell Rd. <i>NDOT Traffic section will perform a traffic signal warrant analysis.</i>
	23DS0127	Crosswalk signal - West Trinity Lane/Youngs Lane <i>NDOT will review operational status of current signal.</i>
	23DS0122	Street lights- Largo Dr <i>Per NDOT, can be accomplished without CIB request. Recommend further coordination with NDOT.</i>
	23DS0115	Four mast arms at the intersection of Bell Rd. And Mt. View <i>NDOT Traffic section will perform a traffic signal warrant analysis.</i>
	23DS0116	Four mast arms at the intersection of Bell Rd. and Bell Forge <i>NDOT Traffic section will perform a traffic signal warrant analysis.</i>
	23DS0117	Paving on Old Hickory Boulevard between Murfreesboro Rd. And I-24 <i>Per NDOT, TDOT plans to replace this section in 2022.</i>
	23DS0070	Traffic light at Bell Rd and Priest Woods Drive <i>NDOT Traffic section will perform a traffic signal warrant analysis.</i>

**N: Not scored (90 projects)**

Projects that are not scored, because they do not relate to the Planning Commission's role in coordinating development, they are submitted with insufficient information to score, they are low department priorities, are late submissions, or are added after the Planning Commission has acted. Assessing projects that do not relate to the General Plan is likely to make them seem unimportant, when in fact they are simply not addressed by the General Plan. Projects such as these include:

- Information technology
- Fleet & equipment
- Office space retrofits or refreshes
- Omnibus categories of projects
- Contingency funding

Due to the number of projects, projects with a "N" recommendation are not listed here. They are available in the Draft CIB.

**X: Do not conform to the General Plan (including recommendations for alignment):**

In rare cases, project requests Do Not Conform To the General Plan. This recognizes when a proposed capital project is specifically out of step with a recommendation of the General Plan. The Planning Commission will recommend against projects that Do Not Conform to the General Plan until the project and plan are in alignment. This can be done by changing the project to conform to the General Plan or by amending the General Plan to support a vision for the future of Nashville that would be supported by the project.

No projects are currently identified as Not Conforming to the General Plan.

Councilmember Withers joined the meeting at 6:06 p.m.

Ms. Blackshear has recused herself.

**Ms. Farr moved and Ms. Johnson seconded the motion to put Item 26 on Consent. (6-0-1) Ms. Blackshear has recused herself.**

Mr. Adkins stated the Capital Improvements Budget was open for discussion.

Councilmember Withers stated he has been in discussion regarding whether to renovate or replace the Nissan Stadium. The cost was unknown as the state was still finalizing their legislation. The Hotel/Motel occupancy tax would be a potential additional funding stream for the stadium. He said his strong preference would have the CIB include what was the plan in October of last year for the renovation of the stadium. Otherwise, he spoke in favor of the Capital Improvements Budget and is in support of moving the CIB forward.

Mr. Claxton reminded the Commission of the amendments that were added. There were four major categories, three of which were adding new projects and one was for new and replacement Head Start facilities. He said this doesn't add any new requests but rather a way of reorganizing the Head Start facilities already there. There was an addition of a new Midtown Fire Hall, planning and design request for \$250,000. Lastly, there would be a new project for Broadway Bridge Enhancements, which is a funding request for \$1 million to support an ongoing TDOT bridge replacement project of the Broadway bridge.

Mr. Haynes asked if the Commission would get an amendment to the CIB that comes back before this body for the proposed funding and plan on the stadium or will it just go to Council?

Mr. Claxton replied that the process begins with the Planning Commission making a recommendation, the Mayor then proposes his Capital Improvements Budget to the Council, then the Council adopts it, at which point it may amend. At any of those stages, the document can change, be amended, projects added or removed without coming back to Planning Commission. Only if it is amended outside of that cycle, after June 15<sup>th</sup>, that the amendment would start at the Planning Commission and then move forward again.

Mr. Haynes said this has to be an incredibly thoughtful decision by the Council, of do we build a \$2 billion new stadium or renovate the old one? He wanted to weigh that before the Commission since it was not going to come back before the Commission, as this was a massively important decision.

Ms. Kempf stated this body has received several updates on the master planning work they have been pursuing on the East bank. It was a coordinated effort that looked at all of the uses; including green spaces, affordable housing, housing, the kinds of uses that would support new jobs and the like. There are a whole host of recommendations that will come before this body as to the proposed land uses and design standards. There are going to be very important decisions that you have an opportunity to discuss. Ms. Kempf added, with respect to the CIB, that tends to be more project focused and wanted to reassure the Commission, while the CIB included project lists, the planning work will be an important part of the work that they pursue moving forward, and will be in many CIBs moving forward before the Commission.

Mr. Adkins told Mr. Haynes that was a good question. He saw it as, what was their duty as a Planning Commission, not do we keep the Titans or not. That's not our job. The next piece was, we were not the appropriators either, that was the Council. He said for the Commission, was that an appropriate use in that area, whether that was a remodeled stadium or new stadium and that land use question will come back to this body and we will make that decision. He felt it was appropriate to discuss this, but as far appropriating the money or the way the bonds were going to be or how it was funded was a Council question. He felt on the face, it seemed like the appropriate location and land use, whether it was a remodel or new.

Ms. Farr asked if category A, the recommended as planned, has any correlation between what goes in to the actual Mayor's proposal.

Mr. Claxton stated all of the projects move forward with the Mayor's Capital Improvements Budget, and then once the CIB is adopted, at a later step when they are assembling a Capital Spending Plan, they take a look at that with fresh eyes, noting the Commission's recommendations and Department priorities. He said all of that goes in together.

**Resolution No. RS2022-131**

"BE IT RESOLVED by The Metropolitan Planning Commission that CIB FY2022-23 is approved. (6-0-1)

## H: OTHER BUSINESS

27. Certification Bonus Height for 820 4<sup>th</sup> Avenue North

**Resolution No. RS2022-132**

"BE IT RESOLVED by The Metropolitan Planning Commission that the Bonus Height Certification Memo for 820 4<sup>th</sup> Avenue North Street is **approved. (6-0)**

28. New Employment Contract for Jafar Ware.

**Resolution No. RS2022-133**

"BE IT RESOLVED by The Metropolitan Planning Commission that the New Employment Contract for Jafar Ware is **approved. (6-0)**

29. Historic Zoning Commission Report

30. Board of Parks and Recreation Report

31. Executive Committee Report

32. Accept the Director's Report

**Resolution No. RS2022-134**

"BE IT RESOLVED by The Metropolitan Planning Commission that the director's report is **approved. (6-0)**

33. Legislative Update

## I: MPC CALENDAR OF UPCOMING EVENTS

**May 12, 2022**

MPC Meeting

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

**May 26, 2022**

MPC Meeting

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

## J: ADJOURNMENT

The meeting adjourned at 6:28 p.m.