

# MUNICIPAL PLANNING COMMISSION MINUTES

October 15, 2024, Meeting at 7 PM

**David Magner, Chairman**  
**Hayley Schulist, Vice Chair**  
**Lisa Anderson, Mayor**

**Chris McDonald**  
**Salvatore Cali**  
**Will King**

**Shonda Schilling**  
**LaRhonda Williams**  
**Jeff Pape**

**Staff present:** Tom Daugherty, Rachel Jones, Marisa Howell, Patrick Carter, Ethan Greer, Curtis Broadbent, Kevin Chastine, Bre Bailey, Jamey Meadows, Micah Fann

- **Call to order by:** Mr. Magner at 7:00 PM
- **Roll Call by:** Marisa Howell, Community Services Assistant

	PRESENT	ABSENT
Mr. Pape	X	
Mr. McDonald	X	
Mr. Cali	X	
Ms. Schulist		X
Mr. Magner	X	
Mayor Anderson	X	
Ms. Schilling	X	
Ms. Williams	X	
Mr. King	X	

- **Prayer & Pledge led by:** Mr. Magner
- **Approval of Agenda**

**Motion to approve:** Mr. McDonald  
**Second:** Mr. Cali

	YES	NO	ABSTAIN	RECUSE	ABSENT
Mayor Anderson	X				
Mr. Cali	X				
Ms. Williams	X				
Mr. King	X				
Ms. Schulist					X
Mr. McDonald	X				
Mr. Magner	X				
Mr. Pape	X				
Ms. Schilling	X				
<b>MOTION PASSED 8-0</b>					

- **Citizen Comments**
  1. Bart Nash – 7128 Elrod Road
- **Approval of Minutes – September 10, 2024, Regular Meeting**

**Motion to approve:** Mr. McDonald  
**Second:** Mr. Cali

	YES	NO	ABSTAIN	RECUSE	ABSENT
Mayor Anderson	X				
Mr. Cali	X				
Ms. Williams	X				
Mr. King	X				
Ms. Schulist					X
Mr. McDonald	X				
Mr. Magner	X				
Mr. Pape	X				
Ms. Schilling	X				
<b>MOTION PASSED 8-0</b>					

- **Old Business - None**

- **New Business**

1. **PC Resolution PC-33-24, Final Plat, Brush Creek Subdivision, 37.21 Acres, Map: 023, Parcel: 051.00. Current Zoning: RS-15. Property Owner: A1 Home Builders**

**Motion to approve:** Mr. Cali

**Second:** Mr. Pape

	YES	NO	ABSTAIN	RECUSE	ABSENT
Mayor Anderson	X				
Mr. Cali	X				
Ms. Williams	X				
Mr. King	X				
Ms. Schulist					X
Mr. McDonald	X				
Mr. Magner	X				
Mr. Pape	X				
Ms. Schilling	X				
<b>MOTION PASSED 8-0</b>					

**Staff Report:** Mr. Greer

**Representative:** Allison Corolla, T-Square Engineering

**Discussion:** Ms. Williams requested a recap for wastewater / rainwater mechanisms and how these amenities will be kept safe here in Fairview. Ms. Corolla stated all of the storm water and grading areas comply with the storm water manual regulations. Ms. Corolla stated all ponds have at least one foot of freeboard for 100 year storm to prevent any house flooding or discharging onto any other properties at a higher rate than what is currently discharging. Ms. Corolla stated that WADC required them to upgrade the existing pump station and effectively relocate the existing pump station to create a regional pump station on the site. Ms. Corolla stated the new pump station will not only work for the area but will reroute all the other waste that was using the older pump station to ensure that all the residents have adequate sewer.

2. **PC Resolution PC-34-24, Remove Condition of Approval #3 From PC-40-23, Bellehaven, 251 Acres, Map: 21, Parcel: 021.00 and Map:18, Parcel: 041.00. Current Zoning: RM-8 PUD. Property Owner: WUSF 4 Bellehaven, LLC.**

**Motion to deny:** Mr. McDonald

**Second:** Mr. Cali

	YES	NO	ABSTAIN	RECUSE	ABSENT
Mayor Anderson	X				
Mr. Cali	X				
Ms. Williams		X			
Mr. King	X				
Ms. Schulist					X
Mr. McDonald	X				
Mr. Magner	X				
Mr. Pape	X				
Ms. Schilling		X			
<b>MOTION PASSED 6-2</b>					

