

▶ **FILE #:** 2-D-08-RZ

AGENDA ITEM #: 61

AGENDA DATE: 2/14/2008

▶ **APPLICANT:** CITY OF KNOXVILLE

OWNER(S): DON & ROSA LEE DUNCAN

TAX ID NUMBER: 49 028

JURISDICTION: City Council District 4

▶ **LOCATION:** Southeast side Tazewell Pike, southwest of Anderson Rd.

▶ **APPX. SIZE OF TRACT:** 17.88 acres

SECTOR PLAN: North City

GROWTH POLICY PLAN: Urban Growth Area

ACCESSIBILITY: Access is via Tazewell Pike, a two lane, minor arterial street with 20' of pavement within a 50' right-of-way.

UTILITIES: Water Source: KUB

Sewer Source: KUB

WATERSHED: Whites Creek

▶ **PRESENT ZONING:** No Zone (formerly RB (General Residential))

▶ **ZONING REQUESTED:** R-2 (General Residential)

▶ **EXISTING LAND USE:** Condo development

▶ **PROPOSED USE:** Same as existing

EXTENSION OF ZONE: No

HISTORY OF ZONING: None noted

SURROUNDING LAND USE AND ZONING: North: Church, Tazewell Pike, residences / R-1, RA and R-1/NC-1 Residential and Neighborhood Conservation

South: Vacant land / R-1 Residential

East: Residences / RB Residential

West: Residences and vacant land / R-1 and R-1/NC-1 Residential and Neighborhood Conservation

NEIGHBORHOOD CONTEXT: This condo development is within a residential area that has developed and is developing under R-1, RA, RB, and NC-1 Neighborhood Conservation zoning.

STAFF RECOMMENDATION:

▶ **APPROVE RP-1 (Planned Residential) zoning. R-2 (General Residential) was advertised for this site APPROVE a density up to 5.9 du/ac.**

RP-1 zoning at up to 5.9 du/ac. is a comparable zone to the former RB county zoning and will accommodate the established and proposed development of this site (see attached site plan. The recommended zoning and density will reduce the potential development density from the medium density allowed under RB zoning to the low density as supported by the adopted sector plan for this area.

COMMENTS:

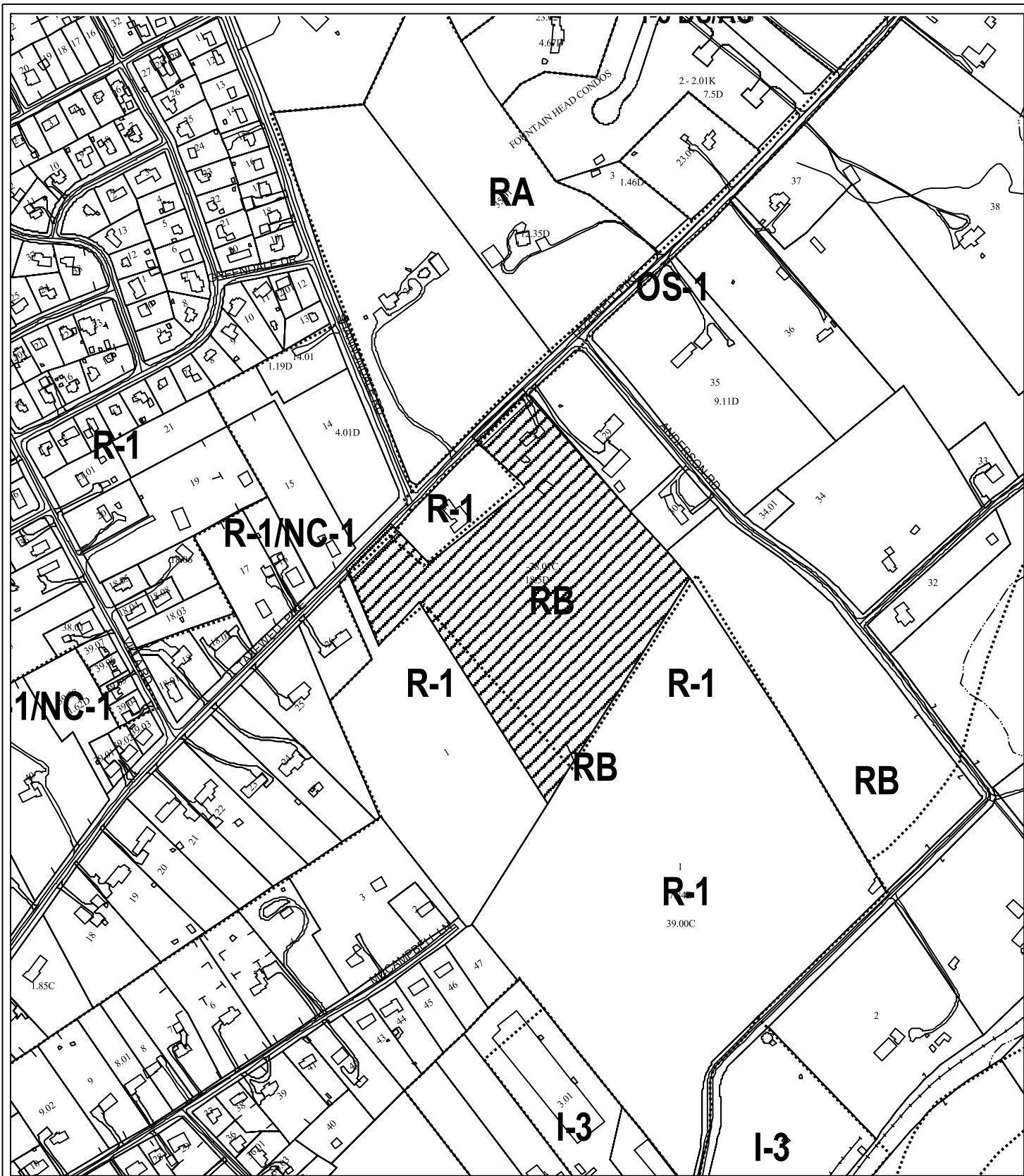
The property owner may wish to seek advertised R-2 (General Residential) zone rather than the

