



Minutes

November 12, 2009

1:30 P.M. Φ Main Assembly Room Φ City County Building

The Metropolitan Planning Commission met in regular session on November 12, 2009 at 1:30 p.m. in the Main Assembly Room, City/County Building, Knoxville, Tennessee. Members:

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|-------------------------------|----------------------|
| Mr. Trey Benefield, Chair | * Mr. Stan Johnson |
| Mr. Robert Anders, Vice Chair | Mr. Michael Kane |
| Ms. Ursula Bailey | Mr. Nate Kelly |
| Mr. Bart Carey | Mr. Robert Lobetti |
| Ms. Laura Cole | Ms. Rebecca Longmire |
| A Mr. Art Clancy | Mr. Jack Sharp |
| Ms. Rachel Craig | Mr. Wes Stowers |
| Mr. George Ewart | |

* Arrived late to the meeting.

** Left early in the meeting.

A – Absent from the meeting

1. ROLL CALL, INVOCATION AND PLEDGE OF ALLEGIANCE

* **2. APPROVAL OF NOVEMBER 12, 2009 AGENDA.**

THIS ITEM WAS APPROVED ON CONSENT.

* **3. APPROVAL OF OCTOBER 8, 2009 MINUTES**

THIS ITEM WAS APPROVED ON CONSENT.

4. REQUEST FOR POSTPONEMENTS, WITHDRAWALS, TABLINGS AND CONSENT ITEMS.

Automatic Postponements read

Grant Rosenberg, County Neighborhoods: Ask that item 8 be removed from consent.

MOTION (LONGMIRE) AND SECOND (EWART) WERE MADE TO APPROVE POSTPONEMENTS 30 DAYS AS READ EXCLUDING ITEM 8 UNTIL THE DECEMBER 10, 2009 MPC MEETING. MOTION CARRIED 13-0. POSTPONEMENTS APPROVED.

Ann Wallace, City Administration: Ask for 60 day postponement on item 37a&b.

MOTION (LONGMIRE) AND SECOND (EWART) WERE MADE TO APPROVE POSTPONEMENT 60 DAYS FOR ITEM 37A&B UNTIL THE JANUARY 14, 2010 MPC MEETING. MOTION CARRIED 13-0. POSTPONEMENT APPROVED.

Automatic Withdrawals Read

WITHDRAWALS REQUIRING MPC ACTION

None

REVIEW OF TABLED ITEMS

- | | |
|---|------------|
| <u>KNOX COUNTY SCHOOLS</u>
Request closure of Frazier St. between E. Magnolia Avenue and E. Fifth Avenue, Council District 4. | 1-C-08-SC |
| <u>HABITAT FOR HUMANITY</u>
Request closure of Evans St between Bonny Avenue and south to terminus at parcel 081PC003, Council District 1. | 3-A-08-SC |
| <u>BUTLER HOMES ON GLEASON DR. - BUTLER HOMES & CONSTRUCTION</u>
a. Concept Subdivision Plan
Northwest side of Gleason Dr., north of Ashton Ct., Commission District 5. | 1-SG-08-C |
| b. Use On Review
Proposed use: Attached residential subdivision in PR (Planned Residential) District. | 1-J-08-UR |
| <u>WILLOW FORK - GRAHAM CORPORATION</u>
a. Concept Subdivision Plan
Southeast side of Maynardville Hwy., southwest side of Quarry Rd., Commission District 7. | 11-SJ-08-C |
| b. Use On Review
Proposed use: Retail subdivision in PC (Planned Commercial) & F (Floodway) District. | 11-H-08-UR |
| <u>HARRISON SPRINGS - EAGLE BEND DEVELOPMENT</u>
a. Concept Subdivision Plan
Southeast side of Harrison Springs Ln., northeast of Schaeffer Rd., Commission District 6. | 4-SC-09-C |
| b. Use On Review
Proposed use: Detached dwellings in PR (Planned Residential) District. | 4-D-09-UR |
| <u>HENRY DAVENPORT FARM RESUBDIVISION OF PART OF LOT 18</u>
South side of Woodlawn Pike, east of Southwood Drive, Council District 1. | 8-SB-08-F |

<u>ISAIAHS LANDING RESUBDIVISION</u>	8-SR-08-F
South side of S. Mall Road, south of East Towne Road, Council District 4.	
<u>DAVIN AND STURM RESUBDIVISION OF LOT 1R2</u>	10-SQ-08-F
South side of Kingston Pike, south of Walker Springs, Council District 2.	
<u>HARDIN VALLEY CROWN CENTER RESUBDIVISION OF LOTS 3 & 4</u>	11-SO-08-F
South side of Hardin Valley road between Schaeffer and Iron Gate, Commission District 6.	
<u>LECONTE VISTA</u>	11-SP-08-F
Kelly Lane near intersection of Kodak Road, Commission District 8.	
<u>HART PROPERTY</u>	12-SH-08-F
East side of S. Molly Bright Rd, south side of Asheville Hwy., Commission District 8.	
<u>BEN H. MCMAHAN FARM RESUBDIVISION OF PART OF TRACT 1</u>	2-SO-09-F
Intersection of I-40 and McMillan Road, Commission District 8.	
<u>WYRICK PROPERTY</u>	8-SC-09-F
East side of Tazewell Pike, north of E. Emory Rd, Commission District 8.	
<u>OLIVER A. SMITH</u>	
Northeast side Lake Heritage Way, southwest side I-140, southeast of Westland Dr., Commission District 5.	
a. Southwest County Sector Plan Amendment	6-H-06-SP
From LDR (Low Density Residential) to O (Office).	
b. Rezoning	6-S-06-RZ
From PR (Planned Residential) and CA (General Business) to OB (Office, Medical, and Related Services).	
<u>PROPERTIES DIVERSIFIED, INC.</u>	
Northeast side Central Avenue Pike, northwest side I-75, Commission District 6.	
a. North County Sector Plan Amendment	8-B-08-SP
From LDR (Low Density Residential) to C (Commercial).	
b. Rezoning	8-E-08-RZ
From RB (General Residential) to CB (Business and Manufacturing).	

LISA HOSKINS

4-F-08-UR

Northwest side of Merchant Dr., northeast side of Scenicwood Rd.
Proposed use: Afterschool day care facility and family life center in
R-1 (Low Density Residential) & R-2 (General Residential) District.
Council District 5.

ITEMS REQUESTED TO BE UNTABLED OR TABLED

**MOTION (LONGMIRE) AND SECOND (COLE) WERE MADE TO TABLE
ITEM 19 ROBERT D. FOREMAN PROPERTY AS READ. MOTION CARRIED
13-0. ITEM 19 TABLED.**

Mr. Styles, Batson Himes Norvell and Poe: Ask that 3-A-09-SC be untabled.

**MOTION (LONGMIRE) AND SECOND (EWART) WERE MADE TO UNTABLE
3-A-08-SC. MOTION CARRIED 13-0. UNTABLED.**

CONSENT ITEMS

Items recommended for approval on consent are marked (). They will
be considered under one motion to approve.*

CHAIR TREY BENEFIELD RECUSED FROM CONSENT VOTE.

VICE CHAIR ROBERT ANDERS SERVED AS CHAIR FOR THE CONSENT VOTE.

Lynn Redmond, 5246 Oak Hill Lane, Norwood Homeowners Association: Item
No. 34 ask that it be heard at regular time

Polly Doka, 4801 Kamache Drive: Ask that item No. 41 be heard at regular
time.

Charles Taylor, 3901 Wind Crest, interested in item No. 41 also.

STAN JOHNSON ARRIVED AT THE MEETING AT THIS TIME.

