

**KNOXVILLE/KNOX COUNTY METROPOLITAN PLANNING COMMISSION  
 PLAN AMENDMENT/REZONING REPORT**

▶ **FILE #:** 5-H-10-RZ **AGENDA ITEM #** 25  
 5-E-10-SP **AGENDA DATE:** 6/10/2010

POSTPONEMENT(S): 5/13/2010

▶ **APPLICANT:** LAUREL INVESTMENTS, LLC  
 OWNER(S): LAUREL INVESTMENTS, LLC

TAX ID NUMBER: 162 M C 019  
 JURISDICTION: Commission District 5

▶ **LOCATION:** Southwest side Choto Rd., southeast side S. Northshore Dr.

▶ **TRACT INFORMATION:** 1 acres.

SECTOR PLAN: Southwest County

GROWTH POLICY PLAN: Planned Growth Area

ACCESSIBILITY: Access is via Choto Rd., a minor collector street with 21' of pavement width within 50' of right-of-way, or S. Northshore Dr., a minor arterial street with 21' of pavement width within 90' of right-of-way.

UTILITIES: Water Source: First Knox Utility District  
 Sewer Source: First Knox Utility District

WATERSHED: Tennessee River

▶ **PRESENT PLAN DESIGNATION/ZONING:** LDR (Low Density Residential) / A (Agricultural)

▶ **PROPOSED PLAN DESIGNATION/ZONING:** NC (Neighborhood Commercial) / CN (Neighborhood Commercial)

▶ **EXISTING LAND USE:** Vacant land

▶ **PROPOSED USE:** Commercial building

EXTENSION OF PLAN DESIGNATION/ZONING: Yes, extension of NC designation and CN zoning from the northeast

HISTORY OF ZONING REQUESTS: MPC denied a commercial plan designation and zoning in 2004 (9-C-04-RZ/9-B-04-SP). Similar requests were withdrawn in 2001 with heavy opposition (12-D-01-RZ/12-A-01-SP).

SURROUNDING LAND USE, PLAN DESIGNATION, ZONING  
 North: Choto Rd. - Vacant land / NC / CN (Neighborhood Commercial) with conditions  
 South: House and vacant land / LDR / A (Agricultural)  
 East: Residential subdivision / LDR / PR (Planned Residential) @ 1-3 du/ac  
 West: S. Northshore Dr. - Residential subdivision / LDR / PR (Planned Residential) @ 1-3 du/ac

NEIGHBORHOOD CONTEXT: This area is developed with agricultural, rural residential and low density residential uses under A and PR zoning. There is a 15-acre site to the northeast, zoned CN with conditions, that is yet to be developed.

**STAFF RECOMMENDATION:**

▶ **DENY NC (Neighborhood Commercial) sector plan designation.**

A large area (15 acres) of NC was just approved early this year to the northeast of this site. That site is early in the development stages with only a convenience store approved to be developed at this time. Establishment of additional neighborhood commercial uses is not necessary at this point in time. Additionally, this site is small and is located directly adjacent to an existing subdivision and residence. The opportunities for appropriate buffering are limited.

▶ **DENY CN (Neighborhood Commercial) zoning.**

A large site to the northeast was approved for conditional CN zoning earlier this year, and is yet to be developed. The subject property is small in size to adequately meet the CN development standards and establish appropriate buffering to the adjacent residence to the southeast. In addition, access may be problematic as there can be no access to S. Northshore Dr. and access to Choto Rd. would have to be placed between S. Northshore Dr. and Choto Mill Ln., with minimal spacing possible, creating a potentially dangerous traffic situation. Knox County is also considering improvements to the intersection of Choto Rd. and S. Northshore Dr., which may include construction of a roundabout. This property could be impacted further by that project.

**COMMENTS:**

**SECTOR PLAN REQUIREMENTS:**

**CHANGES OF CONDITIONS WARRANTING AMENDMENT OF THE LAND USE PLAN:**

**NEW ROAD OR UTILITY IMPROVEMENTS:**

No road or utility improvements have been made recently in the area.