recommended RP-1 zone for this property.

ESTIMATED TRAFFIC IMPACT: Not calculated.

ESTIMATED STUDENT YIELD: Not applicable.

If approved, this item will be forwarded to Knoxville City Council for action on 3/11/2008 and 3/25/2008. If denied, MPC's action is final, unless the action to deny is appealed to Knoxville City Council. The date of the appeal hearing will depend on when the appeal application is filed. Appellants have 15 days to appeal an MPC decision in the City.



**2-D-08-RZ
GOVERNMENTAL REZONING**

Petitioner: City of Knoxville
 Map No: 49
 Jurisdiction: City



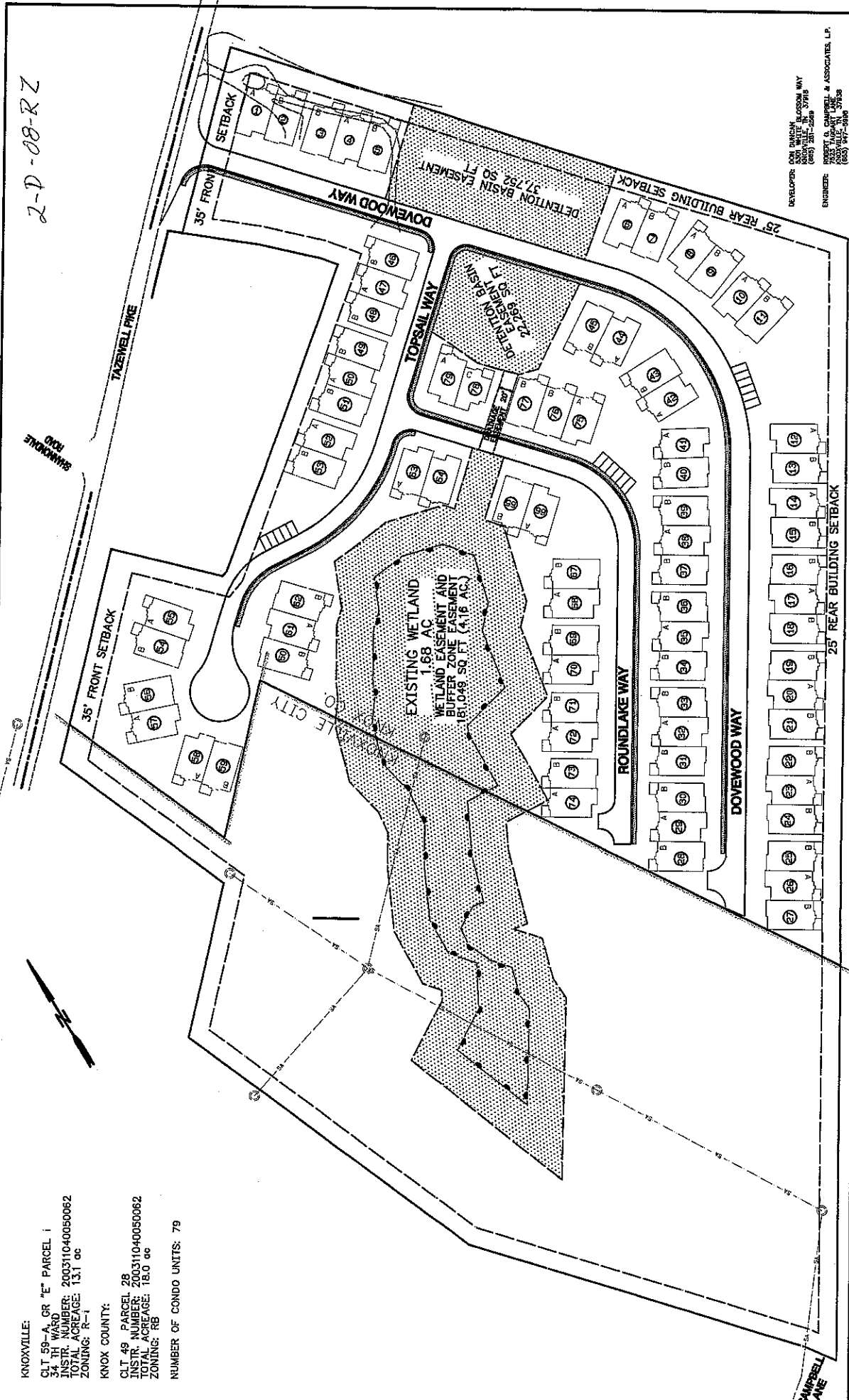
From: No Zone
 To: R-2 (General Residential)

Original Print Date: 01/28/08 Revised:
 Metropolitan Planning Commission * City / County Building * Knoxville, TN 37902



2-D-08-RZ

KNOXVILLE:
 CLT. 59-A, GR "E" PARCEL 1
 34 TH WARD
 INSTR. NUMBER: 200311040050062
 TOTAL ACREAGE: 13.1 ac
 ZONING: R-1
 KNOX COUNTY:
 CLT. 49 PARCEL 28
 INSTR. NUMBER: 200311040050062
 TOTAL ACREAGE: 18.0 ac
 ZONING: RB
 NUMBER OF CONDO UNITS: 79



DEVELOPER: DON WATKINS