**MOTION (LONGMIRE) AND SECOND (EWART) WERE MADE
TO HEAR THE CONSENT ITEMS AS READ EXCLUDING ITEMS
34, 37 AND 41. MOTION CARRIED 13-0-1.**

**MOTION (LONGMIRE) AND SECOND (EWART) WERE MADE
TO APPROVE CONSENT ITEMS AS READ EXCLUDING ITEMS
34, 37 AND 41. MOTION CARRIED 13-0-1. APPROVED.**

Ordinance Amendments:

P 5. METROPOLITAN PLANNING COMMISSION

11-A-07-OA

Amendments to the City of Knoxville Zoning Ordinance creating a
new R-4 (Residential/Office) District providing for a mix of such uses
that are complementary in scale to adjacent residential
neighborhoods.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

P 6. METROPOLITAN PLANNING COMMISSION

8-A-08-OA

Amendment of the City of Knoxville Zoning Ordinance adding Section 4.2 (Cumberland Avenue District) to the proposed Article 4, Section 4 (Form Districts) to establish development regulations and standards for the area described in the Cumberland Avenue Corridor Plan. Council District 1.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

*** 7. CITY OF KNOXVILLE, LAW DEPARTMENT**

11-A-09-OA

Amendment to the City of Knoxville Zoning Ordinance, Article V, Section 6(D)(5), Division of a Lot, by rescinding Ordinance No. O-76-08.

STAFF RECOMMENDATION: Approve the amendments.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

8. KNOX COUNTY COMMISSION

11-B-09-OA

Reconsideration of amendments to Article 2, Article 4, and Article 5 of the Knox County Zoning Ordinance related to definitions, permitted uses and uses-on-review for contractors in various zone districts, as requested by Knox County Commission and as recommended by its "Contractor Review Committee".

STAFF RECOMMENDATION: Approve the amendments.

Mr. Mark Donaldson: We received a request from County Commission through its Contractor Review Committee to amend the Knox County Zoning Ordinance to add definitions for contractors and contractor storage yards, to assign those to appropriate zone districts as permitted uses or uses on review, to list contractors among those allowed for home occupation, and create regulations for contractor storage yards considered as use on review in the CA and CR zones. Over the weekend we heard from folks and there were some requirements in the use on review requirements that are no longer needed as a result of some of the changes. I made a stab at making modifications to those requirements as page 5. They have not been before the Committee, but there seems to be enough interest to go forward. Ask that you include the modifications as drafted by staff. About a year ago this came through as consideration of landscape contractors as a use on review in the agricultural district. Contractor Review Committee removed that option so that contractors and contractor storage yards only be considered in industrial and commercial zone districts. Many standards in use on review addressed issues found only in the Agricultural district. The modifications take out those we no longer need and amend some distance and size factors to reflect the

characteristics of a use on review in commercial zone districts rather than the agricultural zone district. Intent is to create definitions, assign uses to various zone districts and create contractors as one of the allowed home occupations.

Mr. Grant Rosenberg: We have worked on this issue a long time. Ask that you take Mr. Donaldson's amendments into. Do not think controversial, but the controversial use on review issue was and changes Mark made were not controversial. Ask that this go forward to County Commission who will hear it in December and January. If there are any other questions, they could be addressed at Commission. Would like to move forward as soon as possible.

Mr. Michael Contrade, 5316 West Beaver Creek. I am for approval. I was worried about home occupation that you cannot have employees showing up at a house and not have more than two trailers.

Mr. Mark Donaldson: The amendment makes no changes for home occupations, but adds the terms contractor to the list of uses that can be considered.

Mr. Michael Kane: In the revision from staff there are changes blocked out having to do with the changes made. There were also minimum parcel size 2 acres down to 1 acre and storage area no less than 25 instead of 100. Are you in agreement and think these could be addressed at Commission.

Mr. Rosenberg: Would require use on review and these are minimum requirements for use on review. Now it fits in the commercial zone and use on review requirements are more compatible with other use on review in commercial zone property. These issues could be addressed at Commission.

Mr. Kane: Mr. Schoonmaker had looked at the changes, but the rest of the committee had not seen them. What is your strategy?

Mr. Rosenberg: There is not strategy I was made aware of those concerns and will be contacting Mr. Schoonmaker and other members on these changes to make sure there is no confusion.

MOTION (LONGMIRE) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION INCLUDING MODIFICATIONS ON PAGE 5 BY STAFF. MOTION CARRIED 14-0. APPROVED.

Alley or Street Closures:

None

Street or Subdivision Name Changes:

None

Plans, Studies, Reports:

- P 9. METROPOLITAN PLANNING COMMISSION 10-A-09-SAP**
Knoxville-Knox County Park, Recreation and Greenway Plan.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Concepts/Uses on Review:

- P 10. CIRCLE LANE EXTENSION 5-SB-09-C**
East end of Circle Ln., northeast of Westfield Rd., Council District 2.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * 11. ROEFIELD 11-SA-09-C**
South of Mesa Verde Ln., north of Beechvale Dr., Commission District 5.

STAFF RECOMMENDATION: Approve the concept plan subject to 7 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Final Subdivisions:

- P 12. HENSLEY PROPERTY RESUBDIVISION OF LOT 1R1 10-SB-09-F**
West side of Asbury Road, southwest of Archie Wiegel Lane, Commission District 8.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 13. VARNER ESTATES 10-SC-09-F**
Southwest side of Bob Varner Road, north of Brown Gap Road, Commission District 7.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * 14. KENNETH & BELINDA RABY PROPERTY RESUBDIVISION OF LOTS 1R & 1R1 10-SE-09-F**
At the terminus of Harvey Road, south of Boyd Station Road, Commission District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * 15. VILLAS AT ROCKY HILL UNIT 1 10-SJ-09-F**
S. Northshore Drive at LeConte Vista Way, Commission District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **16. WAYLAND-GOODMAN PROPERTIES** **11-SA-09-F**
Chapman Highway at E. Martin Mill Pike, Council District 1.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- W 17. WATTS S/D RESUBDIVISION OF LOTS 1 & 2** **11-SB-09-F**
South side of W. Emory Road, west of Mountain Vista Drive,
Commission District 6.

THIS ITEM WAS WITHDRAWN EARLIER IN THE MEETING.

- * **18. IVYBRIDGE** **11-SC-09-F**
Schaad Road across from Olive Branch Road intersection,
Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- T 19. ROBERT D. FOREMAN PROPERTY** **11-SD-09-F**
East side of Ellison Lane north of Wrights Ferry Road, Commission
District 4.

THIS ITEM WAS TABLED EARLIER IN THE MEETING.

- * **20. RIDGEFIELD ADDITION RESUBDIVISION OF LOTS 6-7** **11-SE-09-F**
Southeast side of Harriett Place, northeast of Clinton Highway,
Council District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **21. STANLEY'S ADDITION RESUBDIVISION OF PART OF LOT
11 AND LOTS 12-17** **11-SF-09-F**
South side of Stanley Avenue, north side of Nash Road, Council
District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **22. BRIARTOWNE** **11-SG-09-F**
South side of Asheville Highway, west of Brakebill Road, Commission District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 23. CASCADE VILLAS PHASE 2** **11-SH-09-F**
Southwest end of Spice Tree Way, southwest of Beacon Light Way, Commission District 3.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 24. LOY RETAIL CENTER** **11-SI-09-F**
Parkside Drive at Glade Drive intersection, Council District 2.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 25. HAROLD GLENN & CLARIESE NIPPER PROPERTY** **11-SJ-09-F**
Southwest side of Maplegreen Lane, south of Bluegrass Road, Commission District 4.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * **26. RENO PROPERTY** **11-SK-09-F**
Southeast side of Washington Pike, north of McGinnis Road, Commission District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **27. PROPERTY OF BLALOCK** **11-SL-09-F**
Merchant Drive at Central Avenue Pike intersection, Council District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **28. EAST TOWN PLAZA UNIT 1 LOT 2** **11-SM-09-F**
At intersection of Washington Pike and Centerline Drive, Council District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 29. BON VIEW ADDITION AND BROOKSIDE MILLS** **11-SN-09-F**