**ERROR OR OMISSION IN CURRENT PLAN:**

The plan appropriately calls for LDR development at this location. The site is small and too close in proximity to residential use for commercial use.

**CHANGES IN GOVERNMENT POLICY:**

No changes have occurred that warrant this sector plan change. Requests for C and CA zoning were denied by MPC on September 9, 2004. With the newly established CN zoning across the street, there is less need to establish more CN zoning at this time than there was in 2004.

**CHANGE IN DEVELOPMENT, POPULATION OR TRAFFIC TRENDS:**

The major change in this area is the 15 acre site to the northeast that was recently rezoned conditional CN. This does not justify the request to designate this site for neighborhood commercial development. In fact, staff maintains that there is now no need for additional commercial development in the area, especially because the CN site is large enough to meet the commercial needs of area residents and has yet to be developed. The larger CN site also presents greater flexibility in developing the site, based on sound design and development principles.

**REZONING REQUIREMENTS:**

**NEED BASED ON SUBSTANTIALLY CHANGED/CHANGING CONDITIONS IN THE AREA OR THE COUNTY GENERALLY:**

1. Requests for commercial designation and CA zoning for this site were denied by MPC on September 9, 2004. At that time, staff had recommended approval of NC designation and CN zoning as an alternative to C and CA. However, now that the CN is established to the northeast on a larger, more appropriate site, the justification for more CN zoning no longer exists.
2. Because of the small size of the site, staff feels that it may be difficult to meet the requirements of the CN zoning district. Also, access to Choto Rd. may be problematic because of the close proximity to S. Northshore Dr. and Choto Mill Ln.
3. Approval of this site for commercial uses would permit incompatible businesses directly adjacent to an established residence. There is not likely enough space for adequate buffering between the two uses. The conceptual site plan submitted by the applicant shows the back of the commercial building located directly adjacent to the first house on the right side of Choto Mill Ln.

**CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE:**

1. The requested CN zoning district provides the opportunity to locate limited retail and service uses in a manner convenient to and yet not disruptive to established residential neighborhoods. It is intended to provide for recurring shopping and personal service needs of nearby residential areas. Development should be compatible with the character of the adjacent neighborhood. This zoning should generally be placed at

street intersections that include either a collector or arterial street, as close to the edge of the neighborhood as possible. The range of permitted uses is limited to those that are generally patronized on a frequent basis by neighborhood residents. Development performance standards are provided to maximize compatibility between commercial uses and adjacent residential uses.

2. The subject property clearly fits some of the criteria spelled out in the above general description of the CN zone from the Knox County Zoning Ordinance. However, the small size of the site and its close proximity directly adjacent to an established residence make it less appropriate.

3. If the site is approved for the requested CN zoning, staff believes that variances may be needed to meet the requirements of the CN zoning district. The development criteria contained within the CN zone are essential to minimize the impacts to adjacent residential uses and lead to compatible development. Staff would not support any BZA variances to these development standards for this site, as they would undermine the compatibility with surrounding properties and dilute the effectiveness of the CN zone.

#### THE EFFECTS OF THIS PROPOSAL

1. Public water is available to the site. Sewer utilities are available in the general area, but may have to be extended to serve this site.

2. The proposal would have no impact on schools. Depending on how the property were developed, the street could be negatively impacted with additional traffic generated from a commercial use.

3. Commercial uses can have detrimental impacts on residential properties with the potential for increased noise, lighting, signage and traffic.

#### CONFORMITY OF THE PROPOSAL TO ADOPTED PLANS

1. The Southwest County Sector Plan's proposal for low density residential uses is appropriate for this site. The Plan should not be amended to allow neighborhood commercial development at this location. The proposal does not meet any of the general plan criteria regarding changes of conditions warranting amendment of the land use plan.

2. This site is located within the Planned Growth Area on the Knoxville-Knox County-Farragut Growth Policy Plan map.

3. Allowing neighborhood commercial use of the subject property could lead to future similar requests to the southwest, along S. Northshore Dr., promoting further intrusion into the existing rural and low density residential area.