 1000 WATER BLOSSOM WAY
 KNOXVILLE, TN 37916
 (615) 297-2848
 ENGINEER: ROBERT G. CAMPBELL & ASSOCIATES, L.P.
 1000 WATER BLOSSOM WAY
 KNOXVILLE, TN 37916
 (615) 447-0988

NO.	DATE	DESCRIPTION	BY	CHKD.
REVISIONS				

DESIGNED BY: _____ CHECKED BY: _____
 DRAWN BY: _____ DATE: _____
 SCALE: 1"=60'

ROBERT G. CAMPBELL & ASSOC., L.P.
 CONSULTING ENGINEERS
 KNOXVILLE, TENNESSEE

JOSHUA'S LANDING SUBDIVISION

PLAN VIEW

SHEET ONE
 NO. 1



February 6, 2008

Dear MPC Commissioners,

This letter is regarding file #2-D-08-RZ (no. 6) on your agenda) regarding a change in zoning on a county property that has been annexed.

As a neighborhood, we would like information regarding problematic issues that occurred during the development of this property to be noted on this report. We feel this is imperative because the property still has 13 acres adjoining that is already in the city.

This tract was subdivided in 2005, the portion (18 acres) that has been annexed and is up for rezoning and the 13 acres which is zoned R-1 and has been in the city for many years.

