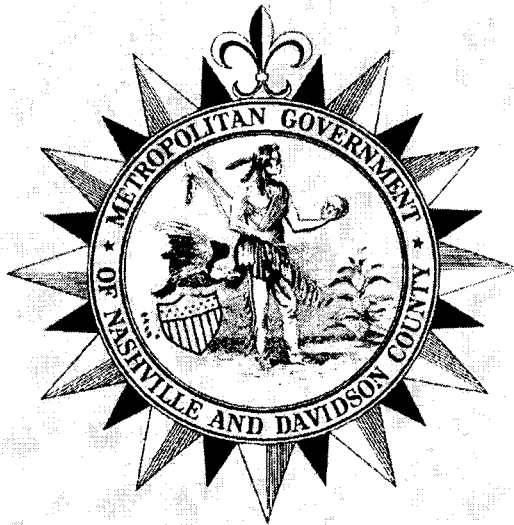


# Metropolitan Planning Commission



Staff Reports

October 28, 2010



*Mission Statement: The Planning Commission is to guide the future growth and development for Nashville and Davidson County to 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.*



## **PREVIOUSLY DEFERRED ITEMS**

- **Text Amendment**
- **Specific Plan**
- **Urban Design Overlay**



**NO SKETCH**







**Project No.**  
**Project Name**

**Text Amendment 2010Z-017TX-001**  
**Bars, Nightclubs, Restaurant (fast-food),**  
**Restaurant (take-out), and Restaurant (full-**  
**service)**

**Council Bills**  
**Council District**  
**School District**  
**Sponsored by**  
**Deferral**

BL2010-753  
Countywide  
Countywide  
Councilmember Vivian Wilhoite  
*Deferred from the October 14, 2010, Planning*  
*Commission meeting at the request of the applicant*

**Staff Reviewer**  
**Staff Recommendation**

Regen  
*Disapprove*

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**APPLICANT REQUEST**

**Prohibit the location of bars, nightclubs, and**  
**restaurants within 100 feet of a religious institution,**  
**community education, daycare center, daycare home,**  
**single-family or two-family residence, or a park.**

**Text Amendment**

**A council bill to amend Section 17.08 and 17.16 of the**  
**Metro Zoning Code, to designate bars and restaurants**  
**as uses permitted with conditions and to add certain**  
**location restrictions for these uses.**

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**CRITICAL PLANNING GOALS**

N/A

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**PURPOSE**

This text amendment is intended to address where bars, nightclubs and restaurants can locate in proximity to religious institutions, schools, daycares, residences and parks.

**ANALYSIS**

Existing Law

Section 17.08.030 (Zoning Code District Land Use Table) identifies the land uses allowed in each zoning district. Restaurants and bars/nightclubs are allowed by right (P) in nearly all the mixed-use, commercial, and shopping center districts. The Zoning Code only restricts these uses in the MUN, CN, and SCN districts. Instead of allowing them by right, these uses are allowed permitted with conditions (PC). Where the Zoning Code allows restaurants (full-service and take-out) as a PC use, they are limited to 5,000 square feet for each establishment, provided the base zoning district's maximum floor area ratio (FAR) is not exceeded. Further, in the MUN district, a take-out restaurant must be located within a permanently enclosed structure. Lastly, the Zoning Code restricts a bar/nightclub





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to 2,500 square feet in any zoning district. There are no other special provisions governing restaurants in the Zoning Code.

### Proposed Bill

This bill proposes a 100 foot minimum separation distance between a bar/nightclub and full-service/take-out restaurants from the following land uses:

- Religious institutions
- Community education
- Daycare centers
- Daycare homes
- Single or two-family residences
- Parks

The bill specifies that the minimum distance is to be measured in a straight line, from the closest point of the bar, nightclub, full-service or take-out restaurant to the closest point of the aforementioned uses.

In addition the bill proposes that these distance restrictions will apply to any new bar/nightclub or restaurant (full service and take-out) located in an SP zoning district.