State law regarding amendments of the general plan (which include Sector Plan amendments) was changed with passage of Public Chapter 1150 by the Tennessee Legislature in 2008. New law provides for two methods to amend the plan at TCA 13-3-304:

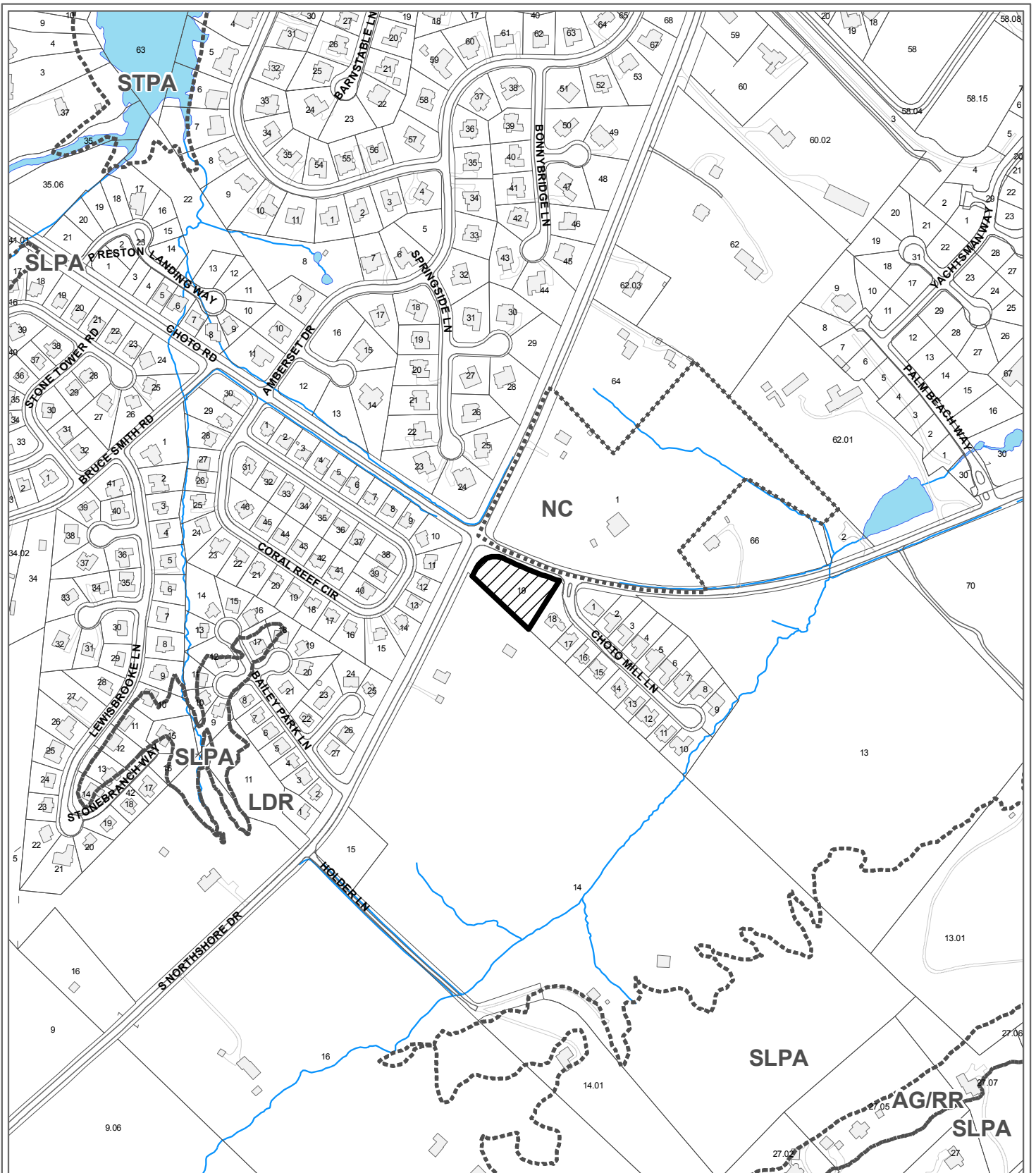
1. The Planning Commission may initiate an amendment by adopting a resolution and certifying the amendment to the Legislative Body. Once approved by majority vote of the Legislative Body, the amendment is operative.

