



July 22, 2009

E-Mail and Hand Delivered

Mr. Jim McLean, Chairman and
Mr. Rick Bernhardt, Executive Director
Metro Planning Commission
800 Second Avenue South
Nashville, Tennessee 37201

RE: Scottsboro/Bells Bend Detailed Design Plan Alternative Development Area Policy and
May Town Center Specific Plan Zone Change Application for May Town Center

Dear Chairman McLean and Executive Director Bernhardt:

I am writing in response to a statement attributed to Doug Sloan in an article entitled "May Town Center's bid for a rehearing is a long shot" which appeared in *The Tennessean* on July 21, 2009, which read "a member who voted in the majority has to make the motion to rehear it".

The Rules and Procedures of the Metro Planning Commission provide on a rehearing, in part, as follows: "If the request for rehearing is accepted by the Chairperson and Executive Director for presentation to the full Commission, a motion to rehear may be made and seconded by any member of the Commission who voted with the majority in the first action on the issue. A simple majority of the Commissioners present and constituting a quorum is sufficient to carry a motion to rehear." (Emphasis supplied.)

Furthermore, the Rules and Procedures of the Metropolitan Planning Commission do not provide that a motion to rehear be made and seconded by a member of the "prevailing side", which in the case of the "first action on the issue" was the minority. If this were the case, the Rules and Procedures would have clearly stated such, as does Robert's Rules of Order.

This is not an ordinary situation. A rehearing typically contemplates reversing a positive action; however, in this case, there was not a positive vote taken "in the first action on the issue", which was the motion to disapprove. If the majority had voted in favor of the motion to disapprove, than a member that voted with the prevailing side would have been required to make a motion to rehear. The majority of the six Commissioners voted in opposition to the motion to disapprove. The motion to rehear, therefore, may be made by any member that voted in opposition to the motion to disapprove and seconded by any of those six Commissioners.

As Doug Sloan knows, our position is that the initial vote in the first action on the issue was taken on a double-negative motion and, therefore, should have been deemed a positive motion dispositive and resulted in an approval. A rehearing would allow this issue to be clearly resolved.

Sincerely,

Tony Giarratana

cc: Doug Sloan, Attorney to the Metro Planning Commission