**Staff Report:** Mr. Greer

**Representative:** Shawn Henry, D R Horton

**Discussion:** Mr. Pape made a motion to find the development plan submitted with this development plan application to not be in substantial compliance with controlling documents. Mr. Carter replied that is an inappropriate motion, that the request tonight is to remove condition # 3 and that this planning commission only has the power under the zoning code and can only respond to applications. Mr. Carter explained the appropriate ways to make the motion. No one seconded Mr. Pape’s motion. Mr. McDonald made a motion to deny, Mr. Cali seconded. Mr. Henry explained that this application was filed due to them not being able to satisfy condition of approval # 3 due to the BOC not approving the development agreement that they had negotiated in good faith. Mr. Henry stated they have come back to the planning commission to explain that the development agreement as written and required cannot be accomplished or satisfied. Mr. Henry read a memo from Tiffany Reid summarizing the traffic impact study and stating the traffic impact study conclusions are still applicable (memo attached). Mr. Henry stated the only true impact this project has is on the intersection of Northwest Hwy and Hwy 96. Mr. Henry stated D R Horton is committed to satisfy their traffic impact by installing the turn lanes at that intersection and the traffic light at the intersection. Mr. Henry stated the reason for a development agreement was a concern if the city is going forward with a roadway improvement project including that intersection, it makes little sense for the developer to do it then the city come back later and tear up what has been installed and complete it as part of the overall street scape project. Mr. Henry stated the purpose of the development agreement is to not have the city and the developer do the same thing but come to an agreement where the city would take contributions for the road work and use those funds for the roadway improvement project. Mr. Magner asked Mr. Carter if it is a common condition for a requirement such as this between the applicant and the city to be established for cost terms. Mr. Carter stated yes, if there is work that needs to be coordinated and required improvements. Mr. Magner then asked Mr. Carter his opinion if condition # 3 were to be removed or reaffirmed, is there still a continued shared responsibility that would have to be resolved by the BOC moving forward. Mr. Carter replied if the BOC still wishes to move forward with this project this item needs to be resolved between the developer and the city on when the work occurs, who will do the work, and how much the work will cost. Mr. Carter stated the traffic study is saying that the cost will be between 1.3 or 1.4 million and the city planner and engineer have looked at that and can choose to agree or not agree. Mr. Magner asked Mr. Henry why the delay in the initial offer if time is of the essence. Mr. Henry stated that he can’t explain that. Mr. Magner stated that there were previous offers by the applicant, such as listed burdens that the applicant was willing to pay towards the shared arrangements. Mr. Henry wanted to clarify that this planning commission did not dive into what the elements of the development agreement would or would not contain. Mr. Magner stated that he just wanted to understand the facts so the planning commission can make a decision correctly. Mr. Henry stated that there were meetings that took place to come up with the