2. The Legislative Body may also initiate an amendment and transmit the amendment to the Planning Commission. Once the Planning Commission has considered the proposed amendment and approved, not approved, or taken no action, the Legislative Body may approve the amendment by majority vote and the amendment is operative.

ESTIMATED TRAFFIC IMPACT: Not calculated.

ESTIMATED STUDENT YIELD: Not applicable.

If approved, this item will be forwarded to Knox County Commission for action on 7/26/2010. If denied, MPC's action is final, unless the action to deny is appealed to Knox County Commission. The date of the appeal hearing will depend on when the appeal application is filed. Appellants have 30 days to appeal an MPC decision in the County.



**5-E-10-SP / 5-H-10-RZ  
SOUTHWEST COUNTY SECTOR PLAN AMENDMENT**

From: LDR (Low Density Residential)

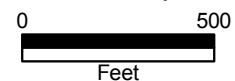
To: NC (Neighborhood Commercial)



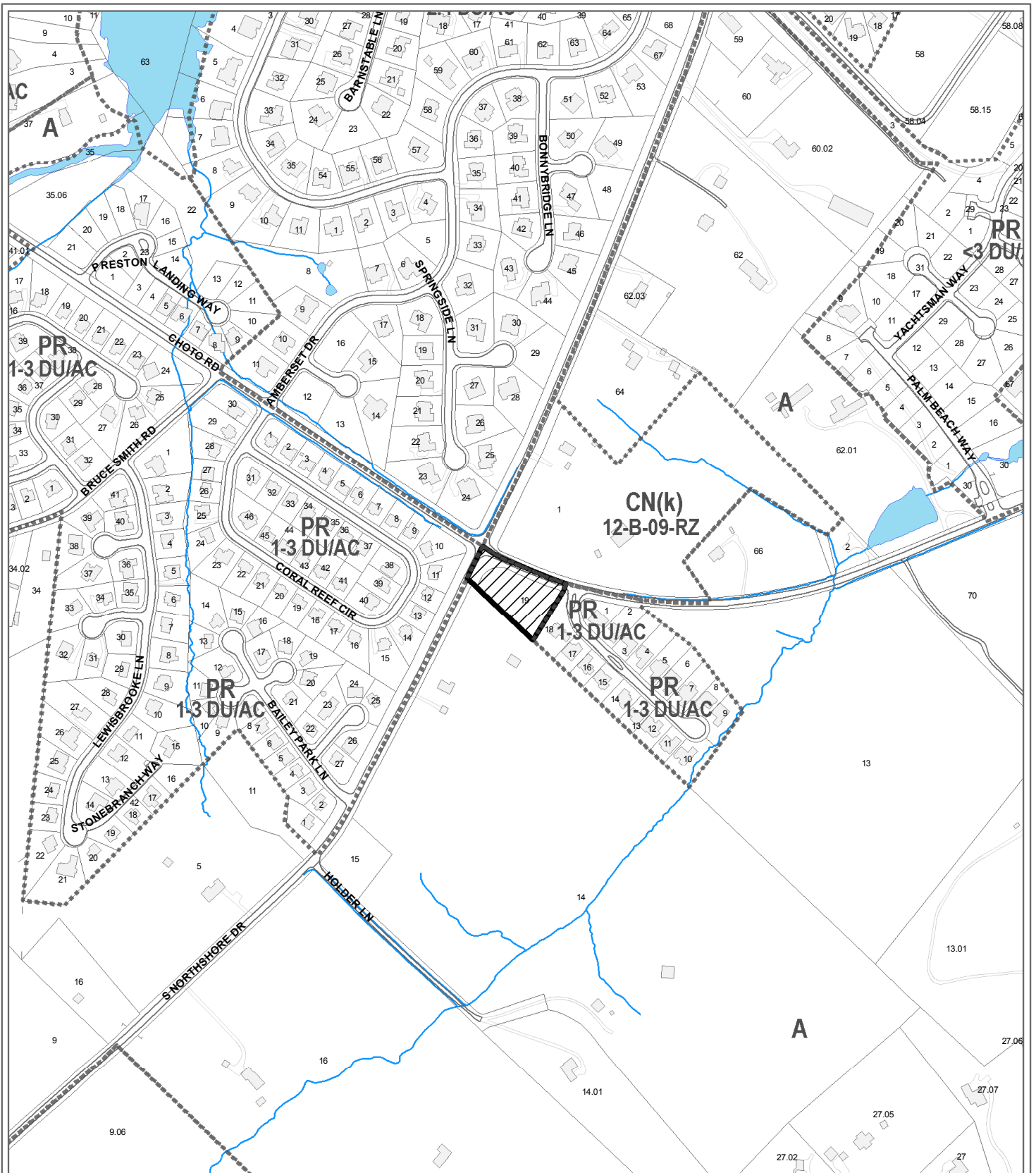
Petitioner: Laurel Investments, LLC

Map No: 162

Jurisdiction: County



Original Print Date: 4/14/2010      Revised:  
Metropolitan Planning Commission \* City / County Building \* Knoxville, TN 37902



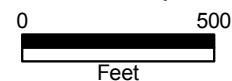
**5-H-10-RZ  
REZONING**

From: A (Agricultural)  
To: CN (Neighborhood Commercial)

