

**2008SP-002-002**

**STARWOOD COMMONS**

Map 164-00, Parcel 041

Council District 32 (Sam Coleman)

Staff Reviewer: Jason Swaggart

A council bill to amend the SP District (adopted with Council Bill BL2008-137) for the previously approved Starwood Commons Specific Plan District and for final site plan approval, for property located at 3839 Murfreesboro Pike, approximately 230 feet north of Old Hickory Boulevard (65.1 acres), to allow all previously approved uses associated with the Starwood Amphitheater to be temporarily permitted, requested by R. Chris Magill Consulting LLC, applicant, Vastland Starwood Development, LLC, owner; sponsored by Jerry Maynard.

**Staff Recommendation: APPROVE WITH CONDITIONS**

**APPLICANT REQUEST - Amend SP to permit an interim use and final site plan.**

**Preliminary SP** A request to amend the SP District (adopted with Council Bill BL2008-137) for the previously approved Starwood Commons Specific Plan District and for final site plan approval, for property located at 3839 Murfreesboro Pike, approximately 230 feet north of Old Hickory Boulevard (65.1 acres), to allow all previously approved uses associated with the Starwood Amphitheater to be temporarily permitted.

**Proposed Zoning**

SP-MU District -Specific Plan-Mixed Use is a zoning District category that provides for additional flexibility of design, including the relationship of streets to buildings, to provide the ability to implement the specific details of the General Plan. This Specific Plan includes residential uses in addition to office and/or commercial uses.

**Referral** This request was originally heard by the Planning Commission at its December 9, 2010, meeting. The Planning Commission recommended approval with conditions and requested that it be referred back to the Commission before being considered on Third Reading by Metro Council. The Commission had concerns with lack of details in the amendment and asked that the applicant work with the Councilman and residents impacted to ensure that the amendment adequately addresses potential impacts to the surrounding area and, in particular, any traffic impacts.

The applicant has revised the amendment and the current proposal includes more details as requested by the Commission. The updated amendment now addresses event details and traffic and is outlined below.

**CRITICAL PLANNING GOALS** N/A

**ANTIOCH/PRIEST LAKE COMMUNITY PLAN**

**Community Center (CC)** CC is intended for dense, predominantly commercial areas at the edge of a neighborhood, which either sits at the intersection of two major thoroughfares or extends along a major thoroughfare. This area tends to mirror the commercial edge of another neighborhood forming and serving as a "town center" of activity for a group of neighborhoods. Appropriate uses within CC areas include single- and multi-family residential, offices, commercial retail and services, and public benefit uses. An Urban Design or Planned Unit Development overlay district or site plan should accompany proposals in these policy areas, to assure appropriate design and that the type of development conforms with the intent of the policy.

**Consistent with Policy?** While the Community Center policy is not intended for a large scale stand alone outdoor amphitheater, the proposed amendment is for an interim use only. The interim use will not replace the previously approved mixed-use development which is consistent with the land use policy.

**REQUEST DETAILS** This is a request to amend the Starwood Commons Specific Plan to allow all the

previously permitted uses associated with the Starwood Amphitheater as an interim use, and for final site plan approval. The site is currently vacant. Some of the improvements associated with the previous amphitheater, such as stormwater facilities, some utilities and paved areas, remain, but all the facilities, such as stage, restrooms and concession stands have been removed. While some improvements remain, a majority of the site has been damaged, including existing improvements, and will require repair.

The existing SP, Starwood Commons, was approved by Metro Council in 2008. The SP permits up to 250 multi-family units and up to 421,500 square feet of commercial uses. According to the applicant, the troubled economic times have made it impossible to market the approved mixed-use development, so they have requested to use the site temporarily for outdoor entertainment similar to what was permitted prior to the SP.