RESUBDIVISION

South side of Beaumont Avenue, southwest side of McSpadden Street, Council District 5.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * **30. ROEFIELD UNIT 13 PHASE I** **11-SO-09-F**
Intersection of Beechvale Drive and Vale View Road, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 31. RALPH TEAGUE PROPERTY** **11-SP-09-F**
North side of Greenwell Drive, east of Pedigo Road, Commission District 7.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * **32. THE BURR & TERRY S/D OF SNEED KING ADDITION TO KNOXVILLE RESUBDIVISION** **11-SQ-09-F**
West side of S. Central Avenue, west of Willow Avenue, Council District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **33. HIGHLAND PARK ADDITION, UNIT 2 RESUBDIVISION OF LOTS 7 AND 8 AND ACREAGE** **11-SR-09-F**
North side of Black Oak Ridge Ln., south side of Rifle Range Dr., Commission District 7 & Council District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **34. GRAHAM GP** **11-SS-09-F**
Southeast side of McClain Dr., southwest side of Clinton Hwy., Council District 5.

STAFF RECOMMENDATION: Approve.

Mr. Arthur Seymour, Jr. 550 West Main Avenue
This could has been administratively approved but with one variance to decrease radius from 75 feet to 25 feet. City Engineering has no objection to that.

Mr. Lynn Redmond: President, Norwood Homeowners Association, 5246 Oak Hill Lane 37912,
Concerned about variance. McClain Road enters Clinton Highway at a corner. The proposal was for a 75 foot radius and applicant wishes to take it down to 25 feet. McClain Road is a collector street draining 100 houses. Corner is more than a commercial corner. It is a corner of a 55+ acre parcel controlled by Graham Properties and we are against development of this. A great traffic generator is Expo Center and many people go in and out there. We expect many more businesses to be in there. This is one of the ways that tractor trailer trucks come in and out at the Expo. With 75 foot radius you have enough room to swing a tractor trailer truck with 25 foot you can still make the turn, but have to come out into the highway. Traffic comes up a hill at this intersection. If you have a commercial property on a corner, you require 75 foot radius. With traffic and potential of much more traffic think it is good engineering and community safety to leave the requirement in there.

Mr. Seymour: Asked if City Engineering had objection

Mr. McGinley said he did not think so.

Mr. Seymour: This is for a Sprint phone service building. We feel the area is more than adequate for traffic that will be generated by this. With City Engineering's lack of opposition, we ask your approval with variance.

Mr. Richard LeMay, 10816 Kingston Pike
Entrance off McClain Drive is a secondary entrance at best. There are two other entrances off Clinton Highway which is the primary and two other entrances off Merchants Drive. It certainly would not generate major traffic on McClain Drive. It is a secondary entrance therefore traffic would be minor.

Mr. Michael Kane: You made comment it would be low traffic. Did not make comment on the truck traffic.

Mr. LeMay Most delivery trucks are up at Merchant Road Drive portion of project. Section along McClain is office and no restaurants are proposed currently in that section. Truck traffic would be off Clinton Highway or Merchants Drive.

Mr. Longmire: Would it be possible to mark that road as off limits for tractor truck traffic?

Mr. McGinley Our engineering traffic division would look at that.

Mr. Seymour: We have no problem with that.

MOTION (LONGMIRE) AND SECOND (JOHNSON) APPROVE FINAL PLAT WITH VARIANCE WITH PROVISION CITY ENGINEERING TRAFFIC WILL LOOK AT PREVENTING USE BY HEAVY TRUCKS. MOTION CARRIED 14-0. APPROVED.

Rezoning and Plan Amendment/Rezoning:

- P 35. METROPOLITAN PLANNING COMMISSION/CITY OF KNOXVILLE 8-O-08-RZ**

Area generally described from White Avenue to Lake Avenue between CSX Railroad Corridor and Seventeenth Street (See Map), Council District 1. Rezoning from C-3 (General Commercial), C-7 (Pedestrian Commercial), O-1 (Office, Medical & Related Services), O-2 (Civic & Institutional) and R-2 (General Residential) to Cumberland Avenue Form District.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 36. JAMES L. MCCLAIN 9-A-09-SP**
a. Northwest County Sector Plan Amendment

Southeast side Lovell Rd., northeast side Hickey Rd., Commission District 6.

From LDR (Low Density Residential) & STPA (Stream Protection Area) to C (Commercial) & STPA (Stream Protection Area).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P b. Rezoning 9-A-09-RZ**
From A (Agricultural) to CB (Business and Manufacturing).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 37. CITY OF KNOXVILLE (Referred from City Council for Reconsideration and Revised) 11-A-09-PA**
(1-14-10) Northwest side Cumberland Ave., northeast of Eleventh St., Council District 1.
a. One Year Plan Amendment

From CBD (Central Business District) to PP (Public Parks and Refuges).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P b. Rezoning 9-C-09-RZ**
(1-14-10) From C-2 (Central Business District) to OS-1 (Open Space Preservation) / D-1 (Downtown Design Overlay) and Design Guidelines.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- 38. DANIEL C. TYRRELL 10-B-09-RZ**

Southwest side Bob Varner Rd., northwest of Brown Gap Rd., Commission District 7. Rezoning from A (Agricultural) to RA (Low Density Residential).

STAFF RECOMMENDATION: Approve RA (Low Density Residential)

Mr. Dan Tyrrell: 932 Shade Tree Lane, 37922.

MOTION (LONGMIRE) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 14-0. APPROVED.

W 39. S & E PROPERTIES

11-A-09-RZ

Northwest side Dogwood Dr., southwest of Merriwood Dr., Commission District 4. Rezoning from PR (Planned Residential) @ 1-3 du/ac to PR (Planned Residential) @ up to 4 du/ac.

THIS ITEM WAS WITHDRAWN EARLIER IN THE MEETING.

40. GREEN RIVER HOLDINGS, LLC

North side Dutchtown Rd., west side Bob Kirby Rd., Commission District 5.

a. Northwest County Sector Plan Amendment

11-A-09-SP

From LDR (Low Density Residential) to NC (Neighborhood Commercial).

STAFF RECOMMENDATION: Approve NC (Neighborhood Commercial)

Mr. Arthur Seymour, Jr. 550 West Main Avenue, on Behalf of applicant. This was before you a little over a year ago with a request by same property owners Scott Smith and Eric Mosley that this be zoned CA with appropriate General Commercial sector plan designation. There was a discussion at that time if would this be appropriate for CN. The applicant did not take that opportunity at that time. The applicant has reviewed the property again and has come back with application for Neighborhood Commercial. What has changed is Dutchtown Road from Pellissippi Parkway has been improved curb and gutter and turn lane as set out in staff report. Intersection of Bob Kirby and Dutchtown has been improved. Currently a rental house and rental trailer are on the property. This is an appropriate place for a small neighborhood commercial center. Scott Smith and Moseley have done this in other spots of the city. Typically they look for office type tenant. They have property on Gleason Road and other parts of West Knoxville where put little centers in like this that blend in well with suburban neighborhoods. They anticipate that this will be like a dental, insurance or similar office, which are typical uses in CN zone. Size is 2 acre and because of setbacks and landscaping set forth in the CN zone with an internal concept plan, this would be a nice addition to this neighborhood.