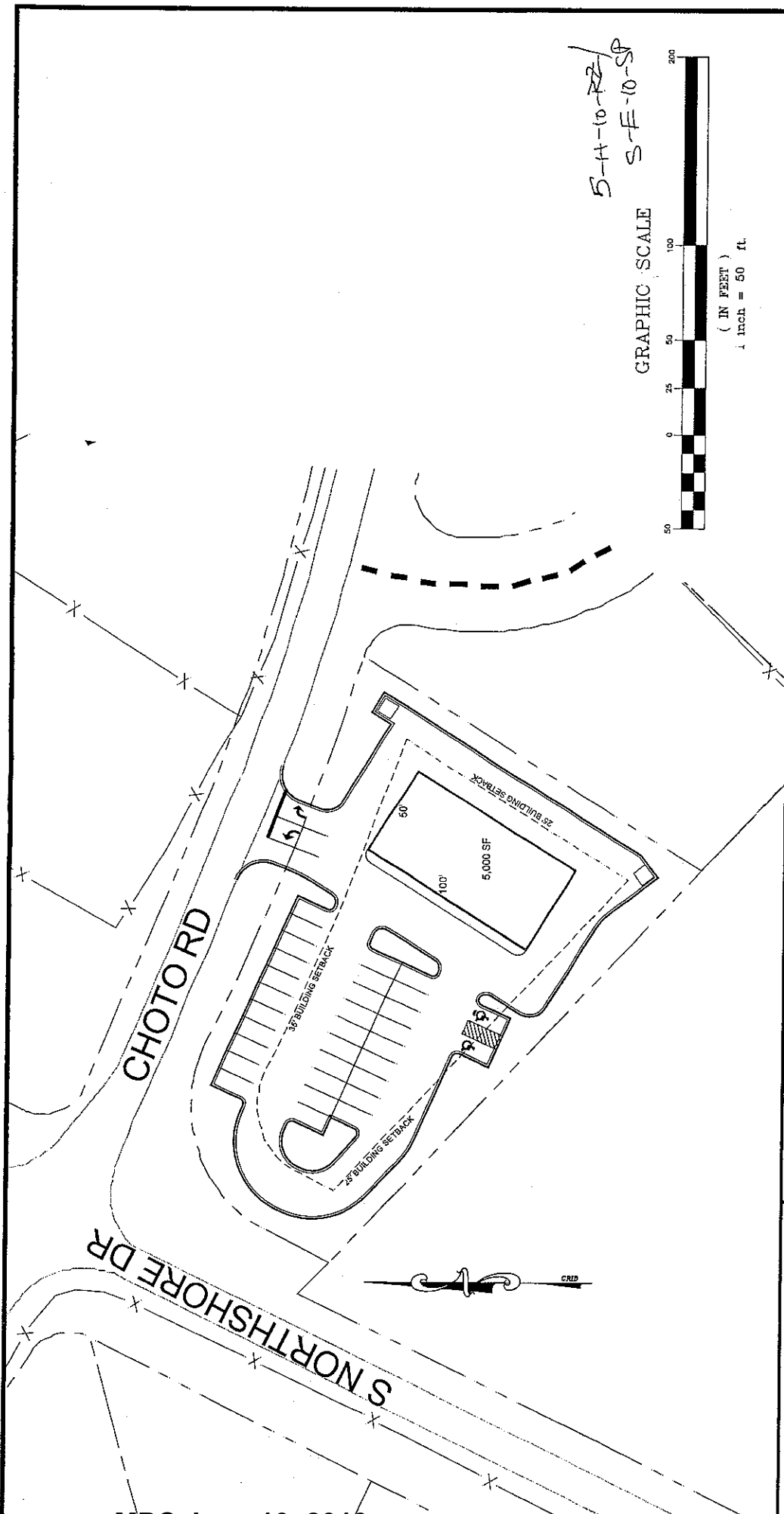


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5-H-10-RZ  
S-E-10-S

GRAPHIC SCALE



( IN FEET )  
1 inch = 50 ft.

Conceptual Site Plan

**Commercial Building**  
Northshore Drive and Choto Road  
Knox County, Tennessee



**SITH**  
INCORPORATED  
Site Infrastructure Transportation Engineers  
2033 Casatic Lane, Suite 101  
Knoxville, TN 37937  
Phone: (865) 693-5010  
Fax: (865) 693-5868

DRAWN BY:	RME	DATE:	03/17/10
CHECKED BY:	JRA	FILE:	
REVISIONS			
NO.	DATE	COMMENTS	

CSP-1

**From:** Mike Brusseau  
**To:** Betty Jo Mahan  
**Date:** 5/6/2010 9:55:27 AM  
**Subject:** Fwd: Laurel Investments | Choto Road at Northshore Drive | 5-H-10-RZ; 5-E-10-SP

Re: Item 48

>>> "ProtectChoto.org" <bobby@protectchoto.org> 5/6/2010 9:45 AM >>>  
 Good morning Mike,

On behalf of the over four hundred residential petitions submitted to [www.ProtectChoto.org](http://www.ProtectChoto.org) in opposition to all commercial development at the intersection of Choto Road and Northshore Drive, I am writing you to consider the following in making your recommendation to the MPC on the above referenced commercial development by Dr. Leslie Cunningham (the "Cunningham Application").

(1) The MPC staff recently pushed for, and obtained the approval, of the 15.5 acre tract across the street to be rezoned Neighborhood Commercial. The site plans submitted with respect to that 15.5 acre tract allows for nearly 40,000 square feet of commercial space (the "Huber Development"). In your staff report, you stated as follows:

"Approval of these requests could lead to future requests for neighborhood commercial or similar zoning in the surrounding area ... Staff would not likely recommend further expansion of neighborhood commercial uses at this time beyond the approximately 15 acres being considered ..."