amount of the contribution. Mr. Carter stated that staff doesn't have the ability to agree to anything. Mr. Carter stated staff can work to come up with a number then present it to the BOC. Mr. Magner stated the agreement cannot be satisfied between the applicant and the BOC and asked Mr. Henry his opinion if it unsatisfactory because one party doesn't agree on a value amount or that it's reached a point where the applicant has exceeded the ability to have a development agreement. Mr. Henry explained that there was an open book attitude with the BOC, and that at some point the developer will have to pay the ransom or decide not to do that project, and in this case the developer wants to do the project, and they are coming back to this board to let you know the amount that was in two development agreements was not approved. Mr. Henry stated that what is important is that the law kicks in when there is an exaction being demanded of a developer or a property owner that is in far excess of the impact of the development project. Mr. Henry stated D R Horton is exceeding the reasonable contribution for the offsite roadway improvements. Mr. Magner stated so it is unsatisfactory because the applicant the BOC didn't come to an agreement, so it is brought back to the planning commission. Mr. Carter then explained that this board is an administrative body of appointed officials, not an elected body, and that the role of planning commission is strictly limited to the zoning and development code. Mr. Carter stated this body can either agree to remove the condition or vote to not remove the condition and leave as is or perhaps modify the condition. Mr. Magner reminded the planning commission of the condition being discussed. Mr. Magner stated the planning commission cannot establish values, cost of burden, or time. Mr. Magner opened up the discussion to other planning commissioner members for questions or comments. Ms. Williams asked if there is a conflict with cost, why they would add the addendum that D R Horton will accept the following sub text in the last sentence "will install these roadway improvement when permitted by TDOT." Mr. Henry stated Ms. Williams is referring to his email (email attached) and explained the point of that text is to define what condition # 3 does not define with condition # 3 being to go figure out a development agreement that can be agreed upon with the BOC. Mr. Henry stated they are suggesting to define condition # 3 and tie it to the traffic impact study that was approved, then D R Horton is happy to do that. Mr. Henry stated the developer cannot live with the condition as written so they are asking the planning commission to remove the condition and if there is no support for removing the condition they are offering a substitute text that would be acceptable. Mr. King asked city staff to provide a definition of the scope of work referred to as the roadway improvements that D R Horton is supposed to share the monetary value of. Mr. Carter explained that the city would be repairing Northwest Hwy and since the developer knew that area was in the development; to get the project moving forward, the developer offered an additional sum to complete the roadwork, and any other part of Northwest Hwy. Mr. King stated his understating was that there was a lot more improvements on Northwest Hwy not just at the intersection. Mr. King also asked the standard and the precedent that is set for developers for roadway improvements in front of their developments. Mr. Carter explained the law states that when a developer builds a development, there is a traffic study done and that traffic study will show what the increase of traffic will be due to that specific development. Mr. Carter stated the traffic study concluded that the rating was not changed at those intersections further down and that the improvements that are required by the traffic study are the ones to the turn lane and traffic signal. Mr. King stated that he was more concerned for the curb appeal rather than the traffic impact. Mr. Greer stated that typically developments add curb and gutter to improve road frontage along their existing rights of way. Mr. King asked if that scope is included in this discussion as far as the road improvements being defined. Mr. Greer stated those improvements are not included in their traffic study as being required. Mr. Carter noted that whatever is built has to be to city standards. Mr. Henry said that D R Horton does not have an issue with improving to the current standard with curb and gutter and fresh paving in front of their property. Mr. Henry stated the issue has always been that the city is going to widen Northwest Hwy so why would the developer make

changes to the road and then the city come mess it all up. Mr. King wanted clarification on the stop light at the intersection of Northwest Hwy and Hwy 96 being a TDOT project or a city project. Mr. Greer stated that would be part of a city project to align Northwest Hwy and Hwy 96 and adding a signalized intersection. Mr. McDonald explained he made the motion to deny the removal of condition # 3 due to the planning commission being an appointed body and the planning commission not being accountable to the citizens or put there or removed by the citizens and he feels that the planning commission should not be responsible for such a large decision that will have such a large impact on the city. Mr. Pape stated that he was not on the board in December to act on the application. Mr. Pape stated if he had been on the board in December, he would have not voted for it stating he does not believe the plans are in substantial compliance. Mr. Pape stated he read the meeting minutes from December and the planning commissioners was instructed to focus on substantial compliance. Mr. Pape stated this should have been a two-step process and per the minutes it did not happen in a two-step process. Mr. Pape stated there are several parts of the underlying ordinance that these plans don't satisfy and were never mentioned in the controlling documents. Mr. Pape stated he does not think it is appropriate for the planning commission to remove the condition. Mr. Pape also stated that this board is not the board that negotiates agreements. Mr. Pape suggested the BOC should look into getting an independent traffic study done and to look at the city standards more in depth before negotiating a development agreement. Mr. Magner poses a hypothetical question, if there is potential time delay in allowing this development to begin, is there any impact to allowing phase 1 to commence while the development agreement is in progress with some stipulations applied to that and what impact would that have against us risk wise either from a liability standard or a constructability. Mr. Greer stated that the condition that was placed on resolution 40-23 is a development agreement approval required by BOC regarding the share of any road improvements before a final plat is recorded. Mr. Magner explained his reaction as a reiteration that this commission does not discuss terms and conditions as far as cost related to projects that they rely on the BOC to complete that. Mr. Magner stated he understand some negotiations between the BOC and developers have taken place with the subjectivity of what satisfaction truly is. Mr. Magner stated he feels this is the BOC discussion and that the BOC has that legislative requirement. Mr. Magner stated the motion on the table is to deny the request to remove condition # 3 which means the condition will remain, and the BOC and developer must still negotiate and enter into a development agreement.