The way people used to live you had every few blocks a grocery store or office. This is the goal of CN zoning to allow small retail, office commercial developments with strict signage, size and landscaping standards rather than having to drive to town or west. Ask for approval rather than leaving it as rental houses.

Mr. Brent Moore: 10075 McCormick Place. This changes the character of the neighborhood. Improvements to Dutchtown were done before the request for zoning occurred last year when they were denied rezoning. Major concern is traffic flow and safety for kids. This across from Webb School at certain times of day there is heavy traffic. I grew up in the same kind of neighborhood as Mr. Seymour. Traffic was not as heavy then. In the morning and school times that area becomes extremely congested with heavy traffic. We have concerns for the safety of our kids with school buses.

Mr. John Dias, President of The Clusters, 10042 McCormick Place. Mr. Seymour does not live there. Most of the neighborhoods have great concern about changes. Traffic is a great concern. Worry about light pollution and noise. Neighborhood Commercial gives you quite a bit of leeway. There is no guarantee that is what will be put there. This is a mobile society. These proposed changes should be denied.

Mr. Seymour: Concern seems to be traffic. There area already two huge traffic generators that an office building would not compete with. One is Webb School directly across the street and east is CAK. The neighborhood probably would not generate more than a single family home. The traffic issue is already there. You have a lot of traffic going through there.

Mr. Brusseau Request last year were general commercial and CA zoning were denied. The idea was thrown out to consider neighborhood commercial, because they were set on CA. Was appealed but withdrawn at applicant's request. CN is a zone that is designed specifically for an area with residential area surrounding it that this development could serve, particularly because it is located at intersection of collector and arterial street. CN is not appropriate at in the center of a subdivision, but out onto fairly large street is appropriate. Design guidelines that go along with CN including heavier landscaping and if done according to Zoning Ordinance this should be a good looking development. The more intense uses permitted mostly require use on review approval although quite a bit of permitted uses. May be additional review by this body depending on what use are developed.

Mr. Kane: I drove by this and it had a completely different feel and was struck how there is a lack of commercial. At Pellissippi and Dutchtown there was one parcel advertised s C-6 zoning and what

would be impact of that parcel already zoned in providing community amenities or office uses.

Mr. Brusseau: I believe you are referring to Century Park. That is a business park and the zoning would allow office or retail. It is more business park with a satellite campus for one of the universities.

Mr. Johnson: Century Park is in the Tech Corridor and he Anticipate there will be some commercial on that lot. Anticipate a lot of traffic will come from the business park as it is built out. There will be a residential market as you get closer to the parkway. He is anticipating an outlot for eventual commercial development

Mr. Robert Anders: Neighborhood Commercial connotation does not mean an area to walk store, but trying to locate easily accessible. Lots of mom's out there. This may be as ideal site for arterial commercial with major arterials. I am in support of this.

Mr. Stan Johnson asked County Engineering about traffic.

Mr. Cindy Pionke: County Engineering. Since we do not know what they are going to put on site, we do not have traffic study which is a function of what is going on the property. If it is some kind of business use there could be traffic. They have about 500 feet on Dutchtown and 150 feet on Bob Kirby and better down at the intersection where improved. On CN we may or may not get a traffic study. It depends on use and how many trips will be generated.

Mr. Carey: These types of developments may have a reduction in traffic that if it is a dentist office they can stop there and now they do not have to drive on down the road. Access may be a factor, but we do not know yet. Overall this seems like good practice.

MOTION (EWART) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 11-3. APPROVED.

b. Rezoning

11-B-09-RZ

From A (Agricultural) to CN (Neighborhood Commercial).

STAFF RECOMMENDATION: Approve CN (Neighborhood Commercial)

MOTION (EWART) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 11-3. APPROVED.

41. THIS AND THAT

11-C-09-RZ

Northeast side Middlebrook Pike, east side Keith Ave., Council District 3. Rezoning from R-2 (General Residential) to C-6 (General Commercial Park).

STAFF RECOMMENDATION: Approve C-6 (General Commercial Park).

Ms. Polly Doka: 4804 Tomache Drive. Ask that it be C-3 or something that does not allow outside sales. This building has been used for TV repair shop and even then extra TV's were sitting outside. Since This and That there is a lot of furniture outside. When the store is not open the furniture is stacked up under blue tarps. This is a gateway to the City and this is not a reflection with what we want to happen with Middlebrook Pike. There is no surrounding property zoned C-6. The Westview Neighborhood is concerned about making their neighborhood better. This neighborhood is on the border of blight and this will not help promote their improvement process. Mostly it is the outside storage and C-6 zoning down the road. If C-3 does not allow outside sales, that might be more appropriate.

Mr. Charles Taylor: 3901 Windcrest, Knoxville, Since the building was built back in 1940's it has been commercial. When annexed into City, it was grandfather in as commercial. We inherited the property and continue to pay commercial rate tax on the property. When it was a TV shop it was an unsightly building. Since we have rented it to Ms. Brummet for a This and That shop the place has been cleaned up. There was a problem with storage at first and covered by tarps. That is no longer a problem. There may be lawnmower or gas can that need to be covered. It has been a grocery store, washing machine sales and cafeteria. We have given Ms. Brummet the permission to put things under the carport and tarp it up. Since we have had the complaint, have tried to keep storage down. It probably will not be open except for weekends until warm next year. Display outside has been reduced. They display items they take back inside store or back in vehicles to transport. They rented a couple of out buildings to store and then bring it in. Do not see this as gateway. Everything is commercial except house behind and church next door. It has been commercial since it was built. If it were not for me and some others, the unsightly cemetery would still be grown up. It has always been that way.

Chair Benefield: Business currently there would not be able to operate if they did not have ability to store goods outdoors?

Mr. Taylor: No, the only thing under tarp now is gas cans, lawn mower and weed eater. C-3 would not work to set stuff outside to sell. It is necessary to put things outside to sell for display.

Mr. George Ewart: If he ever decided to put an addition, would that then trigger setbacks in C-6? Is there any other kind of commercial zoning that would be more applicable?

Mr. Brusseau: C-3 would be better for smaller lot. The reason is for C-6 is that outdoor display is required when actually open. This area is shown for light industrial and C-3 is not allowed in light industrial. The C-6 does require that any outdoor display be out of the front yard setback of 25 feet. I am not sure if they have enough room for that. That outdoor display might have to be off to the right side of the building and might keep it off the road.

Ms. Longmire: Would C-3 allow for outside use when open. No. Do you object to items outside?

Ms. Doka: The amount of things outdoors and the blue tarps and the extent the items are outside.

Mr. Robert Anders: Sounds like this has been a similar type of business for a while. Sensitive to neighbors. Could we do C-6 with conditions that gave them the opportunity to display during business hours, but require them to put it back indoors at the end of the day? I am trying to find some common ground. That would be hard to enforce.

Mr. Taylor: We would agree with that. There is nothing stored outside now. The applicant overbought stuff and had no where to put it until storage was obtained.

Mr. Robert Carey: I agree that enforcement would be a problem. If we pass that as C-6 this would degrade the neighborhood whether it has been there since 1940 or not. It could escalate into 24-7 yard sale.

Mr. Michael Kane: If we try C-3 then we have to have a one year plan amendment. The applicant said they had been operating under grandfathered status under R-2 and then a complaint. How did they operate under R-2?

Mr. Brusseau: My understanding of grandfathered is if use is terminated for more than 6 months, then they lose the grandfathered use.

Mr. Benefield: Sounds like just a use of the term grandfathered and it was built before there was zoning in the county.

Mr. Taylor: We were always told it was grandfathered.

Ms. Ann Brummett: 5428 Smoky Trail, On This and That shope in the beginning we did have tarps to cover stuff, but since then we

have not had anything outside because we have secured other storage. We want to in warm weather and summer time sit two or three items outside for display. Member of church on Middlebrook a few blocks away and I do not want the community to look like a run down junk store..