As proposed the site would be used for an outdoor amphitheater (Commercial Amusement Outdoors). The use would be similar to the original Starwood, but events will be smaller. The use would be an interim use only, and all facilities needed for any event on the site would be temporary. No permanent structures associated with the interim use would be permitted. The amendment prohibits the proposed interim use from coexisting with the original Council approved plan for Starwood Commons and therefore, once any portion of the commercial and/or residential uses are under construction, the interim use will cease and no longer be permitted.

In addition to the original restrictions above, the applicant has provided additional restrictions. These were drafted specifically to address concerns raised by the Planning Commission at its December 9, 2010, meeting, and raised by local residents who attended a community meeting held on January 3, 2011. The conditions address event related issues and traffic mitigation. Traffic mitigation is based on attendance levels and consists of three tiers. The applicant also plans to create web page and email notification list to inform local residents of the events at the amphitheater including times that traffic could be affected.

### Event Details (limits)

Event Season: April through November

Number of Events: Maximum of 18 per season

Duration of Events: Maximum of three days with maximum of six three day events per season. No event patrons shall be permitted to stay on site overnight.

Evening Termination time: Sound amplification shall terminate no later than 11:30 PM.

Events Patrons: 12,000 Maximum

Event Days: Any day of the week

Event Coordinator(s): Each event will be managed by a professional promotion company which specializes in outdoor venues.

Stage Orientation: Southwest

On Site Lighting: Lighting will be designed in such a way as to emit no more than one foot-candle at any common property line with the Starwood site

Sound Levels: Maximum 108 decibels at sound board

Off-Site Parking: All parking shall be on-site. No "walk-in" pedestrian traffic will be permitted.

Duration of Temporary Use: Subject to re-approval by Metropolitan Planning Commission after five years of becoming law.

### Traffic Mitigation

1<sup>st</sup> Tier: estimated attendance 1 to 6,000

1. Contract the services of a parking management company for both ingress and egress. See staffing levels below.
2. Use traffic directors/flaggers to quickly and efficiently move cars off surrounding roadways and into onsite parking lots.
3. Use traffic directors in parking lots to optimize available parking space.
4. For egress, all traffic exiting Hobson Pike must turn left out of the parking lot towards I-24.
5. For egress, all traffic exiting gate one (1) on Murfreesboro Pike nearest Hobson Pike must turn left, and cars are not permitted to turn left onto Hobson Pike.

6. For egress, all traffic exiting gate two (2) on Murfreesboro Pike must turn right.

2<sup>nd</sup> Tier: estimate attendance 6,001 to 9,000

1. Contract the services of a parking management company for both ingress and egress. See staffing levels below.
2. Use traffic directors/flaggers to quickly and efficiently move cars off surrounding roadways and into onsite parking lots.
3. Use traffic directors in parking lots to optimize available parking space.
4. For ingress and egress, hire police officers for traffic control at the intersection of Old Hickory Boulevard and exit 62 off I-24 east.
5. For ingress and egress, hire police officers for traffic control at the intersection of Hobson Pike and Murfreesboro Pike.
6. For egress, all traffic exiting Hobson Pike must turn left out of the parking lot towards I-24. Hire officers to control traffic exiting onto Hobson Pike.
7. For egress, all traffic exiting gate one (1) on Murfreesboro Pike nearest Hobson Pike must turn left. Cars are not permitted to turn left onto Hobson Pike. Hire officers to control traffic at gate one (1) and the intersection of Murfreesboro Pike and Hobson Pike.
8. For egress, all traffic exiting gate two (2) on Murfreesboro Pike must turn right. Hire officers to control traffic exiting gate two (2).