Now, just a few months later, the request for further commercial intrusion into our neighborhoods begins with the Cunningham Application before you. The Metropolitan Planning Commission and the County Commission relied upon your statement above in its consideration of the Huber Development, and in reliance upon such a statement, approved the Huber Development. We believe that there have been no changed circumstances that would warrant the recommendation of the Cunningham Application.

(2) There have been insufficient changed conditions to warrant a Sector Plan Amendment.

a.. New Road or Utility Improvements: As you stated in your December staff report regarding the Huber Development, "there have not been any recent road improvements ...". Frankly, the changed condition that would warrant a Sector Plan Amendment should be that there HAVE been recent road improvements. We believe that the Sector Plan should be amended based upon completed improvements, not anticipated or wished for improvements. Be that as it may, one of the biggest issues relating to the Huber Development was the dangerous intersection at Choto Road and Northshore Drive. Knox County Engineering has identified this as the fifth most dangerous intersection in Knox County. The calculated crash rate is 1.4 crashes per million entering vehicles (MEV). With a statewide average of 0.25 crashes MEV, this intersection is six times more dangerous than the state average. During a three year study period provided by Knox County Engineering, there were twenty crashes at this intersection, nine involving injury and fourteen angle crashes. The Traffic Impact Study obtained in conjunction with the Huber Development recommended that a four way stop with additional warning signals be installed.