Mr. Benefield: Concern is not just you, but if others come in and use it for C-6.

Mr. Brusseau: C-4 will allow outdoor display and lesser restrictions and landscaping and would require a sector plan amendment. One year plan does call for general commercial there.

Ms. Craig: If rezoned C-6, then regardless of what the current occupants do in the future there could there be outside storage.

Mr. Brusseau: The property is so small I do not see how there could be anything much more. If it were a car lot, would only be 4-5 cars.

Ms. Longmire: If we consider C-3, we have to advertise the sector plan amendment. We would have to have a 60-day postponement.

Mr. Taylor: What could be displayed in C-3?

Ms. Longmire: No outside business in C-3. I am not comfortable with C-6 there. It opens the door to industrial uses. We have to think of the community and what it is trying to do. It is a fragile community. C-3 would allow the store to be operated as an antique shop.

Mr. Anders: If C-6 gets denied, you are still residential. If you want to do something commercial, you need a rezoning.

Mr. Taylor: We have been paying commercial tax for 50 years. The reason for C-6 was to allow display outside. We agree. We are up against a wall.

MOTION (LONGMIRE) AND SECOND (EWART) WERE MADE TO POSTPONE FOR 60 DAYS UNTIL THE JANUARY 14, 2010 MPC MEETING TO ADVERTISE SECTOR PLAN FOR C-3 ZONING.

Mr. Ewart: Asked how we could do that.

Mr. Steve Wise: The commission has authority to initiate applications on rezoning or sector plan as well as the owner of the property or the governmental body. Sector plan would be initiated by the Planning Commission.

MOTION CARRIED 14-0. POSTPONED.

Mr. Donaldson pointed out that MPC will do the sector plan application and advertising with no charge.

Uses on Review:

- W 42. REVEIZ CUSTOM HOMES, LLC 11-J-07-UR**
North side of Hardin Valley Rd., west of Westcott Blvd. Proposed use: Mixed Commercial Development in PC (Planned Commercial) District. Commission District 6.

THIS ITEM WAS WITHDRAWN EARLIER IN THE MEETING.

- P 43. T-MOBILE SOUTH C/O LANNIE GREENE 8-D-09-UR**
East side of Fountain City Rd., east of Dry Gap Pike. Proposed use: 195 foot monopole telecommunications tower in A (Agricultural) District. Commission District 7.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- W 44. RONALD L. MORTON 9-A-09-UR**
South side of S. Northshore Dr., west side of Duncan Rd. Proposed use: Home occupation for internet marketing in R-1 (Low Density Residential) District. Council District 2.

THIS ITEM WAS WITHDRAWN EARLIER IN THE MEETING.

- P 45. RIDGEDALE IRREVOCABLE TRUST 10-C-09-UR**
North, south, east and west side of the intersection of Wood Smith Rd. and Barnard Rd. Proposed use: Town home style apartments in PR (Planned Residential) District. Commission District 3.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- 46. ORCHARD AT KNOXVILLE 10-F-09-UR**
South side of Cherokee Trail, west of Edington Rd. Proposed use: Student Housing in PR (Planned Residential) District. Commission District 9.

STAFF RECOMMENDATION: Approve the development plan for up to 19 residential dwelling units with a maximum of 76 bedrooms subject to 9 conditions.

CHAIR TREY BENEFIELD RECUSES FROM DISCUSSION OR VOTING ON THIS ITEM.

Mr. Arthur Seymour, Jr., On behalf of Applicant with Mr. Todd Kennedy. We have had discussions with neighborhoods at Cherokee Trail and ask that two conditions be added. First that southern portion of the property, the steeper part, does not contain buildings or driveways shall be protected by a restrictive covenant prohibiting development

thereon. Second one is there will be no vehicle access to this property other than the driveway to Cherokee Trail. There is property to the southwest and it would be difficult to access this from that. We are agreed with Mr. Pope and Cherokee Bluff for that not to happen. We would enter into a private agreement if MPC is not okay with that.

Mr. Tom Brechko: First condition on restrictive covenants is not a problem. Concern we have on access restriction it has been our practice to encourage connectivity between adjoining developments. Access to that property is problematic and it may be more beneficial if have opportunity to connect with property for adequate visibility. Them doing it has a private agreement is fine. We do not want to take a position of encouraging conditions that would prohibit connection to adjoining property.

Mr. Rachel Craig: What is size of the area to be protected?

Mr. Seymour: It is about 5 acres that would be off limits. When we get final engineering documents from Cannon and Cannon we will know the exact area. We are generally in agreement and marked it off with a map.

Ms. Craig: I am extremely concerned about continued development on Cherokee Trail in the absence of infrastructure and a plan. However, with these changes and given that the neighborhood is supporting this I will support it.

Ms. Longmire: Ask if he is willing to give up the condition on access and do it privately?

Mr. Seymour: We can do that with them. I think Mr. Pope would be happy if we just recorded an instrument in register of deeds office.

MOTION (LONGMIRE) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION INCLUDING CONDITION THAT SOUTHERN PORTION OF PROPERTY WHICH DOES NOT CONTAIN BUILDINGS OR DRIVEWAYS SHALL BE PROTECTED BY EASEMENT OR COVENANT THEREON. MOTION CARRIED 13-0-1. APPROVED AS AMENDED.

* **47. PINNACLE POINTE**

10-G-09-UR

North side of S. Northshore Dr., west of Keller Bend Rd. Proposed use: Master Sign Plan in C-6 (General Commercial Park) District. Council District 2.

STAFF RECOMMENDATION: Approve a Master Signage Plan for the Pinnacle Pointe development which includes a development director sign along S. Northshore Drive, subject to 4 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

48. PETRU HERMAN

11-A-09-UR

Southwest side of Sky Blue Dr., south of Middlebrook Pike. Proposed use: Duplex in RA (Low Density Residential) District. Commission District 5.

STAFF RECOMMENDATION: Deny the request for a duplex on an individual lot within the RA (Low Density Residential) zoning district based on the following finding: 1) The duplex is not compatible with the character of the neighborhood where it is proposed since it is located near the entrance of an established detached residential neighborhood

Mr. Austin Lance, 9120 Middlebrook Pike have petition of opposition signed by 35 homeowners asking for rejection of duplex. Single family residential neighborhood and duplex construction would be out of character and reduce the value of adjacent property. This lot is surrounded on all sides by single family homes. Do not object to single family or vacant and kept up. I have photographs of the adjacent property that show the size and setbacks to be out of character with single family homes.

Ms. Elena Herman: 10636 Rural Drive 37922. Owner. Duplex is actually going to be resided in by my one family member and very possibly another family member in the other side. There is a duplex in the neighborhood registered as commercial. One daughter of the owner would be living in one side of the duplex.

Mr. Tom Brechko: It is staff's position that the duplex would not be compatible with other residential units. As you get father south it is actually zoned RAE which does not allow duplex.

Ms. Longmire: Recommend denial because it does not fit into the neighborhood.

MOTION (LONGMIRE) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 13-1. DENIED

A break was taken at this time.

* **49. EAGLE BEND REALTY, LLC**

11-B-09-UR

Southeast side of Vicar Ln., south of Westland Dr. Proposed use: Detached dwellings in PR (Planned Residential) District. Commission District 4.

STAFF RECOMMENDATION: Approve the development plan for up to 2 detached residential units on individual lots bringing the total number of residential units in the subdivision to 35, subject to 3 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

50. 441 PARTNERSHIP

11-C-09-UR

South side of Norris Frwy., west of Maynardville Pike. Proposed use: Shopping Center in SC (Shopping Center) District. Commission District 7.