**3. PC Resolution PC-35-24, Adopt Planning Commission Schedule for February 2025 – February 2026.**

**Motion to approve:** Mr. Cali

**Second:** Mr. McDonald

	YES	NO	ABSTAIN	RECUSE	ABSENT
Mayor Anderson	X				
Mr. Cali	X				
Ms. Williams	X				
Mr. King	X				
Ms. Schulist					X
Mr. McDonald	X				
Mr. Magner	X				
Mr. Pape	X				
Ms. Schilling	X				
<b>MOTION PASSED 8-0</b>					

**Discussion:** Mr. Greer explained the planning commission calendar for 2025. Mr. Greer stated the planning commission typically operates on a 6 week calendar, but he has added an additional week to make it a 7 week calendar to give extra time.

- **Bonds and Letters of Credit – None**
- **Reports for Discussion and Information**
  - **City Planning Staff** – Mr. Greer discussed the training that will take place on December 10, 2024. Mr. Greer stated this training will be for the Board of Commissioners, Planning Commission, Board of Zoning Appeals and will also be open to the public.
  - **City Manager** – Mr. Daughtery thanked all the board for their service to the community.
  - **City Engineer** –None
  - **City Attorney** – Mr. Carter stated if there is anything that needs to be discussed at the training session to email him so he can get it added.
- **Planning Commission Roundtable**
- **Adjournment by:** Mr. Pape at 8:19 PM

*Marisa Howell*

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Marisa Howell, Community Services Assistant

<https://www.youtube.com/watch?v=749J3UiF4Zw>

## Rachel Jones

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**From:** Ethan Greer  
**Sent:** Tuesday, October 15, 2024 6:46 PM  
**To:** Rachel Jones  
**Subject:** FW: Fairview PC Resolution PC-34-24 (Bellehaven)  
**Attachments:** 2024.10.15 Bellehaven NW Highway Memo.pdf  
**Importance:** High

Thank you,  
Ethan Greer | City Planner  
[egreer@fairview-tn.org](mailto:egreer@fairview-tn.org)



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**From:** Shawn R. Henry <[shenry@tewlawfirm.com](mailto:shenry@tewlawfirm.com)>  
**Sent:** Tuesday, October 15, 2024 5:09 PM  
**To:** Ethan Greer <[egreer@fairview-tn.org](mailto:egreer@fairview-tn.org)>  
**Co:** Patrick carter <[pcarter@mtlawgroup.net](mailto:pcarter@mtlawgroup.net)>; Patrick Aaron Pitts <[PAPitts@drhorton.com](mailto:PAPitts@drhorton.com)>; Tiffany Giordano <[TGiordano@ragansmith.com](mailto:TGiordano@ragansmith.com)>  
**Subject:** Fairview PC Resolution PC-34-24 (Bellehaven)  
**Importance:** High

Ethan, attached please find a new memo from the Bellehaven traffic engineer summarizing the previously approved Traffic Impact Study. The TIS conclusions are still applicable. As a reminder,

1. The roads surrounding the project remain in need of improvement for current traffic, even if Bellehaven is never built.
2. The Bellehaven TIS recommends turn lanes and a traffic signal at the intersection of NW Highway and Hwy 96, without traffic from the Bellehaven development. The city intends to add turn lanes as part of NW Highway improvements, but a commitment to fund and perform that roadway work is uncertain.
3. D.R.Horton will be required to construct its entrance from Hwy 96 to TDOT standards, including a right turn lane and left turn lane into the development. All other Bellehaven streets linking existing city roads will be built to City of Fairview standards.
4. There is no rational nexus, no rough proportionality, for the city to require D.R.Horton to construct or pay for improvements that already need to be made for existing traffic. That need is not arising from Bellehaven's traffic impact.

My client reiterates the current request to remove condition #3 from PC Resolution 40-23. However, if the Planning Commission desires to replace that condition D.R.Horton will accept the following substitute text:

“If the City of Fairview does not construct the turn lanes and traffic signal at the intersection of Highway 96 and Northwest Highway/Jingo Road,  
then D.R.Horton will install these roadway improvements when permitted by TDOT.”

