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MEMORANDUM	

to: City Councilmembers
from: Debra C. Poplin, Deputy Law Director
subject: Information regarding 1/15/08 Agenda Item 12d: An Ordinance to Amend Art. 4 §26 of the Zoning Ordinance to Change Downtown Design Review Board's Appeal Process
date: January 10, 2008

MPC has submitted the above-referenced zoning amendment for the upcoming Council meeting. In reviewing the attachment which shows the proposed amendments to Art. 4 §26, it was noted that there was a discrepancy in the §26 (E) provisions relating to the Design Review Board's functions as it appeared in the MPC markup attachment and the actual Knoxville City Code.

The Knoxville City Codes reads as follows:

E Design review board: creation, responsibilities, membership, and administrative rules For the purposes of making decisions relative to the downtown design guidelines, a downtown design review board shall be established. Administrative rules, including rules governing the board, terms of membership and application schedules, shall be approved by the metropolitan planning commission. The responsibilities of the board and its membership are outlined below.

The MPC markup attachment provides as follows (with the differing language appearing in italics):

E. DESIGN REVIEW BOARD: CREATION, RESPONSIBILITIES, MEMBERSHIP, AND ADMINISTRATIVE RULES

For the purposes of making decisions relative to the Downtown Design Guidelines, a Downtown Design Review Board shall be established. *The Design Review Board's function is not to impose any architectural preferences. In no way are the guidelines meant to bring uniformity in design or approach or to require specific materials. They are meant to be applied in as flexible manner as possible to meet the needs of the building designer while encouraging the design to respect the context of nearby*

buildings and the streetscape. The guidelines are thus not a rigid set of rules, but rather a set of key principles to guide development. The Review Board's task is to provide certainty that both immediate surroundings as well as downtown as a whole are taken into account with each building project.

Administrative rules, including rules governing the board, terms of membership and application schedules, shall be approved by the Metropolitan Planning Commission. The responsibilities of the board and its membership are outlined below.

I conducted research to determine the source of the discrepancy, which revealed the following events:

- 1/30/07 Ord No. O-8-07 was passed amending Art 4 of the Zoning Ordinance to create the D-1 overlay district (codified as §26).

- 3/27/07 Ord. No. O-64-07 was passed applying the D-1 overlay to the CBID *and* adopting the Downtown Knoxville Design Guidelines. The Design Guidelines included as Appendix A, "The Draft Ordinance," which was the draft of Ord. No. O-8-07 passed two months prior creating the overlay district. The minutes of the 3/27/07 Council meeting reflect that Councilmember Roddy made a motion, seconded by Councilmember Becker, to "amend the Design Guidelines" to add some additional language to "Section E in the section defining the Design Review Board." The quoted language is the same as that now appearing in the MPC markup recited above, but not in the Knoxville City Code. The "Section E" that was the subject of the proposed amendment was the Section E appearing in the draft of Ord. No. O-8-07 as Appendix A to the Design Guidelines. Since Ord. No. O-8-07 had already been passed and was not officially before Council for amendment, it had not been considered by MPC as a zoning amendment and processed as such. Accordingly, the amendment was not flagged for codification in the Knoxville City Code, but MPC proceeded with making the change in the copy of the City Zoning Ordinance maintained by MPC.

I have discussed this issue with Buz Johnson of MPC, and in order to appropriately codify the amendment in the Knoxville City Code, it will need to go through the zoning amendment process. Mr. Johnson said that it could go before MPC at the Feb 08 meeting and thereafter presented to Council.

If you should have any questions pertaining to this matter, please do not hesitate to contact me at 215-2613. Thank you