STAFF RECOMMENDATION: Approve the development plan for the proposed shopping center, with a total building area of 31,000 square feet in the SC (Shopping Center) zoning district, subject to 13 conditions.

CHAIR BENEFIELD RECUSED FROM DISCUSSION OR VOTING ON THIS ITEM.

Mr. Arthur Seymour, Jr. on behalf of applicant.

Mr. Dan Kelly: This matter was before you last year and you approved the development plan for a shopping center. It was appealed to the Board of Zoning Appeal and motion was made to deny request based on the fact that they did not believe it was reasonably necessary for the community. That matter went to court and court decided in favor of the County BZA in that acted appropriately in the matter and denied the shopping center. The same applicant in an effort to try to build the record, has resubmitted the application since it has been more than a year since heard last. He has submitted a plan with basically same layout. The look of buildings has changed. Information with regard to necessity or reasonable necessity is presented which is contrary to what was presented last year. Staff is again supporting the request because the property is zoned shopping center and the North County sector plan shows the area for commercial use. That is the long range land use plan as adopted by this body and County Commission some years ago. These gentlemen have based their plans on the approved zoning and submitted a plan for the zone. With regard to reasonable necessity, I have not heard this commission or County Commission discuss reasonable necessity in the past. It is hard to put a finger on. Shopping vacancy rate in the area is 9% and shopping center vacant rate in rest of the county is 10%. There are some shopping centers in the area that have significant vacancy. Shopping centers have to change form to be successful. Shopping Centers seem to have a life when new, peak at some point and then drop off. How to say that one shopping center is not needed is difficult. Other shopping centers with hundreds of thousands of square feet have recently been approved in this area. There was no mention of reasonable necessity at that time. We feel reasonable necessity deals with market. Since the first plan was approved the park has obtained approval from TDOT for their own access and shopping center has their own access and there will be no shared access. Neither one of them has a permit at this point. Once this is approved and park proceeds, then TDOT will issue permits for access. Over 16 million square feet of retail space exists in Knoxville

and Knox County and to say an additional 31,000 sq. ft would tip the scale and that it is not necessary would be a hard conclusion to draw.

Mr. Seymour, Jr. with Nathan Silvus and Lee Gamble.

Supplement record on reasonable necessity by Oliver Smith about necessity and reasonableness of this property. Oliver's grandfather developed West Town Mall and owned West and East Town at one time. Leo LeCamera with Knox County Engineering says this proposal meets the stormwater ordinance requirements of Knox County. Third at your April meeting you approved a grocery store with an outparcel catty-corner at Emory Road and Norris Freeway. This tenant is now going into their own store. At that time nobody opposed this. Now they are here worried about this. You will see Board of Legacy Park wants this free or at a minimum price. That is why they oppose this and not the other commercial development in the Halls community. That is what the opposition is really about. They may say we have too many dilapidated shopping centers in Halls. The market will shake out and they will eventually have to conform to exist. Cokesbury was a Lowe's was one time. Kroger is in their third move and there is a call center in their first place. West Town Mall today looks like nothing when it was built. Mr. Silvus and Mr. Gamble have a good business plan. Mr. Silvus and Mr. Gamble have shown compliance with the zoning ordinance and engineering. The policy decision has already been made here. That was made by the policy making board which is Knox County Commission Board. Question is what kind of shopping center can you build on this site. HANDED OUT MATERIALS LISTED AT BEGINNING OF HIS TALK.

Mr. John Buckingham; On behalf of Wilma Jordan, a property owner out Norris Freeway. Submitted MEMORANDUM FOR THE RECORD. Chancellor Fansler issued the memorandum of opinion and when it passed through MPC, BZA and Chancery Court. He said the existence of any possible reason justifying the local administrative body's action necessitate the decision be upheld by the court. Access has been taken care of. Two main reasons he found were market saturation and adverse impact on adjoining property. There has not been any change for the positive in the market situation in the Halls area since Chancellor Fansler found that market saturation and excessive vacancies of retail justifies denial of proposal that was submitted before. This is the same proposal. It is not different. The vacancies in the Halls area have increased. Halls Crossroads is an area that by MPC's own information should not even be able to support one shopping center within 3 miles of Halls Crossroads. It should be 45,000 to 100,000 population and that area does not reach that size. Yet there are 4 community shopping centers in that area and numerous other smaller shopping centers. The report produced by MPC after this last go around, indicates that at the level of 50,000 sq. ft. or less shopping centers have a vacancy rate of 17% and in the north district it is 14.2%. In the north Broadway area it is the second highest vacancy next to Knoxville Center. Market saturation is a basis on which you can deny this request. Applicant's information leaves out 40,000 sq. ft.

going in with Walmart, a Kroger just closed, Bi-Lo he counts as occupied and it is not occupied. He counts Goody's occupied and it is not occupied. The other basis on which Chancellor Fansler denied this was on the affect to adjacent property. They are going to put 69,000 cubic yards of dirt on this site and raise the level 10 to 14 feet above the current level adjacent to Beaver Creek. To say that it does not affect adjoining property is disregarding the obvious. Passed around a board of pictures and bike trail pictures that show flooding next to the creek.

Mr. Karen Hurley: 6923 Maynardville Pike 37918 Halls Business and Professional Association. We take this seriously and normally back any kind of growth. We currently have 80 vacancies. Black Oak Plaza is dilapidated plaza and 5% down on revenue sales to date. We currently do have any retail space that a new business would currently want in the Halls area. Appeal as a mother of Architect student, that I do not feel like this is reasonable use of the land SUBMITTED A DRIVEBY IN THE HEART OF HALLS.

Ms. Frank Owen, 7220 Afton Drive

I am here for personal reasons. This shopping center is in my backyard. I live with floodwater in the back of my home every time it rains. Citizens on my street are elderly and cannot attend. I represent them and people that do work. My livelihood has been affected. I cannot believe I have to put up with a shopping center in the back yard which will produce more flooding. I have had a kayak and boat go down my back yard. I have had beach balls, fish. I have nothing against Mr. Silvus or growth. I am extremely upset as well as neighbors we do not feel it is fair. We have other places they can be. I was not here when they talked about Home Depot or Walmart because that was not in my backyard. I do not have the ability to use my own backyard. Cannot even put in a gazebo cause would float away. Think of Beaver Creek citizens.

Ms. Elbert Kitts. Grace Baptist Church 7120 Afton Drive, Halls Our property adjoins this. We are not against construction or developer. We are against this property being developed with this square footage with all the blacktop at Beaver Creek because it floods. We have even seen dumpsters coming down the creek. This property is on both sides of the creek. With roofing and blacktop and fill dirt where is water going to go. Asking for no more water in Beaver Creek.

Ms. Cynthia Hicks: Us Properties Group Own shopping center across the street. Reason for being here is I had gotten a copy of the necessity report and from my ears to his pen was skewed. In the report Nathan has shown Goody's occupied and that no longer exists. That 25,000 square feet is still available. Nathan told me Walmart had pulled their permit for the superstore. We take old Walmarts and old Targets and retrofit those into Kohl's, Best Buys, etc. I have been in contact with Walmart and exercised 5 year option. They exercised their option

but Walmart will be going out to bid this week and we are going to have 139,000 square feet in a year vacant across the street. The drive by was my concern. They want to take their driveway and line it up with our property. Asking for help on this..

Ms. Carol Evans Legacy Foundation, We are not opposed to this development because we are trying to get it for free or reduced. Mr. Silvus called us after BZA and offered the land, but we could not afford at his cost. We did not oppose other developments because we are not opposed to development. This is a unique property adjacent to a park on Beaver Creek with wetlands and it merits preservation. We were not opposed.