Although the Traffic Impact Study recommended that the intersection improvements be done now, both the MPC and the County Commission ignored this suggestion and allowed the Huber Development anyway. The proposed Cunningham Application will only put more stress on this already dangerous intersection. Further, the proposed curb cut onto Choto Road is less than fifty feet from the existing entrance to Choto Mill Subdivision and the proposed curb cut into the Huber Development. The proposed entrance to the Cunningham property will only to serve to crowd this intersection.

b.. Error or omission in current plan: Our position still stands regarding the accuracy and usefulness of the Southwest County Sector Plan adopted in August 2005. There have been no changed conditions or circumstances, or errors and omissions, since the adoption of the Southwest County Sector Plan which would warrant its amendment. In 2005, after careful consideration, the County chose not to designate this parcel for commercial uses. The adjacent parcels and the surrounding areas are dominated with primarily agricultural and residential uses. Rezoning of this site for commercial uses would permit incompatible business uses in close proximity to residential neighborhoods.

c.. Changes in Government Policy: Arguably, the MPC and County Commission adopted a policy when it approved the Huber Development in reliance upon your December Staff Report which stated that no further commercial development would be approved at this time. There have been no changed conditions or circumstances since the approval of the Huber Development which would warrant a change from that policy.

d.. Change in Development, Population or Traffic Trends: During the Huber Development approval process, MPC Staff relied upon the increased number of building permits (1,321 since 2000) within a two mile radius as a basis for "changed conditions". However, since the adoption of the Southwest County Sector Plan in 2005, only 450 permits have been issued. The criteria to be considered by Staff and the MPC should be changed circumstances or conditions since the adoption of the Southwest County Sector Plan in 2005. An additional 90 building permits per year is woefully insufficient to warrant a change in the Sector Plan to allow a commercial use in this predominantly residential and agricultural community.

(3) Generally, with the approval of Huber Development's 15.5 acre, 40,000 square foot commercial project, the commercial needs of this small agricultural and residential community is more than adequately served now. Any proposed commercial use of the Cunningham property can be undertaken within the Huber Development. Specifically:

a.. Need based on substantially changed conditions in the area: This area has experienced slow to moderate growth in the five years since the adoption of the Southwest County Sector Plan. In the last few months, the Huber Development has been approved allowing for more than enough commercial space to serve this small community. That approval is a changed condition in the area which should prohibit the rezoning of the Cunningham Application.

b.. Effects of the Proposal: The proposal will provide a direct intrusion upon Choto Mill Subdivision. The Subject Property is Lot 19 of the nineteen lot residential neighborhood. The proposed building location is fifty feet from the residence located at 12501 Choto Mill Lane. The proposed building setback does not comply with the Choto Mill restrictions. The proposed commercial use will have a significantly negative impact on the adjacent properties and the surrounding neighborhoods.

c.. Conformity of the Proposal to Adopted Plans: In 2005, when the Southwest County Sector Plan was adopted, staff suggested that the subject parcel be zoned neighborhood commercial. After careful consideration and review, this suggestion was not followed and this parcel has not been allowed a commercial use. This is consistent with prior MPC consideration of commercial uses of the subject property prior to 2005. Consistency with (a) prior commercial rezoning



denials, (b) the existing Sector Plan and (c) the debate and approvals surrounding the Huber Development require denial of the Cunningham Application.

In summary, one of the primary criteria set forth in the "Development Policies" of the Knoxville-Knox County General Plan (Section 8.4) is to "protect residential areas from encroaching commercial development and other incompatible uses." This policy is consistent with your statement that "... Staff would not likely recommend further expansion of neighborhood commercial uses at this time..." For the reasons stated above, you should not recommend approval of the Cunningham Application.

Thank you, on behalf of the 400 plus signed petitions in opposition to commercial development in this area.

Bobby Akart  
12500 Choto Mill Lane  
Knoxville, TN 37922

[www.ProtectChoto.org](http://www.ProtectChoto.org)