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### **STAFF RECOMMENDATION**

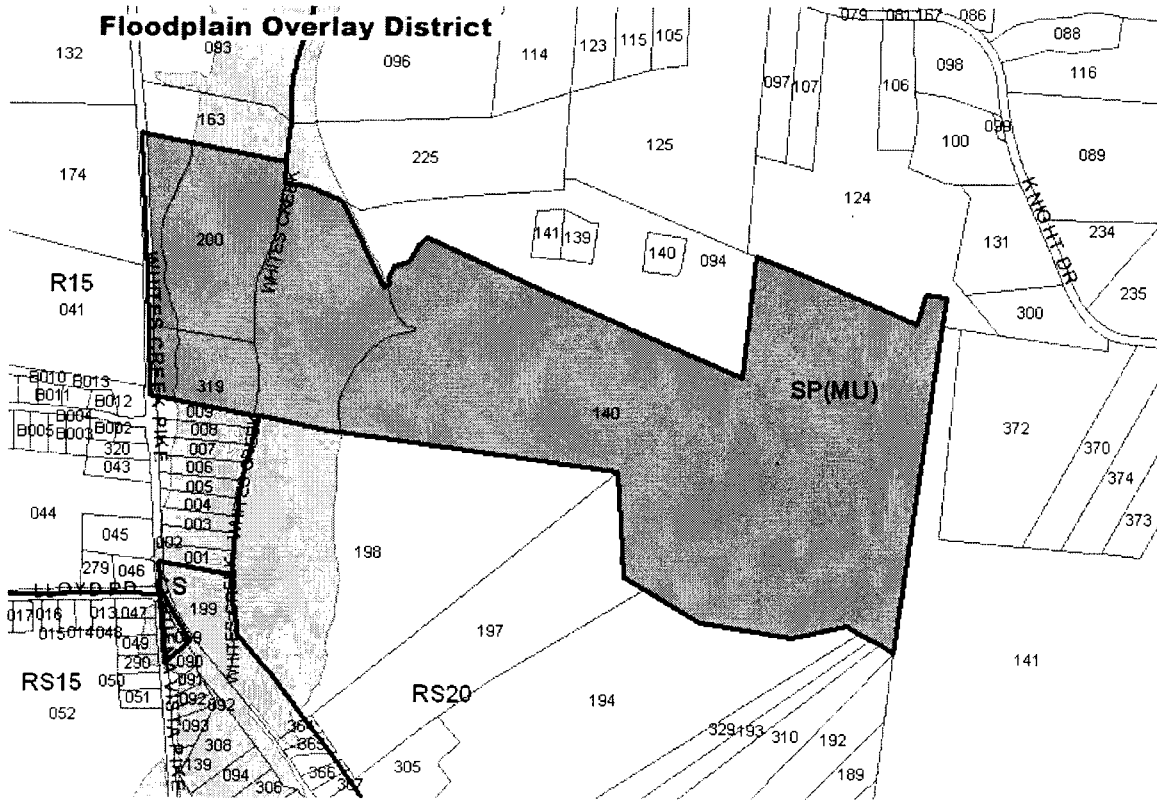
Staff recommends disapproval of this bill. It does not promote nor support smart growth, sustainability, or creating a more walkable community because it prohibits these uses in proximity to residences and public places. The minimum separation distance requirement alone would make a large number of properties in Davidson County nonconforming land uses. Further, the bill appears to be inconsistent in how it treats properties that are alike in many respects. For example, in the mixed-use districts, the bill proposes no restrictions in the MUL district, a moderately intense commercial zoning district. However, in the more intensive MUG and MUI districts, the bill proposes to restrict where restaurants and bars/nightclubs can locate.

To create opportunities for people to eat out in their neighborhood, or in major business districts that attract visitors and tourists, restaurants and bars/nightclubs should continue to be allowed under the current Zoning Code requirements.



**SEE NEXT PAGE**





**2009SP-022-003**  
 THE MANSION AT FONTANEL (AMENDMENT #1)  
 Map 049, Parcel(s) 140  
 Map 049-00-0, Parcel(s) 200, 319  
 Bordeaux - Whites Creek  
 Council District 03 - Walter Hunt







<b>Project No.</b>	<b>Specific Plan 2009SP-022-003</b>
<b>Project Name</b>	<b>Mansion at Fontanel SP</b>
<b>Council Bill</b>	BL2010-780
<b>Council Districts</b>	3 - Hunt
<b>School Districts</b>	3 - North
<b>Requested by</b>	EDGE Planning, Landscape Architects, applicant, for Fontanel Properties LLC, owner
<b>Deferral</b>	<i>Deferred from the October 14, 2010, Planning Commission meeting</i>
<b>Staff Reviewer</b>	Bernards
<b>Staff Recommendation</b>	<i>Disapprove</i>