Mr. R. Larry Smith: 3109 Tee Lane. My son is now 6.5 and I have pictures of when grass was taller than him. We would have liked to have bought the property. This gentleman got property for 300,000 and turned around to sell it to us for 750,000. We do not care to buy the land. This is the center of Halls. We would like it to be a park.

Mr. Seymour: About 25 people stood in opposition The shopping center that was not opposed in April backs up to the north fork of Beaver Creek. They were not here then. That is not the real concern. The MPC study that Mr. King relies upon is over 11 years old and out of date. Plan as submitted can and will meet the all the requirements of Knox County so there is no adverse impact on Beaver Creek. Nearest home is over 500 feet away. The shopping center is on north side and not on south. It does not have access to Afton Drive and does not abut up to Afton Drive. It fronts on Norris Freeway. This meets all requirements and we are entitled to a use on review for shopping center.

Ms. Becky Longmire: Asked if we can make a decision based on market saturation.

Mr. Steve Wise: The guidance as set forth in the County Ordinance treats development plans as other use on review applications. Language references that you may approve if find it in harmony of general purpose and intent zoning ordinance and appropriate sector plan and reasonably convenient for the welfare of the community. You can deny if any of foregoing is not shown or can prove it has an adverse impact on neighborhood. Whether you consider market saturation of commercial space is possible because you can consider if it is in general harmony with general intent of the zoning ordinance. It basically captures the police powers of public health, safety, welfare, orderly planned use in the county and so forth is the purpose of every board. I would not say that market saturation cannot be considered. It must be considered along with everything else. Market saturation is largely a temporal event. If it contributes to a blighted area, you could use that factor. I do not think you can make your decision based exclusively on market saturation, but you certainly can consider it.

Mr. Wes Stowers: I think we are on fine ice if we try to make market saturation as a basis in the current times. Somebody has a piece of property that he purchased that has been zoned shopping center. It is a form of government taking if we prohibit its use. My concern is not market saturation. My concern is the water. You are going to put 4 acres of impervious surface on a 12 acre tract which borders a flood plain. I know conditions are made to get permits from TDEC and Corps of Engineering. I would like you to enlightening us on how you can prevent floods. Flooding is happening now and we need to make sure it is not made worse.

Mr. Nathan Silvus: 10065 Westland Drive. We have already prepared and submitted a detailed flood study to Knox County and they have approved it. We are dropping elevation by one foot and taking both bridges out of the floodplain. We cannot impact the stream downstream. You would have to go down to the next bridge downstream and open it up. Actually opening it up accomplished by opening up a pinch point as part of wetland construction. Opening up the pinch point drops floodplain elevation upstream of site. It is a very detailed a computer based modeling behind it. We are proposing wetland improvement. Afton Drive properties are downstream. Upstream is drop elevation and taking driving surface of bridges out of the 100 year floodplain. I have worked in Civil Engineering with hydraulics for past 12 years.

Ms. Cindy Pionke: Leo Camera has reviewed the plan which is by the Knox County Storm Water Ordinance.

Mr. Anders: Asked Cindy Pionke she was saying they see no empirical evidence that this will affect stormwater runoff, and she said that was correct.

Ms. Ursula Bailey: Asked for a copy of the opinion of Chancellor Fansler. Mr. Buckingham submitted a copy to her.

Ms. Rachel Craig. In the email he sent us Mr. Seymour said the shopping center we approved in April backed up to Beaver Creek. He did correct that today that it does not back up to Beaver Creek, but the North Fork which is a small tributary of Beaver Creek. Beaver Creek is a much more major stream than the tributary e North Fork so there is not a lot of comparison between the two. Asked Mr. Silvus about presentation viewed. Wetland you are proposing to fill in part is on your property and part on park property. If you fill in the part on your property, what impact is that going to have on the park property?

Mr. Silvus: What we propose right now is to not have any impact. We have a perimeter drainage swell that goes all around our property which will keep water off the park. By adjusting the invert if they wanted more water for a pond, then we can let more in. Or we can

take all the water away or we can leave it the way it is. We are proposing to leave it the way it is right now. It is a combination water surface table is 16 to 30 inches deep which is typical and runoff and topography.

Ms. Craig: Existing wetlands are manmade, artificial and low quality. Define high and low quality.

Mr. Silvus: A wetland scientist assessed the quality of the current wetland. Corps of Engineers agreed with that. We proposed wetland improvements. The area is already a wetland with hydric soils. The presence of hydric soils, consistent of water, period of inundation all come into play. There are different classifications of a wetland. The wetland that we are draining is wooded and not very a hydric soil. We are going to leave trees and have a wooded wetland. We will leave trees, but will not have the dense undergrowth. Canopy trees are always a welcome addition to a wetland. We will be installing the other plant materials with TDEC and Corps of Engineers overseeing.

Ms. Craig: You also said the creation of a wetland will result in measurable improvements to water quality of Beaver Creek. How do you intend to measure?

Mr. Silvus: You could test it by water coming across the street. It is drainage off a large parking lot area, roof and highway with rubber, heavy metals, combustion materials and during a storm these run off. Right now that water is delivered to Beaver Creek through culvert and we are going to collect it and improve it before it goes to Beaver Creek. If we measure the water going through the culvert, you get one certain measurement of contaminants and going out of wetland another. Downstream before the water comes in you could tell the difference in the pollutants.

Ms. Craig: If you put a conservation easement on the property, who would be responsible for maintaining that?

Mr. Silvus: We would have a easement conservation on all of it. For first five years that responsibly would be ours. The wetland has to be self sustaining. It can extend beyond that if not functioning correctly, but after that it is up to whoever owns it.

Mr. Marvin Hammond: Hallsdale Powell Utility District, President Emeritus. When you temper with a wetland, it is not man made. Retired TRDA official prior to World War II trapped Lincoln muskrat prior to WWII. How in the world could someone create a wetland prior to World War II when did not have equipment out there. I differ with that. Beaver Creek is very fragile and classified by TDEC as a 303 D tributary which means it has been significantly impaired due to agricultural, runoff, improper construction activities over a long period of time and sewer overflows. Concern is water quality issues of the

wetland. It is fragile and a precious natural resource that we should not tamper with.

Mr. Anders: Is there data that says beyond your own thought that says this is going to affect the creek?

Mr. Hammond: I am offering my personal opinion. Engineering science is like religion and scripture. I can prove anything to you with proper engineering study or disprove anything. Yes if I had our hydraulic engineers that have worked with us, I am confident they could disprove anything they have presented to you. Mistakes are made daily in engineering. The ark was made by amateurs and Titanic by professionals. Ask denial.

Mr. George Ewart: I think this is a great opportunity for people that are opposed to it. Majority of houses that people have spoken about are in a floodway and some of the houses are in a floodway now. If you look at Fountain City Park, it has a nice setting and you can walk to get an ice cream. This is a fantastic opportunity for Mr. Silvus to work with you and to donate 5 acres of land and have shops that can serve the park. I wish you would get together and work this out instead of opposing so adamantly. I think he has tried to bend over backwards to help you all.

MOTION (EWART) AND SECOND (STOWERS) WERE MADE TO APPROVE STAFF RECOMMENDATION.

Ms. Craig: Knox County looked at water quantity. What about quality?

Ms. Pionke: I think they looked at that also because that is part of stormwater ordinance.

Ms. Craig: Would have liked to have seen that report. I worked on original Beaver Creek Watershed assessment 10 years ago. One thing that came out of that study was that it was important to protect the wetlands along Beaver Creek. Sector plan says the same thing to protect wetlands from encroachment of new development, particularly those near Beaver Creek and to protect the water quality of Beaver Creek by minimizing impervious surfaces. Cannot see how this proposal is in harmony with the sector plan because of the way fills the wetland. I also think it has an adverse impact on the park next door and that the development is too intense to be next to a park.