Shawn R. Henry, AICP  
*Tune, Entrekin & White, PC*  
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**RaganSmith**  
a Pape-Dawson company

# Memorandum

TO: City of Fairview                      FROM: Tiffany Reid, P.E., PTOE  
DATE: October 15, 2024  
REFERENCE: Bellehaven Traffic Impact Study  
JOB NUMBER: 14-026-1909

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The purpose of this memorandum is to provide a summary of the Bellehaven traffic impact study (dated October 31, 2023) recommendations for Northwest Highway in the City of Fairview, Tennessee. The traffic impact study analyzed existing traffic conditions as well as two future traffic conditions. One future traffic condition, background traffic conditions, analyzed existing traffic volumes with growth from other approved developments in the area. The next future traffic condition, total traffic conditions, analyzed background traffic volumes with growth from the Bellehaven development traffic volumes.

As noted in the traffic impact study, turn lane improvements and a traffic signal installation on Highway 96 at the intersection with Northwest Highway / Jingo Road are projected to be warranted even if the Bellehaven project does not move forward. Based on known information at the time of the memorandum, the traffic impact study conclusions are still applicable. The following conclusions were provided:

#### Highway 96 at Northwest Highway / Jingo Road

- Based on background traffic condition projections and traffic volume-based turn lane warrant analyses, the City of Fairview should construct an eastbound right turn lane and a westbound left turn lane with an opposing eastbound left turn lane to maintain positive sight distance. Additionally, a northbound right turn lane will be beneficial for the future traffic conditions and level of service. It should be noted that the turn lane warrants are expected to be met without any traffic contribution from the Bellehaven development. If the City of Fairview does not construct the turn lanes at this intersection, the Bellehaven development should construct the turn lanes when the traffic volume-based turn lane warrants are met.
- Traffic volume-based traffic signal warrants are projected to be met during background traffic condition projects. The City of Fairview should install a traffic signal at the intersection of Highway 96 at Northwest Highway when the traffic signal volume-based warrants are met. It should be noted that the traffic signal warrants are expected to be met without any traffic contribution from the Bellehaven development. If the City of Fairview does not construct the traffic signal at this intersection, the Bellehaven development should construct the traffic signal when the traffic volume-based traffic signal warrants are met.

NASHVILLE  
315 Woodland Street  
P.O. Box 60070  
Nashville, TN 37206

CHATTANOOGA  
35 Station Street  
Chattanooga, TN 37408

MURFREESBORO  
1500 Medical Center Parkway  
Suite 2 J  
Murfreesboro, TN 37129

FRANKLIN  
4068 Rural Plains Circle  
Suite 290  
Franklin, TN 37064



- A traffic volume-based traffic signal warrant study should be conducted in three years to determine if the traffic signal should be installed. The traffic signal warrant study will include collecting new traffic data. If the traffic volume-based traffic signal warrants are met, then a traffic signal should be installed. If the traffic signal warrants are not yet met, another traffic signal warrant study should be conducted annually until the traffic volumes indicate a traffic signal should be installed.
- To minimize impacts to existing traffic, the turn lanes and the traffic signal at the intersection should be constructed at the same time.
- A Tennessee Department of Transportation (TDOT) grading and entrance permit will be required for construction in TDOT right-of-way.

#### Northwest Highway at Elrod Road

- No intersection control changes or geometry modifications are recommended at the intersection of Northwest Highway at Elrod Road due to the impact of Bellehaven development.
- Traffic volume-based turn lane warrant analyses were conducted for total traffic conditions at the intersection and it was determined that turn lanes are not warranted.

#### Northwest Highway at Dice Lampley Road

- No intersection control changes or geometry modifications are recommended at the intersection of Northwest Highway at Dice Lampley Road due to the impact of Bellehaven development.
- Traffic volume-based turn lane warrant analyses were conducted for total traffic conditions at the intersection and it was determined that turn lanes are not warranted.

#### Northwest Highway at Cox Pike

- No intersection control changes or additional laneage are recommended at the intersection of Northwest Highway at Cox Pike due to the impact of Bellehaven development.
- Traffic volume-based turn lane warrant analyses were conducted for total traffic conditions at the intersection and it was determined that turn lanes are not warranted.

#### Northwest Highway at Project Access

- The west leg of the intersection should be design to meet City of Fairview standards, with a minimum of one lane exiting and one lane entering.
- During the design of the project access, it should be confirmed that there is the minimum sight distance available.
- Traffic volume-based turn lane warrant analyses were conducted for total traffic conditions at the intersection and it was determined that turn lanes are not warranted.