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**APPLICANT REQUEST**

**Amendment of the Mansion at Fontanel SP.**

**Amend SP**

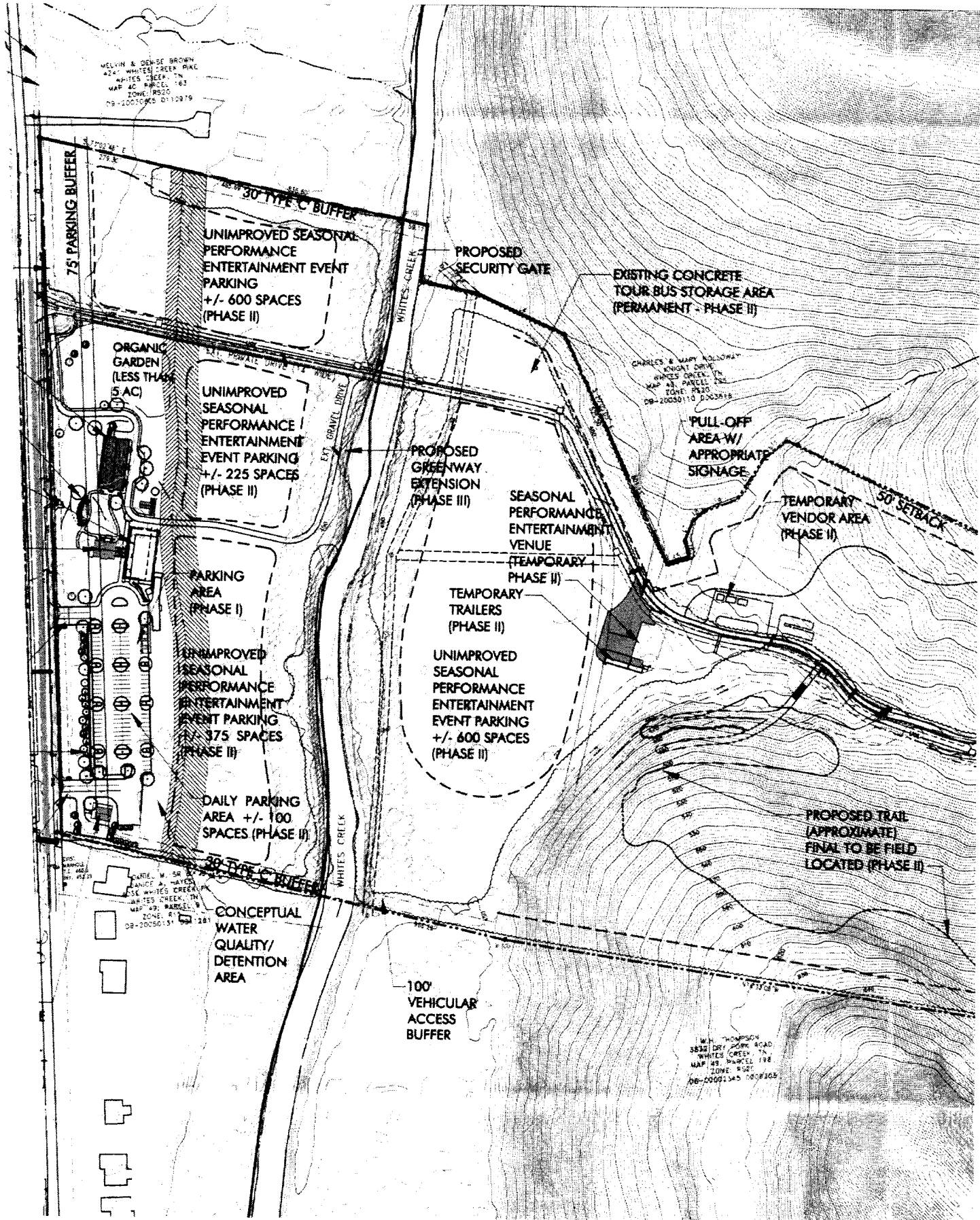
**A request to amend the SP District (adopted with Council Bill BL2009-561) for the previously approved Mansion at Fontanel Specific Plan District and for final site plan approval, for properties located at 4105, 4125, and 4225 Whites Creek Pike, approximately 1,000 feet north of Lloyd Road (136.04 acres), to amend the allowed capacity of the Seasonal Performance Entertainment Venue from 2,500 to 4,500 persons, to amend the event season from May 1-October 31 to April 1-November 30, to amend the maximum number of events from eight (one per month with two floating dates) to fourteen (one per month with six floating dates) with no more than two per month, and to allow unimproved seasonal parking on the east side of Whites Creek.**