Ms. Laura Cole: I am in agreement that the plan we saw online was very creative. But my personal experience makes me feel cautious about this. Decisions we make will impact people and if this does not work, people will have to live with that. For eight years I worked as an environmental scientist and worked with engineers who were experts in hydrology. We worked on models and the young engineers had total faith that the models would work in the field. It took two field trips to

prove they do not always work. While I appreciate the data, I also know sometimes those things do not work. From my own personal experience I have been dealing with mud and runoff issues for three years. I went to Knox County Engineering before the project was off the ground. There were sinkholes and wetlands. I was told there would be no problem by many engineers and they were all wrong. That is why I do not have the confidence in the plan that others may.

Mr. Bart Carey: I am not trying to address flood or markets. One big issue is that way before most of us were on this commission, this land was approved for shopping center. That was done in the past and sets the guidelines for the way I have to put my hands around this. I have not heard from the opposition what suitable type of shopping center could be placed here? I would love to see the whole property become a park. This is not where we are today. I do not have any suggestion as to what else can be put here.

Mr. Anders: This guy has a legal right. It is zoned shopping center. I do not think a design for any shopping center is going to appease you. Do we really have the right to deny the applicant who has done everything he is supposed to do?

Ms. Gene Weber: 7347 Shalimar Point Way on Beaver Creek. We have 30 homes in that area. My home is on Beaver Creek. My husband is in a wheel chair and if it floods... Most of the folks that live there are over 80 years old. I am a lady and I like to shop, but I do not like it in our backyard where it will affect our property and our safety.

Upon roll call the Planning Commission voted as follows:

Anders	Yes
Bailey	No
Carey	Yes
Cole	No
Craig	No
Ewart	Yes
Johnson	No
Kane	No
Kelly	Yes
Lobetti	No
Longmire	No
Sharp	No
Stowers	Yes

MOTION FAILED 5-8

MOTION (LONGMIRE) AND SECOND (CRAIG) WERE MADE TO DENY BECAUSE CONCERNED ABOUT LOSS OF WETLANDS AND WATER QUALITY EVEN THOUGH EVERYONE HAS TRIED VERY HARD TO PUT FORTH THE BEST PLAN POSSIBLE AND THE PART AS PROPOSED WOULD HAVE AN ADVERSE IMPACT ON

THE CHARACTER OF THE NEIGHBORHOOD BECAUSE IT IS TOO INTENSIVE FOR THE PARK NEXT DOOR.

Mr. Ewart: Can we make a motion about the park because it does not own it yet?

Mr. Kelly: If privately owned, would have to be rezoned. The County does not have to go by its own Zoning Ordinance.

MOTION CARRIED 8-5-1. DENIED.

51. GRAYBROOK PARK SUBDIVISION HOMEOWNERS ASSOCIATION

11-D-09-UR

South side of W. Governor John Sevier Hwy., east side of Coatney Rd. Proposed use: Amend existing development plan to eliminate the requirement for sidewalks in PR (Planned Residential) District. Commission District 9.

STAFF RECOMMENDATION: Approve the request to eliminate the required sidewalk construction within the development.

Mr. Dan Kelly: Homes have been built with street lights, curbs, driveways, and landscaping. The bank took back the property and was getting ready to put in the sidewalks. The residents do not want sidewalks. We told them to come back and remove that from the plan.

Ms. Joy Walker: 1412 Gray Brook Lane, President of Homeowners Association. We agree with zoning rule about sidewalks near schools. We feel it would not be appropriate for our neighborhood. The sidewalks are on the inner circle and would be sidewalks to nowhere. Knox County has no plans to build sidewalks along Coatney to the school. There are a lot of empty nesters. They would be a disruption to our lawns. We are trying to reserve as much green space as possible. Ask you waive the requirements in our subdivision.

MOTION (ANDERS) AND SECOND (STOWERS) WERE MADE TO APPROVE STAFF RECOMMENDATION.

Ms. Becky Longmire: Developers who intend to build sidewalks forget to but them and people put in infrastructure and then no room for them. They are not including sidewalks and then there is a need for sidewalks. I want Commission to do something to say that when a developer brings in a subdivision that we require sidewalks. I would not let them walk on Coatney Road. As a Commission, we need to take a stand on sidewalks.

Mr. Kelly: The bank is involved in some way. Green Bank was prepared to fulfill the requirement by installing the sidewalks.

Upon roll call the Planning Commission voted as follows:

Anders	No
Bailey	Yes
Carey	Yes
Cole	No
Craig	No
Ewart	Yes
Johnson	Yes
Kane	No
Kelly	No
Lobetti	Yes
Longmire	No
Sharp	Yes
Stowers	Yes
Benefield	No

Motion Failed 7-7.

Ms. Longmire the bank said they would honor putting in the sidewalks.

Mr. Anders asked what percentage of homeowners did not want the sidewalks.

Ms. Walker: There are some renters. I know of one family that did not sign the petition because they are in a spat over walking the dog in the road.

Mr. Anders I made a mistake on my vote. I intended to vote yes for the approval.

Mr. Carey: It is a problem with such reconstruction and if 90% or more do not want them, then we need to respect that.

MOTION (ANDERS) AND SECOND (EWART) WERE MADE TO APPROVE THE REQUEST IN ACCORDANCE WITH STAFF RECOMMENDATION. MOTION CARRIED 9-5. APPROVED.

52. ALDI

11-E-09-UR

East side of Moss Grove Blvd., south side of Kingston Pike. Proposed use: Grocery Store in PC-1 (k) (Retail and Office Park) District. Council District 2.

STAFF RECOMMENDATION: Approve the development plan for a grocery store with approximately 16,000 square feet subject to 8 conditions.

Mr. Jess Anesty, On behalf of the applicant. Mt. Juliet, Tennessee. I concur with the 8 conditions.

MOTION (LONGMIRE) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 14-0. APPROVED.

COMMISSIONER STAN JOHNSON LEFT THE MEETING AT THIS TIME.

Other Business:

- 53. Consideration of Nomination of Officers for Calendar Year 2010.**

11-A-09-OB

NOMINATING COMMITTEE: Nominated Mr. Robert Anders for Chair and Trey Benefield for Vice Chair

Ms. Becky Longmire: Ursula Bailey, Laura Cole and I are the Nominating Committee and we have met, very briefly, pursuant to Article IV of the MPC By Laws. The Nominating Committee has convened and deliberated and presents the slate of officers. Trey Benefield has agreed to stay in as Vice Chair until we can talk with some of you to see if you would be interested in Vice Chair. Floor was opened for additional nominations. None received, nominations ceased.

MOTION (CRAIG) AND SECOND (EWART) WERE MADE TO CEASE NOMINATIONS. MOTION CARRIED 13-0. NOMINATIONS CEASED.

- * 54. Consideration of Staff Report for Plans of Service.**

11-B-09-OB

STAFF RECOMMENDATION: Approve the staff report and forward to City Council.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * 55. Consideration of Resolution requesting consideration by the Tennessee General Assembly of changes to the private act creating the Tennessee Technology Corridor Development Authority.**

11-C-09-OB

STAFF RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Adjournment

MOTION (CLANCY) WAS MADE TO ADJOURN

There being no further business, the Metropolitan Planning Commission meeting was adjourned in order at 4:33 P.M.

Prepared by: Betty Jo Mahan

Approved by: Mark Donaldson, Executive Director

Approved by: Trey Benefield, Chair

NOTE: Please see individual staff reports for conditions of approval and the staff recommendation. These minutes are not intended to be verbatim transcripts.