The R-1 city portion is adjacent to our R-1 NC-1 Conservation District. Our major concern is what might happen to the city 13 acres, regarding rezoning and a possible domino effect to our base zone at a later time. We don't want our zone to be eroded, and we feel the notations we are asking for afford us some degree of protection.

The following is a list - including but not limited to - issues we are asking to be noted in the rezoning:

1) A lawsuit to block annexation of the 18 county acres was filed long before the developer ever presented a plan for development to the county. Even though MPC, County BZA, Co. Commission, and City Council (largely City portion only) heard some aspects of this development no one ever disclosed that the property was in litigation and most probably would be annexed into the city.

2) The RB zoning going on the county portion, which allowed this condo development, was the result of a mistake, by MPC - when designations of RA and RB zoning were switched - and yet the maps were never changed to reflect the correct designation. (In other words, the correct zoning was single family residential)

3) The traffic study that was required was done in Summer, when school was not in session even though an elementary school is less than 3 blocks away. A second traffic study was required, after the neighborhood noticed the problem. The second study warranted 3 turn lanes -
a) a left turn lane from Tazewell Pike to Stonnondale Road
b) a right turn lane from Tazewell Pike to Stonnondale Road
c) and a deceleration lane into the development.

The city portion of development was halted and no turn lanes have ever been installed)

4) The Developer applied for a permit to fill in the wetland. The permit was withdrawn when TDEC advised that the permit would not be approved.

TDEC further advised the developer to protect the wetland. Yet, we have videotape of muddy rain water from the detention pond being pumped from the detention pond directly into the wetland.

5) When a plan to develop county and city portions passed MPC - a "different" plan was sent to city engineering to be reviewed rather than what MPC had passed. The correct plan was sent to County engineering for review. Subsequently - development on city side was withdrawn.

6) A stop work order was demanded by the neighbors, and County engineering issued it, for violation of 2000 county stormwater ordinance - Section 5.8.3 - "construction in a no-fill zone".

7) Developer sought and received (by a vote of 5 to 3) a "variance" from the Stop Work Order and allowed a road and 2 detention ponds to be constructed in a 30-ft. deep (on USGS map) sinkhole. (Note: TDEC geologist said, "Any grade-supported structure in this sinkhole will be at risk.")

8) Under duress from the neighborhood demanding application for Flood Plain Development Permits or neighborhood would ask for a 2nd stop work order - the applications and permits were issued and 23 (over 1/4) of cords needed a Flood Plain Development Permit.

9) The Engineer on the project obtained street names

and addresses from MPC (while the stop work order was still in place) without a review process being in progress by MPC staff.

10) Law Director declared a deed filed in Register of Deeds office invalid due to inadequate information - no stamp by the engineer as required by law)

11) A "new" deed was registered with the necessary stamps.

12) Dan Kelly of MPC, advised the engineer that the property "probably would not meet the criteria for an exempt plat."

13) The engineer then requested "MPC staff to cease the review process and refund fees submitted for Administrative Plat review."

4) The developer hired an attorney, Arthur Szymon, who told County BZA "the property was being developed under the Horizontal Property Regime and was not subject to MPC review" (2005)

(To date - Feb 6, 2008 - no papers regarding Horizontal Property Regime have ever been filed on this property in the register of deeds office)

15) As of Feb 6, 2008 there have been at least 4 Notices of Violation issued on this development - one of which concerned "grading of City Property without a permit."

(We want to include all information and notices of violation to be a part of this record) (I will have to add this information later - due to illness)

16) The neighbors also have video type documentary several pollution violations on this project

17) Other issues may need to be added before rezoning is approved at City Council.

From the beginning - all the neighborhood asked for:

- 1) Don't fill in the wetland, but protect it
- 2) Install all mandated turn lanes from Traffic Study
- 3) Respect 50' no-build line around sinkholes
- 4) Meet all minimum subdivision requirements
- 5) Cite location of stream of state on property

Sincerely,

Jannine Rome, President, Tazewell Pike - Beverly Station Neighborhood

Donna Pryor - Vice-Pres - Tazewell Pike - Beverly Station

Jim Jennings - Block Captain

Terry Cunningham - Block Captain

Frankie G. ... - Block Captain