**Deferral**

This item was deferred from the October 14, 2010, meeting by the Planning Commission. The first event with tickets available for 2,500 patrons at the Seasonal Performance Entertainment Venue (venue) is scheduled for October 24, 2010. In order to better understand the impact of the requested increased capacity of the venue on the surrounding community, the Planning Commission would like first to understand the impact of a 2,500 capacity event. The Planning Commission also requested that the applicant meet with the community after the event and prior to the October 28, 2010, meeting for additional input.

A revised site plan was submitted that reduced the number of vehicles to be parked on the east side of Whites Creek from 900 to 600. Parking on the west side was reviewed





MELVIN & DENISE BROWN  
424 WHITES CREEK PIKE  
WHITES CREEK, TN  
MAP 40 PARCEL 163  
ZONE: R1050  
DB-20010925 0110979

CHARLES & MARY HOLLOWAY  
KNIGHT DRIVE  
WHITES CREEK, TN  
MAP 41 PARCEL 232  
ZONE: R1050  
DB-20030110 0003916

DANIE, W. SR.  
FRANCIS W. HAYES  
424 WHITES CREEK PIKE  
WHITES CREEK, TN  
MAP 40 PARCEL 163  
ZONE: R1050  
DB-20050131 001281

W.H. THOMPSON  
3838 DRY JOON ROAD  
WHITES CREEK, TN  
MAP 49 PARCEL 198  
ZONE: R1050  
DB-20061340 0008208

UNIMPROVED SEASONAL  
PERFORMANCE  
ENTERTAINMENT EVENT  
PARKING  
+/- 600 SPACES  
(PHASE II)

UNIMPROVED SEASONAL  
PERFORMANCE  
ENTERTAINMENT  
EVENT PARKING  
+/- 225 SPACES  
(PHASE II)

PARKING  
AREA  
(PHASE I)

UNIMPROVED  
SEASONAL  
PERFORMANCE  
ENTERTAINMENT  
EVENT PARKING  
+/- 375 SPACES  
(PHASE II)

DAILY PARKING  
AREA +/- 100  
SPACES (PHASE II)

CONCEPTUAL  
WATER  
QUALITY/  
DETENTION  
AREA

PROPOSED  
SECURITY GATE

EXISTING CONCRETE  
TOUR BUS STORAGE AREA  
(PERMANENT - PHASE II)

PROPOSED  
GREENWAY  
EXTENSION  
(PHASE III)

SEASONAL  
PERFORMANCE  
ENTERTAINMENT  
VENUE  
(TEMPORARY  
PHASE II)

TEMPORARY  
TRAILERS  
(PHASE II)

UNIMPROVED  
SEASONAL  
PERFORMANCE  
ENTERTAINMENT  
EVENT PARKING  
+/- 600 SPACES  
(PHASE II)

PULL-OFF  
AREA W/  
APPROPRIATE  
SIGNAGE

TEMPORARY  
VENDOR AREA  
(PHASE II)

PROPOSED TRAIL  
(APPROXIMATE)  
FINAL TO BE FIELD  
LOCATED (PHASE II)

100'  
VEHICULAR  
ACCESS  
BUFFER





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and it was found that 1,200 vehicles can be parked in this area rather than the original estimate of 1,000 cars. The review also determined that the needed parking capacity is 1,800 spaces rather than 1,900 spaces. These revised numbers have been included in the body of the staff report.

### **Existing 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 a mix of uses.*

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### **CRITICAL PLANNING GOALS**

N/A

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### **BORDEAUX/WHITES CREEK COMMUNITY PLAN**

#### **Existing Policy**

Natural Conservation (NCO)

NCO policy is intended for undeveloped areas with the presence of steep terrain, unstable soils, and floodway/floodplain. Low intensity community facility development and very low density residential development (not exceeding one dwelling unit per two acres) may be appropriate land uses.

