



JUL 9 2009

July 8, 2009

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:

On June 25, 2009, the Commission held a rather lengthy public hearing and cast several votes concerning the Scottsboro/Bells Bend Detailed Design Plan Alternative Development Area policy ("ADA") and Specific Plan Zone Change Application ("SP"), submitted by Bells Landing Partners, LLC ("Applicant"). On behalf of the Applicant, I respectfully request a July 23, 2009, rehearing of the Commission's disposition of the ADA and SP.

Please understand that this request is not made lightly. Indeed, taking into consideration what transpired during the Commission's deliberations, and given the eventual outcome of that process, I believe fairness, fundamental due process principles, and the Commission's own guiding rules and procedures weigh heavily in favor of a rehearing.

As you recall, after about six hours of meeting and public hearing the gavel fell and, at around 10:00 in the evening, the first vote was called. During the ensuing 45 minutes of motions, debate and voting it became apparent to many in attendance that several procedural irregularities most likely undermined the entire voting process. To be sure, the late hour had an obvious impact on the Commission members as well, and for good reason. For example, you may remember several Commission members expressing such sentiments as "It's late," "I'm tired," "Don't confuse me," and "It's confusing," all the while rubbing their eyes and shaking their heads. Many in the room that evening certainly shared these frustrations.

Unfortunately, what occurred following the public hearing proved confusing, conflicting, and inconsistent. Some of the more apparent procedural errors include negative and double-negative motions, a main motion that incorrectly presented substantially the same question as the one immediately preceding it, out of order procedures, improper interruptions, inappropriate characterizations, and several inconsistent and ambiguous votes.

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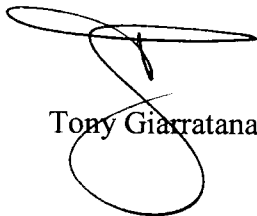
When all was said and done, the irregular procedures employed by some Commission members may have had an adverse impact on the ultimate outcome of both the hearing and the vote. The procedures leading up to the many votes and the votes themselves clearly violated the *Rules and Procedures of the Planning Commission* and *Robert's Rules of Order*, both instrumental and decisive in governing and guiding the procedural due process aspects and requirements of any public hearing and deliberative body. In fact, the three votes which followed the first of the two motions on the ADA (i.e., the double-negative motion) was arguably an affirmative motion with an affirmative result approving the ADA which, in turn, would have led to approval of the SP.

I respectfully submit that all of this irregularity, some examples of which are referenced above, adversely impacted the process and served to confuse its outcome, blur the intent of the body as a whole, and undermine the public's trust and confidence.

Additionally, in an effort to respond to the concerns expressed by the Commission regarding the density of the SP, Applicant agrees to reduce the density of the SP. Options for reducing density, at the election of the Commission, may include (1) deleting Phase V, or (2) reducing the total square footage of commercial space and the number of residential units and hotel rooms by 15%.

To maintain the integrity of the process, to instill public confidence, to ensure the Applicant is guaranteed its fundamental due process rights, to promote a concept of basic fairness, and to correct the procedural errors that occurred throughout the evening, Applicant requests a new vote on the ADA and the SP. Under the circumstances, Applicant does not feel a new public hearing is required (both having been properly closed by the Commission) but is agreeable to a rehearing if deemed necessary or preferred by the Commission to clear up what is tantamount to a very clouded record. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Giarratana". The signature is stylized with a large, sweeping loop at the bottom and a horizontal line at the top.

Tony Giarratana