



AGENDA ITEM#: 12

MEMORANDUM

TO: Metropolitan Planning Commission

FROM: Mark Donaldson, Executive Director

DATE: December 8, 2011

SUBJECT: Request of MPC by Knox County Commission and Knoxville City Council to review and consider the revised [Hillside and Ridgetop Protection Plan dated November 2011](#) as an amendment to the Knoxville-Knox County General Plan 2033.
12-A-11-SAP

REQUEST

MPC has been requested by Knox County Commission and Knoxville City Council to review and consider the revised Hillside and Ridgetop Protection Plan dated November 2011 as an amendment to the Knoxville-Knox County General Plan 2033, in accordance with the process described in state law at T.C.A. § 13-3-304(b)(2) allowing legislative bodies to initiate general plan amendments.

BACKGROUND

MPC adopted a version of the Hillside and Ridgetop Protection Plan dated December 2010 and requested that Knox County Commission and Knoxville City Council approve the plan in order to make it operative pursuant to T.C.A. § 13-3-304(b)(1)(A). Knox County Commission voted not to approve the plan and asked that City Council join them in a series of facilitated meetings to try to reach consensus on a revised plan that both could initiate as a plan amendment. At the conclusion of these meetings on November 10, 2011, a consensus was achieved on a plan agreeable to those in attendance at the meeting and MPC staff was instructed to facilitate this plan amendment process. The bound copy of the plan dated November 2011, with several yellow pages is the version of the plan agreed upon at that meeting.

When County Commission considered a resolution to initiate the plan at its November 21st meeting, an amendment to the plan was introduced and approved. See Exhibit A. At its meeting on November 29th City Council approved the version of the plan as it was agreed upon at the November 10th joint meeting of the two bodies, without any amendments.

State law requires that the legislative bodies forward any general plan amendments they initiate to the planning commission for its review and consideration, but does not compel any compliance with planning commission recommendations. Planning Commission may approve, not approve or transmit the plan back to the legislative bodies with no recommendation.

ANALYSIS

The revised plan includes several modifications from the December 2010 plan, as adopted by MPC:

- The preface has been modified to reflect the facilitated meeting process and provide language recognizing the need for flexibility when applying the plan policies and principles to specific land development proposals.
- Several tables have been modified to condense the number of slope categories and add language concerning how the plan is to be used when reviewing specific requests.
- Section 3 has been added to demonstrate how the plan is to be implemented.
- Appendix I has been added to create a checklist for future actions.

The Knox County amendment was approved with the stated intent to clarify the nature of the plan and its legal status. It is my opinion that the amendment is unnecessary. The revisions to the plan resulting from the facilitated meetings achieved consensus on the plan by addressing the role of the plan and how the plan will be used as a framework for land use decisions, while providing flexibility to deal with site specific situations.

I believe the amendment actually makes more uncertain any outcomes a property owner may expect during the development review process by providing an explicit statement that the recommendations of the plan are not binding, and any development expectation is left entirely to the legislative body to determine. It also attempts to make the plan advisory only, thus removing it from the standard of state law that land use decisions must be consistent with approved plans. It also attempts to extend the same language to any comparable provisions in the adopted General Plan and sector plans, thus reducing the expectation that future decisions will be made consistent with previously adopted plans and policies.

MPC staff has drafted alternative language that could be used in lieu of the County's amendment if the planning commission feels that something is necessary. See EXHIBIT A.

RECOMMENDATION

Staff recommends that the planning commission approve the version of the Hillside and Ridgetop Protection Plan dated November 2011 as initiated by Knoxville City Council and that Knox County Commission consider removing the amendment to the plan added on November 21st or, as an alternative, replace the amendment with the language provided as Exhibit B.

ATTACHMENTS

- Exhibit A, Knox County amendment to the plan and MPC staff alternative language to the Knox County amendment

KNOX COUNTY AMENDMENT
And
ALTERNATIVE STATEMENT
(as drafted by MPC staff)

KNOX COUNTY AMENDMENT

Nature of Plan and Legal Effect

This plan and the principles, objectives, policies and guidelines included herein are advisory in nature and constitute non-binding recommendations for consideration in connection with development of steeply sloped areas. While this plan is being adopted as an amendment to the Knoxville-Knox County General Plan 2033, it is intended to provide background and supplemental information of an advisory nature and to serve as a guide to future MPC staff recommendations, but it is not intended to form an official part of the General Plan which would be binding on future land use decisions by City Council, County Commission, MPC, the City or County Boards of Zoning Appeals pursuant to T.C.A. § 13-3-304. Any comparable provisions of the Knoxville-Knox County General Plan 2033 or any Sector Plan which relate to hillside and ridgetop protection shall also be considered advisory consistent with this plan.

ALTERNATIVE STATEMENT (Provided by MPC staff)

Purpose of Plan

Land use plans are intended to provide a general guide for land use activities over an extended period of time. This Plan is advisory in nature. Its principles, objectives, policies and guidelines provide a basis for the consideration of local government staff and the Metropolitan Planning Commission in making land use and zoning recommendations and, in turn, for the use of the legislative bodies in making decisions on those same cases. It is recognized that this plan is a guide for decision-making and is not regulatory. All appeal processes regarding zoning, use-on-review, and subdivision cases remain unchanged. As is the practice with the adoption of all county-wide plans, the provisions of this plan supersede relevant policies of the General Plan and sector plans.