Rural (R)

R is intended for areas that are physically suitable for urban or suburban development but the community has chosen to remain predominantly rural in character. Agricultural uses, low intensity community facility uses, and low density residential uses (one dwelling unit per two acres or lower) may be appropriate.

Whites Creek Historic District

This property is within Nashville's only National Register-listed rural historic district. Development is encroaching on the Whites Creek Historic District and should be limited to reduce negative impacts on this significant area.

Conservation subdivisions, rural conservation overlays and roadway cross-sections appropriate for rural areas should be used to preserve the rural character of the Whites Creek Historic District. The plan discourages typical suburban design and subdivision of the property along Whites Creek Pike into small lots that front the road. New development should blend into the natural landscape and protect the existing views from Whites Creek Pike.





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Consistent with policy?

No. The original finding of consistency of the SP with the Natural Conservation (NCO) and Rural (R) land use policies was based upon the following factors:

- The proposed use, scale and location of buildings were consistent with the intent of the policies to support low intensity development and preserve sensitive environmental features of the property.
- While commercial uses are no longer contemplated in the NCO and R policies, the SP brought this property more into compliance with the intensity, design, building orientation and location of development envisioned by the policies than the R15 and RS20 zoning districts. (While the site has constraints in terms of floodplain and steep slopes, it is still developable for one and two-family residences at a density higher than the one unit per two acres called for in the policy.)
- The uses, types of building and location of buildings supported the Whites Creek Historic District.

The proposed amendment does not change the buildings along Whites Creek Pike and the SP does continue to support the Whites Creek Historic District. The amendment proposes to expand the scope of the Seasonal Performance Entertainment Venue (venue) by increasing the capacity of the venue, the event season and the number of events that would be held. In order to accommodate the increased number of patrons, it will be necessary for parking to be provided on the east side of Whites Creek within the floodway.

In recommending approval with conditions of the original SP staff argued that:

*In conclusion, staff finds that while the proposed commercial uses are not consistent with the use provisions of the NCO and R policies as currently defined, at the time of adoption small scale commercial uses were considered appropriate in these policy areas. While the outdoor entertainment venue is larger than neighborhood scale and will include commercial activities, it will only be used intermittently and also be available as a community facility. In terms of built intensity and form, open space conservation, and preservation of rural character, the proposed SP brings this property more in line with the land use policy intent than does the current zoning, and better addresses the overarching vision of the Bordeaux-Whites Creek Plan to preserve rural lands. Further, with*







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*consideration of the Whites Creek Historic District and the desire to keep this area rural in character, the proposed SP supports this goal while the current zoning does not.*

*On balance, the proposed SP, in this particular circumstance, is found to be more consistent with the intent of the NCO and R polices and supportive of the Historic District, providing a development concept by which the environmentally sensitive features and the rural area can be preserved than the current zoning.*

Staff had noted that the venue was larger than neighborhood scale with a capacity of 2,500. As the proposed amendment increases the capacity and brings cars across Whites Creek, it moves this SP further away from the intent of the NCO and R policies.

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### PLAN DETAILS

The Planning Commission approved the Mansion at Fontanel SP, including final site plan approval for Phase I on October 22, 2009. The final site plan for Phase II was approved on February 11, 2010. At this time, the applicant is requesting an amendment to the SP to expand the capacity of the Seasonal Performance Entertainment Venue (venue) from a maximum of 2,500 patrons to a maximum of 4,500 patrons, the length of the performance season from six months to eight months, and the number of events from eight to fourteen, as well as requesting that unimproved parking be permitted on the east side of Whites Creek.

Council Bill BL2009-561

Included in the SP is an outdoor venue located east of Whites Creek. The Council approval of this SP specified the following conditions for this venue:

*The definition of "Seasonal Performance Entertainment Venue" shall be revised to include:*

- a. One event per month between May and October.*
- b. Two floating events to be held between May and October with no more than two events per month.*
- c. No event shall last more than one day and the maximum number of days for events between May and October shall not exceed eight.*
- d. Events shall be limited to Friday, Saturday or Sunday and shall end by 10:30pm*
- e. A stage shell shall be provided.*
- f. Decibel level output shall be limited to 96db at the soundboard location for the stage."*