3<sup>rd</sup> Tier: estimate attendance 9,001 to 12,000

1. Contract the services of a parking management company for both ingress and egress. See staffing levels below.
2. Use traffic directors/flaggers to quickly and efficiently move cars off surrounding roadways and into onsite parking lots.
3. Use traffic directors in parking lots to optimize available parking space.
4. For ingress and egress, hire police officers for traffic control at the intersection of Old Hickory Boulevard and exit 62 off I-24 east.
5. For ingress and egress, hire police officers for traffic control at the intersection of Old Hickory Boulevard and exit 60 off I-24 west.
6. For ingress and egress, hire police officers for traffic control at the intersection of Hobson Pike and Murfreesboro Pike.
7. For egress, all traffic exiting Hobson Pike must turn left out of the parking lot towards I-24. Hire officers to control traffic exiting onto Hobson Pike.
8. For egress, all traffic exiting gate one (1) on Murfreesboro Pike nearest Hobson Pike must turn left. Cars are not permitted to turn left onto Hobson Pike. Hire officers to control traffic at gate one (1) and the intersection of Murfreesboro Pike and Hobson Pike.
9. For egress, all traffic exiting gate two (2) on Murfreesboro Pike must turn right. Hire police officers to control traffic exiting gate two (2).
10. For ingress and egress, hire police officers for traffic lights between I-24 and Murfreesboro Pike for traffic control. Exact locations to be determined in cooperation with Metro Public Works.

**ANALYSIS** Staff recommends approval with conditions. The proposed use was permitted prior to the SP zoning, and as proposed the use will only be temporary and does not negate the previously approved mixed-use development. To address concerns expressed by both the Commission and the community, the applicant has provided more details including site restrictions and a traffic mitigation plan. The traffic plan has been reviewed and is acceptable to the Department of Public Works.

A concern staff has is with the duration of the temporary use that has been proposed by the applicant. The applicant's proposal is to require a review by the Commission of the temporary use after five years. If the interim use of the property exhibits major problems, then five years would be a long time before addressing these problems. Staff recommends that the temporary use be reviewed by the Commission and a recommendation be given to Metro Council. The review and recommendation by the Metropolitan Planning Commission to the Metro Council should be no earlier than August 1, 2013, and no later than September 20, 2013, and every four years thereafter. The review should ascertain if operational

conditions need to be added, modified or deleted”.

**STORMWATER RECOMMENDATION** No construction activities requested. No permit required.

**PUBLIC WORKS RECOMMENDATION** Upon development of retail or commercial in place of or in addition to the outdoor commercial amusement land use, comply with previous traffic conditions of Starwood Commons SP or submit a revised Traffic and Parking study.

**STAFF RECOMMENDATION** Staff recommends that the request be approved with conditions. While the proposed amendment is not consistent with the site’s Community Center land use policy, it is a temporary use only, and does not replace the approved mixed-use plan for the site that is consistent with the policy.

**CONDITIONS**

1. The proposed “Duration of Temporary Use” shall be deleted and replaced with the following, “Subject to review and recommendation by the Metropolitan Planning Commission to the Metro Council no earlier than August 1, 2013, and no later than September 20, 2013, and every four years thereafter to ascertain if operational conditions need to be added, modified or deleted”.
2. This amendment shall only permit an interim Commercial Amusement Outdoor use. The original plan (Application No. 2008SP-002U-13) and Council Bill (BL2008-137) shall establish the requirements for the principal use.
3. The interim use shall cease once construction has begun for the commercial shopping center and/or residential uses permitted by the original SP (BL2008-137).
4. All facilities and structures needed for the interim plan shall be portable.
5. Permanent structures for the interim plan are not permitted, and in no way shall the original council approved plan (BL2008-137) and this interim plan be integrated.
6. Events shall be limited to a maximum 12,000 people.
7. The event season, number, duration, and coordination shall be limited to those described in the staff report.
8. The stage orientation, on-site lighting, sound levels and parking requirements shall be limited to those described in the staff report.
9. Traffic mitigation shall be conducted as described in the staff report.
10. 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.

Mr. Swaggart presented the staff recommendation of approval with conditions.

Chris Magill (applicant), 5328 Granny White Trace, spoke in favor of staff recommendation.

Ken Renner, 905 Kingfisher Point, spoke in favor of staff recommendation but requested a five year rather than a two year approval process due to potential issues with booking quality performers and maintaining long term sponsorships.

Chris Magill, applicant, reminded the Commission that they are not requesting permanent approval, only a five year approval.

Donna Crawford, 1510 Villa Place, spoke against staff recommendation stating that the neighbors still

have issues regarding the definition of a “temporary” use and traffic concerns. She also requested that landscaping be added at the gates.

Councilmember Coleman spoke in support of staff recommendation but requested a four or five year approval process in order to allow oversight for future councilmembers.

Dr. Cummings asked Councilmember Coleman if landscaping buffers had been discussed in any of the community meetings.

Councilmember Coleman stated that landscape buffers were discussed for beautification purposes only.

**Dr. Cummings moved and Mr. Ponder seconded the motion, which passed unanimously, to close the Public Hearing. (8-0)**

Mr. Clifton clarified that the council has the ability to rezone at any time; therefore the Planning Commission can not pass anything that gives definite authority to the owners for five years

Mr. Bernhardt clarified that staff recommendation is for the Planning Commission to review the operation in two and a half years and then make a recommendation to council as to whether any operational parameters need to be adjusted.

Dr. Cummings stated that she is comfortable with the presented event details and thanked the councilmember for taking the time to meet with the neighbors.

Ms. Escobar spoke in support of staff recommendation.

Mr. Ponder suggested a four and a half year approval process and inquired where the control point will be for the traffic tiers.

Mr Swaggart stated he would have to check with Public Works and will pass the answer along to the councilmember.

Councilmember Gotto expressed agreement with Mr. Ponder that a four and a half year approval process is adequate. Requested that we put that in the motion and clarify that this is not a reapproval by the Planning Commission, it is simply a review and recommendation to the council.

Mr. Gee asked Councilmember Coleman if any uses were discussed at the community meeting other than music events such as state fairs, monster truck events, car shows, etc?.

Councilmember Coleman said no other events were discussed. He also noted that he will keep watch on the traffic tiers.

Mr. Gee noted that restriction amendments may be made on the bill.

Councilmember Gotto suggested February 1, 2015, to allow adequate time for the council.

Mr. Sloan stated that the commission is voting to add a use to what this property is already zoned to be used for. Once this use is allowed and they begin using it in this manner, it can not be taken away from them. It can be rezoned at any time, but the property can continue as a nonconforming use as long as they are using it for the approved use.

**Councilmember Gotto moved and Mr. Ponder seconded the motion to approve the applicant’s request with the condition that by February 1, 2015, the Planning Commission complete a review of the operation as it pertains to this temporary use, and after that review, they make a**

recommendation to Council as to their findings and what recommended actions, if any, should be taken; also to add an additional condition that says that the temporary commercial amusement outdoor use permitted with this zoning amendment shall cease prior to a permit being issued for any other use, and/or prior to any zoning of the property. (8-0)

**Resolution No. RS2011-6**

“BE IT RESOLVED by The Metropolitan Planning Commission that 2008SP-002-002 is **APPROVED WITH CONDITIONS**, including the deletion of Conditions 1, 2, 3, 4, and 5 as shown in the staff report, above, and replacing them with the following conditions and renumbering the remaining conditions accordingly:

1. The operation and performance of the temporary use shall be subject to review and recommendation by the Metropolitan Planning Commission to the Metropolitan Council by February 1, 2015.
2. The original plan and Council Bill (BL2008-137) shall establish the requirements for the principal use.
3. The temporary commercial amusement outdoor use permitted with this zoning amendment shall cease prior to a permit being issued for any other use, and/or prior to any zoning of the property.
4. All facilities and structures needed for the temporary use shall be portable, and permanent structures for the temporary use shall not be permitted. (8-0)

**While the proposed amendment is not consistent with the site’s Community Center land use policy, it is intended to be a temporary use only and will cease prior to permit approval of another use or approval of another zone change on the site. The proposed use does not replace the approved mixed-use plan for the site that is consistent with the land use policy.”**